

COMPANIES ACT, 2008

MEMORANDUM OF INCORPORATION
OF A NON-PROFIT COMPANY

NAME OF COMPANY:

DEUTSCHE INTERNATIONALE SCHULE JOHANNESBURG NPC
("the School")

REGISTRATION NUMBER:

1926/008515/08

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1. INTRODUCTION

- 1.1 The School is a non-profit company in terms of the Act and, accordingly:
- 1.1.1 was incorporated to fulfil the main object stated in 3.1 as required by item 1(1) of Schedule 1 of the Act; and
- 1.1.2 the income and property of the School are not distributable to its incorporators, members, directors, officers or persons related to any of them except to the extent permitted by item 1(3) of Schedule 1, and shall be applied solely towards the advancement of the main object stated in 3.1 as required by item 1(2)(a) of Schedule 1 of the Act.

[Definition of “non-profit company” read with terms 1(1), (2) and (3) of Schedule 1]

- 1.2 This Memorandum does not contain any restrictive conditions contemplated in section 15(2)(b) of the Act and does not prohibit the amendment of any particular provision of this Memorandum. **[Sections 15(2)(b) and 15(2)(c)]**

2. INTERPRETATION

In this Memorandum, including the introduction above, and unless the context requires otherwise:

- 2.1 words importing any one gender shall include the other two genders;
- 2.2 the singular shall include the plural and vice versa;
- 2.3 any word or expression which is defined in the Act and is not defined in 2.5, shall bear that statutory meaning in this Memorandum;
- 2.4 the headings have been inserted for convenience only and shall not be used for or assist or affect the interpretation of this Memorandum;
- 2.5 each of the following words and expressions shall have the meaning stated opposite it and cognate expressions shall have a corresponding meaning, namely -
- | | | |
|-------|----------------------------------|--|
| 2.5.1 | “the Act” | means the Companies Act, 2008 together with the Companies Regulations, 2011, as amended or substituted from time to time; |
| 2.5.2 | “annual general meeting | means a meeting held in accordance with 6.11 and 6.12; |
| 2.5.3 | “the Chairperson” | means the chairperson of the School Board elected in terms of 7.4; |
| 2.5.4 | “general meeting” | means any meeting of the members of the School or any adjournment thereof, as the case may be; |
| 2.5.5 | “this Memorandum” | means this Memorandum of Incorporation and includes its Annexure “A” which forms part of it; |
| 2.5.6 | “Parents Representative Council” | means the body elected by the Class Parents Representatives to represent class parents in accordance with the relevant Parents Representative Council constitution as amended from time to time; |

2.5.7	“the Republic”	means the Republic of South Africa;
2.5.8	“School Board ”	means the board of directors of the School;
2.5.9	“School Board Regulations”	means the rules of proceedings established by the School Board as contemplated in 7.6 and as amended from time to time;
2.5.10	“School Principal”	means the school principal appointed by the School Board in terms of 7.9.1;
2.5.11	“Staff Representative Council”	means the body elected by the teachers and employees of the school to represent them in accordance with the relevant Staff Representative Council constitution as amended from time to time;
2.5.12	“School Rules”	means the school rules proposed by the School Principal and adopted by the School Board as contemplated in 7.9.4 and as amended from time to time;
2.5.13	“Vice-Chairperson”	means the vice-chairperson of the School Board elected in terms of 7.4.

3. MAIN OBJECT AND AIM OF THE SCHOOL

3.1 Main Object

The main object of the School is the establishment and maintenance of a non-confessional school and pre-school based on Christian values, providing a general education, that predominantly uses German and/or English as a teaching medium, and that promotes education in the German language and culture as an integral component of its syllabus.

3.2 Aim

The aim of the School is to provide and safeguard the infrastructure, personnel, as well as all other prerequisites necessary for the development and maintenance of education at the School that will enable learners to achieve amongst other the following education goals:

- 3.2.1 the acquisition of South African and/or international school leaving certificates in accordance with the criteria as set out in the applicable laws and regulations;
- 3.2.2 the acquisition of such qualifications as will entitle them to apply for admission to South African tertiary educational institutions;
- 3.2.3 the acquisition of qualifications corresponding to the German school leaving certificates other than the university exemption mentioned under 3.2.5, in particular and, where applicable that of the German “Hauptschule” and/or “Realschule” or updated equivalent;
- 3.2.4 the acquisition of a school leaving certificate that will entitle them to apply for admission to German institutions of tertiary education; and
- 3.2.5 the successful integration of learners coming from Germany, other German-speaking countries or other German schools into the School, as well as preparing learners for a possible reintegration into the educational system of a German-speaking country.

