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**CONSTITUTION OF THE GOVERNING BODY OF PRIMARY SCHOOL GERT MARITZ IN  
TERMS OF SECTION 18 OF THE SOUTH AFRICAN SCHOOLS ACT, 1996 (84 OF 1996)**

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**PREAMBLE**

WHEREAS, the South African Schools Act of 1996 provides for a democratically elected governing body at each public school and assign it the control of the school, excluding the professional management of the school; and

WHEREAS the governing body is involved in a position of trust towards the school and the statutory duties which he has to exercise with regard to the rights of all learners, parents and educators, as well as any other applicable legal provisions; and

WHEREAS matters relating to the functioning of a governing body is not offered by other legal provisions regulated and required and necessary for the legitimate and efficient functioning of a governing body whose functions according to the constitution are to be performed –

the following approved the constitution of the governing body of **GERT MARITZ PRIMARY SCHOOL**

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**1. NAME AND STATUS**

1.1 The name of the governing body is "The Governing Body of Gert Maritz Primary School"

1.2 The governing body is the organ by which –

1.2.1 the school as a legal entity exercising its legal powers in the performance of his prescribed duties; and

1.2.2 the school is managed, subject to any applicable legal rules and the provisions of this Constitution.

**2. APPLICATION OF CONSTITUTION**

2.1 The provisions of this Constitution shall bind all members of the governing body and, as appropriate, all persons or organisations in their relationship with the school or the Governing Body.

2.2 Any matter concerning an aspect of the governing body's status, composition, functions, duties or function for which this constitution does not contain a provision, will be regulated by the applicable legal provisions that deals with it.

### 3. DEFINITIONS AND INTERPRETATION

3.1 In this Constitution, unless the context requires otherwise, words or terms not specifically defined shall have the same meaning they have in terms of the South African Schools Act, 1996 (Act 84 of 1996), and means –

- (i) "office bearer" an office bearer referred to in section 7.1;
- (ii) "governing body" the legally constituted governing body of the school;
- (iii) "Constitution" the Constitution contained in this document;
- (iv) "learner" a pupil of the school;
- (v) "member" a person who is a member of the governing body;
- (vi) "vice chairman" the vice-chairman of the governing body;
- (vii) "principal" the principal of the school;
- (viii) "Secretary" the secretary of the governing body;
- (ix) "school" **PRIMARY SCHOOL GERT MARITZ;**
- (x) "Treasurer" the treasurer of the governing body;
- (xi) "executive committee" the executive committee of the governing body;
- (xii) "Chairman" the Chairman of the Governing Body.

3.2 In the interpretation of a provision in the Constitution preference should be given to any reasonable interpretation that would ensure that the provision is consistent with a national or provincial statute, or a regulation or notice or other measure promulgated under such Act and over any alternative interpretation that will result in a conflict with one or more of the specified conditions

3.3 The heading for each section of the constitution is only added for editorial purposes and are not used in the interpretation of the relevant provision.

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#### **4. GOALS AND OBJECTIVES OF THE GOVERNING BODY**

4. The aims and objectives of the governing body is to deal within its ability, any applicable legal provisions and the provisions of the Constitution -
- 4.1 Deal with the control and management of the school that has been assigned to it, on a legally, knowledgeable, responsible and cost effective manner;
- 4.2 consistently promote the best interests of the school;
- 4.3 to identify in time any threat to the best interests of the school and take appropriate action about it;
- 4.4 to prevent or to go against any unlawful disruption or possible unlawful disruption of the educational process at the school;
- 4.5 to ensure providing education of the highest possible quality in the current conditions for all learners in the school;
- 4.6 to try and improve the development of the school by improving the quality of education for all pupils;
- 4.7 to ensure all his duties to the pupils, parents and teachers of the school, any other interested person or body and the state is properly fulfilled;
- 4.8 to maintain the rights of all learners , parents and teachers of the school and to promote the acceptance of responsibility for the organisation, management and financing of the school in partnership with the state
- 4.9 to manage in the best possible way or cause to be managed, the funds and other assets of the school as well as the assets of the state or others used by the school; and
- 4.10 To supplement the resources from the state to the school by providing reasonable measures.

