

THESE ARE THE SUBSTITUTED ARTICLES OF ASSOCIATION ADOPTED BY A GENERAL MEETING OF DEUTSCHER SCHULVEREIN WINDHOEK (1949) (INCORPORATED ASSOCIATION NOT FOR GAIN) HELD ON 19<sup>TH</sup> JUNE 2025.

CHAIRPERSON OF THE BOARD

THE COMPANIES ACT, 2004

ARTICLES OF ASSOCIATION

DEUTSCHER SCHULVEREIN WINDHOEK (1949) (INCORPORATED ASSOCIATION NOT FOR GAIN)

(the "Company")

- A. The Articles of Table A contained in Schedule 1 to the *Companies Act, 2004* shall not apply to the Company.
- B. The Articles of the Company are as follows:

**Preamble**

- A. The Company was incorporated in 1950 in terms of the *Companies Act, 1926* under registration number 21/1950/0472;
- B. The Company continues to exist under the *Companies Act, 2004* as a non-profit association incorporated under section 21 with its principal place of business at Windhoek.
- C. The objects and principal business of the Company are set out in its Memorandum of Association dated 7<sup>th</sup> September 1950.

## Definitions and Interpretation

### Definitions

1. In these Articles, unless the context indicates otherwise -
  - 1.1 “**Annual General Meeting**” means the annual General Meeting of the Company required to be convened in terms of section 187 of the *Companies Act, 2004*;
  - 1.2 “**Articles**” means this document;
  - 1.3 “**Board**” (“*Vorstand*”) means the organ and decision-making body of the Company comprised by the Company’s Directors from time to time;
  - 1.4 “**Board Chairperson**” (“*Vorstandsvorsitzender*”) means the Director appointed in that function in terms of Article 88.1;
  - 1.5 “**Companies Act, 2004**” means the Namibian statute by that name;
  - 1.6 “**Company**” means the Deutscher Schulverein Windhoek (1949) (Incorporated Association not for Gain);
  - 1.7 “**Contributions**” means Membership fees or contributions prescribed by the Board from time to time;
  - 1.8 “**decision**” means, principally, a resolution of the Board (whether passed at a Board meeting or as a written resolution as contemplated in section 250 (2) of the *Companies Act, 2004* read with Articles 84 to 86, but also includes, where applicable, a resolution passed by the Members of the Company at a General Meeting or a resolution or decision by the School Management or the School Administration under delegated authority from the Board, and the expressions “**decide**” and “**decided**” shall have a corresponding meaning;
  - 1.9 “**Director**” (also “*Vorstandsmitglied*”) has the same meaning as given to that term in section 1 of the *Companies Act, 2004*, and, more specifically, means a director of the Company;
  - 1.10 “**General Meeting**” means a meeting of the Members of the Company convened in terms of the provisions of these Articles read with the provisions of Chapter 7 (Part 2) of the *Companies Act, 2004*;

- 1.11 “**German Embassy**” means the Federal German foreign mission in Namibia;
- 1.12 “**German Federal Foreign Office**” (“*Auswärtiges Amt*”) means the Federal German Ministry of Foreign Affairs;
- 1.13 “**Meeting Chairperson**” means the person presiding over a General Meeting of the Company in terms of the provisions of Article 40;
- 1.14 “**Member**” means a person who has been accepted by and been enrolled in the Members Register of the Company either as an Ordinary Member, a Corporate Member or an Honorary Member of the Company in accordance with the requirements of these Articles, and the expressions “**Members**” and “**Membership**” shall have corresponding meanings;
- 1.15 “**Members Register**” means the register of Members required to be kept by the Company in terms of section 112 of the *Companies Act, 2004*;
- 1.16 “**Parent’s Council**” (“*Elternbeirat*”) means a council of Members who are parents of learners, established in terms of the applicable terms of reference of the Company;
- 1.1.17 “**Principal**” (“*Schulleiter*”) means the head teacher and head of the School Management;
- 1.18 “**Registered Office**” means the address appointed from time to time by the Company pursuant to the provisions of section 178 (1) (b) of the *Companies Act, 2004*;
- 1.19 “**Related Party**”, in relation to any Director or a nominee for appointment as Director, means any –
- 1.19.1 relative of such Director or nominee for appointment as Director, including any lawful spouse (whether married in terms of civil or customary law) or life-partner of such Director or nominee for appointment as director; and
- 1.19.2 any company, close corporation, partnership, trust or other business entity for gain in which such Director or nominee for appointment of Director holds any shares, members interest, share, directorship or

receives any personal benefit;

