

MITCHELL HOUSE



Memorandum of Incorporation

Contents

Article 1 – Definitions and Interpretation.....	3
Article 2 – Incorporation.....	4
2.1 Incorporation	4
2.2 Memorandum of Incorporation and Company rules	4
2.3 Application of optional provisions of Companies Act, 2008	4
2.4 Name and Address	4
2.5 The School.....	4
2.6 Mission Statement and Vision of School.....	5
2.7 Powers of the Company	5
2.8 Aims and Objectives	5
2.9 The Head	6
2.10 Dissolution or Winding-Up	6
2.11 Public Benefit Organisation	6
2.12 Annual Budget	7
2.13 Financial records and audited statements:	7
2.14 Language Policy	7
2.15 Admission.....	7
2.16 Prohibition of Corporal Punishment	8
Article 3 – Members and Board of Governors	8
3.1 Membership	8
3.2 Powers, Function and Duties of the Board of Governors:	9
3.3 Liability of Board of Governors	10
3.4 Election Officer.....	10
3.5 Parent Members	10
3.6 Terms of office	11
3.7 Dissolution of the Board of Governors	11
3.8 Office Bearers	12
3.9 Co-Option of Members	12
3.10 Reimbursement of Members of the Board of Governors	12
3.11 Meetings.....	12
3.12 Quorum for Members Meetings.....	12
3.13 Adjournment of Members’ Meetings	13
3.14 Meeting Procedures.....	13
3.15 Casual Vacancies	13
3.16 Amendments to Memorandum of Incorporation	14
3.17 Dispute Resolution.....	14
3.18 Code of Conduct.....	14

Article 1 – Definitions and Interpretation

Unless the context indicates otherwise:

“Act 104 of 1986”	means the Private Schools Act (House of Assembly) NO. 104 of 1986, as amended from time to time;
“Act 84 of 1996”	means the South African Schools Act 84 of 1996, as amended from time to time;
“Association”	means any association registered in terms of the Companies Act 71 of 2008 as a Non-Profit Company, as amended from time to time, the directors of which shall be the ex officio and elected members of the Board of Governors in their capacity as such;
“Board of Governors”	means the Board of Governors of the School contemplated in Section 3.1 of the Memorandum of Incorporation;
“Education Department”	means the department established by Section 7 (2) of the Public Service Act of 1994 (Proclamation 103 of 1994), which is responsible for education in a province;
“Educator”	means a person appointed as a teacher at the School, who teaches, educates or trains pupils at the School, or who provides professional educational services to the School;
“Head”	means an educator appointed by the Board of Governors to act as Headmaster of the School;
“Boarding Fees”	means the fees, as determined by the Board of Governors from time to time, payable by Parents of Pupils at the boarding house in respect of their board and lodging.
“Inclusion”	means that an effort is made to make sure that pupils with Disabilities go to school with their friends, neighbours and communities while also receiving whatever specially designed instruction and support they need so as to achieve and succeed as learners and contribute productively as independent members of their communities;
“Disability” and / or Disabilities”	means individuals with cognitive and/or physical Disabilities who require extensive ongoing support in one or more major life activity in order to participate in integrated Community settings and to enjoy a quality of life that is available to citizens with fewer or no disabilities. Support may be required for life activities such as mobility, communication, self-care and learning as necessary for independent living, employment and self.
“Enrichment Centre Co-ordinator”	means an educator appointed by the Board of Governors to act as the co-ordinator and manager of the Enrichment Centre;
“Parent”	means: <ul style="list-style-type: none">a) The Parent or Guardian of a pupil;b) The person legally entitled to custody of a pupil; orc) The person who undertakes to fulfil the obligations of a person referred to in paragraphs (a) and (b) towards the pupil’s education at the School;
“Pupil”	means any child receiving tuition at the School who complies with the admission requirements and who has been admitted to the School;
“School”	means Mitchell House registered as “Mitchell House Preparatory School (an Association incorporated as a Non-Profit Company)
“Enrichment Centre”	means a centre within the school which shall provide stimulating interactive educational, physical and life skills facilities for the benefit of children with disabilities;

- “Sponsoring Body” means a body or group of persons, which on account of their involvement with the School, are prepared to assist the School financially;
- “Tuition fees” means the tuition fees payable by parents to the School from time to time, as determined by the Board of Governors.

Article 2 – Incorporation

In this Memorandum of Incorporation–

- (a) a reference to a section by number refers to the corresponding section of the Companies Act, 2008;
- (b) words that are defined in the Companies Act, 2008, bear the same meaning in this Memorandum as in that Act.

The Schedules attached to this Memorandum are part of the Memorandum of Incorporation.

2.1 Incorporation

- 2.1.1 The company is incorporated as from 29/09/1994 (29 September 1994) as a non-profit company, as defined in the Companies Act, 2008.
- 2.1.2 The Company is incorporated in accordance with and governed by:
 - (a) the unalterable provisions of the Companies Act, 2008 that are applicable to Non-Profit companies;
 - (b) the alterable provisions of the Companies Act, 2008 that are applicable to Non-Profit companies, subject to any limitations, extension, variation or substitution set out in this Memorandum; and
 - (c) the provisions of this Memorandum of Incorporation.

