

DEMOCRATIC ALLIANCE FEDERAL CONSTITUTION

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CHAPTER ONE

FOUNDING PROVISIONS AND POLITICAL PRINCIPLES

1.1 NAME

1.1.1 The name of the Party is the Democratic Alliance.

1.1.2 The Democratic Alliance is a political party that will register for and participate in elections and in political activities in the national, provincial and local spheres of government in the Republic of South Africa.

1.2 OUR VALUES

We stand together with all South Africans who share a community of values embodied by these words:

Freedom, Fairness, Opportunity and Diversity

In particular, we believe:

South Africa

- South Africa is a special country because of our people and must take our rightful place among the great nations of the world;
- Ours is not yet the fair society envisioned in the Constitution. Our historic mission is to establish, for the first time in our history, a fair society which will enable the South African people to unleash their talents and ingenuity so that they can realise their full potential. We call this the Open, Opportunity Society For All;
- The inalienable rights of every South African are recorded in the Bill of Rights;
- The Bill of Rights is a victory over South Africa's unjust past. Apartheid was an evil system which denied generations of South African citizens the freedom, rights and opportunities to improve their lives and fulfil their potential. South Africans, working individually and collectively through many different organisations, freed themselves when they defeated the system of Apartheid;
- The injustices suffered by previous generations harm those who follow. The effects of the past are therefore still felt by many born after 1994;
- We cannot undo the past, but as a nation we have a duty to redress any disadvantages caused by our past, so that all South Africans may make equal use of their opportunities;
- A prosperous future for South Africa can only be assured when every South African child receives a quality education, and when all adults have sufficient skills for dignified employment.

The South African people

- Our Party is uniquely founded in faith in the South African people. Through our individual and collective efforts, and enabled by a capable state, the South African people hold the power to make our country a shining beacon for Africa and the world;
- We stand with the hardworking, freedom-loving people of our country who want to live and raise their families in safe communities, support each other, work hard, play by the rules, reap the rewards for their efforts and build a country where all South Africans, regardless of our backgrounds, make progress together;
- Strong people and strong social structures such as families, in all their different manifestations, flourish in strong communities. We have a duty to do everything in our power to strengthen and support the building of durable social structures that promote cooperation in our communities, for history has shown that when South Africans work together, we are unstoppable.
- Families, however uniquely structured, help build successful individuals and provide them a foundation with which to make sense of the world and to realise their full potential as individuals;
- A successful nation must have strong family structures, no matter how they are constituted, because no government can replace the role of family;
- When individuals are deprived of the opportunity to work, their independence and dignity, as well as their ability to provide for their families and those they care for, is undermined. Therefore, our country needs an economy capable of creating jobs.

Freedom and opportunity

- Freedom is not a favour from government, it is a right. The freedoms intended by the framers of our Constitution were hard won for us all, are precious and must be guarded;
- Throughout history, the responsible exercise of freedom has been the only true engine of progress. The South African people must therefore have the maximum amount of individual freedom consistent with law and order. This includes the freedom to earn a living and accumulate wealth in the way of our choosing, live where we want, love who we want, say what we believe, develop our talents and pursue our dreams;
- Access to opportunity gives life and meaning to our hard won freedoms. We believe every South African must have the chance to succeed in life. That is why we believe in spreading opportunity as broadly as possible.

Fairness

- A fair society is one in which our achievements are determined by our own choices and hard work, not by the circumstances of our birth;
- Integral to a fair society are the requirements that opportunity is plentiful and not concentrated in the hands of the few, that everyone has the means to make use of their opportunities, that the strong do not exploit the weak, that we are free from unfair discrimination and

that we remove the barriers erected by Apartheid which are still felt today;

- For South Africa to be fair, justice must be applied to all in a consistent, fair and impartial manner;
- A society cannot be fair if there exists large-scale inequality. A fair society requires a growing economy and access to opportunities for all South Africans.

Diversity

- South Africa is a richly diverse society. Though our people come from different origins, worship in different ways and have different cultures and customs, we are all unique individuals;
- Diversity is one of South Africa's greatest assets. The Party celebrates diversity, and recognises the right of each individual to be who they want to be, free from domination by others;
- The Party solemnly subscribes to the preamble to the Constitution of South Africa which recognizes the injustices of our past, and affirms that South Africa belongs to all who live in it, united in diversity;
- The Party will continue to take active steps to promote and advance diversity in its own ranks.

Government

- The government is accountable to the people. Its purpose is to enable the South African people to use their freedoms. It has no power except that which is assigned to it by the people and the Constitution. The government must reflect the will of the people and our elected representatives must be directly accountable to the people. Those to whom we entrust our nation's highest offices have a sacred duty to live up to that trust;
- Government must always act honestly, transparently and in the best interests of all South Africans;
- All South Africans pay tax, and every cent of government money belongs to the South African people. Taxpayers' money should be spent for the benefit of the people, not the connected few;
- To represent the needs and wishes of all South Africans, government needs to be close to those who are affected by its actions. Officials and representatives in government must be put into these positions by the people whose lives their positions affect, thereby ensuring that the people can hold them accountable for their actions;
- Government must always stand ready to help those who need it, but its primary function is to empower the people to make use of their freedoms, so that they may progress in their own lives;
- Central to empowering South Africans is ensuring that they are free from the deprivations that rob them of their ability to use their opportunities. This requires:
 - A system of social security to protect people from extreme poverty;
 - The delivery of high quality basic services;
 - Excellent education and healthcare;

- A functional criminal justice system to keep people safe;
- A growing economy to enable people to access jobs, and
- Measures to level the playing field of opportunities, as quickly as possible, for people who today are still at a disadvantage because of the injustices of the past.

1.3 PRINCIPLES

The vision of the Democratic Alliance is grounded on the defence, promotion and extension of the following principles:

- 1.3.1 the fundamental rights and freedoms of every person - including the right to freedom of conscience, speech, association, and movement;
- 1.3.2 the rejection of unfair discrimination on any grounds and the redress of past discrimination, without recourse to rigid formulae or quotas;
- 1.3.3 the supremacy of the South African Constitution and the rule of law;
- 1.3.4 the language, cultural and religious rights of individuals and the communities they create through free association;
- 1.3.5 equality before the law;
- 1.3.6 the separation of legislative, executive and judicial power;
- 1.3.7 a judiciary, justice system and prosecuting authority that is independent;
- 1.3.8 elections that are regular, transparent, credible, free and fair;
- 1.3.9 representative and accountable government elected on the basis of universal adult suffrage;
- 1.3.10 the devolution of power to locate government as close as possible to the people;
- 1.3.11 the clear division between the ruling party and the state;
- 1.3.12 respect for the right of a vibrant civil society and a free media to function independently;
- 1.3.13 the rejection of violence and intimidation as a political instrument;
- 1.3.14 the right of all people to private ownership and to participate freely in the market economy;
- 1.3.15 the progressive realisation of access to housing, health services and social security for all people who are unable to help themselves;
- 1.3.16 the protection and conservation of the environment;

- 1.3.17 the right of all people to protection by the state from crime and violence;
- 1.3.18 access to education and training.

1.4. PROGRAMME OF ACTION

- 1.4.1 The Party will promote its growth in all communities with the intention of realising its vision and advancing its principles either as government or opposition in all spheres.
- 1.4.2 The programme of action must include provisions aiming at, but not be limited to, the following:
 - 1.4.2.1 serving the needs of the people of South Africa through the structures and resources of the Party;
 - 1.4.2.2 endeavouring to gain control of governments in all spheres of government;
 - 1.4.2.3 being an effective government when in power;
 - 1.4.2.4 being an effective opposition when not in government;
 - 1.4.2.5 holding its public representatives to account;
 - 1.4.2.6 holding our DA governments accountable through appropriate policies adopted by the Federal Council.
- 1.4.3 The Party must seek to co-operate with other political formations, both foreign and domestic, which share its commitment to the vision of an Open Opportunity Society for All and its passion for freedom, dignity, equality and democracy, or which support the Party in government.

1.5 LEGAL PERSONALITY AND POWERS

- 1.5.1 The Party is a body corporate with perpetual succession.
- 1.5.2 The Party is capable of suing and being sued in its own name and it may own, purchase, sell, hire, lease, mortgage, pledge or in any other way acquire, alienate or deal with movable and immovable property and may perform all legal activities authorized by this Constitution as well as legal activities normally associated with a body corporate.
- 1.5.3 The Party shall only be legally bound in the exercise of its competencies set out in this Constitution by a person or persons authorized in advance, in writing, by the Chairperson of the Federal Council or a person or Party formation delegated by him or her in writing.

- 1.5.4 The Federal Executive represented by the Chairperson of the Federal Council, carrying the mandate of the Federal Executive, may act on behalf of and legally bind the Party in all matters. He or she may authorise in writing another member of the Party to act on the Party's behalf in all legal proceedings by and against the Party.
- 1.5.5 No other member or formation of the Party may act on behalf of and legally bind the Party. Any person or persons who purport to do so in contravention of the provisions of this Constitution, shall be personally liable therefor, and such decision or action shall be considered misconduct.
- 1.5.6 The Chairperson of the Federal Executive or someone authorised by him or her in writing represents the Party in all legal proceedings by or against the Party.
- 1.5.7 All monies and goods received and collected in the name of the Party vest in the Party itself.
- 1.5.8 Income and assets of the Party are not distributable to members or office bearers, except as reasonable compensation for services rendered.

CHAPTER TWO

**GENERAL ORGANISATIONAL PRINCIPLES
OF THE PARTY**

2.1 GENERAL STRUCTURE OF THE PARTY

- 2.1.1 The Party consists of members who are organised in and function democratically through the organisational formations of the Party.
- 2.1.2 The organisational formations of the Party are set out in this Constitution, and consist of formations at federal, provincial, regional, constituency, local and international level.
- 2.1.3 At local level the Party must establish branches with democratically elected branch committees and/or branch executive committees, and strive to establish a branch in every ward within the Republic of South Africa.
- 2.1.4 Branches are the basic organisational formations of the Party and every member of the Party must be a member of a branch and must exercise his or her rights and privileges as a member through his or her branch and its elected representatives and delegates.
- 2.1.5 The Party must establish constituencies as organisational formations. These may include contiguous municipal wards or any specific interest group, defined institution(s) or societal sector(s). In the case of geographic constituencies, such constituencies must be delimited taking local circumstances into account and must cover all of the wards within the geographical area concerned.
- 2.1.6 Where constituencies have been delimited and allocated by the regional or provincial structures concerned, a democratically elected constituency committee and/or constituency executive committee assumes responsibilities as provided for in the Provincial Constitution.
- 2.1.7 The formations may also include formations at regional and sub-regional level depending upon the circumstances of each province and the provisions of the Provincial Constitution.
- 2.1.8 At provincial level the Party must establish a provincial congress for every province in the Republic of South Africa.
- 2.1.9 Provincial Congresses must establish Provincial Councils, Provincial Executives and other committees as may be provided for in their Provincial Constitutions.
- 2.1.10 At national level the Party must establish a Federal Congress and the other formations provided for in this Constitution.