- 1.1.20 **“Rules and Regulations”** (*“Ordnungen”*) means the policies, rules, regulations and procedures of the Company and the School as prescribed from time to time by the Board, and includes, without limitation - the disciplinary policy (*“Disziplinarordnung”*), financial policy (*“Finanzordnung”*), complaints procedure (*“Beschwerdeordnung”*), personnel handbook (*“Personalhandbuch”*), etc.;
- 1.21 **“School”** means the school (that term having the meaning as given to it in section 1 of the *Education Act, 2001*) known as Deutsche Höhere Privatschule Windhoek (also abbreviated as *“DHPS”*) operated by the Company, and includes, for the avoidance of doubt and at the date of the adoption of these Articles, also the day-care centre, kindergarten, pre-school (*“Vorschule”*) and hostel (*“Internat”*) operated by the Company;
- 1.22 **“School Administration”** (*“Schulverwaltung”*) means the persons responsible and in charge of the day to day management (other than educational matters) of the School;
- 1.23 **“School Management”** (*“Schulleitung”*) means the persons responsible and in charge of educational matters of the School;
- 1.24 **“Special Resolution”** means a resolution passed at a General Meeting of the Company in compliance with the provisions of section 207 of the *Companies Act, 2004*;
- 1.25 **“Teacher’s Council”** (*“Lehrerbeirat”*) means a council of teachers established in terms of the applicable terms of reference of the Company.

### Interpretation and Construction

2. In these Articles, unless the context indicates otherwise -

2.1 a reference to –

2.1.1 a statute includes any amendment, re-enactment or substitution of such statute, as well as subordinate legislation (regulations) made under authority of such statute;

2.1.2 the singular includes the plural and *vice versa*;

- 2.1.3 a gender includes the other genders;
- 2.2 if a word or phrase is specifically defined, other parts of speech and grammatical forms of that word or phrase shall have corresponding meanings;
- 2.3 where any word or phrase is defined within the context of any particular Article in these Articles, the word or phrase so defined, unless it is clear from the Article in question that it has limited application to the particular Article only, shall bear the same meaning throughout these Articles, notwithstanding that such word or phrase has not been defined in this Article 1;
- 2.4 Article headings are for reference purposes only and shall not be employed in the construction or interpretation of these Articles;
- 2.6 a reference to “**all the Directors**” means all of the directors in office from time to time;
- 2.7 “**prescribed**” means prescribed by the Board; and
- 2.8 “**day**” means any calendar day and “**business day**” means any day other than a Saturday, Sunday or public holiday;
- 2.9 “**written**” or “**in writing**” includes hand-writing, type-writing, writing on any writing by e-mail or on any screen or monitor.
3. These Articles shall be construed in accordance with the laws of Namibia.

## **Membership**

### **Categories of Membership**

4. The Company recognises the following categories of Members:
- 4.1 Ordinary Members (as defined in Article 5);
- 4.2 Corporate members (as defined in Article 6);
- 4.3 Honorary Members (as defined in Article 7).

### Qualifications for Membership

5. Any natural person over the age of eighteen (18) years who supports the objects of the Company and the continuance and furtherance of the School may apply to become an ordinary Member (an “**Ordinary Member**”) of the Company.
6. Any corporate entity, association of persons, partnership or trust who supports the continuance and furtherance of the School may apply to become a corporate Member (a “**Corporate Member**”) of the Company.
7. Any person who, in the opinion of the Board, has made an outstanding contribution towards the achieving of the objects of the Company, or the continuance, furtherance and excellence of the School, the German language or German culture, may be nominated pursuant to the provisions of Article 11, and, upon such person accepting such nomination, shall become an honorary Member (an “**Honorary Member**”) of the Company. Subject only to any determinations made pursuant to the provisions of Article 13, Honorary Members shall otherwise have the same rights as Ordinary Members and Corporate Members.

### Applications for Ordinary Membership and Corporate Membership

8. Any application for Ordinary Membership or for Corporate Membership shall -
  - 8.1 be made in writing in the prescribed form;
  - 8.2 require the support (secondment) of two Members of the Company; and
  - 8.3 be accompanied by the prescribed application fee.

### Admission to Ordinary Membership and Corporate Membership

9. The Board shall have the power to accept or reject applications for Ordinary Membership and for Corporate Membership in its final discretion. In order to achieve an efficient admission process, the Board may from time to time –
  - 9.1 delegate its aforesaid power to provisionally approve Ordinary Membership to the School Administration, and may mandate the School Administration to manage the Membership admission process for Ordinary Members and Corporate Members on behalf of the Board; and

9.2 prescribe further criteria for admission to Membership, such criteria not to be inconsistent with the provisions of Articles 5 and 6,

provided that the Board shall be required, at the first Board meeting of any calendar year, to ratify the provisional admission to Ordinary Membership determined by the School Administration, provided further that the Board retains the right to overrule any decision made by the School Administration under its delegated powers, and the Board shall not be required to provide any reasons for such decision.