2.2 Memorandum of Incorporation and Company rules

- 2.2.1 This Memorandum of Incorporation of the Company may be altered or amended in the manner set out in section 16, 17 or 152 (6)(b), subject to the provisions contemplated in section 16 (2) and set out in 3.17 of this Memorandum of Incorporation.
- 2.2.2 The authority of the Company's Board of Directors to make rules for the Company, as contemplated in section 15 (3) to (5) is not limited or restricted in any manner by this Memorandum of Incorporation.
- 2.2.3 The Board must publish any rules made in terms of section 15 (3) to (5) by
 - (a) By way of letter and/or notification given to a child at school; or
 - (b) By way of electronic communication; or
 - (c) In a manner which the Board deems appropriate in the circumstances.
- 2.2.4 The Company must publish a notice of any alteration of the Memorandum of Incorporation or the Rules, made in terms of section 17 (1) by delivering a copy of the notice to each director;
 - (a) By way of letter and/or notification given to a child at school; or
 - (b) By way of electronic communication; or
 - (c) In a manner which the Board deems appropriate in the circumstances.

2.3 Application of optional provisions of Companies Act, 2008

- 2.3.1 The Company does not elect, in terms of section 34 (2), to comply voluntarily with the provisions of Chapter 3 of the Companies Act, 2008 except as prescriber in paragraph 2.12 of this Memorandum of Incorporation.
- 2.3.2 The Company does not elect, in terms of section 118 (1)(c)(ii), to submit voluntarily to the provisions of Parts B and C of Chapter 5 of the Companies Act, 2008, and to the Takeover Regulations provided for in that Act.
- 2.3.3 As contemplated in Item 4(1) of the Act, the Company has members, who are in either of two classes, being voting and non-voting members, as set out in Article 3 of this Memorandum of Incorporation.

2.4 Name and Address

- 2.4.1 The name of the Board of Governors shall be “ The Board of Governors of Mitchell House”;
- 2.4.2 The address of the Board of Governors shall be: P O Box 1051, Fauna Park, Polokwane, Limpopo, 0787.

2.5 The School

- 2.5.1 In terms of Section 45 and 46 of Act 84 of 1996 the School is defined as an Established and Registered Independent School;

- 2.5.2 As an Independent School registered and conducted in terms of a Non-Profit Company, it is a corporate body with legal capacity:
- 2.5.2.1 the School shall be guided and governed by the Memorandum of Incorporation of Mitchell House Preparatory School NPC, Trading as Mitchell House;
- 2.5.2.2 the School shall appropriate money or other goods donated or bequeathed to or received in trust by the School, in accordance with the conditions of the donation, bequest or trust concerned.
- 2.5.3 Save to the extent otherwise stipulated in the Companies Act No 71 of 2008, Act 104 of 1986 and Act 84 of 1996, the management, control and executive power of the School vest in directors of the School of which shall be the ex officio and elected members of the Board of Governors.

2.6 Mission Statement and Vision of School

- 2.6.1 The school's mission shall be:
"With the help of Almighty God and founded on the high ideals of English Christian culture, Mitchell House helps its pupils to develop to the best of their ability, and guides their growing minds towards high ideals."
- 2.6.2 The school's mission for pupils attending the Enrichment Centre shall be:-
"To provide innovative and relevant stimulative educational instruction and support to pupils with disabilities by guiding them through proper tuition, cultural, emotional and social development to achieve each individual pupil's maximum potential."

2.7 Powers of the Company

- 2.7.1 The company is not subject to any provisions contemplated in section 15 (2)(b) or (c).
- 2.7.2 The purpose and powers of the Company are not subject to any restrictions, limitations or qualifications, as contemplated in section 19 (1)(b)(ii), except to the extent necessarily implied by the stated objects.

2.8 Aims and Objectives

- 2.8.1 In pursuit of the School's mission, the School has as its aims and objectives the following:
- 2.8.1.1 the development and maintenance of the character and ethos of the School, building for the future on the best traditions;
- 2.8.1.2 the maintenance of high standards of tuition and the encouragement of academic achievement;
- 2.8.1.3 the maintenance and advancement of extra-curricular activities and the encouragement of all Pupils to participate therein;
- 2.8.1.4 the encouragement and attainment in respect of each pupil of an enquiring mind, sound moral values, a social conscience, respect for the rights and dignity of others and self-respect, self-confidence and self-discipline;
- 2.8.1.5 the creation and promotion of a sense of community among educators, parents and pupils and to encourage an enjoyment of the School within this community; and
- 2.8.1.6 to recognize in an appropriate manner the distinctive Christian character of the School.
- 2.8.2 In pursuit of the School's inclusion policy, the School has as its aims and objectives to provide belonging to pupils who have diverse ways of learning and diverse life and other experiences;
- 2.8.2.1 to work to build individual capacity and restructure where necessary so as to remove barriers to optimize learning;
- 2.8.2.2 to cater for as many pupils as possible in our community recognizing diversity in its natural proportions.
- 2.8.3 The School undertakes:
- 2.8.3.1 the rights of each pupil, including his/her right to fair treatment without discrimination and to equal opportunity, both in the classroom and in his/her extra-curricular activities at the School, will be respected;
- 2.8.3.2 Parents will be provided with regular reports as to the academic performance and School activities in general of the Pupils;
- 2.8.3.3 Parents will be afforded the opportunity of a fair audience with the Head of another member of the School's staff, depending on the severity of the issue, to discuss any grievances or any other issues concerning the Pupils;

2.8.3.4 The Board of Governors, the Head and Deputies shall promote, support and respect the dignity and rights of the Educators, including their rights to fair treatment without discrimination.

