

# AFRINIC Bylaws 2007

## 1. INTERPRETATION

1.1) In this constitution, the words or terms in the first column shall have the meaning assigned to them in the second column, as follows:

<b>Term</b>	<b>Meaning</b>
<b>Act</b>	The Companies Act 2001 of Mauritius, as amended from time to time;
<b>Alternate Director</b>	An individual elected as an "Alternate Director" in accordance with Article 11.5 below ;
<b>Associate Member</b>	Any Person who is admitted as an Associate Member under this Constitution but who is not a "member" of the Company within the meaning of the Act;
<b>Auditors</b>	The auditors for the time being of the Company;
<b>Board</b>	The Board of Directors of the Company for the time being;
<b>Chief Executive Officer</b>	The highest-ranking employee of the Company who shall manage the day to day affairs of the Company and who shall report to the Board;
<b>Company</b>	AFRINIC Ltd, a company incorporated in the Republic of Mauritius;
<b>Constitution</b>	This constitution, as amended from time to time in accordance with the Act;
<b>Director</b>	A Primary Director and/or an Alternate

	Director and/or the Chief Executive Officer, as the context indicates;
<b>Elected Director</b>	A Director other than the Chief Executive Officer;
<b>Full Member</b>	Any individual who is admitted as a Full Member under this Constitution and who is a "member" of the Company under the meaning of the Act;
<b>General Meeting</b>	An annual general meeting or a special meeting of the Members;
<b>Internet</b>	The co-operative worldwide electronic network of computers and computer networks using TCP/IP protocol and includes further co-operative worldwide electronic networks that incorporate, replace and/or develop out of that network using any technology;
<b>Member</b>	Full Member and Associate Member;
<b>Ordinary Resolution</b>	A resolution that is approved by a simple majority of the votes of those Members entitled to vote and voting on the matter which is the subject of the resolution;
<b>Person</b>	Any individual, company, body corporate, organisation, firm, unincorporated association, Governmental organisation or Non-Governmental Organisation;
<b>Primary Director</b>	Any individual who is elected as a "Primary Director" in accordance with Article 11.5 below ; and
<b>Special Resolution</b>	A resolution approved by a majority of 75 per cent of the votes of those Members entitled to vote and voting on the question;

**1.2)** Words not defined herein shall, insofar as the context permits, have the same meaning as in the Act.

## **2. NAME**

**2.1)** The name of the Company shall be "AFRINIC Ltd".. The business name of the Company shall be "African Network Information Centre".

**2.2)** An application to change the name of the Company may be made by a Director or the secretary of the Company with the approval of the Board and without the approval of the Members.

## **3. TYPE AND OBJECTS OF COMPANY**

**3.1)** The Company shall be a private company limited by guarantee.

**3.2)** The income and the capital of the Company shall be applied solely towards the promotion of the objects of the Company; and no part of the income or capital shall be paid or transferred, directly or indirectly, to the Members, whether by way of dividend, capital distribution or bonus or otherwise in the form of profit.

**3.3)** Article 3.2 shall be without prejudice to the power of the Company to effect the payment of:

*(i) reasonable and proper remuneration to any officer, employee or Member of the Company in return for any*

*services provided to the Company;*

*(ii) and expenses of Directors arising directly out of their tenure of office and approved by the Board.*

**3.4)** The Company shall have, both within and outside the Republic of Mauritius, full capacity to carry and/or undertake any business or activity, including but not limited to the following objects:

*(i) to provide the service of allocating and registering Internet resources for the purposes of enabling communications via open system network protocols and to assist in the development and growth of the Internet in the African region;*

*(ii) to promote the representation of AFRINIC membership and the Internet community of the African region by ensuring open and transparent communication and consensus-driven decision-making processes;*

*(iii) to promote responsible management of Internet resources throughout the African region, as well as the responsible development and operation of Internet infrastructures;*

*(iv) to provide educational opportunities to the public so as to increase understanding within African communities of Internet technical and policy issues;*