10. The Company shall notify an applicant for Membership in writing if such application has been unsuccessful, but the Company shall not be required to provide any reasons for any such decision.

11. Notwithstanding the provisions of Articles 9 and 10, Members of the Company shall have the right to –

11.1 inspect the list of Members admitted in terms of Article 9; and

11.2 within a period of 60 (sixty) days following the decision of the Board contemplated in Article 9, to object to the admission of any particular person to Membership; and

11.3 require the Board to call a General Meeting of the Company for the purposes of deciding, by way of secret ballot, on the admission or non-admission of such person,

and any resolution as to the admission or non-admission of such person as a Member of the Company shall be final and binding and override any earlier decision adopted by the Board in terms of Article 9.

#### Admission to Honorary Membership

12. The Board, by a resolution carried by at least two thirds of all the Directors, may propose to bestow Honorary Membership on a person qualifying thereto under Article 7, and such qualifying person shall become an Honorary Member upon acceptance of such proposal.

#### Rights and Obligations of Membership

13. Members of the Company shall have the rights, privileges, obligations and duties bestowed or imposed on them by –

- 13.1 the *Companies Act, 2004*; and
  - 13.2 these Articles.
14. Members of the Company shall –
- 14.1 abide by and comply with the letter and spirit of –
    - 14.1.1 these Articles;
    - 14.1.2 the Rules and Regulations; and
    - 14.1.3 the Guiding Principles ("*Leitbild*") of the School,  
  
as varied or amended from time to time;
  - 14.2 pay the yearly Contributions when due and in the amounts as prescribed, provided that the Board may in its final discretion and in special cases, and following a formal written request, reduce the amount of the yearly Contributions due by any particular Member;
  - 14.3 conduct themselves in a respectful manner towards the Board, the School Management, the School Administration, the Schools teaching and other staff, as well as towards learners of the School.
15. Only Members may apply for and be granted the privilege to admission and enrolment of one or more learners in the School, but Membership does not guarantee such admission or enrolment or a reserved place in the School.

#### Loss and Reinstatement of Membership

16. Membership of the Company shall be lost when a Member -
- 16.1 dies;
  - 16.2 resigns by delivering a written notice to that effect to the Company, in which case such Membership ceases at the end of the calendar month following the month during which such resignation notice was received by the Company;

- 16.3 is expelled by and with effect from the passing of a Board resolution to that effect (and referring to the provisions of Article 17) carried by at least two-thirds of all the Directors.
17. Members may be expelled by a Board resolution passed pursuant to the provisions of Article 16.3 if, in the final opinion of the Board, such Members –
- 17.1 have failed to comply with or breached their obligations under these Articles and the Rules and Regulations of the Company; or
- 17.2 have acted or conducted themselves –
- 17.2.1 in a manner materially inconsistent with the objects of the Company; or
- 17.2.2 in a manner undermining or likely to undermine the objects of the Company; or
- 17.2.3 dishonourably towards the Company, its Board, its Members, teachers and other staff or learners of the School; or
- 17.3 have brought the Company or the School into disrepute; or
- 17.4 are in arrears of Contributions or School fees for a period of three (3) months despite repeated reminders to settle such arrears.
18. The Board shall not pass a resolution in terms of Article 16.3 unless it has provided the affected Members an opportunity to make either written or oral representations to the Board why they should not be expelled.
19. A Board resolution passed in terms of and with the requisite majority required by Article 16.3 shall be final, and such Board resolution, together with brief reasons therefore, shall be communicated in writing to the Members so expelled.
20. The loss of Membership shall not affect the liability of a former Member (or the estate of such former Member) to settle any indebtedness for current or arrear Contributions or School fees.
21. Subject to payment of any outstanding Contributions and School fees, the Board may reinstate a former Member who has lost Membership pursuant to the provisions of Article 17.4 on such terms and conditions as the Board may determine.

## **General Meetings**

### Annual General Meeting

22. The Company shall hold an Annual General Meeting each and every year.
23. Not more than fifteen (15) months shall pass between two Annual General Meetings.
24. The Annual General Meeting shall be held in Windhoek at a venue and time determined by the Board.
25. The Annual General Meeting shall transact the business required to be transacted by it in terms of the *Companies Act, 2004* and these Articles.

