

CONSTITUTION OF THE SOUTH AFRICAN RUGBY UNION

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1. INTERPRETATION AND DEFINITIONS

- 1.1 When interpreting this constitution and unless contrary to or inconsistent with the context -
- 1.1.1 words signifying the singular number shall include the plural and *vice versa*;
 - 1.1.2 words signifying the masculine shall include the feminine;
 - 1.1.3 any words defined in the Act and not defined in this constitution, shall bear the meaning ascribed to it in the Act; and,
 - 1.1.4 the headings of clauses are for reference purposes only and shall not be taken into account in construing the constitution.
- 1.2 The following words and expressions shall, unless the context indicates otherwise, have the following meanings:
- 1.2.1 "*absolute majority means*" a majority of all those who are entitled to vote in a particular election, whether or not they actually cast ballots.
 - 1.2.2 "*Act*" means the Companies Act, No. 71 of 2008,
 - 1.2.3 "*amateur rugby*" means the game played, managed, controlled and administered under the laws of the game of rugby football union as framed by World Rugby and under the constitution, by-laws, rules and regulations of World Rugby and this constitution and the rules, regulations and decisions made, or deemed to have been made, in terms of this constitution, excluding professional rugby as defined herein;
 - 1.2.4 "*annual general meeting*" means the annual general meeting referred to in clause 12.1;
 - 1.2.5 "*associate member*" means an association, society or body as provided for in clause 10 hereof;
 - 1.2.6 "*auditors*" means the auditors of SARU appointed from time to time by the members in general meeting;
 - 1.2.7 "*CAR*" means the Confederation of African Rugby;
 - 1.2.8 "*club*" means a body or organisation which is a member of, or affiliated to, a union of SARU;
 - 1.2.9 "*commercial company*" means the company or other entity which conducts the commercial activities of, and is responsible for, professional rugby of a

- union;
- 1.2.10 “*days*” means all calendar days excluding the first day and excluding the last day,
- 1.2.11 “*employee*” means a member of SARU staff;
- 1.2.12 “*game*” means rugby football played in accordance with World Rugby Laws of the Game;
- 1.2.13 “*general meeting*” means the annual general meeting or a special general meeting or an ordinary general meeting of members;
- 1.2.14 An “*Independent member*”, in the context of a committee is any member who:
- 1.2.14.1 does not represent a major stakeholder of SARU or any of its members;
 - 1.2.14.2 is not employed by SARU or any of its members;
 - 1.2.14.3 is not an immediate family member of a person who is employed in an executive capacity by SARU or any of its members;
 - 1.2.14.4 is not a professional advisor to SARU or any of its members;
 - 1.2.14.5 is not a significant supplier or customer of SARU or any of its members;
 - 1.2.14.6 has no significant contractual relationship with SARU or any of its members;
 - 1.2.14.7 is free from any business or other relationship which could materially interfere with his / her ability to act independently.;
- 1.2.15 “*Junior Springboks*” means the under 20 age-grade national representative men’s team of SARU;
- 1.2.16 “*members*” (where applicable) means the 14 unions as comprised in clause 10.1 of the Constitution,
- 1.2.17 “*non-executive member*” means a member of the Executive Council who has no executive responsibilities in SARU and who does not occupy any executive position in any rugby structures;
- 1.2.18 “*Official*” means a person who holds office on the SARU Executive Council or

a sub-committee or ad-hoc committee as contemplated in clause 15 of the constitution or holds office on the governing body of a member of SARU.

- 1.2.19 *“ordinary general meeting”* means the meetings referred to in clause 12.2 below;
- 1.2.20 *“Ordinary Resolution”* means a resolution passed by SARU by a simple majority at a convened meeting of members of SARU.
- 1.2.21 *“person”* means, for the purpose of clause 23.1, a player, trainer, referee, touch-judge, coach, selector, medical officer, physiotherapist, an employee or other individual who is or has been involved in rugby or in the organisation, administration or promotion of rugby under the jurisdiction of SARU, a province, an associate member, rugby body or a club;
- 1.2.22 *“professional rugby”* means the game played, managed, controlled and administered under the laws of the game as framed by World Rugby and under the constitution, by-laws, rules and regulations of World Rugby and this constitution and the rules, regulations and decisions made, or deemed to have been made, in terms of this constitution, for financial gain, excluding amateur rugby as defined herein, and includes the commercial activities relating thereto;
- 1.2.23 *“player”* means a rugby player under the jurisdiction of SARU, a province, an associate member, a rugby body or a club;
- 1.2.24 *“SARPA” means South African Rugby Players Associations, a registered trade union of all professional rugby players in South Africa;*
- 1.2.25 *“surplus”* includes revenue and capital profits;
- 1.2.26 *“Republic” means the Republic of South Africa as defined by the Constitution of the Republic of South Africa, 1996;*
- 1.2.27 *“rugby”* means amateur and professional rugby unless specified differently;
- 1.2.28 *“rugby body” means a union, associate member, club or similar organisation which is a member of or is affiliated, directly or indirectly, to a member or associate member of SARU; or a province or a corporate or incorporate association of provinces participating in the SANZAAR Super Rugby Competitions;*
- 1.2.29 *“SANZAAR”* means the joint venture between SARU, the New Zealand Rugby Football Union Incorporated and the Australian Rugby Football Union Limited;
- 1.2.30 *“SARU”* means the South African Rugby Union;

- 1.2.31 *“Simple Majority”* means more than 50% of the vote;
- 1.2.32 *“Springboks”* means the senior national representative men’s team of SARU;
- 1.2.33 *“Springbok Sevens”* means the senior national representative men’s Sevens team of SARU;
- 1.2.34 *“Springbok Womens”* means the senior national representative women’s team of SARU;
- 1.2.35 *“Springbok Womens Sevens”* means the senior national representative women’s Sevens team of SARU;
- 1.2.36 *“special general meeting”* means a general meeting convened to conduct specific business as provided for in clause 11.3 and, 13.4;
- 1.2.37 *“Special Resolution”* means a resolution regarding an important decision, which requires (1) not less than (Twenty one) 21 days’ notice to the members of the intention to propose the resolution, (2) not less than three-quarters of the votes of the members present in person for approval;
- 1.2.38 *“sub-committees”* mean those standing committees provided for in clause 15.9.1;
- 1.2.39 *“union”* means the following:
 - 1.2.39.1 Blue Bulls Rugby Union;
 - 1.2.39.2 Boland Rugby Union;
 - 1.2.39.3 Border Rugby Union;
 - 1.2.39.4 Eastern Province Rugby Union;
 - 1.2.39.5 Free State Rugby Union;
 - 1.2.39.6 Golden Lions Rugby Union;
 - 1.2.39.7 Griffons Rugby Union;
 - 1.2.39.8 Griqualand West Rugby Union;
 - 1.2.39.9 KwaZulu-Natal Rugby Union;
 - 1.2.39.10 Leopards Rugby Union;
 - 1.2.39.11 Mpumalanga Rugby Union;
 - 1.2.39.12 South Western Districts Rugby Football Union;

1.2.39.13 Valke Rugby Union;

1.2.39.14 Western Province Rugby Football Union,

1.2.40 “SARU Group” means SARU and any commercial entity in which SARU has a shareholding or any other form of financial interest;

1.2.41 “WORLD RUGBY” means the International governing body of rugby union;

2. STATUS

SARU is an association of persons with perpetual succession and juristic personality.

3. HEADQUARTERS AND HOSTING OF INTERNATIONAL MATCHES

3.1 SARU shall have its headquarters in Cape Town, and the Republic shall be its area of jurisdiction.

3.2 All international matches in the Republic involving the Springboks must be staged at a stadium which falls under the control of, or is approved by the union or an alternative commercially viable stadium as determined by the executive council after consultation with the franchise and non-franchise committee.

4. MAIN OBJECT

SARU’s main object is the promotion, development and support of all levels of rugby in the Republic.

