

**UNIVERSITY OF CAPE TOWN
EMPLOYEES UNION**

CONSTITUTION

As amended 22nd April 2004

1 NAME

The names of **The Union** shall be the **University of Cape Town Employees Union**.

2 REGISTERED OFFICE

The registered office of **The Union** shall be situated within the boundaries of the University of Cape Town property, and in such building as is determined from time to time by negotiation or consultation with said University, or elsewhere as may be decided by a meeting of the Executive Committee. The Union's postal address shall be Private Bag, Rondebosch, 7700.

3 DEFINITIONS

Unless the context clearly indicates to the contrary, any expression or terminology used in this Constitution shall have the same meaning that is attached to it in any of the Labour Relations Act, 66 of 1995 (as amended), The Basic Conditions of Employment No 75 Of 1997, The Employment Equity Act 55 Of 1998, The Skills Development Act 97 of 1998, or any other applicable labour law, with the Labour Relations Act No 66 of 1995 having precedence should there be any difference.

“**UCT**” shall mean the University of Cape Town

“**The Union**” shall mean the University of Cape Town Employees Union

“**The Act**” shall mean the Labour Relations Act No 66 of 1995 as amended.

4 LEGAL PERSONA

4.1 **The Union** shall be a body corporate, and shall be capable in law of suing or being sued, and of purchasing or otherwise acquiring, holding or alienating property, movable or immovable, and of doing any other act which its constitution requires or permits it to do.

4.2 **The Union** is an independent body that is not under the control of any employer and is free from any interference or influence of any kind from any employer.

4.3 **The Union** is an association not for gain.

5 OBJECTS

The objects of **The Union** shall be:

5.1 To foster a sense of unity among employees of the University of Cape Town (“**UCT**”)

5.2 To regulate relations between its members and **UCT** and to protect and further the interests and rights of its members in relation to their employment relationships with **UCT**;

5.3 To promote the interests and rights of its members;

5.4 To represent the interests and rights of any of its members in any grievance, discipline, conciliation, mediation, arbitration or legal process initiated for the settlement of any dispute that may exist between it, or any of its members, and **UCT**;

5.5 To promote, support or oppose as may be deemed expedient, any proposed legislative or other regulatory measures affecting the rights or interests of members;

5.6 To use every legitimate means to induce all persons who are eligible for membership to become members;

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- 5.7 To provide, when deemed necessary by the Executive Committee, legal or other advisory assistance to its members where such is in connection with their employment relationship with **UCT**;
- 5.8 When deemed necessary by the Executive Committee, to co-operate with any other organisations of employers and/or employees on any Bargaining Council or similar body which may be established to deal with matters which may affect the employment rights and interests members;
- 5.9 To establish and administer funds for the benefit of its members
- 5.10 To represent the views, rights and interests of members at any meetings held with representatives of the governing or other management bodies of **UCT** whether such be for the purpose negotiation or consultation or for any other reason.
- 5.11 To do such lawful things as may appear to be in the interests of **The Union** or its members and which are not inconsistent with the objects or any matter specifically provided for in this constitution or in any of the labour laws of South Africa.
- 5.12 To govern and operate its affairs in accordance with the spirit and provisions of **The Act**.

6 QUALIFICATIONS FOR MEMBERSHIP

6.1 Scope of membership

- 6.1.1 All persons employed by the University of Cape Town shall be eligible for membership of **The Union** whether such employment be of a permanent, temporary or contract nature.
- 6.1.2 No person who is already a member of another body or association representing its members in employment matters with **UCT** shall be eligible for membership of this Union until they have ceased membership of the other body or association.

6.2 Admission to, and rights and responsibilities flowing from, membership

- 6.2.1 Individuals shall be admitted to membership upon:
 - 6.2.1.1 submission of the regular application form; and
 - 6.2.1.2 proof of their employment by **UCT**, and
 - 6.2.1.3 approval of the Executive Committee of **The Union**.
- 6.2.2 Upon admission members shall
 - 6.2.2.1 immediately be entitled to any rights flowing from this constitution
 - 6.2.2.2 be bound by any obligations imposed by this constitution
 - 6.2.2.3 be bound by any Code of Conduct issued from time to time by **The Union**

6.3 Cessation and termination of membership

Membership, and any benefits from such membership, of **The Union** shall cease and terminate when:

- 6.3.1 a member's employment relationship with **UCT** is lawfully and fairly terminated; or
- 6.3.2 the member's membership is terminated, in writing, at the instance of the executive committee of **The Union** for:
 - 6.3.2.1 non payment by the member of any subscriptions due
 - 6.3.2.2 behaviours or actions contrary to the Code of Conduct or detrimental to the good order or reputation of **The Union**

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6.3.2.3 any other reason permissible by law.