- 2.1.11 The Party is assisted and supported by ancillary organisations established in terms of Chapter 11.
- 2.1.12 The Federal Congress is the highest level at which the democratically expressed will of the members is stated and the Federal Congress is thus the highest authority in respect of all matters in the Party, subject to the provisions of this Constitution.
- 2.1.13 Formations in the Party have the authority, powers and functions set out in this Constitution and in the Provincial Constitutions.
- 2.1.14 Wherever a formation of the Party is entitled to representation on higher formations, it will only be entitled to that representation if it is validly constituted in terms of this Constitution and any validly adopted Rules. Such representation will be determined by a formula adopted by the Federal Council, and subject further to the provisions of section 2.3.3.

2.2. NOMINATION AND SELECTION OF CANDIDATES

- 2.2.1 The Federal Council must adopt regulations for the nomination and selection of candidates.
- 2.2.2 Those regulations may make provision for provincial and local variations to suit the circumstances of the provinces. Detailed written grounds must be supplied motivating variations by the province and/or local formation concerned.
- 2.2.3 Regulations for the nomination and selection of candidates for the National Assembly must provide for provincial lists and may also provide for a national list.
- 2.2.4 Any member of the Party wishing to make themselves available for election as any office-bearer in any structure in the Party or as a public representative, must be a member in good standing with the Party.

2.3 VOTING

- 2.3.1 Subject to the provisions of this Constitution, voting at meetings of all bodies of the Party is by a show of hands, unless secret ballot is required by the person presiding or by one-tenth of the members present.
- 2.3.2 Decisions at all meetings are taken by a majority of members present and voting, provided that:
 - 2.3.2.1 a teleconference shall only be regarded as a meeting if a quorum of the participants is present and if notice of such a teleconference has been given to the members; and further provided that, where a secret ballot is requested, voting shall take place at a special meeting called thereafter; and

2.3.2.2 the presiding officer at a meeting has a casting as well as a deliberative vote, provided that they are a voting member of that body.

2.3.2.3 The Federal Council must prescribe procedures for early and/or distance voting for any meeting where voting is to take place and where early/distance voting has been approved by the Federal Executive.

2.3.3 All elections to office within the Party involving the election of more than two people to an office must be by a voting system approved by the Federal Council, provided that where this is practically impossible, permission may be granted by the Regional Executive when it relates to branches, Provincial Executive when it relates to constituencies and Regions, and Federal Executive or the chairperson of Federal Council when it relates to Provinces to deviate from this on good cause shown. Internal elections will be conducted in terms of standards set by the Federal Council.

2.3.3.1 Ballots for office bearers' election must be kept by the Party for at least 30 days: except where an appeal has been lodged in which case the ballots will be kept until the appeal has been disposed of.

2.3.3.2 Objections to the outcome of office bearer's elections must be lodged within 48 hours after the announcement of results.

2.3.4 A staff member who is a member of a structure of the Party in that capacity, shall not have voting rights on that structure unless provided in this Constitution; provided that in respect of matters involving candidate selection or election of office-bearers on any party structure, no staff member shall have voting rights.

2.4 POLICY

2.4.1 The supreme policy-making body of the Party is the Federal Congress in session. Proposals affecting the Values or the Principles of the Party as contained in this Constitution shall not be debated or decided upon unless four weeks prior written notice has been given to delegates to Congress, or in the event of such notice not having been given, by a four-fifths majority vote of all those present and voting, the Federal Congress agrees to debate and decide upon such proposals.

2.4.2 When the Federal Congress is not in session, the Federal Council may formulate policy in matters where no policy has been stated or where the stated policy is not clear or needs to be specifically applied, expressed, amended or expanded in accordance with the Values and the Principles of the Party.

2.4.3 When the Federal Congress and Federal Council are not in session, the Federal Leader and the Caucuses have policy functions that are dealt with elsewhere in this Constitution.

2.4.4 Provincial Congresses and Councils of the Party may adopt policy on matters that are within the competence of the provinces in terms of the Constitution of South Africa provided that such policies must not contradict the Values and the Principles of the Party or a policy decision of the Federal Congress or Federal Council.

2.5 STANDARDS OF CONDUCT OF PARTY MEMBERS

2.5.1 All Party members are subject to the discipline of the Party and submit to the provisions of this constitution in regard to rules on conduct and to the disciplinary procedures set out in Chapter 10.

2.5.2 All Party members including public representatives, submit to the right of the Party, to terminate their membership, to remove them from office in any executive or legislative sphere of government or office within the Party, or to be moved to a position deemed to be suitable by the Party, on the grounds of incapacity owing to poor performance and/or ill health, which includes but is not limited to incompetence and/or inefficiency and/or incapability, but only in terms of processes and procedures prescribed by the Federal Council.

2.5.3 Action against any public representative on the grounds of incapacity, which could result in that person's membership being terminated or his or her privileges being curtailed, can only be taken in terms of the processes and procedures as prescribed by the Federal Council.

2.5.4 Any member, including a public representative, is guilty of misconduct if he or she:

2.5.4.1 publicly opposes the Party's Values and Principles or repeatedly opposes published Party policies, except in or through the appropriate Party structures;

2.5.4.2 acts in a way which impacts negatively on the image or performance of the Party;

2.5.4.3 acts in any manner whatsoever which results in him or her being found guilty of a serious criminal offence by a court of first instance;

2.5.4.4 fails to carry out his or her duties and/or responsibilities according to standards set by the Federal Council of the Party or of the relevant Provincial or Regional Council, or to standards required by any statutory rules of conduct required by the public office he or she holds;

- 2.5.4.5 acts in any manner whatsoever which brings the good name of the Party into disrepute or harms the interests of the Party;
- 2.5.4.6 acts in any manner whatsoever that is unreasonable and detrimental to internal co-operation within the Party;
- 2.5.4.7 unreasonably fails to comply with or rejects decisions of the official formations of the Party;
- 2.5.4.8 submits or attempts to submit false membership forms or commits or attempts to commit membership fraud in any way;
- 2.5.4.9 contravenes any of the explicit Party decisions or regulations for the appropriation of Party finances;
- 2.5.4.10 collects money on behalf of or in the name of the Party or any of its structures or for any political activity without depositing such money in a bank account opened and operated in terms of procedures approved by the Federal Finance Committee and/or operates a bank account in which Party money is deposited without the approval of the Federal Finance Committee or a structure of the Party authorized by it;
- 2.5.4.11 in any election for office, or in opposing any proposed or existent Party policy or process, mobilises or attempts to mobilise opposition to the policy or process, or opposition to or discrimination against any person on the grounds of race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language or birth;
- 2.5.4.12 publicly alleges or implies that he or she, or any group of members, have been unfairly prejudiced, or any member or group of members unjustifiably preferred, as a consequence of that member's or those members' race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language or birth;
- 2.5.4.13 being a public representative, in any meeting of any legislative body, disparages, belittles or insults the Party or any member of the Party, or another Party or any member of another Party with which the Party is in a coalition in that legislative body;
- 2.5.4.14 in any way intimidates or sexually harasses in any manner, any member of the Party or staff members;

2.5.4.15 discloses in any way any sensitive and/or confidential information discussed in a closed meeting with anybody outside that meeting other than a person authorised to receive it in terms of a policy adopted by the Federal Council.

2.5.5 A public representative may be removed from office or moved to a position deemed to be suitable by the Party on the grounds of incapacity owing to poor performance and/or ill health, which includes but is not limited to incompetence and/or inefficiency and/or incapability, but only in terms of processes and procedures prescribed by the Federal Council.

CHAPTER THREE

MEMBERSHIP AND BRANCHES

3.1 MEMBERSHIP

3.1.1 Every person wishing to become a member of the Democratic Alliance must:

3.1.1.1 be 16 years of age or older: provided that all members 16 years or older until they attain the age of 31, may opt-in to become members of the Democratic Alliance Youth;

3.1.1.2 be a citizen or a permanent resident of South Africa;

3.1.1.3 subscribe to the Values, the Principles and the Programme of Action of the Party;

3.1.1.4 agree to abide by the Constitution of the Party;

3.1.1.5 apply to become a member of the Party, by signing the prescribed membership application form, or by making application electronically online or in other ways approved by the Federal Council;

3.1.1.6 comply with any condition set by the Federal Council or Federal Executive from time to time; and

3.1.1.7 personally pay the membership subscription applicable to the period of membership applied for. What constitutes personal payment will be regulated by the Federal Executive from time to time.

3.1.2 Membership takes effect when a person complies with the requirements for membership as set out in section 3.1.1, and pays the membership fee in accordance with regulations approved by the Federal Council from time to time.

3.1.3 A person may enrol as a member at any time during the year. A member of the Party who is a member on the audit date, is entitled to vote at all meetings of the Party subsequent to that date until the next audit date, unless their membership is formally terminated or suspended. Members who join the Party shall be entitled to vote at all meetings 30 days after the date of joining until the next audit date: provided that the Provincial or Regional Executive, as provided in the Provincial Constitution, may determine an appropriate cut-off date for voting by members at inaugural or annual general meetings of branches.

- 3.1.4 The membership of the Party is audited on 31 March or such other date as Federal Council from time to time decides, for the purposes of:
- 3.1.4.1 monitoring the integrity of the membership of the Party; and
 - 3.1.4.2 establishing a cut-off upon which representation to structures of the Party in the forthcoming year can be determined.
- 3.1.5 A province, region, constituency or branch that fails to pass its membership audit may lose its right to participate fully in federal or provincial congresses or regional or branch annual general meetings.
- 3.1.6 Any member who fails to renew his or her membership on or before the due date resumes membership only from the date upon which he or she pays the prescribed membership subscription and is subject to the 30 day requirement and other provisions referred to in section 3.1.
- 3.1.7 Anyone who applies for membership or renews their membership via the online website application shall not be required to sign a membership form.
- 3.1.8 A donor to the Party whose donation in that period exceeds the prescribed membership subscription, and who wishes to become a member, of the Party, must comply with all requirements of section 3.1.1, save that the membership subscription will be deemed to be included in the donation.
- 3.1.9 A donor who is already a member, and whose donation in that period exceeds the prescribed membership subscription, continues as a member and the donation is deemed to include the membership subscription.
- 3.1.10 A public representative whose compulsory contribution to the Party in that period exceeds the membership subscription, continues as a member and the membership subscription is deemed to be included in their compulsory contribution.
- 3.1.11 The Party may provide for honorary life membership of the Party, given at the discretion of the Federal Council.