2.9 The Head

- 2.9.1 Subject to the control and prescriptions of the Board of Governors, the Head shall be responsible for:
- 2.9.1.1 The daily dispatch of the business of the School;
 - 2.9.1.2 The education and general discipline of the Pupils;
 - 2.9.1.3 The sporting, cultural and other extra-curricular activities of the Pupils;
 - 2.9.1.4 The supervision and effective utilization of the Educators; and
 - 2.9.1.5 The implementation of all decisions of the Board of Governors.

2.10 Dissolution or Winding-Up

- 2.10.1 If upon the winding up, deregistration or dissolution of the Company, there remains, after the satisfaction of all its debts and liabilities, any property whatsoever, such property shall not be paid to or distributed among the directors or other members of the Company or component bodies nominating directors to the Board, but shall be given and transferred to some other school, foundation, body or institution of an educational nature which has been approved as a PBO in terms of section 10(1)(cN) read with section 30(b)(iii) of the Income Tax Act, to be determined by the Board at or before the time of deregistration or dissolution.
- 2.10.2 In the absence of a determination by the Board as contemplated in clause 9.1 above, such determination shall be made by the court as contemplated in Item 1(4)(b)(ii)(cc) of Schedule 1 of the Act.
- 2.10.3 For the purpose of carrying to its final termination the dissolution process of the Company, and notwithstanding anything to the contrary in this Memorandum, the persons then constituting the Board shall remain in office until the earlier of such final termination, on the one hand, or on the other their deaths or other disqualification in terms of this Memorandum. If vacancies occur, resulting in there being fewer directors than are needed to establish a quorum, then the remaining directors will form a quorum.

2.11 Public Benefit Organisation

- 2.11.1 The Board may, if and when deemed appropriate, submit an application to the South African Receiver of Revenue to be registered as a public benefit organisation as provided for in terms of section 10(1)(cN) read with section 30 of the Income Tax Act ("PBO"), if it is not already a PBO at the time of the adoption of this Memorandum.
- 2.11.2 In order for the Company to comply with the requirements relevant to a PBO and for the period while it is so registered, it is expressly agreed that:
- a) the sole object of the Company as described in this Memorandum shall at all times be to carry on one or more public benefit activity as defined in section 30(1) of the Income Tax Act;
 - b) no activity will directly or indirectly promote the economic self-interest of any fiduciary or employee of the Company otherwise than by way of reasonable remuneration;
 - c) at least 85% (eighty five percent) of the Company's activities measured either in cost or time spent, will be carried out for the benefit of persons in the Republic;
 - d) at least three directors will not be connected persons in relation to each other and no single director shall directly or indirectly control the decision making powers relating to the Company;
 - e) the funds of the Company will be used solely for the objects for which it was established or shall be invested with a financial institution as defined in section 1 of the Financial Services Board Act No 97 of 1990, as amended or replaced from time to time;
 - f) no remuneration will be paid to any employees, office bearer or other person which in the opinion of the Board is excessive, having regard to what is reasonable in the sector in relation to the service rendered;
 - g) the Company will not economically benefit any person in a manner that is inconsistent with its objects as described in this Memorandum; and
 - h) to the extent that the Income Tax Act is amended so as to delete, change or add to any of the above requirements, then this clause 7 shall be deemed to be altered to reflect such deletion, change or addition.

2.12 Annual Budget

- 2.12.1 The Board of Governors must prepare a budget each year, which shows the estimated (forecast) income and expenditure of the School for the following financial year;
- 2.12.2 Once the budget referred to in 2.12.1 above is approved by the Board of Governors, it must be presented to a general meeting of parents convened on at least 21 days' notice, for consideration and approval by a majority of parents present and voting.

2.13 Financial records and audited statements:

- 2.13.1 The Board of Governors must keep records of funds received and spent by the School and of its assets, liabilities and financial transactions;
- 2.13.2 the Board of Governors must as soon as practicable, but not later than four (4) months after the end of each financial year, draw up annual financial statements;
- 2.13.3 The Board of Governors must appoint a person who is registered as an accountant and auditor in terms of the Public Accountants and Auditors Act No. 80 of 1991, to audit the records and financial statements of the School.
- 2.13.4 No person who has a financial interest in the affairs of the School may be appointed for above;
- 2.13.5 The financial year of the School commences on the first day of January and ends on the last day of December of each year.

2.14 Language Policy

- 2.14.1 For practicable and operational reasons the language of instruction at the School shall be in English;
- 2.14.2 The Enrichment Centre shall however be free to give instruction in whatever language they see fit, given the profile of pupils at the facility, including instruction in Augmentative and Alternative Communication.

2.15 Admission

Subject to Act 104 of 1986 and Act 84 of 1996 and the regulations, a pupil shall not be admitted to the School unless:

- 2.15.1 Mainstream Admission:
 - The pupil is under the maximum age determined by the Board of Governors from time to time in respect of the class to which the pupil seeks admission;
 - 2.15.1.1 The Pupil has attained the academic standard required by the School, whether by passing the School's entrance examination or otherwise;
 - 2.15.1.2 The Pupil's proficiency in English meets the standard of proficiency determined by the Head;
- 2.15.2 The Pupil's Parents or guardian enters into a written agreement in respect of all fees and undertake to pay the compulsory Tuition and fees upon such terms and conditions as may be determined by the Board of Governors;
- 2.15.3 The Head is reasonably satisfied that the Pupil will commit himself to the character and ethos of the school and abide by the rules of the School. The race, colour or creed of a Pupil or his/her Parents shall not preclude the Pupil from being admitted to the School;
- 2.15.4 The Parents and Pupil have acknowledged and understood the Mission Statement and Vision of the School
- 2.15.5 Enrichment Centre:
 - 2.15.5.1 The Board of Governors shall determine the maximum number of pupils who may be admitted to the facility, providing that the following ratios shall apply:
 - a) Educator : Pupil 1:8
 - b) Activity Assistant : Pupil 2:8
 - 2.15.5.1 No Pupil shall be admitted to the School as a Pupil unless:
 - a) Application for his/her admission has been made to the Head of the School on the official application for, by or on behalf of his/her parent/guardian;
 - b) Such Pupil complies with the criteria for the admission set out for pupils with disabilities;
 - c) An extensive evaluation of the pupil has been conducted by the Co-ordinator of the Enrichment Centre. Such evaluation may include the review of medical, physical, and/or any other relevant reports pertaining to the disabilities of the pupil;