*(v) to propose and take such steps as are necessary to*

*promote the development of public policies in the best interest of Members and to seek legislative and regulatory consideration, whether by way of meetings or representations, of issues of general benefit to the Members, where and when appropriate;*

*(vi) to develop and promote basic technical and business practice standards related to Internet service provision for Members;*

*(vii) to disseminate among its Members information on all matters affecting the Company and its Members and to provide for and be a central channel of communication for the Members of the Company and generally for the furtherance and promotion of their interest;*

*(viii) to cultivate and obtain reciprocal relations with kindred institutions in other continents;*

*(ix) and to do all other things incidental or conducive to the attainment of all or any of the objects of the Company.*

## **4. COMPANY LIMITED BY GUARANTEE**

**4.1)** Funding for the running of the Company shall be realised from the following:

*(i) membership fees from Members;*

*(ii) subscription fees for bulk registration services;*

*(iii) registration fees for individual address space assignments;*

*(iv) maintenance fees for non-contiguous, non ISP address space;*

*(v) registration fees for individual address space transfers;*

*(vi) registration fees for autonomous system number ("ASN") allocations;*

*(vii) maintenance fees for ASN allocations; and*

*(viii) such other sources as may be deemed appropriate from time to time by the Board.*

**4.2)** The fees mentioned in Article 4.1 above shall be subject to review from time to time by the Board.

## **5. REGISTERED OFFICE**

**5.1)** The registered office shall be at 2nd Floor, Les Jamalacs Building, Vieux Conseil Street, Port-Louis, Mauritius.

**5.2)** The Board may at any time change the registered office of the Company upon the fulfilment of the formalities prescribed in the Act.

## **6. MEMBERSHIP**

**6.1)** Membership shall be open to:

*(i) any Person who is geographically based within, or providing services in, the African region and who is engaged in the use of, or business of providing, open system protocol network services; or*

*(ii) any other Person who is approved by the Board or the Members. Members shall be Full*

**6.2)** Members or Associate Members.

**6.3)** An individual who shall be elected as a Primary Director or an Alternate Director in accordance with Article 11.5 below and the Chief Executive Officer shall automatically also be appointed as a Full Member, provided that the said individual shall sign such forms as may be prescribed by the laws of Mauritius to undertake to contribute Rs. 500 (five hundred Mauritian rupees only) in the event of the Company being wound up.

**6.4)** The Associate Members shall be appointed by the Board from time to time, provided that each Associate Member shall:

*(i) pay to the Company such annual membership fees as are prescribed by the Board from time to time; and*

*(ii) sign such agreement as the Board shall reasonably require from time to time.*

**6.5)** A Full Member shall not be entitled to transfer its

membership.

## **7. POWERS OF MEMBERS**

**7.1)** Each Member shall be entitled to receive notice of all General Meetings in accordance with Articles 10.4 and 10.10 below, as applicable, and to attend all such General Meetings.

**7.2)** The Members shall be entitled:

*(i) by majority vote on the day of each annual General Meeting, to elect the Directors of the Company in accordance with Article 11.5 below; and*

*(ii) at each General Meeting, to discuss and comment on the general policies of the Company on such issues and for such time as shall be reasonably allowed by the chairperson of the General Meeting.*

**7.3)** Associate Members shall not, in such capacity, have any right other than the rights listed in Articles 7.1 and 7.2. For the avoidance of doubt, this Article 7.3 shall be without prejudice to any contractual rights of Associate Members in any agreement with the Company.