5. ANCILLARY OBJECTS

SARU’s ancillary objects include, but are not limited to -

5.1 applying its income, directly and indirectly, for the promotion, development, support, upliftment, administration and playing of rugby in South Africa;

5.2 pursuing policies and programmes, at national and all other levels, aimed at redressing imbalances of the past and creating a genuinely non-racial, non-political and democratic dispensation for rugby in South Africa;

5.3 adopting and enacting such measures as will foster, promote, regulate and encourage the playing of rugby and provide facilities for rugby in South Africa, and in any other territory as may be decided upon, for all persons, irrespective of race, colour, creed or gender, and to eliminate any discrimination and inequality amongst players and officials alike;

5.4 being a member or an affiliate of World Rugby, SANZAAR, CAR and any other organisation with similar objects, and to appoint representatives thereto;

- 5.5 acting as the controlling and co-ordinating body of its members;
- 5.6 adopting measures governing the activities of its members and the administration of the game in South Africa, including measures which will promote and develop rugby;
- 5.7 arranging national and international competitions, tournaments and matches;
- 5.8 conducting rugby business on a national and international level including the commercial activities associated therewith;
- 5.9 fostering good relationships with its stakeholders, including, but not limited to, its members, associate members, sponsors, the media, government and supporters;

6. MAIN BUSINESS

The main business which SARU has to conduct, is to -

- 6.1 develop and administer rugby on a national basis;
- 6.2 adopt measures governing the administration of rugby in South Africa;
- 6.3 adopt measures governing the development of rugby in South Africa in alignment with the geo-political boundaries of the Republic of South Africa as per the Twelfth Amendment Act of 2005 of the Constitution of South Africa as applied at the time of the acceptance of this Constitution;
- 6.4 act as controlling and co-ordinating body of all its members and the associations, societies and bodies admitted to membership or to associate membership of SARU;
- 6.5 bind its members to all obligations entered into by it for the benefit of rugby in the Republic;
- 6.6 determine and arrange rugby competitions, tournaments and matches and activities associated therewith;
- 6.7 regulate and control rugby competitions, tournaments and matches played under its auspices;
- 6.8 determine the conditions under which competitions, tournaments and matches have to be conducted and played, including the conditions under which trophies and awards offered to, and accepted by it, are to be competed for;
- 6.9 decide upon and make arrangements for visits of rugby teams from the Republic to other countries and from other countries to the Republic and to determine the conditions under which such visits have to take place;
- 6.10 procure such funds and assets, and to undertake such obligations, as may be deemed appropriate by it and, for this purpose, to enter into such contracts, deeds

and agreements as may be deemed necessary;

- 6.11 apply its income and property solely to promote its main object and ancillary objects and, without detracting from the generality of the foregoing, distribute funds to members in accordance with a funding model which has been approved by a general meeting;
- 6.12 implement the laws regulating rugby and to initiate improvements of such laws;
- 6.13 make rules and regulations and take decisions in relation to rugby, and the conditions under which rugby is played, and to repeal or vary any such rules and regulations and decisions, and to bind its members to all rules and regulations and decisions so made or taken and for the time being in force;
- 6.14 conduct the commercial activities associated with professional rugby in South Africa and abroad involving, but not limited to –
 - 6.14.1 all national rugby teams, as well as their support staff;
 - 6.14.2 high performance programmes;
 - 6.14.3 brand building and protection;
 - 6.14.4 merchandising;
 - 6.14.5 sponsors of, and official suppliers to, professional rugby;
 - 6.14.6 media rights, including, but not limited to, entering into, taking over, negotiating or otherwise acquiring any contract with any person for the right to broadcast which shall mean, for the purpose of this clause, the transmission and/or recording and/or otherwise storing of coverage of or other reproduction of a match or matches in any medium and any use or exploitation of the same by any means in any electronic media now known or in any time in the future developed, including, but not limited to, all forms of television (which will include, without limitation, video, DVD, CD-Rom and/or other audio-visual recorded viewing medium) and all forms of interactive and/or on-line transmissions via the internet or any other system, radio and all other audio-only media (which will include all forms of recordings and/or interactive and/or on-line audio transmissions via the internet or any other system) whether live or deferred and whether in whole or in part throughout the world or any part thereof;
 - 6.14.7 marketing;
 - 6.14.8 the management of tours, tournaments and competitions;
 - 6.14.9 event management;

6.14.10 investments; and

6.15 do all such things as are incidental or conducive to the attainment of its main and ancillary objects and generally to advance the game of rugby.

7. POWERS

The following ordinary powers are included in the powers which SARU has, subject to this constitution, in order to effectively pursue its main object, ancillary objects and main business, viz to –

- 7.1 purchase or acquire in any way stock-in-trade, plant, machinery, land, buildings, agencies, shares, debentures and every other kind or description of movable and immovable property;
- 7.2 manage, insure, sell, lease, mortgage, dispose of, give in exchange, work, develop, build on, improve, turn to account or in any way otherwise deal with its undertaking or all or any part of its income and assets;
- 7.3 apply for, purchase or by any other means acquire, protect, prolong and renew any patents, patent rights, licenses, trademarks, concessions or other rights and to deal with and alienate them as provided in the preceding sub-paragraph;
- 7.4 borrow money;
- 7.5 secure the payment of monies borrowed in any manner, including the mortgaging of property and pledging of other assets;
- 7.6 lend money to any member, associate member, person, company, trust or any other entity in which it has a financial interest;
- 7.7 open and operate banking accounts for the purpose of conducting its business and to overdraw such accounts;
- 7.8 adopt such means of making known its main and ancillary objects as it may deem expedient and to encourage and promote the publication of literature and all forms of information which may further its objects and the interests of rugby;
- 7.9 apply to any authority to authorise anything conducive to any of its objectives of main business as maybe necessary or expedient in relation thereto;
- 7.10 enter into such arrangements with appropriate authorities as it may deem conducive to any of its objects or main business as maybe necessary or expedient in relation thereto and to obtain from such authorities any rights, privileges and concessions which it may deem advisable to obtain;
- 7.11 accumulate capital for any of its objectives, by capitalised surpluses;

- 7.12 invest and deal with any of its monies not immediately required for carrying on its activities and in such manner as may from time to time be determined by it, and to realise, vary, re-invest or otherwise deal with such securities;
- 7.13 pay or lend money and grant subsidies and bursaries to any member, associate member, school, university or public body, for the furtherance of rugby on such terms as it may deem expedient;
- 7.14 guarantee the performance of contracts by any person or member, and for this purpose to enter into indemnities, guarantees and suretyships of every description;
- 7.15 effect insurance of all descriptions, including insurance against accidents of any description, against liability to pay compensation for injuries happening to or sustained by any employee, administrator or player of or connected to it, against liability to pay damages to any person in consequence of such accident, and to pay the premiums and other monies required to keep such policies of insurance of full force and effect;
- 7.16 form a company or a joint venture, or acquire an interest in any company or joint venture for any purpose intended to benefit SARU, whether directly or indirectly and;
- 7.17 take part in the management, supervision and control of such company and joint venture;
- 7.18 make and receive donations;
- 7.19 form a Trust and appoint trustees to that Trust;
- 7.20 act as principal, agent, contractor or trustee;
- 7.21 pay gratuities and pensions and establish pension schemes and incentive schemes in respect of its employees;
- 7.22 make payment towards the medical aid of any employee and ex-employee and to grant pensions, allowances and *ex gratia* payments and to contribute to pension funds on behalf of such persons;
- 7.23 enter into contracts inside and outside the Republic and to execute any contracts, deeds and documents in any foreign country;
- 7.24 engage in foreign exchange contracts and transactions for the purpose of securing forward cover;
- 7.25 designate persons as patrons of SARU by reason of having rendered exceptional services to, or having conferred some special benefit upon, SARU or its predecessors;
- 7.26 bestow honorary life membership of SARU on persons who have rendered

exceptional services to, or conferred some special benefit upon, SARU or its predecessors notwithstanding the fact that natural persons cannot become members of SARU in the ordinary course; and,

7.27 do all such other things as are incidental or conducive to the attainment of the above objects, whether main or ancillary, and to conduct its main business.

8. GOVERNANCE

8.1 Subject to this constitution, SARU's business and activities will be overseen by the general meeting which shall have the ultimate authority in respect of, and responsibility for, its affairs.

8.2 The general meeting is SARU's highest authority and shall, inter alia, be responsible for –

8.2.1 formulation of guidelines, rules and regulations and policies affecting the terms of engagement of executive committee members, provincial presidents and members;

8.2.2 adoption and amendment of the constitution;

8.2.3 approval of a strategic plan;

8.2.4 approval of the annual budget;

8.2.5 approval or the amendment and rescission of any decision regarding the format, structure, competition rules and composition of SARU's major senior domestic competition currently known as the Currie Cup or its successor as well as determining the SA teams to participate in Super Rugby competitions by special resolution;

8.2.6 adoption of the annual financial statements;

8.2.7 appointment of an auditor;

8.2.8 election of the president and deputy president;

8.2.9 election of the four (4) union representatives as members of the executive council, subject to the provisions of clause 14.3; and

8.2.10 The additional SARU representative on World Rugby's council shall be appointed from time to time by the general meeting: Provided that if the additional representative is unable to attend any meeting of the aforesaid council, a replacement shall be appointed by the executive council.

8.3 Subject to the provisions of clause 9.7, the general meeting shall appoint the SARU

representatives to all other organisations to which SARU is affiliated or with which it is associated.

