THE MEASUREMENT AND VERIFICATION COUNCIL AFRICA (MVCA)

GOVERNANCE HANDBOOK 2024

Section 1 – Constitution

Section 2 - Code of Conduct

Section 3 - By-laws

Table of Contents

SECTION 1: CONSTITUTION 5
1 Name 5
2 Definitions 5
3 Legal Persona 7
4 Mission 7
5 Objectives 7
6 Qualification for Membership 8
7 Obligations of Membership 10
8 The Board 10
9 Powers of the Boards 11
10 Election & nomination of Board members 13
11 Meetings of the Board 14
12 Education & Registration, Investigation, Disciplinary and Audit Committees 15
13 Other committees 15
14 Funds of the Council 15
15 Annual General Meeting 16
16 Special General Meetings 17
17 Notice of meetings 17
18 By-laws 18
19 Fees & subscriptions 18
20 Register of Members 18
21 Financial statements & audit 18
22 Indemnities 19
23 Limitation of liability 19
24 Amendment of the Constitution 19
25 Amalgamation 19
26 Winding-up 19
27 Special provisions 19
28 Transition 20
SECTION 2: CODE OF CONDUCT 22
1 Introduction 22
2 Fundamental Principles 22
3 Independence 23
4 Professional competence 24
5 Code applicable to advertising, stationery & letterheads 24
6 M&V practices 26
7 Fees & commissions 27
8 Resolution of ethical disputes 30
9 Relations with other members & other professional persons 31

10 Signing of reports & certificates 34
11 Agreements with other professional bodies 34
SECTION 3: BY-LAWS 36
1 Commencement of By-laws 36
2 Definitions 36
3 Secretariat 36
4 Register of membership, records & documentation 36
5 Application for membership 37
6 Qualification for membership 37
7 Cancellation of membership 39
8 Fees, subscriptions & charges 40
9 Resignation, cancellation of membership due to non-payment of fees & re-admission of members 41
10 Certificates of Membership 41
11 Death of a Full Member 41
12 Registered addresses & notices 41
13 Disciplining of punishable offences 42
14 Education & Registration, Investigation, Disciplinary & Audit Committees 43
15 Powers & duties of the Education & Registration Committee 44
16 Powers & Duties of the Investigation Committee 44
17 Powers & duties of the Disciplinary Committee 45
18 Recording & publication of findings & decisions 46
19 Powers & Duties of the Audit Committee 47
20 Legal proceedings 48
21 Protection of the name & reputation of the Council & the income of its members 49
22 Power to make rules 50
23 Code of Conduct 50
24 Amendment of By-laws 50
25 Winding up of the Council 50
26 Interpretation of By-laws 50

THE MEASUREMENT AND VERIFICATION COUNCIL AFRICA

GOVERNANCE HANDBOOK 2024

Section 1 - Constitution

Section 2 - Code of Conduct

Section 3 - By-laws

SECTION 1: CONSTITUTION

1 Name

The name of the body is the "**THE MEASUREMENT AND VERIFICATION COUNCIL OF SOUTH AFRICA**".

2 Definitions

In the Constitution, the Code of Conduct and the By-laws of the Council the terms below have the meanings defined unless the context indicates otherwise.

2.1 "**AEE**" means the Association of Energy Engineers, with its head office located in Atlanta, USA

2.2 "**By-laws**" means the By-laws of the Council that are from time to time in force under the Constitution.

2.3 "**Chapter**" means a formal Chapter of the AEE.

2.4 "**Chief Executive**" means a person appointed by the Board to manage the Council in accordance with the policies from time to time determined by the Board. This may be the President in the absence of a Chief Executive.

2.5 "**Code of Conduct**" means the rules of professional conduct of the Council made in terms of paragraph 23 of the By-laws.

2.6 "**Constitution**" means the Constitution of the Council.

2.7 "**Continuing professional development/education (CPD)**" means the education and training requirements with which full members must comply to retain their membership, as determined from time to time by the Council.

2.8 "**Council**" means the MEASUREMENT AND VERIFICATION COUNCIL AFRICA;

2.9 "**Full member**" means a natural person who is a full member registered with the Council as such in terms of paragraph 6 of the Constitution, including honorary members, life members, retired members and foreign members, but excluding any other member class.

2.10 "**Full member in good standing**" means any admitted full member whose dues are fully paid in respect of any fees, levies or other monies payable to the Council, who is not in material breach of any of the provisions of the Constitution, the Code of Conduct or the By-laws of the Council, and has complied with the Council's Continuing Professional Development (CPD) requirements.

2.11 "**IPMVP**" means the International Performance Measurement and Verification Protocol

2.12 "**Local**" means Independent Countries in Africa which are part of the Council

2.13 "**Measurement and Verification Professional**" means those full members who have been admitted to this class of membership of the Council and, who offer professional services to the public and private sectors, either as employees, sole practitioners, in partnerships or when

practising within the statutory requirements of any Act of the Republic of South Africa.

2.14 "**Notice**" and "**Written notice**" shall include any transmission by e-mail. The electronic confirmation of transmission of an e-mail automatically provided by the software shall be deemed prima facie proof of delivery of such notice.

2.15 "**Practical experience requirements**" means such practical experience as the Council may from time to time prescribe in terms of paragraph 6 of the By-laws.

2.16 "**Practice**" means any form of business entity under which, or in association with which, a practising full member as defined, operates and shall include a tertiary institution, sole proprietorship, partnership, trust, joint venture, close corporation and company provided all its owners, members or trustees, whichever is applicable, are members.

2.17 "**Process**" means the examination, in accordance with prescribed or applicable measurement and verification standards or guidelines, of:

2.17.1 Energy Processes with the objective of expressing an opinion as to the energy savings achieved after the implementation of an energy efficiency measure; or

2.17.2 Measurement and verification and other information, prepared in accordance with suitable criteria, with the objective of expressing an opinion on the energy efficiency savings and other information;

2.18 "**Professional Evaluation**" means an evaluation by the Council of the manner in which full members conduct themselves in accordance with the By-laws of the Council.

2.19 "**Professional Services**" means any service performed by a Measurement and Verification professional, including, but not limited to, measurements, verification, auditing and consulting services.

2.20 "**Professional Support Programme**" means the assistance given by a member of the Secretariat who is a Council staff member or by a full member who is a duly appointed representative of the Council, to a full member either on request, or in the course of the regular evaluation process, or in respect of an investigation or a disciplinary procedure.

2.21 "**Recognised Measurement and Verification bodies**" means those professional measurement and verification bodies that are from time to time recognised in writing as such by the Council.

2.22 "**Recognition of prior learning (RPL)**" means the recognition of verifiable measurement and verification-related training and experience obtained over a period in accordance with the requirements of the Institution or any other relevant body.

2.23 "**Registered address**" shall be the physical and/or postal and/or e-mail address, provided by all members in accordance with the By-laws of the Council.

2.24 "**Registered student**" means a person enrolled as a bona fide student at a recognised tertiary institution and the student that is registered as a student with the Council.

2.25 "**Registered Measurement and Verification Trainee**" means a person employed by an Approved Training body or Association, that is undergoing prescribed practical training and is registered as a trainee with the Council.

2.26 "**Regulator**" means an Independent Regulatory Board or Body and/or any other statutory bodies

appointed by the government.

2.27 "**Secretariat**" means the person appointed by the Council to manage and operate the business of the Council.

2.28 "**Statutory bodies**" means anybody as defined by the Council and/or any other statutory bodies appointed by a Government in Africa.

2.29 "**Supervisor**" means a person approved by the Council to supervise a registered student undergoing practical experience.

2.30 "**The Board**" means a Board of elected and nominated persons who control and manage the Council.

2.31 "**Words and expressions in the masculine gender**" unless inconsistent with the context, include the feminine, and words signifying the singular include the plural and vice versa.

2.32 "**Year**" means the financial year of the Council as determined from time to time by the Board.

3 Legal Persona

The Council is, and may be housed, within the Institute of Energy Professionals Africa (IEPA), or another similar body which is a not-for-profit Section 1 Organization, with perpetual succession capable of suing and being sued in its own name and performing such acts as are necessary for or incidental to the achievement of its objectives and the exercise of its powers or the performance of its functions and duties under this Constitution or under any statute of the Republic of South Africa.

4 Mission

The mission of the Measurement and Verification Council Africa is to be the independent M&V body that governs and supports Measurement and Verification professionals in order to protect the interest of all Measurement and Verification stakeholders.

5 Objectives

The objectives and functions of the Council are as follows:

5.1 Implement or support a recognized registration process for persons engaged in professional measurement and verification services as described in paragraph 6 of the Constitution.

5.2 Function as a membership council for persons engaged in professional measurement and verification services as described in paragraph 6 of the Constitution.

5.3 Provide for and facilitate investigative and disciplinary processes against its members.

5.4 Co-operate with and participate in the activities of other relevant national and international bodies.

5.5 Apply for membership of other relevant national and international bodies.

5.6 Develop, enhance and endeavour to ensure the ability and commitment of the measurement and

verification profession to provide high-quality professional services in the public interest.

5.7 Endeavour to reconcile conflicts of interest between the measurement and verification profession, members and the public.

5.8 Co-operate with the applicable local Regulators and comply with the provisions of relevant Regulations and/or Legislation.

5.9 Ensure that members, where applicable, comply with the provisions of relevant Regulations and/or Legislation.

5.10 Training

5.10.1 Prescribe the training requirements for full membership.

5.10.2 Establish, support, certify or regulate training programmes acceptable for full membership qualification.

5.11 Industry support

5.11.1 Improve and sustain the status and professional image of the Council.

5.11.2 Maintain and enhance the status and professional standing of the measurement and verification profession and its members locally and internationally.

5.11.3 Promote and protect the common interests of members and the welfare of the measurement and verification profession with due regard to the broader interest of the public.

5.11.4 Advise measurement and verification professionals, members and the general public on matters of concern to the measurement and verification profession.

5.11.5 Provide members with relevant information on developments in the measurement and verification profession.

5.11.6 Conduct and facilitate research into measurement and verification-related matters.

5.11.7 Initiate local and international conferences and workshops for measurement and verification professionals.

5.11.8 Facilitate opportunities for the exchange of views amongst the membership and related organizations.

5.11.9 Represent the measurement and verification profession on local and international developments and legislation affecting the measurement and verification profession.

6 Qualification for Membership

Admission as member shall be at the sole discretion of the Council and the Council shall be under no obligation to accept or renew the membership of any person. Subject to the provisions of By-Law 5, the following qualifications for admission to membership of the Council shall apply:

6.1 Full membership

Membership is split into two categories:

a. Members:
Who are fully paid up members of Local Chapters of the Association of Energy Engineers (AEE). Chapters to confirm the member status annually,

or,

b. Professional Members where all of the following criteria must be satisfied:

Either:

6.1.1 The individual has a tertiary qualification acknowledged by the council, and,

6.1.2 Has successful completion of training courses acknowledged by the Council to satisfy the Measurement and Verification training requirements, and,

6.1.3 Having been adjudged competent by satisfying a professional evaluation assessment on practical experience in Measurement and Verification

6.1.4, Having satisfied a professional evaluation determining the prospective member's knowledge of the Constitution, the Code of Conduct and the By-laws of the Councill,

Or,

6.1.5 The individual, who has been assessed and found to be competent and accepted as a Measurement and Verification technical signatory by the South African National Accreditation System (SANAS), and,

6.1.6 Having satisfied a professional evaluation determining the prospective member's knowledge of the Constitution, the Code of Conduct and the By-laws of the Council,

6.2 Professional-in-Training membership

Some criteria for full membership are satisfied.

6.2.1 Successful completion of, or enrollment in training courses acknowledged by the Council to satisfy the Measurement and Verification training requirements for full membership within four years since application.

6.2.2 Having been adjudged competent by satisfying a professional evaluation assessment on practical experience in Measurement and Verification OR in process of building a practical professional competency profile to submit for adjudgment by the Council within three years of application.

6.2.3 Having satisfied a professional evaluation determining the prospective member’s knowledge of the Constitution, the Code of Conduct and the By-laws of the Council.

6.3 Continued membership is subject to renewal on an annual basis, as determined by the Council from time to time.

6.4 All classes of members of the Council may only offer professional services to the public for which they are qualified. Offering such services is subject to requirements laid down by the Council in the By-laws, and any other requirements determined by the Council, statutory bodies, or regulatory authorities.