3.3 General Duties of the School

The School has the task to create and maintain prerequisites at the School that shall allow its learners to:

- 3.3.1 develop into informed, tolerant, co-operative and critical persons;
- 3.3.2 develop the capability to participate constructively and responsibly in social processes;
- 3.3.3 utilize, uphold and promote bonds with the German language and culture;
- 3.3.4 uphold and promote personal and cultural bonds with South Africans, and promote mutual understanding;
- 3.3.5 contribute to the fostering of social relations and cultural exchange between South Africa and Germany, as well as between South Africa and other German-speaking countries.

3.4 Facilitation of Encounters Provided in the School

The School shall also be open to non-German speaking children, insofar as they fulfil the relevant conditions for admission, as set out in the School Rules.

3.5 Cultural and Social Activities

Furthermore, the School shall endeavour to promote cultural and social activities, in particular such as are relevant to German culture.

4. GENERAL

4.1 Liability of Incorporators, Members of the School and Members of the School Board

This Memorandum does not impose any liability on any person for the liabilities or obligations of the School, solely by reason of such person being an incorporator, member of the School or member of the School Board ("director") as contemplated by section 19(2) of the Act. **[Section 19(2)]**

4.2 Powers of the School

This Memorandum does not restrict, limit or qualify the legal powers or capacity of the School provided in section 19(1)(b) of the Act. **[Section 19(1)(b)]**

4.3 Memorandum of Incorporation and School Rules

- 4.3.1 This Memorandum does not provide any different requirements than those set out in section 16(1)(c)(i) of the Act regarding proposals for amendments to this Memorandum. **[Section 16(2)]**
- 4.3.2 This Memorandum does not restrict, limit or qualify the power of the School Board to make, amend or repeal any necessary or incidental rules relating to the governance of the School in respect of matters that are not addressed in the Act or this Memorandum, in accordance with the provisions of sections 15(3) to 15(5) of the Act. **[Sections 15(3), 15(4), 15(5) and 15(5A)]**
- 4.3.3 If the School Board makes any rules, it must file a copy of those rules in the manner

prescribed in the Act and must publish a copy of those rules by publishing them on the School's website. **[Section 15(3)(a)]**

- 4.3.4 If the School Board, or any individual authorised by the School Board, alters this Memorandum or any rules made by it in any manner necessary to correct a patent error in spelling, punctuation, reference, grammar or similar defect on the face of the document, it must publish a notice of such alteration by publishing it on the School's website, and must file a notice of alteration in the manner prescribed by the Act. **[Section 17(1)]**

4.4 Accounting Requirements

- 4.4.1 The annual financial statements of the School must be audited annually and presented at the first general meeting following their approval by the School Board or, in any event, at the relevant annual general meeting. **[Section 30(2)(b)]**

- 4.4.2 The extended accountability requirements set out in Chapter 3 of the Act shall not apply to the School, except as provided in section 84(1)(c)(i) of the Act or as determined by resolution of the members or School Board. **[Section 34(2)]**

5. **MEMBERS**

5.1 Eligibility and termination

5.1.1 **Qualifications for membership and membership contribution**

In the case of natural persons -

- 5.1.1.1 the parent(s) (in the case of adoption, adoptive parent(s)) or guardian(s) of any learner of the School shall be admitted as members of the School upon registration of that learner. In the event that parental responsibility or rights in respect of any learner is, in the opinion of the School admissions officer, unclear, or is the subject of any dispute, the School Board shall in its sole discretion determine the person(s) who shall be admitted as members, provided that no more than two persons may be admitted in respect of any learner;

- 5.1.1.2 persons who have rendered outstanding services to the School may be nominated by the School Board, to be approved by an ordinary resolution of members in a general meeting. Members appointed in this way become members for life with their consent, and unless they resign or are excluded through a disciplinary process as per 5.1.4; and

- 5.1.1.3 members who are parents or guardians shall not be required to pay any annual membership contribution to the School but for the annual school fees in respect of their learners registered with the School, as determined in terms of the School Rules.

In the case of juristic persons -

- 5.1.1.4 every juristic person assenting to the aims and objects of the School and consenting to effect payment on or before due date of the annual membership contribution, shall be entitled to apply for membership. The written application for admission shall be approved by an ordinary resolution of the School Board. The decision of the Board shall be communicated to the applicant without statement or reasons and shall not be contestable; and

5.1.1.5 members who are juristic persons shall pay an annual membership contribution as determined in terms of the School Rules or any regulations of the School Board, this being not less than the highest annual school fee for one learner.

5.1.2 **Automatic termination of membership**

5.1.2.1 Membership of any person admitted as a member in terms of 5.1.1.1 shall be automatically terminated as soon as the member no longer has any learner attending the School, or no longer has parental responsibilities or rights or guardianship over any learner attending the School.

5.1.2.2 Membership shall be automatically terminated if the membership contribution or school fees is not paid upon the third written request (which may be sent by electronic means) from the School, and by the due date stipulated therein, provided that the member(s) concerned shall be entitled to re-apply for membership once the outstanding membership contribution or school fees due has been paid in full.

