

Deutsche Schule Pretoria

Constitution of the Deutscher Schulverein Pretoria 2010

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Constitution of the Deutscher Schulverein Pretoria

Preamble

1. The Deutsche Schule Pretoria was founded in the year 1899 upon the initiative of Friedrich Grünberger, pastor of the Deutsche Evangelisch-Lutherische Kirche zu Pretoria, and as a result of the establishment of the Friedrich Klinkenberg Foundation, which provided the financial means for the creation of the school through his last will and testament.
2. The Deutscher Schulverein Pretoria was founded in 1929 and replaced the Deutsche Evangelisch-Lutherische Kirche zu Pretoria as the owner and administrator of the school.
3. The relationship between the Evangelic-Lutheran St Peters Congregation, the Evangelic-Lutheran Johannesgemeinde and the Deutscher Schulverein Pretoria, which is based upon reciprocity and mutuality, is governed by an agreement annexed hereto which forms part of this constitution (see annexure).
4. The capital of the Klinkenberg Foundation is administered by a board of trustees, consisting of three members elected by the annual general meetings of the Evangelic-Lutheran St Peters Congregation and the Evangelic-Lutheran Johannesgemeinde. Returns from the capital of the foundation devolves upon the Schulverein.

1. Name, location and object of the Schulverein

- 1.1 The name of the Schulverein is 'Deutscher Schulverein Pretoria'.
- 1.2 The location of the Schulverein is Pretoria, Republic of South Africa.
- 1.3 The object of the Schulverein is to maintain, manage and determine the orientation of the Deutsche Schule Pretoria.
- 1.4 The Schulverein is entitled to establish, maintain and manage a school hostel as well as other facilities associated with the school.

2. Orientation of the Deutsche Schule Pretoria

- 2.1 The Deutsche Schule Pretoria is a private school with the principal aim of promoting the knowledge and use of the German language and culture as well as of providing an education based on Christian principles.
- 2.2 Admittance of children
 - 2.2.1 The school admits German-speaking children.
 - 2.2.2 Non-German speaking children with sufficient German language skills can be admitted to the mainstream school (German as mother tongue) provided that the German character and the quality of education provided by the school are not prejudiced and the child receives sufficient support from its family.
 - 2.2.3 Children with limited or no knowledge of the German language can be admitted into the separate stream where emphasis is put on learning German as a foreign language. They can then be introduced into the mainstream school.

- 2.2.4 Non-German speaking children who require special support – for instance those from the DSP Outreach Programme – can as from Grade 5 of the New Secondary School (NSec) be introduced to the mainstream with German as the mother tongue.
- 2.3 The school's management as well as the governing body have to devote particular attention to the fact that all children will have the opportunity to either:
 - 2.3.1 obtain, through attending the Combi Programme, an internationally acknowledged university entrance qualification or
 - 2.3.2 obtain a South African university entrance qualification which, under certain conditions, also allows for the German university entrance and hence for studies in Germany.
- 2.4 Admission is granted regardless of citizenship, origin or religion of the child.
- 2.5 The school will devote particular attention to the fostering of both the South African and the German culture.
- 2.6 Apart from German the school aims to provide its learners with a sound knowledge of English, Afrikaans or, if possible, another official South African language.

3. General provisions

- 3.1 In interpreting this constitution, and unless the context indicates otherwise, the plural includes the singular, masculine includes feminine and parent includes guardian or the person legally entitled to the custody of a learner, and vice versa.
- 3.2 If an office bearer, for whom an alternate has been nominated, is unable to exercise his or her powers or to fulfil his or her duties, these powers and duties shall be transferred to his or her alternate. If both are unavailable, the body affected shall elect a temporary substitute from its ranks.
- 3.3 In the absence of a contrary provision in this constitution, resolutions of a members' general meeting and the meetings of its governing body are taken by a simple majority vote. In the case of equality of votes the chairperson of the meeting shall have a casting vote in addition to his or her member's vote.
- 3.4 Should any of the provisions of this constitution become inapplicable after the adoption hereof as a result of circumstances beyond the Schulverein's control, such provision shall be regarded as redundant. The members' general meeting of the Schulverein following upon the date upon which such provision became redundant will be empowered and obliged to amend this constitution as provided for in section 9.1 hereinafter.