6.5 Full members of the Council wishing to perform the attest function in terms of the Measurement and Verification Profession may from time to time be required to also register or be accredited with

another body, i.e. a Regulator, NEEA, etc.

6.6 Notwithstanding the above:

6.6.1 The Board may confer an Honorary Membership on any person who in its opinion has rendered meritorious service to the Council. Honorary Members shall not be required to pay any subscriptions to the Council by virtue of their Honorary Membership. Such members shall be subject to the Constitution, the Code of Conduct and the By-laws of the Council.

6.6.2 The Board may grant a Full Member Life Membership of the Council. Such members shall not be required to pay subscriptions to the Council. Such members shall, however, be subject to the Constitution, the Code of Conduct and the By-laws of the Council.

6.6.3 Retired members may, on application, and with approval of the Council, be classified as such. Retired Members shall pay an annual fee as determined by the Council. Such members shall be subject to the Constitution, the Code of Conduct and the By-laws of the Council, and shall not be entitled to perform any of the functions of a Full Member who is not a Retired Member.

6.7 If members take up residence outside the African continent, they may, on application and with the approval of the Council, be classified as Foreign Members. Foreign Members shall pay the annual fee as determined by the Council. Such members shall be subject to the Constitution, the Code of Conduct and the By-laws of the Council.

6.8 The Council may admit persons to membership of the Council based on Recognition of Prior Learning (RPL). Typically a 10-year period of M&V-related experience, with no qualifications, may be accepted.

6.9 Membership of the Council is dealt with in accordance with paragraph 6 of the By-laws of the Council.

6.10 The Council shall from time to time determine policy in terms of membership, registration, competency and practical experience of Full members in accordance with the By-laws of the Council.

7 Obligations of Membership

All members are required to conform to the objectives of the Council as enshrined in the Constitution and to adhere to the Code of Conduct and the By-laws of the Council as from time to time determined by the Council.

All members shall be obliged to provide the Council with their current, e-mail, postal and physical address and any changes thereto within 30 days.

8 The Board

8.1 The Board shall consist of a maximum of ten (10) individuals resident and active in Africa. There shall be a maximum of eight (8) voting individuals and a maximum two (2) non-voting observer individuals consisting of:

8.1.1 Six (6) members, of which four (4) shall be full members, shall from time to time be elected by the full members in terms of the voting procedures of the Council;

8.1.2 One (1) member may be nominated by the AEE to serve on the Board as a non-voting member

with observer status.

8.1.3 A maximum of a further two (2) persons, one of whom must be a full member of the Council, may be invited annually by the Board to support it in its policy function and in serving the interests of the members of the Council. The term of office of such invited members shall expire at the Annual General Meeting immediately following their appointment to the Board. The Board may annually also co-opt to the Board, a specialist or a past board member as specialist advisor. Such co-opted board member shall have voting rights.

8.2 The elected Board members will serve for a four (4) year term commencing at the conclusion of the Annual General Meeting at which they are announced, subject to the transition provisions.

8.3 The elected Board members may only serve for a maximum of two (2) terms consecutively but may again be re-elected for future terms.

8.4 A vacancy occurring on the Board caused by the death, incapacity, removal or resignation of a nominated Board member may be filled by the Board. A (new) Board member so nominated shall be subject to retirement at the same time as if that person had become a Board member on the day on which the Board member the new person is replacing was announced as a Board member.

8.5 Notwithstanding the above provisions, the term of office of a Board member shall ipso facto terminate and that person shall vacate the office if he/she:

8.5.1 Ceases to be a member of the Council in the case of being an elected or nominated member of the Council;

8.5.2 Resigns his/her office by notice in writing to the Chairperson of the Board;

8.5.3 Is absent without leave from more than two (2) consecutive meetings of the Board;

8.5.4 Is declared insane or found incapable of managing his/her affairs by a competent court of law;

8.5.5 Is sequestrated, provisionally or finally, surrenders his/her estate for the benefit of his/her creditors or makes an offer of compromise to his/her creditors or commits any act of insolvency;

8.5.6 Is convicted of any criminal offence by a competent court of law;

8.5.7 Ceases to be resident in a recognised sovereign country of Africa; and,

8.5.8 Is found by the Board to be remiss in the performance of any function, task or responsibility allocated to that person by the Board, or is found to be in breach of any of the duties of a Board full member as from time to time determined by the Board.

8.6 The term of office of a Board member shall take effect after receipt by the Council of written consent to act as Board member, signed by the member concerned and is thereafter announced at a subsequent Annual General Meeting.

9 Powers of the Boards

The secretariat of the Council will be decided on by the Board. This function may be provided by another supporting or sponsoring entity. Irrespective the decision, the MVCA shall be entitled to:

9.1 Purchase, hire, exchange, accept donations of, receive grants and honoraria, or otherwise acquire,

sell, let, exchange, mortgage, pledge, donate or otherwise dispose of movable and immovable property of all kinds or any rights or interest therein, or any other asset of any kind;

9.2 Approve and monitor the implementation of the Annual Business Plan of the Council, including the annual fees, any penalties and fines, and any other dues;

9.3 Approve and monitor the Annual Budget of the Council;

9.4 Honour and, if deemed desirable, to secure the repayment of money in such manner as it may deem fit.

9.5 Acquire, encumber, apply or dispose of and generally to deal with any funds in any manner as it may deem fit, but always in accordance with the aims and objectives of the Council as set out in this Constitution.

9.6 Enter into all such contracts and do all such other acts and things as may be necessary or expedient from time to time to achieve the aims and objectives of the Council as set out herein.

9.7 Council, conduct, defend, settle or abandon any legal proceedings by or against the Council in any manner as it may deem fit, but always so as to achieve the aims and objectives of the Council as set out herein.

9.8 Open, operate and close savings and other accounts with any financial institution, to buy or sell or otherwise deal with shares or stock or debentures or bonds or any other interest in any company or body corporate or government agency, and generally to invest the funds and other assets of the Council in such manner as it may deem fit, but always in accordance with the aims and objectives of the Council as set out herein.

9.9 Take all steps necessary to enter and record the name of the Council in respect of all its assets, liabilities, agreements and commitments and all projects and activities currently held, undertaken or performed by the Council as the holder of the rights and obligations concerned.

9.10 Consider and approve requests by the President, Secretariat or Board member for any deviation from the approved Annual Budget of the Council.

9.11 Identify, select and appoint a person to manage the Councils affairs on behalf of the Board and, with due cognizance to relevant Labour legislation, remove the person from the service of the Council should he/she be found to be in breach of his/her Employment Contract and in that manner prepare the Employment Contract for the person to be appointed and determine the salary and terms of employment.

9.12 Generally to do all such things as may be necessary or expedient in order to carry out or further any of the aims or objects of this Council.

9.13 Interpret any clause of the Constitution or By-laws if any dispute arises as to its meaning, such interpretations being binding on its members if accepted by the majority of the Board, i.e. 50% plus

one.

9.14 Amend By-laws or to make new By-laws in terms of the provisions of this Constitution.

9.15 In addition, the Council and Board shall also have the following powers:

9.15.1 to speak for the measurement and verification profession in Africa;

9.15.2 to liaise with Governments;

9.15.3 to contribute to local policy to be applied in regard to access to the profession;

9.15.4 to coordinate and organize practical training for students and trainee measurement and verification professionals;

9.15.5 to engage in the determination and formulation of curricula and syllabi of the measurement and verification profession;

9.15.6 to raise funds to enable it to carry out its functions as it deems fit; and

9.15.7 to make such By-laws as the Council or the Board deem necessary for the acceptance of new members of the Council and also for those members bodies to qualify as members of the Council, bearing in mind existing and future reciprocity arrangements.

9.16 Do whatever else the Board deems necessary to enable it to carry out its responsibilities as conferred upon it in terms of this Constitution.

9.17 In managing the affairs of the Council, the Board shall be entitled to exercise all the powers granted to it by this Constitution.

9.18 Generally to do whatever the Board deems necessary to carry out the objectives of the Council and to exercise the powers and to perform the functions and discharge the duties given to or imposed upon it in terms of this Constitution.

10 Election & nomination of Board members

10.1 Board members

10.1.1 Full members

10.1.1.1 Full members wishing to serve on the Board must be proposed and seconded by members on the prescribed form and in the manner decided by the Council from time to time.

10.1.1.2 The nominee, proposer and seconder must be members in good standing at the time of the nomination.

10.1.1.3 Following nomination, a potential candidate must submit his/her manifesto to the Council within the prescribed period.

10.1.1.4 On receipt of the duly completed nomination forms, the Secretariat shall compile a ballot paper which shall, together with the list of nominees, their CV’s and their manifesto's, be submitted to members at least thirty (30) days before the Annual General Meeting, or as and when the Board decide. Members will be required to return their duly completed ballot papers to the Council's chosen members within twenty-one (21) days of the circulation of such ballot papers. This may

be in an electronic format.

10.1.1.5 The Council's chosen Board members shall, in consultation with the Council, validate the duly completed ballot papers they receive and, independently of the Secretariat, count the votes for each nominee and thereafter submit a report to the President and person managing the Council's affairs.

10.1.1.6 The contents of such report shall be announced at the Annual General Meeting or as decided by the Board.

10.1.2 Board Members nominated by other bodies

10.1.2.1 The Secretariat, on request from the Board, shall request the other bodies, deemed important and relevant to the Council, to each nominate an individual to serve on the Board of the Council. Such nominations to be made on the prescribed form at least thirty (30) days before the Annual General Meeting, or date decided on by the Board, at which their membership of the Board is announced.

10.1.2.2 Should a member so nominated to the Board for whatever reasons need to terminate the membership, the nominating body will be requested to replace such a member.

10.2 President & Vice-President

10.2.1 At the first Board meeting following, where the new Board is announced, the Board shall elect from amongst its members, a President who is a full member of the Council. If a President's term of office terminates before his term as President or member of the Board has expired, s/he shall immediately become co-opted to complete her/his term as Member and Chairperson of the Board.

10.2.2 The Board shall elect from amongst its members, a Vice-President who shall also be a full member of the Council.

10.2.3 In the event of the President being unable to complete her/his term of office, the Board shall elect a successor to complete her/his term of office in terms of paragraph 10.2.1.

10.2.3.1 The Vice-President is not necessarily given preference when filling such a vacancy.

10.2.3.2 A Board full member so elected shall be subject to retirement as per paragraph 8.

10.2.3.3 The term of office of the President shall be two (2) years and that of the Vice-president one (1) year, but both may be elected for another two (2) years.

11 Meetings of the Board

11.1 The Board shall meet at least twice per year at such time and place as it may determine.

11.2 At least twenty one (21) days notice shall be given of all Board meetings unless urgency justifies a shorter notice period. The President, with the Vice-President to decide on the urgency if or when required.

11.3 The quorum for meetings of the Board shall be 60% . If no quorum is present within one (1) hour after the appointed time of the meeting, the meeting shall stand adjourned for one (1) week, to be held at the same time and place. The Board members then present shall constitute a quorum and have the full power to transact the business that would have been transacted had the meeting been

held on the date for which it was called.

11.4 Disputes arising at a meeting of the Board shall be decided by a simple majority (50% plus one (1)) of votes of Board members present at the meeting.

11.5 A resolution in writing, signed by all Board members, shall be deemed to be valid and effective as if it was passed at a duly convened and constituted meeting of the Board. Where different copies of the same resolution are signed by various members of the Board, these copies shall be collated and deemed to be a single resolution signed by all the members of the Board. A written agreement in a reply per email is considered binding and acceptable.

11.6 Where Board members are consulted telephonically on a particular course of action, the responses of such members will be drafted into a resolution deemed to be binding, and shall be ratified in writing at the next Board meeting or, depending on urgency and circumstances, immediate distribution for agreement via either courier or electronically through email will be considered sufficient.

11.7 The Board shall cause proper minutes to be kept of all:

11.7.1 Meetings of the Board; and,

11.7.2 All other committees and meetings of members of the Council.

12 Education & Registration, Investigation, Disciplinary and Audit Committees

12.1 The Board shall appoint, as and when necessary, Education & Registration, Investigation, Disciplinary, and Audit Committees that shall have the powers to carry out the duties and exercise the functions delegated to such committees under paragraph 14 of the By-laws.