5.1.3 **Termination of membership by resignation**

Membership of the School shall terminate on resignation. The School Board shall be notified in writing of any resignation of membership by the respective member. Resignation does not entitle the member to claim a refund of membership contributions previously paid. The resignation shall become effective from the date on which the resignation has been recorded in the register of members.

5.1.4 **Termination of membership through exclusion**

Membership may be terminated by resolution of the School Board, if a member is deemed to harm the good name and standing of the School through his/her actions, provided that the following procedures be adhered to:

5.1.4.1 before passing the resolution the member concerned shall be given the opportunity to voice his/her opinion at a School Board meeting. The resolution to terminate membership shall require a two-thirds majority of votes of the School Board members present at a meeting of the School Board.

5.1.4.2 The decision of termination of membership shall be communicated in writing, stating reasons. The member shall have the right of appeal at the next general meeting. At such general meeting final decision on the issue shall be passed.

5.2 Members' rights and proxies

5.2.1 **Members' right to information**

This Memorandum does not establish any information rights of any person in addition to the information rights provided in sections 26(1) and (2) of the Act. **[Section 26(3)]**

5.2.2 **Members' authority to act**

5.2.2.1 This Memorandum does not limit or restrict the right of a member, where it is the sole member of the School, to exercise all or any of the voting rights attaching to the shares held by it on any matter without notice or compliance with any other internal formalities of the School, as provided in section 57(2)(a) of the Act. **[Section 57(2)]**

5.2.2.2 If, at any time, every member of the School is also a member of the School

Board, then any matter that is required by the Act or this Memorandum to be referred by the School Board to the members for a decision may be decided by the members at any time after being referred by the School Board, without notice or compliance with any other internal formalities but subject to the provisions of section 57(4) of the Act. **[Section 57(4)]**

5.2.3 **Representation by concurrent proxies**

This Memorandum does not permit a member to appoint more than one person concurrently as proxy. **[Section 58(3)(a)]**

5.2.4 **Authority of proxy to delegate**

This Memorandum does not permit a proxy to delegate the proxy's authority to act on behalf of the member appointing him to another person, subject to such restrictions as may be set out in the instrument appointing the proxy. **[Section 58(3)(b)]**

5.2.5 **Requirement to deliver proxy instrument to the School**

The document appointing a proxy must be delivered by hand or electronically to the office of the School, or to any other person on behalf of the School no later than 16h00 on the day before the meeting at which that proxy may exercise any rights of the member at a general meeting. Should this not be complied with the instrument of proxy shall not be treated as valid. **[Section 58(3)(c)]**

5.2.6 **Proxy without direction**

This Memorandum does not limit or restrict the right of a proxy to exercise, or abstain from exercising, any voting right of the member appointing him without direction, except to the extent that the instrument of proxy provides otherwise. **[Section 58(7)]**

5.2.7 **Proxy instrument**

The instrument appointing a proxy shall be in the form of **Annexure "A"** hereto or as near thereto as circumstances permit.

5.2.8 **Record date for exercise of member rights**

If the School Board fails to determine a record date for any action or event, the record date shall be determined in accordance with the Act. **[Section 59(1)]**

6. **GENERAL MEETINGS**

6.1 Convening of general meetings

The School Board shall be responsible for calling any general meeting, failing which the Head of Administration of the School shall do so. **[Sections 61(1) and 61(3)]**

6.2 Members' right to requisition a meeting

6.2.1 The School Board must call a general meeting if one or more written and signed demands for such a meeting are delivered to the School and each such demand specifies the specific purpose for which the meeting is proposed and, in aggregate, demands for substantially the same purpose are made and signed by the members holding, as of the earliest time specified in any of those demands, at least 5% (five percent) of the voting rights entitled to be exercised in relation to the matter proposed to be considered at the meeting. **[Section 61(3)]**

6.2.2 Such a meeting shall be called within 14 (fourteen) days of receipt of the petition and shall not take place later than five weeks after receipt of the petition. The notice of this meeting shall be issued in accordance with the stipulations under the Act and 6.4.

6.2.3 If within half an hour after the time appointed for the meeting a quorum is not established, the meeting shall be dissolved.

6.3 Location of general meetings

This Memorandum does not limit, restrict or qualify the authority of the board to determine the location of any general meeting, which may be in the Republic or in any foreign country. **[Section 61(9)]**

6.4 Notice of general meetings

6.4.1 All general meetings shall be called by not less than 21 (twenty one) clear calendar days' or 15 (fifteen) clear business days' notice, whichever is the longer, in writing. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given, and shall specify the place, the day and the hour of the meeting and shall be given in manner hereinafter mentioned or in such other manner, if any, as may be prescribed by the School in general meeting, to such persons as are, under this Memorandum, entitled to receive such notices from the School. **[Sections 62(1) and 61(2)]**

6.4.2 Notice of every meeting shall be sent to the e-mail address or any other address supplied by each member to the School for the giving of notices to him and, in addition, shall be posted on the School's website and bulletin board at its registered office.

