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**SECONDARY CO-OPERATIVE LIMITED**

**NAME**

1. [a] The name of the Co-operative is .....  
..... **SECONDARY CO-OPERATIVE LIMITED.**
- [b] The abbreviated name is ..... **(CO-OP.) LTD.**  
if applicable)
- [c] The Co-operative may trade as ..... (if applicable)

**FORM OF CO-OPERATIVE**

2. This is the statute of an undertaking formed as a **Secondary** co-operative with limited liability in terms of the provisions of the Co-operatives Act, 14 (Act 14 of 2005).

**INTERPRETATION OF TERMS**

3. In this statute, unless the context indicates otherwise, a word or expression to which a meaning is attached in the Co-operatives Act, 2005 (Act 14 of 2005) shall have a similar meaning and -

"the Act".....	means the Co-operatives Act, 2005 (Act 14 of 2005);
"co-operative".....	means ..... ..... <b>SECONDARY CO-OPERATIVE LIMITED</b> which is incorporated in terms of the Act;
"board".....	means the board of directors referred to in clause 22;
"gender" .....	a reference in this statute to the masculine gender shall also include the feminine gender and <u>vice versa</u> ; and
"member".....	means a registered Primary co-operative which has been accepted as a member by the directors in terms of clause 10;
"patronage proportion" .....	means the proportion in which the value of the transactions conducted by a member with a co-operative during a specified period bears to the value of the transactions conducted by all members with a co-operative during the same period.

**PLACES OF BUSINESS**

- 4. The main place of business of the co-operative is situated at ..... **(place)**, ..... **(Province)**.
- 5. The co-operative may not establish any branches.

**OBJECTIVES AND DESCRIPTION OF BUSINESS**

- 6. The objectives of the co-operative are to undertake the following types of business according to co-operative practice -
  - (a) .....  
.....  
.....  
.....  
.....;
  - (b) To do bulk buying of on behalf of its member co-operatives;
  - (c) To provide marketing of products and to handle such products on behalf of member co-operatives;
  - (d) To provide support services for the member co-operatives;
  - (e) To actively work towards improving the quantity and quality of co-operative patronage in member co-operatives;
  - (f) To assist member co-operatives to interact with each other in problem solving and resource utilisation; and
  - (g) To enhance management and organisational capacities of its member co-operatives.

**POWERS**

- 7. The board of directors has the powers to perform the duties necessary to achieve the objectives of the co-operative subject to the Act and the Constitution of the co-operative.

## **MEMBERSHIP**

8. Any registered primary co-operative or other juristic person may, on application to the board, become a member of the co-operative.

### **APPLICATION FOR MEMBERSHIP**

9. [1] Application for membership shall be made on the form provided for that purpose and shall be accompanied by the membership fee.
- [2] The board shall consider every application for membership and has the right to accept or reject an application without assigning any reason for doing so.
- [3] The board shall, within three months after receipt of an application for membership, cause the applicant to be notified of its decision and, in the event of an application for membership being rejected, any amount paid by the applicant to the co-operative shall be refunded to him.

### **COMMENCEMENT OF MEMBERSHIP**

10. A registered Primary co-operative becomes a member of the co-operative when the board has accepted his application for membership.

### **MEMBERSHIP AND SUBSCRIPTION FEE**

11. [1] An entrance fee of R..... must be paid on application for membership. Such fee shall not be refunded on termination of membership.
- [2] A membership/subscription fee of R..... must be paid yearly: Provided that a member may pay off the subscription fee in equal monthly instalments. Such fee shall not be refunded on termination of membership.

### **MEMBERSHIP CARDS**

12. Membership cards may be issued on request of the member and under authority of the board and shall be in such form as the board shall determine. Every card shall bear the signature of a director and of an officer empowered thereto by the board as well as the signature of the member concerned.