12.2 Committees appointed by the Board shall comply with the terms of reference given to them by the Board and shall file a set of the minutes of all meetings and the resolutions passed at the national office of the Council.

13 Other committees

13.1 The Secretariat may (with the approval of the board) appoint other committees to assist it in the performance of its functions and duties and may appoint full members or other persons to such committees.

13.2 The Secretariat, if not done by the Board, shall appoint the chairpersons of such committees.

13.3 The Secretariat shall determine a quorum for meetings of such committees.

13.4 Committees shall comply with the terms of reference given to them and shall file a set of the minutes of all meetings and the resolutions passed at the office of the Council.

14 Funds of the Council

14.1 The Council shall, subject to the provisions of this Constitution, apply its funds and income to

promote the objectives of the Council.

14.2 The Council shall not make any distributions to any of its members.

14.3 Should the Council be wound up, persons who cease to be members of the Council, the executors, administrators, heirs or assigns of such persons, shall in no circumstance have any claim to or against the Council by reason of such previous membership nor shall any present full member have any claim against the Council in respect of such funds.

14.4 Should the Council be wound up, its funds shall be dealt with in accordance with the provisions of the Constitution and the By-laws of the Council.

15 Annual General Meeting

15.1 The Annual General Meeting of the Council shall be held within six (6) calendar months of the financial year end, or in the absence thereof, on a date as decided by the Board, at such place, date and hour as the Council shall decide.

15.2 The Annual General Meeting of the Council shall be held to transact the following business of the Council:

15.2.1 The announcement of the new Board members;

15.2.2 The presentation of the reports of the Board President and, if appointed, the person managing the Council on behalf of the Board;

15.2.3 The approval of the Annual Report from the President of the Council on the past year's activities;

15.2.4 The approval of the Annual Financial Statements of the Council and the auditor's report;

15.2.5 The appointment of an auditor for the ensuing year; and

15.2.6 Any other business that is not inconsistent with the purposes and provisions of the Constitution, on condition that such resolution was submitted to the person managing the Council on behalf of the Board no less than thirty (30) working days before such meeting and notice of such meeting was circulated to all members at least twenty-one (21) working days before the Annual General Meeting.

15.3 The Annual General Meeting of the Council shall be chaired by the Board President or, in his absence, by the Vice-president. In the absence of both the President and Vice-President, the meeting shall be chaired by any other Board full member who is agreed to by the meeting based on a simple majority of the voting members present at the meeting.

15.4 Every full member in good standing shall be entitled to attend and vote at the Annual General Meeting.

15.5 The quorum at the Annual General Meeting shall be ten (10) voting members present or represented by proxy. If no quorum is present within fifteen (15) minutes after the appointed time of the meeting, the meeting shall stand adjourned for one (1) week to be held at the same time and place. At an adjourned Annual General Meeting, the members present shall constitute a quorum and have the full power to transact the business that would have been transacted had the meeting

been held on the date for which it was called.

15.6 All voting at an Annual General Meeting shall be by poll of those voting members present in person or by proxy. Proxies in the form laid down by the Council shall be lodged not less than forty-eight (48) hours before the time of the meeting at the offices of the Council.

15.7 Every motion proposed and seconded at an Annual General Meeting of the Council shall be decided by a poll.

15.8 A poll requested on the appointment of a chairperson or the adjournment of the meeting shall be taken forthwith. A poll requested on any other matter shall be taken at such a time as the chairperson of the meeting directs. The request for a poll shall not prevent the continuation of the meeting for the transaction of any business other than the question upon which the poll was demanded.

15.9 A poll shall be taken in such manner as the chairperson directs and the result of the poll shall be deemed to be a resolution of the meeting. Scrutineers, who may not include the members proposing or seconding the resolution, shall be appointed by the chairperson of the meeting to determine the result of the poll. The result they determine shall be announced by the chairperson of the meeting and shall be deemed to be a resolution of the meeting at which the poll was requested. An entry to that effect in the minutes of the proceedings shall be deemed to be conclusive evidence of the result.

16 Special General Meetings

16.1 The Council may decide on receipt of a written request in which the objectives of the proposed meetings are expressed and which is supported by no less than fifteen (15) members in good standing, to call a Special General Meeting of the Council. The notice calling a requested Special General Meeting shall be issued by the Council within thirty (30) days of receipt of the request and such meeting shall be held no later than sixty (60) days following receipt of the request at such place (virtual or actual), time and date as the Council may determine.

16.2 The provisions of paragraphs 15.5, 15.6, 15.8, and 15.9 shall apply to Special General Meetings except as otherwise provided for in the Constitution.

16.3 The quorum at a Special General Meeting shall be 60% of those that requested the meeting, present or represented by proxy. If no quorum is present within fifteen (15) minutes after the appointed time of the meeting, the meeting shall stand adjourned for one (1) week to be held at the same time and place. At an adjourned Special General Meeting, the members present of the original group that requested the meeting, shall constitute a quorum and have the full power to transact the business that would have been transacted had the meeting been held on the date for which it was called.

16.4 In the case of a Special General Meeting called at the request of members of the Council; such meeting shall not, as in the case of paragraph 16.3, be adjourned, but shall be dissolved.

17 Notice of meetings

The Council shall, not less than twenty-one (21) working days before each meeting of the Council, inform all members at their physical and/or registered e-mail address, stating the place, date, hour and/or type of the meeting. In the case of an Annual General Meeting such notice shall be accompanied by the reports from the Board chairperson and Chief Executive, copies of the Annual Financial Statements together with the auditors' report and any proposed resolutions. Copies of the Annual Report will be transmitted to members when available

and will be provided to members in hard copy at the Annual General Meeting. In the case of a Special General Meeting, such notice shall specify the business to be transacted at that meeting, and no other business except that of which notice has been given in the prescribed manner, shall be transacted.

18 By-laws

18.1 The By-laws of the Council shall be those published by the Council from time to time.

18.2 The Council may from time to time amend the By-laws and make new By-laws, provided that these new or amended By-laws have been circulated by notice to members for comment before being approved and coming into force

18.3 The Council, in amending and making new By-laws, may cover any matter that the Council considers necessary or expedient to ensure better execution of the Constitution and the furtherance of the objectives of the Council.

19 Fees & subscriptions

19.1 Each member of the Council shall pay an annual subscription at such time, of such amount and on such conditions as may from time to time be determined by the Council. Such fees shall include the cost of Professional Indemnity insurance or any other cost that the Council deems to be a compulsory requirement of that particular class of member. The entrance fee, if any, payable on admission as a member of the Council shall be determined by the Council from time to time.

19.2 A fee to be determined by the Council from time to time may be levied on all members for a professional support visit.

19.3 An annual fee, to be determined by the Council from time to time, may be levied on an approved training center.

19.4 Interest and/or penalties may be levied on any arrears amount as provided for in the By-laws, as amended from time to time.

19.5 The Council may decide to accept a single payment from a local AEE Chapter as payment for its members to also be members of the Council.

19.6 These provisions must be read in conjunction with paragraph 8 of the By-laws.

20 Register of Members

The Council shall maintain a register of all its members.

21 Financial statements & audit

The Council shall:

21.1 Keep proper records of all financial transactions undertaken in the name of the Council;

21.2 Prepare an Annual Report and Financial Statement as at the financial year-end, which is the end of February in each year, and such statements shall be audited by a firm of registered auditors appointed by the administrators of the MVCA and approved by the Board.

21.3 The Annual Financial Statements shall be made available on request at the offices of the Council

for inspection by all members or the public, after 6 months of year end.

22 Indemnities

Every full member on the Board or members of any committee appointed by the Board or the Secretariat, and every officer and employee of the Council, shall be indemnified by the Council against all claims arising from or losses and expenses incurred as a result of the execution of their duties, except claims, losses or expenses arising from their own fraud or gross negligence.

23 Limitation of liability

23.1 A member of the Council shall not be liable for any commitments given by the Council. All persons shall be deemed to have contracted or dealt with the Council on this basis.

23.2 The liability of a member shall be limited to the amount owing to the Council.

24 Amendment of the Constitution

The Constitution may from time to time be amended, on the recommendation of the Council, by a resolution passed by no less than two thirds of those full members of the Council present in person or by proxy at a Special General Meeting of which due notice has been given with full particulars of the proposed amendments.

25 Amalgamation

The Council may amalgamate or incorporate or join with other bodies with similar objectives in Africa, whether or not incorporated by statute, on the basis of a resolution supported by no less than two thirds of those full members who are present in person or by proxy at a Special General Meeting duly convened and constituted for this purpose.

26 Winding-up

26.1 The Council may be wound up in terms of the provisions of the By-laws and by resolution passed by no less than two thirds of those full members who are present in person or by proxy at a duly convened and constituted Special General Meeting.

26.2 Members shall not have any claim in respect of any surplus there may be on winding up of the Council, which surplus shall be dealt with in terms of the By-laws.

26.3 Upon it being wound up, any funds or assets of the Council remaining after the payments of the debts and expenses of the Council and the costs of winding up, shall be distributed to or amongst such kindred or related associations, bodies or institutions with objects similar to those of the Council, including Educational Institutions (but excluding individual members of any kind) as the Board shall decide, provided that such associations, bodies or institutions are themselves exempt from liability to pay income tax.

27 Special provisions

27.1 The definitions as set out in the Constitution shall have a corresponding meaning in the Code of

Conduct and By-laws unless the contrary is indicated in context.

27.2 For purposes of interpretation the English text shall be deemed authoritative and binding.

28 Transition

In order to phase the Board's continuity, the following transitional arrangements shall be followed for the following four years after a Board has been temporary terminated:

28.1 Those already elected members of the Board shall remain in office and their term of office shall be extended to the following General Meeting. They will then retire and may be eligible for re-election.

28.2 Newly elected Board members, will remain in office for a period of four (4) years in accordance with the Constitution.

28.3 In the event of any conflict arising in regard to these transitional arrangements, the Board will make the final decision.

THE MEASUREMENT AND VERIFICATION COUNCIL AFRICA

GOVERNANCE HANDBOOK 2024

Section 1 - Constitution

Section 2 - Code of Conduct

Section 3 - By-laws

SECTION 2 : CODE OF CONDUCT

1 Introduction

1.1 The Code of Conduct prescribed by the Council is provided for in By-law 23.

1.2 The aim of the Code of Conduct is to raise the level of professionalism and the quality of service rendered to the public, to enhance the credibility of the measurement and verification profession, and to increase the confidence of the public in the profession.

1.3 Breaches of the Code of Conduct may be considered punishable offence within the ambit of By-law 13.

1.4 A member may be held accountable should he breach the Code of Conduct by failing to comply with the Code and/or the Constitution and/or the By-Laws in respect of all parties he interacts within the course of his business as a member, or if such breach results from the action of for example:

- His employees; or
- Persons under his supervision; or
- His partners; or
- His fellow trustees of a trust controlled by the member, or the member and his fellow trustees and offering professional services to the public; or
- His fellow shareholders, fellow directors, or fellow employees in a company or any other business entity offering professional services to the public. (For these purposes a company will be deemed to be controlled by members if members between them hold directly or indirectly, more than half of the voting rights attached to the shares of the company or directly or indirectly and either alone or together with anyone else are entitled to exercise the *de facto* right to control the manner in which the business of the company is carried on, including but without limitation, the right to appoint the majority of the persons entitled to exercise control over its management and affairs).

1.5 A member may be held accountable should he commit any breach as above whilst exercising his duties as a Consultant or a Measurement and Verification Professional.

1.6 The Code shall apply to full members, and shall be interpreted from a broad perspective.

1.7 Unless inconsistent with the context, words and expressions in the masculine gender include the feminine and words signifying the singular shall include the plural.

1.8 The definitions as set out in the Constitution shall have a corresponding meaning in the Code of Conduct, unless the contrary is indicated by the context.

2 Fundamental principles

The fundamental principles to which full members of the Council subscribe are:

2.1 "**Integrity**" which means that members should be open and honest in their dealings, and truthful in the performance of their services.

2.2 "**Objectivity**" which means that members should be impartial and not allow prejudice or bias,

conflict of interest or the influence of others to override their objective judgment.