- d) The parents of the pupil have been interviewed by the Head of the School in conjunction with the Co-ordinators of the Enrichment Centre;
- e) Clauses (a) to (d) have been complied with and the application has been approved.

2.16 Prohibition of Corporal Punishment

No person may administer corporal punishment to a pupil of the School. In terms of the Act 84 of 1996 Section 10, it is an offence to administer corporal punishment.

Article 3 – Members and Board of Governors

3.1 Membership

- 3.1.1 The Board of Governors of the School shall consist of the following members:
- (a) Ex officio members;
 - (b) Elected members;
 - (c) Co-opted members
- 3.1.2 Ex officio members of the Board of Governors shall consist of the following members:
- (a) The Head, in his/her official capacity;
 - (b) The deputy Heads, in their official capacity;
 - (c) The Bursar in his/her official capacity.
- 3.1.3 Elected members of the Board of Governors shall comprise of:
Parents of pupils at the School, elected in terms of Section 3.6 of this constitution. At least one of the parents elected shall be a parent who has a pupil attending the Enrichment Centre;
- 3.1.4 Co-opted members of the Board of Governors may comprise of each of the following categories:
- (a) Representatives of sponsoring bodies.
 - (b) Members of the community whom the Board of Governors identifies as having representatives of organizations of disabled persons or disabled persons.
 - (c) Experts in appropriate fields of education.
 - (d) Educators at the School.
 - (e) Members of the Parent body whom the Board of Governors identifies as representing specific geographical areas of racial groups which are not adequately represented on the Board of Governors.
 - (f) The chairperson of the Parents Association.
 - (g) Members of the community whom the Board of Governors identifies as having special skills to assist with the functions of the Board of Governors.
- 3.1.5 Ex officio and elected members have voting rights on the Board of Governors. Co-opted members have no voting rights.
- 3.1.6 A parent who is employed at the School may not represent parents on the Board of Governors.
- 3.1.7 The total number of co-opted members is restricted to a maximum number of six members.
- 3.1.8 The number of ex officio members, parent members, and elected community members of the Board of Governors shall vary according to the following schedule:

Mitchell House Preparatory School NPC					
Elected Parent Members	Enrichment Centre Parent Member	Co-opted Members	Ex officio Bursar	Ex officio Deputy Head's	Ex officio Head Member
7	1	Up to 6	1	2	1

- 3.1.9 A person shall be incompetent to be a member of the Board of Governors if he/she:
- (a) has been convicted of any offence for which he/she was sentenced to imprisonment without the option of a fine; or
 - (b) is mentally ill and has been so declared by a competent court; or
 - (c) is an un-rehabilitated insolvent.

3.2. Powers, Function and Duties of the Board of Governors:

The powers, functions and duties of the Board of Governors are as follows:-

- 3.2.1 Subject to the terms and conditions of any lease agreement, to manage, maintain and adequately insure the property of the School, furniture, equipment and other facilities, and subject to Act 104 of 1986 and Act 84 of 1996, to exercise control over the School and all its activities and to protect and promote the general welfare of the School;
- 3.2.2 To determine compulsory tuition fees and to enforce payment by parents, within the legal parameters of the Consumer Protection Act 2008, whether by way of instalments or otherwise, as the Board of Governors from time to time deems fit;
- 3.2.3 To provide financial assistance, at the discretion of the Board of Governors, from designated Bursary Funds, whether by way of bursaries to Pupils or otherwise, to Parents unable to pay Tuition fees; furthermore to provide scholarships at the discretion of the Board;
- 3.2.4 To apply for loans and subsidies upon such terms and conditions as approved by the Board of Governors;
- 3.2.5 To borrow monies on behalf of the School and to bind any collateral of the School as security for the repayment of any such monies and interest thereon;
- 3.2.6 To generate funds for the School by whatever lawful means it deems appropriate and to manage and apply all funds of the School, subject to independent auditing, and to make the audited financial statements of the School available;
- 3.2.7 Subject to 2.15 to determine criteria for the admission of Pupils to the School;
- 3.2.8 To appoint the Head and Bursar at the School;
- 3.2.9 To assist the Head with the appointment of employees at the School, subject to the Basic Employment Act of 1997 and to determine the salaries and other service benefits of such employees;
- 3.2.10 Subject to any legislation, to make recommendations to the Head regarding, inter alia, the daily opening and closing times of the School, a code of conduct for Pupils and the School's policy on participation in extra-curricular activities;
- 3.2.11 To assist and support the Head in the management of the School and in maintaining the reputation and academic standards of the School;
- 3.2.12 To make and implement decisions, subject to the approval of the Members of the Management Committee, concerning the exercise of a choice with regard to courses and subject packages within the set curriculum at national level which the School offers to Pupils and to implement and finance additional fields of study with the permission of the Members of the Management Committee;
- 3.2.13 To act as official spokesperson on behalf of Parents;
- 3.2.14 To keep Parents informed of the School's financial position and to report to Parents on the activities of the Board of Governors at least once a year, either at a general meeting of Parents or by way of a newsletter;
- 3.2.15 To appoint an auditor or firm of auditors of its choice as the external auditor of the School;
- 3.2.16 If and when it deems it appropriate, to seek and appoint a Sponsoring Body for the school upon such terms as may be agreed by the Board of Governors;
- 3.2.17 To appoint one or more committees to assist and advise the Board of Governors and subject to the directions of the Board of Governors, to perform such functions as may be determined by the Board of Governors. The Board of Governors may appoint to any such committee persons who are not members of the Board of Governors, provided that the chairperson of any such committee shall be a member of the Board of Governors. The Board of Governors may alter or invalidate any decision of a committee;
- 3.2.18 Subject to the provisions of 3.16 to make recommendations of amendments to this constitution;
- 3.2.19 The Board of Governors shall have the Exclusive Right to enter into any contracts on behalf of the School, and enforce such contracts as it may deem appropriate including the institution of legal proceedings and to settle or compromise any claims upon such terms as it shall deem fit. The said School shall further have the sole right to appoint Attorneys to represent the School or the Board of Governors, or any of its members, whenever deemed necessary by the Board of Governors and in particular, to institute and defend legal proceedings for and on their behalf;
- 3.2.20 To insure the School, the Educators, the Board of Governors and its members, against all such potential liabilities and claims as the Board of Governors may deem necessary;
- 3.2.21 To determine the religious character of the School and the manner in which such character or ethos is to be maintained in the School;
- 3.2.22 Generally, to exercise all powers which the Companies Act and the Regulations confer on it as read with the Memorandum of Incorporation and to perform all functions which the act and regulations require of it,