3.2 REFUSAL OF MEMBERSHIP

- 3.2.1 A Regional or Provincial Executive may itself or at the recommendation of a branch or constituency refuse to accept the application for membership of any person other than a public representative, who joined the Party in terms of section 3.1.1. within 60 days of the payment of the membership subscription by such a person at the relevant regional or provincial office.

3.2.2 An individual whose membership has ended is perpetually inadmissible for membership if their membership ended under the following circumstances, and may not be readmitted for membership nor be eligible for nomination as a public representative in such case, without the express approval of the Federal Executive after consultation with the relevant Provincial Executive:

3.2.2.1 An individual whose membership has ceased in terms of 3.5 of this Constitution, save that this does not apply to members whose membership has expired in terms of 3.5.1.1;

3.2.2.2 An individual whose membership was terminated in terms of 10.12 of this Constitution;

3.2.2.3 An individual who voluntarily resigned from the Party to join or support another party;

3.2.2.4 An individual who, being charged with misconduct in terms of this Constitution, resigns prior to the completion of the necessary disciplinary processes and appeals as defined in this Constitution;

3.2.3 Any individual who is perpetually inadmissible for membership in terms of clause 3.2.2 is deemed to not be a valid member even where such person submits a valid membership application form to the party or applies for membership online, the submission of which does not constitute readmission of membership;

3.2.4 A person whose membership application has been refused in terms of section 3.2.1 may appeal that decision to the Provincial Executive, or, if the decision was taken by the Provincial Executive, to the Federal Executive. The decision of the Provincial or Federal Executive, as the case may be, is final.

3.2.5 Public representatives from other parties may only be accepted as members of the Party with the prior approval of the Federal Executive or a person designated by the Federal Executive, after consultation with the Provincial or Regional Executive concerned: provided that the Branch Executive must also be consulted in respect of a local government representative.

3.3 MEMBERSHIP SUBSCRIPTIONS

3.3.1 The Federal Council determines from time to time the minimum membership subscription of the Party and the date for payment. That minimum will be uniform for all members.

3.3.2 A branch may request members to pay a voluntary contribution in addition to the prescribed membership subscription, in which case the amount in excess of the prescribed fee shall be deemed to be a donation and will be allocated to the branch in accordance with the Policy of the Federal Finance Committee.

3.3.3 A member may pay the membership fee for his or her spouse(s), partner, child, parent or dependant(s) living at the same address. Sponsored membership in any form or for any person or class of persons other than in terms of this section or of section 3.1.1.6 is not allowed.

3.4 DUAL MEMBERSHIP

A member or category of members of the Party may also be a member or members of another party or parties approved by the Federal Council for the period and on conditions determined by the Federal Council.

3.5 CESSATION OF MEMBERSHIP

3.5.1 A member ceases to be a member of the Party when he or she:

3.5.1.1 fails to renew his or her membership on or before the date stipulated in s 3.1.4;

3.5.1.2 publicly declares his or her intention to resign and/or publicly declares his or her resignation from the Party;

3.5.1.3 publicly declares his or her intention to join another party and/or publicly declares that he or she has joined another party;

3.5.1.4 becomes or remains a member of another party other than one approved under this Constitution;

3.5.1.5 has his or her membership application refused in terms of s 3.2.1 and any appeal in terms of s 3.2.4 has been dismissed or the time period for lodging an appeal has expired;

3.5.1.6 canvasses other Party members to resign from the Party;

3.5.1.7 canvasses other Party members to join or support another Party;

3.5.1.8 stands or accepts nomination against an official candidate of the Party in any public election;

3.5.1.9 after having been warned to desist, publicly and unreasonably disparages the Party or decisions taken by its structures;

- 3.5.1.10 fails to resign his or her position after the procedures stipulated in s 6.2.6.3 have been followed;
 - 3.5.1.11 is found guilty of any offence listed in Schedule 1, 2, 5, 6 or 7 of the Criminal Procedure Act;
 - 3.5.1.12 is in default with the payment of any compulsory public representative contribution for a period of 2 (two) months after having been notified in writing that he or she is in arrears and fails to make satisfactory arrangements or fails to comply with such arrangements for payment of the arrears;
 - 3.5.1.13 being a public representative of the Party in a legislative body, in any meeting of that legislative body, votes in a manner other than in accordance with a Party caucus decision which is consistent with Party policy, in that legislative body, or being a single public representative in a caucus votes in a manner inconsistent with the instructions of higher Party structures or Party policy: save in the case where the Party allows a free vote on the issue being voted on, or the caucus has given permission for that member to vote in a particular manner;
 - 3.5.1.14 being a public representative of the Party in a legislative body, introduces a motion of no confidence in any government controlled by the Party, or in which the party is in coalition, or office-bearer in such a government, except with the leave of the Federal Executive;
 - 3.5.1.15 being a public representative of the Party in a legislative body, in any meeting of that legislative body, leaves the meeting at a time a vote is to be taken on a matter that has been agreed by the caucus, in a situation in which leaving the meeting prevents the decision from being taken, or which causes or results in a decision being taken that is contrary to the agreed caucus position.
- 3.5.2 A member, who ceases to be a member of the Party, loses all privileges of Party membership and, if that member is a public representative, he or she also loses the office which he or she occupies by virtue of his or her membership, with immediate effect.
- 3.5.3 The process or processes to be followed in the case of cessation under this section will be determined by the Rules of the Federal Legal Commission.

3.6 ONLY MEMBERS CAN SERVE

- 3.6.1 Only Party members can serve on the representative and other structures of the Party and be public representatives of the Party.
- 3.6.2 If the membership of a public representative is terminated in terms of section 10.12 or if a public representative ceases to be a member of the Party by virtue of section 3.5.1, the relevant Provincial Managing Director as the case may be, must notify the relevant authorities of the vacancy which has arisen.
- 3.6.3 Only members in good standing for at least 30 days are eligible to serve in any elected position in the Party.

3.7 BRANCHES

- 3.7.1 The essential organisational units of the Party are the branches. The Party will strive to establish and maintain a branch or branches for every local government ward in South Africa, composed of the key stakeholders of the Party, namely its members. Members play an important role in decision and policy making and the implementation of the Party's Programme of Action.
- 3.7.2 Branches are established to manage and direct the affairs of the Party, to communicate the principles and policy of the Party to the public, to recruit activists and volunteers for the Party, to mobilise the public in support of the programme of action of the Party, to participate in the process of democratic selection of candidates for the Party and to serve as the vehicle for the articulation of the interests of members of the Party and voters in their areas of jurisdiction.

3.8 MEMBERSHIP OF BRANCHES

- 3.8.1 Members of the Party belong to branches and exercise their voting rights as members in branches, or through representatives elected by branches.
- 3.8.2 Members belong to the branch established for the ward or voting district in which they live: provided that –
 - 3.8.2.1 if a member is a member of a branch and ceases to live within that branch area by virtue of ward demarcation, he or she may remain a member of the branch to which he or she was a member prior to the demarcation until the next audit date;
 - 3.8.2.2 where no branch has been established in the ward in which a member lives, the Provincial Executive or Regional Executive must, after consulting with him or her, allocate

him or her to the closest established branch, for him or her to be included as a member;

3.8.2.3 where a branch in which a member lives has ceased to exist because it has fewer than 25 members as certified by the membership audit, the Provincial Executive or Regional Executive, after consulting with him or her, allocate him or her to the closest established branch for him or her to be included as a member;

3.8.2.4 a public representative may join any branch within the constituency or ward for which he or she is responsible, even if he or she does not live within that area. If he or she exercises this choice, he or she must inform the Provincial Managing Director accordingly;

3.8.2.5 any other member may apply to the Provincial or Regional Executive to join a branch other than the branch within the area in which he or she lives. The relevant Executive shall approve the application only on reasonable grounds.

3.8.3 A member of the Party can only be a member of one branch, and may be a delegate or office bearer of only that branch. Public representatives may attend and speak at all branches in the area of jurisdiction which they represent or which has been allocated to them, but they are entitled to vote only in the branch of which they are a member.

3.8.4 Public representatives shall automatically be members of the Branch Executive of the branch of which they are a member.

3.9 AREA OF JURISDICTION OF BRANCHES

3.9.1 The area of jurisdiction of a branch must not be smaller than a municipal ward. Provided that a provincial or regional executive, where these exist, may permit a branch to be established in an area smaller than a municipal ward on application by members in that branch for compelling reasons and supported by the relevant constituency executive.

3.9.2 The area of jurisdiction of a branch is:

3.9.2.1 the area referred to in terms of 3.9.1; or

3.9.2.2 as many voting districts as the Provincial or Regional Executive may direct if there is more than one branch in a ward; or

3.9.2.3 more than one ward if the Provincial or Regional Executive deems it is not possible to establish and maintain a branch for each ward in the immediate future.

3.10 REPRESENTATION OF BRANCHES

- 3.10.1 Where there is more than one branch in a ward, the representation to other structures of the Party will be allocated between the branches within the ward according to a formula determined by the Federal Council.
- 3.10.2 If the branches in a ward are jointly entitled to fewer representatives to higher bodies than the number of branches, or if that representation must be shared between branches, the representatives will be elected using a proportional voting system approved by the Federal Council by delegates from the branches involved at a combined branch meeting held at a date time and venue approved by the Constituency Committee. Each branch will be represented at that meeting by a number of delegates determined by the formula approved by the Federal Council.
- 3.10.3 The entitlement of a branch to representation to other structures of the Party is determined by the status of that branch as at the last audit date as provided in s3.1.4, except where an office-bearer of the branch is *ex officio* entitled to be represented on another Party structure.

3.11 FORMATION OF BRANCHES

- 3.11.1 A branch may only be formed with the prior approval of the body vested with this responsibility in the Provincial Constitution or Regional Rules and Practices, and the branch area of jurisdiction must be determined at the same time. Approval for the formation of a branch must not be unreasonably withheld.
- 3.11.2 A branch may only be formed if the Provincial Executive or, where applicable, the Regional Executive, certifies that there are at least 25 members within the area of jurisdiction of the branch.
- 3.11.3 A branch ceases to exist if its members drop below 25 as certified by the membership audit, or if a general meeting of the branch, of which notice was given to all members of the branch, decides to dissolve the branch, or if the branch fails to hold an annual general meeting by a date determined by the Federal Executive in terms of section 6.3.3.5. The members of the branch must then be transferred to an adjoining branch as determined by the Provincial or Regional Executive.

3.12 BRANCH MEETINGS

- 3.12.1 A Provincial Executive or where there is one, a Regional Executive, or the Constituency Committee as the case may be, may require a Branch Executive, which has failed to carry out its mandate in terms of the constitution, to convene a meeting of members for the purpose of electing a new Branch Executive and, if it fails to do so within 30 days, the Provincial or Regional Executive may itself convene such a meeting.