### Extraordinary General Meetings

26. In addition to the Annual General Meeting, the Company may hold further General Meetings, in these Articles at times referred to as extraordinary General Meetings.
27. Extraordinary General Meetings -
  - 27.1 may be convened by the Board in its discretion; or
  - 27.2 shall be convened on requisition by Members in accordance with the provisions of section 189 of the *Companies Act, 2004*.
28. An extraordinary General Meeting shall only transact the special business for which it has been convened.

### Notice of General Meetings

29. The Company shall give not less than twenty one (21) days' written notice of any General Meeting (both Annual General Meetings and extraordinary General Meetings).
30. A notice of a General Meeting shall state the place, day and hour of the meeting and the general nature of the business to be transacted.
31. Notice of a General Meeting may be given by the Company in any manner that the

Company deems to be effective, including, without limitation, by public notice (notices in newspapers or on a notice board), hand delivery, registered or unregistered mail, telefax, e-mail or other means of communication employed by the School from time to time.

32. Inadvertent omission by the Company to give notice of a General Meeting to any Members, or the non-receipt of a notice of a General Meeting by any Member shall not invalidate the calling of or the proceedings at such General Meeting.

### **Proceedings at General Meetings**

#### General and Special Business

33. The Annual General Meeting shall, as part of its general business -
- 33.1 adopt the minutes of the previous Annual General Meeting and of any extraordinary General Meetings held since then;
  - 33.2 consider the Board Chairperson's report;
  - 33.3 consider the Report of the Principal;
  - 33.4 consider the financial affairs (financial accounts and statements, profit and loss account and balance sheet) of the Company, to be laid before the Company by the Directors in terms of section 294 of the *Companies Act, 2004*;
  - 33.5 consider the auditor's report and appoint an auditor;
  - 33.6 deal with any business required to be dealt with in terms of the *Companies Act, 2004*; and
  - 33.7 discharging ("*entlasten*") the Directors for the previous financial year;
  - 33.8 elect Directors in accordance with the further provisions of these Articles.
34. The Annual General Meeting may also deal with any special business placed before it. All business, other than business referred to in Article 33, shall be regarded as special business, whether it is transacted at an Annual General Meeting or at an extraordinary General Meeting.

35. Any Member shall be entitled to propose placing any matter on the agenda of an Annual General Meeting by giving ten (10) days' written notice thereof to the Board Chairperson; provided that the Board may in its final discretion decide to exclude such matter from the agenda of the Annual General Meeting without being required to give any reasons for such decision.

#### Quorum

36. The quorum for a General Meeting shall be one tenth of all the Members of the Company who are entitled to vote and present personally or by proxy. For the purposes of this Article 36, a Corporate Member shall be deemed to be personally present if such Corporate Member represented by a duly authorised or appointed representative.
37. No business shall be transacted at a General Meeting without a quorum being present at the commencement of the General Meeting.
38. If within ten (10) ) minutes after the time appointed for the General Meeting there is no quorum -
- 38.1 the General Meeting shall be adjourned for half an hour if it is an Annual General Meeting or if it was convened in terms of Article 27.1 and 27.2; or
- 38.2 the General Meeting shall be dissolved if it was requisitioned by Members in terms of section 189 of the *Companies Act, 2004*.
39. If, within half an hour after the time determined for the meeting adjourned under Article 38.1, there is no quorum as required under Article 36, the Members actually present at the adjourned General Meeting shall be deemed to constitute a quorum and may transact any lawful business of the Company.

#### The Meeting Chairperson

40. The Board Chairperson and, in his or her absence, the Board Vice-Chairperson ("*Zweiter Vorstandsvorsitzender*"), shall preside over and conduct all General Meetings (a "**Meeting Chairperson**", as defined). If neither the Board Chairperson nor the Board Vice-Chairperson are present within ten (10) minutes of the time set for the commencement of any particular General Meeting, or if both have indicated their inability or unwillingness to preside over such General Meeting, then any other Director, or in the absence of any such other Director or in the event of any such other Director being unwilling to chair the General Meeting, any Member elected by the General Meeting shall act as Meeting Chairperson.