6.3.3 or the member voluntarily resigns by giving written notice in terms of the following clause.

6.3.4 The required notice in terms of 6.3.3.shall:

6.3.4.1 in the event that the member has been a member for longer than one year, be three calendar months

6.3.4.2 in the event that the member has been a member for less than one year, be the remainder of the first year of membership.

6.4 Appeal against termination of membership

6.4.1 Any member whose membership is terminated in terms of 6.3.2, or who suffers a loss of benefits of membership as a result of such termination of membership, may appeal against such termination or loss by means of written application to the President of The Union.

6.4.2 Such written appeal should set out in full the reasons why the member considers the termination to be unfair.

6.4.3 **The Union** executive committee shall consider and decide such appeal at their next executive meeting and shall, within 7 days thereafter, inform the appealing member of their decision in writing.

7 SUBSCRIPTIONS

7.1 A monthly subscription shall be payable by each member to The Union

7.2 The quantum of such monthly subscription shall be determined by the majority vote of the members in general meeting from time to time.

7.3 The subscription shall be paid monthly in advance by stop order on each member's salary, or by such other means as may be authorised by the Executive Committee.

8 EXECUTIVE COMMITTEE

8.1 Office bearers (Executive committee)

8.1.1 The Management of the affairs of **The Union** shall, subject to any motions passed by the membership at Annual or Special General meetings held in terms of this constitution, be vested in an Executive Committee consisting of not more than 10 (ten) members.

8.1.2 The executive committee shall consist of a President, a Vice-President, a Treasurer and not more than 7 (seven) other members all of whom shall be elected from within the membership of **The Union** by the members of **The Union** as provided for in this constitution below.

8.1.3 The Executive Committee members shall be the official office bearers of **The Union**.

8.2 Period of Office and rotation of executive committee members

8.2.1 The Executive Committee members shall, subject to provisions of clause 8.2.2 and 8.5 of this constitution, hold office for a period of 2 (two) years, such period being calculated from the date of their election until the Annual General Meeting held 2 (two) years after such election.

8.2.2 For the sake of continuity in the management of the affairs of **The Union** the election of Executive Committee members shall be rotated in such a manner that 5 (five) are elected annually.

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- 8.2.3 Solely for the purpose of implementing clause 8.2.2 the first Executive Committee members elected for a two year period shall, at the first Executive Meeting following their election, determine which Executive Members shall be deemed to be serving a period of office of 1 (one) year only.
- 8.2.4 Executive Committee members shall be eligible for re-election on termination of their period of office.
- 8.2.5 Vacancies occurring on the Executive committee shall be filled by co-option by the Executive committee. A member appointed to fill a vacancy shall hold office for the uncompleted portion of the office of the predecessor or until their removal or resignation.

8.3 Nominations for election to the Executive Committee

Nominations for election to the Executive Committee may be made

- 8.3.1 by any member of The Union acting in concert with a least one other and
- 8.3.2 shall be lodged in writing with the secretary at least fourteen days before each Annual General Meeting.

8.4 Election procedure for the election of the Executive Committee

- 8.4.1 Elections shall take place annually at the Annual General meeting of **The Union**
- 8.4.2 The Chairperson shall first read the nominations already received by the Secretary and shall then call for any further nominations from the floor.
- 8.4.3 In the event of the number of nominations being the same number as, or fewer than, the required vacancies to be filled then, at the discretion of the Chairperson of the meeting, a call for a vote may be dispensed with and the nominees elected by acclamation.
- 8.4.4 In the event that there are more nominees than the required vacancies to be filled the Executive Committee members shall then be elected by show of hands or, if required by at least 75% of the members present, by secret ballot, and the following elimination procedure followed:
 - 8.4.4.1 Any nominee receiving a more than 50% vote shall be deemed elected.
 - 8.4.4.2 The nominee receiving the least amount of votes during this process shall be dropped from the list of nominees and be deemed not to have been elected.
 - 8.4.4.3 In the event that the above process brings the number of nominees to within the required number of vacancies to be filled then the remaining nominees shall be deemed elected.
 - 8.4.4.4 In the event that the above process does not bring the number of nominees to within the required number of vacancies to be filled then the process shall be repeated until the required number of vacancies is filled.
 - 8.4.4.5 In the event of any tie in the number of votes affecting the above process then a simple show of hands shall be called for to determine which nominee shall remain within the process.
- 8.4.5 Any vote taken by show of hands shall only be done once the affected nominees have left the room.
- 8.4.6 The posts of President, Vice President and Treasurer shall be filled by means of election, by the committee members from within their number, and such elections

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shall take place annually at the first Executive meeting following the Annual General Meeting.