- 3.12.2 When a new branch is about to be formed or an existing branch is to hold an annual general meeting a notice indicating the date, time and venue of the meeting and the nature of the business to be transacted must be given to all of the members of the branch resident in the ward, to all public representatives of the Party responsible for the area, and to the office of the Provincial or Regional Executive as the case may be. At least 14 days' notice is required before such a meeting may be held: provided that the Federal Executive may condone a shorter notice period on good cause shown.
- 3.12.3 The quorum for the holding of an inaugural meeting and for an annual general meeting will in all cases be thirteen (13) members.
- 3.12.4 The presiding officer at all inaugural and annual general meetings of branches must be a person designated by the Provincial or Regional Executive, as the case may be.
- 3.12.5 The Chairperson of a Branch Executive must call a general meeting of the branch within twenty one days if one-fifth of the members of the branch so request in writing.

3.13 BRANCH EXECUTIVES

- 3.13.1 Branch Executives:
 - 3.13.1.1 must meet on a regular basis, but not less than once a quarter, at times, dates and venues determined by the Chairperson;
 - 3.14.1.2 in general manage and guide the activities of the Party within their area of jurisdiction and ensure that the programme of action of the Party is implemented as far as possible;
 - 3.13.1.3 give effect to the decisions of higher formations of the Party;
 - 3.13.1.4 report to the Constituency Committee and, when so required, to other higher formations of the Party on activities and on local ideas and opinion;
 - 3.13.1.5 assist the public representatives of the Party in implementing the policy and the programme of action;
 - 3.13.1.6 communicate with members of the Party and the broader public in order to mobilise support for the Party.
- 3.13.2 The ward councillor, or PR councillor allocated to a ward, must give political leadership to the activists of the branch by guiding strategies and activities and participating in these as an identified leader of the Party.

3.14 **FAILURE BY BRANCHES**

3.14.1 If a branch:

3.14.1.1 fails to comply with the provisions of any Party Constitution;
and/or

3.14.1.2 cannot function properly due to internal strife or lack of
leadership;

the Constituency, Regional or Provincial Executive may take steps to rectify the situation, provided that the Executive taking such decision shall report to the next Constituency, Regional or Provincial Council meeting as to what steps it has taken.

3.14.2 The steps referred to above may include a directive that the administration of the branch or any aspects thereof may be taken over by a designated Party official or body.

CHAPTER FOUR

CONSTITUENCIES

4.1 DEMARCATION OF CONSTITUENCIES AND COMPOSITION OF CONSTITUENCY COMMITTEES

- 4.1.1 A Provincial Executive must, in consultation with the Chief Executive Officer of the Party and after due consultation with the relevant Constituency and Regional Executives where these exist demarcate constituency boundaries.
- 4.1.2 A constituency must be an area capable of being administered as a unit and must consist of one or more adjacent local municipalities, or, in the case of metropolitan areas or large municipalities, of adjacent wards, forming one geographical area. A constituency can also be a specific interest group, defined institution(s) or societal sector identified by the Federal Council or Federal Executive or as one needing focussed attention.
- 4.1.3 Every constituency must have a Constituency Committee, the composition of which shall be as provided in the relevant Provincial Constitution.
- 4.1.4 The duly constituted Constituency Committee must elect a Constituency Executive and Constituency Chairperson, as provided in the Provincial Constitution, provided that the Chairperson must be a member of one of the branches entitled to be represented on that Constituency.
- 4.1.5 The constituency head allocated to the constituency, as well as all councillors representing wards in the constituency or who are PR councillors who have been allocated to wards in the constituency, are automatically members of the Constituency Committee and the constituency head shall also be a member of the Constituency Executive.
- 4.1.6 A member of a constituency executive who fails to attend three consecutive meetings, without good reason, may be removed from their position on that executive by a majority decision of the executive, after giving such member the opportunity to motivate why he/she should not be removed. The member may appeal such decision to the relevant provincial executive, whose decision will be final.

4.2 POWERS AND FUNCTIONS OF CONSTITUENCY COMMITTEES

- 4.2.1 The Constituency Committee participates in drafting an annual programme for the constituency and all its branches.

4.2.2 The Constituency Committee assists the public representatives and operational structures of the Party in implementing the policies and the programme of action of the Party.

4.2.3 The Constituency Committee shall not deal with financial matters other than –

4.2.3.1 Fundraising permitted by the Federal *Finance, Fundraising and Procurement Policy*; and

4.2.3.2 Ensuring that the constituency expenditure on political activities expends but does not exceed the political activity budget allocated to the constituency or any monies raised by the constituency.

4.3 ALLOCATION AND RESPONSIBILITIES OF CONSTITUENCY REPRESENTATIVES

4.3.1 The Provincial Executive must, after having demarcated as provided in this Constitution, and after consultation with the MPs and MPLs and any councillors which it contemplates allocating as constituency heads, and regional executives where these exist, and the constituency executives, allocate one or more Member/s of Parliament or the Provincial Legislature, to a constituency as the Constituency Head/s. A Provincial Executive may, with the approval of the Federal Executive, assign a councillor as a Constituency Head.

4.3.2 The Constituency Head/s is/are the political leader/s in that constituency and is/are directly responsible to the Regional, Provincial and Federal leadership for the proper political functioning of the constituency and the branches within the constituency.

4.3.3 The constituency allocated to a representative or representatives is the area in which that representative or those representatives must be available to serve the voters and support Party activities in accordance with a job description determined by the Federal Council.

4.3.4 The Regional Executive, or if there is none, the Provincial Executive, shall, after consultation with the PR councillors and the Constituency Executive, allocate PR councillors to wards and/or other specific responsibilities.

4.3.5 Ward Councillors take responsibility for the ward for which they were elected, and they and PR Councillors take such other responsibilities as the regional or provincial organisation may allocate to them in consultation with the relevant caucus leader.

4.3.6 The Constituency Chairperson is administratively responsible for the Constituency.

4.3.7 Staff members assigned to a Constituency or a targeted community in a constituency or constituencies are responsible for executing the operations and political support in the Constituency.

4.4 **FAILURE BY CONSTITUENCIES**

4.4.1 If a constituency:

4.4.1.1 fails to comply with the provisions of any Party Constitution; and/or

4.4.1.2 becomes unable to meet its financial commitments; and/or

4.4.1.3 cannot function properly due to internal strife or lack of leadership;

the Regional, Provincial or Federal Executive must take steps to rectify the situation, provided that the Executive taking such decision shall report to the next Regional, Provincial or Federal Council meeting as to what steps it has taken.

4.4.2 The steps referred to above may include a directive that the administration of the constituency or any aspects thereof may be taken over by a designated Party official or body.

CHAPTER FIVE

PROVINCES AND PROVINCIAL CONSTITUTIONS

5.1 PROVINCIAL CONSTITUTIONS

5.1.1 Each province must have a provincial constitution that must provide for:

5.1.1.1 a Provincial Congress,

5.1.1.2 a Provincial Council,

5.1.1.3 a Provincial Executive,

5.1.1.4 Constituency Committees,

5.1.1.5 Constituency Executives, and

5.1.1.6 Branch Executive Committees

with all the appropriate and relevant provisions relating to those bodies: provided that a Provincial Constitution may, with the prior approval of the Federal Executive and on good cause shown, make provision for Regions, Regional Executives and Regional Councils as institutional structures between Constituencies and Congresses.

5.1.2 Branches must be represented at Constituency Committee level and Constituency Committees at Provincial Council level: provided that where Regional Councils are created, Constituency Committees must be represented at Regional Council level and Regional Councils at Provincial Council level.

5.1.3 Provincial constitutions are intended to suit local conditions that may differ from province to province, and may therefore with the approval of the Federal Council deviate from this Constitution to the extent that provision is made herein for such departure.

5.1.4 Any departure in a Provincial Constitution from the provisions of this Constitution must be in clear and concise terms.

5.1.5 Provinces must within six months after the acceptance of any amendments to the Federal Constitution which conflict with their Provincial Constitutions, amend their Provincial Constitutions to bring them in line with the Federal Constitution: Provided that if no Provincial Congress takes place within that period, the province must implement the changes by way of rules adopted by the Provincial Council or Provincial Executive, which rules shall have the status and effect of constitutional imperatives: Provided further that the amendments to the Federal Constitution shall take effect immediately after they are passed,

regardless of whether the Provincial Constitutions have been amended unless a special dispensation is granted by the Federal Executive on the basis that it is impossible in the particular circumstances.

- 5.1.6 All Provincial Constitutions or amendments thereof must be submitted to the Federal Legal Commission for certification that they are in accordance with the Federal Constitution immediately after the adoption thereof, or such further limited period as the Federal Council may permit, and thereafter to the Federal Executive for approval.

5.2 BRANCHES AND CONSTITUENCIES

The provisions of Chapter 3 and 4 of this Constitution in regard to branches and constituencies will apply in all respects to all provinces, unless the Federal Council approves of a deviation that conforms to sections 5.1.1. to 5.1.4 above and is clearly set out in a Provincial Constitution.

5.3 REGIONAL STRUCTURE

- 5.3.1 If a Provincial Constitution makes provision for regions and Regional Councils or other regional structures, that constitution must clearly set out the powers and duties of such structures and how such structures are composed in order to comply with sections 5.1.1 to 5.1.4 above

- 5.3.2 The establishment of regional structures is subject to the general principles referred to in sections 5.1.2 and 5.1.3 and a Provincial Constitution must give effect thereto.

- 5.3.3 Any amendment to a Provincial Constitution only takes effect upon the approval of that amendment by the Federal Council.

5.4 CONGRESS, PROVINCIAL COUNCIL AND PROVINCIAL EXECUTIVE

- 5.4.1 A Provincial Congress, Provincial Council and Regional council must be composed subject to the provisions of the Federal Constitution in regard to representation from lower to higher formations of the Party.

- 5.4.2 The Provincial Constitution must clearly set out how its provincial delegates to the Federal Council are determined.

- 5.4.3 A Provincial Council and Provincial Executive must:

- 5.4.3.1 ensure that all structures of the Party in the province are regularly elected;

- 5.4.3.2 ensure that all structures function properly and in terms of the requirements of the Federal and Provincial Constitutions;

- 5.4.3.3 prescribe systems that will help to ensure democracy, transparency and good governance;
- 5.4.3.4 make it possible for the Federal Council and the Federal Executive to provide leadership in campaigns and endeavours of a national nature with the co-operation and support of the provinces;
- 5.4.3.5 take responsibility for the financial affairs of the province.

5.5 VOTING AND REPRESENTATION

- 5.5.1 Elections to office and in particular where representatives from a lower to a higher formation are elected, must be in terms of a formula determined by the Federal Council.
- 5.5.2 The system of representation from subordinate bodies to higher formations must provide:
 - 5.5.2.1 for persons who are not public representatives to be active at all levels;
 - 5.5.2.2 for public representatives in all spheres to be present or be represented.

