



**COMENSA**  
COACHES AND MENTORS OF SOUTH AFRICA

**CONSTITUTION**

**OF**

**COMENSA NPC**

REGISTRATION NUMBER 2005/017895/08

**PROVINCIAL CHAPTER**

**Province: {enter province}**

**July 2022**

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## **A. DEFINITIONS AND INTERPRETATIONS**

In this Provincial Chapter Constitution (hereinafter referred to as the PCC), unless the content implies otherwise:

- i. one gender includes the others;
- ii. the singular includes the plural and the plural includes the singular;
- iii. 'writing' includes typing, printing, and any other mode representing or reproducing words or figures in a visible form, including words or figures displayed on an electronic screen. A requirement that a document, notice or information should be given in writing will be met if the document, notice or information is in the form of a data message and accessible in a manner usable for subsequent reference. "Written" has a corresponding meaning;
- iv. a 'month' refers to a calendar month;
- v. a 'year' refers to a calendar year, unless stated otherwise;
- vi. 'including' and similar expressions are not words of limitation;
- vii. all currency is South African Rands; and
- viii. the table of contents and any headings are to assist with the reading of the PCC and should not affect the interpretation of this PCC.
- ix. If any terms is defined within the context of any particular clause in the PCC, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the meaning ascribed to it for all purposes in terms of this PCC, notwithstanding that that term has not been defined in this interpretation provision;
- x. When a particular number of Business Days is provided for between the happening of one event and another, the number of days must be calculated by:
  - a. excluding the day on which the first such event occurs;
  - b. including the day on or by which the second event is to occur; and

- c. excluding any public holiday, Saturday or Sunday that falls on or between the days.
- xi. Where reference is made to ‘notifications to Members’, such notifications must be routed through the COMENSA head office on behalf of the Provincial Chapter Committee.

<b>AGM</b>	The Annual General Meeting of Members in the Province
<b>Board</b>	The Board of Directors of COMENSA, who have the authority to act on behalf of COMENSA
<b>Bylaws</b>	Regulations made by the Board, and approved by the Members, for the administration and management of COMENSA’s affairs
<b>Chair</b>	Chair of the Provincial Chapter Committee
<b>Code of Ethics and Conduct</b>	The COMENSA guidelines set by the Board for Members on ethics, expected ethical conduct and the enforcement thereof
<b>COMENSA</b>	Coaches and Mentors of South Africa, an association incorporated under the Act, with registration number Registration Number 2005/017895/08
<b>Committee</b>	Provincial Chapter Committee
<b>Individual</b>	A natural person
<b>King Code</b>	South African Governance Code produced by COMENSA of Directors of South Africa as amended from time to time, which includes the latest version of the King Report and supplementary guidance
<b>Law</b>	Any constitutional provision, treaty, decree, convention, statute, act, code, regulation, rule, order, ordinance, proclamation, subordinate legislation, by-law, judgement, rule of common law or equity, rule, ruling or guideline made by a competent entity exercising jurisdiction in the relevant matter or any government body
<b>Member</b>	A person who holds Membership with COMENSA as outlined in the Bylaws
<b>Member in Good Standing</b>	As contemplated in the COMENSA MOI, a Member who has paid in full all subscriptions, dues, fees, contributions, levies or other monies payable by that Member to COMENSA, and who is not in material breach of any of the provisions of the MOI or of any Bylaw, nor any provision in the Code of Ethics and Conduct.
<b>MOI</b>	Memorandum of Incorporation of COMENSA
<b>President</b>	Chair of the National Board
<b>Profession</b>	Coaches and Mentors Profession
<b>Republic</b>	Republic of South Africa, a sovereign state
<b>Rules</b>	Any rules made by the Board as contemplated in section 15(3) to (5)
<b>Secretary</b>	Secretary of the Provincial Chapter
<b>Section/s</b>	Section of the Companies Act
<b>Sign</b>	Includes the reproduction of a signature lithography, or any other mechanical or electronic process, or partly the one and partly the other process and “signature” has the corresponding meaning

## **B. INTRODUCTION**

### **JURISDICTION OF THIS CHAPTER**

1. This Chapter shall execute its mandate solely in Province **KWA-ZULU-NATAL**

### **PREAMBLE**

2. COMENSA is the national professional representative body of Coaches and Mentors in the Republic of South Africa. As such it has a governance charter enshrined in its Bylaws, Code of Ethics and Conduct and practice standards that contain principles agreed to by all Members. These principles guide coaching and mentoring work in practice.
3. COMENSA is a non-profit organisation which carries out its activities with an altruistic and philanthropic intent, in the interest of the greater good.
4. COMENSA, in its sole discretion may establish Provincial Chapters with the objective of assisting COMENSA in the execution of its mandate as enshrined in its MOI, Bylaws and all other policies and procedures as delegated and directed by the Board.