- 8.4 Subject to this constitution, all of SARU's affairs shall be governed by the executive council which may exercise all such powers and perform all such functions as are not required by this constitution to be exercised or performed by the general meeting: Provided that the general meeting retains the authority to exercise such powers and perform such functions if the executive council is, for whatever reason, unwilling or unable to do so.
- 8.5 Without derogating from the generality of the foregoing, the executive council shall determine a policy framework for, and oversee SARU's governance and exercise the powers and perform the functions necessary to achieve and promote the main and ancillary objects.
- 8.6 A vote of no confidence in writing signed on behalf of at least four (4) members against a person referred to in 14.2.1 – 14.2.4 shall be referred to a general meeting. For this vote of no confidence to be passed, two thirds majority vote by representatives present and voting at a general meeting shall be required for the purpose of this clause - and subject to the rules of natural justice, such person shall vacate his position.
- 8.7 The provisions in the Act and the rules of common law which define the nature and extent of the powers and functions of members of the board of directors of a public company; govern the exercise of their powers and performance of their functions; govern the relationship between such directors and such company, whether fiduciary or otherwise, as well as the personal liability, criminal or delictual, of such members flowing from fraudulent or negligent acts or omissions in relation to such members aforesaid powers and functions, apply mutatis mutandis, and to the extent that it is consistent with SARU's status, to the members of the executive council as if SARU were a public company.
- 8.8 The principles and the best practice recommendations set out in the Code of Governance Principles for South Africa - 2009 King III, as augmented and amended from time to time, shall apply as a guideline to the governance of SARU.

9. MEMBERSHIP OF WORLD RUGBY AND OTHER ORGANISATIONS

- 9.1 SARU is a member of World Rugby, which is managed and controlled by its council on which, in terms of World Rugby's by-laws, SARU is entitled to have three (3) representatives.
- 9.2 One (1) of the three (3) SARU representatives on the council of World Rugby shall be female and one (1) shall be the president. Should any member be unable to attend any meeting of the council, their place may not be substituted.
- 9.3 The additional female representative referred to in clause 9.2 above will be elected

by the General Council at the annual general meeting or special general meeting following recommendation from the executive council from a preference of at least two (2) candidates.

- 9.4 SARU's membership of World Rugby shall be effective as an agreement between it and World Rugby to abide by the laws of the game and World Rugby's by-laws, rules and regulations and to accept and enforce all World Rugby's decisions in respect of the playing and administration of rugby throughout the Republic.
- 9.5 SARU shall have the power to determine, introduce and enforce such experimental laws, together with such interpretations and rulings in relation to such experimental laws, as in the discretion of the general meeting will be to the advantage of rugby provided that the approval of World Rugby has been obtained prior to the introduction of such experimental laws, interpretations and rulings.
- 9.6 Such experimental laws, interpretations and rulings in respect thereof as have been approved by World Rugby shall, upon approval, be promulgated by notification in writing to members, or in such other manner as the executive council may direct.
- 9.7 All such experimental laws shall be binding on members.
- 9.8 The executive council shall nominate directors to represent SARU to serve on the Boards of all companies in which SARU has an interest, including SANZAAR, or should SARU cease to be a member of SANZAAR, to such entity as may succeed SANZAAR or have similar objects.

10. MEMBERSHIP AND ASSOCIATE MEMBERSHIP

- 10.1 SARU's membership shall be limited to fourteen (14) unions in nine (9) provinces as follows:
 - 10.1.1 Western Cape
 - 10.1.1.1 Western Province Rugby Football Union
 - 10.1.1.2 Boland Rugby Union
 - 10.1.1.3 South Western Districts Rugby Football Union
 - 10.1.2 Eastern Cape
 - 10.1.2.1 Border Rugby Football Union
 - 10.1.2.2 Eastern Province Rugby Union
 - 10.1.3 KwaZulu Natal
 - 10.1.3.1 KwaZulu Natal Rugby Union

- 10.1.4 Free State
 - 10.1.4.1 Griffons Rugby Union
 - 10.1.4.2 Free State Rugby Union
- 10.1.5 Gauteng
 - 10.1.5.1 Golden Lions Rugby Union
 - 10.1.5.2 Blue Bulls Rugby Union
 - 10.1.5.3 Valke Rugby Union
- 10.1.6 Northern Cape
 - 10.1.6.1 Griqualand West Rugby Union
- 10.1.7 North West
 - 10.1.7.1 Leopards Rugby Union
- 10.1.8 Mpumalanga
 - 10.1.8.1 Mpumalanga Rugby Union
- 10.1.9 Limpopo
- 10.2 Any association, society or other body of persons which has as its principal object the administration, playing and promotion of the game, or variations thereof, may apply for associate membership, provided that -
 - 10.2.1 it is able to show that it enjoys substantial support amongst the players within its area of jurisdiction;
 - 10.2.2 the application for associate membership is proposed by or seconded by the member(s) in whose area(s) of jurisdiction the applicant for associate membership has its seat; and
 - 10.2.3 the applicant for associate membership is seconded by no fewer than two (2) other members.
- 10.3 An application for associate membership may only be considered at an annual general meeting and such membership will be granted to an applicant only if supported by a majority of at least seventy five per cent (75%) of the representatives present and voting.
- 10.4 Before an application for membership is considered at an annual general meeting, SARU may request such particulars as it may, in its discretion, require from an

applicant for associate membership and, without detracting from the generality of the foregoing, such requests may include requests for particulars regarding -

10.4.1 the areas of jurisdiction of members who may have an interest in the matter;

10.4.2 the number of clubs that may be affected; and

10.4.3 particulars of attempts, if any, to apply for 'sub-union' membership of the member in whose area of jurisdiction the applicant for associate membership is seated

10.5 SARU and an associate member shall enter into a memorandum of understanding setting out the rights, privileges and obligations of the associate member, which may not include provision for the associate member to submit a motion for the consideration of any of SARU's organs of governance, or to second a motion submitted to any of SARU's organs of governance, or to have a vote at a meeting of any of SARU's organs of governance.

10.6 The constitutions, rules, regulations and decisions of members and associate members shall not be inconsistent with those of SARU and, in the event of any such inconsistency, those of SARU shall prevail.

10.7 Members and associate members of SARU shall be bound by its constitution, rules regulations and decisions and the agreements entered into by it for the general benefit of the game in the Republic.

11. GENERAL MEETINGS

11.1 There shall be at least two (2) general meetings in each calendar year, one (1) of which shall be the annual general meeting.

11.2 The other meeting shall be ordinary general meetings of members.

11.3 The aforesaid general meetings shall be held at such times and places as may be determined by a general meeting, the executive council or the president: Provided that every general meeting shall, unless otherwise determined by the executive council, be held in Cape Town: Provided further that meetings additional to those referred to in clause 11.1, which shall be regarded as special meetings, may be convened to dispose of business not dealt with at the meeting referred to in 11.1 only within the timeframe described in clause 12.1 at the request of any eight (8) members or by the executive council.

11.4 Members shall have two votes each. Each member shall designate two (2) persons to represent them at general meetings of members, one (1) of whom has to be the union's president and/or his deputy president or a designated official,

11.4.1 Subject to clause 10.3 above an associate member will be represented by one (1) representative nominated by such associate member.

11.4.2 When SARU activates the takeover of the administrative and/or financial affairs of a union as contemplated in clause 28, the voting power of the member in respect of that union is suspended.

A member shall be considered present at any general meeting if at least one (1) representative from each of its constituent unions is present at such meeting.

11.5 All members of the executive council shall be entitled to attend general meetings, however, only the president and in his absence, the chairman, as per clause 13.9, shall be entitled to vote. The remaining members of the executive council shall not have the right to vote. In the case of an equality of votes, whether on a show of hands or on a poll, the president, if presiding, or whosoever is the chairman, shall be entitled to a second vote or casting vote, provided he has used his deliberative vote.

11.6 No more than fifteen (15) months shall elapse between the date of one (1) annual general meeting and that of the next, and an annual general meeting shall be held within six (6) months of the end of SARU's financial year.

11.7 A delegate who is unable to attend the general meeting due to extraordinary circumstances beyond his control may on the day of the meeting:

- i. appoint a proxy to vote on a specified agenda item or on general agenda items requiring a vote;
- ii. appoint the proxy through any form of electronic communication that may be conveyed to the members of the meeting.

Prior to voting, the CEO and the chairman of the meeting must verify the appointed proxy which must be approved by the meeting. The company secretary must confirm the extent of the proxy's voting powers and the minutes of the general meeting must clearly reflect the proxy appointment.