and, subject to the foregoing, to do all things as the Board of Governors may deem to be in the best interest of the school from time to time.

3.3. Liability of Board of Governors

- 3.3.1 Save that a member of the Board of Governors shall be personally liable for any loss suffered by the school, as a result of his/her dishonesty, neither the Board of Governors as a whole nor its members individually, shall be liable for:
- (a) Any debt incurred by or on behalf of the School, whether by the Board of Governors or any one (1) or more of its members or otherwise;
 - (b) Any damage or loss whatsoever and however arising, suffered by the School, whether as a result of acts or omissions of the Board of Governors or any one (1) or more of its members, in the bona fide administration of the School's affairs, or otherwise.
- 3.3.2 The authority of the Company's Board of Directors to advance expenses to a director, or indemnify a director, in respect of the defence of legal proceedings, as set out in section 78 (3) is not limited or restricted by this Memorandum of Incorporation.
- 3.3.3 The authority of the Company's board of Directors to indemnify a director in respect of liability, as set out in section 78 (5) is not limited or restricted by this Memorandum of Incorporation.
- 3.3.4 The authority of the Company's Board of Directors to purchase insurance to protect the Company, or a director, as set out in section 78 (6) is not limited or restricted by this Memorandum of Incorporation.
- 3.3.5 In so far as possible a Board member acting in a contractual capacity on behalf of the school shall act in terms of a resolution authorising the Board Member to act on behalf of the school, failing which he could be held personally liable.

3.4. Election Officer

- 3.4.1 The Chairperson of the Board of Governors shall appoint one person to act as an election officer for all electoral procedures at the School;
- 3.4.2 The election officer may appoint a person or persons to assist in the election process;
- 3.4.3 The election officer shall preside over all matters relating to the nomination and election of candidates and his/her decision shall be final;
- 3.4.4 After the election of members to the Board of Governors, the election officer shall:
- (a) Keep all documents, including ballot papers, used in the election in safe custody for a period of at least three (3) months from the date of election;
 - (b) Notify each elected member of the Board of Governors in writing of his/her election;
 - (c) Notify the Head in writing of the names of the elected members of the Board of Governors.

3.5. Parent Members

Eligibility:

- 3.5.1 Every parent of a pupil at the School shall be entitled to:
- (a) Stand for election as a parent member of the Board of Governors of the School subject to 3.1;
 - (b) Vote in an election of parent members of the Board of Governors and shall have one (1) vote in respect of each candidate in the election with the maximum number of votes equal to the number of parent members to be elected.

Nomination:

- 3.5.2 The election officer shall determine a date, time and place for a nomination meeting which shall be held not earlier than 21 days prior to, and not later than 21 days after the expiry of the period of office of the existing Board Governors;
- 3.5.3 The election officer shall prepare a notice (as set out in Annexure "A1" and "A2" hereto, hereinafter referred to as Notice of Nomination Meeting and Poll) of the nomination meeting referred to in 3.5.2 above, in which the date, time and place of the meeting and possible poll shall be stated at least 20 days prior to the date of the nomination meeting;
- (a) By way of letter and/or notification given to a child at school; or
 - (b) By way of electronic communication; or
 - (c) In a manner which the Board deems appropriate in the circumstances.
- 3.5.4 The Head shall, if necessary, make available to the election officer, the School register containing names and addresses of parents of pupils at the School for the purposes of exercising control at the meeting;

- 3.5.5 A candidate may be nominated by a parent of a pupil of the School by lodging with the election officer, not less than seven (7) working days, prior to the commencement of the nomination meeting, a nomination form (see Annexure "B" hereto) duly completed by the proposer, seconder and candidate. A brief C.V. of the candidate must accompany the nomination form.
- 3.5.6 The election officer shall consider the nominations and reject the nomination of any candidate who:
- Has not been nominated in terms of 3.5.5 above;
 - Is incompetent as contemplated in terms of Section 3.1.9 above and thereupon the election officer shall announce the names of the candidates whose nominations have been accepted.
- 3.5.7 The election officer shall record the names of persons nominated for election and the names of the proposers and seconds of those persons;
- 3.5.8 If the total number of nominations made at the meeting is:
- Less than the required number of parent members of the Board of Governors, the election officer shall dissolve the meeting and convene a new meeting within fourteen (14) days at which nominations may be made anew;
 - Equal to the required number of parent members, the election officer shall declare the nominated candidates duly elected; or
 - More than the required number of parent members, the election officer shall hold elections.
- 3.5.9 Nominations to the Board of Governors are limited to one parent per family.