### **INCORPORATION OF THE PROVINCIAL CHAPTER**

5. The Provincial Chapter is a branch and serves as an extension of COMENSA.
6. The Provincial Chapter is governed by:
  - 6.1. The provisions of the MOI and the Bylaws;
  - 6.2. The provisions in the King Code; and
  - 6.3. This PCC.

## **LEGAL PERSONA**

7. The Provincial Chapter is a branch of COMENSA and has no legal status.
8. Where appropriate, the Board may delegate the power to the Provincial Chapter Committee Chair to enter contracts on behalf of COMENSA. Such power shall be governed by the Delegation of Authority Matrix as approved by the Board.

## **OBJECTS**

9. The objects of the Provincial Chapter are:
  - 9.1. To serve as a two-way communication channel between the Board and the Members in the Province on issues of strategic importance to COMENSA.
  - 9.2. To support the undertaking of external functions by the National Committees in achieving the objectives of COMENSA.
  - 9.3. To support and assist with the recruiting of COMENSA members by the relevant national structures, under the co-ordination and direction of the Executive Committee.
  - 9.4. To host relevant events, that support the objects of COMENSA, on behalf of COMENSA, including, but not limited to:
    - 9.4.1. A Provincial Chapter Annual General Meeting, to enable COMENSA members located within the Province to discuss issues of strategic importance to COMENSA.
    - 9.4.2. Meetings to enable members of the National Committees to brief COMENSA members located within the Province on, and discuss with them, issues of importance.
    - 9.4.3. Events such as seminars and workshops in support of the development of best practice in coaching and mentoring for COMENSA members located within the province.

## **POWERS**

10. The Provincial Chapter operates under the authority of the Board and as such has limited

powers which include:

- 10.1. To manage the business of the Provincial Chapter;
- 10.2. The authority to spend the funds allocated to the Chapter by the Board for the achievement of the Chapter's objects as detailed in this Constitution;
- 10.3. To enter temporary, short-term contracts with external parties only insofar as these are strictly necessary and unavoidable for activities directly required to achieve the objects detailed in this Constitution, provided that:
  - 10.3.1. the total value of any such contract does not exceed the funding allocation to the Provincial Chapter by the Board for the financial year concerned;
  - 10.3.2. the total value of any such contract does not exceed the maximum amount stipulated in the Delegation of Authority Matrix as amended by the Board from time to time;
  - 10.3.3. such transactions do not conflict with the provisions of this Constitution, or with the provisions of the MOI and Bylaws of COMENSA, or with applicable company law or other relevant statutes. All contracts with external parties shall be signed by both the Provincial Chair and the Provincial Secretary of the Provincial Chapter Committee.
- 10.4. To use the funding allocated to the Chapter by the Board to cover cash outlays on basic administrative and event co-ordination expenses, and to account for the use of such funds to the Board by submitting a report thereon as prescribed in the relevant policies approved by the Board; and
- 10.5. Any other powers that may be delegated by the Board from time to time. Such powers shall be documented in the Delegation of Authority Matrix as amended by the Board from time to time.
- 10.6. Where additional powers are delegated to this Province, in relation to ad hoc projects specific to this Province, the Board shall delegate such authority through an annexure

to this PCC, with specific start and end dates.

## **RULES AND AMENDMENT OF THE PCC AND RULES**

11. The Board may make, amend or repeal any necessary or incidental Rules relating to the governance of the Provincial Chapter by publishing a copy of these Rules and by sending notice thereof by registered post (to any address, within the Republic supplied by the Member to COMENSA) or by electronic transmission (to any electronic address supplied by the Member to COMENSA) to each of the Members in the Province.
12. The Board may propose to amend any of the provisions of this PCC, either by its own volition or as a result of recommendations from a Provincial Chapter Committee, and the Members may, by way of special resolution, adopt such amendments.
13. A notice of the proposed alterations of the PCC shall be sent to each Member residing in the Province by registered mail or by electronic transmission at least 15 (fifteen) Business Days before the meeting at which the special resolution to amend the provisions of the PCC is to be passed.
14. The Board or a person authorised by the Board may alter the PCC or the Rules to correct any patent errors (spelling, punctuation, grammar or similar defects on the face of the document) by publishing a notice of the alteration, on its website or in any other manner required or permitted by the Rules.