### Adjournment of General Meetings

41. The Meeting Chairperson may with the consent of the General Meeting, adjourn a General Meeting.
42. If a General Meeting has been adjourned, only its unfinished business may be transacted at such adjournment.
43. If a General Meeting has been adjourned for thirty (30) days or more, the Company shall give notice of such adjournment, but it shall not be necessary to give notice of the business to be transacted at such adjournment.
44. If a General Meeting has been convened for the passing of a Special Resolution and less than one fourth of the Members are present in person, the General Meeting shall stand adjourned to a day not earlier than seven (7) days and not later than twenty one (21) days after the date of the General Meeting, and the provisions of section 200 (2) of the *Companies Act, 2004* shall apply to such adjournment.
45. If a Member present and entitled to vote at a General Meeting requests an adjournment of the General Meeting on any ground stated by him, the Meeting Chairperson shall put the request to the vote. If a majority of the Members present and entitled to vote at the General Meeting vote in favour of the adjournment, the Meeting Chairperson shall adjourn the General Meeting for seven (7) days or, if the adjourned General Meeting would fall on a public holiday, to the next succeeding day other than a public holiday. Upon adjournment, the Company secretary shall publish, not later than two (2) business days after the adjournment, in a newspaper circulating in Namibia, a notice stating:-
  - 45.1 the time and place to which the General Meeting was adjourned;
  - 45.2 the matters before the General Meeting at the time when it was adjourned; and
  - 45.3 the ground for the adjournment.

### Voting

46. Every question or matter submitted to a General Meeting for a decision or resolution shall be decided on a show of hands, unless a secret ballot is requested -
  - 46.1 by the Meeting Chairperson; or

- 46.2 by not less than three Members present.
47. A request for a secret ballot may be withdrawn.
48. A declaration by the Meeting Chairperson that a resolution has been carried, or been carried by a particular majority, or that a proposed resolution has been defeated, lost, or not been carried by a particular majority, shall be conclusive evidence of that fact without proof of the number of votes recorded in favour of or against such resolution.
49. Secret ballots shall be taken in a manner as directed by the Meeting Chairperson. The voting result of a secret ballot shall be regarded to be the resolution of the General Meeting at which the secret ballot was requested.
50. A secret ballot requested on the election of a Meeting Chairperson, or on a question of an adjournment shall be taken immediately. A secret ballot requested on any other question or matter may be taken at such time as the Meeting Chairperson may direct, and any business other than that upon which a secret ballot has been requested may be proceeded with pending the taking of the secret ballot.

#### Weight of Votes

51. Each Member shall have one vote, save, for the avoidance of doubt, where a Member may have further votes on account of –
- 51.1 holding a proxy for another Member; or
- 51.2 being a duly authorised or appointed representative of a Corporate Member.

#### Limitation on Voting

52. The following Members shall not be entitled to vote on the appointment or discharging of Directors of the Company:
- 52.1 Members who are employees of the Company or teaching staff at the School;  
and
- 52.2 Related Parties of the persons referred to in Article 52.1,
- of and neither may any of the aforesaid persons be authorised by proxy from another

Member to vote on the aforesaid matters.

53. A Member whose Contributions are unpaid or in arrears in excess of three (3) months shall have no vote at a General Meeting.

#### Casting Vote

54. In the event of any equality of votes the Meeting Chairperson shall have a second (casting) vote in addition to the vote the Meeting Chairperson may hold as a Member (or any further vote or votes the Meeting Chairperson may hold as a proxy for another Member or as a representative for a Corporate Member).

#### Proxies

55. Ordinary Members and Honorary Members may vote in person or by proxy. Corporate Members may only vote through a representative as contemplated in Article 59.
56. A proxy shall be a Member of the Company.
57. No Ordinary Member or Honorary Member may hold and act upon more than two (2) proxies at any General Meeting.
58. Proxies shall be prepared and be executed in the prescribed form, and the grantor of a proxy or the proxy shall provide the School Administration (as agent for the Company secretary) not later than forty eight (48) hours prior to the commencement of the General Meeting with a copy of the proxy form in order for the proxy to be effective.

#### Representatives of Corporate Members

59. Corporate Members shall, not later than forty eight (48) hours prior to the commencement of the General Meeting at which they wish to be present, appoint a representative to attend and vote on their behalf at such General Meeting by giving written notice to the Company to that effect. The appointment of a representative shall be in the prescribed form. If no such proof is provided, or if the Board Chairperson is not satisfied with the manner of proof, the Corporate Member may be disqualified from voting.

### **Directors and Proceedings of the Board**

## Directors

60. The Company shall have nine (9) Directors who shall constitute the Board. For the avoidance of doubt, and unless the provisions of Article 69 become applicable, the Directors may continue to act if their total number temporarily falls below the number of nine (9).

## Appointment

61. Directors shall be appointed by majority resolution at an Annual General Meeting, in accordance with the requirements of the *Companies Act, 2004* and these Articles.