Election:

- 3.5.10 The election of parent members of the Board of Governors shall be by secret ballot;
- 3.5.11 The election officer shall issue one officially marked ballot paper to each parent;
- 3.5.12 The election officer shall reject any spoilt ballot paper before counting the votes recorded for each candidate;
- 3.5.13 The number of parents of pupils at the School determined in terms of the schedule in Section 8 of this constitution in respect of the Board of Governors, for whom the greatest numbers of votes have been recorded, shall be declared by the election officer to be the elected members of the Board of Governors;
- 3.5.14 If the number of votes in favour of two or more candidates is equal and it affects the results of the election, the election officer shall ascertain the result with regard to the said candidates by a show of hands of all parents, entitled to vote, present at a meeting.

3.6. Terms of office

- 3.6.1 A term of office of a member of the Board of Governors (other than the ex officio members) is three (3) years from the date of appointment at the Annual General Meeting. Notwithstanding the expiry of the term of office, the members of the Board of Governors shall continue to hold office until such time as a new Board of Governors is constituted;
- 3.6.2 The term of office of an office bearer of the Board of Governors is one (1) year;
- 3.6.3 A member or office bearer of the Board of Governors may be re-elected or co-opted, as the case may be, after the expiry of his/her term of office;
- 3.6.4 It is deemed desirable that no elected member serve more than two consecutive terms on the Board of Governors;
- 3.6.5 Any member failing to attend three (3) consecutive meetings without reasonable explanation shall be deemed to have resigned;
- 3.6.6 Notwithstanding the provisions of the above, a member of the Board of Governors may at any time be removed from office by a 75% majority vote of the Board of Governors.

3.7. Dissolution of the Board of Governors

- 3.7.1 If at least sixty percent (60%) of parents of pupils at the School, at a meeting for parents convened for the purpose of considering "no confidence", vote for a motion of no confidence in the Board of Governors, the chairperson of the Board of Governors shall dissolve the Board of Governors within seven (7) days of the motion of no confidence;
- 3.7.2 If the Board of Governors is dissolved in terms of 3.7.1 above, it shall be reconstituted within one (1) month in accordance with this constitution;
- 3.7.3 The powers and functions of the Board of Governors shall be exercised and performed, during the period from the dissolution of the Board of Governors until the reconstitution of the new Board of Governors, by two (2) or more persons appointed by the parents of pupils in attendance at the meeting stated in Section 3.7.1 above.

3.8. Office Bearers

- 3.8.1 The Head shall convene the first meeting of the Board of Governors within twenty eight (28) days after completion of the election of the members of the Board of Governors;
- 3.8.2 At this meeting, the members shall, from among its members, elect the following office bearers of the Board of Governors:
 - (a) A chairperson, who must be a parent member;
 - (b) A vice chairperson, who must also be a parent member;
 - (c) Any additional office bearers deemed necessary to the functions of the Board of Governors;
- 3.8.3 At this meeting, duties and functions of each office bearer and member shall be tabulated so as to cover all functions and duties as stipulated in 3.2 above.

3.9. Co-Option of Members

- 3.9.1 The Board of Governors may co-opt the persons referred to in Section 3.1 of this constitution on the provision that it is by a two-thirds majority vote.
- 3.9.2 The Head of the School shall notify the parents in writing of the names of the co-opted members.
- 3.9.3 A co-opted member of the Board of Governors shall have no right to vote or hold office.

3.10. Reimbursement of Members of the Board of Governors

- 3.10.1 Necessary expenses incurred by a member of the Board of Governors in the performance of his/her duties may be reimbursed by the School;
- 3.10.2 No member of the Board of Governors may be remunerated in any way for the performance of his or her duties.

3.11. Meetings

- 3.11.1 The Board of Governors shall meet at least once every three (3) months;
- 3.11.2 A quorum of the Board of Governors shall be a simple majority of members eligible to participate in the relevant business of the Board of Governors;
- 3.11.3 A member of the Board of Governors must withdraw from a meeting of the Board of Governors for the duration of a discussion and decision-making on any issue in which the member has a personal interest;
- 3.11.4 The Board of Governors shall, no later than the end of the first term each year, convene an Annual General Meeting of parents of pupils at the School at which:
 - (a) The latest audited financial statements required by law are tabled and discussed;
 - (b) The chairperson submits a written report on the activities of the Board of Governors for the previous year;
 - (c) Any other matter relating to the School may be discussed, provided the matter has been tabled to the chairperson prior to the meeting take place.
- 3.11.5 The Board of Governors shall convene a special general meeting of parents of pupils at the School within thirty (30) days of receipt of a petition signed by at least twenty five percent (25%) of parents of pupils at the School, requesting that a special general meeting be held.
- 3.11.6 The right of members to requisition a meeting, as set out in section 61 (3), may be exercised by at least 10% of the voting members, as provided for in this Memorandum of Incorporation.
- 3.11.7 The authority of the Company's Board of Directors to determine the location of any members meeting, and the authority of the Company to hold any such meeting in the Republic or in any foreign country, as set out in section 61 (9) is not limited or restricted by this Memorandum of Incorporation.
- 3.11.8 The minimum number of days for the Company to deliver a notice of a members meeting to the members, as required by section 62, is as provided for in section 62 (1).
- 3.11.9 The authority of the Company to conduct a meeting entirely by electronic communication, or to provide for participation in a meeting by electronic communication, as set out in section 63 is not limited or restricted by this Memorandum of Incorporation.
- 3.11.10 The maximum period allowable for an adjournment of a members meeting is as set out in section 64 (12), without variation.