6.4.3 Any notice sent by e-mail shall be deemed to have been served on the day it was sent provided that no return notice of non-delivery was received by the School.

6.5 Electronic participation in general meetings

This Memorandum does not prohibit the School from providing for any general meeting to be conducted by electronic communication, or for one or more members, or proxies for members, to participate in any general meeting by electronic communication, subject to the provisions of the Act. **[Section 63(2)]**

6.6 Chair of General Meetings

At all general meetings the Chairperson or the Vice-Chairperson shall chair the meeting. In the case of both the Chairperson and Vice-Chairperson not being able to attend the meeting, the members of the School Board present shall nominate a chair from their ranks.

6.7 Minutes of General Meetings

6.7.1 **Minuting procedure**

The proceedings of every general meeting shall be recorded in the form of minutes written in English and German and shall be signed by the chairperson of the meeting. These minutes must be made available for inspection by members at the registered office of the School or on any official electronic media of the School within 60 (sixty) days after such general meeting.

6.7.2 **Alterations to the minutes**

Requests for alterations to the minutes shall be recorded and considered at the following general meeting.

6.8 Quorum for general meetings

6.8.1 A general meeting may not begin until sufficient persons are present in person or by proxy to exercise, in aggregate, at least 5% (five percent) of all of the voting rights that are entitled to be exercised in respect of at least one matter to be decided at the meeting, and a matter to be decided at a general meeting may not begin to be considered unless sufficient persons are present in person or by proxy to exercise, in aggregate, at least 5% (five percent) of all of the voting rights that are entitled to be exercised on that matter at the time the matter is called on the agenda, provided that if the School has more than two members, such quorum shall include at least three members present in person or by proxy. **[Sections 64(1), 64(2) and 64(3)]**

6.8.2 A general meeting shall be postponed or adjourned in terms of section 64(4) or 64(10) of the Act for no less than one week and no more than 21 (twenty one) days, as the chairperson of the meeting may determine, if the requirements of 6.8.1 are not satisfied within 30 (thirty) minutes after the appointed time for the meeting to begin. **[Sections 64(4), 64(5), 64(6), 64(12) and 64(13)]**

6.8.3 Where a meeting has been adjourned as aforesaid, the School shall within one week of the adjournment inform all members and persons entitled to receive notice of the adjournment stating:

6.8.3.1 the date, time and place to which the meeting has been adjourned;

6.8.3.2 the matter before the meeting when it was adjourned; and

6.8.3.3 the grounds for the adjournment.

6.8.4 This Memorandum does not restrict or prohibit the continuation of any general meeting or the consideration of any matter to be considered at any general meeting after a quorum has been established for commencement of such meeting, or for such matter to be considered, provided at least one member with voting rights entitled to be exercised at the meeting, or on that matter, is present at the meeting. **[Section 64(9)]**

6.9 Voting rights

6.9.1 Each individual member shall be entitled to one voting right, provided that:

6.9.1.1 teachers and employees of the School who are members shall have no right to cast their vote in any procedure pertaining to the election of the School Board; and

6.9.1.2 membership and school fees must be up to date in terms of the School Rules or as outlined in 5.1.2.2 in order for the member to be allowed to cast a vote.

6.9.2 Members who are juristic persons are each entitled to obtain additional votes up to a maximum of 10 (ten) votes against payment of an annual membership contribution as set out in 5.1.1.5 above, and shall be entitled to exercise those additional votes at any general meeting.

6.10 Members' resolutions

6.10.1 For an ordinary resolution to be approved by members, it must be supported by more than 50% (fifty percent) of the voting rights exercised on the resolution. For the avoidance of doubt, an ordinary resolution shall not be passed in the event of an equality of votes exercised on the resolution. **[Sections 65(7) and 65(8)]**

6.10.2 For a special resolution to be approved by members, it must be supported by more than 75% (seventy five percent) of the voting rights exercised on the resolution. **[Section 65(9) and 65(10)]**

6.10.3 This Memorandum does not require a special resolution for any other matter not contemplated in section 65(11) of the Act. **[Section 65(12)]**

6.10.4 No resolution passed by a general meeting shall invalidate any prior act of the School Board which would have been valid if that resolution had not been passed.

