

**Companies and Intellectual Property Commission
Republic of South Africa**

COMPANY RULES

of

**THE JOINT BUILDING CONTRACTS COMMITTEE NPC
“JBCC” OR “THE COMPANY”**
Registration number 1997/017676/08

29 APRIL 2020

TABLE OF CONTENTS

	Page No
1. Definitions	3
2. Nature of the Company	4
3. Objectives	5
4. Powers of the Board	6
5. Fundamental transactions	9
6. Composition of the Board	9
7. Termination of director's appointment	10
8. Board meetings	11
9. Directors	13
10. Officers	18
11. Registered Office	19
12. Company records and accounting records	19
13. Financial year	19
14. Annual financial statements	19
15. Annual returns	20
16. Enhanced Accountability and Transparency	20
17. Reserves	21
18. Winding Up or Dissolution of the Company	21
19. Proxy form	22

The name of the company is 'The Joint Building Contracts Committee' NPC

1. DEFINITIONS

- 1.1 In these Rules, the following terms in bold type have the meanings assigned to them
- 1.1.1. "**Annual General Meeting**" (**AGM**) means a meeting of constituent members to be held once every calendar year, but no more than 15 months after the date of the previous annual general meeting attended by the appointed director and a maximum of three other invitees from each constituent member;
- 1.1.2. "**Board**" means the board of Directors of the Company from time to time;
- 1.1.3. "**Business Day**" means any day other than a Saturday, Sunday or gazetted national public holiday in the Republic of South Africa;
- 1.1.4. "**Chairperson**" means the Chairperson of the Board;
- 1.1.5. "**Commission**" means the Companies and Intellectual Property Commission established in terms of section 185 of the Companies Act;
- 1.1.6. "**Companies Act**" (Act) means the Companies Act No. 71 of 2008, as amended from time to time;
- 1.1.7. "**Companies Regulations**" means the Companies Regulations of 2011 promulgated by the Minister in terms of section 223 of the Companies Act, as amended from time to time;
- 1.1.8. "**Company**" means The Joint Building Contracts Committee NPC, registration number 1997/017676/08, a non-profit company incorporated in accordance with the laws of the Republic of South Africa;
- 1.1.9. "**Constituent Member**" means a voluntary association within the built environment represented on the JBCC Board by a Director
- 1.1.10. "**Deputy Chairperson**" means the deputy Chairperson of the Board
- 1.1.11. "**Director**" means a member of the Board of the Company, as contemplated in section 66 of the Act
- 1.1.12 "**Financial Committee**" (**Fincom**) means a standing committee of three Directors to manage the finances and HR of the Company, recommend expenditure to the Board, and arrange for signing powers at financial institutions where applicable
- 1.1.13 "**Income Tax Act**" means the Income Tax Act No. 58 of 1962, as amended from time to time;
- 1.1.14 "**MOI**" means the Memorandum of Incorporation of the Company

1.1.15 "**Rules**" means "rules" and "rules of a company" as defined in the Companies Act or its MOI, subject to such MOI not being in conflict with the Act or this MOI in any way or form;

1.1.16 "**SARS Commissioner**" means the Commissioner of the South African Revenue Services;

1.2 **In these Rules:**

1.2.1 a reference to a "**section**" by number refers to the corresponding section of the **Act**; and

1.1.1 a reference to a "**paragraph**" by number refers to the corresponding paragraph in these **Rules**; and

1.1.2 a reference to a "**Regulation**" by number refers to the corresponding regulation in the **Companies Regulations**; and

1.1.3 any reference to a "**person**" includes any natural, juristic or quasi-juristic person, including without limitation any sole proprietorship, firm, partnership, trust, close corporation, company, undertaking, joint venture, authority or other incorporated or unincorporated entity or association;

1.1.4 references to a "**day**" shall be to any calendar day. Where any number of days or **Business Days** are prescribed in these rules, those days shall be reckoned exclusively of the first and inclusively of the last day or **Business Day** (as the case may be), unless (in the case of days) the last day falls on a day not being a **Business Day**, in which event the last day shall be the next succeeding **Business Day**; and

1.1.5 words importing any gender include the other genders as well as juristic persons and words importing the singular number include the plural and vice versa;

2 **NATURE OF THE COMPANY**

2.1 The **Company** is a Non-Profit Company, with **Constituent Members**, as defined in the **Act**

2.2 The persons bound by these **Rules** in terms of section 15(6) of the **Act**, being for the time being the **Company** and each **Director** and prescribed officer of the **Company** and each member of a **Board** committee, are required to familiarise themselves with the relevant provisions of the **Act**

2.3 **INCONSISTENCIES**

If any provision of the **Act** is amended, or the **Board** is aware or informed of any inconsistency with or contravention of the **Act** or otherwise, then in addition to and without

limiting the rights or remedies of any other person in terms of these **Rules** or otherwise, the **Board** shall expeditiously:

- 2.3.1 assess that amendment with relation to the **Act** and/or that inconsistency or contravention; and
- 2.3.2 obtain reasoned written external legal opinion if the **Board** deems it necessary with respect to any such alleged inconsistency or contravention; and
- 2.3.3 propose amendments to the agreement in question or propose the Resolutions required to appropriately amend the **MOI** or these **Rules**, as the case may be, as is necessary so as to remove or eliminate or address any applicable contraventions or inconsistencies

3 **OBJECTIVES**

- 3.1 The main objectives of the **Company** shall be as listed below and carried out in terms of these **Rules**:
 - 3.1.1 the representation of building owners and developers, built environment professionals and general and specialist contractors who contribute their knowledge and experiences to the compilation of the JBCC contract suite of construction documents and supporting material that are published in the interests of standardisation and good practice with an equitable distribution of contractual risk in the built environment
 - 3.1.2 to update and develop additional products and contracts for the JBCC contract suite of products and supporting documentation for the built environment
 - 3.1.3 to stimulate and promote either directly via **Constituent Members** and/or stakeholders, the utilisation of JBCC construction contracts and support documentation throughout South Africa and internationally;
 - 3.1.4 to provide training and guidance regarding the appropriate application and use of JBCC products to the built environment and the public;
 - 3.1.5 to accredit presenters of seminars or workshops dealing with the JBCC suite of documents in order to protect the intellectual property and integrity of the JBCC
 - 3.1.6 to circulate or make available appropriate information to industry participants;
 - 3.1.7 to stimulate and maintain contacts with industry stakeholders;
 - 3.1.8 to promote best practice contract administration within the industry;
 - 3.1.9 to assist the relevant authorities with proposals for improvement in the building and related compliance environment in South Africa;
 - 3.1.10 to maintain and promote ethical and professional standards

- 3.2 The legal powers and capacity of the **Company** are not subject to the restrictions, limitations or qualifications as contemplated in section 19(1)(b)(ii) of the **Act**
- 3.3 The **Company** is not subject to any restrictive conditions or prohibitions contemplated in section 15(2)(b) or (c) of the Act
- 3.4 To promote participation, ensuring that it is inclusive and representative of the built environment

4 POWERS OF THE BOARD

4.1 The business and affairs of the **Company** shall be managed by or under the direction of its **Board**, which has the authority to exercise all of the powers and perform any provisions in the **MOI** or in these **Rules**

The **Board** shall have the following powers to:

- 4.1.1 appoint and dismiss a Chief Executive Officer
- 4.1.2 register the name, abbreviation and logo of the **Company** to be designed and registered as a trademark;
- 4.1.3 generally, to take such action and to do such things as may be required for the achievement of its objectives as defined in the **MOI** and in these **Rules**;
- 4.1.4 open an account or accounts with any registered financial institution
- 4.1.5 sell advertising rights and receive sponsorships of any description. Such revenue may be used to offset expenses or for the furtherance of any of the objectives of the **Company**;
- 4.1.6 effect insurances as may be necessary for the protection of the **Company's** assets and the indemnification of any **Director**, committee member, official or employee of the **Company** from any claim arising against such person by virtue of the office held and functions performed on behalf of the **Company**;
- 4.1.7 consider recommendations from **Constituent Members** for policy formation;
- 4.1.8 formulate strategic and annual business plans;
- 4.1.9 formulate and approve the annual budget;
- 4.1.10 annually appoint auditors and fix their remuneration;
- 4.1.11 present an annual financial report to the **Directors**;

- 4.1.12 approve the audited accounts for final adoption by the **Directors** representing the **Constituent Members** before being presented at the **AGM**;
- 4.1.13 borrow, lend or invest money;
- 4.1.14 acquire by purchase, lease or otherwise, any movable or immovable property and also sell, let, mortgage or otherwise deal with or dispose of movable or immovable property or other assets belonging to the **Company**;
- 4.1.15 conclude with any person, firm or company any transaction calculated to benefit the **Company**, and to acquire an interest and take shares in any concern in furtherance of the objects of the **Company**;
- 4.1.16 regulate the form and procedure of **Board** meetings;
- 4.1.17 appoint ad-hoc or standing committees and delegate powers, including the power of co-option, to such committees which shall report back to the **Board** for approval or otherwise as the **Board** shall decide. This will include a standing **Financial Committee**
- 4.1.18 co-opt not more than two (2) persons to the **Board** on the grounds of such person's special expertise or skills without voting rights