**7.4)** The Full Members shall, at General Meetings or by way of written resolutions, in addition to the rights conferred by Articles 7.1 and 7.2, have the right to:

*(i) consider and approve by Ordinary Resolution the*



*financial statements of the Company;*

*(ii) receive any auditor's report;*

*(iii) consider the annual report;*

*(iv) determine, by Ordinary Resolution, the general policies for fulfilling the objects of the Company;*

*(v) approve, in accordance with Section 130 of the Act, a major transaction;*

*(vi) consider and approve by Special Resolution, if appropriate, proposals for the revocation, amendment or replacement of this Constitution;*

*(vii) appoint by Ordinary Resolution at each annual General Meeting the auditor of the Company to hold office until the conclusion of the next annual General Meeting;*

*(viii) request the Board, by way of a notice signed by not less than 5 percent of the Full Members, to call a special General Meeting to vote on one or more resolutions;*

*(ix) and resolve, by Special Resolution, to put the Company into liquidation.*

## **8. TERMINATION OF MEMBERSHIP**

**8.1)** The membership of an Associate Member shall terminate upon:

*(i) the Associate Member, if not an individual, ceasing to exist pursuant to the laws of its country of incorporation or, being an individual, upon his death;*

*(ii) the resignation of the Associate Member by notice in writing to the Company, subject to acceptance of such notice by the Company at the discretion of the Board;*

*(iii) the Board, acting reasonably and in good faith, determining that the Associate Member has ceased to satisfy criteria for admission to membership of the Company;*

*(iv) the Board, acting reasonably and in good faith, determining that the Associate Member has refused or failed to comply with the provisions of this Constitution or any applicable rule made by the Board;*

*(v) membership fees or any other sum payable by the Associate Member to the Company remaining unpaid for a period of 3 months after the due date of payment (subject to the Board deciding otherwise); or*

*(vi) such other event or such other grounds as the Board, acting reasonably and in good faith, shall determine from time to time.*

8.2 Termination shall not relieve an Associate Member from any obligation to pay any fees payable to the Company on or before the date of termination and shall not entitle the Associate Member to any refund of any

fees, whether in whole or in part.

8.3 The Associate Member shall, on termination of its membership, return the resources allocated to it by the Company.

8.4 The membership of a Full Member shall terminate automatically upon his ceasing to be a Primary Director pursuant to Article 12.1 below.

## **9. GENERAL MEETINGS**

9.1 The Board shall call an annual General Meeting to be held-

*(i) not more than once in each year;*

*(ii) not later than 6 months after the balance sheet date of the Company; and*

*(iii) not later than 15 months after the previous annual General Meeting.*

9.2 A special General Meeting: may be called at any time by the Board; and shall be called by the Board on the written request of Full Members in accordance with Article 7.4(viii) above.

9.3 A resolution in writing signed by not less than 75 percent of Members entitled to vote on such a resolution is as valid as if it had been passed at a General Meeting

of those Members.

## **10. PROCEEDINGS AT GENERAL MEETINGS**

### **Chairperson.**

10.1 Where the Directors have elected a chairperson of the Board, and the chairperson of the Board is present at a General Meeting, he shall chair the General Meeting.

10.2 Where no chairperson of the Board has been elected or if, at any General Meeting, the chairperson of the Board is not present within 15 minutes of the time appointed for the commencement of the General Meeting, the Directors present shall elect one of their number to be chairperson of the General Meeting.

10.3 The ruling of the chairperson of the General Meeting on matters relating to the order of business and the procedure and conduct of the General Meeting shall, subject to this Constitution, be final and binding and no motion of dissent from the ruling of the chairperson may be entertained.

### **Notice of General Meetings to Full Members.**

10.4 Written notice of the time, date and place of a General Meeting shall be sent to every Full Member and to every Director, the secretary and the auditor of the Company not less than 14 days before the General Meeting. The notice may be delivered by post, fax,

electronic mail or such other method as the Board shall reasonably determine from time to time.

10.5 The notice to be sent pursuant to Article 10.4 shall state:

*(i) the nature of the business to be transacted at the General Meeting in sufficient detail to enable a Full Member to form a reasoned judgment in relation to it (including the matters mentioned in Article 10.11 below); and*

*(ii) the text of any Special Resolution to be submitted to the General Meeting.*

10.6 Any irregularity in a notice of a General Meeting shall be waived where all the Full Members entitled to attend and vote at the General Meeting attend the General Meeting without protest as to the irregularity, or where all Full Members agree to the waiver.

