



DIAMOND COUNCIL OF SOUTH AFRICA

24th April, 2008

CONSTITUTION

1 NAME AND NATURE

The name of the body is the Diamond Council of South Africa

2 DEFINITIONS

“The act”	shall mean	the Labour Relations Act of 1995 as amended
“Executive”	shall mean	the Executive Committee
“Beneficiate”	shall mean	sorting, evaluating, polishing, sawing, cutting, crushing or any other method utilised in order to add value to any unpolished diamond.
“in good standing”	shall mean	a member who has timeously paid such fees and levies imposed by the Executive and who is not in arrears in payment of fees and / or levies and who also has not been subjected to an award being made by any arbitration committee attached to the diamond industry of South Africa.

The male gender includes both genders and the singular includes the plural and vice versa.

Any expression used in this Constitution, and which is defined in the Labour Relations Act of 1995, shall have the same meaning as in that Act.

3 OBJECT

The object of the Council is to:

- 3.1 Generally to promote and to protect the interests of the members of the Council, to encourage co-operation and to deal with all such matters as may affect their common interests.
- 3.2 Funding and Financing – Establishing financial institutions support for the diamond industry. If need be, enter into investments with the object of achieving the Councils financial sustainability and funding of member services.
- 3.3 Relationship with producers: Relationship management with producers and addressing industry concerns regarding rough diamond prices and their alignment to market prices for polished diamonds, etc.
- 3.4 Represent the common interests of the diamond dealing and processing industry and promoting understanding of the industry's contribution to national economic and social progress.
- 3.5 To establish a partnership with the Government to take the country forward to a better life for all South Africans. To support the Government's plans relating to the growth strategies relating to the industry and the national economic growth as a whole.

- 3.6 To provide an advisory service to the industry on any local and global macro-environmental issues which impact directly on the industry's development.
- 3.7 Legislation and Policy – Representing the diamond industry in the formulation of legislation and policies affecting the industry
- 3.8 to be affiliated or to be integrated with any organisation or any other body as may be decided upon by the Executive from time to time;
- 3.9 Research – supporting research on issues affecting the diamond industry and disseminating information on new research and technology to all industry members.;
- 3.10 to determine and regulate in such manner as may from time to time prove necessary, and/or advisable, rates of payment, working conditions and other measures affecting employees engaged in the Industry, and to encourage and effect the settlement of disputes by enquiry, conciliation, mediation, arbitration and/or any other method prescribed under the Act.
- 3.11 to encourage harmonious relations between members and their employees.
- 3.12 to arrange and promote the adoption of equitable forms of contract and other undertakings of common use and application in the Industry;
- 3.13 to purchase, acquire, hold and deal with property either fixed, movable or immovable;
- 3.14 to conduct negotiations with, and make representations to the Government of the Republic of South Africa, alternatively any entity, institution or body which is in any way whatsoever connected to the Government of South

- Africa, in all matters in which the beneficiation industry of South Africa as well as the rough diamond dealer industry is affected by the decisions and policy of the Government;
- 3.15 to make donations for such charitable, educational, public or other purposes as the Executive may decide and to establish bursaries to train persons in all aspects of beneficiation and dealing;
 - 3.15 to establish and maintain and/or assist in the establishment or maintenance of any fund or committee formed or which may be formed for the protection of the interests of the Council or its members, or for the protection and benefit of employees, or for the benefit and protection of the joint interests of the employers and employees in the beneficiation and rough diamond dealing Industries, provided that no fund which is not subject to control under any law shall be established until the rules governing such fund have been incorporated in this Constitution and have been approved in terms of the Act .
 - 3.17 to enter into any collective agreement, arrangement or undertaking with Government, Provincial or Local, in regard to any matter affecting the interests of the beneficiation industry and rough diamond dealers;
 - 3.18 to possibly enter into any agreement with the Government alternatively any entity, body or institution which is in any way whatsoever connected to the government irrespective and/or any other person, corporation, company or other form of entity with regard to any areas of mutual interest.;
 - 3.19 to do all such other lawful things as may appear to be in the interests of the Council or of its members, or of the Industry in general;

- 3.20 to promote a liberalised diamond market, reached by an orderly, fair and inclusive process
- 3.21 To promote the empowerment of historically disadvantaged South Africans (HDSAs) by member companies
- 3.22 Continuation of world-class standards in the diamond industry
- 3.23 to promote gender and racial equality in the beneficiation and rough diamond dealer Industries;
- 3.24 to promote the training of diamond polishers and rough diamond dealers and the promotion of new entrants into the Industry.
- 3.25 To institute or defend legal proceedings by or against the Council.
- 3.26 To do such other lawful things as appear to be in the interests of the Council or of its members.
- 3.27 Accountability – Seeking to make the industry and all industry members more accountable to high standards of ethical, moral and legal behaviour and addressing improper conduct and actions wherever it may occur.
- 3.28 Education of members - to include such issues as new and existing technology, legal issues, training and education, conducting business in foreign markets, business models for improved profitability and recognition of business models which are either unprofitable or which offer little or no long term economic viability.

