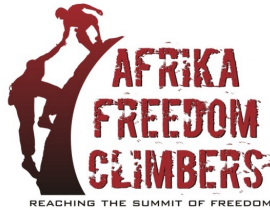


# Constitution of Afrika Freedom Climbers NPC

Reg. no 2013/169626/08 Non Profit Company

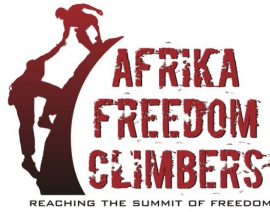
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History of changes		
Version number	Date	Board of Directors Approval
0.1	20 September 2013	Approved
0.2	29 May 2020	Changes recommended by AB to be included.
0.3	28 August 2020	Approved

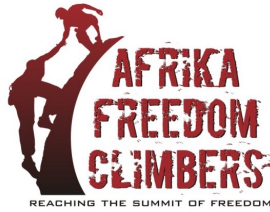


## Definitions

- The Organisation refers to Afrika Freedom Climbers NPC.
- The Executive refers to the Executive body which governs the Organisation.
- Board of Directors (BoD) refers to a team of people elected by the Organisation's investors/donors/benefactors to represent their interests and ensure that the company's management acts on their behalf. Typical duties of boards of directors include: governing the Organisation by establishing policies and setting out strategic objectives; selecting, appointing, supporting and reviewing the performance of the Executive; ensuring the availability of adequate financial resources; approving annual budgets; accounting to the stakeholders for the Organisation's performance; and setting the salaries, compensation and benefits of senior management. BoD can be sued collectively or individually for not giving due diligence to their responsibilities or for neglecting their responsibilities.
- Board Chairperson/ Board Chair refers the person elected by the BoD to fulfil the roles and responsibilities of the position of Chairperson of the BoD.
- Board members refers to an individual member of the BoD.
- Advisory Board (AB) refers to a committee of independent specialists formally constituted by the BoD or the Executive to fulfil a specific purpose through provision of high quality, objective advice to the business owners in areas of strategic importance within a specific timeframe.
- Advisory Board (AB) Member refers to an individual member of the Advisory Board.
- AB Chair/ AB Chairperson refers to the person elected by the Advisory Board to fulfil the roles and responsibilities of the position of Chairperson of the Advisory Board.
- Term / Tenure refers to the duration served on BoD or AB.
- Community refers to women and children who benefit from Afrika Freedom Climbers services.
- Club member refers to individuals who have signed up to receive periodic correspondence from the Organisation and frequently participate in local hikes and mountain expeditions arranged by the Organisation..



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## **1. Name of the Organisation**

- 1.1. The Organisation hereby constituted shall be called Afrika Freedom Climbers NPC.
- 1.2. Afrika Freedom Climbers will be referred to as the Organisation from here after.
- 1.3. The Organisation shall:
  - 1.3.1. Exist in its own right, separately from its members, directors and governance structures;
  - 1.3.2. Continue to exist even when its membership changes and there are different members, directors and governance structures;
  - 1.3.3. Be able to own property and other possessions; and
  - 1.3.4. Be able to sue and be sued separately from its members, directors and governance structures.

## **2. Background**

Afrika Freedom Climbers is a non-profit organisation registered in 2013 with the objective of diversifying the mountaineering community of South Africa. The significant majority of climbers who partake in high altitude mountaineering sport are sponsored. However, as of 2013 when the Organisation was established, no similar sponsorship had ever been extended to African women. The Organisation was established to provide a formal platform for finding innovative approaches to break barriers to entry while promoting ethical climbing and mountain conservation initiatives.

AFC has had a wide network of support from various individuals who offer advice and strategic guidance. Some of these individuals were founding members or volunteers for the very first project that AFC implemented in 2013. Throughout the years, this network has developed into a caucus whose opinions remain valuable contributions to the direction of the Organisation. The Organisation offers its services free of charge to community members and does not charge any individual or community for membership.