2.3 "**Professional competence and due care**" which means that members should perform their services with due care, competence and diligence, and have a continuing duty to maintain their professional knowledge and skills at a level sufficient to ensure that all relevant stakeholders, e.g. clients, employers, credit providers and other government departments/agencies receive the advantage of competent service based on the latest developments in the profession and in keeping with current legislation.

2.4 "**Confidentiality**" which means that members should respect the confidentiality of information acquired during the course of performing professional services and should not use or disclose any such information without proper and specific authority, unless there is a legal or professional right or duty to disclose such information.

2.5 It is noted that the duty of confidentiality continues beyond the end of the relationship between the full member and the client or employer.

2.6 "**Professional behaviour**" which means that members should act in a manner consistent with the good reputation of the Council and the measurement and verification profession, refraining from any conduct that might bring the Council and/or the measurement and verification profession into disrepute. Members should conduct themselves professionally with due consideration towards clients, third parties, other members of the measurement and verification profession, staff, employers and the general public.

2.7 "**Relevant standards**" which means that members should perform their services in accordance with the relevant technical and acceptable standards, protocols or guidelines applicable at the time and with due regard to the legislative requirements that may apply. Members are duty-bound to perform their services with care and skill, taking note of the instructions of the client or employer insofar as these instructions are compatible with the requirement to act with integrity, objectivity and independence at all times.

3 Independence

3.1 When members undertake an advisory and/or a reporting assignment, they should act and be seen to act in a manner that is free of any interest or conflict of interest and which may be regarded, whatever its actual effect, as incompatible with their commitment to integrity, objectivity and independence.

3.2 A member who has reason to believe that his or his employee's involvement in an assignment could possibly cause a conflict of interest should immediately disclose this possibility to his client or the relevant entity. Where it is clear that a material conflict of interest exists, a member should decline the assignment.

3.3 A member should not concurrently engage in any business, occupation or activity that impairs or may impair his integrity, objectivity, independence or the good reputation of the Council or the profession, and that would therefore be incompatible with the requirements for the rendering of acceptable professional services.

3.4 Rendering two or more types of professional services concurrently does not in itself impair integrity, objectivity or independence. Simultaneous engagements in other businesses, occupations or activities unrelated to the professional services provided by the member, and which have the effect of not allowing the full member to properly conduct his engagement in accordance with the fundamental principles of the measurement and verification profession, should be regarded as

being inconsistent with the measurement and verification profession.

4 Professional competence

4.1 A member should not portray himself as having expertise or experience that he does not possess.

4.2 Members should ensure that their professional competence is maintained. This requires them to remain continuously aware of developments in the measurement and verification profession, and to ensure that they have the requisite knowledge related to such developments, including an awareness of relevant national and international pronouncements, and other relevant statutory requirements and regulations.

4.3 A member shall ensure that he complies with the Continuing Professional Development (CPD) requirements of the Council, as determined by the Council in accordance with its requirements, where such requirements are deemed necessary. This is a material requirement of the Code of Conduct. Notwithstanding any other provisions contained in the Constitution, the By-laws or the Code of Conduct, non-compliance may result in the immediate and automatic suspension of a member and/or the withdrawal of the privileges that such a member enjoys. In the event of a member so suspended and/or having his privileges withdrawn, such member will have the right to request that the matter be referred to the Board in accordance with the provisions of By-law 7.

4.4 Members should adopt a programme designed to ensure quality control in the performance of their services, consistent with appropriate national and international pronouncements and norms.

4.5 A member not registered with the required bodies or authorities may not on his own behalf undertake any work that may only be performed through registration with the Regulator or suitable body, but it shall not preclude him from doing the necessary measurement and verification duties assigned to him while operating under the direction of a registered measurement and verification professional. A member shall not, under the guise or through the medium of a company, close corporation, partnership, trust or any other entity undertake anything that would not be permissible when operating on his own account.

4.6 A member shall not criticise the professional work, professional attainment, or professional fees charged by any professional person. When a member is of the opinion that he has a duty to comment adversely about any of these matters with regard to any person, other than a member of public, he may only comment, after discussion of these matters with the professional person concerned.

4.7 A member shall not directly or indirectly offer employment to any employee of another member of the Council without informing the member.

5 Code applicable to advertising, stationery & letterheads

5.1 Advertising

5.1.1 All advertising and publicity shall be in accordance with the Code of Advertising Practice of the local Advertising Standards Authority. In particular, such material should be aimed at informing the public in an objective manner, should be in good taste in terms of both content and presentation, and should not impair or adversely reflect on the dignity of the Council or the profession.

5.1.2 Members registered as full members of the Council may only advertise services normally

associated with membership of the Council. Members who advertise and are not so registered, will be in contravention of the By-Laws and Code of Conduct, and therefore be subject to disciplinary action.

5.1.3 Advertising should inform the public in an objective manner and should be decent, honest, truthful and in good taste. Although it is permissible for advertisements to refer to the basis on which fees for services are calculated, members should bear in mind that stating hourly rates and/or other costs could be misleading.

5.1.4 Advertising that is not permitted includes, inter alia, the following:

5.1.4.1 Advertisements that create false, deceptive or unjustified expectations of more favourable results;

5.1.4.2 Advertisements that compare members or other professional persons (including fees);

5.1.4.3 Advertisements that contain testimonials or endorsements;

5.1.4.4 Advertisements that make unjustified claims about the expertise or specialised skills of a member in a particular field;

5.1.4.5 Advertisements that contain inaccuracies;

5.1.4.6 Advertisements with reference to statutory functions which the member is not allowed to perform;

5.1.4.7 Advertisements in which a member claims superiority over another member or any other professional person;

5.1.4.8 Advertisements that imply that a member has the ability to influence any court, tribunal, regulatory agency or similar body or official;

5.1.4.9 Advertisements that bring the profession or the Council into disrepute;

5.1.4.10 Advertisements that denigrate the work of other member/s;

5.1.4.11 Aggressive soliciting by means of personal canvassing, including but not limited to, cold calling, spamming, telephone calls, e-mails, the distribution of flyers and brochures at government, municipal or administrative offices and touting for work at government departments; and

5.1.4.12 Follow-ups that refer to any previous direct mailing, unless requested by the recipient.

5.2 Stationery & letterheads

5.2.1 Stationery used by full members should be of an acceptable professional standard and maintain a level of consistency and conformity.

5.2.2 The correct use of the Council's logo (including the designation and graphic symbol) is encouraged and permitted for use by full members of the Council. The logo may be used in conjunction with a members business' logo, provided that the impression is not created that the Council's logo is the member's logo, or that the member's business' logo does not purport to be a modified or adapted version of the Council's logo or parts thereof. Where members are in doubt a ruling should be sought from the Council.

5.2.3 The Council's logo may not be modified, adapted, supplemented to or detracted from in any manner whatsoever. Representation of the Council's logo shall be in the colours of the

Council, or in black and white or in grey-scale contrast, or in such colours as the Council may from time to time determine.

5.2.4 Apart from the name of the member's business, the logo (if any) and the customary details regarding the address, telephone and fax numbers, a member's professional stationery shall also clearly indicate the nature of the entity through which he offers his services, whether it is a sole proprietorship, trust, partnership, close corporation or company etc. The stationery should also specify the registration number of the entity, the membership number of the member, the names of all partners, members, directors (as the case may be), and the names of all professional assistants and consultants.

5.2.5 The designation of the Council, as agreed by the Board from time to time, should appear next to the names of each member. Where a full member is associated with a non-member , the impression may not be created that the non-member is a full member.

5.2.6 Full members should describe themselves as being a member of the Council for Measurement and Verification Professionals for South Africa. This does not, however, prevent members from using other designations referred to in the Constitution, and as determined by the Board from time to time.

5.2.7 Members may include references to any other person, firm or business with whom they are associated, provided that such references clearly distinguished the member offering the service and do not create the impression or mislead the public to believe that the other person, firm or business is in any way associated with the Council, or that the member possess qualities or qualifications which he does not have or is not entitled to claim.

6 M&V practices

Proper and professional M&V should always be performed by members, no matter if it is for taxation or other client purposes. This section is provided as a general section to M&V activities.

6.1 A member rendering professional measurement and verification services is entitled to put forward the best position in favour of a client, provided the service is rendered with competence, does not in any way impair his or her integrity and objectivity, and is in his/her opinion consistent with current local legislation and national and international provisions.

6.2 A member should not hold out to a client the assurance that the measurement and verification services offered is beyond challenge. Instead, he/she should ensure that the client is aware of the limitations attached to energy management advice and M&V services, and that the client therefore does not misinterpret an expression of opinion as an assertion of fact.

6.3 A member who undertakes or assists in the preparation of energy efficiency M&V reports or certificates to be issued to third parties should ensure that the client is aware that the responsibility for the content of the return rests primarily with the client.

6.4 M&V advice or energy savings opinions and certificates given to a client should be recorded and properly filed, in the form of either a letter or a memorandum. Copies must also be supplied to any local Regulator or body requiring such.

6.5 A member should not be associated with any M&V certificate or communication in which there is reason to believe that such certificate or communication:

6.5.1 Contains a false or misleading statement/s;

6.5.2 Contains statements or information furnished recklessly or without any confirmed knowledge, and s/he is unsure as to whether they are reasonably true or false; or

6.5.3 Omits or obscures information required to be submitted and that such omission or obscurity would mislead the relevant stakeholders or third parties.

6.6 For the purposes of this section of the Code, "associated" has the following meaning:

A member or his business is "associated" with an M&V result or certificate, or with a report to be submitted to stakeholders, third parties or with a submission of a client when he/she or his/her business has prepared or assisted in preparing such results and/or, report, and has consented to the use of his business' name when this is submitted to the stakeholders or third parties. Such association is not negated by the fact that the result, reports or submissions may be typed or otherwise reproduced on plain paper (as distinct from the member's or his business' own stationery) or that the name of the member or his business is not appended to the results, reports or submissions.

6.7 A member may prepare energy savings results for submission purposes involving the use of acceptable protocols and methodologies, or if it is impractical under the circumstances to obtain exact information. When such are used, they should be presented in a manner so as to avoid the implication of greater accuracy than exists. The member should be satisfied that amounts mentioned are conservative under the circumstances.

6.8 In preparing an energy management assessment submission a member ordinarily may rely on some information furnished by the client, provided that such information appears reasonable. In addition, the member should:

6.8.1 Always measure energy uses, before and after the implementation of an energy management measure as prescribed by the latest relevant standards, guidelines and and/or protocols;

6.8.2 Make reasonable inquiries when the information presented appears to be incorrect or incomplete; and

6.8.3 Refer to the information, data and records of the business' operations.

7 Fees & commissions

7.1 Fees

7.1.1 Members who undertake professional services for a client assume the responsibility to perform such services with integrity and objectivity and in accordance with the appropriate technical standards. They should discharge this responsibility by applying the professional skills and knowledge that they as members and their staff have acquired through training and experience. For the services rendered, members are entitled to remuneration.

7.1.2 Fees should be a fair reflection of the value of the professional services performed for the client, taking into account but not limited to:

7.1.2.1 The skill and knowledge required for the type of services involved;

7.1.2.2 The level of training and experience of the persons necessarily engaged in performing the services;

7.1.2.3 The time necessarily occupied by each person engaged in performing the professional services;

7.1.2.4 The degree of responsibility that performing those services entails; and

7.1.2.5 The level and extent of investments in technology.

7.1.3 Fees should normally be computed based on appropriate rates per hour or per day for the time of each person engaged in performing the services. These rates should be based on the fundamental premise that the organisation and the conduct of the member and the services provided to clients are well planned, controlled and managed. They should take into account the factors set out above, and the influence of legal, social and economic conditions. It is up to each individual member to determine appropriate rates.

7.1.4 It is in the best interests of both the client and the member that the range of services related to the fees are explained, as well as the basis on which fees are computed, together with any billing arrangements. This should preferably be done in writing before the commencement of the engagement to avoid misunderstandings regarding fees.

7.1.5 A member should not make representations that indicate that specific services in current or future periods will be performed for a stated fee, estimated fee, or for a fee range if it is likely at the time of such representations that the stated or estimated fees or the fee range will be substantially increased and the prospective client is not advised of this likelihood.

7.1.6 When performing professional services for a client it may be necessary or expedient to charge a prearranged fee, in which event the member should estimate a fee, taking into account the matters referred to above.