## **PROHIBITIONS**

15. The Provincial Chapter may neither establish nor maintain Membership of a Provincial Chapter distinct from Membership of COMENSA.
16. The Provincial Chapter may not keep a list of members with personal and/or contact details outside of COMENSA's central database.
17. The Provincial Chapter may not levy membership or other fees on Members, other than fees intended to cover the costs of events organised by the Provincial Chapter Committee.

All invoices and collection of fees must be routed through the COMENSA national office and all surpluses will accrue to the coffers of COMENSA.

18. The Provincial Chapter may not open bank accounts or enter contracts above their authority level as outlined in the COMENSA Delegation of Authority Matrix.
19. The Provincial Chapter may not present themselves as legal entities separate from COMENSA.

## **C. MEMBERSHIP**

### **MEMBERSHIP ELIGIBILITY**

20. COMENSA maintains at its registered office a register of Members of COMENSA as required by the Companies Act. The register of Members shall be open to inspection, only at the registered office, as provided in the Companies Act. The register of Members, or any part thereof, may not be distributed in hard copy or electronically to any person or entity, who is not entitled thereto in relation to their position within the COMENSA structures in the execution of their duties.
21. Members of COMENSA are automatically allocated to their local Chapter, by virtue of their membership with COMENSA, for the purposes of facilitating their participation and access to services in COMENSA.

### **DURATION OF MEMBERSHIP**

22. Every Member in the Province shall remain a Member of the Provincial Chapter until his Membership is terminated in accordance with the provisions stipulated in the MOI.
23. Every Member in the Province shall remain a Member of the Provincial Chapter, unless he moves to another Province, subject to clause 22.

## **MEMBERSHIP FEES**

24. No additional fees may be charged, over and above COMENSA Membership fees.

## **TERMINATION OF MEMBERSHIP**

25. Membership of the Provincial Chapter is ipso facto terminated if the Member:
- 25.1. resigns his Membership with COMENSA;
  - 25.2. is no longer a Member of COMENSA based on any of the provisions in the MOI; or
  - 25.3. moves to another Province.

## **READMISSION TO MEMBERSHIP**

26. A Member will automatically be reinstated as a Member of the Provincial Chapter in the event that the Member:
- 26.1. is reinstated as a Member of COMENSA and is still residing in the Province;
  - 26.2. moves back to the Province, after having moved away while still a Member of COMENSA.

## **RIGHTS OF MEMBERS**

27. As contemplated in Item 4 (1) of Schedule 2 of the Companies Act, COMENSA has Members, who are in either of two classes, being voting and non-voting Members, respectively;
28. Each Member residing in the Province and entitled to vote (as defined according to the Membership class he belongs to), has an equal vote in any matter to be decided by Members;
29. Members in good standing (excluding Individual Non-Voting Members), residing in the Province, have the right to elect office-bearers onto the Provincial Chapter Committees.
30. The rights and benefits of Membership of the Provincial Chapter shall not be

transferable and shall terminate upon resignation, moving out of the Province, expulsion or death.

31. COMENSA is committed to each of the Members' rights not to be unfairly discriminated against, as provided in section 9 of the Constitution of the Republic.

#### **RECORD DATE FOR EXERCISE OF MEMBER RIGHTS**

32. If, at any time, the Provincial Chapter Committee fails to determine a Record Date, the Record Date for participating in and voting at a General Meeting is the latest date by which COMENSA is required to give Members notice of that meeting.

### **D. GENERAL MEETINGS**

#### **TYPES OF GENERAL MEETINGS**

33. An Annual General Meeting (AGM) must be held once a year, to enable COMENSA Members located within the Province to hold the Provincial Chapter Committee to account for the leadership, management and administration of the Chapter.
34. Special General Meetings may be called by either the Board, the Provincial Chapter Committee or Members to discuss matters that cannot stand until the next AGM.
35. Every Member who is established prior to the commencement of the meeting as being a Member in good standing, and entitled to vote based on their Membership class, shall be entitled to attend in person or by proxy and vote at the General Meeting of the Provincial Chapter.

#### **ANNUAL GENERAL MEETINGS**

36. The Provincial Chapter must hold an AGM within 15 (fifteen) months of the previous AGM held, but not later than 5 (five) months of the end of COMENSA's financial year.
37. The Provincial Chapter Committee shall convene the AGM at such place and time as the

Committee may decide. This includes the option to hold face-to-face meetings, or virtual meetings, or the combination thereof, provided that the location is reasonably geographically accessible to the majority of COMENSA members located within the Province.

37.1 A provincial AGM will be formally constituted with a required Quorum as follows:

- Gauteng with 30 Members present including proxies received.
- Kwa-Zulu Natal with 15 Members present including proxies received.
- Limpopo with 15 Members present including proxies received.
- Western Cape with 15 Members present including proxies received.