4. Legal personality and liability

- 4.1 The Schulverein is a juristic person, a universitas, existing independently of its members in perpetuity, with full legal capacity. The Schulverein can in its own name own, acquire, transfer, sell, let, lease, exchange, donate, pledge, encumber or hypothecate, register, hold as security any movable or immovable property or deal with it otherwise.

- 4.2 An individual member of the Schulverein is liable towards the Schulverein only and not towards creditors of the Schulverein unless the member has expressly accepted liability towards any such creditor.
- 4.3 No member of the Schulverein has any individual right or claim upon property of the Schulverein.
- 4.4 All property, and particularly all immovable property of the Schulverein, shall be registered in the name of 'Deutscher Schulverein Pretoria'.
- 4.5 The purchase or disposal of immovable property of the Schulverein can only be decided upon by a majority of two thirds of the members of the governing body.

5. Membership

- 5.1 Any person (including juristic persons) whose written application has been approved by the governing body is a member. In such application the applicant must declare his or her acceptance of the Schulverein's object and must agree to accept the duties resulting from his or her membership.
- 5.2 The governing body shall decide upon each membership application. (No reasons are required to be given for a possible rejection of an application.)
- 5.3 Parents of learners who are admitted to the school are automatically members of the Schulverein.
- 5.4 A person who is a member of the Schulverein when this constitution comes into force shall remain a member as though he or she had been admitted to membership as set out in 5.1 above.
- 5.5 Persons who have made significant contributions to German schools, the German language or the cultural relationship between Germany and South Africa may, upon the proposal by the governing body, be declared honorary members of the Schulverein by a members' general meeting.
- 5.6 Membership of the Schulverein shall cease upon resignation, exclusion or death of the member.
 - 5.6.1 A resignation shall be submitted to the governing body in writing and shall come into effect at the end of the financial year.
 - 5.6.2 Upon having been heard by the governing body, a member can be excluded from membership if
 - (a) his or her conduct harms the interests of the Schulverein; or
 - (b) he or she fails to fulfil his or her financial obligations towards the Schulverein; or
 - (c) he or she has been declared unable to act by a court of law; or
 - (d) he or she has been sentenced to imprisonment.

A decision to terminate a person's membership must be taken by a two-third majority of the governing body and shall be communicated in writing to the person affected or his or her curator.

6. Members' rights and duties

- 6.1 Members are expected to support the Schulverein ideologically, financially and, as far as is possible, by participation in its activities. All members, without any exception, are obliged to pay the annual membership contribution as determined by the members' general meeting on due date.
- 6.2 Members who have attained the age of 18 years shall be entitled to vote and are eligible for election to the governing body at age 21.
- 6.3 A juristic person which is a member of the Schulverein may nominate a representative who is entitled to vote in his or her own right and has a sufficient working knowledge of the German language.
- 6.4 Spouses who are members of the Schulverein shall, for purposes of membership fees and notification of the Schulverein's activities be regarded as one member without impeding the right of both spouses to vote at members' general meetings.
- 6.5 Parents of learners of the Deutsche Schule Pretoria are obliged to pay school fees. (The school fees include the membership fee.) The governing body is entitled to reduce such fees or to allow payment thereof in instalments upon application.

7. Members' meetings

- 7.1 The annual general meeting of members is the ordinary members' meeting which shall be held within four months of the end of the financial year.
- 7.2 The annual general meeting shall attend, among others items, to the following:
 - 7.2.1 Approval of the minutes of the previous members' meeting
 - 7.2.2 Reception of the reports of
 - (a) the chairperson regarding the activities of the governing body and the general state of affairs of the Schulverein;
 - (b) the principal regarding academic and school-related issues;
 - (c) the treasurer regarding
 - (i) the past budgetary year;
 - (ii) the budget for the current financial year; and
 - (iii) the financial situation of the Schulverein;
 - (d) the auditor on the financial accountability of the governing body and the

formal approval of the conduct of the Schulverein's financial affairs.