7.1.7 It is not improper for a member to charge a client a lower fee than he charged previously for similar services, provided that this fee has been calculated in accordance with the factors referred to in the above paragraphs. Care should be taken to ensure that the client is not misled as to the precise range of services that the quoted fee is intended to cover and as to the level of fees anticipated to be charged for subsequent work at present-day prices.

7.1.8 A member who obtains or retains work by quoting fees that are significantly lower than those charged by another member or those quoted by other tendering firms, should be aware that this practice may threaten his perceived independence. Such a member should take care that the appropriate quantity and quality of staff are allocated to an assignment both in terms of time and competence.

7.1.9 Members should take care, whatever rate they charge, that they comply with all professional standards, regulations and guidelines, in particular with quality control procedures. In the event of a complaint being made to the Council where fees were a feature in obtaining the work, such members should be prepared to demonstrate to the Investigation and Disciplinary Committees that:

7.1.9.1 Their independence has not been compromised;

7.1.9.2 The resources allocated to the assignment were at least those that would have been allocated

to work of a similar nature; and

7.1.9.3 The client was not misled as to the level of fees for the following and subsequent years.

7.1.10 A member should, on request, furnish such details as are reasonable to enable a client to understand the basis upon which a fee account has been prepared. It follows that time records should, where appropriate, be kept as a basis for determining fees, and that the rates used to calculate the fees should in the circumstances be fair and reasonable. The rates should be based on the fundamental premise that the organisation and conduct of the member and the services provided to clients are well planned, controlled and managed.

7.1.11 The abovementioned paragraphs relate to fees as distinct from reimbursement of expenses. Out-of-pocket expenses, in particular travelling expenses, attributable directly to the services performed for a particular client would normally be charged to that client in addition to the fees for services rendered.

7.1.12 Where fees are set by legislation or Government regulation, such fees shall be deemed to be in accordance with the Council rulings on fees and/or fee structures.

7.2 Commissions

7.2.1 The payment or receipt of a commission by a member could impair objectivity and independence. A member should therefore not pay a commission to obtain a client nor should a commission be accepted for referral of a client to a third party.

7.2.2 A member should not accept, directly or indirectly, a commission, brokerage fee or other remuneration for the referral of the products or services of others as an incident to his service to any client, except with the knowledge and consent of that client.

7.3 Contingent fees

7.3.1 A contingent fee is one that is negotiated for the performance of any professional services pursuant to an arrangement whereby a fee will not be charged unless a specified finding or result is obtained, or where the payment of the fee is otherwise dependent on the finding or result of the service.

7.3.2 Fees should not be regarded as being contingent if fixed by a court or other public authority. Fees charged on a percentage or similar basis, should be regarded as contingent fees.

7.3.3 Professional services should not be offered or rendered to a client under an arrangement whereby no fee will be charged unless a specified finding or result is obtained or when the fee is otherwise contingent upon the findings or results of such services.

7.3.4 Where work is subject to a contingency fee, the capacity in which the member has worked and the basis of his remuneration should, where appropriate, be made clear in any document prepared by the member in contemplation that a third party may rely on it.

7.3.5 In the event of a complaint being lodged against a member where fees were a feature in obtaining the work, the member should be prepared to demonstrate to the Investigation and Disciplinary Committees that:

7.3.5.1 His independence has not been impaired;

7.3.5.2 Resources allocated to the assignment were at least those that would have been allocated to work of a similar nature: and

7.3.5.3 The client was not misled as to the level of fees for the following and subsequent years.

8 Resolution of ethical disputes

8.1 Members may from time to time encounter situations that give rise to conflicts of interest. A wide variety of such conflicts may arise, ranging from a relatively trivial dilemma to an extreme case of fraud and similar illegal activities.

8.2 Members should at all times be conscious of factors that may give rise to conflicts of interest. It should, however, be noted that an honest difference of opinion between a member and another party is not in itself necessarily an ethical issue. The facts and circumstances of each case need to be investigated by the parties concerned.

8.3 It is, however, recognised that situations may arise where the responsibilities of a member may conflict with internal or external demands of one type or another, hence:

8.3.1 There may be the danger of pressure from an overbearing supervisor, manager, director or partner; or from family or personal relationships that can give rise to the possibility of pressures being exerted. Consequently, those relationships or interests that could adversely influence, impair or threaten a member's integrity should be discouraged;

8.3.2 A member may be requested to act in a manner contrary to technical and/or acceptable standards, protocols or guidelines;

8.3.3 Divided loyalty between a member's superior and the required standards of conduct could occur; and,

8.3.4 Conflict could arise when misleading information is published, which may be to the advantage of the employer or client, but which may or may not benefit the member.

8.4 In applying standards of ethical conduct, members may encounter problems in identifying unethical behaviour or in resolving ethical conflict. When faced with significant ethical issues, members should therefore follow the established policies of their organisations when seeking to resolve such conflict. If those policies do not resolve the ethical conflict, the following should be considered:

8.4.1 Review the conflict with the immediate superior. Where the conflict cannot be resolved with the immediate superior, and the member thus decides to refer the conflict to the next higher managerial level, the immediate superior should be notified of this decision.

8.4.2 Should it appear that the superior is involved in the conflict, the member should raise the issue with the next higher level of management. If the immediate superior is the Chief Executive (or equivalent), the next higher level of review may be the Executive Committee, Board of Directors, Non-executive Directors, Trustees, Partners' Management Committee or Shareholders.

8.4.3 Seeking counseling and advice on a confidential basis from an independent advisor or the Council to ascertain possible courses of action.

8.5 Should the ethical conflict still exist after fully exhausting all levels of internal review, the member, as a last resort, may, in respect of significant matters, e.g. fraud, have no other recourse than to

resign and submit information to an appropriate representative of that organisation.

8.6 Where relationships or interests, whether direct or indirect, could adversely influence, impair or threaten a member's capacity to act with integrity and objectivity, such relationships and interests should be avoided, even if this requires the sacrifice of personal advantage.

9 Relations with other members & other professional persons

9.1 Professional advisors

9.1.1 Members should only undertake such services as they can expect to complete with competence. It is therefore essential that members, where appropriate, are encouraged to obtain advice, from other persons competent to provide such advice.

9.1.2 A member without a particular skill may, however, be reluctant to refer a client to another person who may possess that skill, because of the fear of losing existing business to the other person. As a result, clients may be deprived of the benefit of advice that they are entitled to receive.

9.1.3 The wishes of the client should be paramount in the choice of professional advisors, whether special skills are involved or not. Accordingly, a member should not in any way attempt to restrict a client's freedom of choice in respect of obtaining special advice, and should, when appropriate, encourage the client to exercise such a choice.

9.1.4 When a member is requested to provide services or advice, he should inquire whether the prospective client has, or had, an existing measurement and verification professional involved. Should the prospective client have an existing professional involved who will continue to provide professional services to that client, the member should observe the procedures for receiving professionals set out in paragraph 9.2. Should such an appointment result in another member being superseded, the procedures for superseding another professional set out in paragraph 9.3 should be followed.

9.2 Receiving measurement and verification professionals

9.2.1 The receiving professional should limit the services provided to the specific assignment referred by the existing measurement and verification professional or the client, unless otherwise requested by the client. Furthermore, the receiving professional has the duty to take reasonable steps to support the relationship between the existing professional and the client, and should not express any criticism of the professional services rendered by the existing professional, unless affording the latter an opportunity to provide all relevant information.

9.2.2 A receiving professional requested by the client to undertake an assignment that is clearly distinct from that being carried out by the existing professional, or is clearly distinct from the assignment initially received by referral from the existing professional or the client, should regard this as a separate request to provide services or advice. Before accepting any appointment of this nature, the receiving professional should advise the client of the professional obligation to communicate with the existing professional, and should immediately do so, preferably in writing, advising the existing professional of the approach made by the client and of the general nature of the request, and requesting all relevant information, if any, to perform the assignment.

9.2.3 Circumstances may arise where the client insists that the existing professional should not be informed. In such cases, the receiving professional should decide whether the client's reasons are valid. In the absence of special circumstances, a mere reluctance on the part of the client for communication with the existing professional would not be a satisfactory reason. The receiving

professional should:

9.2.3.1 To the extent that instructions received from the existing professional or client do not conflict with relevant legal or other requirements, comply with such instructions; and

9.2.3.2 Insofar as it is practicable, ensure that the existing professional is kept informed of the general nature of the professional services being rendered.

9.2.3.3 Where appropriate, the existing professional should, in addition to issuing instructions concerning referred business, maintain contact with the receiving professional and co-operate with him in all reasonable requests for assistance.

9.2.3.4 When the opinion of a member, other than the existing professional, is sought on the application for measurement and verification, reporting or other standards or principles relating to specific circumstances or transactions, the member should be alert to the possibility that the opinion may place undue pressure on his judgement and objectivity as measurement and verification professional. An opinion given without full and proper supporting facts could cause difficulty for the receiving professional if this opinion were to be challenged or the receiving professional is subsequently appointed by the company. Accordingly, the member should seek to minimise the risk of giving inappropriate guidance by ensuring that he has access to all relevant information. Where there is a request for an opinion in the above circumstances, the receiving professional is required to communicate with the existing professional.

9.2.3.5 It is important that the existing professional, with the permission of the client, provides the receiving professional with all relevant information requested about the client. With the permission of the client, the receiving professional should also provide a copy of the final report to the existing professional. If the client does not agree with the need for such communication, the engagement should ordinarily not be performed.

9.3 Superseding another measurement and verification professional

9.3.1 A full member who is requested to replace another professional should ascertain whether there are any professional reasons why the appointment should not be accepted. This cannot effectively be done without direct communication with the existing professional. In the absence of a specific request, the existing professional should not volunteer information about the client's affairs. Before accepting an appointment involving recurring professional services, the full member should:

9.3.1.1 Ascertain whether the prospective client has advised the existing professional of the proposed change, intention to make a change, or of the new appointment, as the case may be, and has given permission, preferably in writing, for his client's affairs to be fully and freely discussed.

9.3.1.2 When the full member is satisfied with the reply received from the prospective client, he should request permission to communicate with the existing professional. If permission is refused or not given, the proposed professional should, in the absence of exceptional circumstances, decline the appointment.

9.3.1.3 On receipt of the client's permission, the proposed professional should request the existing professional, preferably in writing, to provide any professional reasons why he should not accept the appointment.

9.3.2 The existing professional, on receipt of the communication referred to in paragraph 9.3.1, should:

9.3.2.1 Reply without delay, preferably in writing, advising whether any professional reasons exist why

the proposed professional should not accept the appointment.

9.3.2.2 Where any reasons exist, ensure that the client's permission has been obtained for information to be provided to the proposed professional, and to communicate with the proposed professional if this is not the case.

9.3.2.3 On receipt of permission from the client, to disclose all information that may be required by the proposed professional to decide whether or not to accept the appointment.

9.3.3 Should the proposed professional not receive a reply within a reasonable time, and there is no reason to believe that there are any exceptional circumstances surrounding the proposed change, the proposed professional should send a letter to the existing professional stating that there is an assumption that no professional reason exists why the appointment should not be accepted, and that it is therefore his intention to accept the appointment.

9.3.4 The fact that fees may be owing to the existing professional is not a professional reason why another full member should not accept the appointment.

9.3.5 The existing professional should promptly transfer to the new professional all the information and data of the client which he holds or may hold after the change in appointment has been affected, and should, unless the existing professional has a legal right to withhold such information and data, advise the client accordingly. In this instance, the non-payment of fees shall be a valid reason for the withholding of the client's information because of the lien the full member has over such information.

9.3.6 In general, it should be understood that these prescriptions do not define the limits of desirable intra-professional conduct. Such conduct should encompass the professional consideration and courtesies that all members would have fellow members extend to each other.

9.4 Other professional persons

9.4.1 A member should assist fellow members in complying with the Code of Conduct, and should co operate with the appropriate disciplinary authorities in applying this Code. Condoning a serious fault could be as bad as committing such a fault. In fact, since some errors may result from ignorance rather than intent, and would probably be repeated if allowed to pass without response, it is important that in such situations the welfare of the profession as a whole should guide the action of members.

9.4.2 Although it is understandable that a member may be reluctant to testify, if such testimony may be damaging to a colleague, the obligation of professional courtesy and fraternal consideration may never be an excuse for the lack of complete candor when a member is testifying as a witness (expert or otherwise) in a judicial proceeding or properly constituted enquiry.