4 MEMBERSHIP

The qualifications for membership of the Council shall be:-

- 4.1 Full membership: Any person or entity licensed to beneficiate or deal in diamonds under the laws of the Republic of South Africa shall be eligible for membership of the Council with the understanding that the authorised representative of the entity licence to beneficiate shall at all material times act as the representative of the entity.
- 4.2 Associate membership: Any person or entity with the intention and or is in the process of acquiring a licence to beneficiate or deal in diamonds. This will also apply to HDSA's who are following a structured development programme to become entrepreneurs in the industry, as part of the HDSAs empowerment. Associate members will not have any voting rights. Qualification to full membership will only be achieved only after obtaining a licence to beneficiate or deal
- 4.3 Corporate membership: Institutions with whom the diamond industry intends developing strategic partnerships with. The Council will invite such partners to become corporate members. Corporate members will not have any voting rights.
- 4.4 A member may on the approval of and subject to such conditions as the Executive may decide, nominate a member, director, trustee, partner or manager to represent him on the Council.
- 4.5 Only one nominee of a member present at any meeting of the Council or of any committee thereof shall be entitled to participate in any vote or ballot at such meeting and in the case of a postal ballot only one nominee of each member may participate in such ballot.

- 4.6. Application for membership shall be made in writing to the CEO and on such form as is approved by the executive from time to time, and be accompanied by payment of the prescribed entrance fee. The Executive will in some instances invite potential members.
- 4.7 Such application shall bear the signature of the applicant who, upon signature, agrees to be bound by all the provisions of the Constitution and any by-laws made under this Constitution.
- 4.8 The application shall be lodged with the CEO whereafter it shall be referred to the Executive who shall satisfy itself, within 60 days, that the applicant possesses the necessary qualifications and that the applicant is in no way disqualified in terms of the constitution or otherwise from seeking such membership. The CEO shall report thereon to the Executive.
- 4.9 In the event of a quorum of 60% being attained by the Executive during the processing of new applications the Executive may decide to accept, reject or defer the application for membership. No applicant shall be accepted unless the applicant has received a majority of votes. An applicant shall be notified in writing by the CEO of the decision of the Executive. Any new member shall be entitled to be elected as a member of the Executive.
- 4.10 The Executive may decide to withdraw any membership from any member in the event of such member being found to be not fit and proper to be a member of the Council. The absolute discretion in this regard rests with the Executive
- 4.11 A newly elected member shall be required to serve a probationary period of membership of one year. During this period the Committee shall be entitled to terminate his membership without assigning any reason

therefore and whose decision in this regard shall be final and binding. The provision of any clause herein regarding claims against the Council shall mutatis mutandis apply to a member whose membership has been terminated in terms of this Clause.

- 4.12 If at any time after the election of an applicant to membership, it appears that he has been elected under a misinterpretation or mistake as to his identity or materially incorrect information having been provided by or having become known, the Committee shall be entitled to cancel the applicant's election to membership. In such cancellation and whether for damages, return of application fee and /or of subscription or otherwise, provided that the committee shall nevertheless be entitled to its sole and entire discretion, to make an *ex gratia* refund to him in such an amount as it may consider proper.
- 4.13 Every member shall notify the secretary, in writing, of his postal address and any change thereof within 14 days of the date on which the change took place.

5 ENTRANCE FEES AND SUBSCRIPTIONS

5.1 Entrance fee

The executive shall determine from time to time, an entrance fee which shall be payable by any applicant elected to the membership of the Council. Such entrance fee shall be payable simultaneously with the submission of an application for membership and in the event of application for membership being rejected, shall be refunded by the Council to the applicant in full.

5.2 Subscriptions

- 5.2.1 An applicant shall upon receipt of confirmation of acceptance of his membership, be obliged within one month of notification to that effect to pay his subscription to the Council. Pending such payment, he shall not be entitled to make use of the privileges of membership, and if he fails to make payment within such month, his membership shall automatically become null and void and any entrance fee paid by him shall be forfeited to the Council.
- 5.2.2 All subscriptions shall become due on the first day of each membership year and shall be paid not later than the end of the first month of the financial year. The Council's membership year shall be from the 1st January to the 31st December.
- 5.2.3 The Executive shall be entitled without the sanctions or authority of a General Meeting of members of the Council and from time to time and at any time that it may deem fit to vary the rates of subscription hereinbefore provided, as well as the Entrance Fees as stated herein above.
- 5.2.4 Each member shall pay a monthly subscription which shall be determined from time to time by the Executive. In addition, all members shall pay an additional amount, which shall be determined by the Executive, using such criteria as number of employees; turnover, etc.
- 5.2.5 Failure by any member to make payment of such amounts shall be treated as a failure to make payment by a member of his subscription and shall give rise to the procedure and consequences as stipulated herein.