12. NOTICE AND AGENDA OF GENERAL MEETINGS

12.1 An annual general meeting and a special general meeting shall be called by giving not less than twenty-one (21) days' notice in writing and an ordinary general meeting by giving not less than fourteen (14) days' notice in writing.

12.2 The notice shall specify the place, the day and the hour of the meeting, the business to be transacted thereat, and, subject to the provisions of clause 26.3, shall enclose copies of the minutes of the preceding annual general meeting of SARU and of any other Special or Ordinary general meetings of SARU held since the last general meeting and shall be given in the manner hereinafter described or in such other manner, if any, as may be prescribed by SARU in any general meeting, to such persons as are, under this constitution, entitled to receive such notices from SARU: Provided that a general meeting shall, notwithstanding the fact that it is called by shorter notice than that prescribed in this constitution, be deemed to have been duly called if it is so agreed, before the meeting, by no fewer than thirteen (13)

unions having a right to attend and vote at the meeting or, at the meeting by no fewer than ninety percent (90%) of the representatives entitled to vote at the relevant meeting.

- 12.3 Notice of general meetings must be given by electronic mail, at the head office of the unions.
- 12.4 The unintentional failure to give notice of a general meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not per se invalidate the proceedings of that meeting.
- 12.5 Notice of a motion to consider and to pass with or without modification any resolutions concerning the affairs of SARU, including the right to determine the policy of SARU in this regard, must reach SARU not later than twenty (20) days prior to the date of the meeting at which such motion will be considered, a copy whereof must be submitted to all Members of SARU and to all persons entitled to receive notice and to attend and to vote at general meetings not later than ten (10) days prior to the meeting at which the motion will be considered.
- 12.6 The agenda of the annual general meeting and an ordinary general meeting shall be sent to the members not later than (ten) 10 days prior to the meeting.
- 12.7 Notice of cancellation or postponement of any general meeting shall be given in writing with (three) 3 days' notice before the date of such meeting on the request of the same party/parties that requested the calling of the meeting.

13. PROCEEDINGS AT GENERAL MEETINGS

- 13.1 The annual general meeting shall be competent to deal with and dispose of all matters prescribed by this constitution, and any other matters laid before it, including –
 - 13.1.1 adoption of the audited annual financial statements;
 - 13.1.2 election of the president and deputy president when their terms of office have expired or to fill a vacancy;
 - 13.1.3 election of the four (4) additional executive council members when their terms of office have expired or to fill a vacancy;
 - 13.1.4 appointment of an auditor;
 - 13.1.5 approval of the remuneration of the members of the executive council and the auditor;
 - 13.1.6 To consider and to pass, by way of resolution, any motions for consideration concerning the affairs of SARU, including the right to determine the policy of SARU in this regard, of which due and proper notice is given;

- 13.1.7 To consider and to pass, with or without modification, any resolution adding to, rescinding or amending, any part of the Constitution, of which due and proper notice is given;
- 13.2 SARU's budget for the following year should be considered for approval at the last general meeting to take place in each financial year.
- 13.3 Ordinary general meetings shall be competent to deal with and dispense of all matters prescribed by this constitution with the exception of the matters referred to in clause 13.1 and all other matters reserved by this constitution to be dealt with at annual general meetings: Provided that an ordinary general meeting may fill vacancies of the nature referred to in clauses 13.1.2 and 13.1.3.
- 13.4 General meetings, other than the annual general meeting and special general meetings where vacancies of the nature referred to in clauses 13.1.2 and 13.1.3 are to be filled, may be conducted in person or through electronic communication or one or more of the unions may participate in a meeting by electronic communication, subject to the following:
- 13.4.1 The notice of the meeting must inform the delegates that the meeting will be conducted electronically or in person;
- 13.4.2 The delegates must confirm that they will be able to make use of this option;
- 13.4.3 The company secretary must record the numbers and names of the delegates who will be linked to the meeting electronically and make the relevant arrangements to accommodate them;
- 13.4.4 The company secretary must confirm the identity of the delegates; and
- 13.4.5 All delegates must be able to communicate concurrently with each other without an intermediary.
- 13.5 The only matters that may be dealt with at a special general meeting are the matters that necessitated the calling of that meeting of which notice has to be given in accordance with the provisions of clause 12.1 and such matters may include any matter that may be dealt with and disposed of at ordinary general meetings with the exception of the approval of the budget.
- 13.6 No business shall be transacted at any general meeting unless a quorum is present.
- 13.7 Save as otherwise provided herein, a quorum requires the presence of more than 50% of representatives eligible to vote.
- 13.8 If within thirty (30) minutes of the time appointed for a general meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week, at the same time and place, or, if that day is a public holiday, to the next

succeeding day other than a public holiday, and if at such adjourned meeting a quorum is not present within thirty (30) minutes of the time appointed for the meeting, the representatives present shall be a quorum.

- 13.9 The president of SARU, or its deputy president if the president is not available, shall preside at every general meeting: Provided that if there is no president or deputy president, or if at any meeting not one (1) of them is present within fifteen (15) minutes of the time appointed for holding the meeting or is unwilling to act as chairperson, a member of the executive council elected by the members present, or if no member of the executive council is present, or if all the members of the executive council present decline to take the chair, a representative of a member elected by the members present, shall preside as chairperson.
- 13.10 The chairperson of a general meeting may, with the consent of any meeting at which a quorum is present, and shall, if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.
- 13.11 Subject to 13.3, any motion put to the vote at any general meeting of SARU shall be decided on a show of hands unless a poll is demanded by the chairperson or a delegate prior to the resolution being put to the vote.
- 13.12 If a poll is demanded it has to be taken in such manner as the chairperson directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
- 13.13 The auditors shall count the votes and advise the chairperson of the meeting of the result of the poll and such result shall be deemed to be the resolution of the meeting at which the poll is demanded.
- 13.14 Unless otherwise provided for herein, the adoption of resolutions shall require a majority of the representatives present in person or electronically and voting: Provided that the adoption of special resolutions at special general meetings shall require a majority of seventy-five percent (75%) of the representatives present and voting.
- 13.15 A poll shall be taken forthwith and the demand therefor, which may be withdrawn, shall not prevent the continuation of a meeting for the transaction of any business other than the question upon which the poll had been demanded.
- 13.16 On a poll, votes must be cast in person by those representing the members including those exercising proxies.
- 13.17 A resolution in writing signed on behalf of all the members, by their presidents and by the president of SARU within fourteen (14) days of the draft resolution having been sent to the members, shall be as valid and effective as if it had been passed at a

general meeting duly convened and held.

14. EXECUTIVE COUNCIL

14.1 SARU shall have an executive council consisting of no more than thirteen (13) members.

14.2 Following the commencement of this constitution, the executive council shall consist of –

14.2.1 the president;

who shall be elected at an annual general meeting for a period of a four (4) years, whereafter he shall be eligible for re-election but whose term shall not exceed three (3) terms;

14.2.2 the deputy president;

who shall be elected at an annual general meeting for a period of four (4) years , whereafter he shall be eligible for re-election but whose term shall not exceed three (3) terms;

14.2.3 four (4) union representatives elected at an annual general meeting for a period of four (4) years, whereafter they shall be eligible for re-election;

14.2.4 four (4) independent members to be elected by the executive council on the strength of their exceptional business, rugby and professional acumen and experience, for a period of two (2) years and who shall be eligible for re-election;

14.2.5 a chief executive officer (CEO) appointed by the executive council who shall also be the accounting officer;

14.2.6 a chief financial officer appointed by the executive council; and

14.2.7 one (1) player representative elected at the annual general meeting or a special general meeting of SARPA.

14.3 At any general meeting of the union the election of the persons referred to in clauses 14.2.1 to 14.2.3 shall be done by way of poll.

14.4 Notwithstanding the fact that the position of vice president has been removed, the vice president in office at the time of the adoption of this clause will serve the remainder of his term.

14.5 To be eligible for election to the executive council for the positions as contemplated in clauses 14.2.1 to 14.2.3 candidates have to be members of their unions' executives or of the board of directors of their unions' commercial arms and must

have served as such for more than one (1) year immediately prior to the annual general meeting at which the election is to take place, or have served as a member of the executive council in the positions as contemplated in clauses 14.2.1 to 14.2.3. Where applicable, a candidate who is elected must resign with immediate effect from such position at his union upon becoming a member of the executive council, failing which, the position on the executive council shall become vacant. Proof of his resignation must be submitted to SARU within three (3) days of the election.

14.6 For the purpose of re-election of any member of the executive council, such member shall be considered eligible for the same or any other position on the executive council. It will not be required from a member of the executive council to resign from any position that the member holds on the executive council before the member is re-elected or elected to another position on the executive council.

