

CONSTITUTION OF THE SOCIETY OF MASTER MARINERS SOUTH AFRICA BENEVOLENT FUND

1. NAME OF FUND AND MANNER OF RAISING FUNDS

1.1 The Society of Master Mariners South Africa - hereinafter referred to as "the Society" - shall have a Benevolent Fund, which shall be known as "The Society of Master Mariners South Africa Benevolent Fund" - hereinafter referred to as "the Fund".

1.2 The Fund may be raised by donations or grants.

2. OBJECTIVES OF THE FUND

2.1 The Society of Master Mariners South Africa is a non-profit organisation which has established the Fund for the following public benefit objectives:

2.1.1 to make loans and grants to Members (except Affiliate and Honorary Members) of the Society and or their dependents in times of need at the sole discretion of the Fund's Governing Board.

2.1.2 to make bursaries, loans and grants to learners and students studying towards a maritime-orientated school leaving qualification or a South African Maritime Safety Authority-approved qualification, at the sole discretion of the Fund's Governing Board.

3. LEGAL STATUS

The Fund is a body corporate with its own legal identity which is separate from its office-bearers, the Society and its members. The Fund will continue to exist even if its office-bearers change.

4. INCOME AND PROPERTY OF THE FUND

4.1 Members of the Society and office-bearers of the Fund have no rights in the property or other assets of the Fund solely by being members or office-bearers.

4.2 The income and property of the Fund shall be used solely for the promotion of its stated objectives and shall not be paid or distributed directly or indirectly to any person employed by the Fund or to any office-bearer of the Fund, except as reasonable compensation for services actually rendered to the Fund or reimbursement of actual costs or expenses reasonably incurred on behalf of the Fund.

5. TAXATION OF THE FUND

The Fund may apply to the Commissioner for the South African Revenue Service for approval as a Public Benefit Organisation in terms of section 30 of the Income Tax Act. Upon approval the provisions set out in **Schedule A** of this constitution shall bind the Fund.

6. ADMINISTRATION AND EXECUTIVE

6.1 **Powers:** The Fund shall be managed by a Governing Board in accordance with this constitution and any resolutions of the Society's national Annual General Meeting. The Governing Board is empowered to dispose of any donations made to the Fund and to invest the monies so realised.

6.2 **Number and Portfolios:** A minimum of three members of the Society and one other person (who may or may not be a member of the Society) shall serve on the Governing Board. The four Board members shall be approved by the national Annual General Meeting of the Society (subject to 6.3).

6.3 **Term of office:** All members of the Governing Board will hold office for a minimum period of three years. Any member of the Governing Board must retire from the Governing Board on reaching the age of seventy-five.

6.4 **Vacancies:** Should the number of Governing Board members become less than four for whatever reason, the remaining Governing Board members must, as soon as reasonably possible, appoint a member of the Society to fill the vacancy. Such appointment will remain in place until the next national Annual General Meeting of the Society at which time the appointment must be confirmed or a new appointment made.

6.5 **Co-option:** The Governing Board may co-opt additional non-voting members as it may consider appropriate.

6.6 **Resignation, Disqualification and Removal:** A Governing Board member may resign from office in writing. A Society-appointed Governing Board member shall be disqualified from office upon termination of membership to the Society. A Board member can be removed from office through a resolution supported by two-thirds of the remaining Governing Board members.

6.7 **Delegation of powers:** The Governing Board may delegate any of its powers or functions to a committee or members(s) of the Society provided that: such delegation and conditions are reflected in the minutes for that meeting, at least one Board member serve on the committee, the Board in advance approves all expenditure incurred by the committee or member, and the Governing Board may revoke the delegation or amend the conditions.

6.8 Procedures for meetings:

6.8.1 At the first meeting of the Governing Board after a national Annual General Meeting of the Society, the Governing Board will elect a Chairman, Secretary and Treasurer from among their members. In the absence of the Chairman at any subsequent meeting of the Governing Board, the meeting will elect a Chairman for that meeting from among the Governing Board members present.

6.8.2 All notice terms of this constitution must be given to Governing Board members in writing (personally or via post or electronic communication) at least fourteen days before the meeting to the address provided by the Governing Board members.