6. EXECUTIVE COMMITTEE

- 6.1 The management of the affairs of the Council shall be vested in an Executive between general meetings and the Executive shall, for the first year of its existence consist of a Chairman, a Vice-Chairman, Chief Executive Officer (CEO) and a maximum of 18 other members of the Council who shall be elected at the first annual general meeting of the Council:
- 6.2 Upon completion of the first year of the Council's existence and at the first annual general meeting thereafter, the members shall elect, from the existing Executive, a new Executive which shall not exceed 18 members excluding the Chairman and Vice-Chairman , and shall subsist for a period not exceeding 2 years. The aforesaid election shall occur by way of nomination by the members at the Annual General Meeting (AGM).
- 6.3 The Executive shall meet once every calendar month on date to be fixed by the Chairman and any member of the Executive may be requested to resign from his/her position in the event of him/her:
- 6.3.1 failing to attend 3 consecutive meetings without a reasonable and just excuse;
 - 6.3.2 if an arbitration award is made against any member of the Executive that remains unresolved for a period of 10 days after such award being made;

6.3.3 if any criminal conviction is made against any member of the Executive whereby the good name and reputation of the Council may become contentious.

Under the aforementioned circumstances the resignation of the member shall become compulsory.

- 6.4 Special meetings of the committee of the Executive shall be called by The Chairman whenever he deems it advisable or upon requisition Received and signed by not less than 5 members of the Executive, in which event the meeting shall be called within 7 days of receipt of the requisition by the Chairman.
- 6.5 The quorum for any committee meeting shall be a majority of its members.
- 6.6 The Chairman and Vice –Chairman of the Council shall, *ipso facto*, be the Chairman and Vice-Chairman of the Executive.
- 6.7 The Executives will from time review the effectiveness of the governance structure of the Council, and will propose any changes deemed as key to the functioning of the Council.

7 MEETINGS

- 7.1 An annual general meeting of members of the Council shall ordinarily be held at least once every 12 calendar months on a date fixed by the Chairman.

- 7.2 Notices of general meetings attached showing the business to be transacted shall be given to members in writing by the CEO not less than 10 days before the date of such meeting, provided that in the case of a special general meeting, alternatively emergency meeting, such shorter written notice as decided by the Chairman may be given.
- 7.3 Should the Chairman so decide, all motions at the general meeting shall be reduced to writing and shall be delivered to the CEO to be read to the meeting. No motion shall be considered unless seconded. All matters forming the subject of motions shall, unless otherwise provided herein, be voted upon by show of hands and shall, unless otherwise provided herein, be decided by the votes of a majority of those present, except in the case of elections – when voting shall be held by ballot and the candidates(up to the required number) receiving the required numbers of votes, shall be declared elected.
- 7.4 The business to be conducted at an annual general meeting shall be, inter alia:
- 7.4.1 to receive and consider the report of the financial affairs of the Council, and to receive and consider the auditors report and financial status; and
 - 7.4.2 to appoint an auditor for the ensuing financial year;
 - 7.4.3 to consider and pass, with or without amendment, or to reject any

proposed resolution submitted to the meetings and concerning the successful running of the Council, of which due notice has been given;

- 7.4.4 to nominate and select representatives to any committee or board that has been constituted in terms of any legislation pertaining to the diamond industry of South Africa.
- 7.5 The annual general meeting shall be held not later than 30 June of each year.
- 7.6 Special general meetings shall be called whenever desired by the majority of the Executive or upon a requisition signed by not less than 33% of members of the Council in good standing. In the case of any special general meeting, such notice of the meeting being not less than 5 working days, as may be decided upon by the CEO, may be given. To every notice of the meeting, an agenda shall be attached, setting out the business to be transacted thereat.
- 7.7 All matters of procedure on which this Constitution is silent shall be decided on motion by majority vote of the members present at the meeting.
- 7.8 The quorum for any meeting shall be 25 members in good standing. If within 30 minutes of the time fixed for any meeting, a quorum is not present, the meeting shall stand adjourned to the same day in the week

following (and if that day is a public holiday, then the next succeeding working day) at the same time, unless the Chairman determine another time and place.

7.9 Minutes shall be kept at every meeting of the members and the Executive.

7.10 At every general meeting the minutes of the last preceding meeting shall be addressed by the Chairman and confirmed by the meeting.