8.5 Removal from office

Members of the Executive Committee shall vacate both their seat and post in any one of the following circumstances:

- 8.5.1 On resignation, suspension or expulsion from membership of **The Union**;
- 8.5.2 Upon ceasing to be employed in the objects set forth in clause 5;
- 8.5.3 On absenting themselves, without the permission of the Executive committee, from three consecutive meetings of the Executive Committee;
- 8.5.4 On resigning as a member of the Executive Committee by giving one month's notice to the Secretary;
- 8.5.5 On ceasing to be in good standing as a member of **The Union**.
- 8.5.6 On their membership of **The Union** being terminated in terms of the provisions of this constitution.
- 8.5.7 By resolution of at least 75% of the Executive Committee for any reason including the non-compliance to any Code of Conduct introduced by **The Union** from time to time.

8.6 Appeal against removal from office

8.6.1 Any office bearer (committee member) who is aggrieved by their removal from office shall have the right of appeal provided:

8.6.1.1 such is exercised within 5 days of removal, and

8.6.1.2 the appeal is by means of a written appeal addressed to The President of The Union, or the Vice President in the event that the office bearer appealing is the President, and

8.6.1.3 such appeal shall set out the reasons for the appeal and the outcome sought.

8.6.2 The appeal shall be determined by the Executive Committee who shall, for the purpose of determining the outcome of the appeal, co-opt at least 7 (seven) members of **The Union** who shall, jointly with the remaining members of the Executive, decide the outcome by a simple majority vote. Their decision, with reasons, shall be communicated to the appealing member in writing.

8.7 The Executive Committee shall ordinarily meet at least once every month on a date to be fixed by the President. Special meetings of the Executive Committee shall be called by the President if the President deems it advisable or upon a requisition signed by not less than three members of the Committee in which event the meeting shall be called within seven days of receipt of the requisition by the President.

8.8 Members of the Executive Committee shall be notified in writing, of the time and place of meetings by the Secretary at least seven days before the dates of such meetings, provided that shorter notice being not less than 24 hours may, in the discretion of the President, be given in respect of special meetings. To every notice of a meeting an agenda shall be attached

8.9 Unless otherwise provided herein, all matters for consideration by the Executive Committee shall be decided on motion duly seconded and voted upon by show of hands, save that, if required by at least 75% of the committee present, motions may be voted upon by secret ballot.

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- 8.10 The quorum for meetings of the Executive Committee shall be 50% of the members of the Committee plus 1 member thereof. If within 15 minutes of the time fixed for any meeting a quorum is not present, the meeting shall stand adjourned to the same day in the week following (and if that day is a holiday then to the next succeeding working day) at the same time and place, and at such adjourned meeting the members present shall form a quorum. Written notice of such adjourned meeting shall be given to committee members who were absent.
- 8.11 If between meetings of the Executive Committee any question arises which is of extreme urgency and can be answered by a plain “yes” or “no”, the president may authorise a vote of the members of the Executive Committee to be taken by telephone, provided that such matter and vote be reduced to writing and entered in the minutes of the meeting of the executive.
- 8.12 Minutes of all executive committee meetings shall be maintained in a bound book.

9 Powers of the Executive Committee

The Executive Committee shall, subject to the provisions of this constitution, have power:

- 9.1 to recommend **The Union**'s participation in the establishment of statutory or voluntary Bargaining Council under the provisions of **The Act**, and subject to the constitution of Bargaining Council, to determine **The Union**'s representation thereon;
- 9.2 employ, manage and dismiss, except where otherwise provided in this constitution, any officials or other employees of **The Union**, to fix their remuneration and other conditions of employment and to define their duties;
- 9.3 to appoint, from time to time, such committees as it may deem fit for the purpose of investigating and reporting on any matter referred to them by the Executive Committee;
- 9.4 to enter into relationships, formal or informal, with any other associations or bodies, operating on or off the campus of **UCT**, whose aims and objectives are similar to those of **The Union** or where the interests of the members of **The Union** will benefit from such relationship.
- 9.5 to institute legal or other proceedings on behalf of, or to defend proceedings against, **The Union**;
- 9.6 to acquire, either by purchase, lease or otherwise, any movable or immovable property on behalf of **The Union**, and to sell, let, mortgage, or otherwise deal with or dispose of any movable or immovable property belong to **The Union**,
- 9.7 to institute legal or other proceedings on behalf of or to provide legal assistance to members on matters affecting their employment;
- 9.8 to institute legal proceedings against individual members;
- 9.9 to open and operate a banking account and other investment accounts in the name of **The Union** and to invest money on behalf of **The Union**
- 9.10 to make and enforce by-laws relating to procedural, administrative and disciplinary matters which are not inconsistent with the provisions of this constitution, **The Act**, or any other law;
- 9.11 to decide matters of procedure on which this constitution is silent;
- 9.12 to co-opt and appoint any association member as executive committee members whenever any vacancy occurs;
- 9.13 to do such other lawful things as, in the opinion of the Executive Committee, appear to be in the interests of **The Union** or its members and which are not inconsistent with the objects set out in clause 4 or any matter specifically provided for in the constitution.