#### **5. CERTAIN FUNCTIONS, POWERS AND DUTIES OF THE GOVERNING BODY AND ITS MEMBERS**

- 5.1 The governing body's objectives are pursued or achieved by performing the operations and exercising the powers referred to in this section.
- 5.2 The governing body performs all the functions he expressly should and must perform as well as all activities reasonably necessary for the former operations to be performed effectively.

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- 5.3 The governing body has all the powers which lawfully at a given time were conferred upon him as well as all other powers as are reasonably necessary for the exercise of the former powers.
- 5.4 Unless there is a legal provision to the contrary, all the functions and powers of the governing body will be performed or exercised, as the case may be, in the manner described in the Constitution or provided for under the Constitution.
- 5.5 The delegation of any function or power by the governing body to the executive committee or any other committee of the governing body or to any person does not prevent the governing body to, after due consideration of all the legal consequences of such a decision, to perform that function or exercise the power itself or to authorise someone else to do it.
- 5.6 Each member of the governing body exhibit in all his or her actions the highest degree of good faith where any rights or interests of the school or any parent, student, educator or other employee of the school are concerned.
- 5.7 The governing body and every member thereof always act so that there is no reasonable basis for the Head of Department to withdraw any existing work of the governing body and that if it is or can be legally possible the governing body can obtain further functions.
- 5.8 Each member of the governing body keep him or her informed of all legal requirements, regulations and official notices applicable on the functioning of the governing body and any committee thereof and carries within his or her power care to ensure that such provisions are met.
- 5.9 The governing body joins a voluntary association representing governing bodies of public schools and any other organisation or body which aims to improve the education or enforcement of fundamental rights in education, and for so long as such membership in the best interest of the school.

## **6. REPRESENTATION POWER AND LEGAL LIABILITY**

- 6.1 Subject to the provisions of the Constitution and any other applicable legal rule the school is liable for any contract or other legal transaction entered into on behalf of the school or executed by the governing body in carrying out its statutory functions, or by a duly authorised member of the governing body.
- 6.2 A contract which places a duty on the school and any action which alienates or object the assets of which the school has any rights, including the cession of a right belonging to the school or pledging a claim right may only be incurred or performed, as the case may be, by a person duly authorised by the governing body, and if such a person is acting within the scope of such authorisation.

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- 6.3 The governing body deal with any fixed property that the school occupies or uses according to all the legal provisions applicable in the specific case.
- 6.4 No legal proceedings are instituted or defended on behalf of the school without the written authorisation of the governing body.
- 6.5 No member of the governing body shall, without the prior obtained written consent of the governing body -
- 6.5.1 makes any admissions or waive any rights in any suit or proceedings in which the school or the governing body is involved, reach any settlement or in any way weaken or potentially weaken the legal position of the school or the governing body;
- 6.5.2 in respect of any debt owed to the school not sufficiently acknowledge or accepted, except for full and unconditional payment or performance;
- 6.5.3 in respect of any debt owing to the school, grant exemption, wholly or partially waive rights, reach a settlement, enter into debt renewal, grant postponement of payment or performance, reach an agreement on payment in instalments, or in any way weaken or potentially weaken the legal position of the school;
- 6.5.4 acknowledges responsibility on behalf of the school or the governing body in any matter that may place a burden on the school; and
- 6.5.5 grant any indemnity to anyone that can be detrimental to the school.
- 6.6 A minor member of the governing body has no authority to contract on behalf of the governing body. Such a member incur no personal liability for any result of his or her membership of the governing body,

## 7. COMPOSITION

A Governing Body consists of: -

- 7.1 The principal in his or her official capacity;
- 7.2 two teachers elected by the teachers at the school;
- 7.3 one teacher elected by the non-teachers at the school;
- 7.4 seven parents elected by parents;
- 7.5 up to and co-opted by members of the governing body. A co-opted member shall fall in one of the following categories: -
- (i) Community Members;

- (ii) the owner of the property that occupies the school;
- (iii) a person with the necessary authority regarding special education.

## **8. VOTING RIGHTS OF MEMBERS**

- 8.1 The principal and elected members.
- 8.2 Each member of the governing body shall have one vote.
- 8.3 In the event of an equality of votes the chairman of the meeting can in addition to his or her deliberative vote have a casting vote.
- 8.4 Co-opted members have no voting rights.