5.6 FAILURE BY PROVINCES OR REGIONS

- 5.6.1 If a province or region:
 - 5.6.1.1 fails to comply with the provisions of this Constitution, its own constitution or any relevant rules of order; and/or
 - 5.6.1.2 becomes unable to meet its financial commitments; and/or
 - 5.6.1.3 cannot function properly due to internal strife or lack of leadership;

the Federal Executive must take steps to rectify the situation, provided that the Federal Executive shall report to the next Federal Council meeting as to what steps it has taken.
- 5.6.2 The steps referred to above may include a directive that the administration of the Province or any aspects thereof may be taken over by a designated Party official or body.

CHAPTER SIX

FEDERAL STRUCTURES

6.1 FEDERAL CONGRESS

6.1.1 The supreme policy-making and governing body of the Party is the Federal Congress in session.

6.1.2 The Federal Congress generally meets at least once every three years, but must be convened at any time by a two-thirds majority vote of the Federal Executive, a two-thirds majority vote of the Federal Council, or when requested by a petition signed by at least five thousand members of the Party.

6.1.3 The Federal Council or Federal Executive shall determine the number of Congress delegates, which shall comprise:

6.1.3.1 the Federal Leader;

6.1.3.2 the Federal Chairperson;

6.1.3.3 the three Deputy Federal Chairpersons;

6.1.3.4 the Chairperson and two Deputy Chairpersons of the Federal Council;

6.1.3.5 the Federal Chairperson of Finance;

6.1.3.6 the Chief Executive Officer, without voting rights;

6.1.3.7 any co-opted members of the Federal Executive;

6.1.3.8 the Provincial Leader, one Deputy Provincial Leader and the Provincial Chairperson, if any, per province;

6.1.3.9 all Members of Parliament and Members of Provincial Legislatures;

6.1.3.10 the balance of Congress shall comprise:

6.1.3.10.1 local government councillors equal to five times the number of Members of Parliament and the Provincial Legislatures in the country, allocated to the provinces on the basis of the proportion of votes obtained by the Party in that province in the last election of a national nature; and

- 6.1.3.10.2 non-public representative delegates allocated to branches and elected by a proportional voting system approved by the Federal Council or Federal Executive, which shall not comprise less than 45% of the total Congress delegates;
- 6.1.3.11 the Federal Leader, the Federal Chairperson and Provincial Chairpersons of the Democratic Alliance Youth;
- 6.1.3.12 the Federal Leader, the Federal Chairperson and Provincial Leaders of the Democratic Alliance Women’s Network;
- 6.1.3.13 the Chairperson of the Association of Democratic Alliance Councillors, or his or her nominee;
- 6.1.3.14 the DA Abroad Leader, or his or her nominee;
- 6.1.3.15 9 other delegates from DA Abroad, allocated according to a formula approved by the Federal Council;
- 6.1.3.16 other persons invited by the Federal Leader or the Federal Chairperson, with the approval of the Federal Council, provided that such persons may not vote.
- 6.1.3.17 any members of the Federal Council who are not otherwise delegates.
- 6.1.4 The Federal Congress elects the Federal Leader, the Federal Chairperson and the Deputy Federal Chairpersons.
- 6.1.5 The Federal Chairperson or one of the Deputy Chairpersons, assigned by the Federal Chairperson, acts as the chairperson of the Federal Congress.
- 6.1.6 The Federal Executive must take all decisions relevant to the organisation of the Federal Congress including the date, venue and agenda.
- 6.1.7 The Federal Congress takes decisions on all aspects of policy, organisation, finance and discipline, and all such decisions are binding on the Party, provided that it may not repeal or alter the Values, the Principles or the Programme of Action of the Party as set out in this Constitution unless that repeal or alteration is agreed to by not less than four-fifths of the registered delegates at that Congress.
- 6.2 FEDERAL COUNCIL**
- 6.2.1 There must be a Federal Council of the Party.

6.2.2 When the Federal Congress is not in session, the Federal Council is the policy-making and governing body of the Party.

6.2.3 The Federal Council comprises:

6.2.3.1 All members of the Federal Executive who are not otherwise members of the Federal Council;

6.2.3.2 the Chairperson of the Federal Legal Commission;

6.2.3.3 the Leader or his or her nominee, of all duly constituted and recognised ancillary organisations;

6.2.3.4 the Provincial Chairpersons;

6.2.3.5 the Provincial Chairpersons of Finance;

6.2.3.6 the Regional Chairpersons of the Party in whose area of jurisdiction at least 80 000 votes were cast for the Democratic Alliance at the most recent national election;

6.2.3.7 twenty four (24) Members of Parliament representing the Party, allocated to the provinces proportionately on the basis of votes cast at the most recent election of a national nature and elected by the Members of Parliament of the province concerned by a proportional voting system approved by the Federal Council, but subject to the condition that each province which elected a Member to Parliament at the most recent election shall be entitled to at least one representative under this section;

6.2.3.8 twenty four (24) Members of Provincial Legislatures representing the Party, allocated to the provinces proportionately on the basis of votes cast at the most recent election of a national nature and elected by the Members of the Provincial Legislature of the province concerned by a proportional voting system approved by the Federal Council, but subject to the condition that each province which elected a Member to a Provincial Legislature at the most recent election shall be entitled to at least one representative under this section;

6.2.3.9 twenty four (24) local government councillors representing the Party, allocated to the provinces proportionately on the basis of the votes cast at the most recent election of a national nature and elected by the provincial or regional organisation, where they exist, of the Association of Democratic Alliance Councillors by a proportional voting system approved by the Federal Council, but subject to the

condition that each province shall obtain at least one representative under this section.

- 6.2.3.10 twenty four (24) members of the Party who are not public representatives, or their alternates, allocated to the provinces proportionately on the basis of the votes cast at the most recent election of a national nature and elected by the province concerned by a proportional voting system approved by the Federal Council, but subject to the condition that each province must obtain at least one representative under this section;
- 6.2.3.11 any additional members, up to six, co-opted by the persons referred to above, subject to a two thirds majority of the Federal Council meeting approving each co-option by secret ballot;
- 6.2.3.12 two staff members from each province designated by the Provincial Chairperson, without voting rights.

6.2.4 Election of Federal Council Office Bearers

- 6.2.4.1 Members of the Federal Council must, during the Federal Congress, elect its Chairperson, three Deputy Chairpersons, and a Federal Chairperson of Finance.
- 6.2.4.2 Existing Federal Council office bearers as defined in 6.2.4.1 remain in office until new office-bearers have been elected.

6.2.5 Sub-committees

The Federal Council may establish sub-committees and may assign to them functions, duties and powers consistent with this constitution.

6.2.6 Prescribing rules and regulations

- 6.2.6.1 The Federal Council must meet at least three times a year at times and places determined by the Chairperson, and is obliged to do so by decision of the Federal Executive or when requested by a petition signed by at least 30% of its members.
- 6.2.6.2 A majority of the members of the Federal Council constitutes a quorum.
- 6.2.6.3 If the President, a premier, a mayor, or any other public representative elected or appointed to any executive position in a DA government, has lost the confidence of his or her caucus, the Federal Executive may, after giving him or her the opportunity to make representations to it, resolve

to require him or her to resign from his or her office within 48 hours. Failure by that member to resign will lead to the cessation of his or her membership of the Party in terms of section 3.5.1.10. Any such vote of no confidence requires the leave of the Federal Executive before it is moved in the caucus.

- 6.2.6.4 In years when no Federal Congress is held, the Federal Council must invite provinces and regions to submit resolutions concerning policy, organisation, finance and discipline for consideration and decision by the Federal Council but those decisions may not repeal or alter this Constitution.
- 6.2.6.5 Policy resolutions must be submitted in writing to the Federal Council Chairperson, all members of the Federal Council and to the Member of Parliament appointed as national spokesperson for the portfolio to which the policy resolution relates, 14 days before the Federal Council meeting. Similarly, notice should be given to provincial spokespersons or to the Association of Democratic Alliance Councillors if provincial government or local government matters are to be debated.
- 6.2.6.6 At least once during every period of five years but at least one year before any general election, the Federal Council must convene to debate, refine and update the Party's policies. At this meeting, the Federal Council will be augmented by all premiers and provincial ministers, all mayors, and members of mayoral committees in metropolitan municipalities and all national and provincial spokespersons on portfolios who may speak, but only members of the Federal Council may vote.

6.3 FEDERAL EXECUTIVE

- 6.3.1 There must be a Federal Executive of the party which comprises:
 - 6.3.1.1 the Federal Leader;
 - 6.3.1.2 the Federal Chairperson;
 - 6.3.1.3 the three Deputy Federal Chairpersons;
 - 6.3.1.4 the Chairperson of the Federal Council, who chairs meetings of the Federal Executive ;
 - 6.3.1.5 the Deputy Chairpersons of the Federal Council, one of whom chairs meetings in the absence of the Chairperson of the Federal Council;

- 6.3.1.6 the leaders of the Party in the National Assembly and the National Council of Provinces if they are not already members;
- 6.3.1.7 the Federal Chairperson of Finance;
- 6.3.1.8 the Provincial Leaders or their nominees;
- 6.3.1.9 the Chief Whip of the DA in the National Assembly;
- 6.3.1.10 The Leader, or their nominee, of each Ancillary Body approved by the Federal Council in terms of Chapter 11 of the Federal Constitution.
- 6.3.1.11 the Chief Executive Officer, without voting rights;
- 6.3.1.12 up to six members co-opted by a two-thirds majority of the Federal Executive by secret ballot.

6.3.2 Meetings, powers and functions of Federal Executive

- 6.3.2.1 The Federal Executive must meet regularly and whenever the Federal Leader or the Chairperson of the Federal Council so determines, or when at least one half of its members request a meeting.
- 6.3.2.2 The majority of the members of the Federal Executive constitutes a quorum.
- 6.3.2.3 The Federal Executive may invite one or more persons to attend, but not to vote at any of its meetings.

6.3.3 The Federal Executive:

- 6.3.3.1 performs the functions and exercises the powers of the Federal Council when the Council is not in session; save that only the full Federal Council may approve candidate selection regulations and any amendments thereto and any political performance assessment system for public representatives;
- 6.3.3.2 implements the decisions of the Federal Council;
- 6.3.3.3 appoints the Chief Executive Officer of the Party, who is in turn responsible for appointing all other Party staff, subject to the policy and directives of the federal executive;
- 6.3.3.4 controls and directs activities of the Party;

- 6.3.3.5 subject to this constitution and the constitutions of the provinces, takes decisions and makes regulations, binding on all party structures, concerning membership administration, organisation, finance, discipline and other matters affecting the welfare of the Party;
 - 6.3.3.6 in consultation with the respective province or region, sets and monitors performance targets for each province and region;
 - 6.3.3.7 after consultation with the Mayor/s or caucus leaders, Premier/s and President respectively, approves the selection of the Mayoral Committee, Provincial Cabinet/s and/or Executive Councils and Cabinet, and all other executive, and in the case of councillors, full-time positions.
 - 6.3.3.8 approves the formation of any coalition government the Party is to enter into.
- 6.3.4 If a province or region fails to implement decisions by the Federal Executive, and further fails to comply with a notice to correct the default within 30 days, the Federal Executive may take corrective measures to ensure the compliance by the province with the requirements of the Federal Executive.
- 6.3.5 The Federal Executive may delegate any of its powers to any person or committee and may establish sub-committees and assign to them such functions, duties and powers not inconsistent with this Constitution, as it may deem fit.
- 6.3.6 The Federal Executive may appoint a commission to enquire into any matter in order to establish the facts relevant to the matter to be referred.
- 6.3.7 The Federal Executive must take all decisions relevant to the organisation of the Federal Congress including the date, venue and agenda.