10 DUTIES OF OFFICE BEARERS

The Office Bearers of **The Union** shall at all times act in accordance with the guidelines laid down in any code of Conduct issued by **The Union** for time to time.

The following shall be the duties of the office bearers of **The Union** as elected in terms of this constitution

10.1 President (referred to as “**the president**”)

The president shall:

- 10.1.1 preside at all Annual, General and Executive Committee meetings,
- 10.1.2 enforce observance of the constitution and any bylaws of **The Union**,
- 10.1.3 sign minutes of meetings after confirmation,
- 10.1.4 endorse all accounts for payment after approval by Executive Committee,
- 10.1.5 sign all cheques on the banking account of **The Union**,
- 10.1.6 generally exercise supervision over the affairs of **The Union** and
- 10.1.7 perform such other duties as by usage and custom pertaining to the office.
- 10.1.8 when present and presiding at meetings, have a deliberative vote and, in addition in the event of an equality of votes, have a casting vote.
- 10.1.9 represent members’ rights and interests at any meeting at which they are permitted to attend in terms of any collective agreement or law.

10.2 Vice President (referred to as the “**vice president**”)

The vice-president shall:

- 10.2.1 exercise the powers and perform the duties of the president in the absence of the latter.
- 10.2.2 attend all executive, annual and general meetings of **The Union**
- 10.2.3 carry out any other duties as the Executive Committee may direct.
- 10.2.4 when present and presiding at meetings, have a deliberative vote
- 10.2.5 represent members’ rights and interests at any meeting at which they are permitted to attend in terms of any collective agreement or law.

10.3 Treasurer (referred to as “**the treasurer**”)

The treasurer shall:

- 10.3.1 sign all cheques on the banking account of **The Union**,
- 10.3.2 issue official receipts for all monies received,
- 10.3.3 submit reports in regard to the financial position of **The Union** to the Executive Committee not less than every three months,
- 10.3.4 perform such other duties as are imposed by the constitution or as the Executive Committee may direct;
- 10.3.5 attend and have a deliberative vote at all meetings of the Executive Committee
- 10.3.6 do all that it necessary to comply with the provisions of **The Act** especially where such relates to the keeping of proper books of account, the auditing of such books

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and the preparation of a balance sheet and a statement of income and expenditure and the submission or making available thereof to members,

- 10.3.7 represent members' rights and interests at any meeting at which they are permitted to attend in terms of any collective agreement or law.

10.4 Other Executive Committee members

Other elected or appointed Executive Committee members shall:

- 10.4.1 attend and have a deliberative vote at all meetings of the Executive Committee
- 10.4.2 represent members' rights and interests at any meeting at which they are permitted to attend in terms of any collective agreement or law.
- 10.4.3 perform such other duties as are imposed by the constitution or as the Executive Committee may direct.

10.5 Acting president (referred to as the "acting president")

In the event of both **the President** and **the Vice-President** being unable, either temporarily or permanently, to perform their duties, the Executive Committee shall appoint a member of the Committee as the acting president, who shall hold office until either one of **the president** or **the vice-president** is able to resume duty, or, in the event of **the president** and **the vice-president** being permanently unable to perform their duties, until a new president or vice-president has been co-opted in accordance with the provisions of this Constitution.

11 OFFICIALS AND THEIR DUTIES

The following shall, subject to their appointment by the Executive committee, be the officials of **The Union**, and their duties, in addition to their compliance with any Code of Conduct issued by **The Union** from time to time, shall include those listed.