6.11 Annual General Meetings

A general meeting known as the annual general meeting shall take place within six months after the end of each financial year and notice of the meeting shall be forwarded to the following persons:

6.11.1 All members of the School.

6.11.2 The School Principal or his/her representative.

6.11.3 The representative of the Ambassador of the Federal Republic of Germany.

6.12 Proceedings at Annual General Meetings of Members

The annual general meeting shall deal with and dispose of all matters prescribed in the Act, as well as the following matters:

6.12.1 Approval of the minutes of the previous annual general meeting.

6.12.2 Discussion and acceptance of the School Principal's report.

6.12.3 Discussion and acceptance of the School Board's report.

6.12.4 Discussion of the annual financial statements of the School for the previous financial year.

6.12.5 Approval of the auditor's remuneration.

6.12.6 Appointment or re-appointment of the auditor.

6.12.7 Decision on acquisition or disposal of material immovable property.

6.12.8 Decision on the appointment of members appointed pursuant to 5.1.1.2 on application of the School Board.

6.12.9 Decision on the call for termination of memberships.

6.12.10 Decision on applications of the School Board that were brought to the attention of members in writing together with the notice of general meetings.

6.12.11 Decisions on members' written applications that have reached the School Board at least 7 (seven) days prior to the general meeting. Late applications can only be discussed at the sole discretion of the chairperson of the meeting.

6.12.12 Decision on an application of the School Board concerning the confirmation of an interim co-option of one or more members to the School Board.

6.12.13 Election of new members or re-election of retiring members of the School Board.

7. MEMBERS OF THE SCHOOL BOARD AND OFFICERS

7.1 Composition of the School Board

- 7.1.1 The School Board shall comprise no less than 7 (seven) members and no more than 11 (eleven) members. **[Sections 66(2) and (3)]**
- 7.1.2 Subject to 7.8.2.1.3, the members shall elect the directors to the School Board by ballot, with those candidates receiving the most votes in series becoming directors until all vacancies are filled,
- 7.1.3 Where the number of candidates corresponds with or is less than the number of vacancies on the School Board, the members in General Meeting may choose to ratify the appointment of those candidates as directors by a simplified procedure as agreed to by the members in the general meeting, which provides for a simple majority, failing which the procedures in 7.1.2 must be followed .
- 7.1.4 This Memorandum does not provide for –
- 7.1.4.1 the direct appointment or removal of any director by any particular person, except as provided in 7.8.2;
- 7.1.4.2 the appointment of any person as an *ex officio* director of the School.
[Section 66(4)(a)(ii)]
- 7.1.5 Teachers and employees of the School, as well as their spouses, shall not be permitted to be elected as members of the School Board while they are employed by the School and for a period of 24 (twenty four) calendar months thereafter, or 60 (sixty) calendar months thereafter in the case of senior management and teachers.
- 7.1.6 Only members who are admitted as members in terms of 5.1.1.1 shall be permitted to be elected as members of the School Board, except as provided for in 7.8.2.1.2 and 7.8.2.1.4.

7.2 Authority of the School Board

- 7.2.1 The authority of the School Board to manage and direct the business and affairs of the School, as contemplated in section 66(1), is not limited, restricted or qualified by this Memorandum. **[Section 66(1)]**
- 7.2.2 If, at any time, the School has only one director, this Memorandum does not restrict that director from exercising any power or performing any function of the School Board at any time, without notice or compliance with any internal formalities.
[Section 57(3)]

7.3 Invited participants at ordinary meetings of the School Board

The following persons, entitled to attend but not vote at ordinary meetings in an advisory capacity, shall, unless the Chairperson in his/her sole discretion decides otherwise, be invited to every ordinary meeting of the School Board:

- 7.3.1.1 the School Principal or his/her representative;
- 7.3.1.2 the School Principal's deputy;
- 7.3.1.3 the administrative manager;

- 7.3.1.4 the pedagogical director;
- 7.3.1.5 the chairperson of the Staff Representative Council or his/her representative, as well as the chairperson of the Parents' Representative Council or his/her representative, insofar as these bodies have been properly constituted as orderly bodies in accordance with 7.10; and
- 7.3.1.6 a member of the relevant diplomatic representation of the Federal Republic of Germany nominated by its ambassador;

provided that:

- 7.3.1.7 the persons described in 7.3.1.2, 7.3.1.4, 7.3.1.5 and 7.3.1.6 shall not have the right to attend any meeting dealing with personnel matters; and
- 7.3.1.8 the School Principal shall not be invited to attend any meeting dealing with matters that concern him personally. These matters might include any matters pertaining to the Principal's contract with the school, complaints against the Principal, or any other matter at the request of one or more members of the School Board.

7.4 Election of the office bearers and constitution of sub-committees of the School Board

The School Board shall elect from its ranks the Chairperson and the Vice-Chairperson.

7.5 Invitation of additional participants to meetings of the School Board

On decisions of the School Board additional participants may be invited by the Chairperson to attend meetings in whole or during deliberations regarding specific points on the agenda, in an advisory capacity and without a right to vote.