### **ISSUE OF SHARES AND MINIMUM SHAREHOLDING**

13. [1] The shares issued by the Co-operative must all be of the same class, ranking and nominal value.
- [2] When the co-operative is founded each member must have a minimum of ..... (number of) shares.
- [3] Shares will be fully paid-up, and will have a nominal value of R.....
- [4] From the time that the co-operative is three years in operation, every member shall be bound to hold a minimum number of shares in the co-operative prescribed by a scale which shall be approved by members in general meeting on the recommendation of the board: Provided that the scale must relate to business done by members with the co-operative. Whenever it appears that a member does not hold the number of shares prescribed by the applicable scale, the board may issue to him without application therefore such number of shares as will make up the insufficiency and the full nominal value of such shares shall immediately become payable upon such issue: Provided that before such issue of shares is made to any member, he shall be afforded an opportunity, of at least 30 (thirty) days, to acquire the requisite number of additional shares from any other member holding shares in excess of the above scale.

### **CERTIFICATES OF SHARES AND LOANS**

14. Share certificates shall be issued in such form, as the Board shall determine. These certificates shall state the name of the Co-operative, that the Co-operative is subject to the Act, the name of the member to whom it is issued and that the certificate represents shares in the Co-operative and the number of the shares.

### **LIABILITY OF MEMBERS**

15. The liability of a member is limited to an amount equal to the nominal value of the shares in the Co-operative held by him in so far as that amount has not been paid up.

### **TRANSFER OF MEMBERSHIP, MEMBERS LOANS AND SHARES**

16. [1] Membership and Shares may be transferred only with the approval and on the authority of the Board which shall satisfy itself that the proposed transferee is qualified to be a member of the Co-operative.
- [2] The Board may at any time refuse to approve and register a proposed transfer.
- [3] The transfer of any membership shall be in writing in such form and signed in such manner as the Board from time to time may stipulate.

- [4] When such transfer has taken place the Board shall issue to the transferee a membership card, and a Share Certificate.

### **CONDITIONS AND PROCESSES FOR TERMINATION OF MEMBERSHIP**

#### **Termination of membership on liquidation**

17. [1] The membership of a member who has been placed in liquidation, must be terminated by resolution of the board. Upon such termination, the membership fees are forfeited and the amount paid in respect thereof is credited to the General Reserve Fund.
- [2] The shares registered in the name of the member must be cancelled by resolution of the board, at the request of the liquidator of the estate.
- [3] Upon such cancellation the co-operative must, pay to the liquidator the amount paid up on the shares for payment to the estate of the member: Provided that if the value of such shares, according to the latest completed balance sheet of the Co-operative, is less than their nominal value, the Co-operative shall pay -
- [a] If the shares are fully paid up, an amount equal to the value so determined; or
- [b] If the shares are not fully paid up, an amount that stands in the same proportion to the amount paid up on the shares as that which the value so determined of the shares stands to their nominal value.

#### **Withdrawal of membership on resignation**

18. [1] The resignation of a member comes into operation at the first annual general meeting of the co-operative held after it has received the written resignation of the member: Provided that the member gave the co-operative a minimum of 6 months notice before this annual general meeting. The membership of a member who has resigned, shall be terminated by resolution of the Board.
- [2] The amount paid in respect of membership fees shall be forfeited to the co-operative and credited to the General Reserve Fund.
- [3] The shares of a member who has resigned, shall be cancelled by resolution of the Board. The amount paid up on such cancelled shares shall, at the discretion of the Board, be repaid to the member within a period of two years from the date of cancellation: Provided that if the value of the shares, according to the latest completed balance sheet of the Co-operative shall pay -
- [a] If the shares are fully paid up, an amount equal to the value so determined; or

- [b] If the shares are not fully paid up, an amount that stands in the same proportion to the amount paid up on the shares as that which the value so determined of the shares stands to their nominal value.

### **Suspension and Expulsion**

- 19. [1] A member who repeatedly contravenes a provision of this constitution or any by-law or who refuses to comply with such provision or to meet an obligation imposed on him by the co-operative under the Act or in terms of this constitution or by-law or which he agreed to meet, may –
  - [a] by resolution of the board, be suspended as a member for a period to be determined by the board but which shall not be longer than the date of the next annual general meeting;
  - [b] by special resolution be suspended as a member for a period not longer than twelve (12) months from the date on which he is suspended;
  - [c] by special resolution be expelled from the co-operative.
- [2] The suspension of a member may be revoked by resolution of the board at any time.
- 20. [1] A member shall not in terms of clause 18 be suspended or expelled from the co-operative unless he has been given prior written notice of the board's intention to suspend him or to recommend to members that he be suspended or expelled.
- [2] The notice to such member shall contain the following particulars –
  - [a] the reasons for the proposed suspension or expulsion; and
  - [b] a time when, and place where the member may appear in person, with or without witnesses, before the board or to which he may send a written statement signed by himself setting out his objections to the proposed suspension or expulsion.
- [3] The board shall, if it is decided to suspend or expel a member, notify him in writing of –
  - [a] the date on which his suspension or expulsion comes into effect;
  - [b] the period of time during which the suspension will apply; and
  - [c] the disciplinary measures which will be taken.