11.1 Secretary (referred to as "the secretary")

The secretary shall:

- 11.1.1 receive requisitions for meetings of the Executive Committee or special general meeting of the members,
- 11.1.2 issue notices of Executive Committee, Annual and Special General meetings,
- 11.1.3 conduct all Registered Office correspondence of **The Union**,
- 11.1.4 keep hardcopy originals of all letters and other correspondence received and hardcopy copies of those despatched,
- 11.1.5 at each meeting of the Executive committee lay on the table correspondence which has taken place since the previous meeting,
- 11.1.6 attend without any voting rights all Executive Committee, Annual and other General meetings of **The Union** and record minutes of the proceedings,
- 11.1.7 perform the duties and submit all returns as required by **The Act**
- 11.1.8 maintain a register of members,
- 11.1.9 sign all cheques on the banking account of **The Union**,
- 11.1.10 sign any certificates as required by **The Act**
- 11.1.11 perform such duties as are imposed by this Constitution or as the Executive Committee may direct;

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- 11.1.12 set up and maintain a regular communication channel and programme of communication with members of **The Union**.
- 11.1.13 represent members' rights and interests at any meeting at which they are permitted to attend in terms of any collective agreement or law.

11.2 Organisers

Subject to amendment or addition by the Executive Committee, organisers' duties, shall be to:

- 11.2.1 advise members as to their rights and interests in any grievance, disciplinary action, consultation or dispute, or on any other matter affecting their employment
- 11.2.2 represent members rights and interests at any meeting at which they are permitted to attend in terms of any collective agreement or law
- 11.2.3 create and maintain administrative systems for the monitoring and management of member's cases
- 11.2.4 promote the objects of **The Union**
- 11.2.5 develop and implement member recruitment and retention strategies
- 11.2.6 keep abreast of trends and decisions affecting the interests and rights of members whether such be at **UCT**, **NEDLAC**, **CCMA** in the courts, or anywhere else.
- 11.2.7 communicate on a regular basis, both verbally and in writing, with members, keeping them apprised of progress in matters affecting their rights and interests
- 11.2.8 arrange and/or conduct educational and training sessions for members as to their rights
- 11.2.9 arrange regular meetings with members in order to determine their feelings, grievances, demands and mandates in relation to any negotiation or consultation relative to the employment relationship at **UCT**.
- 11.2.10 communicate on a regular basis, both in writing and verbally, with the Executive committee on all matters affecting members' rights and interests.
- 11.2.11 attend, by invitation and without any voting rights, Executive Committee, Annual and other General meetings of **The Union** and, in the absence of the Secretary, record minutes of the proceedings,
- 11.2.12 assist in the drafting of any demands for and during substantive negotiations or consultations

11.3 Removal from office of officials

As no official of **The Union** is an elected post, officials of **The Union** may be removed by:

- 11.3.1 resignation by giving one month's notice to the Secretary;
- 11.3.2 suspension or termination of their appointment by resolution of the Executive Committee or on completion of a specified period or project;
- 11.3.3 ceasing or failing to adequately perform their duties or to be employed in the objects set forth in clause 4;
- 11.3.4 absenting themselves, without the permission of the Executive committee, from three consecutive meetings of the Executive Committee to which they have been invited;
- 11.3.5 dismissal for behaviour or actions contrary to any Code of Conduct, issued by the Union from time to time, or detrimental to the good order or reputation of **The Union** or its members;

11.3.6 any other reason permissible by law.

11.4 Appeal against removal from office

11.4.1 Any official who is aggrieved by their removal from office shall have the right of appeal provided:

11.4.1.1 such is exercised within 5 days of removal, and

11.4.1.2 the appeal is by means of a written appeal addressed to **The President of The Union**, and

11.4.1.3 such appeal shall set out the reasons for the appeal and the outcome sought.

11.4.2 The appeal shall be determined by the Executive Committee who shall decide the outcome by a simple majority vote. Their decision, with reasons, shall be communicated to the appealing member in writing.

12 DETERMINATION AS TRADE UNION REPRESENTATIVES

For the purpose of interpreting or applying any law, guideline, code of good practice or any other document, where the term “Trade Union Representative” is used, the term “Trade Union Representative” shall be applied to any Union member who is an elected or appointed office bearer or official of **The Union**.

13 LIMITATIONS ON AUTHORITY OF OFFICE BEARERS AND OFFICIALS

Notwithstanding that **the president, the secretary and the treasurer** have been assigned powers to sign all cheques on the banking account of **The Union**, any cheque on the banking account of **The Union** shall be signed by at least any two of the said co-signatories.

14 ANNUAL GENERAL MEETING

14.1 There shall be an Annual General Meeting of **The Union** in the first term of each academic year of **UCT**. The date of this meeting shall be fixed by the Executive Committee and notice of such shall be given to the members at least 21 calendar days prior to the holding of such meeting. For the purpose of this clause it shall be considered sufficient notice to have posted such on the notice boards within the workplace.