## **3. Objectives**

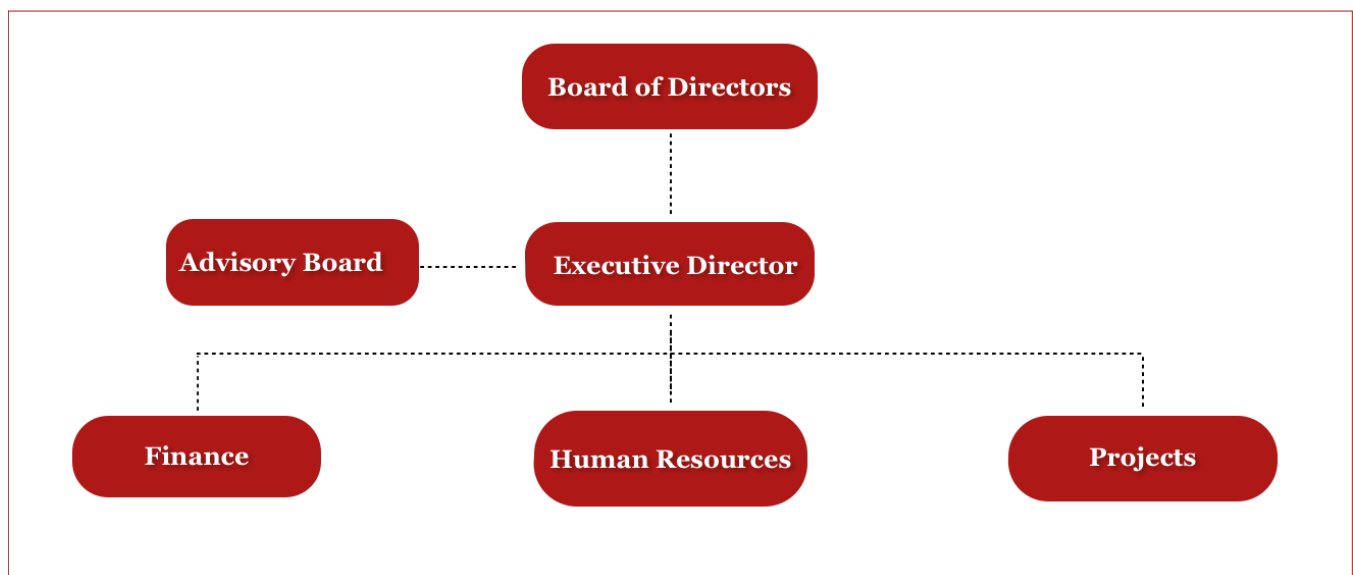
- 3.1. The Organisation's main objectives are:
  - 3.1.1. To increase the number of black participants from South Africa in mountaineering sport;
  - 3.1.2. To be the leading mountaineering club that organise high altitude climbing expeditions for South Africans; and
  - 3.1.3. To inspire the youth to get outside, get active, and become stewards of South African mountains.
- 3.2. The Organisation's secondary objectives will be to:
  - 3.2.1. Raise funds for the main objectives.

## 4. Governance structures

AFC is registered as a non-profit company in South Africa in terms of section 14 of the Companies Act, 2008. Below are the three groups involved in AFC governance structure.

- 4.1. Board of Directors (BoD) includes the directors who are listed on the Organisation's registration documents and bear the fiduciary and legal risks of the Organisation. BoD provides support to the Executive on compliance and administration matters, stakeholder and local community engagements. Other members of the BoD are appointed by investors/donors/benefactors to represent their interests.
- 4.2. The Executive is listed on the Organisation's registration documents and bears the fiduciary and legal risks of the Organisation and has the overall responsibility of management and operations across the Organisation.
- 4.3. The Advisory Board is appointed by the Executive or the BoD to fulfil a specific purpose through provision of high quality, objective advice to the Organisation in areas of strategic importance within a specific timeframe.

Figure 1: AFC Organisational Structure



## 5. Income and property

- 5.1. Board of Directors, Advisory Board Members, the Executive and Non-Executive Directors and office bearers of the Organisation do not have rights over assets that belong to the Organisation.
- 5.2. The Organisation will keep a record of everything it owns.