14.7 Any vacancy which occurs in the executive council must be filled by –

14.7.1 a general meeting in respect of members serving by virtue of clauses 14.2.1 to 14.2.3;

14.7.2 the executive council in respect of members serving by virtue of clauses 14.2.4, 14.2.5 and 14.2.7.

14.8 Should a vacancy be filled as contemplated in 14.8.1 above, the elected member(s) shall serve until the expiry of the term of the member whose vacancy is filled.

14.9 The president of SARU, or its deputy president if the president is not available, shall preside as chairperson at every meeting of the executive council: Provided that if there is no president or deputy president, or if at any meeting not one (1) of them is present within fifteen (15) minutes of the time appointed for holding the meeting or is unwilling to act as chairperson, a member of the executive council elected by the members present shall preside as chairperson

14.10 At the 2018 annual general meeting:

14.10.1 the president shall be elected for a term of four (4) years;

14.10.2 the deputy-president shall be elected for a term of two (2) years;

14.10.3 the four (4) union representatives shall be elected as follows:

14.10.3.1 the two (2) current incumbent union representatives holding office will continue to complete the unexpired term of two (2) years;

14.10.3.2 the two (2) vacant union representatives shall be elected for a term of four (4) years;

14.11 From 2020 positions on the executive council will be filled following the expiry of a

member's term of office as contemplated in clause 14.2 above.

- 14.12 Notwithstanding the above, the executive council may co-opt an independent member to serve on the executive council for 2017.
- 14.13 Nominations in writing in writing by members of candidates for the positions on the executive council which have to be filled by an annual general meeting or general meeting must reach SARU not later than thirty (30) days prior to the date of the meeting at which the election is to take place, and such nominations must be accompanied by the nominee's written acceptance of the nomination, an appropriate CV and a written undertaking that he will resign with immediate effect from his unions' executive and/or of the board of directors of his unions' commercial arm upon being elected to the executive council. The nomination must indicate for which positions that have to be filled at the meeting in question, the nominee is nominated: Provided however, that the serving executive council members shall be eligible for re-election without nomination.
- 14.14 Only members in good financial standing with SARU may nominate a person for election. To be in good financial standing, a member must have no monies outstanding or have a prior written agreement with SARU concerning the payment of outstanding monies.
- 14.15 A list containing the nominations with the appropriate CVs must accompany the notice of the annual or other general meeting at which the elections have to take place.
- 14.16 The adoption of a vote of no confidence in respect of any member/s serving by virtue of clause 14.2.4, passed by a two thirds majority at any meeting of the executive council and upon the adoption of any such vote of no confidence the person concerned shall vacate his position forthwith.

15. MEETINGS, POWERS AND FUNCTIONS OF THE EXECUTIVE COUNCIL

- 15.1 The executive council shall meet at least six (6) times per calendar year and shall provide decisions after each meeting to each member of SARU. This report shall be in writing and shall be within thirty days after each meeting.
- 15.2 SARU's business shall be governed by the executive council subject to this constitution, and to such regulations, not inconsistent with this constitution, as may be prescribed by the general meeting, but no regulation prescribed by the general meeting shall invalidate any prior act of the executive council which would have been valid had such regulation not been prescribed.
- 15.3 The executive council shall consider and approve the audited annual financial statements for adoption by the annual general meeting.
- 15.4 The executive council may open and operate banking accounts and overdraw such

accounts.

- 15.5 The executive council may from time to time entrust to, or confer upon, the chief executive officer such powers vested in it as it may deem fit for such time and to be exercised for such objects and purposes and upon such terms and conditions and with such restrictions as it may deem appropriate, and may confer such powers either collaterally or to the exclusion of, or substitution for, all or any of the powers of the executive council and may from time to time revoke or vary all or any such powers.
- 15.6 The chief executive officer shall not be regarded as an agent or delegate of the executive council and after powers have been conferred upon him by the executive council in terms hereof, he shall be deemed to derive such powers directly from this constitution and he may sub delegate any of his powers or functions to a member of SARU's staff.
- 15.7 The chief executive officer shall be responsible, together with his staff, but always subject to the directions of the executive council, for the day-to-day management of SARU's activities.
- 15.8 The executive council shall have the power to delegate, or to allocate such powers and functions as are vested in it by virtue of this constitution to any one (1) or more of its members or to any other third party, as it may deem fit.
- 15.9 The executive council may delegate in writing any of its powers and functions to –
- 15.9.1 Sub-committees, including but not limited to the following:
- 15.9.1.1 Audit and risk committee comprising of not fewer than four (4) members and not more than six (6) members as provided for in clause 15.13; and
 - 15.9.1.2 Human resources and remuneration committee comprising of not fewer than four (4) members and not more than six (6) members as provided for in clause 15.14; and
 - 15.9.1.3 National judicial committee comprising of not fewer than three (3) members and not more than six (6) members as provided for in clause 15.11; and
 - 15.9.1.4 Finance committee comprising of not fewer than four (4) members and not more than six (6) members whose members shall be members of the executive council; and
 - 15.9.1.5 Non-Franchise committee comprising all the unions
 - 15.9.1.6 Franchise committee comprising of not fewer than six (6) unions and not more than eight (8) unions; and

- 15.9.1.7 Transformation committee comprising of all the Presidents of the members, the President, Deputy President, CEO of SARU and chairperson of the committee who must be an independent member of the executive council.
- 15.9.1.8 Social & Ethics Committee comprising of not fewer than four (4) members.
- 15.9.1.9 All subcommittees shall be chaired by a member of the executive council, with the exception of the National Judicial Committee. The following committees shall be chaired by independent members of the executive council:
 - 15.9.1.9.1 the Audit and Risk committee;
 - 15.9.1.9.2 the Finance committee;
 - 15.9.1.9.3 the Human Resources and Remuneration committee; and
 - 15.9.1.9.4 the Social and Ethics committee.
- 15.9.2 Members of subcommittees appointed in terms of clauses 15.10.1.1 – 15.10.1.5 shall be appointed for a period of 2 years.
- 15.10 Without derogating from the generality of the powers and functions conferred on the executive council by this constitution, the executive council –
 - 15.10.1 has the power to implement SARU’s rules and regulations and to take any decisions that are necessary or expedient in order to achieve SARU’s objects, including, but not limited to, anti-doping rules and regulations and rules and regulations providing for the procedures to be followed to exercise the necessary powers in relation to disciplinary actions;
 - 15.10.2 has the power to take such steps as it may deem fit against any rugby body or person failing to comply with or contravening –
 - 15.10.2.1 this constitution or any of SARU’s rules or regulations;
 - 15.10.2.2 the constitution or any of the by-laws, rules and regulations of World Rugby, or any body of persons or organisation to which SARU is affiliated or associated with in terms of a joint venture agreement or other agreement, including, but not limited to, SANZAAR and CAR;
 - 15.10.2.3 any decisions taken, resolutions adopted or rulings made by the general meeting, the executive council, World Rugby or any body of persons or organisation to which SARU is

affiliated or associated with in terms of a joint venture agreement or other agreement, including, but not limited to, SANZAAR and CAR;

15.10.2.4 any contract entered into by or on behalf of SARU; and

15.10.2.5 the laws of the game;

15.10.3 shall be responsible for –

15.10.3.1 overseeing project management and the implementation of strategy;

15.10.3.2 complying with the requirements of good corporate governance;

15.10.3.3 providing strategic leadership; and

15.10.3.4 overseeing SARU's financial affairs.

15.11 The executive council must establish a national judicial committee where the majority of members should be independent of SARU. The executive council may delegate its disciplinary powers to the national judicial committee or an ad hoc committee, either of which shall have the right, notwithstanding the provisions of this constitution, to further delegate such powers, and may for this purpose issue rules regarding –

15.11.1 any matter which shall or may be prescribed in terms of this constitution, including the right to further delegate such powers to disciplinary committees or judicial officers;

15.11.2 procedures to be observed in the conduct of hearings;

15.11.3 prescribed sanctions;

15.11.4 the right of appeal to an appeal committee;

15.11.5 the constitution of such appeal committee; and

15.11.6 in general, any other matter which it deems necessary or expedient to prescribe in order to achieve or promote the objects of this clause.

15.12 Disciplinary committees, judicial officers, appeal committees and appeal officers constituted or appointed under this constitution and the rules or regulations made hereunder or deemed to be constituted or appointed under this constitution, have to exercise their functions independently of SARU, are fully autonomous and any decision any of them makes, shall be binding on SARU, which shall not have the power to affirm, revoke or alter any such decision.