7.2.3 Discussion of the reports

7.2.4 Debating of proposals by members and the governing body

7.2.5 Election of members of the governing body

7.2.6 Appointment of auditors

7.3 Extraordinary general meetings of members shall take place:

(a) whenever the governing body so decides

(b) if at least twenty members lodge a written request for such a meeting with the chairperson, which request must contain a detailed exposition of the issues to be placed on the agenda for such a meeting. The governing body may add its own motions to the agenda, which may also be supplemented by further motions by other members. The extraordinary members' general meeting must be held within 30 school days of the receipt of the request for such a meeting.

7.4 Members' general meetings shall be convened and chaired by the chairperson. A written notice of the meeting shall be sent to all members stating the place, date and time of the meeting and shall include a preliminary agenda. Such notice must be sent no less than 14 days prior to the date of the meeting.

7.5 Motions to be introduced by the governing body shall be contained in the preliminary agenda accompanying the notice of the meeting. Motions received from members of the Schulverein shall be included in the final agenda provided such motions are received by the governing body at least seven days prior to the date of the meeting.

7.6 Thirty members in good standing shall form a quorum for any members' meeting. Should no quorum have been obtained after 30 minutes the chairperson shall convene another meeting within twenty days in the manner and fashion determined in section 7.4, without amending the agenda. The members attending the postponed general meeting shall be deemed to be a quorum regardless of their actual number.

7.7 All discussions shall be held in German. Upon agreement, discussions can also be held in English.

7.8 All decisions taken by the members' general meeting shall be enforced immediately, unless a later date has been decided upon by the meeting.

7.9 Voting shall be by show of hands, unless at least five members request a secret ballot.

7.10 The governing body shall be elected during the annual general meeting. The election can also take place at an extraordinary general meeting should this be necessary. Members shall be informed in the notice of the meeting of the exact number of members of the governing body which have to be elected.

7.11 Nominations addressed to the governing body must be submitted in writing no less than seven days before the meeting. A nomination shall be valid if it is signed by a nominator and the nominated member. Neither educators nor employees of the Schulverein, or their spouses, are eligible as members of the governing body.

- 7.12 A member of the governing body is ordinarily elected for a period of two years. Half of the members of the governing body must terminate their membership before the next annual general meeting. Members of the governing body may be re-elected.
- 7.13 Should the application of the provisions be impossible, five elected members of the governing body should remain in office inasmuch as this is possible, to ensure continuity on the governing body. The governing body shall decide at a meeting held prior to the members' general meeting, if necessary by lot, which of the elected members who are prepared to continue in office should resign, and which members shall remain in office for another year. The members' general meeting shall then elect additional members to bring the number of elected members of the governing body to ten.
- 7.14 Voting in the election of members of the governing body shall be by secret ballot and shall be conducted by a member of the governing body who is not himself or herself a candidate in the election. Only one election shall take place. The candidates with the highest number of votes shall be considered as having been elected. In the case of equality of votes a final run-off ballot shall be held.
- 7.15 All proceedings of a members' general meeting shall be minuted by the secretary and shall be signed by the chairperson and the secretary of the minutes. They shall be presented to the next members' general meeting for approval. Any amendments must be included in the minutes of the subsequent meeting.

8. The governing body

- 8.1 The governing body consists of a maximum of twelve members, of whom ten are elected by the members' general meeting of the Schulverein and of whom two are nominated in accordance with the agreement (section 3 of the Preamble) with the Evangelic-Lutheran St Peters Congregation and the Evangelic-Lutheran Johannesgemeinde. The nominated members should be associated or have been associated with the Deutsche Schule Pretoria by having enrolled their children in the school.
- 8.2 The governing body shall hold an extraordinary governing body meeting within seven days after the annual general meeting with the oldest member present acting as chairperson. From its ranks the governing body shall elect a chairperson, a vice-chairperson, a secretary of the minutes and a treasurer.
- 8.3 The governing body may co-opt a maximum number of three members. These co-opted members shall resign at the next members' meeting of the Schulverein. Should any of the principal offices set out in section 8.2 become vacant, another member of the governing body must be elected to fill the position with immediate effect.
- 8.4 Should the number of members of the governing body fall below that required for a quorum, the office bearers shall be obliged to convene an extraordinary members' general meeting immediately for the purpose of electing a new governing body. The office bearers shall conduct the affairs of the Schulverein until such time as a new governing body has been elected.