## **9. TERM OF OFFICE OF MEMBERS**

- 9.1 The term of office of elected members is three years, excluding the teacher representatives.
- 9.2 The term of office of a teacher representative is one year.
- 9.3 After the completion of the term of office members stay in office until the election of another governing body.
- 9.4 A member may be re-elected or co-opted after the completion of his/her term of office.
- 9.5 The term of office of the elected and co-opted members shall be terminated if the parents at a duly constituted meeting of parents take a motion of no confidence in the governing body.

## **10. OFFICE BEARERS OF THE GOVERNING BODY**

- 10.1 At the first meeting of the governing body, and thereafter as often as may be necessary, the members present shall elect the following officers: -
  - (i) a Chairman
  - (ii) a Vice-Chairman
  - (iii) a treasurer
  - (iv) a secretary

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- (v) an assistant secretary; and
  - (vi) any other office bearers that the governing body may need to designate subject to such conditions as he may prescribe.
- 10.2 The office bearers of the governing body exercise all the functions and powers and perform all duties that are legally conferred or imposed on them under the constitution.
- 10.3 If the chairman is absent or unable to perform his/her duties as chairman, or when the office of chairman is vacant, the vice-chairman must during the absence or incapacity of the chairman or until a chairman is elected, act as chairman. If both the chairman and the vice-chairman are absent or unable to perform the duties of the chairman, or when both the office of the chairman and that of the vice-chairman is vacant, the governing body must elect another chairman during such absence or incapacity or until a chairman or vice-chairman is elected.
- 10.4 The governing body may appoint acting office bearers to act temporarily on behalf of an office bearer if the latter is absent or unable to perform his or her duties or if that particular office is vacant.
- 10.5 Office bearers are elected for one year or until the termination of his term of office whichever is the lesser period.
- 10.6 Only older members of a governing body that is not employed by the school are allowed to serve as chairman or vice chairman.
- 10.7 An office bearer may be re-elected after the termination of his term of office.
- 10.8 The principal shall act as chairman during the election of a chairman.

## 11. THE CHAIRMAN

### 11.1 The Chairman -

- (i) preside during meetings
- (ii) convene a meeting after consultation with the principal, and
- (iii) determine the agenda of the meeting after consultation with the principal, and
- (iv) preside at meetings of the governing body convened by parents, teachers and non- teachers.

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## **12. THE SECRETARY**

- 12.1 The Secretary shall give written notice of any meeting of the governing body convened by the chairman.
- 12.2 The Secretary shall give reasonable details of the date, time, place and agenda of the meeting contained in the notice. The notice must be accompanied by any documentation or information that a member reasonably requires to adequately prepare for the meeting.
- 12.3 The secretary, a person assigned by the meeting, keeps the minutes of each meeting.
- 12.4 The secretary handles all correspondence of the governing body.
- 12.5 The Secretary shall ensure that all matters relating to the governing body is in proper order.

## **13. TREASURER**

- 13.1 The Treasurer shall at a regular meeting of the governing body report on the finances.
- 13.2 The treasurer shall submit the annual financial statements and the proposed budget for the next year at an annual general meeting of parents convened for the purpose to submit the annual financial statements of the governing body, the proposed budget and the proposed school fees for the next year.

## **14. ORDINARY MEETINGS OF MANAGEMENT BODY**

- 14.1 The members of the governing body shall meet as often as it is necessary or desirable in the circumstances but at least once every school term.
- 14.2 Fourteen days written notice is required for general meetings.
- 14.3 All meetings shall be opened with prayer and Bible reading.
- 14.4 When the meeting vote on any matter such ballot vote will be by show of hands unless the Chairman determines otherwise in his discretion or at least two thirds of the present members indicate that a vote in another manner is to take place.
- 14.5 A member of the governing body must inform the meeting timeously if he or she or a family member of his or her will receive or is likely to receive financial or other personal benefits from a decision made by the governing body. Such a member should leave the meeting for the duration of the discussion and decision-making on that matter.