4.2 USE OF ASSETS AND FUNDS

- 4.2.1 The income, property and assets of the **Company**, however derived, shall be applied solely towards the promotion of its stated objectives as set out in the **MOI**, and no portion thereof shall be paid or transferred directly or indirectly by way of dividend or otherwise howsoever, to the **Directors** of the **Company**, provided that nothing herein contained shall prevent the payment in good faith of reasonable remuneration to any officer or employee of the **Company**, for any services rendered to, or expenses incurred on behalf of, the **Company**

The **Company** shall not provide a loan to secure a debt or obligation of, or otherwise provide direct or indirect financial assistance to **Directors** or other entities, related or inter-related company, or to a person related to any such **Director**. These rules shall not prohibit a transaction if it:

- 4.2.1.1 is in the ordinary course of the **Company's** business and for fair value;
- 4.2.1.2 constitutes an accountable advance to meet:
 - 4.2.1.2.1 legal expenses in relation to a matter concerning the **Company**; or
 - 4.2.1.2.2 anticipated expenses to be incurred by the person on behalf of the **Company**;
 - 4.2.1.2.3 The **Company** is restricted to invest its funds not immediately required for any of its objectives or commitments from time to time; provided that the income or profits from any investments shall be applied to the furtherance of the objectives of the **Company**;

- 4.2.1.2.4 with a financial institution as defined in section 1 of the Financial Institution Protection of Funds Act No. 28 of 2001; or
- 4.2.1.2.5 provided that the provisions of this paragraph shall not prohibit the **Company** from retaining any investment (other than any investment in the form of a business undertaking or trading activity or asset which is used in such business undertaking or trading activity) in the form that it was acquired by way of donation, bequest or inheritance, and
- 4.2.1.2.6 The **Company** shall not use its resources directly or indirectly to advance, support or oppose any political party

4.2.2 ACTIVITIES

- 4.2.2.1 The **Company** is prohibited from carrying on any business, undertaking or trading activity, other than to the extent that the business, undertaking or trading activity is integral and directly related to the stated objectives of the **Company**
- 4.2.2.2 The **Company** may not have a share or other interest in any business, profession or occupation which is carried on by its **Constituent Members**
- 4.2.2.3 The **Company** does not knowingly and will not become a party to, or permit itself to be used as part of, an impermissible arrangement contemplated in Part IIA of Chapter III of the **Income Tax Act**, or a transaction, operation or scheme contemplated in section 103(5) of the **Income Tax Act**

4.2.3 PAYMENTS BY THE COMPANY

- 4.2.3.1 The **Company** may not, directly or indirectly, pay any portion of its income or transfer any of its assets, regardless how the income or asset was derived, to any person who is or was an incorporator of the **Company**, or **Director**, of the **Company**, except:
 - 4.2.3.2 as reasonable:
 - 4.2.3.3 remuneration for goods delivered or services rendered to, or at the direction of the **Company**; or
 - 4.2.3.4 as a payment of an amount due and payable by the **Company** in terms of a bona fide agreement between the **Company** and that person or another; or
 - 4.2.3.5 as a payment in respect of any rights of that person, to the extent that such rights are administered by the **Company** in order to advance a stated object of the **Company**;
or
 - 4.2.3.6 in respect of any legal obligation binding on the **Company**

5 FUNDAMENTAL TRANSACTIONS

- 5.1 The **Company** may not:

- 5.1.1 amalgamate or merge with, or convert to, a profit company; or
- 5.1.2 dispose of any part of its assets, undertaking or business to anyone, other than for fair value, except to the extent that such a disposition of an asset occurs in the ordinary course of the activities of the **Company**

6 COMPOSITION OF THE BOARD

6.1 The **Board** shall comprise of:

6.1.1 **Directors** nominated from each **Constituent Member**. Each **Constituent Member** shall nominate one person to serve as a **Director** of the **Company** for an initial three year term renewable as determined by the **Board**

6.1.2 the **Chairperson** elected to serve a three-year term elected by the **Board** members from their number – who no longer represents his **Constituent Member**. The **Chairperson's Constituent Member** shall nominate another **Board** member. The **Chairperson** may be elected by the **Board** to serve a second three-year period

6.1.3 the **Deputy Chairperson** shall be elected to serve a three-year term elected by the **Board** members from their number and still representing his **Constituent Member**. The **Deputy Chairperson** shall act as the **Chairperson** in the absence of the **Chairperson**. The **Deputy Chairperson** may be elected by the **Board** to serve a second three-year period

6.1.4 the Chief Executive Officer in attendance without voting rights

6.2 Directorship shall be personal to a person representing a **Constituent Member** and may not be assigned or transferred by them to any other person, company or concern

6.3 No **Director** may directly or indirectly have any personal or private financial interest in the **Company**

6.4 Representation on the **Board** is exclusively open to voluntary associations operating in the built environment who meet the criteria for **Constituent Membership** as laid out in terms of the **Board** requirements from time to time