3.12 Quorum for Members Meetings

- 3.12.1 The quorum requirement for a Members' meeting shall be 10% of the Members of the Company.

- 3.12.2 The time periods provided for in section 64(4) and (5) of the Act are as follows:
- 3.12.2.1 if, within thirty (30) minutes after the appointment time for a meeting to begin, a minimum quorum is not present, the meeting shall be postponed without motion for one (1) week;
 - 3.12.2.2 the remainder of the provisions of section 64 of the Act apply.
- 3.12.3 The authority of a meeting to continue to consider a matter is not limited.

3.13 Adjournment of Members' Meetings

- 3.13.1 The maximum period allowable for an adjournment of a Members' meeting is twenty one (21) business days.

3.14 Meeting Procedures

- 3.14.1 An extraordinary meeting of the Board of Governors may be convened by the chairperson when he/she deems it necessary or when at least four (4) members submit to the chairperson a written request for such a meeting containing their reasons for such a request;
- 3.14.2 Ordinary and extraordinary meetings will take place after written notice of the meeting has been issued to all members at least seven days prior to the meeting. The notice of the meeting must include a list of the matters to be discussed at the meeting;
- 3.14.3 The Board of Governors will deal with matters of which prior notice has been given, and will deal with other matters provided that all members of the Board of Governors agree to do so;
- 3.14.4 Any person may attend and speak at a meeting of the Board of Governors, provided that prior approval of all the members has been obtained;
- 3.14.5 Each voting member of the Governing Body has one (1) vote. At conclusion of voting the chairperson will exercise a casting vote if necessary;
- 3.14.6 The minutes of any meeting will be read or taken as read at the opening of the next meeting, and if approved, signed by the chairperson and one (1) other member of the Board of Governors;
- 3.14.7 Matters of procedure or standing not covered by the constitution will be decided by the chairperson. Should any member question such a decision, then the matter will be submitted to the meeting for discussion and resolution;
- 3.14.8 The financial controller and two (2) other members (selected for the purpose of financial approval) of the Board of Governors, by majority vote, must give their written approval for any payment made out of any School funds;
- 3.14.9 Minutes shall be taken and kept of the proceedings of every Board of Governors meeting in a book or file which is used exclusively for this purpose and which shall be kept in a safe place. In the minutes of every meeting, the names of the members who are present, as well as the names of those who are absent, with or without apology, will be entered.
- 3.14.10 For an ordinary resolution to be adopted at a members meeting, it must be supported by more than 50% of the members who voted on the resolution, as provided in section 65 (7).
- 3.14.11 For a special resolution to be adopted at a members meeting, it must be supported by at least 75% of the members who voted in the resolution, as provided in section 65 (7).
- 3.14.12 A special resolution adopted at a members meeting is not required for a matter to be determined by the Company, except those matters set out in section 65 (11).

3.15 Casual Vacancies

- 3.15.1 A casual vacancy on the Board of Governors shall occur when a member:
- (a) Resigns in writing; or
 - (b) Dies; or
 - (c) Is removed from office in terms of Section 3.7.6 above; or
 - (d) Is absent from three (3) consecutive meetings without a reasonable explanation; or
 - (e) Becomes ineligible in terms of the constitution.
- 3.15.2 Despite Article 3.16.1(e) above, a parent member of the Board of Governors who becomes ineligible to serve as a member, may at the discretion of the Board of Governors, complete his/her term of office;
- 3.15.3 Whenever a casual vacancy occurs:
- (a) In the office of a member of the Board of Governors who must be elected in terms of the constitution, such vacancy shall be filled by election in terms of the constitution at the next annual general

meeting. In the event that the casual vacancy is three (3) members or more, then a special election must be held to fill the vacancies;

(b) In the office of a member who may be co-opted in terms of the constitution, such vacancy shall be filled by the Board of Governors through co-option.

3.15.4 A member elected or co-opted in terms of this Article shall hold office for the unexpired term of his/her predecessor.

3.16 Amendments to Memorandum of Incorporation

3.16.1 The Memorandum of Incorporation may only be amended or modified at a meeting of the Parents of which at least twenty one (21) days written notice has been given to all the Parents, and at which meeting seventy five percent (75%) of the total number present vote in favour thereof;

3.16.2 Clauses relating to the Enrichment Centre may only be amended or modified with a one hundred percent (100%) vote in favour thereof;

3.17 Dispute Resolution

3.17.1 If any dispute arises out of, or in connection with this Memorandum, or related thereto, whether directly or indirectly, including the enforcement of the provisions hereof, the Board may, in its sole discretion, refer such dispute for resolution by way of arbitration.

3.17.2 A dispute within the meaning of this clause exists once the Board notifies the relevant parties in writing of the nature of the dispute and requires the resolution of the dispute in terms of this clause.