## Eligibility for Nomination and Nomination

62. Only Members of the Company shall be eligible for nomination and appointment as Directors.

63. Irrespective of whether or not they are Members of the Company –

63.1 employees of the Company (including any teaching staff);

63.2 persons serving on the board of directors or any management committee or organ of any other school; or

63.3 persons serving on the Parents Council or the Teacher's Council;

63.4 learners at the School;

63.5 Related Parties of any of the persons referred to in Articles 63.1 to 63.4;

63.6 persons disqualified in terms of section 225 of the *Companies Act, 2004*,

shall not be eligible to be nominated or to be appointed as Directors.

64. Nominations for directorship shall be notified to the Company in the prescribed form before the last business day of the month of March of any year. Notwithstanding the foregoing, if insufficient nominations have been received by that date, the Board may propose nominations for directorship to a date not later than 30 (thirty) days prior to the relevant Annual General Meeting, and such proposals do not need to be confirmed by a General Meeting.

### Overlapping Terms of Office and Rotation

65. Directors shall be appointed for a term of office of approximately two (2) years, such term of office to commence upon the conclusion of the Annual General Meeting at which they are appointed and terminating with the conclusion of the second Annual General Meeting thereafter (a “**Term of Office**”).
66. The Company shall retain the principle of overlapping and rotating Terms of Office employed prior to the adoption of these Articles, in terms whereof at every Annual General Meeting only approximately half (but not less than four of the Directors who have been in office the longest) are required to retire (unless they are re-elected for another Term of Office at such Annual General Meeting), with the effect that –
- 66.1 only approximately half of the Board shall be elected at an Annual General Meeting;
- 66.2 the Terms of Office of approximately one half of the Board elected at an Annual General Meeting shall overlap with the Terms of Office of approximately the other half of the Board elected at the previous Annual General Meeting,
- thereby providing for continuity and regular rejuvenation of the Board; provided that if at any General Meeting the entire Board is required to be elected and appointed (but excluding an election and appointment under Article 67), the Directors shall determine by lot which approximate half of them are to retire at the next Annual General Meeting and which approximate half of them are to serve a full Term of Office, in order to give effect to the provisions of this Article.
67. Directors are eligible for re-election.
68. If any casual vacancy arises on the Board (whether by death, voluntary resignation or disqualification or loss of office in terms of these Articles or the *Companies Act, 2004*), the remaining Directors may continue to act and may appoint any natural person who is a Member of the Company and not disqualified from holding office as a Director of the Company in terms of these Articles as substituted Director. The appointment of such substituted Director shall expire at the next Annual General Meeting, when such substituted Director shall be eligible for election as Director.
69. If the number of Directors should fall below seven (7) -
- 69.1 the Company shall forthwith notify the German Embassy thereof;

69.2 the remaining Directors shall cease to hold office at the end of the extraordinary General Meeting called in terms of Article 69.3; and

69.3 the Board Chairperson, or, in his or her absence the Board Vice-Chairperson, or in his or her absence any other Director, shall, in coordination with the German Embassy as to the date, time and venue, call an extraordinary General Meeting of the Company for the sole purpose of election and appointment of the entire Board,

and the Directors elected at such extraordinary General Meeting shall hold office until the end of the next Annual General Meeting.

70. The Company in General Meeting may remove a director from office prior to the expiry of his or her term of office, and may appoint another director in his or her place. The term of office of such substituted director runs until the end of the next Annual General Meeting.

#### No Remuneration

71. The Directors serve on the Board on a voluntary basis (“*Ehrenamt*”) and they shall, accordingly, and as a general rule, not be entitled to any remuneration for their services. In exceptional circumstances, Directors may be granted special remuneration for extra or expert services at the discretion of the Board.

#### Contracting

72. If it is proposed that the Company engages in any business dealings or contracts with any (i) Director, or (ii) any Related Party of a Director, or (iii) any legal entity, partnership or trust in which such Director holds any direct or indirect interest, the following shall apply:

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72.1 The relevant Director shall be held to account by the Company in terms of the *Companies Act, 2004* and by the highest standards of ethics.

72.2 The relevant Directors shall be required to fully and timeously disclose any direct or indirect interest they or their Related Parties may have in any such proposed business dealings or contract with the Company, and any actual or potential conflict of interest arising therefrom.

72.3 The relevant Directors shall recuse themselves from any discussions and voting in relation to such contract or business dealings.

72.4 For the purposes of this Article 72, the expression “*direct or indirect interest*” shall be construed broadly and includes, for the avoidance of doubt, any position of shareholder, director, employment or other benefit by the relevant Directors or their Related Parties.

### **Powers of the Board**

#### **General**

73. The management and control of the Company shall vest in the Board.

74. The Board shall be entitled to exercise, without limitation, all plenary and common powers of a company as set out in section 34 read with Schedule 2 of the *Companies Act, 2004*, save to the extent that such powers are mandatorily required under the *Companies Act, 2004* or these Articles to be exercised by a General Meeting.