6.4.1 A nominee **Director** must:

6.4.2.1 be actively involved in the built environment;

6.4.2.2 be of good standing in the built environment;

6.4.2.3 have his or her principal business in the built environment

6.4.3 A **Director** shall be entitled to one vote on a show of hands or a poll at any general meeting of the **Company**

6.5 NOMINATION PROCESS

6.5.1 A nominee to serve on the **Board** must be addressed in writing to the **Chairperson** of the **Board**

6.6 SCRUTINY OF ADMISSIBILITY

6.6.1 The **Board** shall scrutinise the admissibility of the nominee for appointment as a **Director** on the basis of the nomination for admission and the conditions applicable at the time

6.6.2 If the nomination for admission is accepted by the **Board**, the nominee shall be appointed as a **Director** subject to agreeing to act in accordance with good governance procedures to protect the interests of the **Company**

7 TERMINATION OF DIRECTOR'S APPOINTMENT

7.1 The **Board** may remove any **Director** by ordinary resolution once the **Director** has been given fifteen (15) **Business Days'** notice and the **Director** has been given a reasonable opportunity to make a presentation as contemplated in section 71(2) of the **Act**

7.2 at a meeting of the **Board** where the removal of a **Director** is contemplated, and after such **Director** shall have been given an opportunity of being heard, the **Board** resolves that:

7.2.1 he is guilty of conduct inimical to the interests and/or objects of the **Company**; or

7.2.2 in the sole discretion of the **Board**, it is hostile to the interests and/or objects of the **Board** that the **Director** continues as a member of the **Board**; or

7.2.3 the **Constituent Member** is liquidated (whether voluntarily or compulsorily), or being a company, is wound up or placed in business rescue proceedings (whether provisionally or finally and whether voluntarily or compulsorily);

7.2.4 a **Director** is declared insolvent;

if any **Director** assigns or transfers, or purports to assign or transfer, its obligations contrary to the provision of these **Rules**;

7.2.5 in the event of non-compliance by a **Director** with any such obligations as may attach to his directorship, upon the expiration of a period of three months reckoned from the date of written notice by the **Board** to the **Director**

7.2.6 A **Director** shall cease to be a **Director** of the **Board** of the **Company** if his membership of his **Constituent Member** is terminated or on receipt by the **Board** of written notice of resignation from the **Director**

7.2.7 The **Company** shall maintain at its registered office a register of **Directors** of the **Company** as provided in section 24(4) of the **Act**, containing among other things the email address, postal address and residential address of each **Director**

8 BOARD MEETINGS

8.1 REQUIREMENT TO HOLD MEETINGS

8.1.1 The **Board** is, subject to paragraph 9.7.1, required to hold a **Board** meeting in the following circumstances:

8.1.1.1 when adopting any Ordinary Resolution or Special Resolution;

8.1.1.2 whenever required in terms of section 70(3) of the **Act** to fill a vacancy on the **Board**;

8.1.1.3 when one or more written and signed demands by **Directors** for such a meeting are delivered to the **Board**, and each such demand describes the specific purpose for which the meeting is proposed

8.1.2 The **Company** shall in each year hold an **AGM** provided that not more than fifteen (15) months shall be permitted to elapse between the date of one **AGM** and that of the next

8.1.3 The **AGM** shall deal with and dispose of all matters prescribed by the **Act**, including the consideration of the annual financial statements, the re- election of **Directors** and the appointment of an auditor, and may deal with any other business laid before it. All business laid before any other general **Board** meeting shall be considered special business

8.2 DIRECTORS ACTING OTHER THAN AT MEETINGS

8.2.1 Notwithstanding paragraph 9.7.1, a Resolution that could be voted on at a **Board** meeting may instead be voted on in writing, via a round-robin resolution if:

8.2.1.1 the resolution is submitted to **Directors** entitled to exercise voting rights in relation to the resolution; and

8.2.1.2 is thereafter voted on in writing by the **Directors** within twenty (20) **Business Days** after the resolution was submitted to them

8.2.2 A resolution contemplated in paragraph 8.2.1 will have been adopted if it is supported by persons entitled to exercise sufficient voting rights for it to have been adopted, as an Ordinary Resolution or Special Resolution, at a properly constituted **Board** meeting and, if adopted, has the same effect as if it had been approved by voting at a **Board** meeting

8.2.3 Within ten (10) **Business Days** after adopting the resolution as set out in paragraph 8.2.2, the **Company** must deliver a statement describing the results of the vote to every **Director** who was entitled to vote on the resolution

8.2.4 The written resolution, as set out in paragraph 8.2.2, shall be deemed (unless a statement to the contrary is made in that resolution) to have been passed on the last day on which that resolution is signed by any one or more of the **Directors** who are entitled to exercise voting rights in relation to that resolution