6.4 NATIONAL MANAGEMENT COMMITTEE

The day-to-day management of the administration of the Party is entrusted to a National Management Committee consisting of the Federal Leader, the Parliamentary Leader if the Leader is not a Member of Parliament, the Federal Chairperson, the Chairperson and the Deputy Chairpersons of the Federal Council, the Chief Executive Officer, the Federal Chairperson of Finance, the Chief Whip of the National Assembly and such other persons as may be co-opted to assist, subject to the agreement of the Federal Executive. The National Management Committee shall report to each Federal Executive meeting on its activities and any decisions taken.

CHAPTER SEVEN

SENIOR OFFICE-BEARERS

7.1 THE FEDERAL LEADER

- 7.1.1 Except when the Federal Congress, Federal Council or Federal Executive are in session, and within the framework of the Values, Principles and Programme of Action of the Party, interprets and makes the policy of the Party, provided that policy-making is limited to decisions urgently required in respect of new matters or new situations and that such decisions are reported to the next meeting of the Federal Council;
- 7.1.2 is the spokesperson of the Party at home and abroad and is charged with ensuring that the image, the good name and the reputation of the Party is advanced and defended;
- 7.1.3 initiates campaigns and programmes of action to implement the Values, Principles, Policy and Programme of Action of the Party;
- 7.1.4 has a meaningful role to play in the selection of candidates for the Party;
- 7.1.5 may appoint a person to act as leader during his or her temporary absence or incapacity if the Federal Chairperson is unavailable, provided that for any period in excess of six weeks the approval of the Federal Executive must be obtained.

7.2 THE FEDERAL CHAIRPERSON

- 7.2.1 presides over the Federal Congress;
- 7.2.2 deputises for the Federal Leader if he or she is absent or incapacitated;
- 7.2.3 performs whatever tasks and functions are delegated to him or her by the Federal Council or Federal Executive from time to time and;
- 7.2.4 is responsible for the co-ordination and alignment of Party policy; and
- 7.2.5 in consultation with the Federal Leader:
 - 7.2.5.1 actively supports the implementation of programmes of action designed to promote the Values, Principles, Policy and Programme of Action of the Party; and
 - 7.2.5.2 assists in the overall promotion of the Party and mobilisation of support for it.

7.3 THE FEDERAL DEPUTY CHAIRPERSONS

may be responsible for:

- 7.3.1 serving as a support to provinces as assigned by the Federal Executive, in consultation with the Provincial Executive Committees;
- 7.3.2 fostering relationships with organisations in civil society;
- 7.3.3 the Party's international relationships;
- 7.3.4 activist training and development; and
- 7.3.5 any other function assigned by the Federal Chairperson and approved by the Federal Executive.

7.4 THE CHAIRPERSON OF THE FEDERAL COUNCIL

- 7.4.1 is expected to perform his or her functions on a full time or virtually full time basis;
- 7.4.2 is entrusted with and responsible for the organisation and administration of the Party, and for developing and maintaining a high degree of efficiency in the Party;
- 7.4.3 implements decisions of the Federal Council and the Federal Executive;
- 7.4.4 works closely with the Federal Leader, the Federal Chairperson, the Federal Chairperson of Finance, and the Chief Executive Officer;
- 7.4.5 performs other functions and duties and exercises powers assigned to him or her, within the provisions of this Constitution, by the Federal Leader, the Federal Council and the Federal Executive;
- 7.4.6 has the power to delegate any of these powers to the Chief Executive Officer or other appropriate persons.

7.5 THE PARLIAMENTARY LEADER

The Parliamentary Leader

- 7.5.1 in the event that the Federal Leader is not a Member of Parliament, and except when the Federal Congress, Federal Council or Federal Executive are in session, and within the framework of the Values, Principles and Programme of Action of the Party, interprets and makes the policy of the Party in Parliament, provided that policy-making is limited to decisions urgently required in respect of new matters or new situations and provided it is done in consultation with the Federal Leader;

7.5.2 is the spokesperson of the Party on matters related to Parliament and is specifically charged with ensuring that the image, the good name and the reputation of the Party is advanced and defended;

7.5.3 initiates campaigns and programmes of action in Parliament to implement the Values, Principles, Policy and Programme of Action of the Party.

7.6 SENIOR OFFICE BEARERS AND MEETINGS

7.6.1 The Federal Leader, the Federal Chairperson and the Chairperson of the Federal Council are members of any Congress, Council, Committee, caucus or sub-committee established in terms of this Constitution, and are entitled to attend meetings of all or any of them as full members.

7.6.2 Provincial Leaders and Deputy Leaders and Provincial Chairpersons have the same rights in their Provinces.

7.6.3 The Federal Leader or his/her nominee shall further be a member of every Electoral College.

7.6.4 Provincial Leaders shall be members of all Electoral Colleges in their own province. They shall not be members, nor shall they attend or observe meetings of Selection Panels in any capacity. They will be entitled to address Selection Panel members only once during the selection process, and may not do so in the presence of candidates.

7.7 RESIGNATION, DEATH OR INCAPACITY

7.7.1 If any office bearer resigns, dies, or becomes permanently incapacitated, the office bearer's deputy, if there is one, will fill that position until a successor is elected. Such election shall take place forthwith by the body which elected the office bearer, provided that if this is impracticable the executive of that body may appoint a person to act until a successor can be elected.

7.7.2 In the event of any office bearer being temporarily unavailable, their deputy, if there is a deputy, will fill that position. If there is no deputy, that office-bearer may nominate a temporary replacement for the duration of that unavailability, provided that for any period in excess of six weeks the approval of the Federal Executive must be obtained.

CHAPTER EIGHT

FINANCE

8.1. FEDERAL FINANCE COMMITTEE

- 8.1.1 The Federal Finance Committee comprises:
- 8.1.1.1 the Federal Chairperson of Finance, who chairs meetings;
 - 8.1.1.2 the Federal Leader;
 - 8.1.1.3 the Federal Chairperson;
 - 8.1.1.4 the Chairperson of the Federal Council;
 - 8.1.1.5 the Deputy Chairpersons of the Federal Council;
 - 8.1.1.6 the Chief Executive Officer, without voting rights;
 - 8.1.1.7 the Chief Financial Officer, without voting rights;
 - 8.1.1.8 the Provincial Chair of Finance, or his or her nominee; and
 - 8.1.1.9 up to four persons co-opted by it in consultation with the Federal Executive.
- 8.1.2 The Federal Finance Committee shall:
- 8.1.2.1 Review the financial affairs of the Party to ensure that they are conducted in a prudent and responsible manner.
 - 8.1.2.2 Prescribe financial procedures to be followed by all formations of the Party.
 - 8.1.2.3 Determine and amend as and when required, the *Finance, Fundraising and Procurement Policy* (“the Finance Policy”) that must be approved by the Federal Council, and which must be adhered to by all formations of the Party and the professional staff of the Party.
 - 8.1.2.4 Ensure that all national and provincial and/or regional bodies conduct annual audits and table audited statements within 6 months of the financial year end.
 - 8.1.2.5 Ensure that all national and provincial and/or regional formations of the Party, including all legislature caucuses, that are authorised by the Finance Policy to deal with

finances from donors, members and/or statutory sources and, where required by the Policy to do so, conduct annual audits and table audited statements within 6 months of the financial year end.

8.1.2.6 Review audited statements of all formations of the Party and report to the Federal Executive on any matters of concern that may arise from the audited statements.

8.1.2.7 Review the annual and medium term income and expenditure budget for the activities of the Party which must be tabled before and approved by the Federal Executive.

8.1.2.8 Review on a quarterly basis the income and expenditure statements of the Party at a national level and reports to the Federal Executive any matters of concern and from such reviews.

8.1.2.9 Resolve disputes of a financial nature which may arise between formations of the Party.

8.1.2.10 Deal with any matter relating to the financial affairs of the Party referred to it by the Federal Executive.

8.1.2.11 Meet at least once a quarter or more regularly as determined by the Chairperson.

8.1.3 The Chairperson of the Federal Finance Committee shall -

8.1.3.1 Submit a report to every Federal Council meeting and to every Federal Congress;

8.1.3.2 When requested by the Chairperson of Federal Council, Chairpersons of Provincial Finance Committees or the Chief Executive Officer, interpret the provisions of the Finance Policy. Such interpretations may be referred to the Federal Legal Commission for a ruling on the validity of such interpretations;

8.1.3.3 Have free access to all Party financial records held in any and all formations of the Party; and

8.1.3.4 Be supplied with any reasonable report on the finances of the Party whether on an ad hoc or a regular basis.

8.1.4 The Chief Executive Officer shall, in addition to his or her other functions –

8.1.4.1 be the Accounting Officer of the Party; and

- 8.1.4.2 be responsible for -
- 8.1.4.2.1 drafting the annual and election budgets;
- 8.1.4.2.2 producing financial reports as may be required by -
- The Chairperson of the Federal Council;
 - The Chairperson of the Federal Finance Committee;
 - The National Management Committee;
 - The Federal Executive;
 - The Federal Council; and/or
 - The Federal Congress.
- 8.1.4.3 Obtain a recommendation on affordability from the Federal Finance Committee to present to the Federal Executive for approval -
- On the staff complement, whether permanent and/or on contract, as depicted on an organogram proposed by the Chief Executive Officer; and
 - On any and all appointments of professional staff to posts that have not previously been recommended by the Federal Finance Committee and approved by the Federal Executive.

CHAPTER NINE

CAUCUSES

9.1 ESTABLISHMENT OF CAUCUSES

9.1.1 All Members of the National Parliament who are members of the Party are members of the Parliamentary Caucus of the Party.

9.1.2 All Members of the Provincial Legislatures who are members of the Party are members of the Provincial Legislature Caucus of the Party in their province.

9.1.3 All councillors in local government councils who are members of the Party are members of the Municipal Caucuses of the Party in the councils in which they serve.