8 MEETINGS OF THE EXECUTIVE COMMITTEE AND THE ELECTION OF OFFICERS

8.1 At least 10 (ten) days prior to the date fixed for the annual general meeting, the CEO shall notify all members that nominations for members of the Executive, (duly seconded and up to 18 (eighteen) in number, may be deposited at his office prior to a deadline date and hour to be fixed by the Chairman provided that the date and hour so fixed shall be at least 5 (five) days prior to the date of its annual general meeting. No nomination for Chairman or Vice-Chairman shall be valid unless the nominee has served 2 years on the Executive.

8.2 As soon as possible after the closing date for the submission of nominations, the administrator shall prepare a list of all nominations received, and also a list indicating the names of those members of the

Executive still in office. Copies of both lists shall be despatched to members of the Council.

8.3 Copies of both lists referred to in 2 shall be exhibited by the administrator on the Council's notice board at the Registered Office of the Council.

8.4 The election of a Chairman, Vice-Chairman and a maximum of 18 (eighteen) members of the Executive shall be conducted at the annual general meeting in accordance with the provisions.

8.5 The elections conducted in terms of this clause shall not be invalidated by reason of a non-receipt by any member of any notice or document referred to in this constitution.

8.6 The Executive shall have power to co-opt at its discretion a maximum of 4 (four) members of the Council, whether by so doing, the number prescribed in 8.4 be exceeded or not; provided that members co-opted to the Executive shall have no voting powers at meetings, and further provided that the total number of the Executive shall not exceed 18 (eighteen), excluding the Chairman and Vice-Chairman.

8.7 The Executive may at its first meeting following the annual election appoint a Treasurer from among its members.

8.8 Vacancies occurring on the Executive shall be filled at the first ensuing annual general meeting on nomination duly seconded and voted upon in the Chairman's discretion by ballot or by show of hands. Where a vacancy occurs subsequent to the date on which notice of that meeting was issued, it shall be filled at the next ensuing general meeting. A member so elected shall hold office for the unexpired portion of the period of office of his predecessor.

9 DUTIES OF OFFICE BEARERS

9.1 Chairman

The Chairman shall , *inter alia*, call meetings of the Executive and preside at all meetings, enforce observance of the Constitution of the Council, sign minutes of meetings after confirmation and may, after consultation with the Executive Committee , appoint members to Sub-Committees.

9.2 Vice- Chairman

The Vice-Chairman shall exercise the powers and perform the duties of a Chairman in the temporary absence of the Chairman. Should the Vice – Chairman be permanently unable to fulfil his office, the Executive shall appoint a new Vice-Chairman from its members.

9.3 Chief Executive Officer

The office of the CEO shall have, inter alia, the following functions:

- 9.3.1 to receive requisitions for meetings;
- 9.3.2 issue notices of meetings;
- 9.3.3 conduct all and any negotiations and correspondence on behalf of the Council;
- 9.3.4 retain original letters received and copies of those dispatched;
- 9.3.5 attend all meetings;
- 9.3.6 keep a register of all members past and present;
- 9.3.7 keep proper record of all resignations or expulsions, the date thereof and the reasons therefore;
- 9.3.8 submit reports to the Executive;
- 9.3.9 perform such other duties as prescribed in the Employment Agreement entered into between the CEO and the Council that directly relate to the smooth running of the Council and anything incidental thereto;
- 9.3.10 in the event of both Chairman and Vice-Chairman being temporarily unable to perform their duties, the CEO shall be able to act as Chairman until the Chairman or Vice-Chairman is able to resume his duties or in the case of the CEO being unable to act as Chairman, the Executive

shall elect an Executive Committee member to act as
Chairman for that meeting.

9.4 Treasurer

9.4.1 The Treasurer shall be responsible for the funds of the Council and shall ensure that all cheques of the Council are signed by 2 signatories and that all monies are banked within 2 days of receipt and that any excess funds are invested as the Executive may decide upon from time to time.

9.4.2 The Executive shall have the power to vary or alter the powers of the Treasurer and to allocate to other office bearers or officials such of the Treasurer's duties as the Executive may in its discretion decide.

9.5 Sub-Committees

The Chairman, after consultation with the CEO and the Executive, may form and constitute various sub – committees in order to pursue the objects and interests of the Council. Membership of sub-committees shall be drawn from members of the Executive and in exceptional circumstances, individuals who are not members of the Executive or the Council, after ratification by the Executive.