### **Disciplinary measures**

21. [1] While under suspension a member forfeits its right to attend general meetings.
- [2] The members by special resolution or the board may furthermore stipulate that certain or all transactions with a member shall be suspended for the period of its suspension.
- [3] The membership of an expelled member shall be cancelled by resolution of the board and upon such cancellation the member shall forfeit its membership fees and the amount paid in respect thereof shall be credited to the general reserve of the co-operative.
- [4] The shares of an expelled member must be cancelled, subject to the provisions of clause 22(1) by resolution of the board and upon such cancellation the member shall forfeit his shares.

### **LIABILITY IN RESPECT OF FORFEITED SHARES**

22. [1] A person whose shares have been forfeited, is responsible for immediate payment to the co-operative of the entire amount unpaid on such shares.
- [2] All moneys paid to the co-operative in respect of forfeited shares must be added to the General Reserve Fund.
- [3] Notice must be given to the member in whose name the shares were registered prior to the forfeiture, and an entry of the forfeiture, with the date thereof, shall forthwith be made in the register of members.
- [4] Interest on share capital or any other amount accruing to a member and which is payable by the co-operative to the member, must be applied to pay calls on shares and/or amounts unpaid on forfeited shares, due but unpaid at the time such interest, bonus or other amount becomes payable to the member concerned.

### **MANAGEMENT OF CO-OPERATIVE**

#### **Board Of Directors**

23. [1] The affairs of the co-operative shall be managed by a board consisting of a minimum of ..... and a maximum of ..... The directors shall, subject to the provisions of the Act and this constitution, exercise the powers and duties of the co-operative.
- [2] The number of directors shall subject to the approval of members at the next general meeting, be determined by the board from time to time. If, however, the members do not

approve the decision of the board and a vacancy arises as a result thereof, such vacancy shall be regarded as a casual vacancy to be filled in terms of clause 29.

- [3] Directors shall be elected at the annual general meeting.

#### **Persons not competent to be director**

24. No person shall hold the office of director if -

- [a] A person is of unsound mind;
- [b] A person is an unrehabilitated insolvent; or
- [c] A person who has at any time been convicted [whether in the Republic of elsewhere) of theft, fraud, forgery, purgery, or any offence involving dishonesty in connection with the formation of management of a co-operative or other corporate entity.

#### **Term of office**

25. [1] the term of office of the directors of the co-operative shall be **two years**.
- [2] Retiring Directors are eligible for re-election.
- [3] The directors to retire each year shall be those who have been longest in office since their last election at the annual general meeting but as between members who became directors on the same day, those to retire shall, unless they otherwise agree among themselves, be determined by ballot.

#### **Nomination of Directors and voting for Directors**

26. [1] Candidates for the position of Director shall be nominated openly at the annual general meeting held for the purpose of electing one or more directors.
- [2] Without prejudice to the provisions of clauses 29 a member, including a retiring Director, qualifies for election as Director only if he is nominated in terms of sub-clause 26(1).
- [3] [a] If the number of candidates nominated does not exceed the number of vacancies on the Board to be filled, such candidate or candidates shall be declared elected at the annual general meeting.
- [b] If the number of candidates nominated exceeds the number of vacancies on the Board, as many Directors as there are vacancies shall be elected from the nominees at the annual general meeting.

[c] If insufficient or no candidates are nominated to fill the vacancies on the Board, such vacancies shall be regarded as casual vacancies to be filled in accordance with clause 29.

27. The method to be followed in electing Directors shall be as determined by the Chairperson of the meeting.
28. At the election of Directors a member shall vote for as many candidates as there are vacancies to be filled on the Board and those candidates receiving the highest number of votes shall be declared elected.