75. Without derogating from the generality of Articles 73 and 74, but subject to the provisions of Article 76, the Board shall have the express and specific power to -

75.1 determine and vary from time to time the organisational and administrative structures, infrastructure and resources (both material and human resources) of the Company and the School; provided that the organisational structure of the Company shall feature -

75.1 a Parents Council; and

75.2 a Teacher’s Council;

75.2 appoint, give terms of reference to and disband committees of the Board, and to delegate functions and powers to such committees;

75.3 appoint, from among its own ranks, functionaries of the Board to deal with specific matters, including, but not limited to human resource management, finances, building and maintenance, integration and hostel affairs;

75.4 adopt further rules and regulations in support of or for the purposes of the

efficient, effective and harmonious operation of the Company and the School, and assisting in the implementation and interpretation of these Articles (the “**Rules and Regulations**”, as defined);

- 75.5 appoint advisors to the Board, who need not be members of the Company;
- 75.6 determine Contributions and School fees;
- 75.7 borrow moneys from any person or institution for any purposes required by the Company and its business, and to enter into agreements in respect of such borrowings, to make arrangements and give undertakings in relation to the repayment of such borrowed moneys, to issue guarantees and to grant security (including mortgage bonds) over any movable or immovable property owned by the Company, on such terms and conditions as the Board may deem fit.

#### Consultation

76. It is recorded that at the time of the adoption of these Articles, the School has achieved the status of a “*Deutsche Auslandsschule*” (German School Abroad) within the meaning of the provisions of the federal German law known as the *Auslandsschulgesetz (ASchulG)*, and it is recorded that the maintenance of this status requires the School to

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- 76.1 fulfill various criteria and requirements for material and human resources support as laid down in the *Auslandsschulgesetz* and by the Zentralstelle für Auslandsschulwesen (“**ZfA**”) as the responsible administrative office;
- 76.2 adhere to relevant educational and teaching standards laid down from time to time by the Standing Conference of the Ministers of Education and Cultural Affairs (“*Kultusministerkonferenz*”);
- 76.3 align itself with the fundamental principles of the German foreign policy on education and culture applicable to the School,

and, accordingly, before resolving to effect any material changes to its mission statement or to its organisational or administrative structures which may negatively affect the status of the School as a *Deutsche Auslandsschule* or its support from the relevant German authorities, the Board shall first consult and engage with, and shall, where required, obtain the consent or approval, of the relevant stakeholders and authorities, such being, as the case may be, the Principal, the German diplomatic mission to Namibia, the

German Federal Foreign Office, the ZfA or the Standing Conference of the Ministers of Education and Cultural Affairs ("*Kultusministerkonferenz*"). Any decision to change the School's mission statement or its organisational or administrative structures in such circumstances will require a Board resolution carried by at least two thirds of all the Directors.

### **Meetings of the Board**

#### **Participants**

77. In addition to the Directors, the head of the German Diplomatic Mission in Namibia (or his or her representative) and the Principal shall be entitled to attend and participate in Board meetings in an advisory capacity.
78. The Board may from time to time invite further persons (in particular relevant members of the School Management and the School Administration) to attend and participate in Board meetings.

#### **Convening of Meetings**

79. The Board shall meet as regularly as is necessary to properly conduct the business of the Company.
80. The Board shall meet on such dates and times, and shall regulate its meetings and transact its business as it deems fit.
81. Board meetings may be convened by -
  - 81.1 any Director; or
  - 81.2 the Principal; or
  - 8.1.3 the German Embassy.

#### **Quorum**

82. A quorum for a meeting of the Board shall be seven (7) Directors.
83. Board meetings shall be presided over by the Board Chairperson, or, in his or her

absence, the Board Vice-Chairperson or any other Director elected by the Board to so preside over the Board meeting.

#### Decisions and Voting

84. Unless a higher majority is required in terms of these Articles, decisions of the Board are adopted by a simple majority of the Directors present and voting.
85. In the event of any equality of votes the Board Chairperson has a second (casting) vote.
86. Any decisions adopted and acts performed by the Board are valid, even if it should subsequently be established that one or more of the Directors were disqualified or that their appointment was defective.

#### Written Resolutions

87. Written resolutions signed by all Directors shall be valid, effective and bind the Company as if they had been passed at a Board meeting. Copies of all such written resolution shall regularly be provided to the German Embassy.