10 POWERS OF THE EXECUTIVE

The Executive shall, subject to the general discretion and control of general meetings and to the provisions of this constitution, have power:

- 10.1 To recommend the Council's participation in the establishment of a Bargaining Council under the provision of the Act, or in any statutory or non statutory joint body, board, Council or the like, consisting of joint representatives of employers and employees in the diamond industry.
- 10.2 To appoint on such terms and conditions as it may deem fit and at its discretion, remove or suspend a CEO to the Council and such attorneys, agents or clerks for permanent, temporary or special services; to invest them with such powers as are deemed necessary or expedient, to determine their duties and to fix and vary their salary or emoluments.
- 10.3 To appoint from time to time such sub-committee or committees as it may deem fit for the purpose of investigating, negotiating on any matter which is directly linked to the promotion of the objects of the Council as set out in 3 herein above and reporting to the Executive on any matter.
- 10.4 To admit or refuse to admit employers to membership of the Council, to fix the conditions under which former members of the Council may be re-

admitted to membership, and to suspend, fine or expel any member if he infringes any of the terms of this constitution or acts in a manner which is detrimental to the interests of the Council.

10.5 To acquire whether by purchase, lease or otherwise any movable or immovable property on behalf of the Council , and to sell, let, mortgage or otherwise deal or dispose of any movable or immovable property belonging to the Council, provided that no immovable property shall be acquired or sold, nor shall it be mortgaged, let or leased for a period longer than 5 (five) years, unless at least 14 (fourteen) days written notice of intention to do so, has been given to each member of the Council by the CEO. If during this period not less than one-third of the members demand that a ballot be taken on the proposed action, such ballot shall be taken.

10.5.1 To engage in negotiations, correspondence or anything of the like with any other entity, irrespective of it being an Council, body or institution or any other of the like and to enter into any agreements beneficial to members of the Council with regards to any funds the Council may have a right over, and this includes direct participation in any form of entity whereby the funds of the Council is controlled.

10.6 To assist, when requested to do so by a member, in dealing with disputes between that member and his employees alternatively any other party who is a member of any other recognised body in the Diamond Industry of South Africa and to endeavour to settle such disputes by conciliatory methods or by referring any disputes for arbitration in terms of the Constitution of the Diamond Dealers' Club of South Africa.

10.7 To open a banking and investment account in the name of the Council, and should the necessity arise to negotiate an overdraft with the bank upon such security as the Executive may decide.

10.8 To establish branches of the Council in any area and to define the areas of jurisdiction and scope.

11 DISQUALIFICATION OF MEMBERS

Notwithstanding anything to the contrary contained in this constitution, none of the following persons shall be eligible for membership of the Council, unless the Executive decides otherwise:

11.1 A person who is sequestrated, either provisionally or finally, or surrenders his estate as insolvent or compounds or seeks to compound with his creditors or alternatively who has an arbitration award against him which

has remained unpaid for a period exceeding 10 days from date of the award being made .

- 11.2 An un-rehabilitated insolvent unless he shall have effected a compromise with his creditors and payment in terms of the compromise shall have been effected by him or secured to the satisfaction of the Executive.
- 11.3 A director of a company or a member of a Close Corporation which is a member, or has applied to become a member, against which a Final Order of Liquidation has been granted or which has resolved voluntarily to wind itself up or seek to compound with its creditors unless such company or close corporation shall have paid its debts in full, or effected a compromise with its creditors, and payment has been made in full or guaranteed to the satisfaction of the Executive.
- 11.4 Persons who have been suspended or expelled from, and not reinstated to membership of a recognised beneficiation Council or Diamond Club or Bourse affiliated to the World Federation of Diamond Bourses. or the International Diamond Manufacturers Association
- 11.5 Persons who have been convicted of serious offences whether criminal or under the Rules of the Council.

11.6 The Executive shall have the power to admit or refuse to admit employers to membership of the Council, to fix the conditions under which former members of the Council may be re-admitted to membership, and to suspend, fine or expel any member if he infringes any of the terms of this constitution, or acts in a manner which is detrimental to the interests of the Council. The Executive shall also be entitled to recommend the removal from office of any official or office bearer of any committee if he infringes any of the terms of this constitution or acts in a manner detrimental to the interests of the Council provided that -

11.6.1 The Executive shall submit a report to the CEO within 10 (ten) days of it electing to make a recommendation that the official or office bearer be removed from office.

11.6.2 At the same time a copy of the report shall be furnished to the office bearer or official concerned.

11.6.3 The administrator shall immediately convene a Special General Meeting for the purpose of a ballot on the removal from office of the official or office bearer and the provisions as stated herein above shall be applicable mutatis mutandis.

12 FINE

Wherever in this Constitution provision is made for the imposition of a fine on a member, such fine shall be not less than R500-00 and shall not exceed R5000-00.

13 DISCIPLINE

13.1 A member may be suspended, fined or expelled as may be determined by the Executive if-

13.2 The member fails within 1 calendar month of demand in writing by the Secretary to pay subscriptions, fines or levies which are more than 2 months in arrears.

13.3. The member infringes any of the terms of this Constitution or acts in any manner that may be determined by the Executive to be against the interests of the Council and/or its members which includes enticing any employee from a member bringing the industry into disrepute..

13.4 Any member shall have the right to call witnesses in support of his or her case when attending the Meeting of the Executive in terms hereof.