7.6 School Board Regulations

- 7.6.1 The School Board shall meet at least six times per year.
- 7.6.2 The School Board may vote on any resolution which could otherwise be adopted at a meeting of the School Board by written consent or electronic communication, as contemplated in section 74(1) of the Act, provided that –
 - 7.6.2.1 any proposed resolution shall have been circulated to all members of the School Board, the School Principal, subject to clause 7.3.1.8, and the representative of the Ambassador of the Federal Republic of Germany; and
 - 7.6.2.2 if at least 25% (twenty five percent) of the members of the School Board request in writing within 48 (forty eight) hours of the proposed resolution being circulated, that the proposed resolution instead be deliberated upon at a meeting of the School Board, no such resolution may be passed in writing or by electronic communication.
- 7.6.3 A resolution in writing may consist of several documents in the same form and shall be deemed to have been passed on the date on which it was signed or approved in writing by the last member of the School Board doing so.
- 7.6.4 This Memorandum does not specify a different percentage or number of members of the School Board upon whose request a meeting of the School Board must be called in terms of section 73(1)(b) of the Act. **[Section 73(1) and 73(2)]**
- 7.6.5 Notwithstanding the provisions of section 73(1)(a) of the Act, an extraordinary meeting of the School Board may be called by the Chairperson upon application

by any member of the School Board, or the representative of the ambassador of the Federal Republic of Germany or the School Principal. The representative of the ambassador and the School Principal shall be invited to attend but not vote at such an extraordinary meeting, subject to clause 7.3.1.8.

- 7.6.6 This Memorandum does not restrict the School Board from conducting meetings, or members of the School Board from participating in meetings, by electronic communication, as contemplated in section 73(3) of the Act. **[Section 73(3)]**
- 7.6.7 Written invitations to ordinary meetings of the School Board shall be sent out at least two weeks prior to the date of the meeting, provided the period of notice for an extraordinary meeting shall be determined by the Chairperson in each instance.
- 7.6.8 This Memorandum does not limit, restrict or qualify the authority of the School Board to proceed with a meeting in accordance with the requirements of section 73(5)(a) of the Act, despite a failure or defect in giving notice of the meeting. **[Section 73(5)(a)]**
- 7.6.9 The School Board shall establish its School Board Regulations that shall determine details with respect to the formulation of its duties and tasks, the form of co-operation with the Principal of the School, its methods of working, and other aspects of its business.
- 7.6.10 A majority of members of the School Board must be present at a meeting before a vote may be called at a meeting of the School Board. **[Section 73(5)(b)]**
- 7.6.11 Each member of the School Board has one vote on a matter before the School Board. **[Section 73(5)(c)]**
- 7.6.12 A majority of votes cast on a resolution is sufficient to approve that resolution. **[Section 73(5)(d)]**
- 7.6.13 In the case of a tied vote:
- 7.6.13.1 the Chairperson may cast a deciding vote, if the Chairperson did not initially have or cast a vote; or
- 7.6.13.2 the matter being voted on fails, in any other case. **[Section 73(5)(e)]**

7.7 Minutes of Meetings of the School Board

7.7.1 **Minutes of the proceedings of the School Board**

Minutes of the proceedings of the School Board shall be written in English and German for approval by the School Board at the following meeting. Such minutes shall be signed by the Chairperson, or such other School Board member as delegated, should the Chairperson not be present, after approval has been given.

7.7.2 **Distribution of minutes of the proceedings of the School Board**

The minutes shall be distributed to all members of the School Board at least one week prior to the following ordinary School Board meeting. Applications for changes to the minutes shall be subject to approval and be placed on record at the following meeting of the School Board.

7.8 Term of Office and Succession in Office

7.8.1 **Regular term of office of members of the School Board**

The term of office of members of the School Board shall be three years, computed from their last election, re-election or confirmation at a general meeting. At each general meeting at least one-third of the remaining members who were elected at any meeting of the School shall retire from office. The members of the School Board retiring in terms of the preceding sentence shall be the members of the School Board who have been longest in office, computed from their last election, re-election or confirmation at a general meeting. In the case of equal seniority of members of the School Board, the members to retire shall, in the absence of agreement, be selected by lot. Retiring members of the School Board shall be eligible for re-election.

7.8.2 **Appointment of additional members of the School Board**

7.8.2.1 Subject to the Act and in furtherance of 7.1.6:

7.8.2.1.1 If a member of the School Board resigns from office before termination of his/her term of office, persons constituting at least 50% (fifty percent) of the School Board shall be entitled to appoint another person for the remaining period of the term of office of the resigning member. This appointment shall require confirmation at the following general meeting, failing which the appointed member's office shall terminate.

7.8.2.1.2 A member of the School Board whose membership is terminated during his/her period of office according to 5.1.2 may be re-appointed by persons constituting at least 50% (fifty percent) of the School Board in the interest of continuity of the School Board's work up until the following general meeting. Such appointment shall, however, lapse irrevocably at the following general meeting.