## **6. Finance**

- 6.1. The Directors who are on company registration documents shall open a bank account in the name of the Organisation and assign the Executive director as the signatory for the account. Notifications of all bank account transactions are sent to both Executive and at least two other directors who are on the Organisation registration documents.
- 6.2. The appointed Executive must control the day to day finances of the Organisation, keep proper records of all the finances including monthly bank statements.
- 6.3. Whenever funds exceeding the amounts stipulated on the director's resolution have to be withdrawn from the bank account, at least the one non-Executive director must approve the request to transact in advance. Evidence for approval must be retained for a 5 year period for audit purposes.
- 6.4. An accounting officer shall be appointed by the Executive. His or her duty is to audit the finances of the Organisation if the Organisation generates an income of R100,000 (ZAR) or more per financial year.
- 6.5. The financial year of the Organisation is March.
- 6.6. The Organisation's accounting records and reports must be ready and handed to the Board of Directors and the Advisory Board within three months after the financial year end.
- 6.7. If the Organisation has funds that can be invested, the funds may only be invested with registered financial institutions. The Organisation can go to different banks to seek advice on the best way to look after its funds.
- 6.8. Funds may be used for marketing materials, climbing equipment, office furniture, stationery, materials for documenting the work performed on expeditions, equipment rental, salaries for work performed, sponsorship for club members who cannot afford to pay for training, networking events, travel for work related trips, pre and post lodging for mountain expeditions and rescue insurance.

## **7. Compensation and expenses**

- 7.1. All expenses relating to projects must be in accordance with the budget items approved on grant agreements with external funders.
- 7.2. Compensation for operational Executive salaries will be annually reviewed and approved by the Board of Directors in accordance with the Companies Act, Section 30 (5), which requires disclosure of the remuneration of directors and prescribed Executive in the Annual Financial Statements (AFS) of the company. The AFS must show the amount of any remuneration or benefits paid to or receivable by persons in respect of:
  - 7.2.1. Services rendered as directors or prescribed officers of the company;
  - 7.2.2. Services rendered while being directors or prescribed officers of the company as directors or prescribed officers of any other company within the same group of companies, or otherwise in connection with the carrying on of the affairs of the company or any other company within the same group of companies.
- 7.3. Pre-approvals for budgets set aside for proposed work to be performed on behalf of the Organisation must be granted by the Executive director following submission of request and justification.
- 7.4. The only time that the Organisation can give money to its members, directors and boards will be when it pays for the work that was done for the Organisation, and for the mountaineering expeditions intended to promote the Organisation's mission and objectives. Pre-approved project plans and budgets, invoices or relevant contracts must be produced and retained for audit purposes.

- 7.5. Members, Directors and Boards of the Organisation can only get reimbursed by the Organisation for expenses paid for or on behalf of the Organisation. Pre-approved project plans and budgets, invoices or relevant contracts must be produced and retained for audit purposes.

## **8. Membership and general meetings**

- 8.1. If a person wants to become a club member of the Organisation, she or he will have to ask the Organisation's Executive. The Executive has the right to decline.
- 8.2. Board of Directors (BoD) includes directors who are listed on the Organisation's registration documents and bear the fiduciary and legal risks of the Organisation. Other members of the BoD may be appointed by investors/donors/benefactors and shareholders to represent their interests in the Organisation for a specified term in accordance to the investment agreement.
- 8.3. Investors/donors/benefactors who want to appoint their representatives to join the BoD to represent their interests in the Organisation have to submit a written request to the existing BoD. The existing members of the BoD will determine terms of references for the appointed representative.
- 8.4. The BoD members will meet at least twice a year. Whereby a BoD member is unable to attend a meeting, the member shall inform the Executive at least two (2) days prior to the scheduled meeting in writing, together with details of the proxy of the person entitled to vote on its behalf.
- 8.5. If a BoD member does not attend two (2) consecutive meetings, the BoD shall find a new member to take that person's place. The remaining BoD will make the decision on the proposed candidates.
- 8.6. The Executive director will invite members of the Advisory Board (AB) once every two years based on the strategic goals of the Organisation.
- 8.7. Members of the AB appointed can serve for a maximum of three (3) consecutive two (2) year terms, but they can stand for re-election for another term in office after that as long as their services are needed and they are willing to continue to offer their services.
- 8.8. Members of the appointed AB must accept and consider the recommendations for AB Chairperson from the Executive, and independently nominate and appoint their Chairperson based on recommendations.
- 8.9. Appointments of AB Chairperson are agreed on the basis of a skills matrices, review of the candidates' CV and motivations.
- 8.10. Recommendations for the composition of AB members are: geographical origin (at least 50% from the base country of South Africa); field of experience (50% with governance and compliance expertise); and gender (minimum 50% female).
- 8.11. The Executive director will provide the appointed AB with terms of references, and AB Chairperson will manage the deliverables of AB members.
- 8.12. The Executive director and the appointed Advisory Board will meet at least once a year. Whereby an Advisory Board member is unable to attend a meeting, the member shall inform the Advisory Board Chairperson at least 2 (two) days prior to the scheduled meeting in writing, together with details of the proxy of the person entitled to vote on its behalf.
- 8.13. Minutes will be taken at every meeting to record decisions. The minutes of each meeting will be given to the Advisory Board Chairperson at least two weeks before the next meeting. The minutes shall be confirmed as a true record of proceedings, by the next meeting of the Advisory Board, and shall thereafter be signed by the Advisory Board Chairperson.
- 8.14. The Organisation has the right to form sub-committees. The decisions that sub-committees take must be given to the AB. The AB must decide whether to agree to them or not at its next meeting.
- 8.15. All members, directors and boards shall not be interested in any capacity whatsoever, including but not limited to, as trustee, a proprietor, shareholder, member, manager, director, adviser, consultant, partner,