#### **Officials and Functionaries**

88. Immediately following any Annual General Meeting, the Board shall elect one Director each, who will be designated as -
  - 88.1 the Board Chairperson ("*Vorstandsvorsitzender*");
  - 88.2 the Board Vice-Chairperson ("*Zweiter Vorstandsvorsitzender*").
89. In addition to the appointment of the Board Chairperson and the Board Vice-Chairperson, the Board may designate Directors to act as functionaries for specific business of the Company, such as for human resource management, finances, building and maintenance, integration and hostel affairs.

#### The Board Chairperson

90. The Board Chairperson shall be the spokesperson and official representative of the Company, presides over Board meetings, and shall perform such duties as determined from time to time by the Board.

### The Vice-Board Chairperson

91. In the absence of the Board Chairperson, the Vice-Board Chairperson shall be the spokesperson and official representative of the Company. The Vice-Board Chairperson shall perform such duties as determined from time to time by the Board.

### The Principal

92. The rights and obligations of the Principal, in particular in relation to decisions by the Board pertaining to the appointment of employees, will be regulated by the Principal's employment agreement ("*Dienstvertrag*") and the Rules and Regulations.

### Participation of Teachers, Learners and Parents

93. The Board shall allow Teachers, Learners and Parents appropriate opportunity to participate in School life in accordance with the Rules and Regulations

### Register of Members, Records and Minutes

94. The Company's principal place of business is in Windhoek.
95. The Company shall keep all statutory registers (and, in particular, its Members' Register) at its Registered Office or at such other place or office as the Board may from time to time determine.
96. The Company shall keep minutes of all General Meetings and Board meetings in accordance with the requirements of the *Companies Act, 2004*. Copies of all such minutes shall regularly be provided to the German Embassy.

### Contracts and Documents

97. Contracts, instruments and documents may be signed on behalf of the Company –
- 97.1 by the Chairperson acting alone; or
- 97.2 by the Vice-Chairperson together with any other Director; or

97.3 as may be provided for in any particular Rules and Regulations.

### **Financial Matters**

#### Financial Year

98. The Company's financial year end shall be determined by the Board from time to time.

#### Financial Statements

99. The Company shall account for all funds received and expended by it and shall keep correct and complete financial records, books of account and financial statements, correctly reflecting the financial affairs of the Company in accordance with –

99.1 the requirements of the *Companies Act, 2004* and generally accepted accounting practice in Namibia; and

99.2 the requirements of the applicable grant agreement ("*Fördervertrag*")

100. The financial records and books of account shall be kept at the office of the Company or at such other place or office as the Board may from time to time determine.

101. The Board shall from time to time determine whether and to what extent, at what times and places and under what conditions the financial records and books of account of the Company shall be open for inspection by Members, and no persons other than the Directors shall have any right to inspect the financial records, books of account or documents of the Company, save as may be provided for by law or be authorised by the Board or by a resolution of the Company in General Meeting.

102. The Board shall present annual financial statements to the Annual General Meeting in accordance with the requirements of the *Companies Act, 2004*.

#### Auditor

103. The Company shall appoint an independent auditor to prepare the Company's annual financial statements.

104. The auditor shall be appointed at each Annual General Meeting in accordance with the

relevant legal requirements

### **Communications and Notices**

105. For the purposes of enabling the Company to give notices to and communicate with its Members, all Members shall be obliged to inform the Company of their residential, business, postal, telefax and e-mail address, or such other addresses to which the Company can effectively and conveniently deliver notices or communications contemplated under these Articles, and the Members shall be obliged to notify the Company of any change of such addresses.
106. Notices or communications to Members may, in the discretion of the Company, be given to any one or more of these addresses. If a Member fails to provide any or any effective addresses for the delivery of notices or communications, or fails to inform the Company of the change thereof, or if any of the addresses are no longer current, the Member is regarded to having waived his rights to receive any notice or communications from the Company (including notices for General Meetings).

### **Consultation with the German Federal Foreign Office prior to Amendment of Articles**

107. The Company shall not -
- 107.1 propose to pass a Special Resolution for an amendment of these Articles;  
and
- 107.2 register any Special Resolution passed for an amendment of these Articles,
- without first consulting the German Federal Foreign Office regarding the proposed amendments to these Articles.

### **Winding-up**

108. In accordance with the provisions of section 354 of the *Companies Act, 2004*, any voluntary winding-up of the Company shall require the passing of a Special Resolution.
109. In the event of a winding-up, dissolution or deregistration of the Company, whether by Special Resolution or otherwise, and in the event of any assets remaining after the

satisfaction of all the Company's liabilities, the Company shall, for the purposes of complying with the provisions of section 21 (2) of the *Companies Act, 2004* its liabilities, act in accordance with the requirements of paragraph 6 of the Company's Memorandum of Association.