#### **Filling of a vacancy on the Board**

29. Any vacancy occurring on the board during the year shall be filled until the next annual general meeting by a member appointed, by the remaining Directors, subject to the provisions of clause 25. At the said annual general meeting a member shall, subject to the provisions of this constitution, be elected to fill the vacancy. Any director elected at such general meeting shall not hold office for a period longer than the unexpired portion of the period of office of the Director whose office became vacant.

#### **Conditions for Vacation of office**

30. A Director shall vacate his office -
- [a] If he becomes incompetent in terms of clause 24 of this constitution to hold the office of Director; or
- [b] If he absents himself from more than three consecutive ordinary meetings of the Board without its leave; or
- [c] Upon the expiry of thirty (30) days, or such shorter period as may be approved by the Board, after he has resigned as a Director of the Co-operative.

#### **Conditions and Processes for the appointment of the Chairperson, Vice-Chairperson and Acting Chairperson of the Board**

31. [1] At the first meeting of the Board held after the formation meeting and thereafter at the first meeting of the Board held after every annual general meeting of members or when the necessity arises, the Directors shall elect from among themselves a Chairperson and Vice-Chairperson.

- [2] The Vice-Chairperson shall act as Chairperson whenever last-named is absent or unable to act as Chairperson, and if both the Chairperson and Vice-Chairperson are absent or unable to carry out the functions of the chairperson, the board must elect another Director to be Acting Chairperson during such absence or incapacity.
  
- 32. The Chairperson of the Board of the Co-operative shall vacate the office of the Chairperson if he -
  - [a] Ceases to be a Director of the Co-operative; or
  - [b] Resigns as Chairperson; or
  - [c] Is relieved of the office of Chairperson by the Board.
  
- 33. The provisions of clause 31 shall *mutatis mutandis* apply to the vice-Chairperson of the Board.

**Board meetings and Quorum**

- 34. [1] A meeting of the board must be convened by the Board or the Chairperson of the Board or any two Directors of the Co-operative.
  
- [2] The majority of Directors shall constitute a quorum of a meeting of the Board.
  
- [3] Questions arising at a meeting of the Board shall be determined by a majority of the Directors present at the meeting and in the case of an equality of votes, the Chairperson of the Board or the person acting as Chairperson shall have a casting vote in addition to his deliberative vote.

**By-laws**

- 35. The Board has power to make by-laws provided they are not repugnant to this constitution.

**Delegation of powers to a committee**

- 36. [1] The Board may delegate one or more of its powers to a Director or to a Committee appointed by the Board or Manager of the Co-operative.
  
- [2] Any Director or Committee or Manager so appointed must in the exercise of the powers so delegated, abide by such rules as may be made and follow such instructions as may be issued, in regard thereto, by the Board.

## **GENERAL MEETINGS**

37. [1] A Co-operative must hold:
- [a] Its first annual general meeting within **18** months of registration of the Co-operative;
  - [b] Subsequently annual general meetings within **6** months after the end of the preceding financial year.
- [2] The annual general meeting must:
- [a] Appoint an auditor;
  - [b] Approve a report of the board on the affairs of the Co-operative for the previous financial year;
  - [c] Approve the financial statements and auditor's report where applicable for the previous financial year;
  - [d] Elect Directors; and
  - [e] Decide on the future business of the Co-operative.

## **Special General Meetings**

38. The Co-operative may from time to time in addition to its annual general meeting hold Special general meetings of its members to dispose of any matter relating to its affairs specifically set out in the notice convening the meeting.

## **Convention of Meetings**

39. [1] An annual general meeting shall be convened on authority of the Board.
- [2] A special general meeting shall be convened –
- [a] by at least two Directors of the Co-operative; or
  - [b] by two or more members of the Co-operative constituting in number at least ten (10%) percent of all the members of the Co-operative: Provided that such members shall not be entitled to convene a special general meeting unless they have beforehand in writing petitioned the Directors to convene such a meeting and the meeting is not convened within twenty-one (21) days reckoned from the date the petition was lodged, or unless for any reason there are no directors to whom such a petition can be addressed.

- [3] Any meeting convened in terms of sub-clause 39(2)(b) by the petitionists shall, as far as possible, be convened and held in the same manner as is prescribed for meetings convened and held by the Board and any reasonable expense incurred by the petitionists in securing the names and addresses of members, in sending notices of the meeting to them and hiring accommodation for the holding of the meeting if so resolved by such meeting, be refunded to the petitionists by the Co-operative.