employee, financier, or agent in or for any person which is directly or indirectly engaged, interested or concerned in a competitive activity which AFC would have at any particular period been embarking on.

## **9. Powers of the Organisation**

- 9.1. The Board of Directors may take on the power and authority that it believes it needs to be able to achieve the objectives that are stated in point Clause 3 of this constitution. Its activities must be lawful.
- 9.2. The Board of Directors has the power and authority to raise funds or to invite and receive contributions for the Organisation.
- 9.3. The Advisory Board has the right to make by-laws for proper management, including procedure for application, approval and termination of Advisory Board membership.
- 9.4. Board of Directors shall decide on the powers and functions of the Executive.
- 9.5. Members of the Advisory Board are not liable for any of the obligations and liabilities of the Organisation solely by virtue of their status as Advisory Board members of the Organisation. However, due to the developing status of the Organisation, the advise of the Advisory Board to the Organisation is binding.
- 9.6. Members of the appointed Boards and the Executives are not personally liable for any loss suffered by any person or entity as a result of an act or omission which occurs in good faith while they are performing functions for or on behalf of the Organisation.
- 9.7. The functions of the Organisation are to fulfil the objectives set out in Clause 3.

## **10. Annual general meetings**

- 10.1. The annual general meeting must be held once every year, towards the end of the Organisation's financial year (March).
- 10.2. The Organisation should deal with the following business, amongst others, at its annual general meeting:
  - 10.2.1. Agree to the items to be discussed on the agenda;
  - 10.2.2. Write down who is there and who has sent apologies;
  - 10.2.3. Read and confirm the previous meeting's minutes with matters arising; and
  - 10.2.4. Review the following:
    - BoD Chairperson's report;
    - Financial officer's report;
    - Changes to the constitution requested by members; and
    - Selection of new members of the relevant boards.



## **11. Changes to the constitution**

- 11.1. The constitution can be changed/amended by a resolution from the Board of Directors. The resolution has to be agreed upon and passed by not less than two thirds of the directors who are at the annual general meeting or special general meeting. Members must vote at this meeting to change the constitution.
- 11.2. A written notice must go out not less than fourteen (14) days before the meeting at which the changes to the constitution are going to be proposed. The notice must indicate the proposed changes to the constitution that will be discussed at the meeting.
- 11.3. No amendments may be made which would have the effect of making the Organisation cease to exist.

## **12. Amendment of the constitution**

- 12.1. Minutes of the meeting or correspondence validating the acceptance of the amendments must be retained throughout the lifespan of the Organisation.
- 12.2. All older constitutions must be retained for future reference throughout the lifespan of the Organisation.

## **13. Dissolution/winding up**

- 13.1. The Organisation may close down if the required minimum of 3 directors that are legally required for non profit Organisations in terms of section 14 of the Companies Act, 2008 cannot be maintained.
- 13.2. When the Organisation closes down it has to pay off all its debts. After doing this, if there is property or money left over it should not be paid or given to members of the Organisation. It should be given in some way to another non profit Organisation that has similar objectives. The Organisation's general meeting can decide what Organisation this should be.

## **14. Adoption of the constitution**

This constitution was amended, approved and accepted by directors of Afrika Freedom Climbers NPC at a special meeting held on 28 August 2020, by the Board of Directors.