38. The Committee may cancel any AGM that it convenes by giving not less than 48 hours' notice to those Members entitled to notice of the meeting, but remains bound to ensuring an AGM takes place as contemplated in clause 36.

39. The business of an AGM must, as a minimum, include the following, even if not referred to in the notice of meeting:

- 39.1. Confirmation of the minutes of the previous AGM and any subsequent general meetings of Members;
- 39.2. Matters arising from the minutes contemplated in clause 39.1;
- 39.3. Consideration of the Provincial Chairperson's annual report;
- 39.4. Consideration of any other matters raised at the AGM, including any resolutions proposed for adoption by the general meeting, and voting upon such resolutions; and
- 39.5. The election of Provincial Chapter Committee Members.

## **SPECIAL GENERAL MEETING**

40. The Provincial Chapter Committee shall have the power at any time to call Special General Meetings to deal with specific matters requiring the input of Members.

41. The Provincial Chapter Committee must call and arrange to hold a general meeting in a

manner as described in the Bylaws on the request of:

- 41.1. The majority of Provincial Chapter Committee members;
  - 41.2. the Board; or
  - 41.3. at least 10% of the Members residing in the Province and are entitled to vote at the General Meeting.
42. The notice calling the Special General Meeting shall be sent to every Member in the Province within 30 (thirty) days of receipt of the request and such meeting shall be held no later than sixty days following receipt of the request at such place, date and time as the Provincial Chapter Committee may determine.
43. In the event that fewer than twenty Members in good standing are personally present at the commencement of a duly constituted Special General Meeting called at the request of Members, the meeting shall not be adjourned in terms of clause 59, but shall be dissolved.

#### **FREQUENCY AND NOTICE OF MEETINGS**

44. Notice of a General Meeting must be given to all Members in the Province entitled to vote and must contain all the information and be sent in a manner as described in the COMENSA Bylaws.
45. The Provincial Chapter must deliver a notice of each General Meeting (including the AGM) at least 15 (fifteen) Business Days before the date of the meeting in the manner and form as prescribed by section 62(3) of the Companies Act to all the Members of COMENSA within the Province as at the Record Date for the meeting.
46. The authority of the Provincial Chapter Committee to determine the location of any General Meeting, and the authority of the Provincial Chapter to hold any such meeting in the Province is limited by this Constitution;
47. The authority of Provincial Chapter Committee to conduct a General Meeting entirely by electronic communication, or to provide for participation in a General Meeting by

electronic communication, as set out in section 63 of the Companies Act is not limited or restricted by this Constitution. The Provincial Chapter may, from time to time, provide for Members to participate in General Meetings by way of electronic communication, in the event of which the Provincial Chapter Committee shall communicate this to Members in advance of the General Meeting as required by section 63 of the Companies Act.

48. Provided that the Provincial Chapter Committee has taken reasonable steps to give notice of a General Meeting, the accidental omission to give and/or the accidental giving of a defective notice (provided that by reason of such defect it is not misleading) of a General Meeting to, or the non-receipt of such notice by, any Member entitled to receive notice shall not invalidate the proceedings of that General Meeting.
49. Notice of a General Meeting must include copies of all documents to be tabled for discussion at the meeting.

#### **APPOINTMENT OF PROXIES**

50. A Member entitled to attend and vote at a meeting shall be entitled to appoint a proxy to attend, speak and vote on behalf of the Member;
51. The right of a Member of COMENSA to appoint persons concurrently as proxies, as set out in section 58 (3)(a), is limited to the proxy holder being a Member of COMENSA and only one proxy attending and voting at the meeting;
52. Every proxy shall continue in force for the particular meeting for which it is given and for every adjournment thereof;
53. The name of the Member appointed to act as such proxy holder shall be filled in the handwriting of the Member signing the proxy, or signed with a secure electronic signature. The format of the instrument shall be determined by COMENSA;
54. The instrument appointing a proxy shall be delivered to the Secretary of the Provincial Chapter Committee not less than 48 (forty-eight) hours prior to the hour fixed for the

- meeting for which the same are intended to be acted upon. If the Member is in default of complying herewith, the instrument of proxy shall not be treated as valid;
55. No instrument appointing a proxy is valid after the expiration of 1 (one) year from the date when it was signed, unless so specifically stated in the proxy itself, and no proxy shall be used at an adjourned General Meeting which could not have been used at the original General Meeting;
56. A Member's proxy shall not have the authority to further delegate such proxy's powers to another person;
57. Unless specifically instructed by the Member a proxy may vote as she thinks fit.