9.4.3 A member should not irresponsibly criticise another member. Although it is natural for a member in delivering a service to the public to seek to optimally develop his business, a member should not in so doing seek to displace another member in a client relationship in a manner that will lessen the effectiveness of the technical performance he or another member renders, and which will in particular negatively impact on the integrity and objectivity expected of members. Furthermore, a member should not act in any way that negatively reflects on fellow members.

9.4.4 While it is essential that the legitimate interests of clients be protected, it is equally important that the person who proposes to accept an appointment in terms of any statutory law is afforded the opportunity of ascertaining whether there are any reasons why he should not accept such an

appointment. A full member who resigns his appointment to a legal entity, e.g. as measurement and verification professional, should in his letter of resignation to the legal entity state the reasons for his resignation. In the case of a close corporation, such letter shall be sent to the business address of the close corporation with a copy to every member of the close corporation.

9.4.5 Where a full member has accepted an appointment as a measurement and verification professional of a close corporation, he should, in terms of normal professional courtesies, inform the outgoing professional in writing of the change, whether he is a full member of the Council or not.

10 Signing of reports & certificates

It is strongly suggested that a full member may not delegate to any person who is not his partner, his power to sign any document or other reports expressing opinions, or certificates on which a member of the public or government, may rely in making financial decisions. In specific cases where emergencies of sufficient gravity arise, this prohibition may be relaxed that the full circumstances that gave rise to the need for delegation are reported to the client.

11 Agreements with other professional bodies

11.1 The Council may from time to time, as it may deem necessary for the furtherance of the objectives of the Council, enter into agreements with other professional bodies regarding the joint regulation of members, members' compliance with Codes of Conduct, the professional services rendered to the public, and professional and academic standards.

THE MEASUREMENT AND VERIFICATION COUNCIL OF SOUTH AFRICA

GOVERNANCE HANDBOOK 2024

Section 1 - Constitution

Section 2 - Code of Conduct

Section 3 - By-laws

SECTION 3: BY-LAWS

1 Commencement of By-laws

These By-laws shall be in force, as from time to time amended by the Council with the approval of the Board. The By-laws should be read in conjunction with the Board Portfolio document.

2 Definitions

2.1 Words defined in the Constitution of the Council shall have the same meaning in these By-laws, unless the context otherwise requires.

2.2 Unless inconsistent with the context, words and expressions in the masculine gender include the feminine and words signifying the singular include the plural and vice versa.

2.3 The definitions as set out in the Constitution shall have a corresponding meaning in the By-laws, unless the contrary is indicated by the context.

3 Secretariat

3.1 The President may appoint to the Secretariat such employees and on such terms, as he deems appropriate. This would usually be after consultations with the Board.

3.2 Members of the Secretariat are ineligible for nomination as Board members. They may however, serve in an ex-officio capacity on the Board.

3.3 The Secretariat or an appointed executive may be responsible for the management of the Council in accordance with paragraph 9 of the Constitution.

4 Register of membership, records & documentation

4.1 The Council shall maintain a register in which the name of each admitted full member of the Council is recorded.

4.2 The Council shall be entitled to utilize technology for the storage of documentation, and it is expressly provided that documentation may be reduced to electronic format by way of scanning or any other method, and stored on appropriate media such as the Cloud, provided that the character and content of the original document is maintained should it be necessary to produce a hard copy of such document.

4.3 At least two (2) separate backup copies of such media shall be maintained. One (1) such copy shall be lodged off-site with the Council's auditors or attorneys or with a secure off-site dedicated service provider. Said records and documentation shall be kept for a period of seven (7) years, unless otherwise determined by legislation or the Council, after which period the records or documentation may be destroyed.

4.4 Any record or document reproduced in hard copy from electronic storage and certified as such by an authorized representative of the Board shall be afforded the same recognition and status as the original of such record or document.

5 Application for membership

5.1 Application for membership of the Council shall be made to the Board on the prescribed form and each applicant shall:

5.1.1 Payment of the entrance fee, should such fee be required, and the annual subscription fee;

5.1.2 Certify on the prescribed form that the information provided is true and correct in every detail;

5.1.3 On admission undertake to observe the provisions of the Constitution, Code of Conduct and the By-laws of the Council; and

5.1.4 Satisfy the Council in the manner required that she/he qualifies for admission under By-law 6.

6 Qualification for membership

Admission as a member shall be at the sole discretion of the Council and the Council shall be under no obligation to accept or renew the membership of any person. Subject to the provisions of By-Law 5, the following qualifications for admission to membership of the Council shall apply:

6.1 Full membership

Membership is split into two categories:

c. Members:
Who are fully paid up members of Local Chapters of the Association of Energy Engineers (AEE). Chapters to confirm the member status annually,

or,

d. Professional Members where all of the following criteria must be satisfied:

Either:

6.1.1 The individual has a tertiary qualification acknowledged by the council, and,

6.1.2 Has successful completion of training courses acknowledged by the Council to satisfy the Measurement and Verification training requirements, and,

6.1.3 Having been adjudged competent by satisfying a professional evaluation assessment on practical experience in Measurement and Verification

6.1.4, Having satisfied a professional evaluation determining the prospective member's knowledge of the Constitution, the Code of Conduct and the By-laws of the Councill,

Or,

6.1.5 The individual, who has been assessed and found to be competent and accepted as a Measurement and Verification technical signatory by the South African National Accreditation System (SANAS), and,

6.1.6 Having satisfied a professional evaluation determining the prospective member's knowledge of the Constitution, the Code of Conduct and the By-laws of the Council,

6.2 Professional-in-Training membership

Some criteria for full membership are satisfied.

6.2.1 Successful completion of, or enrolled in training courses acknowledged by the Council to satisfy the Measurement and Verification training requirements for full membership within four years since application.

6.2.2 Having been adjudged competent by satisfying a professional evaluation assessment on practical experience in Measurement and Verification OR in process of building a practical professional competency profile to submit for adjudgment by the Council within three years of application.

6.2.3 Having satisfied a professional evaluation determining the prospective member's knowledge of the Constitution, the Code of Conduct and the By-laws of the Council.

6.1 Continued membership is subject to renewal on an annual basis, as determined by the Council from time to time.

6.2 All classes of members of the Council may only offer professional services to the public for which they are qualified. Offering such services is subject to requirements laid down by the Council in the By-laws, and any other requirements determined by the Council, statutory bodies, or regulatory authorities.

6.3 Full members of the Council wishing to perform the attest function in terms of the Measurement and Verification Profession may from time to time be required to also register or be accredited with another body, i.e. a Regulator, NEEA, etc.

6.4 Notwithstanding the above:

6.4.1 The Board may confer an Honorary Membership on any person who in its opinion has rendered meritorious service to the Council. Honorary Members shall not be required to pay any subscriptions to the Council by virtue of their Honorary Membership. Such members shall be subject to the Constitution, the Code of Conduct and the By-laws of the Council.

6.4.2 The Board may grant a Full Member Life Membership of the Council. Such members shall not be required to pay subscriptions to the Council. Such members shall, however, be subject to the Constitution, the Code of Conduct and the By-laws of the Council.

6.4.3 Retired members may, on application, and with approval of the Council, be classified as such. Retired Members shall pay an annual fee as determined by the Council. Such members shall be subject to the Constitution, the Code of Conduct and the By-laws of the Council, and shall not be entitled to perform any of the functions of a Full Member who is not a Retired Member.

6.5 If members take up residence outside the African continent, they may, on application and with the approval of the Council, be classified as Foreign Members. Foreign Members shall pay the annual fee as determined by the Council. Such members shall be subject to the Constitution, the Code of Conduct and the By-laws of the Council.

6.6 The Council may admit persons to membership of the Council based on Recognition of Prior Learning (RPL). Typically a 10-year period of M&V related experience, with no qualifications, may be accepted.

6.7 Membership of the Council is dealt with in accordance with paragraph 6 of the By-laws of the Council.

6.8 The Council shall from time to time determine policy in terms of membership, registration, competency and practical experience of Full members in accordance with the By-laws of the

Council.

7 Cancellation of membership

7.1 The Council shall cancel the membership of any full member who, subsequent to his admission, is:

7.1.1 Removed from an office of trust on account of misconduct, or

7.1.2 Convicted of theft, fraud, forgery, issuing a forged document or perjury, and is sentenced in respect thereof to imprisonment without the option of a fine, or to a fine exceeding the amount specified in section 218(i)(d) of the Companies Act, 61 of 1973 (as amended); or

7.1.3 Declared insane or found to be incapable of managing his own affairs by a competent court of law.

7.2 A full member is required to inform the Council if his estate is provisionally or finally sequestrated, or if he enters into an arrangement with his creditors subsequent to his admission. The Council may at its discretion cancel the membership of any full member, whose estate is provisionally or finally sequestrated or who enters into an arrangement with his creditors subsequent to the granting of membership, provided that the Council shall, before doing so, afford such full member the opportunity of furnishing an explanation in writing within twenty-one (21) days after being so requested by the Council. The membership of such full member may be cancelled if the member fails to comply.

7.3 The Council may at its sole discretion, and with immediate effect, suspend the membership and all rights and privileges of any full member who:

7.3.1 Conducts himself or his affairs (whether personal or otherwise) in such a manner as is inconsistent with the level of professionalism, honesty, integrity and courtesy expected of full members in their dealings with the public, each other and the Council, thus creating a real or potential embarrassment to the Council or its members or leading to prejudice or potential prejudice of the Council or its members, whether such embarrassment or prejudice is material or not;

7.3.2 Fails to comply with the continuing professional development (CPD) requirements, as laid down by the Council;

7.3.3 Fails to co-operate with or properly co-operate with, or fails to follow the directives of the Council or any committee or nominated representative of the Council, or conducts himself in such a manner as to frustrate and/or delay the functioning of the Council or any committee or nominated representative of the Council;

7.3.4 Fails to satisfy any obligation toward the Council, as and when it may become due, such as but not limited to, annual subscription fees, and the payment of practice evaluation costs, penalties and any other relevant costs; and

7.3.5 Is in material breach of any of the provisions of the Constitution, the Code of Conduct or the By-laws of the Council and such breach is in the opinion of the Council potentially detrimental to the Council or its members, thus necessitating that it be referred to the Investigation Committee for possible referral to the Disciplinary Committee.

7.4 The Council shall refer any matter contemplated under paragraph 7.3 above to the Investigation Committee who may, at the request of the full member, make an initial evaluation of the matter in such manner and with regard to such evidence and procedure as the Committee may in its discretion determine. Based on such initial evaluation the Investigation Committee may temporarily

lift such suspension of the full member, on such terms and conditions as the Investigation Committee may determine. Following the initial evaluation, if any, the Investigation Committee shall proceed to investigate and consider the matter in such manner as envisaged in By-law 16, and make its recommendations to the Disciplinary Committee.

7.5 If the membership of a person is subsequently cancelled by the Board on the recommendation of the Disciplinary Committee in terms of this By-law, the Council shall immediately remove the member's name from the Register of Members, and such person shall not be entitled to apply for re-admission as a full member until the expiry of a period of ten (10)years reckoned from the date of such cancellation, but providing that the Council may reduce this period in any particular case where it considers it just and equitable.

7.6 The Council shall report any such suspension and/or cancellation to members by circular for their exclusive and confidential information and such report shall in all cases include the name of the person whose membership is cancelled. The Council may also report such suspension and/or cancellation to any other professional body or entity, such as the Engineering Council of South Africa or a relevant engineering association, for publication and for the attention of their members and/or personnel.

7.7 A full member whose membership has been suspended or cancelled, for whatever reason, shall remain liable to the Council and bound by the Code of Conduct and the By-laws of the Council with specific reference, but not exclusively limited to, any provision, prohibition, penalty or right of the Council to seize documentation dealing with the use of the Council's logo, its name or its designation or any part thereof.

8 Fees, subscriptions & charges

8.1 Each full member of the Council shall pay an annual subscription fee at such time and of such amount as may from time to time be determined by the Council.

8.2 Any full member admitted after 30 September in any year shall pay only one-half (1/2) of the annual subscription.

8.3 On admission to the Council, an entrance fee shall be payable of such amount as may from time to time be determined by the Council.

8.4 The Council may at its discretion remit, in whole or in part, the subscription and/or entrance fee of a full member where there are special circumstances that, in its opinion, warrant such remission.