8.5 The governing body shall determine its own rules of procedure and shall compile such regulations as may be required for the effective implementation of this constitution.

8.6 The governing body is responsible for all affairs of the Schulverein with the exception of those matters which expressly require the decision of a members' general meeting. The governing body's decisions shall have the same force and effect as those of the members' general meeting, provided they fall within the governing body's authority as determined by this constitution.

The governing body represents the interests of the Schulverein both internally and externally.

8.7 The governing body has the following specific functions:

- (a) to consider and prepare the budget estimate;
- (b) to consider and determine the budget;
- (c) to provide the financial resources for the school and to control the budget (including staff requirements);
- (d) to represent the Schulverein in all legal matters and to conduct the Schulverein's legal affairs in all respects;
- (e) to represent the Schulverein in court and out of court;
- (f) to determine the character and the structure of the school;
- (g) to approve the code of conduct, the staff regulations and the syllabi;
- (h) to employ the principal, the educators and the employees of the school and, if necessary, to suspend and/or to dismiss them;
- (i) to determine the school fees and other levies and to decide on applications for the reduction in school fees;
- (j) to determine the salary of locally employed educators and employees as well as other wages and allowances;
- (k) to decide upon the admission or exclusion of members of the governing body and learners;
- (l) to prepare the agenda for members' general meetings and to confirm the validity of nominations.

8.8 Meetings of the governing body are convened and chaired by the chairperson. Should two members of the governing body, or the duly nominated representative of the German Federal Republic or the principal of the school request an extraordinary meeting, the chairperson is obliged to convene such a meeting within one week of having received such a request.

8.9 The leader of the responsible diplomatic or consular representation of the Federal Republic of Germany or his or her mandatee, the principal or his or her substitute and the chairperson of the liaison educators' committee shall attend the meetings in an advisory capacity.

The trustees of the Klinkenberg Foundation shall be invited to the meetings of the governing body. The hostel master, educators and employees of the Schulverein, the chairperson of the school parents' representative council and experts can be invited to participate in the discussion of specific items on the agenda. (Employees of the Schulverein are not entitled to participate in the discussion of matters relating to them personally.)

- 8.10 The chairperson of the governing body or his or her nominee shall participate in the educators' general conference in consultative capacity.
- 8.11 The chairperson is entitled to convene an extraordinary meeting of the governing body at short notice for the discussion of specific items. In matters of urgency which are not the subject of a factual dispute, the chairperson is entitled to canvass the votes of those governing body members he or she is able to contact personally or telephonically. A decision taken in this fashion shall be valid if it is taken without dissenting vote by at least seven members and shall be recorded in the minutes of the next ordinary meeting.
- 8.12 Seven members of the governing body shall form a quorum.
- 8.13 The meetings of the governing body are confidential.
- 8.14 The governing body has the following specific authority:
- 8.14.1 to expel learners from the school if
- (a) their further attendance is no longer pedagogically tenable;
 - (b) their conduct is harmful to the image or the interest of the Schulverein; or
 - (c) their parents have failed to comply with their financial obligations toward the Schulverein;
- All further proceedings shall be governed by the relevant regulations.
- 8.14.2 to appoint sub-committees and to delegate specific functions to such sub-committees. A member of the governing body shall act as chairperson of the sub-committee. A sub-committee may include experts who are neither members of the governing body nor members of the Schulverein. A sub-committee can only bind the Schulverein if the governing body has expressly delegated that authority to such sub-committee. The chairperson of the governing body has the right to participate in meetings of sub-committees in his or her discretion.
- 8.15 Documents legally binding the Schulverein shall require the signature of the chairperson and another member of the governing body. Bank cheques must be signed by two persons authorised thereto by the governing body. At least one of these must be a member of the governing body.
- 8.16 Matters concerning the administrative organisation and educational matters of the school shall be decided upon in consultation with the principal.
- 8.17 Minutes must be kept of every meeting of the governing body. They must be presented to a subsequent meeting of the governing body for approval and shall thereafter be signed by the chairperson.