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- 14.6 The governing body can discretionally grant permission that any person attend a meeting of the governing body and be given a reasonable opportunity to address the meeting.
- 14.7 The secretary must record minutes of each meeting in a bound book with fixed numbered pages used for this sole purpose.
- 14.8 The secretary shall record the following points in every agenda of every meeting : -
- (i) The names of the members present;
  - (ii) the names of the members who are absent, and state whether such absence are with or without excuse;
  - (iii) the decisions taken by the meeting;
  - (iv) deliberations during the meeting if required by the meeting.
- 14.9 All members who attend a meeting of the governing body must sign the attendance register before they leave the meeting.
- 14.10 Unless two -thirds of all the members present decides otherwise to keep the meeting by the agenda of which prior notice was given.
- 14.11 The approved minutes shall be signed by the chairman.
- 14.12 The minutes of meetings shall at all reasonable times be available for inspection by the members.

## **15. URGENT MEETINGS**

- 15.1 Urgent meetings can take place with 24 hours notice for the purpose of discussing pressing issues.
- 15.2 Only the urgent matter or matters for which an urgent meeting is convened may be discussed during an urgent meeting.

## **16. EXTRA-ORDINARY MEETINGS**

- 16.1 The chairman may convene a meeting of members on such reasonable date, time and place as he/she deems necessary or desirable.
- 16.2 The Chairman is obliged to convene an extra-ordinary meeting, if at least requested by three elected members.

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- 16.3 The written request must set out the nature of the matter to be discussed.
- 16.4 Only the matter or matters for which an extra-ordinary meeting is convened may be discussed during an extra-ordinary meeting.

## 17. QUORUM

- 17.1 The quorum of the governing body is half of the members entitled to vote on the relevant issues of the governing body, plus one member.
- 17.2 The decision of the majority of members present at a meeting makes the decision of the governing body.
- 17.3 If at a proper constituted meeting a quorum is not present, the meeting is adjourned for at least eight days but not longer than fourteen days.
- 17.4 On the date after which the meeting is adjourned in paragraph 17.3 the governing body can discuss all matters on the aforementioned agenda whether a quorum is present or not.

## 18. COMMITTEES OF THE GOVERNING BODY

- 18.1 The governing body, as soon as it is legally required, otherwise when necessary or appropriate to provide for the establishment and functioning of the following committees: -
- (i) An executive committee;
  - (ii) a finance committee;
  - (iii) any other committee as may be required.
- 18.2 Each standing committee of the governing body are annually appointed by the governing body. The number of members of a committee is determined by the governing body.
- 18.3 The governing body may as often as necessary may appoint an ad hoc committee to perform a function defined by him on conditions as it may determine.
- 18.4 Each committee operates under any applicable legal requirements, the provisions of the land and any guidelines that the governing body may determine from time to time.

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## 19. THE EXECUTIVE COMMITTEE

- 19.1 The executive committee consists of the chairman, the vice chairman, the secretary, the treasurer, the principal and as many other members as the governing body may assign from time to time.
- 19.2 The chairman and vice-chairman of the governing body act in the same capacities in respect of the executive committee.
- 19.3 The executive committee meets on dates from time to time approved for this purpose by the governing body and which must provide for at least one meeting each calendar month, unless the governing body in general, or in respect of a particular period approved less frequent meetings.
- 19.4 The executive committee also meets when the chairman considers it necessary and desirable or when two members of the executive committee request in writing to the chairman.
- 19.5 The executive committee is authorised to subject to any applicable legal provisions the constitution and any provisions of the governing body -
- (i) To carry out the assignment of the governing body;
  - (ii) to perform or exercise the operations of the powers which are delegated to it by the governing body;
  - (iii) If the circumstances makes it necessary or desirable to perform any act or make any decision that the governing body is authorised to perform or take, as the case may be, subject to ratification by the governing body as soon as reasonably possible under the circumstances.
- 19.6 The executive committee delivers a report at every meeting of the governing body of activities during the preceding periods and submit and table matters for which the approval of the governing body is required, unless the governing body due to reasonable cause grant reasonable submission for extension.