13.5 Any decision taken by the Executive in terms of this clause shall be subject to ratification or so otherwise determined by a General Meeting.

13.6 Upon expulsion of a member, all monies due to the Council by the member shall immediately become payable. In the event of payment not being tendered timeously or at all, the Executive may take the appropriate steps to recover the outstanding monies.

13.7 A member's benefits shall immediately be forfeited once he or she is suspended or expelled.

14. FINANCE

14.1 The funds of the Council shall be applied to the payment of expenses, the acquisition of property, and for the furthering of the objects of the Council specified hereinabove.

14.2 All amounts due or collected on behalf of the Council shall be deposited in such bank account or accounts as may be decided upon the Executive, provided that any surplus funds not required for the time being for the purpose specified in 14.1 may be invested upon such security and on such terms and conditions as the Executive may decide.

14.3 All cheques shall bear the signatures of the chairman and the treasurer. In the absence of either or both, cheques shall be signed in either or both of

their steads by members of the Executive and/or the Secretary appointed by it for that purpose.

14.4 A general meeting may at any time with a view to securing funds for any particular purpose, impose a levy of:

14.4.1 An amount per month, to be determined by the Executive from time to time, per employee, student or graduate of a member; and/or

14.4.2 An amount not exceeding an agreed percentage of wages paid by the member to his employees, students or graduates as defined by the resolution imposing the levy. A suitable alternative formula for an amount will be used depending on the nature of the need to secure funds.

14.4.3 A member who resigns or is expelled from membership shall have no claim on the funds of the Council.

Representation on Bargaining Council in terms of the Labour Relations Act

14.5 The representatives of the Council on a Bargaining Council shall be elected by the Executive.

14.6 Representatives on a Bargaining Council may be removed by the Executive and may resign on giving notice to the Executive.

14.7 Representatives shall have full power, but not exceeding the power given in terms of clause 10 to enter into agreements on behalf of the Council, and such agreements shall not be subject to ratification by the Executive or a general meeting.

14.8 A general meeting may similarly decide that the Council shall become a party to any other statutory or non-statutory body, board, Council or the like, consisting of joint representatives of employers and employees in the industry

15 BALLOTS

15.1 In respect to those cases in respect of which the taking of a ballot is compulsory in terms of this constitution, a ballot on any question shall be taken-

15.1.1 If the Executive so decides, or

15.1.2 If demanded in writing by not less than one-third of the members of the Council in good standing; or

15.1.3 On any proposal to declare or take part in a lock-out.

15.2 Ballots shall be conducted in the following manner:

15.2.1 Notice of a ballot shall be given to each member of the Council in writing by the secretariat at least 7 days before

the ballot is taken; provided that a ballot may be taken without notice at any general meeting or at a meeting of the Executive on the decision of the majority of members present.

15.3 Two scrutineers shall be appointed by the Executive or a general meeting to supervise any ballot and to ascertain the result thereof and subsequent ballots received by any manner determined by the Executive from time to time.

15.4 Ballots, other than postal ballots shall be conducted at the place, on the date and during the hours as may be specified in the notice referred to in [15.2](#) above.

15.5 Ballot papers shall be provided by the Executive. The issue to be voted upon shall be set forth clearly on the ballot papers and such papers shall not contain any information by means of which it would be possible to identify the voters.

15.6 One ballot paper only shall be issued on demand at the place and during the hours fixed for the taking of the ballot, to each member who is entitled to vote.

15.7 Each voter shall, in the presence of the scrutineer be issued with one ballot paper which he shall thereupon complete, fold and deposit in a container provided for the purpose.

15.8 Ballot papers shall not be signed or marked in any way apart from the mark required to be made by a member in recording his vote.

Papers bearing any other mark or marks shall be regarded as spoiled and shall not be counted.

- 15.9 On completion of the ballot or so soon thereafter as possible, the result thereof shall be ascertained by the scrutineers in the presence of the administrator and made known through him. In the case of elections the candidates up to the required number receiving the highest number of votes shall be declared elected.
- 15.10 Ballot containers shall be inspected by the scrutineers prior to the issue of ballot papers.
- 15.11 Ballot papers, including spoiled papers, and a tally list specifying the votes for and against the resolution and the number of spoiled papers, shall be placed in a sealed container again after they have been counted and shall be retained by the administrator for not less than 3 (three) years
- 15.12 Proxies shall be allowed to a maximum of 2 (two) per member.
- 15.13 Except as provided for elsewhere in this constitution the Executive shall be bound to take action according to the decision of a majority of the members voting by ballot.
- 15.14 No ballot involving the declaration of or participation in a lock-out shall be taken until the matter giving occasion thereto has been dealt with as provided below.