Members of the Schulverein are entitled to inspect the minutes upon application to the governing body.

8.18 The financial year of the Schulverein shall begin on 1 January and end on 31 December each year.

9. Amendments to the Constitution

9.1 Amendments to the constitution can only be determined by an extraordinary members' general meeting convened expressly for that purpose, if a majority of two-thirds of the members in good standing present at the meeting approve thereof. The proposed amendments to the constitution must be set out in full and attached to the notice of the extraordinary members' general meeting. Proposed amendments must be communicated to the governing body in writing at least seven days prior to the date of the extraordinary members' general meeting.

9.2 If and while the school receives subsidies from the Federal Republic of Germany, every amendment to this constitution affecting the orientation of the school, particularly the admission of learners determined in Chapter 2 of this constitution, shall require the approval of the head of the responsible diplomatic mission or his or her mandatee.

10. Dissolution of the Schulverein

10.1 A dissolution of the Schulverein can only be decided upon by an extraordinary members' general meeting which has been convened specifically for such purpose, and only if at least three quarters of the members in good standing who are present vote in favour of such dissolution.

10.2 Should the dissolution of the Schulverein be decided upon

- (a) the date of the dissolution must be determined and the liquidators must be appointed
- (b) all remaining assets after settlement of debts and liabilities must be transferred to the Klinkenberg Foundation.

11. Effective date

11.1 This constitution shall come into effect from 1.01.2011.

11.2 Upon the coming into force of this present constitution, all previous constitutions shall be deemed to have been repealed.

End of Constitution

(adopted on 24 May 2010)

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Annexure

Contractual agreement between the Evangelic-Lutheran St Peters Congregation, the Evangelic-Lutheran Johannesgemeinde and the Deutscher Schulverein Pretoria

The Evangelic-Lutheran St Peters Congregation, the Evangelic-Lutheran Johannesgemeinde and the Deutscher Schulverein Pretoria record that the Deutsche Schule Pretoria was founded in accordance with the provisions of the last will and testament of Klinkenberg in association with the Deutsche Evangelisch-Lutherische Kirche zu Pretoria, and do hereby agree that the continuation of these existing bonds shall be guaranteed by the following arrangements:

1. The Evangelic-Lutheran St Peters Congregation, the Evangelic-Lutheran Johannesgemeinde and the Deutscher Schulverein Pretoria agree to maintain constant co-operation and agree to jointly advance the cause of education based on Christian principles.
2. In addition to the members of the governing body that were elected by the Deutscher Schulverein, the Evangelic-Lutheran St Peters Congregation and the Evangelic-Lutheran Johannesgemeinde shall nominate two members. The latter must be members of the Deutscher Schulverein Pretoria.
3. Pastors of the Evangelic-Lutheran St Peters Congregation and the Evangelic-Lutheran Johannesgemeinde shall conduct the non-denominational religion classes at the school. In the educators' subject conference the pastor shall act as senior educator of those educators responsible for religion. The religious educators shall determine the syllabus for the non-denominational religion classes. The educators responsible for teaching of religion shall be appointed in consultation with the pastor.
4. The school will enable learners to participate in extraordinary church events and to play an active part therein.
5. The Evangelic-Lutheran St Peters Congregation and the Evangelic-Lutheran Johannesgemeinde shall encourage its members to remain or become members of the Deutscher Schulverein and to contribute to the school through their active participation in its affairs.
6. The Evangelic-Lutheran St Peters Congregation and the Evangelic-Lutheran Johannesgemeinde shall be entitled to cede, transfer and delegate the abovementioned rights and obligations in full or in part to German-speaking sister-congregations in Pretoria.
7. This agreement shall form part of the constitution of the Deutscher Schulverein Pretoria and shall be effective as soon as the constitution comes into force.

End of Agreement