- 15.13 The executive council must establish an audit and risk committee of which the majority of its members should be independent non-executive members and may not include the chairman of the executive council. The audit committee must, in the exercise of the powers allocated or delegated to it, conform to the terms of reference approved by the executive council.
- 15.14 The executive council must establish a human resources and remuneration committee with appropriate terms of reference approved by the executive council.
- 15.15 All acts of the executive council, or of a committee, or person appointed by the executive council, in respect of disciplinary proceedings shall, notwithstanding that it be afterwards discovered that there was some defect in the election or appointment of such committee or person, or any of them was disqualified, be valid.
- 15.16 Should a vacancy occur in any subcommittee or *ad hoc* committee of the executive council, the executive council shall have the right to fill such vacancy, subject to the provisions of this constitution, by the appointment of any qualified person to such committee.
- 15.17 Committees may meet and adjourn as they deem fit and the majority of the members of any such committee shall constitute a quorum for any meeting thereof.
- 15.18 Except as provided for in clause 15.22 in respect of the selection of the Springboks, issues arising at any meeting of any committee shall be determined by a majority of votes of the members present and voting, and in the case of an equality of votes the chairperson shall have a second or casting vote, provided he has exercised his deliberative vote.
- 15.19 Save as aforesaid, the meetings and proceedings of a committee, shall be governed by the provisions of this constitution regulating the meetings and proceedings of the executive council to such an extent as is feasible.
- 15.20 After consideration of the recommendations made by the CEO, the executive council shall make such appointments for the following positions, as they in their absolute discretion might deem fit:-
- 15.20.1 any SARU representative team coach;
 - 15.20.2 the junior Springbok coach;
 - 15.20.3 the Springboks Sevens coach;
 - 15.20.4 the Springboks Womens coach;
 - 15.20.5 the Springboks Sevens Women coach;
 - 15.20.6 the South African schools coach;

- 15.20.7 any other national coach whose appointment may be required from time to time;
- 15.20.8 The convenor of the selections committee who may not serve on any governing structure of any union, to serve for such period as coincides with the term of the Springbok Coach.
- 15.20.9 Selection committees and the composition thereof should be determined on an annual basis
- 15.20.10 all team managers after consultation with the relevant coaches; and,
- 15.20.11 all team support staff after consultation with the relevant coaches.
- 15.21 The executive council must appoint the Springbok coach, according to pre-approved criteria set by the General Council.
- 15.22 The selection of Springboks shall be done by consensus among the members of the selection committee, failing which the coach shall have the final right of selection.

16. CONSTRAINTS ON MEMBERS OF THE EXECUTIVE COUNCIL

- 16.1 A non-executive member of the executive council may not: –
 - 16.1.1 be a director of any company promoted by SARU or in which it may have an interest as vendor, shareholder or otherwise;
 - 16.1.2 represent SARU in the management of any business or operations or concern in which it may be interested as a partner or otherwise; and,
 - 16.1.3 be employed by SARU or accept a retainer from it in consideration for which he agrees to give his services to SARU in any special capacity when called upon to do so by it.
- 16.2 A non-executive council member may not serve on the governing structure of any unions.

17. DISQUALIFICATION OF NON- EXECUTIVE MEMBERS OF THE EXECUTIVE COUNCIL

A non-executive member of the executive council including independent members, shall cease to hold office if –

- 17.1 they are removed from office by a resolution of a general meeting;
- 17.2 a notice removing them from office is signed by the authorised representatives of all members having a right to attend and vote at a general meeting and is delivered to SARU or lodged at its headquarters;
- 17.3 they are declared insane or incapable of handling his own affairs or becomes of

unsound mind;

- 17.4 they have a direct or indirect interest in a contract or proposed contract with SARU and has failed to declare his interest and the nature thereof in the manner required of directors by the Act;
- 17.5 they fail to attend three (3) executive council meetings in a calendar year without leave to do so from the chairman of the executive council: or
- 17.6 a motion of no confidence is adopted in them in accordance with the provisions of this constitution.

18. ELIGIBILITY TO BE ELECTED OR APPOINTED AS AN OFFICIAL AND DISQUALIFICATION OF AN OFFICIAL

- 18.1 A person, is ineligible to be elected as an official, subject to clause 18.6, if the person:
 - 18.1.1 Is an unrehabilitated insolvent;
 - 18.1.2 Has been removed from an office of trust, on the grounds of misconduct involving dishonesty; or
 - 18.1.3 Has been convicted, in the Republic or elsewhere, and fined or imprisoned without the option of a fine for an offence involving theft, fraud, forgery, perjury, misrepresentation or dishonesty;
 - 18.1.4 Is prohibited for any other reason in terms of the constitution or regulations of a rugby body;
- 18.2 A person is disqualified while serving as an official if, subject to clause 18.6, the person:
 - 18.2.1 Becomes an unrehabilitated insolvent;
 - 18.2.2 Has been removed from an office of trust, on the grounds of misconduct involving dishonesty; or
 - 18.2.3 Has been convicted, in the Republic or elsewhere, and fined or imprisoned without the option of a fine, for an offence involving theft, fraud, forgery, perjury, misrepresentation or dishonesty;
 - 18.2.4 Is prohibited for any other reason in terms of the constitution or regulations of a rugby body;
- 18.3 A person who is ineligible or disqualified shall not:
 - 18.3.1 Be appointed or elected as an official of a rugby body;

- 18.3.2 Act as an official of a rugby body.
- 18.4 The rugby body shall not knowingly permit an ineligible or disqualified person to serve as an official.
- 18.5 A person who becomes disqualified while serving as an official shall cease to be an official immediately.
- 18.6 A disqualification in terms of 18.1.2, 18.1.3; 18.2.2 and 18.2.3 above ends at the later of 5 (five) years after the date of removal from office, or the completion of the sentence imposed for the relevant offence, as the case may be.

19. PROCEEDINGS OF THE EXECUTIVE COUNCIL

- 19.1 At the written request of at least seven (7) of the members of the executive council, the chief executive officer must convene a meeting of the executive council at any time.
- 19.2 The members of the executive council may meet for the dispatch of business, adjourn and otherwise regulate their meetings as they deem fit.
- 19.3 Unless otherwise decided by the members of the executive council, all its meetings have to be held at SARU's headquarters.
- 19.4 Matters arising at any meeting of the executive council have to be decided by a simple majority of votes of those present and voting and each member shall have one (1) vote by a show of hands or poll.
- 19.5 The chairperson has a second or casting vote only if he has exercised his deliberative vote.
- 19.6 The members of the executive council may determine what period of notice shall be given of meetings thereof and may determine the means of giving such notice, which may include notice by telefax, telephone or electronic mail.
- 19.7 A quorum shall consist of a majority of the members of the executive council.
- 19.8 All acts done and decisions taken by any meeting of the executive council or a committee thereof or by any person acting as a member shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any member of the executive council or any member of such committee, or that any of them was disqualified, be as valid as if every such person had been duly appointed and was qualified to be a member, whether of the executive council or the committee or both as the case may be.
- 19.9 Subject to this constitution a resolution in writing, including through the medium of telefax and electronic mail, signed by all the serving members of the executive council shall be as valid and effective as if it had been passed at an executive council

meeting duly called and constituted.

20. VALIDITY OF ACTS OF MEMBERS OF THE EXECUTIVE COUNCIL

As regards all persons dealing in good faith with SARU, all acts done by any meeting of the executive council, or by a committee, or by any executives, or by any person acting as a member of the executive council, shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment or continuance in office of any such members, committees or the members thereof, executives or persons acting as aforesaid, or that they or any of them were disqualified or had ceased to hold office or were not entitled to vote, be as valid as if every such person had been duly appointed or was qualified or had continued to be a member or was entitled to vote, as the case may be.

21. REMUNERATION OF MEMBERS OF THE EXECUTIVE COUNCIL AND PRESIDENTS OF UNIONS

21.1 The remuneration of members of the executive council, shall from time to time be recommended by the remuneration committee for approval by the annual general meeting.

21.2 The members of the executive council may also be re-imbursed for all reasonable travelling, hotel and other expenses, as determined by the human resources and remuneration committee, duly incurred by them in respect of the performance of their duties as such and including those relating to attending and travelling to and from meetings of the executive council or any committee thereof or members thereof.

21.3 SARU may pay any member of the executive council who serves on any committee or devotes special attention to its business which involves services which, in the opinion of the remuneration committee, are outside the scope of the ordinary duties of such a member, such extra remuneration as the remuneration committee may determine.

21.4 Presidents of unions shall be remunerated in accordance with a determination of the human resources and remuneration committee for attending SARU meetings and shall also be re-imbursed for all reasonable travelling, hotel and other expenses as determined by the human resources and remuneration committee duly incurred by them in respect of the performance of their SARU duties as committee members and including those relating to attending and travelling to and from committee meetings or of members thereof.