## 20. FINANCE COMMITTEE

- 20.1 The Finance Committee consists of the chairman or vice-chairman, the treasurer, the principal and such other persons designated by the governing body that has the necessary expertise of financial matters and is suitable to serve as members of the committee.
- 20.2 The purpose of the finance committee is within its capacity and taking into account any applicable legal provision -

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- (i) on its own initiative or at the direction of the governing body to regularly serve the governing body on advise on any matter that has financial implications for the school;
  - (ii) to develop appropriate guidelines and procedures for the school's administration and to ensure that such guidelines are uniformly complied with;
  - (iii) and to ensure that all obligations of the school, and all requirements applicable on the school with respect to the keeping of financial records and statements, the appointment of an accountant or auditor, the auditing of financial records and statements, the providing of any information to parents, staff member of the school or departmental officials who are authorised over the school's financial affairs, the collection of school fees, the exemption of parents of school fees, fundraising on behalf of the school, the management and the use of school funds and any other financial assets of the school, setting a budget, and any similar or related events, properly, on time and consistent with accepted accounting practice, is adhered to; and
  - (iv) develop strategy whereby the income of the school can be increased and all existing assets of the school can be utilised maximally.

20.3 The financial procedures of the finance committee shall, *inter alia* make provision -

- (i) that at least three and not more than four members of the governing body, of which preferably the principal is a member and two additional members who are authorised and have the power to sign cheques, stop orders, and record similar financial instruments on behalf of the school, and that each cheque, stop order, similar financial instrument is to be signed by at least two of the four persons;
- (ii) that written contracts on behalf of the school is to be signed by at least two members of the governing body of which one is also a member of the finance committee;
- (iii) that the cash from the school must be handled in the safest way possible; and
- (iv) that there is a financial policy in a school which should *inter alia* provide that money be paid into a bank account.

## 21. PROCEDURE FOR THE SOLUTION OF CERTAIN DISPUTES

21.1 If there is a dispute at the school concerning their respective areas of competence or functions regarding the management of the school by the governing body and the professional management of the school by the principal under the authority of the department head, the dispute be submitted to mediation, and if that fails, to

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arbitration, as described in this article, unless there is a compelling legal provision by which the dispute should be handled differently.

- 21.2 Unless the parties to the dispute referred to section 13.1 agree otherwise, every dispute that is the subject of mediation or arbitration may be submitted to an impartial and expert committee or any other knowledgeable person or body for mediation and, if necessary, arbitration.
- 21.3 If mediation within a reasonable time does not present a solution to the dispute, committee act as arbitrator. Unless otherwise agreed, the provisions of the Labour Relations Act, 1995 (Act 66 of 1995) shall *mutatis mutandis* apply in respect of the procedure to mediation and arbitration referred to in this section.
- 21.4 Where the arbitration committee makes a decision, such decision shall be final and binding on all the parties to the arbitration.

## **22. PROMULGATION OF RULES AND POLICIES**

- 22.1 The governing body may subject to any legal provision and the Constitution in its discretion make rules or policy, as the case may be, in respect of any matter in which he can or should make rules or can or should promulgate policy, or any matter relating to his operation of any committee of the governing body, or the manner in which any office bearer or agent of the governing body perform its functions.
- 22.2 Without limiting the generality of section 14.1, the governing body must, if he has not already done so, as soon as reasonably possible and with due regard to any applicable legal provisions, stipulate internal rules or policy (and if necessary edit existing rules or policy) that has the following topics:
- 22.2.1 all procedures and related matters within the jurisdiction of the governing body on the recommendation of the appointment of any staff at the school;
- 22.2.2 guidelines, rates and formalities of the reimbursement of necessary expenses of members of the governing body, and in the performance of their duties;
- 22.2.3 principles regarding the keeping and preparation of the school's financial records and statements and the auditing of financial statements;
- 22.2.4 the procedure by which the budget of the school, the levying of school fees and the guideline for exemption of school fees by some parents can be approved by the parents;
- 22.2.5 general financial and accounting practise at the school, the management and use of the school funds, the bank matters of the school, signing cheques and similar financial documents, any other measures which may be necessary to ensure that each payment from the fund school is lawfully made;