8.3 PLACE OF BOARD MEETINGS

The **Board** may determine the place of its meetings from time to time

8.4 NOTICE OF BOARD MEETINGS

8.4.1 The CEO, after consultation with the Chairperson, must deliver a written notice of each **Board** meeting in the prescribed manner and form to all of the **Directors** of the **Company** with at least fifteen (15) **Business Days'** notice in the case of an **AGM** or a Special Meeting convened to pass a Special Resolution or any other Special Meeting

8.4.2 A notice of a **Board** meeting must be delivered to the **Directors** in terms of the **Act** and must include the following information:

8.4.2.1 the date, time and place for the meeting;

8.4.2.2 the agenda and/or purpose of the meeting;

8.4.2.3 a copy of any proposed resolution of which the **Company** has received notice, and which is to be considered at the meeting, and/or a proxy who need not be a **Director** of the **Company**;

8.4.3 If the **Company** fails to give the required notice of a **Directors** meeting, or if there was a material defect in the giving of the notice, the meeting may proceed if every **Director** who is entitled to exercise voting rights in respect of each item on the agenda of the meeting:

8.4.3.1 is present at the meeting; and

8.4.3.2 waives notice of the meeting, or in the case of a material defect in the manner and form of giving notice, ratifies the defective notice

8.5 CHAIRPERSON AND DEPUTY CHAIRPERSON

8.5.1 The **Chairperson** shall be elected by the **Board** from amongst the **Directors** at the first meeting of the **Directors** following the **AGM** of the **Company**, for a continuous term in office of three years which term may be extended for a single term of three years

8.5.2 The **Chairperson** of the **Board** shall be required to chair **Board** meetings and the **AGM**. If however, the **Chairperson** is absent or if he has notified his inability to attend a meeting or if at any meeting he is not present within fifteen (15) minutes of time appointed for the meeting, the **Deputy Chairperson** shall chair the meeting

8.5.3 In the case of the **Chairperson** not being able to continue with his duties, the **Deputy Chairperson** is to take over the chair

8.5.4 Where the **Chairperson** vacates the office of **Chairperson** and the **Constituent Member** has appointed an additional **Director** to the **Board** in terms of paragraph 6.5.1, the **Constituent member** is to be notified thereof and is to nominate which of

its two **Directors** is to remain as its representative on the **Board** or whether it will nominate an alternate person to the **Board**

- 8.5.5 In the event of the **Chairperson** and **Deputy chairperson** not being in attendance at a **Board** meeting, the **Directors** who are entitled to exercise voting rights present at the meeting, shall choose another **Director** to chair the meeting

8.6 PROXIES

- 8.6.1 A **Director** is entitled to appoint a proxy to attend, speak or vote in his stead at any general meeting in accordance with the rules and regulations
- 8.6.2 A proxy shall be in writing in the format attached to these **Rules**
- 8.6.3 A proxy shall be entitled to attend at a specific meeting on behalf of the **Director** and vote on mandated issues only

8.7 QUORUM

- 8.7.1 No business shall be transacted at any general meeting unless a quorum of **Directors** is present at the time when the meeting proceeds to business
- 8.7.2 The quorum for a **Board** meeting called for the passing of any Special Resolution shall be at least seventy five percent (75%) of the number of **Directors** present via representative in person or by proxy and the quorum for an **AGM** or any other **Board** meeting of the **Company** shall be fifty one percent (51%) of **Directors** present in person via its representative or by proxy
- 8.7.3 The participation by a proxy and **Directors** at a **Board** meeting in accordance with paragraph 9.7 shall be taken into account for the purposes of constituting a quorum as well as with respect to voting at such meeting
- 8.7.4 After a quorum has been established for a meeting (or in respect of a specific matter on the agenda), the meeting may continue (or the matter may be considered) provided the meeting is quorate for the full duration of the meeting

8.8 VOTING

- 8.8.1 Save as is otherwise expressly provided by the **Act** or by these **Rules** all resolutions to be considered at any **Board** meeting shall be decided by a majority of votes cast by hand. In the case of an equality of votes, the **Chairperson** shall have a casting vote

9 DIRECTORS

9.1 POWERS

The business of the **Company** shall be managed and supervised by the **Board** in accordance with the stated objectives of the **Company** and as envisioned in terms of section 66(1) of the **Act**. The **Board** may exercise all powers of the **Company** which are not excluded by a statute, the **MOI** or these **Rules**