21.5 Any president under suspension by either SARU or his union, will not be remunerated in terms of clause 21.4

22. OUTSIDE INTERESTS IN MEMBERS AND COMMERCIAL COMPANIES

22.1 No union shall permit any person, club, body corporate, partnership, trust or any other entity (all of which are hereinafter referred to as an entity) or group of

entities, acting alone or in concert, directly or indirectly, to acquire an interest of whatever kind in that union without SARU's prior written consent, which consent shall not be unreasonably withheld and which consent shall be based on criteria to be determined by the executive council in consultation with the franchise committee from time to time.

A change in the identity of the controlling shareholder of an equity partner that results in an indirect change of control of the commercial entity, shall not require SARU's prior written consent.

- 22.2 For the purposes of clause 22.1, the concept "*interest*" is to be widely construed and will include, without limitation, the holding of any number or class of shares or debentures, or any other interest, in a commercial company, but shall not include loans.
- 22.3 No union shall permit any entity, other than the union itself, acting alone or in concert, to hold or have a beneficial interest of more than seventy four percent (74%) of the issued shares in a commercial company or control, whether by ownership, contract, licence, agency or otherwise, more than seventy four percent (74%) of the voting rights that could be exercised at any general meeting of the shareholders of a commercial company.
- 22.4 Unions' commercial entities must abide by World Rugby's Bye-Laws and Regulations Relating to the Game; SARU's Constitution, Code of Conduct and Rules and Regulations; and the Rules and Regulations of any rugby entity to which SARU is affiliated.
- 22.5 No member's commercial entity shall do anything which would impact negatively on the existing relationships between SARU and its stakeholders.
- 22.6 SARU shall allocate licence agreements only to members of SARU.

23. NON-COMPLIANCE WITH, BREACHING OR CONTRAVENING OF CONSTITUTION BY PROVINCES

- 23.1 A union, rugby body or person -
- 23.1.1 which fails to comply with, breaches or contravenes –
- 23.1.1.1 this constitution, any of SARU's rules, regulations or decisions, or the by-laws, rules or regulations of World Rugby, or any other body of persons or organisation to which SARU is affiliated or associated with in terms of a joint venture agreement or other agreement, including but not limited to, SANZAAR, CAR, or otherwise;
- 23.1.1.2 any decisions taken, any resolutions adopted or rulings made

by a general meeting, the executive council, World Rugby or any other body of persons or organisation to which SARU is affiliated or associated with in terms of a joint venture agreement or other agreement, including but not limited to, SANZAAR, CAR, or otherwise;

23.1.1.3 any contract entered into by SARU to which such a province is a party; or

23.1.2 whose action, or lack of action, is detrimental to SARU's interests and those of rugby,

shall be guilty of misconduct and subject to sanction by SARU.

23.2 The general meeting shall make regulations providing for –

23.2.1 the procedures relating to alleged offences under clause 23.1 and appropriate sanctions for committing such offences;

23.2.2 the appointment, powers and functions of judicial officers or judicial committees to adjudicate on cases of such alleged offences;

23.2.3 the appointment, powers and functions of appeal committees to hear and decide appeals from decisions made by judicial officers and judicial committees; and

23.2.4 the procedures relating to proceedings of judicial officers, judicial committees and appeal committees:

Provided that, unless revised or replaced by the executive council, the rules, regulations, decisions, resolutions or rulings made or taken by SARU and in force at the time of the commencement of this constitution and the codes of conduct, shall be deemed, in all respects, to have been made or taken by the general meeting or the executive council, as the case may be, and any reference therein to the president's council or any committee thereof shall be construed as a reference to the executive council or, if there is one, the appropriate committee thereof: Provided further that judicial officers, judicial committees and appeal committees duly appointed or established by SARU, shall be deemed to have been appointed or established, as the case may be, in terms of this constitution and the same applies, *mutatis mutandis*, to their proceedings.

23.3 Upon finding that an offence in terms of clause 23.1 has been committed, judicial officers, judicial committees and appeal committees shall be entitled to impose such penalties as prescribed by regulation.

23.4 Judicial officers, judicial committees and appeal committees shall be entitled to make such orders in relation to costs as may be deemed appropriate.

- 23.5 Any disciplinary proceedings that have been instituted or are underway when this constitution commences, shall be continued with and completed under the authority of this constitution.

24. NEGOTIATION, MEDIATION AND ARBITRATION

- 24.1 In the event of a dispute between members, or between a member or members and SARU, or person(s) and a member(s) or between a person(s) and SARU arising from or in connection with –

24.1.1 this constitution, any of SARU’s rules, regulations or decisions, or by-laws, rules or regulations of World Rugby, or any other body of persons or organisation to which SARU is affiliated or associated with in terms of a joint venture agreement or other agreement, including but not limited to SANZAAR, CAR, or otherwise;

24.1.2 any decisions taken, any resolutions adopted or any rulings made by the general meeting, the executive council, World Rugby or any other body of persons or organisation to which SARU is affiliated or associated with in terms of a joint venture agreement or other agreement, including but not limited to SANZAAR, CAR, or otherwise

24.1.3 any contract entered into or succeeded to by SARU; and

24.1.4 the laws of the game;

the parties concerned must refer any dispute to be resolved by:

- negotiation; failing which
- mediation; failing which
- arbitration

- 24.2 Such a dispute exists once a party notifies the others in writing of the nature of the dispute and requires it to be resolved under this clause. Within ten (10) days of notification, the parties must seek an amicable resolution to the dispute by referring it to designated and authorised representatives of each of the parties to negotiate and resolve it by the parties signing an agreement resolving it within fifteen (15) days.

- 24.3 If negotiation fails, the parties must refer the dispute within ten (10) days for resolution by mediation under the rules of the Arbitration Foundation of Southern Africa (or its successor or body nominated in writing by it in its stead) (“AFSA”).

- 24.4 If mediation fails, the parties must refer the dispute within ten (10) days for resolution by arbitration (including any appeal against the arbitrator’s decision) by an arbitrator, (appointed by agreement between the parties) as an expedited arbitration under the then current rules for expedited arbitration of AFSA. If the

parties cannot agree on any arbitrator within a period of ten (10) days after the referral, the arbitrator will be appointed by the Secretariat of AFSA.

The periods for negotiation or mediation or arbitration may be shortened or lengthened by written agreement between the parties.

24.5 This clause will not preclude any party from access to an appropriate court of law for interim relief in respect of urgent matters by way of an interdict, or mandamus pending finalisation of a dispute through this dispute resolution process, for which purpose the parties irrevocably submit the jurisdiction of a decision of the high Court of the Republic of South Africa.

24.6 In the event of any allegations of mismanagement or disputes involving SARU or its members, SARU and its members reserve the right to institute its own internal corrective measures, and exhaust all its internal remedies in this regard prior to any interference of any other appropriate authority with jurisdiction.

25. ACCOUNTING RECORDS

25.1 The executive council shall cause such accounting records to be kept *mutatis mutandis* as prescribed by section 28 of the Act.

25.2 The accounting records shall be kept at SARU's headquarters or such other place or places as the executive council deems fit, and shall always be open to inspection by the members of the executive council.

25.3 The accounting records, or any of them, shall be open to inspection by members of SARU at all reasonable times and members shall also have the right to inspect any accounting records or documents *mutatis mutandis* as provided for in the Act.

26. FINANCIAL STATEMENTS

26.1 The executive council shall, cause to be prepared and lay before the annual general meeting annual financial statements which comply with the requirements of clauses 26.2 and 26.5.

26.2 SARU's annual financial statements must –

26.2.1 include an auditor's report;

26.2.2 include a report by the executive council with respect to the state of affairs, the business and profit or loss of SARU and the SARU group, including –

26.2.2.1 any matter material for the members of SARU to appreciate the state of affairs of SARU and the SARU group;

26.2.2.2 any prescribed information;

- 26.2.3 be recommended for approval by the Annual General Meeting by the executive council and signed by two authorised members of the executive council;
- 26.3 A copy of any annual financial statements, group annual financial statements and group reports which are to be laid before members in an annual general meeting, shall not less than ten (10) days before the date of the meeting be sent to every member.
- 26.4 The executive council shall prepare, or cause to be prepared, management financial statements on a regular basis, copies of which shall be available at SARU's headquarters.
- 26.5 Any financial statements, including any annual financial statements, must –
- 26.5.1 satisfy the financial reporting standards as to form and content;
- 26.5.2 present fairly the state of affairs and business of SARU, and explain the transactions and financial position of the business of SARU;
- 26.5.3 show SARU's assets, liabilities and equity, as well as its income and expenses, and any other prescribed information;
- 26.5.4 set out the date on which the statements were published, and the accounting period to which the statements apply;

27. NOTICES

- 27.1 A notice may be given by SARU to any member by sending it by electronic mail to such member at its headquarters, or at the address supplied by it to SARU for the giving of notices to it.
- 27.2 Notice of every general meeting shall be given in any aforesaid manner –
- 27.2.1 to every member of SARU; and,
- 27.2.2 to the members of the executive council.
- 27.3 The signature to any notice given by SARU may be written or printed, or partly written and partly printed.