#### **PROCEEDINGS, QUORUM AND VOTING AT GENERAL MEETINGS.**

58. A General Meeting may not begin until at least 5 (five) Members, who are eligible to vote, are present at the meeting and any matter to be decided at the meeting may not begin to be considered and decided unless at least 5 (five) Members, who are eligible to vote, are present at the meeting at the time the matter is called on the agenda.
59. The quorum for a General Meeting of the Provincial Chapter is 10% of Members present in person or by proxy. Should a quorum, consisting of not more than 30 (thirty) Members present in person or by proxy, not be present within one hour from the time appointed for the General Meeting, then the meeting shall be adjourned and a new meeting called for a date not less than 14 (fourteen) days from the day of the adjourned meeting. At the later meeting those Members present shall form a quorum, irrespective of their number.
60. Any Member may bring before a meeting any matter of business which he considers requires the attention of the Provincial Chapter. Notice of such business shall be made to the Secretary at least 2 (two) weeks before the meeting at which the business is to be discussed, setting out in the notice the nature of the matter and reasons in sufficient detail.
61. The Provincial Chapter Committee Chair presides as Chair at every General Meeting of

COMENSA. If the Provincial Chapter Committee Chair is unwilling or unable to act as Chair of the General meeting or is not present within 15 (fifteen) minutes after the time appointed for holding the meeting, the Deputy Chair shall preside as Chair. In the absence of the Deputy Chair, the Provincial Chapter Committee Members present shall elect one of their number to be Chair of the meeting.

62. Whether by secret ballot or show of hands, every Member present in person shall have one equal vote, and any Member holding a formal proxy for an absent Member shall have one equal vote in respect of each proxy held. In case of an equality of votes at any general meeting, whether on a show of hands or upon a secret ballot, the Chair shall have a casting vote.
63. A polled vote must be held on any particular matter to be voted on at a General Meeting if a demand for such a vote is made by at least 5 (five) Members having the right to vote on that matter, either as a Member or a proxy representing a Member.
64. At a General Meeting a declaration by the Chair that a resolution has been carried, or carried by a particular majority, or lost or not carried by a particular majority, and an entry to that effect in the book of proceedings of COMENSA, shall be sufficient evidence of the votes recorded in favour of or against any such resolution.
65. If a poll is duly demanded, it shall be taken in such a manner as the Chair directs and the result of the poll shall be deemed to be the resolution of the General Meeting at which the poll was demanded. The Chair of the General Meeting may appoint scrutineers to determine the result of the poll.
66. A poll demanded on the question of adjournment, is taken forthwith. A poll demanded on any other question is taken at such time as the Chair of the General Meeting directs and no notice need be given of a poll not taken immediately. The demand for a poll shall not prevent the continuation of a General Meeting for the transaction of any business other than the question upon which the poll has been demanded.

## **MEMBERS RESOLUTIONS**

67. For an ordinary resolution to be adopted at a General Meeting, it must be supported by more than 50% (fifty percent) of the Members who voted on the resolution, as provided in section 65(7).
68. For a special resolution to be adopted at a General Meeting, it must be supported by at least 75% (seventy five percent) of the Members who voted on the resolution, as provided in section 65(9).
69. The quorum for both ordinary and special resolutions is as set out in clause 59.

## **E. PROVINCIAL CHAPTER COMMITTEE**

### **AUTHORITY OF THE PROVINCIAL CHAPTER COMMITTEE AND DELEGATION**

70. The authority of the Provincial Chapter Committee to manage and direct the business and affairs of the Provincial Chapter is restricted in this Constitution. The Board has the power to make any decision in respect of COMENSA which has not been specifically reserved for decision-making by the Members of COMENSA.
71. The Provincial Chapter Committee may delegate any of its powers to sub-committees approved by the Board.
72. Each sub-committee must have a documented and approved terms of reference dealing with its composition; role and purpose, functions; delegated authorities; tenure; meeting requirements and procedures and reporting mechanism to the Provincial Chapter Committee.
73. Notwithstanding that it may afterwards be discovered that there has been some defect in the appointment or continuance in office of a Provincial Chapter Committee Member, bona fide decisions by the Provincial Chapter Committee are as valid as if every such person had

been duly appointed, were qualified and continued to be a Provincial Chapter Committee Member or were entitled to vote, as the case may be.