9.2 APPOINTMENT

- 9.2.1 The **Company** shall have a minimum of three and a maximum of thirteen **Directors**. No **Director** may be a 'connected person' (as defined in the **Income Tax Act**) in relation to any other **Director**. No single **Director** shall directly or indirectly control the decision-making powers relating to the **Company**
- 9.2.2 Where a vacancy on the **Board** arises, another **Director** shall be nominated by a **Constituent member**
- 9.2.3 Every **Director** must satisfy the qualification and eligibility requirements set out in section 69 of the **Act** to become or remain a **Director**, and save for the chief executive officer, be a representative of a **Constituent member**
- 9.2.4 At least one third of the **Directors** who have served on the **Board** for more than three (3) years, must resign annually. Any such **Director** is eligible for re-election by the **Board** in consultation with the **Constituent Member**
- 9.2.5 If a **Director** has a personal financial interest that relates to the business of the **Company** in any way or form, (or knows that a related person has such an interest) he must disclose in advance, in writing, to the **Board** the nature and extent of that interest. This disclosure must comply with the requirements of the **Companies Act**. If the personal financial interest (including that of a related person), arises after the matter has been approved by the **Board** then the **Director** or prescribed officer concerned must promptly, after the interest arises, disclose same to the **Board** in accordance with section 75 of the **Act**

9.3 REMOVAL

- 9.3.1 In the event that **Constituent Member** wishes to remove and/or replace any **Director** appointed in terms of paragraph 6.1.1, it may nominate a replacement **Director** who shall hold office only until the conclusion of the next following **AGM**

9.4 VACATION OF OFFICE

The office of the **Director** shall ipso facto be vacated if such **Director**:

- 9.4.1 is a representative of a **Constituent Member** and the **Constituent Member** who appointed him, ceases to be a **Constituent Member**;
- 9.4.2 dies;
- 9.4.3 resigns;

- 9.4.4 becomes incapacitated to the extent that the person is unable to perform the functions of a **Director**, and is unlikely to regain that capacity within a reasonable time;
- 9.4.5 ceases to be a representative of a **Constituent Member** which appointed him;
- 9.4.6 is declared delinquent by a court, or placed on probation under conditions that are inconsistent with continuing to be a **Director** of the **Company**;
- 9.4.7 is absent from meetings of **Directors** for two successive meetings without submitting an official apology;
- 9.4.8 has a conflict of interest due to a contract or proposed contract with the **Company** and fails to declare his interest and the nature thereof
- 9.4.9 becomes ineligible or disqualified in terms of section 69 of the **Act**

9.5 **REMOVAL FROM OFFICE**

- 9.5.1 The **Company** may in accordance with section 71 of the **Act** remove any **Director** before expiration of his period of office, and may by Ordinary Resolution appoint another nominated **Director** in his stead in consultation with the relevant **Constituent Member**
- 9.5.2 A **Director** may further be removed from office by order of the court as contemplated in section 71(5) or (6) of the **Act**

9.6 **VACANCIES**

- 9.6.1 The **Directors** may act notwithstanding any vacancy on the **Board**

9.7 **MEETINGS**

- 9.7.1 The **Directors** must meet together at least quarterly for the dispatch of the business of the **Company**
- 9.7.2 The conduct of meetings shall generally be governed in terms of section 73 of the **Act**. Notwithstanding the aforementioned, the **Board** may regulate their meeting as they deem fit
- 9.7.3 The chief executive officer of the **Company** shall attend all **Board** meetings without a vote in his capacity as chief executive officer
- 9.7.4 Any three **Directors** may at any time convene a meeting of the **Directors** by requesting such a meeting from the **Chairperson**, who shall summon the meeting by no later than fifteen (15) **Business days** from receipt of the request. A **Director** while absent from the Republic of South Africa shall, during such absence, be entitled to notice of any meeting
- 9.7.5 Notice of a **Board** meeting must be given to each **Director** in writing, whether by post or email, not less than fifteen (15) **Business Days** prior to the meeting

9.7.6 Where the chief executive officer has failed to give the required notice of the **Board** meeting, or there was a defect in the giving of the notice, such meeting may proceed, provided that all of the **Directors**:

9.7.6.1 acknowledge actual receipt of the notice; or

9.7.6.2 are present at the meeting; or

9.7.6.3 waive notice of the meeting

9.7.7 A **Board** meeting may be conducted by electronic communication, or one or more **Directors** may participate in a meeting by electronic communication, so long as the electronic communication facility employed ordinarily enables all persons participating in that meeting to communicate concurrently with each other without an intermediary, and to participate effectively in the meeting.