14.2 Resolutions for discussion at the Annual General Meeting of **The Union** must be forwarded to **the Secretary** at least 7 days before the date of such a meeting except where the Executive Committee may otherwise permit, and shall be placed on the agenda by **the Secretary**. **The Secretary** shall include in the notice of the meeting a further notice specifying the closing date for acceptance of resolutions for the agenda.

14.3 Members may, with consent of at least 50% of the members present at the Annual General Meeting, submit points not on the agenda for consideration and voting at the Annual General Meeting,.

14.4 Notwithstanding the above the members present at a duly constituted Annual General Meeting shall despatch the following business:

14.4.1 The election of any office bearers and officials of **The Union** in accordance with this constitution

14.4.2 Adoption of a report from **the President**

14.4.3 Examination and, if appropriate, adoption of the annual financial statements of **The Union**

14.4.4 Any other business properly brought before the meeting

14.5 Minutes of all annual general meetings shall be maintained in a bound book.

15 SPECIAL GENERAL MEETINGS

15.1 The Executive Committee shall have the power to call a special meeting of **The Union** at any time provided that 21 days notice of the meeting has been given in writing and in a similar manner to that given for an Annual General Meeting. Any such notice shall clearly indicate the agenda of the meeting.

15.2 Notwithstanding the provisions of the previous clause the required notice period may be reduced provided such reduction is subsequently ratified by at least 50 members of **The Union** forming a quorum and attending the meeting to which the notice refers.

15.3 The Executive Committee shall call a special meeting of **The Union** within 14 days if so requested in writing by at least 50 members of **The Union**. The request for such a meeting shall state clearly the purpose for which the meeting is to be called.

15.4 Minutes of all special general meetings shall be maintained in a bound book

16 Quorum at Annual and Special General meetings

16.1 Fifty (50) members of **The Union** shall constitute a quorum at any annual or special general meeting of **The Union**.

16.2 Should there be fewer than fifty (50) members of **The Union** present fifteen minutes after the advertised starting time of any meeting, the meeting shall stand adjourned for such a time as the majority of members present or Executive Committee shall decide, such adjournment being for not less than six, and not more than twenty-eight calendar days. At the resumption of such adjourned meeting those present shall form a quorum.

17 Voting at Annual and Special General Meetings

17.1 Unless otherwise required by at least 75% of the members present, or by any other provision of this constitution all voting shall:

17.1.1 be by show of hands and

17.1.2 a motion shall only be passed and adopted if approved by at least a 50% plus 1 vote majority.

18 FINANCE

18.1 The funds of **The Union** shall be applied to the payment of expenses, the acquisition of property and towards the attainment of the objects specified in clause 4 and such other lawful purposes as may be decided upon by the Executive Committee or by members voting for the attainments of the said objects.

18.2 The funds received on behalf of **The Union** shall be deposited to its credit, within 14 days of receipt, at a bank decided upon by the Executive Committee.

18.3 Payments shall require the prior approval of the Executive Committee and shall be made by cheque or by voucher signed by any two of the following: the president, the vice-president, the secretary and the treasurer: provided that when the amount in question is less than R50,00 (fifty Rand) payment may be made from the petty cash. This amount may be increased at a meeting and at the discretion of the Executive Committee.

18.4 Funds required for a petty cash account, which shall be kept in such form as the Executive Committee may from time to time determine, shall be provided by the drawing of cheques. The Executive Committee shall, from time to time, determine the maximum amount of expenses to be paid from petty cash in any one month.

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- 18.5 Statements of income and expenditure and financial position of **The Union** shall be prepared quarterly by the treasurer and submitted to the Executive Committee for interim approval.
- 18.6 In accordance with the provisions of **The Act**, the treasurer shall prepare a statement of income and expenditure and a balance sheet in respect of each financial year ending on the 31 December. Such statements and balance sheets shall be audited and dealt with as required by the said section of the said Act.
- 18.7 A member who resigns or is expelled from membership in terms of this constitution shall have no claim on funds of **The Act** as and from the date on which the resignation or expulsion takes effect.
- 18.8 Any funds to in excess of the normal operating requirements of The Union shall be invested in the name of **The Union** with appropriate registered financial institutions, such to be decided by the Executive Committee.