In the event of employees of the Council or of any member or members thereof electing to strike, then -

16.1 The Council shall not be entitled to call a lock-out of its employees or the employees of its members or any of them unless it has convened a special general meeting of its members for the purpose of a ballot on the issue of a lock-out.

16.2 The provisions of clauses 7 and 8 of this constitution shall be applicable mutatis mutandis to such special general meeting.

16.3 Notwithstanding clause 16.2 above, a motion proposing a lock-out may only be decided by a two-thirds majority of the votes of those present.

16.4 No member who fails or refuses to support a resolution calling for a lock-out may be disciplined or have his membership terminated for failure or refusal to participate in a strike or lock-out if -

16.4.1 no ballot was held; or

16.4.2 a ballot was held, but a majority of the members who voted, did not vote in favour of the lock-out.

17 APPEAL PROCEDURE

17.1 Any member, including any official or office bearer, whose membership has been terminated or who has been deprived of the benefits of membership or an official or office bearer who has been removed from office otherwise than by reason of not being elected, shall have the right to appeal.

- 17.2 An appeal shall be made in writing and lodged with the Secretariat; Such appeal shall be heard at the first general meeting of the Council after the appeal has been lodged.
- 17.3 The appellant shall have the right to state his case personally or be assisted by a person of his choosing and may call witnesses in support of any statements made by him.
- 17.4 If the simple majority of members present at such meeting vote in favour of granting the appeal, then the appellant shall be immediately re-instated as a member. If not the appeal shall fail.
- 17.5 The decision of the general meeting shall be final and binding.
- 17.6 The Executive may nominate a representative to act on its behalf during any appeal.
- 17.7 Any vote that is held during an appeal, shall be held only after the Chairman has requested members to record their decision by way of ballot in confirmation or against the appellant. No other member shall be entitled to discuss or comment upon the merits of the appellant's case during the

course of the appeal. The decision of the members and Executive shall be final and binding.

18 RESIGNATIONS

Any member may resign by giving one calendar month's notice in writing to the secretary, provided that no resignation shall take effect until any and all monies due to the Council and owing by the member have been paid.

19 WINDING UP

19.1 The Council may be wound up if at a Special General Meeting called for the purpose or at a ballot conducted in a manner prescribed in the Constitution not less than 60 per cent of the total number of members of the Council in good standing vote in favour of a resolution that the Council be wound up.

19.2 If a resolution for the winding-up of the Council has been passed as provided in Clause 19.1, the following provisions shall apply: -

19.2.1 The last appointed Chairman of the Council or, if the Chairman is not available, the available members of the last-appointed Committee of the Council shall appoint a liquidator to carry out the winding-up.

- 19.2.2 The liquidator shall not be member of the Council and shall be paid such fees as may be agreed upon between the liquidator and the said Chairman and/or the said members of the Council's last-appointed Committee.
- 19.3 The liquidator so appointed shall call upon the last appointed office-bearers and officials of the Council to deliver to him the Council's books of the account showing the Council's assets and liabilities together with the register of members showing for the twelve months prior to the date on which the resolution of the winding-up was passed or the date as from which the Council was unable to continue to function, as the case may be, hereinafter referred to as the date of dissolution, the subscriptions paid by each member and the member's address as at the said date.
- 19.4 The liquidator shall also call upon the said office-bearers and officials of the Council to hand over to him all unexpended funds of the Council and to deliver to him the Council's assets and the documents necessary in order to liquidate the assets.
- 19.5 The liquidator shall take the necessary steps to liquidate the debts of the Council from its unexpended funds and any other monies realized from any assets of the Council and if the said funds and

monies are insufficient to pay all creditors after the liquidators fees and the expenses of winding-up have been met, the order in which creditors shall be paid shall be the same as that prescribed in any law for the assets of an insolvent estate and the liquidator's fees and the expenses of the winding-up shall rank in order of preference as though he were a trustee of an insolvent estate and as though the expenses were the cost of sequestration of an insolvent estate.

19.6 After the payments of all debts in accordance with Clause 19.5 the remaining funds, if any, shall be distributed by the liquidator amongst the members of the Council who were in good standing as at the date of dissolution and each member shall be awarded a share in proportion to the subscriptions actually paid by him in respect to the twelvemonths immediately preceding the said date of dissolution.

19.7 The liability of member shall, for the purpose of this Clause, be limited to the amount of subscriptions due by them to the Council in terms of this Constitution as at the date of dissolution.

20 AMENDMENTS

This Constitution may only be amended and such amendments shall only be valid if the following procedure is followed:

any proposed amendment or repeal of any provision of this Constitution shall have to be passed by way of resolution at a general meeting of the Council; any resolution passed at a general meeting shall have to be passed by a two thirds majority of the members; and 14 days notice of any proposed amendment or repeal must be given to the members of the Council.