7.8.2.1.3 Persons constituting at least 50% (fifty percent) of the School Board shall have the right to appoint persons to their ranks to fill a vacancy only insofar as this is necessary for the sound functioning of the Board, and where these persons are members referred to in 5.1.1.1. This appointment shall require confirmation at the following general meeting failing which the appointed member's office shall terminate.

7.8.2.1.4 Persons constituting at least 50% (fifty percent) of the School Board shall have the right to appoint up to two persons to their ranks who are independent of the School insofar as those persons are, in the opinion of the School Board, able to make a meaningful contribution to the School Board's deliberations on any particular matter(s). Any such appointment shall require confirmation at the following general meeting failing which the appointed members' office shall terminate. For the purposes of this 7.8.2.1.4, a member of the School shall not be regarded as being independent of the School.

7.8.2.2 A member of the School Board who was directly appointed in terms of 7.8.2 shall be regarded as having been elected for the purposes of 7.8.1, upon that member's appointment being confirmed at a general meeting.

7.8.3 **Disqualification of members of the School Board**

Without derogation from the provisions of the Act, a member of the School Board shall cease to be a member of the School Board in the following cases:

- 7.8.3.1 if that member is absent from meetings of the School Board for more than four months, without permission from the School Board;
- 7.8.3.2 if that member has a direct or indirect interest in any contract or proposed contract with the School and fails to declare his/her interest and the nature thereof in the manner required by the Act;
- 7.8.3.3 if the School Board passes a resolution to that effect at a meeting at which at least 80% (eighty percent) of all the members of the School Board, excluding that member, are present, provided that notice of the meeting shall be given to that member and that member shall be afforded a reasonable opportunity to make representations to the School Board before the meeting, and provided further that at least 80% (eighty percent) of all of the members present at the meeting vote in favour of the resolution;
- 7.8.3.4 if that member is in arrears with school fees for more than 3 months or more than once in a 12 (twelve) month period, if applicable; or
- 7.8.3.5 if that member has been convicted of any criminal offence in a recognized court of law.

7.8.4 **Relation to the School Principal**

The School Board shall attend to all organisational issues of the School in constructive co-operation with the School Principal, whose tasks and responsibility lie in the pedagogical and administrative field as is stipulated in his/her job description.

7.9 Special duties of the School Board

In addition to those duties laid down in the Act, the School Board shall assume the following duties:

- 7.9.1 Election, appointment, extension of period of office, and termination of contract of the School Principal.
- 7.9.2 Engagement, extension of periods of office, and termination of contract of teachers and employees of the School in constructive co-operation with the School Principal.
- 7.9.3 Decisions on the structure and development of the School as laid down in 1 of this Memorandum.
- 7.9.4 Adoption of the School Rules that have been proposed by the School Principal and that govern the day-to-day affairs of the School.
- 7.9.5 Discussion and adoption of the budget for the next financial year.
- 7.9.6 Control of the annual budget provision of the required financial means, investing of excess financial funds, taking up loans.
- 7.9.7 Determining details on, and control of, payment of the school fees and/or membership contributions. This shall include the application procedure for a possible school fee reduction.

- 7.9.8 Stipulation and adjustment of school fees and membership contributions.
- 7.9.9 Representation of the School in and out of court, making and accepting legal declarations for the School, and undertaking legal acts of any kind.
- 7.9.10 Resolutions regarding one of the following: accepting members according to 5.1.1.4; recommendations to general meetings with regard to acceptance of members according to 5.1.1.2, as well as with regard to suspending membership according to 5.1.4 and applying for termination thereof to the general meeting.
- 7.9.11 Calling general meetings and drawing up agendas.
- 7.10 Participation of bodies of the School
- 7.10.1 The School Board shall take due care that parents, employees and learners shall have opportunity to participate in the activities of the School in accordance with the applicable School Rules.
- 7.10.2 All memoranda, articles, rules and regulations of school bodies set up for this purpose shall require consultation with the School Principal and thereafter approval by the School Board.
- 7.10.3 The School Board, in cooperation with the School Principal, shall have the power to revoke official recognition in terms of 7.10.2 of the school bodies which, in the course of exercising their official duties, seriously or repeatedly fail to comply with the School Rules applicable to them or cause harm to the School or bring the School into disrepute.
- 7.11 Remuneration of Members of the School Board
- The members of the School Board shall not receive remuneration or special benefits or privileges by virtue of their office and shall not be permitted to hold any office on another elected body officially constituted within the School.
- 7.12 Committees of the School Board
- 7.12.1 Without derogating from the provisions of the Act, nothing in this Memorandum limits, restricts or qualifies the authority of the School Board to appoint any number of committees, or to delegate to any such committee or to any person any of the authority of the School Board, with or without the power to sub-delegate. **[Section 72(1)]**
- 7.12.2 Except to the extent that a School Board resolution establishing a committee provides otherwise, the committee -
- 7.12.2.1 may include persons who are not members of the School Board, but any such person must not be ineligible or disqualified to be a director in terms of section 69 of the Act or this Memorandum, and any such persons shall not have a vote on any matter to be decided by the committee;
- 7.12.2.2 may consult with or receive advice from any person;
- 7.12.2.3 has the full authority of the School Board in respect of any matter referred to it. **[Section 72(2)]**