- 6.8.3 The accidental omission to address notices to any member shall not nullify the proceedings of any meeting.
- 6.8.4 A member present in person at any meeting shall be deemed to have received notice of such meeting.
- 6.8.5 If posted, notices shall be deemed to have been received seven days after posting.
- 6.8.6 Meetings of the Governing Board may be conducted face-to-face or electronically which would allow Governing Board members to be present and participate through electronic means.
- 6.8.7 If the Chairman is not present within fifteen minutes of the appointed time of the meeting, the meeting shall elect a chairman for that meeting from among the members present.
- 6.8.8 The Chairman shall convene a meeting of the Board at least twice annually and at the written request of any two members of the Board.
- 6.8.9 A quorum for a meeting will be two-thirds of the serving Governing Boards members.
- 6.8.10 If no quorum is present the Governing Board may make no decision, except to preserve the assets of the Fund.
- 6.8.11 Each Governing Board member present or represented through a written proxy shall have one vote.
- 6.8.12 Questions arising shall be decided by a majority of votes. When a clear majority cannot be reached, the Chairman shall have a casting or second vote.
- 6.8.13 Proper minutes and attendance records must be kept of all meetings of the Governing Board. The chairman for the meeting shall sign the minutes which shall be available at all times for inspection and copying by any member of the Governing Board or of the Society on two days' notice to the Secretary.
- 6.8.14 A resolution signed by all members of the Governing Board shall be as valid as if passed at a duly convened meeting of the Governing Board.
- 6.8.15 The Governing Board may appoint employees and or consultants upon such lawful terms and conditions as it may deem necessary.

6.9 **Conflicting Interests:** Any actual, potential or perceived conflict of interest on the part of any member of the Governing Body, on a matter pertaining to the Fund, must be disclosed in writing to the Governing Board which shall record such conflict of interest in the minutes of the Board meeting. Such member may be requested by the Governing Board to state his/her position in the matter or to respond to pertinent questions, but shall not vote or use his/her influence on the matter and shall not be counted for purposes of determining a quorum for the meeting where the voting takes place.

6.10 **Confidentiality:** All matters pertaining to litigation, security measures, contractual negotiations, employment matters and any other matters deemed confidential by the Governing Board must be treated as confidential and only the actual decisions may be disclosed to the general public.

7. **POWERS OF THE GOVERNING BOARD**

The Governing Board shall have the following powers:

7.1 To institute or defend any legal or otherwise proceedings and to settle any claims,

7.2 To prudently invest the funds of the Fund,

7.3 To buy, attain, maintain, manage, lease, sell or in any way deal with property and assets of the Fund,

7.4 To make loans, bursaries or grants at the discretion of the Governing Board and as decided by their majority vote. The Governing Board shall determine the terms of loans, bursaries or grants and shall ensure in writing that these terms are acknowledged and understood by the recipient of any loan, bursary or grant.

7.5 To borrow and use the property and assets of the Fund as security for borrowing,

7.6 To execute any act or deed in any deeds registry, mining titles or other public office,

7.7 To exercise all the management and executive powers ordinarily vested in the Board of Directors of a Company, and

7.8 To carry out all the powers and authority of the Fund in South Africa and in any other part of the world.

8. **FINANCES AND REPORTS**

8.1 The Governing Board shall invest monies of the Fund in first class banks, bonds or in similar financial institutions including unit trusts.

8.2 Banking accounts in the name of the Fund shall be opened at such registered first class banks as the Governing Board may decide.

8.3 The financial year-end of the Fund shall be the end of March.

8.4 At each national Annual General Meeting of the Society the Governing Board shall present a set of financial statements, certified by an independent competent Accountant, showing the affairs of the fund, monies in hand and particulars of investments and disbursements made during the preceding year.

9. LIMITATION OF BENEFITS

9.1 Loans, bursaries or grants may only be made from the funds assets that exceed one million Rand or such other reserve amount determined by the national Annual General Meeting of the Society from time to time. However, a specific donation made to the Fund and for which the Fund has issued a donations receipt in terms of Section 18A of the Income Tax Act of 1962 must be utilised in such a way as to comply with all the requirements of the Act.