19 REPRESENTATION AT CONCILIATIONS, ARBITRATIONS AND LABOUR COURTS AND OTHER MEETINGS

- 19.1 In the event of **The Union** being involved, in its own right or on behalf of any member, in any dispute with the Executive Committee shall, on the fact being reported to it, take such steps, as it deems advisable to bring about a settlement of the dispute. Should the Executive Committee decide to invoke any of the provisions of **The Act**, or any other law, it shall cause the necessary application to be made, and it shall appoint such office bearers, officials or legal representatives it sees fit to represent **The Union** and/or its members at such proceedings.
- 19.2 Representatives at such proceedings shall have the full power to enter into agreements on behalf of **The Union** or individual members, where they have been mandated to do so by the Executive Committee or the individual member or members concerned.

20 BALLOTS

- 20.1 In addition to those cases in respect of which the taking of a ballot of members of **The Union** is compulsory in terms of this constitution or by any law a ballot on any question shall be taken if the Executive Committee so decides, and shall also be taken on any proposal to declare or take part in any strike.
- 20.2 Ballots shall be conducted in the following manner:-
- 20.2.1 Notice of a ballot shall be given to each member of **The Union** in writing by the Secretary, at least one day before the ballot is to be taken, provided that a ballot may be taken without notice at any special general meeting of **The Union** on the decision of a majority of the members present.
- 20.2.2 Two scrutinisers shall be appointed by the Executive Committee or by the members in special general meeting to supervise any ballot and to ascertain the result thereof
- 20.2.3 Except in the case of postal ballots and ballots taken at special general meetings on the decision of a majority of the members present, ballots shall be conducted at **The Union's** registered office or at such other place(s) as may be specified in the notice referred to in paragraph 20.2.1 of this sub-clause on the date and during the hours specified in the said notice.
- 20.2.4 Ballot papers shall be obtained by the secretary. The issue to be voted upon shall be set forth clearly on the ballot papers and such papers shall not contain any information by means of which it will be possible to identify the voter.

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- 20.2.5 One ballot paper only shall be issued on demand at the place and during the hours fixed for the taking of the ballot to each member of **The Union** who is entitled to vote.
- 20.2.6 Each voter shall, in the presence of the scrutinisers, be issued with one ballot paper that voting member shall thereupon complete, fold and deposit in a container provided for the purpose.
- 20.2.7 Ballot papers shall not be signed or marked in any way apart from the mark required to be made by members in recording their vote. Papers bearing any other marks shall be regarded as spoilt and shall not be counted.
- 20.2.8 On completion of a ballot or as soon as possible thereafter the result thereof shall be ascertained by the scrutinisers in the presence of the secretary and made known to the Executive Committee or the members in the special general meeting.
- 20.2.9 Ballot boxes shall be inspected by the scrutinisers and sealed by the secretary in their presence prior to the issue of ballot papers.
- 20.2.10 Ballot papers including spoilt papers, shall be placed in a container that shall be sealed after they have been counted and retained by secretary for not less than 3 years. Thereafter the sealed ballot box shall be destroyed by resolution of the Executive Committee.
- 20.3 The Executive Committee may decided that a postal ballot of members be taken in which event the ballot shall be conducted in the following manner:
- 20.3.1 The secretary shall send by registered post to each member of **The Union** a ballot paper and a stamped and addressed envelope marked "Ballot". The ballot paper shall on completion be inserted in the envelope provided for the purpose that shall be sealed and posted so as to reach the secretary within 3 (three) weeks from the date of despatch from the Registered Office of **The Union** to such member. On receipt of such envelopes, the secretary shall immediately place such envelope in a sealed ballot box.
- 20.3.2 Two scrutinisers shall be appointed by the Executive Committee to ascertain the result of the ballot. The ballot box shall be opened and the ballot papers counted by the scrutinisers in the presence of the secretary who shall immediately advise the Executive Committee of the result of the ballot.
- 20.3.3 The provision of paragraphs 20.2.4, 20.2.7, 20.2.9 and 20.2.10 shall *mutatis mutandis* apply in the case of postal ballots.
- 20.3.4 The same procedure shall *mutatis mutandis* apply to a postal ballot confined to members of the Executive Committee.
- 20.4 Except as provided in the **The Act**, the Executive Committee shall be bound to take action according to the decision of a majority of the members voting in a ballot.
- 20.5 No ballot involving the declaration of or participating in a strike shall be taken unless the provisions of **The Act** confer a right to strike over the matter in dispute.
- 20.6 No member may be disciplined by **The Union**, or have their membership terminated, for failure or refusal to participate in a strike if:
- 20.6.1 no ballot was held about the strike; or
- 20.6.2 a ballot was held but a majority of members who voted did not vote in favour of the strike.

21 WINDING-UP

21.1 **The Union** shall be wound up if

21.1.1 at a ballot conducted in the manner prescribed in the constitution not less than three-fourths of the total number of members of **The Union** in good standing vote in favour of a resolution that **The Union** be wound up, or

21.1.2 if for any reason **The Union** is unable to continue to function.