3.17.3 Within 10 (ten) business days following such notification, the matter will be referred to arbitration as envisaged in the clauses below.

3.17.4 The arbitration will be held as an expedited arbitration in accordance with the then current rules for expedited arbitration of the Arbitration Foundation of Southern Africa ("AFSA") by 1 (one) arbitrator appointed by agreement between the Board and the relevant disputing party/ies. If the parties cannot agree on the arbitrator within 10 (ten) business days after the referral of the dispute to arbitration, the arbitrator shall be appointed by the Secretariat of AFSA.

3.17.5 The decision of the arbitrator shall be final and binding on all parties and there shall be no further right of appeal.

3.17.6 The provisions of this clause shall not preclude any party from access to an appropriate court of law for interim relief in respect of urgent matters pending finalisation of this dispute resolution process.

3.18 Code of Conduct

3.18.1 The Board of Governors must adopt a code of conduct for the pupils after consultation with the parents of pupils and educators of the School;

3.18.2 The Code of Conduct must be aimed at establishing a disciplined and purposeful School environment, dedicated to the improvement and maintenance of the quality of the learning process;

3.18.3 Guidelines proposed by the Department of Education for determining a code of conduct should be considered by the Board of Governors;

3.18.4 Nothing in this constitution, or Act 84 of 1996, or Act 104 of 1986, exempts a pupil from the obligation to comply with the Code of Conduct of the School.

3.18.5 The Code of Conduct must contain provisions of due process safeguarding the interests of the pupil and any other party involved in disciplinary proceedings.

MITCHELL HOUSE

NOTICE OF NOMINATION MEETING AND POLL

ELECTION OF MEMBERS OF BOARD OF GOVERNORS

Notice is hereby given that a meeting for the nomination of candidates for the election of two (2) parent members of the BOARD OF GOVERNORS will be held on Wednesday, 2 April 2014 at 18:00 in the Theatre.

A candidate may be nominated by lodging, with the Election officer no later than 12, midday on Thursday, 6 March 2014, a nomination form duly completed and signed by the proposer, the seconder and the candidate.

A nomination meeting will be held on 11 March 2014 after which a list of the nominations will be circulated to parents before the Annual General Meeting on Wednesday, 2 April 2014.

If more candidates are nominated than the number of members to be elected, a poll will be held on Wednesday, 2 April 2014 from 16:30 to 17:30 in the Theatre.



Mr Andrew Cook
Signature of Election Officer

Address: Mitchell House
Erf 153 Tweefontein
POLOKWANE

ANNEXURE "A. 2"

MITCHELL HOUSE BOARD OF GOVERNORS

INFORMATION IN CONNECTION WITH ELECTION (TO ACCOMPANY NOTICE OF NOMINATION OF MEETING AND POLL)

1. **CONSTITUTION OF BOARD OF GOVERNORS**

The Board of Governors of the school shall consist of the following members:-

1. ex officio members;
2. elected members;
3. co-opted members.

Ex officio members of the Board of Governors shall comprise of each of the following categories:-

- The Head, in his/her official capacity.
- The deputy Head, in his/her official capacity.
- The Bursar, in his/her official capacity.

Elected members of the Board of Governors shall comprise of each of the following categories:-

- Parents of Pupils at the School elected in terms of section 10.2 of this constitution.
- At least one of the parents elected shall be a parent who has a pupil attending the Learning Support Centre

Co-opted members are members of the community whom the Board of Governors identifies as having special skills to assist with the functions of the Board of Governors.

Ex officio and elected members have voting rights on the Board of Governors. Co-opted members have no voting rights.

A Parent who is employed at the School may not represent Parents on the Board of Governors.

2. **NOMINATION**

- Each candidate shall be proposed by a Parent and seconded by another Parent. A Parent who proposes or seconds a candidate shall satisfy himself that the candidate is qualified to be elected as member.
- A nomination form shall be completed in respect of every candidate. These forms are obtainable from the Headmaster.

3. **DISQUALIFICATION OF MEMBERS**

A person shall be incompetent to be a member of the Board of Governors if he or she:-

- Has been convicted of any offence for which he or she was sentenced to imprisonment without the option of a fine; or
- Is mentally ill and has been so declared by a competent court; or
- Is an un-rehabilitated insolvent.

4. **FRANCHISE**

Every Parent of a Pupil at the School shall be entitled to:-

- Stand for election as a Parent member of the Board of Governors of the school;
- Vote in an election of Parent members of the Board of Governors and shall have one (1) vote in respect of each candidate in the election with maximum number of votes equal to the number of Parent members to be elected.

MITCHELL HOUSE
NOMINATION FORM
ELECTION OF MEMBERS OF BOARD OF GOVERNORS

CANDIDATE:

I, _____
(Full name)

of _____
(Residential address)

hereby declare that I:

- (a) Accept the above-mentioned nomination
And
- (b) am not incompetent to be a member of the Board of Governors as contemplated in paragraph 7.9 of the Constitution.

Signature of the Candidate

Nomination is for a Parent of a pupil at the Learning Support Centre: Yes/ No

PROPOSER:

I, _____
(Full name)

of _____
(Residential address)

being a Parent of a Pupil of the above School, hereby propose

(Full name of candidate)
as a member of the Board of Governors of the above-mentioned School.

Signature of the Proposer

SECONDER:

I, _____
(Full name)

of _____
(Residential address)

being a Parent of a Pupil of the above School, hereby second the above-mentioned proposal.

Signature of the Seconder