9.2 Should the Governing Board believe additional funds are needed over and above the amount available by virtue of 9.1 above, it must request permission from the Society's Executive Committee to access these additional funds from the Fund's capital.

9.2 The annual national Annual General Meeting of the Society may require the Governing Board to impose criteria on the allocation of available funds between the two public benefit objectives listed in 2.1.1 and 2.1.2 above.

10. AMENDMENTS AND DISSOLUTION

10.1 This constitution may be amended, the name of the Fund may be changed, and the Fund may be dissolved at a national Annual General Meeting of the Society.

10.2 At least 21 days' notice of the meeting stating the nature of the resolution to be proposed must be given to all the members of the Governing Body.

10.3 Upon dissolution of the Fund, after all debts and commitments have been paid, any remaining assets shall not be paid to or distributed amongst members, but shall be transferred by donation to some other non-profit organisation which the Governing Board (and failing which the National Annual General Meeting of the Society) considers appropriate and which has objectives the same or similar to the objectives of the Fund, and should the Fund be exempt from the payment of any taxes and duties;

10.3.1 any similar public benefit organisation which has been approved in terms of section 30 of the Income Tax Act;

10.3.2 Any institution, board or body which is exempt from tax under the provisions of section 10 (1)(cA)(i) of the Income Tax Act, which has as its sole or principal object the carrying on of any public benefit activity;

10.3.3 Any department of state or administration in the national or provincial or local sphere of government of the Republic.

11. INDEMNITY

11.1 Subject to the provisions of any relevant law, members, office-bearers or appointed delegates of the Fund shall be indemnified by the Fund for all acts done by them in good faith on its behalf.

11.2 Subject to the provision of any relevant law, no member of the Fund's Governing Body or appointed delegates shall be liable for the acts, receipts, neglects or defaults of any other member or office bearer, or for any loss, damage or expense suffered by the Fund, which occurs in the execution of the duties of his or her office, unless it arises as a result of his or her dishonesty, or failure to exercise the degree of care, diligence and skill required by law.

This Constitution as approved at the 2011 Congress/National Annual General Meeting of the Society of Master Mariners South Africa is hereby signed into force in Cape Town on this 7th day of September 2011.

President

Honorary General Secretary

Signed: ORIGINAL COPY SIGNED

Signed: ORIGINAL COPY SIGNED

Name: Robert Whitehead

Name: Keith Burchell

SCHEDULE A

REQUIREMENTS FOR APPROVAL AS PUBLIC BENEFIT ORGANISATIONS

As provided for in Clause 5 of this Constitution, The Fund intends to apply to the Commissioner for SARS for approval as a Public Benefit Organisation in terms of Section 30 of the Income Tax Act. Upon approval the Fund shall:

1. Be required to have at least three persons, who are not connected persons in relation to each other, to accept the fiduciary responsibility of the Fund.
2. Ensure that no single person directly or indirectly controls the decision making powers relating to the Fund.
3. Is prohibited from distributing any of its funds to any person (otherwise than in the course of undertaking any public benefit activity) and is required to utilise its funds solely for the object for which it has been established.
4. Be prohibited from accepting any donation which is revocable at the instance of the donor for reasons other than a material failure to conform to the designated purposes and conditions of such donation, including any misrepresentation with regard to the tax deductibility thereof in terms of section 18A; provided that a donor may not impose conditions which could enable such donor or any connected person in relation to such donor to derive some direct or indirect benefit from the application of such donation.
5. Ensure that it is not knowingly a party to, and does not knowingly permit itself to be used as part of any transaction, operation or scheme of which the sole or main purpose is or was the reduction, postponement or avoidance of liability for any tax, duty or levy, which, but for such transaction, operation or scheme, would have been or would have become payable by any person under the Act or any other Act administered by the Commissioner.
6. Submit to the Commissioner a copy of any amendment to this constitution.
7. Not pay any remuneration to any employee, office bearer, member or other person, which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered.
8. Comply with such reporting requirements as may be determined by the Commissioner.
9. Take reasonable steps to ensure that the funds which it may provide to any association of persons as contemplated in paragraph 10[iii] of Part 1 of the Ninth Schedule of the Act are utilised for the purpose for which they are provided.
10. Has not and will not use its resources directly or indirectly to support, advance or oppose any political party.