9.7.8 The quorum necessary for the transaction of the business of the **Directors** shall at all times be at least fifty one percent (51%) of **Directors**

9.7.9 Each **Director** shall be entitled to one vote in regard to all business brought before the **Board**

9.7.10 The **Chairperson** of the **Board** meeting shall have a casting vote in the event of a tie

9.7.11 Unless otherwise provided in the **MOI** or these **Rules**, a majority of the votes cast on a resolution is sufficient to approve that resolution

9.7.12 A decision that could be voted on at a **Board** meeting may instead be adopted by written consent of the required number of **Directors**, given in person, or by electronic communication, provided that each **Director** has received prior notice of the matter to be decided. A decision made in this manner is of the same effect as if it had been approved by voting at a meeting

9.7.13 Resolutions adopted by the **Board**:

9.7.13.1 must be dated and sequentially numbered; and

9.7.13.2 are effective as of the date of the resolution, unless the resolution states otherwise: and

9.7.13.3 shall be recorded in the **Company's** register of resolutions

9.7.14 The **Company** shall keep minutes of all **Board** meetings, and any of its committees, and include in the minutes:

9.7.14.1 any declaration of personal financial interest given by notice or made by a **Director** as required by section 75 of the **Act**; and

9.7.14.2 every resolution adopted by the **Board**.

9.7.15 Any minutes of a **Board** meeting, or a resolution, signed by the **Chairperson** of the meeting, or by the **Chairperson** of the next **Board** meeting, is evidence of the proceedings of that meeting, or adoption of that resolution, as the case may be

9.8 INDEMNIFICATION

9.8.1 Subject to a resolution of the **Directors**, the **Board** may:

9.8.1.1 advance expenses to a **Director** to defend litigation in any proceedings arising out of that **Director's** service to the **Company**; and

9.8.1.2 directly or indirectly indemnify a **Director** for expenses contemplated in paragraph 4.2.3.3, irrespective of whether it has advanced those expenses, if the proceedings are abandoned or exonerate the **Director**, or arise in respect of any liability for which the **Company** may indemnify the **Director** as provided in terms of sections 78(5) and (6) of the **Act**

9.8.2 Subject to the limitations imposed by section 78(6) of the **Act**, the **Company** may indemnify a **Director**, committee member or officer of the **Company**

9.8.3 The **Company** may purchase insurance to protect:

9.8.3.1 a **Director** against any liability or expenses for which the **Company** is permitted to indemnify a **Director** in accordance with paragraph 9.8.1.2 or

9.8.3.2 the **Company** against any contingency including, but not limited to:

9.8.3.2.1 any expenses that the **Company** is permitted to advance in accordance with paragraph 4.2.3.4; or

9.8.3.2.2 any liability for which the **Company** is permitted to indemnify a **Director** in accordance with paragraph 9.8.1.2

9.8.4 The **Company** is entitled to claim restitution from a **Director** of the **Company** for any money paid directly or indirectly by the **Company** to or on behalf of that **Director** in any manner inconsistent with this paragraph 9.8

9.9 REMUNERATION

9.9.1 In terms of the provisions of section 66(8) and (9) of the **Act**, the **Company** may pay stipends to the **Directors** for their service as **Directors** in accordance with a special resolution approved by the **Board**

9.9.2 Where a **Director** renders additional services to the **Company**, other than his/her services as a **Director**, such **Director** may be remunerated by the **Company** for such

services, provided that such remuneration is fair and reasonable, and has been approved by a **Board** resolution following the procedure set out in section 75(5) of the **Act** and supported by no less than seventy five percent (75%) of the disinterested **Directors** of the **Company**

9.10 REIMBURSEMENTS

A **Director** of the **Company** may be reimbursed by the **Company** for reasonable and necessary expenses incurred in the bona fide performance of his/her duties to the **Company**, provided that any reimbursement of any expense not of a category of expenses expressly budgeted for in the annual budget of the **Company** approved by the **Board** or of an amount exceeding any limit with respect to any category of expenses specified in the annual budget of the **Company** approved by the **Board** shall be subject to the prior approval of a disinterested majority of the **Directors** of the **Company** by resolution

9.11 LOANS

The **Company** may not provide a loan to, secure a debt or obligation of, or otherwise provide direct or indirect financial assistance to, a **Director** of the **Company**, or to a person related to any such **Director**, unless it:

9.11.1 is in the ordinary course of the **Company's** business and for fair value and to advance one or more of the stated objects of the **Company** set out in the **MOI**; or

9.11.2 constitutes an accountable advance to meet:

9.11.2.1 legal expenses in relation to a matter concerning the **Company**; or

9.11.2.2 anticipated expenses to be incurred by the person on behalf of the **Company**,
or

9.11.2.3 is to defray the person's expenses for removal at the **Company's** request; or

9.11.2.4 is in terms of an employee benefit scheme generally available to all
employees or a specific class of employees

10 OFFICERS

10.1 The **Board** may appoint any officers it considers necessary to better achieve the stated objectives of the **Company**

10.2 The **Board** may appoint any number of committees, and to delegate to any such committees any of the authority of the **Board**