#### **Notice of general meeting**

40. [1] A general meeting shall be convened by at least 14 days notice in writing to each member of the Co-operative.
- [2] The notice convening the meeting shall in addition to the time and place of the meeting state the purpose for which it is convened.
- [3] A notice may be delivered personally, forwarded by post to the member at his registered address, e-mailed to registered e-mail address of the member or faxed the registered fax number of the member.
- [4] Non-receipt by a member of a notice of a general meeting of the Co-operative does not render such meeting invalid.
- [5] If a notice of a meeting is returned to the Co-operative because the member to whom it was sent is no longer resident at the registered address, the e-mail address or fax number does not exist or does not function, the Co-operative shall be relieved of its obligation to send further notices of meetings to the member concerned unless the member makes an appearance and requests that such notices be sent to his new address.

#### **Representation of juristic persons at general meetings**

41. A member that is a juristic person, may appoint someone to act on its behalf at a general meeting of the co-operative.

#### **Appointment of proxies**

42. A representative of a member of the co-operative may appoint any person who is not in terms of clause 24 incompetent to be a director of the co-operative as proxy to attend, to speak and to vote in his or its stead at a general meeting of the co-operative: Provided that -

- [a] a proxy shall not be entitled to cast a vote except in a vote by ballot;

- [b] a member or such a representative shall not be entitled to appoint more than one proxy;
- [c] the same person shall not act as proxy to more than two representatives;
- [d] a proxy at a general meeting shall not represent more than 20% (twenty percent) of the votes of all representatives.

### **Proxies**

43. [1] The form appointing a proxy must be in the format approved by the board.
- [2] Proxies, duly completed, shall be handed in or delivered (whether by post, fax or email) at the registered office of the co-operative not later than 24 (twenty-four) hours before the time fixed for the meeting.
- [3] The secretary or other official acting on his behalf shall give a receipt to each proxyholder indicating the number of proxies held by him and the names of the appointor or appointors: Provided the proxyholder is not advised of any defect in any of the proxies held by him, this receipt shall be sufficient evidence at the meeting of the number of votes which may be cast by him. Without this receipt, voting by proxy shall not be allowed.
- [4] If a member appoints two or more proxies to vote on his behalf at the same meeting, the chairman shall, if he is aware of the position, at his discretion either disallow all his proxies or declare which of the relative proxies shall be allowed.

### **Quorums**

44. A quorum for a general meeting shall be constituted -
- [a] by at least two members, if the number of members of the Co-operative is not more than ten; and
  - [b] by at least three of the members of the Co-operative, if the number of members of the Co-operative is more than ten: Provided that the quorum of shall not be less than 10% (ten percent).
45. No item of business shall be transacted at any general meeting unless a quorum of members is present during the time when the meeting is considering that item.
46. [1] If within one hour from the time appointed for the meeting a quorum is not present, the meeting -
- [a] if convened by members or in consequence of a petition of members, must be cancelled;

[b] if otherwise convened, must be 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 day following which is not a public holiday.

- [2] If the same hall or building is not available for an adjourned meeting, it may be held at another venue within convenient distance if members are advised of the change of venue either by notice posted at the original venue or by some other means.
- [3] If a quorum is not present within one hour after the time fixed for an adjourned meeting, the members present, provided they are not less than five in number, shall be deemed to constitute a quorum: Provided that a special resolution may not be passed by such a meeting.

#### **Chairperson of general meetings**

47. [1] The Chairperson of the Board or in his absence the Vice-Chairperson or in the absence of both, another Director elected by the meeting shall act as Chairperson of an annual general meeting or a special general meeting convened in terms of clauses 39(1) and 39(2)(a).
- [2] A person elected by the meeting shall act as the Chairperson of a special general meeting convened in terms of clause 39(2)(b) of this constitution.