9.2 ESTABLISHMENT OF JOINT CAUCUSES

The members of the Party and any other party or parties with which the Party is in coalition for the purposes of forming a government in any sphere, must establish a joint caucus for the purposes of ensuring a co-ordinated response to issues that will serve before that legislative body.

9.3 FUNCTIONING

9.3.1 The Chief Whip of any legislative body, if that position is held by a member of the Party, is automatically the Chief Whip of the relevant caucus.

9.3.2 Each caucus elects a chairperson and whip or whips from amongst its own members, save that chief whips, where these exist, will be chosen according to a system approved by the Federal Council.

9.3.3 The Federal Leader is automatically the leader of the Parliamentary Caucus if he or she is a Member of Parliament. The Premier is automatically the leader of the caucus in the relevant provincial legislature, and the mayor is automatically the leader of the relevant municipal caucus, where these positions are held by members of the Party. In all other cases the caucuses elect a leader from their own ranks, subject to the provisions of section 2.2.4.

9.3.4 Each caucus functions and takes decisions in terms of a policy approved by the Federal Council.

9.3.5 Members must at all times adhere to and support decisions of the relevant caucus and must not differ publicly from any decision once it has been taken except when it has been decided by the caucus that a member may on a question of conscience exercise a free vote.

9.3.6 Members must attend caucus meetings punctually and no member is excused from attending a caucus meeting except by leave of the Whip.

9.3.7 Members must at all times perform their duties in the relevant forum, their duties towards the voters and particularly their duties towards Party supporters diligently and to the level and standard required by the Party as set out in the applicable code.

9.4 DUTIES AND RESPONSIBILITIES OF CAUCUSES

9.4.1 Caucuses are responsible for the proper functioning of the Party in the relevant forum and may, subject to this constitution and subject to the relevant Party formations, formulate policy if there is no clear policy on a particular matter and then only in their sphere of government, as well as be responsible for ensuring that the Party policies are implemented in the policies of the government in the sphere of government in which the relevant caucus operates and oversee policy formulation by spokespersons.

9.4.2 Portfolio spokespersons shall be designated in each case by the Leader of the Party in the caucus concerned.

9.5 DISCIPLINARY ACTION

9.5.1 The Federal Leader, a Provincial Leader or the relevant caucus Leader or Chief Whip may refer a member of any caucus to the applicable Disciplinary Committee for an enquiry on a charge of misconduct in terms of this Constitution.

9.5.2 Any caucus or caucus executive may, by majority decision, suspend a member from attending meetings of that caucus, pending the finalisation of an investigation and/or a disciplinary hearing referred to in Chapter 10, after having given the member 24 hours to give reasons why they should not be suspended.

9.6 CAUCUS RULES

9.6.1 Each caucus must draft and accept a set of Caucus Rules unless exempted by the Federal Executive.

9.6.2 All Caucus Rules must be submitted to the Federal Legal Commission for certification that they are consistent with this Constitution. They must thereafter be submitted to the Federal Council for approval, whereafter they shall come into force.

CHAPTER TEN

THE FEDERAL LEGAL COMMISSION, DISCIPLINARY PANELS AND MEDIATION

10.1 FEDERAL LEGAL COMMISSION

10.1.1 The Federal Executive must at its first ordinary meeting after each Federal Congress elect the Chairperson and Deputy Chairperson of the Federal Legal Commission. Thereafter, the Federal Executive shall, after consulting with the Chairperson and Deputy Chairperson of the Federal Legal Commission, make recommendations to the Federal Council for the appointment of the other panel members, consisting of up to sixty (60) members of whom at least thirty (30) must be legally qualified, and a further ten (10) who must be accredited mediators.

10.1.2 A member of the Federal Legal Commission shall not be a member of any other political party, and shall be a member of the Party, except if they are required by virtue of their profession to remain independent, and their expertise is needed.

10.1.3 The Federal Legal Commission must develop rules for the selection of panels to hear matters. The Chairperson of the panel must have a qualification in law and all members of the panel must be fit and proper persons.

10.1.4 The Federal Legal Commission determines Rules of Procedure, applicable to it which may not be in conflict with this Constitution, and which must be approved by the Federal Council.

10.1.5 The term of office of the Federal Legal Commission only expires when its successor is appointed: provided that a Federal Legal Commission whose term has expired, remains in office for the purpose of completing an uncompleted matter.

10.1.6 The Federal Council may fill any casual vacancy in the Federal Legal Commission between Federal Congresses, by following the process described in 10.1.1.

10.2 POWERS AND FUNCTIONS OF THE FEDERAL LEGAL COMMISSION

10.2.1 The Federal Legal Commission has all powers as are necessary to exercise its functions in terms of this constitution justly and expeditiously and must, at the request of the Federal Leader or the Federal Executive or the Federal Council:

10.2.1.1 interpret this Constitution and any Provincial Constitution;

- 10.2.1.2 certify a Provincial Constitution and any amendments thereto as being in accordance with this constitution;
 - 10.2.1.3 determine any dispute referred to it;
 - 10.2.1.4 decide on the legality or otherwise of any meeting, action, election or resolution by any Party structure;
 - 10.2.1.5 deal with appeals under this Constitution;
 - 10.2.1.6 review the recommendations of an incapacity process before final submission to the Federal Executive;
 - 10.2.1.7 conduct a hearing in terms of sections 10.5 and 10.7, and
 - 10.2.1.8 certify caucus rules and any Rules of any Party structure or Ancillary Organisation and any amendments thereto as being in accordance with this Constitution.
 - 10.2.1.9 conduct any investigation or enquiry referred to it by the Federal Executive.
 - 10.2.1.10 refer a matter for mediation.
- 10.2.2 Whenever any matter is referred to it by the Federal Leader, or the Federal Executive, the Federal Legal Commission shall deal with it according to its Rules of Procedure, provided that in the absence of the Rules of Procedure determining a specific process applicable to the matter, it will follow a process in terms of which it shall: -
- 10.2.2.1 determines the date for the consideration of the matter and advises the parties thereof;
 - 10.2.2.2 hears evidence, accepts exhibits and calls for papers and documents;
 - 10.2.2.3 hears argument by and on behalf of all parties with a direct interest in the matter; and
 - 10.2.2.4 makes recommendations or gives a decision as it deems fit under the circumstances.
- 10.2.3 The chairperson of the Federal Legal Commission reports in full to the Federal Executive or the Federal Council upon finalisation of the proceedings.
- 10.2.4 The Federal Legal Commission is funded by the Party.

10.3 ESTABLISHMENT OF PROVINCIAL DISCIPLINARY COMMITTEES

10.3.1 A Provincial Executive must at its first meeting after every Provincial Congress elect a Disciplinary Committee.

10.3.2 Except where the Federal Council allows otherwise, every Disciplinary Committee must consist of not more than ten (10) members and ten (10) alternates; more than half the number of members must have qualifications in law.

10.3.3 The composition of panels of the Provincial Disciplinary Committee must comply with the Rules of the Federal Legal Commission.

10.4. COMPETENT PROCEDURES

10.4.1 The Federal Legal Commission may, upon receipt of a referral from the Federal Executive for an investigation and upon completion of that investigation, recommend to the Federal Executive that the matter be referred to a Panel or a summary hearing, that it be dealt with by means of formal mediation, or that no further action be taken.

10.5 PROCEDURES APPLICABLE TO PROCEEDINGS OF PANELS

10.5.1 The Rules of Procedure prescribed by the Federal Legal Commission must apply to all proceedings of a panel: Provided that the rules of natural justice must at all times be adhered to. In particular a panel must not make any adverse finding against any person unless:

10.5.1.1 The person has been sufficiently informed of every allegation against him or her and has been given the opportunity to rebut the allegations; and

10.5.1.2 He or she has been given the opportunity to submit evidence of mitigating factors.

10.5.1.3 Persons against whom disciplinary action is taken before a panel are entitled to be represented, at their own cost, on the specific condition that the representative is available on the date and time determined by the Federal Legal Commission for the purpose of proceedings.

10.5.2 In all disciplinary matters conducted by a panel of the Federal Legal Commission, the Party shall prove its case on a balance of probabilities.

10.5.3 Panels of the Federal Legal Commission are held in camera.

10.6 PROCEDURES APPLICABLE TO MEDIATION

10.6.1 The Rules of Procedure of the Federal Legal Commission must make provision for the referral of a matter to formal mediation.

10.6.2 These Rules must prescribe the procedure to be followed during formal mediation, but mediation procedures must be conducted in camera and without legal representation.

10.6.3 Only members of the Federal Legal Commission who have undergone suitable training may be involved in mediation procedures.

10.7 PROCEDURES APPLICABLE TO SUMMARY HEARINGS

10.7.1 The Rules of Procedure of the Federal Legal Commission must make provision for summary hearings.

10.7.2 The Federal Legal Commission may direct that a case that is referred to it be dealt with by means of a summary hearing, provided that, in the event that a summary hearing finds an accused member guilty of misconduct, it may only recommend a penalty of admonishment, a fine or the imposition of community service, or a combination of such penalties, or that the accused member be placed on an incapacity programme.

10.7.3 An accused member shall not be entitled to be represented before a summary hearing.

10.8 REFERRAL TO THE FEDERAL LEGAL COMMISSION

10.8.1 A Provincial Executive, through the Federal Executive, or the Federal Executive itself, or the Federal Leader may refer a charge of misconduct against any member to the Federal Legal Commission. The Commission may conduct a preliminary investigation into the matter and report to the Federal Executive, or it may refer the matter to a Panel, to a summary hearing or for formal mediation.

10.8.2 If the Provincial Disciplinary Committee fails to act within a reasonable time, the relevant Executive may refer the matter to the Federal Legal Commission which will act as if the matter had been referred to it in terms of section 10.8.1.

10.8.3 A Provincial Executive may refer a matter for informal mediation if the complainant agrees. However, if a Provincial Executive declines to refer a matter or fails to act within sixty (60) days in terms of section 10.8.1, the Federal Executive, must deal with the matter in terms of section 10.8.1.

10.8.4 The Federal Council or Federal Executive may in the interest of justice, direct that a disciplinary hearing be conducted by a panel of another Province or the Federal Legal Commission in which event that panel or commission must follow the procedure prescribed for panels.

10.8.5 No provision of the Constitution limits the right of the Federal Executive or a Provincial Executive:

10.8.5.1 to temporarily suspend a member from taking part in any or all of the activities of the Party, pending the outcome of a disciplinary hearing in terms of this chapter; or

10.8.5.2 to appoint a commission to enquire into any matter in order to establish the facts relevant to the matter to be referred.