28. FINANCIAL AFFAIRS OF UNIONS

- 28.1 All unions have to conduct their business affairs in such a way that, at all times, they are in a sound financial position, comply with the laws of the Republic and adhere to the requirements of good governance *inter alia* as expounded in the King Report on Governance for South Africa, 2009 ("the King Report") and the King Code of Governance for South Africa, 2009 ("the King Code") which came into effect on 1

March 2010, and to ensure that their commercial companies, if any, similarly conduct their business affairs in such a way that, at all times, they are in a sound financial position, comply with the laws of the Republic and be guided by the requirements of good governance *inter alia* as expounded in the King Report and the King Code.

- 28.2 Without detracting from the generality of clause 28.1, all unions must ensure that they, and their commercial companies, if any, -
- 28.2.1 be and remain going concerns as measured by their ability to timeously and fully discharge their debt commitments, both current and long term, with or without the support of third parties;
 - 28.2.2 prepare annual operating and capital expenditure budgets and submit these to their governing bodies for approval prior to the commencement of each financial year, such operating budgets to reflect no worse than a break-even position, provided that budgeted losses and capital expenditure will only be allowed if they can be funded out of existing reserves or affordable borrowings or both;
 - 28.2.3 submit to SARU copies of such annual operating and capital expenditure budgets not later than two (2) months after the commencement of every financial year;
 - 28.2.4 prepare appropriate monthly management financial statements for submission to their governing bodies for consideration and approval on a regular basis;
 - 28.2.5 submit to SARU copies of such management financial statements on a quarterly basis not later than thirty (30) days after the end of each quarter;
 - 28.2.6 prepare annual financial statements and submit these for external audit or independent review within three months of the end of the financial year;
 - 28.2.7 receive unqualified audit or independent review reports and, without detracting from the generality of this requirement, without reportable irregularities; and
 - 28.2.8 submit to SARU copies of their audited or independently reviewed and fully signed annual financial statements for each year, not later than six (6) months after the end of each financial year.
- 28.3 Their sole right to control their assets and dispose of their funds within the terms of their constitutions and in such manner as they may deem fit notwithstanding, unions shall not apply such funds or contribute it for any purpose other than rugby, its administration, development and promotion, except as provided for in this constitution and the rules and regulations made thereunder.

- 28.4 SARU may, in its discretion, conduct or arrange audits of the financial records of the unions and unions must ensure that they may likewise conduct or arrange audits of the financial records of their commercial companies, if any, in both instances to ensure that the funds of the relevant union or the relevant commercial company have been applied or contributed solely for the purposes referred to in clause 28.3.
- 28.5 If unions fail to comply with any of the provisions of clauses 28.1 to 28.4 and 28.9 the executive council may, subject to the provisions of clauses 28.7 and 28.8 -
- 28.5.1 suspend all SARU funding;
- 28.5.2 suspend SARU membership;
- 28.5.3 assume responsibility for the affairs of such unions and, without detracting from the generality of the foregoing, such assumption of responsibility for the affairs of unions may include the suspension from office of their elected and/or appointed officials, and the appointment by SARU of administrators, who shall assume all decision-making powers of the unions at both governance and operational levels, and who shall have the authority to direct employees, including chief executive officers, on a day to day basis, such administrators to report and be accountable to and to take direction from the executive council; and
- 28.5.4 any combination of the steps provided for in clauses 28.5.1 to 28.5.3
- 28.6 During this period of suspension of elected and/or appointed officials no formal elections of officials shall take place.
- 28.7 Measures taken pursuant to the provisions of clause 28.5 shall remain in place until such time as the executive council considers the financial affairs of the union concerned to be in order.
- 28.8 Unions which, at the time of commencement of this clause 28, are not compliant in terms of the provisions of clauses 28.1 to 28.3 may be granted, in the discretion of the executive council, a period of grace not exceeding twelve (12) months, in which to get their financial affairs in order to the satisfaction of the executive council, and unions which, at the time of commencement of this clause 28, have yet to secure compliance by their commercial companies, if any, with the provisions of clauses 28.1 to 28.3 may be granted, in the discretion of the executive council, a period of grace not exceeding twelve (12) months, in which to secure such compliance to the satisfaction of the executive council.
- 28.9 Unions must, within sixty (60) days of the commencement of such period of grace in respect of their own compliance with the provisions of clauses 28.1 to 28.3, and in respect of their commercial companies' compliance, submit to SARU a copy of their action plans or those of the commercial companies, including financial projections where necessary, designed to ensure that their financial affairs, or those of their

commercial companies, are in order by the end of the period of grace.

29. AMENDMENTS TO THE CONSTITUTION

- 29.1 This constitution shall not be substituted, amended, rescinded or added to except at an annual general meeting or a special general meeting of SARU.
- 29.2 A special resolution supported by at least seventy-five percent (75%) of the representatives at such annual general meeting or special meeting shall be required for the purpose of this clause.
- 29.3 Notice of the intention to amend, rescind or add to the constitution at an annual general meeting must be given in writing by the intending mover thereof (which must be a member of SARU or the executive council), to the CEO not later than sixty (60) calendar days prior to the date fixed for such meeting. These amendments, rescissions or additions, following discussion at subcommittee level (where applicable), will be distributed to all members for comment. SARU shall then give written notice of the intended amendments, rescissions or additions to all members at least ten (10) calendar days prior to the date of the relevant meeting.

If it is required that any such amendments, rescissions or additions be dealt with at a special general meeting of SARU, written notice thereof must be given to the CEO who shall within twenty (20) calendar days of receipt of such notice call a special general meeting of SARU by giving at least twenty one (21) calendar days' written notice thereof and of the intended amendments, rescissions or additions to all members and associate members and all persons entitled to receive notice and to attend such meeting and to vote thereat.

30. NOTICE TO REVIEW OR RESCIND RULINGS BY THE CHAIRPERSON

Notice to review or rescind any ruling of the chairperson at a meeting of the executive council may be given at the meeting at which the ruling was given, or within thirty (30) calendar days thereafter.

31. INDEMNITY AND RATIFICATION

- 31.1 The members of SARU, the executive council, all the committees and members thereof and all the officials and employees of SARU, shall be indemnified from SARU's funds from and against all losses, charges, costs, damages and all and every other expense or liability which they may incur or be put to concerning or about the *bona fide* execution of their respective duties and actions for and on behalf of SARU.
- 31.2 None of the aforesaid members, entities, members of such entities, officials and employees shall be held answerable or deemed to be in any way responsible for any act or default of one (1) or the other of them or for any deficiency or insufficiency of any title or security whatsoever taken by SARU; nor shall any of them be liable for any loss occasioned by any banker or other person with whom monies or securities

of SARU may be deposited or to whom it may be entrusted for safe custody, invested or otherwise placed; nor for any loss, misfortune or damage which may happen to take place in the execution of their respective offices or duties or as a result thereof.

- 31.3 Nothing in this constitution shall prevent SARU from ratifying the act of any member of SARU, the executive council, its members, committees and members thereof and any officials and employees of SARU, or from indemnifying any such entities and persons from any particular acts or omissions which might give rise to any liability which by law would otherwise attach to such entity or person in respect of any negligence, default, breach of duty or breach of trust of which such entity or person may be guilty in relation to SARU.

32. INTERPRETATION

- 32.1 The interpretation of this constitution and all rules, regulations and decisions made thereunder is the responsibility of the executive council whose interpretation shall be final and binding on all members unless set aside or varied by an arbitrator appointed in accordance with this constitution or a court having jurisdiction.
- 32.2 Should the constitution be translated into one or more other languages, the English version shall prevail in the event of any inconsistency between it and any other version thereof.

33. WINDING-UP OR DISSOLUTION

Upon its winding-up or dissolution, SARU's assets remaining after the satisfaction of all its liabilities, shall be given or transferred to some other association or institution having objects similar to its main object, to be determined by its members at or before the time of its winding-up or dissolution or, failing such determination, by a court having jurisdiction.

34. COMMENCEMENT AND REPEAL OF PREVIOUS CONSTITUTION

This constitution commences upon its adoption, or such later date as may be decided upon, and repeals the SARU constitution in force at the time, as of the date of its commencement