## **ACCOUNTABILITY**

74. The Provincial Chapter Committee is accountable to the Board for the implementation of delegated responsibilities as well as the management and administration of the Chapter.
75. The Provincial Chapter Committee must account to the Members in the Province on its activities and utilisation of funds, once a year at the AGM.
76. The Provincial Chapter Committee Chair must attend the quarterly Provincial Chairs meeting with the President of COMENSA. In the event that the Chair is unable to attend, the Deputy Chair shall attend the meeting. In the event that neither the Chair nor the Deputy Chair are able to attend, one of the other Committee members must represent the Committee at the meeting.

## **COMPOSITION OF THE PROVINCIAL CHAPTER COMMITTEE**

77. To become or remain a member of the Provincial Chapter Committee, a person must be a Member of COMENSA, who is in good standing.
78. The Provincial Chapter Committee shall consist of a minimum of 3 (three) and a maximum of 8 (eight) members.
79. The Provincial Chapter Committee shall include, without being limited to, the following offices:
  - 79.1. Provincial Chair;
  - 79.2. Provincial Deputy Chair;
  - 79.3. Provincial Secretary;
  - 79.4. Chair: Chapter Membership Promotion Committee.
  - 79.5. Chair: Chapter Events Committee.
80. Should only three members be elected, the following positions must be filled: Provincial

Chair and Secretary.

81. With the approval of the Board, the Provincial Chapter Committee may constitute other offices in order to support its effective and efficient operation.
82. Members of the Provincial Chapter Committee are elected for a term of two years.

## **APPOINTMENT, NOMINATION AND ELECTION OF PROVINCIAL CHAPTER COMMITTEE MEMBERS**

83. The Members of the Provincial Chapter Committee shall hold office for a period of 2 (two) years, commencing on the date of the relevant AGM at which they are appointed, and terminating on the date of the AGM held 2 (two) years thereafter. They shall thereafter be eligible for re-appointment, but only for a further period of 2 (two) years (whether immediately following their initial term of office or not), so that a Member of the Provincial Chapter Committee shall not hold office for a period in aggregate of more than 4 (four) years.
84. All Provincial Chapter Committee members shall be nominated and elected at the AGM of the Provincial Chapter.
85. At each Provincial Chapter AGM at least one-third of the office-bearers on the Provincial Chapter Committee shall retire from office, to ensure continuity on the Committee and prevent a simultaneous exit of all Committee members at the same time.
86. Except for the positions of Chair and Deputy Chair all nominees shall stand for general Committee member positions.
87. Once the Committee has been appointed, the Committee members shall among themselves allocate roles and responsibilities, including that of Secretary.
88. For each of the vacant positions, each Member will vote for one of the candidates, and the decision will be made in favour of the candidate who wins 50% plus 1 or more of the votes cast. However, if three or more candidates contest the position, and the most popular

candidate gets less than 50% plus 1 of the total votes cast, then the least popular candidate is eliminated and the voting held again, until a majority is achieved. In such a case, the proxy voters must be reminded to specify both their first and second choice.

89. Any candidate standing for more than one position, and receiving the most votes in more than one category, will be appointed in the position where he has received the most votes.
90. For the office of Provincial Chapter Chair, each Member will vote for one of the candidates, and the decision will be made in favour of the candidate who wins 50% plus 1 or more of the votes cast. However, if three or more candidates contest the office of Chair, and the most popular candidate gets less than 50% plus 1 of the total votes cast, then the least popular candidate is eliminated and the voting held again, until a majority is achieved. In such a case, the proxy voters must be reminded to specify both their first and second choice. A similar process will be followed to elect the Deputy Chair.
91. Any candidate standing for the position of Provincial Chapter Chair may also be simultaneously nominated for the position of Deputy Chair or any other Committee position, and if unsuccessful for the office of Chair will automatically be eligible for election as Deputy Chair or any other Committee position as per the nomination. This option shall be specified in the voting ballot papers where applicable.
92. Similarly, any candidate standing for the position of Provincial Chapter Deputy Chair may also be simultaneously nominated for any another Committee position, and if unsuccessful for the office of Deputy Chair will automatically be eligible for election into any other Committee position as per the nomination. This option shall be specified in the voting ballot papers where applicable.
93. The Provincial Chapter Committee may, with the approval of the Board, co-opt and appoint additional Members to its number between AGMs. Any casual vacancy occurring on the Committee between AGMs may be filled by the Committee if the number of remaining Committee Members falls below 6 (six) Members.