A ballot shall only be held if one third of the members demand it in writing.

With due regard to the clause mentioned hereinabove this Constitution may be amended by way of ballot by the members of the Council and with due regard that any provision of the Constitution may be amended and furthermore that a simple majority will be required for the amendment(s) to be effected with the clear understanding that the contents of this clause shall only be effective for 1 (one) calendar year from the date of the signing of this Constitution by the Chairman.

21 INDEMNITY OF EXECUTIVE & OFFICERS

The members of the Executive and any of its Sub-Committees and Secretariat and any other officers, officials and office bearers for the time being of the Council shall be indemnified and secured harmless (as they hereby are) out of the assets of the Council from and against all actions, costs, charges, losses, damages and expenses which any of them shall or may incur or sustain by reason of any act done, concurred in or omitted, in or about the execution of their duty or supposed duty in their respective offices or trust; except such, if any, as they may incur or sustain by or through their own wilful neglect or default respectively; and none of them shall be answerable for the acts, receipts, neglects or defaults of the others of them or for joining in any acts for the sake of conformity or for any treasurer, bankers or other persons with whom any money or effects belonging to the Council shall or may be lodged or for the insufficiency or deficiency of any securities upon which any monies of the Council may have deposited or lent or for any other loss, misfortune or damage which may happen in the execution of their respective offices or trusts or in relation thereto, unless the same shall happen by or through their own wilful neglect, default or dishonesty.

22 ARBITRATION

22.1 Operation

In line with Section 10.6 of the constitution any member who alleges a dispute with another member or a member of another recognized organization in the Diamond Industry of South Africa, may refer same to arbitration by lodging in writing with the Secretariat details of such dispute and the relief sought against the other member. The Secretariat shall notify the Chairman of the Council thereof and he in turn shall instruct the Secretariat to refer the dispute to the Arbitration Sub-Committee of the Diamond Dealers Club which shall handle the dispute in accordance with its Arbitration Rules.

22.1.1 Every member of the Council shall be deemed by virtue of his being such to have submitted himself to the reference to and decision by the Arbitration Sub-Committee of the Diamond Dealers Club, as may be decided upon from time to time by the Executive of any dispute as if he had signed a Deed of Submission to the arbitration and decision by such Arbitration Committee. He shall be deemed to have consented to the arbitration being held in Johannesburg.

22.1.2A member of the Council who institutes legal proceedings against

any other member of the Council concerning a dispute which should have properly been referred to the Council for arbitration and which legal proceedings have not been authorized by such Arbitration Sub-Committee shall himself be liable to possible disciplinary action. Such member against whom such legal proceedings have been instituted shall have and retain all his rights to have the dispute dealt with as contemplated by this Constitution.

22.1.2.1 A member shall be personally liable and obliged to comply with and implement any award made by the Arbitrators in a dispute to which he was deemed to be a party by virtue of the foregoing.

22.1.3 The nature of any dispute which shall be submitted to arbitration shall be:-

22.1.3.1 Any dispute between members of this Council and/or members of another recognised body in the Diamond and/or Jewellery Industries of South Africa arising from or forming part of any transaction or negotiation or act or omission in the course of conducting diamond business.

22.1.4 Notwithstanding anything hereinbefore contained the Executive

Committee shall be entitled in its sole and entire discretion to apply the provisions of this Constitution to a dispute alleged and relief sought by a non-member, and on the written request of such non-member of the Council against a member, the Executive may decide that the provisions of this Constitution shall apply to such non-member exactly as if he were a member. .

22.1.4.1 These provisions shall be deemed to be a stipulation for the benefit of such non-member and in the event of these provisions being applied, such non-member shall acknowledge in writing that he agrees to be bound by the Arbitration Clause of this Constitution.

22.1.4.2 The Council shall have the right to levy such charges against both members and non-members as it deems fit and may require a portion or all of such charges to be deposited in advance.

22.1.5 The Arbitration Sub-Committee of the Diamond Dealers Club shall have the right to use an assessor or any other professional assistance in the course of their duties and may make a suitable award regarding the costs thereof.

22.1.6 Save as herein provided Arbitration Proceedings shall be subject to the Arbitration Act, No 42 of 1965 and any amendments thereto.

22.1.7 The decision of the Arbitrators shall in any dispute be final and binding upon the parties thereto subject to any remedies either party may wish to exercise thereafter as afforded to him by the Arbitration Act.

23 INTERPRETATION OF CONSTITUTION

In the case of any doubts as to the meaning and interpretation of the Constitution, words imported in this Constitution shall have their ordinary meaning unless clearly defined and, in case of a dispute, the Executive shall be the final arbiter and its decision shall be binding upon the matter.

Signed at Johannesburg on this day of April,, 2008

Chairman

Signed at Johannesburg on this day of April, 2008

Vice-Chairman