#### **Voting by members**

48. At all meetings of the co-operative, each member shall have one vote.
- [a] Any matter for decision by a general meeting shall be decided by means of a vote on a show of hands or by ballot.
- [b] A vote by ballot shall not be held unless it is demanded by at least two representatives present at the meeting and entitled to vote in a vote by ballot.
- [c] A vote by ballot must be held in such manner as the Chairperson stipulates. Scrutineers must be nominated to determine the result of the vote that must be declared by the Chairperson of the meeting as the resolution of the meeting.
- [d] A declaration by the chairperson that a resolution has, on a show of hands or by ballot, been carried, or carried unanimously or by a particular majority, or lost, and an entry to that effect in the minutes of the proceedings of the meeting, shall be conclusive, proof thereof, without evidence as to the number or proportion of votes recorded for or against such resolution.

49. If no objection is raised in terms of the provisions of this constitution against the validity of any vote cast at the meeting, whether on a show of hands or by ballot, every vote cast at the meeting that has not been disallowed shall for all purposes be deemed to be valid.
50. In the case of an equality of votes, whether on a show of hands or in a vote by ballot, the Chairperson of the meeting shall have a casting vote in addition to his deliberative vote.
51. Every matter submitted to a general meeting for resolution, except for a matter requiring a special resolution, shall be determined by a majority of votes recorded at the meeting.

#### **Special resolution**

52. A resolution by a general meeting of the Co-operative shall, constitute a special resolution if -
- [a] the notice by which the general meeting was convened specified particulars of the proposed resolution and stated the intention to propose same as a special resolution; and
  - [b] the resolution has been passed by not less than two thirds of the members present, both in a vote on the show of hands and a vote by ballot; or
  - [c] the resolution related to the winding-up of the Co-operative and was passed by at least 75 percent of the votes of all the members of the Co-operative, both in a vote on the show of hands and a vote by ballot.

#### **PROHIBITED AND PERMITTED LOANS AND SECURITY**

53. [1] The co-operative may give financial assistance by means of a loan or the provision of security to –
- [a] any person in the ordinary course of business if the lending of money is part of the ordinary business of the co-operative;
  - [b] any person on account of expenditures incurred or to be incurred on behalf of the co-operative;
  - [c] employees of the co-operative or of any of its members –
    - [i] to enable or assist them to purchase or erect living accommodation for their own occupation; or
    - [ii] in accordance with a plan for shares of the co-operative or any of its members to be held by a trustee; and
  - [d] members, if the financial assistance is available to all members on substantially the same terms.

- [2] The co-operative may not give financial assistance in terms of clause 53(1) whether directly or indirectly if there are reasonable grounds to believe that –
- [a] the co-operative, after giving the financial assistance, will be unable to pay its liabilities as they become due; or
  - [b] the realisable value of the assets of the co-operative, after giving the financial assistance, will be less than the aggregate of its liabilities, share capital and reserves.
- [3] In determining the realisable value of the assets of the co-operative contemplated in clause 53(2)(b), the amount of any financial assistance in the form of a loan and in the form of assets pledged or encumbered to secure a guarantee must be excluded.

#### **BANKING ACCOUNT**

54. [1] The Co-operative must open a banking account in the name of the Co-operative in which all moneys received shall be deposited as soon as possible after receipt thereof.
- [2] Cheques drawn on the banking account shall be signed by one of the Directors and must be countersigned by the Secretary of the Board: Provided that a cheque shall not be signed and countersigned by the same person and that all officers who are authorized to sign or countersign cheques must furnish adequate security.

#### **FINANCIAL YEAR**

55. The financial year of the Co-operative shall end on the last day of ..... **(month)** of each year.

#### **FINANCIAL RECORDS**

56. [1] The Co-operative must keep, such accounting records as are necessary fairly to reflect the state of affairs and business of the Co-operative and to explain the transactions and financial position of the business of the Co-operative.
- [2] The accounting records shall be kept at the registered office of the Co-operative and shall be available at all times for examination by the Directors.

### Annual financial statements

57. [1] An audit of the affairs of the co-operative must be conducted annually in respect of each financial year in order to –
- [a] ensure that financial statements are drawn up in conformity with generally accepted accounting practices;
  - [b] verify that the co-operative has maintained adequate records in accordance with the requirements of this constitution and the Act;
  - [c] report generally as to whether the assets and facilities of the co-operative are being properly managed and the operations of the co-operative are being conducted in accordance with co-operative principles; and
  - [d] report on any other matter the auditors are required to report on in terms of the constitution.
58. [2] The provisions of clause 57(1) are applicable to the annual financial statements of the Co-operative and its company subsidiaries.