8. DISSOLUTION OF THE SCHOOL

8.1 Decision of Dissolution of the School

A voluntary dissolution of the School can only be effected in accordance with the Act.

8.2 Winding-up of School

8.2.1 Upon the winding-up or dissolution of the School, the entire net value of the School (i.e. the assets remaining after the satisfaction of all liabilities) shall be distributed to one or more non-profit companies, registered external non-profit companies carrying on business in South Africa, voluntary associations or non-profit trusts having objects similar to the stated main object and aims of the School as determined by the South African Ambassador of the Federal Republic of Germany at or immediately before such winding-up or dissolution.

8.2.2 It is recorded that the liabilities of the School shall include any monies advanced by the Federal Republic of Germany to the School in respect of any subsidy agreement during the school year in which such winding up occurs, and are to be repaid to the Federal Republic of Germany before any other liabilities are satisfied.

9. PUBLIC BENEFIT ORGANISATION

9.1 In order for the School to comply with the requirements of a Public Benefit Organisation in terms of section 10(1)(cN) read with section 30 of the Income Tax Act, it is expressly agreed that:

9.1.1 the sole object of the School as described in this Memorandum shall at all times be to carry on one or more public benefit activity as defined in section 30(1) of the Income Tax Act;

9.1.2 no activity will directly or indirectly promote the economic self-interest of any fiduciary or employee of the School otherwise than by way of reasonable remuneration;

9.1.3 no funds will be distributed to any person, other than in the course of undertaking any public benefit activity;

9.1.4 the activities of the organisation are to be carried on in a non-profit manner and with an altruistic or philanthropic intent;

9.1.5 the public benefit organisation will not be a party to, or does not knowingly permit, or has not knowingly permitted, itself to be used as part of any transaction, operation or scheme of which the sole or main purpose is the reduction, postponement or avoidance of liability for any tax, duty or levy which, but for such transaction, operation or scheme, would have been or would have become payable by any person under this Act or any other Act administered by the Commissioner for the South African Revenue Service;

9.1.6 no resources will be used, directly or indirectly, to support, advance or oppose any political party;

9.1.7 no remuneration will be paid to any employee, office bearer, member or other person, which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered and has not and will not economically benefit any person in a manner which is not consistent with its objects;

9.1.8 no donation will be accepted which is revocable at the instance of the donor for reasons other than a material failure to conform to the designated purposes and conditions of such donation, including any misrepresentation with regard to the tax deductibility thereof in terms of section 18A: Provided that a donor (other than a donor which is an approved public benefit organisation or an institution, board or body which is exempt from tax in terms of section 10(1)(cA)(i), which has as its sole or principal object the carrying on of any public

benefit activity) may not impose any conditions which could enable such donor or any connected person in relation to such donor to derive some direct or indirect benefit from the application of such donation;

- 9.1.9 a copy of all amendments to the founding documents will be submitted to the Commissioner for the South African Revenue Service.

10. **PROHIBITION ON DISTRIBUTION OF INCOME AND PROPERTY**

- 10.1 The income and property of the School, howsoever derived, shall be applied solely towards the promotion of its objects, provided that nothing herein contained shall prevent the payments as contemplated in item 1(3) of Schedule 1 of the Act.

FORM OF PROXY

DEUTSCHE SCHULE ZU JOHANNESBURG NPC
 Registration number 1926/008515/08
 (the “School”)

I, the undersigned,

_____ (Print Name)

being a member of the DEUTSCHE SCHULE ZU JOHANNESBURG NPC hereby appoint

_____ (Print Name)

or failing him/her

_____ (Print Name)

as my proxy to vote on my behalf at the annual general or general meeting as the case may be of the School to be held on _____ day of _____ and at any adjournment thereof as follows:

	In favour	Against	Abstention
Resolution to			
Resolution to			
Resolution to			

and to cast ballots as may be necessary in respect of the election of members to the School Board

(Indicate instructions to proxy by way of a cross in space provided above).

Unless otherwise instructed, my proxy may vote as he/she thinks fit.

Signed this _____ day of _____.

 Signature

(Note: A member entitled to attend and vote is entitled to appoint a proxy to attend, speak and on a poll vote in his/her stead, and such proxy must be a member of the School.).