94. Should the number of Committee Members fall below 3 (three), the Board may appoint interim Committee Members who shall hold office until the next General Meeting.
95. A Committee Member who has been appointed by the Committee in terms of clause 93 must stand down at the next AGM and may stand for re-election.
96. Subject to clause 93 and 94, vacancies in Provincial Chapter Committee positions are filled by Member elections at the AGM.
97. Prior to the AGM, the Provincial Chapter Committee by notice to Members calls for the nomination of candidates in the manner and in the form prescribed by the Board. The Board may review and amend the nomination process from time to time.
98. The Provincial Chapter Committee includes in the notice of the AGM the names of the candidates, together with their curricula vitae and such further information as the Board deems necessary to enable Members to exercise an informed vote.
99. The Provincial Chapter Committee has a duty to advise the Members in the Notice of the number of positions it recommends be filled. At the meeting, before the voting begins, the Members in the meeting must first ratify or amend the total number of Provincial Chapter Committee positions available for election for the year ahead, and thus the number of Board positions to be filled at that meeting.
100. The nomination of candidates by Members is subject to clause 97 and no nominations by Members made outside the set process are allowed. Nominations from the floor during the course of the AGM will not be accepted.
101. Only candidates who have been duly notified to the Members are eligible for election.
102. Candidates absent from the AGM are not eligible without having rendered prior apologies to the Secretary in advance of the meeting together with sound reasons for absence.
103. Voting for Provincial Chapter Committee Members is conducted by means of secret ballot.
104. A vacancy is filled only if a majority of the voting rights exercised support the candidate.
105. If at any AGM, at which an election of Provincial Chapter Committee Members ought to

take place, the offices of the retiring Provincial Chapter Committee are not filled, unless it is expressly resolved not to fill such vacancies, the Provincial Chapter Committee shall fill the vacancies subject to re-election of those Members at the next annual General Meeting.

## **DISQUALIFICATION**

106. A Provincial Chapter Committee Member ceases to hold office in the event of the Committee Member:

- 106.1. failing to attend 3 (three) meetings of the Committee meetings in 1 (one) financial year and the Committee determines in its sole discretion that it is without good cause; or
- 106.2. having a material interest in any contract or proposed contract with COMENSA or in a matter before the Committee and failing to declare such interest and the nature thereof in the manner required by the Companies Act and the MOI.
- 106.3. becomes of unsound mind;
- 106.4. resigns his/her office by notice in writing to the Committee;
- 106.5. is removed from any other office of trust on account of misconduct;
- 106.6. has been convicted of fraud, theft, forgery, perjury, or any offence involving dishonesty and breach of the Code of Ethics and Conduct;
- 106.7. ceases to be a Member of COMENSA;
- 106.8. The resignation of any officer or director shall be tendered to the Provincial Chapter Committee Chair.

## **PROCEEDINGS OF THE PROVINCIAL CHAPTER COMMITTEE MEETINGS**

107. The Committee may meet in person or via any electronic communication, for the dispatch of business, adjourn and otherwise regulate their meetings at such times and places as it thinks fit. The authority of the Committee to conduct a meeting entirely by electronic communication, or to provide for participation in a meeting by electronic communication is not limited or restricted by the MOI or this Constitution.

108. The authority of the Committee to determine the manner and form of providing notice of its meetings is not limited or restricted by the MOI or this Constitution.
109. The authority of the Committee to proceed with a meeting despite a failure or defect in giving notice of the meeting is not limited or restricted by the MOI or this Constitution.
110. The right of Committee Members to requisition a meeting of the Provincial Chapter Committee may be exercised by at least 25% (twenty five percent) of the Committee Members.
111. The quorum necessary for the transaction of the business of the Committee is a majority of the number of Committee Members in office.
112. Questions arising at any meeting are decided by a majority of votes. Each Committee Member has one vote on a matter before the Committee. In the event of tie, the Chair shall have a casting vote.
113. In respect of Committee Members' conflicts of interests:
  - 113.1. All Committee Members must, at the first Provincial Chapter Committee meeting of each year or at the first Provincial Chapter Committee meeting that the Committee Member attends, complete an interest declaration in the format agreed by the Board and submit the forms to the Provincial Chapter Committee Chair.
  - 113.2. At every Committee meeting a declaration of conflict of interest must be made in the manner and form agreed by the Board in regard to all items for consideration before the Committee.
  - 113.3. A Committee Member may not vote in respect of any matter tabled at the Committee in which the Committee Member has a material interest, or on any matter arising therefrom and if a vote is exercised contrary to this, the vote is not counted.
  - 113.4. The Committee Member must not take part in the consideration of the matter and leave the meeting immediately after making the required disclosure.
  - 113.5. While being absent from the meeting in terms of clause 113.4, the Committee Member:

- 113.5.1. will be regarded as being present for the purpose of determining whether a sufficient number of Committee Members are present to constitute a quorum; and
- 113.5.2. will not be regarded as being present at the meeting for the purpose of determining whether a resolution has sufficient support to be adopted.
114. A round-robin resolution in writing adopted by the majority of Committee Members is as valid and effective as if it had been passed at a duly called and constituted meeting of the Committee as the case may be, provided that each Committee Member has received notice of the matter to be decided. An adopted round-robin resolution may consist of multiple hard or electronic copies of the same resolution, each signed by one or more Committee Members. A resolution of Committee Members passed in terms of this clause is presented at the next meeting of the Committee as the case may be for noting and signature by the Chair of that meeting.
115. If at any meeting the Chair is not present within 10 (ten) minutes after the time appointed for holding the same, the Deputy Chair shall chair the meeting. If the Deputy Chair is not present, the Committee Members present may elect one of their number to chair the meeting.
116. The Committee may act notwithstanding a vacancy, but, if and for as long as its number is below the minimum required in terms of this Constitution, the continuing Committee Members may only act for the purpose of increasing the number of Committee Members to the minimum number.
117. No proxies or alternates will be valid at Committee meetings, although resolutions may be adopted by “round-robin” if deemed appropriate by the majority of the Committee Members.

#### **DUTIES OF PROVINCIAL CHAPTER COMMITTEE MEMBERS**

118. The Chair shall be the head of the Committee and shall preside over all Committee

- meetings.
119. The Deputy Chair and other Committee Members shall have such duties and powers as may be prescribed by the Board and contained in the Provincial Chapter Committee Terms of Reference.
120. In the absence or disability of the Chair, the Deputy Chair shall perform the duties of the Chair.
121. Committee Members act jointly when discharging their duties and no Committee Member has the authority to act on behalf of COMENSA unless specifically authorised or requested by the Board.
122. Committee Members are jointly and severally liable and accountable for Committee decisions and actions.
123. Committee Members are legally obliged to act in the best interest of COMENSA, to act with due care in discharging their duties as Committee Members, to declare and avoid conflicts of interest and to account for any advantages gained in discharging their duties on behalf of COMENSA.
124. A Committee Member, who has a real or prospective interest in any of the business of COMENSA, shall declare such interest at a Committee meeting as soon as the Committee Member becomes aware of such specific interest. All Committee Members shall, in good faith, disclose to the Committee any business or other interest that is likely to create a potential conflict of interest.
125. Committee Members may not be remunerated for their services as Committee Members, although the out of pocket expenses of Committee Members incurred while attending to COMENSA matters may be defrayed out of the funds of COMENSA, in terms of Policies created and amended by the Board from time to time.
126. The performance of each individual Committee Member, as well as of the Committee collectively, shall be assessed at least annually.

127. The Provincial Chapter Secretary shall perform those duties delegated by the Chair. He shall make reports as required by the Committee. He shall notify each Member of COMENSA, residing within the Province, of all meetings and shall do any and all things normally required by a Secretary to keep Committee Members and Members informed of the affairs of the Provincial Chapter. At the termination of his office, he shall turn over to the Board all records, papers, books and documents and all property of the Institute which may have come into his possession or may have been compiled or created during his term of office.
128. In the event of the Committee becoming dysfunctional and unable to execute its duties, the Board may dissolve the Committee and appoint an interim Committee which shall remain in office until the next General Meeting.

## **F. ADMINISTRATION**

### **NOTICES TO MEMBERS**

129. If a manner of delivery of a document, record, statement or notice is prescribed in terms of the MOI of COMENSA or this PCC:
- 129.1. it is sufficient if the person required to deliver such a document, record, statement or notice does so in a manner that satisfies all of the substantive requirements as prescribed; and
  - 129.2. any deviation from the prescribed manner does not invalidate the action taken by the person delivering that document, record, statement or notice, unless the deviation:
  - 129.3. materially reduces the probability that the intended recipient will receive the document, record, statement or notice; or
  - 129.4. is such as would reasonably mislead a person to whom the document, record, statement or notice is, or is to be, delivered.
130. It is sufficient if the notice is transmitted electronically directly to that person in a manner

and form such that the notice can conveniently be printed by the recipient within a reasonable time and at a reasonable cost.

131. Any notice, document or statement sent in terms of this PCC shall be deemed to have been delivered on the date and time determined in accordance with Table CR3 in the regulations in terms of the Companies Act.

#### **AMENDMENT OF THE PCC**

132. The PCC may from time to time be amended, as proposed by the Board, by a resolution supported by no less than 75% (seventy five percent) of those Members in good standing of COMENSA present in person or by proxy at a General Meeting of COMENSA of which due notice has been given with full particulars of the proposed amendment.
133. Any Province specific requirements may be added as an addendum to this Constitution as requested by the Provincial Chapter Committee and approved by the Board.