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- 22.2.6 the collection of money or any product or service on behalf of the school;
  - 22.2.7 principles for the admission of any person to do business at the school, or to sell or supply anything on the property that the school occupy or to obtain information about any product or spread service there;
  - 22.2.8 taking out insurance in cases where the school can legally be held liable for the payment of damages to any person;
  - 22.2.9 if applicable the principles, procedures and rates at the availability of any school assets or premises or buildings occupied by the school for use by any person, organisation or group other than in the normal operations of the school itself;
  - 22.2.10 the security, maintenance and insurance of the assets of the school or any premises or immovable property which the school occupies or uses, including control of access to such premises or immovable property, with specific reference to the Act or Control Access to Public Premises and Vehicles, 1985 (Act 53 of 1985).
  - 22.2.11 ways in which the school can generally be managed cost effectively;
  - 22.2.12 ways in which parents, students, educators and other staff of the school can be encouraged to deliver voluntary services to the school;
  - 22.2.13 principles and procedures in the development of the mission of the school and the development plan of the school;
  - 22.2.14 principles and procedures in the preparation and amendment of a code of conduct for learners;
  - 22.2.15 principles and procedures in the preparation and amendment of school rules;
  - 22.2.16 principles and procedures in the development of codes of rights for all sectors at the school;
  - 22.2.17 principles and procedures in the handling and investigation, if applicable, of any complaints, grievances or disputes at the school or any disciplinary matter concerning students or anyone employed by the governing body (including any permissible and appropriate disciplinary action);
  - 22.2.18 principles and procedures in the formulation and implementation of the school 's admission policy, language policy, religious policy and his respect for religion at school;
  - 22.2.19 a basic code of conduct for members of the governing body;
  - 22.2.20 principles and procedures in determining the times of the school day;

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- 22.2.21 purpose of and all procedures and related issues at the holding of statutory mandatory or other meetings with parents, students and with other stakeholders and the availability of a report to any of the specified persons;
  - 22.2.22 principles and rules relating to the extra-mural curriculum of the school, including participation in such curriculum, and the choice of subject options in terms of provincial curriculum policy;
  - 22.2.23 principles and rules regarding the management and operation of any residence of the school;
  - 22.2.24 the functions of any committee whose functions are not explicitly spelled out in the Constitution;
  - 22.2.25 action against any member of the governing body who deals contrary with a provision of the constitution or a measure, policy or decision promulgated thereunder;
  - 22.2.26 ways in which the principal and other staff of the school can be supported in the performance of their professional duties;
  - 22.2.27 principles and procedures in the disclosure or not of information regarding the school, a student or staff member at the school, or any action or decision by the governing body, subject to the rights applicable thereto;
  - 22.2.28 the release of minutes of meetings of the governing body or for inspection by the department head;
  - 22.2.29 general principles and procedures regarding liaison with the department head, any other interested or media on matters relating to the school.

## **23. EFFECT OF NON-MATERIAL TECHNICAL FAULTS**

- 23.1 Subject to any applicable legal provision no decision or action of the governing body, or any of its office bearers or a committee insignificantly exposed simply due to non-compliance with a formality or technical direction by or under the Constitution required if such non-compliance is not material in nature and the action or decision occurred in good faith.

## **24. AMENDMENT OF THE CONSTITUTION**

- 24.1 If it is necessary or essential to amend this constitution, a proposal for amendment is submitted following the approval by the executive committee to the Governing Body. The executive committee must take reasonable steps to ensure that any

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proposed amendment of the constitution recommended by it will be lawfully acceptable.

- 24.2 Notice of a meeting of the governing body to consider an amendment to the Constitution must be given at least (2) calendar month before the meeting and be accompanied by such reasonable particulars and motivation as the circumstances may require.
- 24.3 Any amendment to the Constitution must be approved by at least two thirds of all voting members of the governing body at a meeting at which the amendment of the Constitution will be considered.
- 24.4 At a meeting referred to in section 12.3 if less than two thirds of the members is present, a further meeting will be convened solely for the purpose of considering the proposed amendment at least two (2) weeks after the first meeting. If at such a meeting, there are not two thirds of the members present, the proposed amendment is passed if two thirds of the members present vote in favour thereof.
- 24.5 Upon approval of any amendment of the Constitution the executive committee must as soon as possible submit it to the Head of Department.

TRANSLATED FROM AFRIKAANS TO ENGLISH NO AMENDMENTS WERE MADE.

**RATIFIED ON THE 06 NOVEMBER 2014 BY THE GOVERNING BODY**

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MR. A.G. OPPERMAN  
CHAIRMAN OF GOVERNING BODY

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MRS. C.A.J. VAN TONDER  
PRINCIPAL