8.5 The Council may from time to time call upon full members for payment of an additional contribution or contributions for the purpose of meeting expenses which it may incur in the interests and/or furtherance of the objectives of the Council, provided that such contribution or contributions shall in the aggregate not exceed, in any one financial year, one quarter (%) of the subscription payable in such financial year.

8.6 Any full member, who is in arrears with his annual subscription for a period of three (3) calendar months after the due date, or has any other charge unpaid for a period of one (1) calendar month after the due date, shall ipso facto have his membership suspended, until such payment is effected, but subject to the provisions of paragraphs 7.3 above and 8.7 below, which shall take precedence over the provisions of this paragraph should the Council exercise its discretion. Liability to pay the outstanding amount and any other charges due shall nevertheless remain.

8.7 The Council may at its discretion reinstate any full member, whose membership has been suspended in terms of By-Law 8.6, or whose individual membership has been cancelled in terms of By- Law 7.5, and may impose a reinstatement fee, may require payment of all arrears and current

fees, and may also require a satisfactory professional evaluation.

8.8 The provisions of By-law 20 with regard to the levy of interest on outstanding monies and recovery of penalties shall equally apply to any monies due to the Council under this or any other paragraph in the Constitution, the Code of Conduct and the By-laws of the Council.

9 Resignation, cancellation of membership due to non-payment of fees & re-admission of members

9.1 Any full member who has paid all his dues and subscriptions and is otherwise in good standing may resign his membership by sending to the Council written notice to that effect. Such notice shall become effective immediately on acceptance thereof by the Council, provided that:

9.1.1 If any complaint is received or an enquiry is pending against any such full member in respect of his professional conduct, such a resignation need not be accepted until such complaint or enquiry has been finally dealt with by the Council;

9.1.2 Any such acceptance by the Council may be qualified or endorsed by the Board so as to record the finding of the Council in respect of such complaint or enquiry.

9.2 No resignation once tendered by a full member may be withdrawn without the consent of the Council having first been obtained.

9.3 Any person who has resigned his membership or whose membership has been cancelled or suspended due to non-payment of fees shall, at the discretion of the Council, be entitled to readmission on proof to the Council that he complies with the conditions of By-law 5, subject to By-law 8.7, at the date of his application for re-admission.

10 Certificates of Membership

All Certificates of Membership of the Council shall be in a format prescribed by the Council and shall remain the property of the Council. Every member shall be entitled to receive a Certificate of Membership. In the event of the suspension or removal or cessation of membership for any reason, such a certificate and all copies thereof shall immediately be returned to the Council or its representatives.

11 Death of a Full Member

Upon the death of any full member, the Council shall remove his name from the Register of Members.

12 Registered address & notices

12.1 Every full member shall give the Council written notice on a prescribed form of a valid physical address, postal address, and e-mail address as his registered addresses, as well as the full physical address, postal address, and e-mail address of his office, should the latter particulars not correspond with the former, and shall notify the Council within twenty-one (21) days of any change of address.

12.2 Any notice required to be given in terms of these By-laws to a full member may, at the discretion of the Council, be delivered, or electronically transmitted via e-mail. In each case, any such notice addressed to such full member at his registered address shall be deemed to have been served at the

time of delivery or transmission, as the case may be.

12.3 In the event of legal action being instituted against a full member, former full member, suspended full member, former associate member or suspended associate member, such address shall also serve as *domicillium citandi et executandi* for purposes of servicing of all notices and pleadings.

13 Disciplining of punishable offences

The following acts and practices, whether of commission or of omission, upon the part of any person who is or was a full member of the Council at the time of the alleged acts or practices, shall constitute a punishable offence by such full member, former full member, or former associate member found guilty thereof after proper enquiry, as provided for in these By-laws, shall be liable for the penalties prescribed in By-law 17:

13.1 Contravening any provision of the Constitution, and/or the Code of Conduct and/or the By-laws;

13.2 Certifying or reporting or expressing an opinion, without such qualification as may be appropriate under the circumstances, to the effect that any measurement and verification professional, certificates (including annexures thereto) or other document relating to the business or energy affairs of any undertaking, fairly presents, or gives a true and fair view or reflects correctly the matters dealt with therein, as per relevant and appropriate legislation unless:

13.2.1 He has carried out his work free of any restrictions whatsoever;

13.2.2 He has obtained all information, data and other documents, which he deemed necessary for the proper performance of his duties; or

13.2.3 He is satisfied, as is reasonably practicable, having regard to the nature of the undertaking, as the case may be.

13.3 Unduly delaying reporting on work performed by him.

13.4 Negligently conducting himself in connection with any work performed by him, including work or employment in connection with any office of trust that he has undertaken or accepted.

13.5 Associating himself with any engineers, certificates, reports or other documents, without taking reasonable steps to ensure the correctness thereof.

13.6 Directly or indirectly paying a person a monetary or other consideration as remuneration for obtaining work or for inducing other persons to provide him with work.

13.7 Accepting, directly or indirectly, any commission, brokerage fee or other remuneration in respect of professional or commercial business referred to others as part of his service to any client, except with the knowledge and consent of that client.

13.8 Improperly obtaining or attempting to obtain work.

13.9 Divulging to any third party, whether orally or in writing or otherwise, any confidential information, which he may have obtained in the course of his professional relationship with his client or employer.

13.10 Advertising services, except as provided for in the Code of Conduct and the By-laws where

applicable.

13.11 Willfully refusing or failing to perform or conform with or to carry out any of the provisions of these By-laws or the Code of Conduct of the Council.

13.12 Committing a breach of the Code of Conduct prescribed by the Council.

13.13 Unlawfully failing to account for, or unreasonably delaying a report or certificate, when called upon to do so.

13.14 Signing any certificates, statement, report or other document which purports to represent work performed by him, unless such work was performed by him, or was performed under his personal supervision or direction, or was performed by or under the personal supervision or direction of one or more of his partners.

13.15 Performing work in connection with any matter which is the subject of dispute or litigation, on condition that payment for such work shall be made only if such dispute or litigation ends favorably for the party for whom such work is performed.

13.16 Conducting himself in a manner which, in the opinion of the Disciplinary Committee, is discreditable, dishonorable, dishonest, irregular or unworthy, or which is derogatory to the Council, or tends to bring the profession of measurement and verification into disrepute.

13.17 Failing to notify the Council of any change in the particulars of the office of the full member, as registered with the Council, within a period of twenty-one (21) days after such change;

13.18 Failing to perform any professional duties with the degree of care and skill which may reasonably be expected of a full of the Council; or

13.19 Failing to comply with prescribed standards of professional ethics or otherwise conducting himself in a manner that tends to bring the Council into disrepute.

14 Education & Registration, Investigation, Disciplinary & Audit Committees

14.1 The Board shall appoint the following committees that shall carry out the duties and exercise the functions and powers granted to them under these By-laws:

14.1.1 An Education & Registration Committee, which shall consist of at least three (3) members and for whom the quorum shall from time to time be determined by the Board. The Committee shall have the right at any time to co-opt additional members whenever it deems such additional appointments necessary. The chairperson of the Education & Registration Committee shall be authorised to delegate the Committee's authority to any appropriately qualified person with regard to any matter before the Education & Registration Committee;

14.1.2 An Investigation Committee, which shall consist of at least three (3) members and for whom the quorum shall from time to time be determined by the Board. The Committee shall have the right at any time to co-opt additional members whenever it deems such additional appointments necessary. The chairperson of the Investigation Committee shall be authorised to delegate the Committee's authority to any appropriately qualified person with regard to any matter before the Investigation Committee;

14.1.3 A Disciplinary Committee, which shall consist of not more than three (3) members and for whom the quorum shall from time to time be determined by the Board. The Disciplinary Committee shall act and function as provided for in these By-laws with regard to each complaint referred to it by the

Investigation Committee. The Committee shall have the right to co-opt additional members whenever it deems such appointments necessary, on the terms and for the durations it may decide. The chairperson of the Disciplinary Committee shall be authorised to delegate the Committee's authority to any appropriately qualified person with regard to any matter before the Disciplinary Committee.

14.1.4 An Audit Committee which shall consist of one (1) Board member who is a full member of the Council, and who is not the Chairperson of the Board, and two (2) full members of the Council. The Audit Committee shall act and function as provided for in these By-laws. The Committee shall have the right to co-opt additional members, whenever it deems such appointments necessary, on the terms and for the durations it may decide. The Audit Committee shall have the right to request the Chief Executive to attend its meetings with a view to providing information and insights it may deem necessary to fulfil its responsibilities. The Committee shall appoint its own chairperson from amongst its members.

14.2 Both the Investigation and Disciplinary Committees shall be entitled to retain the services of an attorney or advocate counsel to serve on the Committee and to render advice with regard to points of law and procedure.

14.3 The Investigation and Disciplinary Committees appointed in terms of this By-law shall remain in office and function until the date of the appointment of their successors in office, provided that, if at that date either of the said committees still has before it for investigation or hearing an incomplete case, those members who comprise such Committees shall continue to act as such for the purpose of completing such cases only.

14.4 Any vacancies occurring at any time in any of the Committees may be filled by the Board.

15 Powers & duties of the Education & Registration Committee

15.1 The Education & Registration Committee shall be responsible for determining, reviewing and amending the eligibility requirements and processes for registration with the view to ensure that registered individuals represent a professional level of technical competence and ethical conduct in rendering professional Measurement and Verification services.

15.2 Where required, the Education & Registration Committee shall be responsible for determining, reviewing and accepting the nature and content of the training programmes prescribed suggested by the Council with the view to ensure that these programmes satisfy the training standards required for members achieving and maintaining a professional level of competence in the application of accurate and reliable Measurement and Verification methodologies as represented by best practices in this field.

15.3 The Education & Registration Committee shall be responsible for determining the acceptance requirements for and conducting the acceptance of courses supported by the Council.

15.4 Appointed individuals who could be from the Education & Registration Committee, shall be responsible for reviewing applications for membership and for each application submit to the Council an assessment of the eligibility of the applicant for membership.

16 Powers & Duties of the Investigation Committee

16.1 The Investigation Committee shall be duty bound to take note of and investigate any matter in order to ensure that full members comply with the spirit and letter of the Constitution, the Code of Conduct and the By-laws. To such end the Investigation Committee shall conduct professional evaluations

and professional support visits in such a manner as the Investigation Committee may determine, at a cost to the full member. Where such evaluations and/or visits are undertaken, and the full member is not found wanting he shall not be held liable for any costs incurred as a result of such visits and/or evaluations.

16.2 It shall be the duty of the Board of the Council and the right of any full member or any aggrieved person to lay before the Investigation Committee any facts or circumstances indicating that a full member may have committed an offence under these By-laws. Such complaints shall be in writing and in the format specified by the Investigation Committee.

16.3 The Investigation Committee may also, at its own volition, take note of and investigate any matter where it appears that any of the provisions of the Constitution, the Code of Conduct or the By-laws may have been breached and may consider any document or evidence it deems to be relevant to the investigation at hand.

16.4 The Investigation Committee shall fully consider the facts or circumstances under which the alleged misconduct took place. For that purpose, it may carry out whatever preliminary investigations it may deem necessary and shall have the power to order the production for inspection report, certificates, documents, and papers in the possession of or under the control of the full member alleged to have committed an offence.

16.5 If the Investigation Committee considers that there appear to be grounds for the complaint, it shall advise the full member concerned of the conduct imputed to him by notice in writing and afford him an opportunity of giving, within twenty-one (21) days from the date of such notice, an explanation in writing and in the format that the Investigation Committee may prescribe. The full member shall be warned that such explanation or answer may be used in evidence against him.

16.6 If, on receipt of the explanation, the Investigation Committee is not satisfied with such explanation, or if no explanation is forthcoming, the Investigation Committee shall refer a formal complaint against the full member to the Disciplinary Committee.

16.7 The Investigation Committee may offer the full member the option of an admission of guilt fine and/or a reprimand and/or such additional terms as the Investigation Committee may determine in accordance with the guidelines set down by the Board as an alternative to the formal referral of the complaint to the Disciplinary Committee.

16.8 The Investigation Committee may request a full member of the Council (who may be a member of the Investigation Committee) to present the formal complaint of the Investigation Committee or may instruct an attorney to present, or to brief counsel to present, such a complaint.