10.9 FINDINGS BY PANELS

10.9.1 A Panel may find that a member is guilty or not guilty of the offence with which he or she has been charged. In the event that the finding is one of guilty, the Panel may recommend that:

10.9.1.1 the membership of that person be terminated;

10.9.1.2 the membership of that person be suspended for a specified period;

10.9.1.3 the member be suspended from any position in the Party or from holding any position in future, or for a specified period, or that all or any of the privileges of a member as stated in this Constitution be suspended;

10.9.1.4 the member be admonished;

10.9.1.5 the member be fined an amount not exceeding the amount determined by the Federal Council from time to time payable upon such terms and conditions as the committee may recommend;

10.9.1.6 The member be ordered to render a period of service, including but not limited to, service to the community or to the Party;

10.9.2 In addition to any of the above penalties, the following penalties may be recommended by a Panel of the Federal Legal Commission only:

10.9.2.1 The member be removed or suspended from any executive position they hold in a council, provincial legislature or Parliament: Provided that in the case of a suspension, it must be for a specified period and/or on such terms and conditions as the Panel deems fit. Provided further that in the event that the person fails to comply with the penalty so imposed, and resign his or her position in the relevant body within five (5) days after receipt of notice instructing him or her to do so, their membership shall terminate immediately without further notice;

- 10.9.2.2 The member be prohibited from holding an executive position in a council, provincial legislature or Parliament in the future or for a specified time period, and on such terms and conditions as the Panel deems fit;
- 10.9.2.3 The member be removed from a public representative position and/or prohibited from holding a position as a public representative for the Party in future or for a specified time period.
- 10.9.3 Any penalty recommended by a Panel or Summary Hearing may also contain the recommendation that its imposition be suspended for a specified time period and on such conditions as the Panel or Summary Hearing may deem fit.
- 10.9.4 A caucus or caucus executive may take such disciplinary steps as may be provided for in their caucus rules, which have been approved by the caucus, certified by the Federal Legal Commission and approved by the Federal Council: Provided that no disciplinary action which could lead to the termination of membership or suspension or removal from an executive position or a position in the Party, shall be included in caucus rules.
- 10.9.5 The Federal Legal Commission must report its findings and recommendations to the Federal Council and Executive.
- 10.10 APPEALS TO AND REVIEWS BY THE FEDERAL LEGAL COMMISSION**
- 10.10.1 Any prospective candidate for national, provincial or local government office has the right of appeal to the Federal Legal Commission in respect of the nomination and selection of candidates on the grounds that the proper procedure was not followed or that the nomination was invalid for any other reason.
- 10.10.2 Any public representative who wishes to appeal against the findings of a provincial panel confirmed by a Provincial Executive and which may lead to the termination of membership of that representative, has an appeal to the Federal Legal Commission.
- 10.10.3 The Party, represented by the Federal Executive, or a complainant, shall have the right to appeal to the Federal Legal Commission against any finding of a panel of a provincial disciplinary committee. Where a matter has been heard by the Federal Legal Commission in the first instance, the Party or the member found guilty of misconduct may appeal the decision to an appeal panel of the Federal Legal Commission consisting of five (5) members who have not been involved in the initial hearing, and after the processes referred to in section 10.11.1 have been followed. The decision of the appeal panel is final.

- 10.10.4 In matters other than disciplinary hearings, the decisions of the Federal Legal Commission are not subject to appeal and the findings of the Commission must be implemented by the relevant structures of the Party.
- 10.10.5 Nothing herein shall preclude the Party from taking any matter decided on by the Federal Legal Commission on review to the High Court. A decision to take a matter on review shall be taken by the Federal Executive.
- 10.10.6 Notwithstanding the provisions of section 10.11, a recommendation that a public representative be removed from office must be confirmed by the Federal Executive.
- 10.10.7 Any appeal provided for in this section must be lodged with the Chairperson of the Federal Legal Commission within a period of ten (10) working days (or less if the Candidate Selection Regulations so provide) after the relevant executive has informed the parties of the decision; provided that all Parties involved in the matter shall be informed in writing immediately after the Executive has made a decision to terminate the membership of a public representative, and no notification to a Municipal Manager, Speaker or the Independent Electoral Commission may occur until the Federal Executive has confirmed the termination.

10.11 DECISIONS BY THE EXECUTIVE

- 10.11.1 The Provincial or Federal Executive, as the case may be, must consider the findings and recommendation of the Panel and:
- 10.11.1.1 must accept the finding of the Committee, subject to any right of review referred to in this Constitution or any law; and
 - 10.11.1.2 must consider the recommendation of the committee regarding the penalty, if any, and may either confirm it, or impose a lesser or greater penalty than that recommended by the Panel, provided that such variation of penalty is supported by no less than two thirds of the relevant executive and with good reason shown.
- 10.11.2 Subject to any appeal or review mechanism referred to in this Constitution or provided for in law, and subject to section 10.10.6, the decision of the relevant executive is final.

10.12 TERMINATION OR SUSPENSION OF MEMBERSHIP

- 10.12.1 In the event that a member is found guilty of misconduct in terms of section 2.5.4, and a panel recommends the termination of that member's membership, that membership may only be terminated by a Provincial

Executive and confirmed by the Federal Executive, and only after a disciplinary hearing in terms of this Chapter.

- 10.12.2 If a member ceases to be a member in terms of section 3.5, his or her membership ceases immediately and automatically.
- 10.12.3 In the case of termination of membership on the grounds of incapacity in terms of section 2.5.2, this must be approved by the Federal Executive only after the processes approved by the Federal Council have been complied with, and after the review by the Federal Legal Commission in terms of section 10.2.1.6.
- 10.12.4 The Party membership of a public representative who is removed from office in terms of section 2.5.2 is not affected by that removal alone, unless it is accompanied by a recommendation for termination of membership which is approved by the Federal Executive.
- 10.12.5 A Provincial Executive or the Federal Executive may suspend a Party member from any or all of the activities of the Party, pending the institution or finalisation of an investigation and/or a disciplinary hearing in terms of this Chapter: provided that a caucus or caucus executive may suspend a caucus member from all or any caucus activities, pending the finalisation of such an investigation and/or disciplinary hearing. In both instances, the member shall be afforded a period of 24 hours to make representations as to why they should not be suspended.

10.13 REPORTING TO FEDERAL COUNCIL

The Federal Legal Commission shall report on all its findings and recommendations, as well as all matters referred to it and which are not yet finalised, to every Federal Council meeting. The Provincial Disciplinary Committee shall likewise report to every Provincial Council Meeting.

CHAPTER ELEVEN

ANCILLARY ORGANISATIONS

- 11.1 Federal Council may establish such organisations as it deems fit to complement the work of the Party and to further the Values, Principles, Mission and programme of Action of the Party. Such organisations shall be regulated by rules to be approved by the Federal Council after certification by the Federal Legal Commission.
- 11.2 Any organisation that exists shall continue to exist unless Federal Council decides otherwise and shall continue to enjoy representation to structures of the Party as provided in this Constitution or any Provincial Constitution.
- 11.3 Such organisations may apply to the Federal Council to make use of existing Party structures to elect representation to regional, provincial and federal structures.
- 11.4 No office bearer of an ancillary organisation may act in that position for a period of longer than twelve months without being elected to that position. Within that twelve month period, an election must be held to fill the position.
- 11.5 Ancillary organisations shall exercise their roles and responsibilities through the party structures set out in Chapter 2.

CHAPTER TWELVE

RELATIONSHIP WITH OTHER ORGANISATIONS

12.1 RELATIONSHIP WITH INTERNATIONAL ORGANISATIONS

The Party fosters friendly relations and maintains bonds internationally with organisations and political parties that could promote the aims of the Party. DA Abroad shall be involved to the greatest extent possible in this role.

12.2 AGREEMENT WITH OTHER PARTIES:

12.2.1 An election or any other agreement with any other political party or independent candidate may not be entered into by:

12.2.1.1 any member, aspirant candidate or public representative;

12.2.1.2 a branch, a constituency, a regional sub-structure, Regional Council or Provincial Council, or the executives of any of these bodies;

12.2.1.3 any group of members of the Party;

without the prior consent of the Federal Executive and disregard of this provision is deemed to be misconduct.

CHAPTER THIRTEEN

GENERAL PROVISIONS

13.1 AMENDMENT, MERGER AND DISSOLUTION

Only the Federal Congress may amend this Constitution, or merge or dissolve the Party and consequently dispose of its assets, by vote of not fewer than two thirds of the members present and voting at that particular meeting, provided that notice of that proposal must have been given to each Province not less than four weeks before that Congress.

13.2 INCONSISTENCIES

13.2.1 In the event of inconsistency between the translations of the Constitution into other languages, the English text prevails.

13.2.2 Should any dispute arise on the interpretation of any section of this Constitution, the English text is regarded as the original.

13.3 QUORUMS OF MEETINGS

Any meeting which was quorate at the commencement of the meeting, shall be deemed to remain quorate unless proven otherwise, for which purpose to prove it otherwise the onus shall be on the person alleging the lack of a quorum.

13.4 STATUS OF CO-OPTED MEMBERS

Where co-option is provided for, any member who is co-opted to a structure of the Party shall have voting rights, unless this is specifically excluded in this or any Provincial Constitution.

13.5 DEFINITIONS

In this constitution, unless a different meaning appears from the context, the following words have the meanings ascribed to them:

”Disciplinary Committee” means a Disciplinary Committee provided for in terms of this Constitution, or a panel of the Federal Legal Commission established for the purpose of hearing a matter of a disciplinary nature.

“good standing” means that, at the time of nomination, the member will truthfully declare all details that may be required by the Federal Executive, and that he or she has been a member for at least 30 days, and that he or she is not in arrears with any monies owing to the Party arising from whatever cause, excluding where proof is submitted of the arrears being the result of Party administrative negligence/problems. The

fact that the Party may have entered into a payment arrangement for any arrears shall not render the person in good standing.

“notice” notice for any annual general meeting, inaugural general meeting, special general meeting or any other meeting where any form of election is to take place, means notice in writing and which notice is to be dispatched on the first day of the notice period, if any notice period is prescribed, or no less than 72 hours before the meeting in all other cases.

“presiding officer” means a person appointed by the Federal Executive to preside over the election of office-bearers at any congress of the Party.

“proportional system of voting” means a system of voting as amended by the Federal Council from time to time.

“validly constituted” means that the structure meets the requirements of this Constitution and any other constitution applicable to it, in respect of membership, meetings, quorums and notices.

“votes cast for the Party” means the votes cast for the party in the most recent election of a national nature, whether that was for the National Assembly and the provincial legislatures or for local government in South Africa. If it was an election for the local sphere of government, it refers to both the votes cast on the proportional ballot for the category A or B municipalities as defined in section 155 of the National Constitution. If it was an election for the provincial and national spheres of government, it refers to the votes cast on the national ballot.

“writing” means notice by ordinary post, registered post, fax, email or sms, proof of the notice having been sent being *prima facie* proof of delivery.

(As adopted by the Federal Congress on 13 April 2002, amended by the Federal Congress on 21 November 2004, 5 May 2007, 24 July 2010, 24 November 2012, 9 May 2015, 8 April 2018 and 31 October 2020)