21.2 If a resolution for the winding-up of **The Union** has been passed as provided in sub-clause 21.1.1 or if for any reason **The Union** is unable to continue to function the following provisions shall apply:-

21.2.1 The last appointed president of **The Union** or if the last appointed President is not available, the available members of the last-appointed Executive Committee of **The Union** shall forthwith transmit to the Registrar of Labour Relations appointed in terms of **The Act** a statement signed by them setting forth the resolution adopted of the reasons for **The Union**'s inability to continue to function, as the case may be.

21.2.2 The available members of **The Unions**' last appointed Executive Committee shall appoint a liquidator to carry out the winding-up. The liquidator shall not be a member of **The Union** and shall be paid such fees as may be agreed upon by the said liquidator the said members of **The Unions**' last Executive Committee who were in good standing as the date of dissolution. Should the parties fail to agree upon the fees paid, the said Registrar shall fix the basis on which the liquidator shall be paid.

21.2.3 The liquidator so appointed shall call upon the last-appointed office-bearers and officials of **The Union** to deliver to said liquidator **The Union**'s books of account showing:

21.2.3.1 **The Union**'s assets and liabilities

21.2.3.2 the register of members showing for the 12 months prior to the date on which the resolution for winding-up was passed or the date as from which **The Union** was unable to continue to function, as the case may be, hereinafter referred to as the date of dissolution, the subscriptions paid only by each member and their address as at the said date.

21.2.4 The liquidator shall also call upon the said office bearers and the officials of **The Union** to hand over to the liquidator all the unexpended funds of **The Union** and to deliver to the liquidator **The Union**'s assets and the documents necessary in order liquidate the assets.

21.2.5 The liquidator shall take the necessary steps to liquidate the debts of **The Union** from its unexpended funds and any other monies realised from any other assets of **The Union**.

21.2.6 If the said funds and monies are insufficient to pay all creditors after the liquidator's fees and the expenses of winding-up have been met, the order in which creditors shall be paid, subject to provisions of paragraph 21.3, shall be the same as that prescribed in any law for the time being in force relating to the distribution of the assets of an insolvent estate and the liquidator's fees and the expenses of winding-up shall rank in order of preference as though the liquidator were a liquidator of an insolvent estate and as though the expenses were costs of sequestration of an insolvent estate.

21.2.7 After the payment of all debts in accordance with paragraph 21.2.5, the remaining funds, if any, shall be distributed by the liquidator amongst the members of **The**

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Union who were in good standing as at the date of dissolution and each member shall be awarded a share in proportion to the subscriptions actually paid by the member in respect of the twelve months immediately preceding the said date.

21.3 The liability of members shall, for the purposes of the above clause, be limited to the amount of subscriptions due by them to **The Union** in terms of this constitution as at the date of dissolution.

22 PROCEDURE FOR AMENDMENTS TO THIS CONSTITUTION

No amendment to this constitution will be considered unless:

22.1 Proposed by the Executive Committee acting on a resolution of the Executive Committee; or

22.2 Proposed by not less than 10 members of **The Union** acting in concert; and

22.3 In accordance with the following procedure:

22.3.1 Any proposals for amendment shall first be submitted to the Executive Committee.

22.3.2 After formal consideration at the next scheduled Executive committee meeting the Executive Committee must

22.3.2.1 adopt the proposed amendment as a proposed amendment of its own, or

22.3.2.2 reject the proposed amendment and advise the members who submitted the proposed amendment of its reasons for rejection, or

22.3.2.3 enter into discussion with the members proposing the amendment with a view to formulating an amendment with which both parties are satisfied.

22.3.3 The Executive committee will then, by written notice, circulate all members with a copy of any proposed amendment and may then:

22.3.3.1 Call a Special General Meeting in terms of this constitution for the purposed of adopting any amendment, or

22.3.3.2 Conduct a postal ballot in accordance with the terms of this constitution and may, in determining the acceptance by the members of the proposed amendment, consider any non-reply by a member as a vote in favour of adoption of any amendment.

22.3.4 On acceptance by a majority of the members of any amendment the President and the Secretary shall have the power to, and shall, sign the amended document.

22.3.5 Notwithstanding the above procedure should any 10 members, acting in concert, be aggrieved by the decision of the Executive Committee in rejecting their proposed amendment, nothing shall prevent them from acting in concert with other members to requisition a Special General meeting of **The Union**, provided that they adhere to the requirements of the other provisions of this constitution