### AUDIT

59. The members must appoint an auditor at each annual general meeting, to hold office until the close of the next annual general meeting. The duties of the auditor are outlined in clause 58.

### SURPLUS

60. The surplus resulting from the operations of the Co-operative during any financial year shall be applied by resolution of the annual general meeting for that year: Provided that –
- [a] at least **5%** (five percent) is set aside as Indivisible Reserve Fund and is not divisible amongst the members;
  - [b] at least **30%** (thirty percent) is set aside as a General Reserve Fund.
  - [c] the amount which is available out of the surplus for distribution to members shall be applied in one or more of the following ways only, viz. –
    - [i] to pay interest at a rate not exceeding 15% [fifteen percent] to members on the amounts paid up by them on their shares as at the last day of the financial year;
    - [ii] to pay bonuses to members.

### **PAYMENT OF BONUS**

61. [1] The amount mentioned in clause 60[c][ii] must, be allocated to members according to the patronage proportion and the amount allocated to a member must by resolution of members at the annual general meeting, be applied in one or more of the following ways –
- [a] by paying it out either wholly or partly in cash; and / or
  - [b] by setting it aside in the Deferred Bonus Payment Fund for future payment to members.
- [2] Interest on share capital or bonus declared payable to members, except amounts transferred to the Deferred Bonus Payment Fund, does not earn interest from the Co-operative.
- [3] Any interest on share capital or any bonus remaining unclaimed for a period of three (3) years from the date on which such interest or bonus was declared payable may, by resolution of the Board, be declared forfeited and shall be added to the general reserve of the Co-operative.

### **DEFERRED BONUS PAYMENT FUND**

62. [1] All amounts transferred to the "Deferred Bonus Payment Fund" in terms of clause 60(1)(c) shall be credited in the respective names of the members in the books of the Co-operative.
- [2] The Deferred Bonus Payment Fund may be invested separately or may be used by the Co-operative to carry out any of its objects: Provided that the fund must not be utilized to defray any loss resulting from the operations of the Co-operative.
- [3] The interests of members and former members in the Deferred bonus Payment Fund must be repaid to them in the following circumstances and subject to the conditions mentioned, i.e. –
- [a] When the fund has been functioning for five years, the interests built up by members during the first year of the fund shall be repaid to those concerned; the following year the interests built up during the second year of the fund shall be refunded, et seq.
  - [b] when membership in the Co-operative is terminated, the interest of the member concerned in the fund shall be repaid to him at the co-operative's earliest convenience : Provided that the interest of a former member in this fund shall not be retained in the fund for more than three years after termination of membership of the former member.
- [4] The amounts payable to a member in terms of this clause shall be applied in payment or part payment of any amount due to the Co-operative by such member.

- [5] Any amount to the credit of a member in the Deferred Bonus Payment Fund remaining unclaimed for a period of three (3) years from the date it becomes payable to him may by resolution of the Board be declared forfeited and transferred to the general reserve of the Co-operative: Provided that such a transfer shall not be made unless the member concerned has first been warned of the proposed transfer by means of a notice sent to his last address, as entered in the register of members and he has been given an opportunity of at least six months to claim the amount.

#### **AMENDMENT OF CONSTITUTION**

63. The constitution of the Co-operative may be amended by special resolution only.

#### **LIQUIDATION**

64. In case of liquidation the patronage proportion must be determined for either five years, which preceded the commencement of the winding-up of the Co-operative, or the period for which the Co-operative has existed, whichever period is the shorter.

NOTE: This page must be signed by a Representative of Each Founder Member Co-operative and a witness.

NAMES OF REPRESENTATIVES	NAMES OF APPLICANTS (ie. PRIMARY CO-OPERATIVES)	SIGNATURES OF REPRESENTATIVE	SIGNATURE OF WITNESS(ES)
1. .... ..... ..... ..... .....	1. .... ..... ..... ..... Co-op. Ltd Reg Nr. .... .....	1. ....	1. ....
2. .... ..... ..... ..... .....	2. .... ..... ..... ..... Co-op. Ltd Reg Nr. .... .....	2. ....	2. ....
3. .... ..... ..... ..... .....	3. .... ..... ..... ..... Co-op. Ltd Reg Nr. .... .....	3. ....	3. ....