10.3 Any committee appointed by the **Board**:

10.3.1 may include in any such committees' persons who are not **Directors**, provided that:

10.3.1.1 any such person must not be ineligible or disqualified to be a director in terms of section 69 of the **Act**; and

10.3.1.2 no such person has a vote on a matter to be decided by the committee,

10.3.2 may consult with or receive advice from any person; and

10.3.3 has the full authority of the **Board** in respect of a matter referred to it

11 REGISTERED OFFICE

11.1 The registered office of the **Company** shall be at such location within the Republic of South Africa as the **Board** may from time to time determine

12 COMPANY RECORDS AND ACCOUNTING RECORDS

12.1 All **Company** records contemplated by section 24 of the **Act**, and all accounting records contemplated by section 28 of the **Act** and Regulation 25, shall be kept and maintained at, and shall be accessible at or from, the registered office of the **Company**, or in the case of all or any of the **Company** records at or from such other location or locations within the Republic of South Africa as the **Board** may from time to time determine

13 FINANCIAL YEAR

13.1 The financial year of the **Company** shall end on 31 December of each year

14 ANNUAL FINANCIAL STATEMENTS

14.1 Each year, the **Company** shall prepare annual financial statements within six months after the end of its financial year

14.2 The **Company** elects, in terms of section 30(2)(b)(ii)(aa) of the **Act**, that the annual financial statements of the **Company** be audited voluntarily

14.3 Should the Statements be Audited - the annual financial statements must:

14.3.1 include an auditor's report;

14.3.2 include a report by the **Directors** with respect to the state of affairs, the business and surplus or shortfall of the **Company**, including:

- 14.3.2.1 any material matter relating to the **Company's** state of affairs; and
- 14.3.2.2 any prescribed information;
- 14.3.2.3 be approved by the **Board** and signed by an authorised **Director**; and
- 14.3.2.4 be submitted to the **Directors** in the first General Meeting, after such annual financial statements have been approved by the **Board** and signed by the authorised **Director**, within nine months of the end of the financial year

15 ANNUAL RETURNS

- 15.1 Each year, the **Company** must file an annual return in the prescribed form with the prescribed fee, and within the prescribed period (currently being 30 days) after the end of the anniversary of the date of its incorporation, which return must:
 - 15.1.1 include a copy of the **Company's** annual financial statements;
 - 15.1.2 designate a **Director**, employee or other person who is responsible for the **Company's** compliance with the transparency, accountability and integrity requirements in terms of Part C of Chapter 2 of the **Act**, and the requirements of Chapter 3 of the **Act**, if these requirements apply to the **Company**; and
 - 15.1.3 any other prescribed information

16 ENHANCED ACCOUNTABILITY AND TRANSPARENCY

- 16.1 The **Company** does not elect, in terms of section 34(2) of the **Act**, to comply voluntarily with the provisions of Chapter 3 of the **Act**.
- 16.2 The **Company** may, but is not obliged to, appoint a person to serve as company secretary and/or appoint a person to serve as an auditor, and/or establish an audit committee, on such terms and subject to such conditions as the **Board** in its discretion may from time to time determine
- 16.3 The **Company** elected to have its annual financial statements audited in terms of sections 30(2) and (7) of the **Act**, read with Regulation 28 and Regulation 26(2), and therefore the **Company** shall comply to the extent necessary with the provisions of Chapter 3 of the **Act**

17 RESERVES

- 17.1 The **Directors** shall set aside and carry to a reserve fund all the surplus funds of the **Company**, which may at their discretion be applied for any purpose for which such funds of the **Company** may properly be applied in such manner as the **Directors** deem fit

18 WINDING UP OR DISSOLUTION OF THE COMPANY

18.1 The **Company** may be wound up voluntarily by the **Board** in passing a special resolution supported by seventy five percent (75%) of the **Directors**

18.2 The entire net value of the **Company** must be distributed to *(one or more)* non-profit company/ies, as nominated by the **Board** and carrying on business and/or activities advancing built environment contracts in South Africa

19 PROXY FORM

JOINT BUILDING CONTRACTS COMMITTEE NPC

(A non-profit company incorporated in terms of the Companies Act 71 of 2008)

I, _____ of _____ being a Director of The JOINT BUILDING CONTRACTS COMMITTEE NPC, hereby appoint

_____ of _____

failing

_____ of _____

failing _____ of _____

as my proxy to vote for me and on my behalf at the Annual General Meeting or General Meetings (as the case may be) of the Company to be held on

the ____ day of _____ 20____ and at any adjournment thereof as follows:

Resolution to in favour against abstain

Resolution to in favour against abstain

Resolution to in favour against abstain

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

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

Signed at _____ on this ____ day of _____ 20____

Signature _____

Name _____