17 Powers & duties of the Disciplinary Committee

17.1 The Disciplinary Committee, on receipt of a formal complaint in pursuance of By-law 16 paragraph 16.6, shall forthwith give to the full member notice of the complaint and the way in which it intends to deal with the matter.

17.2 The Disciplinary Committee shall forthwith make its finding in accordance with the procedure determined by it, and shall give the full member notice of its finding together with such reprimand, caution, fine, cost recovery and/or additional terms as the Disciplinary Committee may determine.

17.3 If the Disciplinary Committee considers that the alleged offence is so serious that it might result in the full member being either excluded or suspended from membership of the Council, or if the full member objects to the fine, penalty or cost recovery, or fails to pay what is indicated, then the Disciplinary Committee shall forthwith give the full member notice of its intention to consider and

enquire into the complaint, specifying the time and place of the enquiry.

17.4 The Disciplinary Committee shall give such full member an opportunity of being heard before it and shall, if the full member so desires, permit such full member to be represented before it by an attorney or by counsel or by a full member of the Council.

17.5 The Disciplinary Committee shall have the power to exclude or cancel the membership of a full member found guilty of an offence under these By-Laws or the Constitution, and/or order him to pay a monetary penalty up to a maximum amount, determined by the Board from time to time, and to pay such reasonable costs as the Council may have incurred with the investigation or hearing by the Disciplinary Committee or such part of those costs that are considered just.

17.6 Should the full member against whom any complaint is referred, neglect or fail to appear before the Disciplinary Committee at the time and place indicated in the said notice, the Disciplinary Committee shall be entitled to proceed with its consideration of and any enquiry into the complaint in his absence.

17.7 All evidence given at the hearing of a complaint by the Disciplinary Committee shall be *viva voce,* but the Disciplinary Committee shall also be entitled to have regard to any affidavit filed by any of the parties, as well as any documentation placed before it by the Investigation Committee in the referral of the complaint. The Disciplinary Committee shall be entitled to obtain sworn affidavits from any necessary persons for the investigation of the complaint.

17.8 The Disciplinary Committee shall also have the power to order for inspection any books, documents, and papers in the possession of or under the control of the full member against whom the complaint has been made.

17.9 The chairperson of the Disciplinary Committee shall be permitted to engage the services of an attorney or advocate counsel at any stage of a hearing of the Disciplinary Committee to advise him on points of law and procedure.

17.10 If the Disciplinary Committee is of the opinion that the full member is guilty of a punishable offence, it shall make a finding to that effect and thereupon it shall have full power to recommend to the Board that the full member concerned be excluded from membership of the Council or be suspended from membership for a period not exceeding five (5) years, provided always that if, in the opinion of the Disciplinary Committee, the offence shall have been proven, but the full member shall not have been guilty of conduct sufficiently serious to warrant exclusion or suspension, it shall have full power to reprimand or caution the said full member.

17.11 Notice of the finding and the decision of the Disciplinary Committee shall be given forthwith in writing to the full or associate member concerned.

17.12 The Disciplinary Committee shall report to the Board who will then request the Chief Executive to report the conviction or finding of the Committee to the members of the Council.

18 Recording & publication of findings & decisions

18.1 All findings and decisions of the Investigation and Disciplinary Committees shall take effect when made and shall be reported to the Board who shall cause the same to be duly recorded.

18.2 Where the Disciplinary Committee has imposed a fine on a full member the Board shall:

18.2.1 In the case of a caution or reprimand, report such finding, without reference to the full member's

name, in the Council's newsletter and journal;

18.2.2 In all cases where full members have been suspended or excluded, inform members by circular for their exclusive and confidential information.

18.3 In the case of the suspension and/or cancellation of the membership of a full member the Board may report such suspension or cancellation to any other professional body or entity (such as the ECSA and a relevant engineering association) for publication and for the attention of their members or personnel.

19 Powers & Duties of the Audit Committee

An Audit Committee will be called into existence when required.

19.1 The role of the Audit Committee is to assist the Board in discharging its responsibility in safeguarding the Council's assets, maintaining adequate measurement and verification records, and developing and maintaining an effective risk management strategy to manage internal control.

19.2 The Audit Committee is authorized by the Board to investigate any activity within its terms of reference. It is authorized to seek any information it requires from any committee member and consequently all members of the Board and committees are directed to co-operate with any request made by the Audit Committee. The Audit Committee is authorized by the Board, within the ability of the Council, to obtain outside legal or other independent professional advice and to secure the attendance of outside consultants or advisers with relevant experience and expertise if it considers this necessary. In terms of the By-laws, the Board may assign to the Audit Committee such of its powers which it may deem fit but it shall not be divested of any power which it may have assigned to the Audit Committee and it may amend or revoke any decision of the Audit Committee.

19.3 The Audit Committee, in carrying out its duties under these By-laws, will have due regard to the principles of governance and code of best practice contained in the latest King Report on Corporate Governance for South Africa, Technical Auditing, Data Integrity Auditing and any amendments thereto.

19.4 The Audit Committee meets bi-annually, and special meetings are called as necessary. Two committee members constitute a quorum. Meetings are scheduled prior to the commencement of the annual external audit (audit planning and scope meeting) and prior to the Board's approval of the Annual Report. The Audit Committee shall consist of three members of good standing of the Council with one being a Board member and the other two nominated by the Board. Their term of office will be for two years, renewable for two more years which must then be broken for at least one year before re-appointment may be considered. The external audit findings, as well as the external auditors' management letter, are considered at the meeting where the Annual Report is considered.

19.5 The responsibility of the Audit Committee falls into the following main areas:

19.5.1 Liaison with any possible the external auditors;

19.5.2 Monitoring of the need for an internal audit function;

19.5.3 Review of the internal control structure including financial controls, accounting systems & reporting;

19.5.4 Monitoring of the Council's compliance with legal or prescriptive requirements, including but not limited to Data Integrity audits to ensure a reasonable accuracy level in member

certificates issued;

19.5.5 Monitoring of compliance with the Council's policies and procedures including, where appropriate, compliance with the Constitution, the Code of Conduct and the By-laws of the Council.

19.6 The Audit Committee is a sub-committee of the Board and reports to the Board. The chairperson of the Audit Committee shall account to the Board for its activities and make recommendations to the Board concerning the adoption of the Annual and interim Financial Statements and any other matters arising from the Audit Committee's responsibilities.

19.7 The chairperson shall give a verbal report at the immediately following Board meeting for Audit Committee proceedings not yet minuted.

19.8 The Audit Committee is to submit a written report to the Board on an annual basis reporting on the actions it has taken and stating what resources or help it may need to fulfill its duties.

19.9 The chairperson (or in his absence another member of the Committee) shall attend the Annual General Meeting to answer questions concerning matters falling within the ambit of the Committee.

19.10 Should a report to the Audit Committee, whether from the internal audit function or any other source, implicate any Board members in fraud, corruption or gross negligence, the chairperson of the Audit Committee must promptly report this to the President of the Council, and to the full Board at its following meeting. If the President is the one implicated the Vice-President will be reported to.

20 Legal proceedings

20.1 Any monies, including but not limited to, fees, subscriptions, fines, penalties or costs, may be recovered from full members by civil proceedings in any competent court, and the Council shall, at its discretion, be entitled but not compelled, to Council action in any magistrate's court, notwithstanding the fact that the cause of action or amount claimed may otherwise exceed or fall outside the ambit of the jurisdiction of the magistrate's court.

20.2 Nothing shall preclude the Council, notwithstanding the above, from instituting legal action in the Johannesburg High Court or any other competent court for urgent or normal relief should the Council so desire.

20.3 In any legal proceedings instituted by the Council against a full member, former full member, or former associate member, the following provisions shall also apply:

20.3.1 The registered address of any full member shall be deemed to be his chosen *domicillium citandi et executandi* for the purposes of serving of all notices and legal documents;

20.3.2 The Council shall be entitled to recover its taxed legal costs on the scale as if between attorney-and-own-Client, together with any tracing fees, expert witness fees, full counsel fees and any other expenses incurred in the action against the full member, former full member,

20.3.3 The amount due by a full member shall, for the purposes of summary and provisional judgement, be deemed a liquid amount. A certificate signed by the Chief Executive of the Council attesting to the amount due by the member concerned shall constitute *prima facie* evidence of such amount.

20.3.4 Any amount due to the Council shall carry interest calculated at 15%, and will be capitalised at the

beginning of each calendar month and shall be in keeping with the dictates of the in duplum rule.

20.3.5 Any recovery of money shall first be allocated to costs, then to interest and lastly to capital.

21 Protection of the name & reputation of the Council & the income of its members

21.1 The good name and reputation of the Council and all its members is of paramount importance in securing access for the members to otherwise restricted sources of income, for example acting as measurement and Verification professionals. Competition for income is severe in the engineering and measurement and verification professions, and therefore any taint to the good name and reputation of the Council and/or its members may result or contribute to the loss of access to these sources of income, which could severely affect members' income earning capabilities, may threaten their livelihood, and may endanger the existence of the Council.

21.2 The Council is obligated to strongly and jealously guard the good name and reputation that has to date become associated with the Council, its members, its logo and its designation.

21.3 A former full member who has been suspended or excluded from membership shall not, without the written consent of the Council, be connected or purport to be connected, either as principal, agent, partner, representative, shareholder, director, employee, consultant, adviser, financier, or in any other like or similar capacity, directly or indirectly be associated or concerned with, interested or engaged in any firm, business, company or other association connected with any full member of the Council or the Council itself.

21.4 A full member shall not, without the written consent of the Council, be connected or purport to be connected, either as principal, agent, partner, representative, shareholder, director, employee, consultant, adviser, financier, or in any other like or similar capacity, directly or indirectly be associated or concerned with, interested or engaged in any firm, business, company or other association connected with a former full member of the Council whose membership has been suspended or terminated.

21.5 A full member who has been suspended or excluded from membership shall not be entitled to the use of the Council's logo or designation and shall immediately hand to the Council for destruction all certificates received from the Council. All stationery, letterheads, advertising, and promotional material containing any reference to membership of the Council, its logo and its designation that do not relate directly to the records of a client, and were generated prior to the full member's suspension or exclusion, shall be destroyed by the former full member immediately upon suspension or exclusion.

21.6 Any full member shall, on request by the Investigation Committee, immediately hand to the Council for safekeeping any promotional material, stationery and/or letterheads that, in the opinion of the Investigation Committee may constitute a breach of the terms prescribed in the Code of Conduct relating to advertising, stationery and letterheads, pending the finalization of the investigation into the matter. On finalization of the investigation, if the Disciplinary Committee finds that the material does in fact constitute a breach of the Code of Conduct, the documentation may be destroyed by the Council.

21.7 In the event of a breach of the above provisions, the Council shall, in addition to its normal legal remedies, have the right to recover damages from the full member, former full member, or former associate member.

21.8 In addition to damages, the Council may Council action to claim an amount not exceeding fifty (50)

times the annual subscription fee payable by members, as determined by the Council from time to time, as an agreed penalty for the breach by the full member, former full member, or former associate member.

21.9 These provisions shall apply to every breach by a full member, former full member, or former associate member.

22 Power to make rules

The Board shall have the power to make such rules (not inconsistent with the Constitution and the By-laws) as may be considered necessary for the performance of the respective functions of the Education & Registration Committee, Project Evaluation Committee, Investigation Committee, Disciplinary Committee, and the Audit Committee.

23 Code of Conduct

The Council shall from time to time prescribe a Code of Conduct. that needs to be signed by all members. If no signed Code of Conduct is received and membership is renewed, the member agrees to the Code of Conduct.

24 Amendment of By-laws

The Council may from time to time amend these By-laws as provided for in the Constitution.

25 Winding up of the Council

Upon a resolution to wind up the Council having been passed in terms of the Constitution, the Board shall by a simple majority vote, appoint a liquidator and may give such directions as to the method of winding up as it deems appropriate. Any funds and/or assets remaining after the payment of the debts and expenses of the Council and the costs of winding up shall be distributed to or amongst such kindred or related associations, bodies or institutions with objectives similar to those of the Council, including educational institutions, but excluding individual full members or firms or companies controlled by full members, as the Board shall decide.

26 Interpretation of By-laws

The headings and sub-headings shall not affect the interpretation of these By-laws.