10.7 Any accidental omission to give notice of a General Meeting to, or the failure to receive notice of a General Meeting by, a Full Member or any other Person entitled to receive notice shall not invalidate the proceedings at that General Meeting.

10.8 The chairperson may, or where directed by the General Meeting, shall, adjourn the General Meeting from time to time and from place to place, but no business shall be transacted at any adjourned General Meeting

other than the business left unfinished at the General Meeting from which the adjournment took place.

10.9 When a General Meeting is adjourned for 30 days or more, notice of the adjourned General Meeting shall be given as in the case of an original General Meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or the business to be transacted at the adjourned General Meeting.

### **Notice of General Meetings to Associate Members.**

10.10 Written notice of the time, date and place of a General Meeting shall be sent to every Associate Member not less than 14 days before the General Meeting. The notice may be delivered by post, fax, electronic mail or such other method as the Board shall determine from time to time.

10.11 The notice to be sent pursuant to Article 10.10 shall state:

*(i) the names of the Directors who will retire on the date of that General Meeting and the region represented by each such Director;*

*(ii) the names of the persons who have been proposed to be elected as Directors and the region which is proposed to be represented by each such Person; and*

*(iii) any policy issues which the Board considers should*

*be discussed at the General Meeting.*

10.12 Any irregularity in a notice of a General Meeting sent to an Associate Member or any accidental omission to give notice of a General Meeting to, or the failure to receive notice of a General Meeting by, an Associate Member shall not invalidate the proceedings at that General Meeting.

10.13 When a General Meeting is adjourned for 30 days or more, notice of the adjourned General Meeting shall be given to Associate Members as in the case of an original General Meeting. Save as aforesaid, it shall not be necessary to give any notice to Associate Members of an adjournment or the business to be transacted at the adjourned General Meeting.

### **Methods of holding General Meetings.**

10.14 A General Meeting may be held either –

*(i) by the Members, including a number of Full Members who constitute a quorum, being assembled together at the place, date, and time appointed for the General Meeting; or*

*(ii) by means of audio, or audio and visual, communication by which all Members participating and constituting a quorum can simultaneously hear each other throughout the General Meeting.*

10.15 Votes to be exercised on the date of the annual General Meeting with respect to the election of Directors may be exercised in person, by proxy or by such other method of communication as may be decided from time to time by the Board.

### **Quorum.**

10.16 Where a quorum is not present, no business shall be transacted at a General Meeting.

10.17 Two or more Full Members present in person or by proxy shall form a quorum.

10.18 Where a quorum is not present within 30 minutes after the time appointed for the General Meeting –

(i) in the case of a General Meeting called under section 118(1)(b) of the Act, the General Meeting shall be dissolved;

(ii) in the case of any other General Meeting, the General Meeting shall be adjourned to the same day in the following week at the same time and place, or to such other date, time and place as the Directors may appoint; and

(iii) at the adjourned General Meeting, the quorum shall be two Full Members present in person or by proxy.

### **Voting.**



10.19 Where a General Meeting is held under Article 10.14(i) above, unless a poll is demanded, voting at the General Meeting shall be by whichever of the following methods is determined by the chairperson of the General Meeting:-

*(i) voting by voice; or*

*(ii) voting by show of hands.*

10.20 Where a General Meeting is held under Article 10.14(ii) above, unless a poll is demanded, voting at the General Meeting shall be by the Members signifying individually their assent or dissent by voice.

10.21 A declaration by the chairperson of the General Meeting that a resolution is carried by the requisite majority shall be conclusive evidence of that fact unless a poll is demanded.

10.22 At a General Meeting, a poll may be demanded by any Full Member or the chairperson of the General Meeting.

10.23 A poll may be demanded either before or after the vote is taken on a resolution.

10.24 Where a poll is taken, each Member shall have one vote on a resolution on which that Member is entitled to vote.

10.25 The chairperson of a General Meeting shall be

entitled to a casting vote.

10.26 The instrument appointing a proxy to vote at a General Meeting of a Company shall confer authority to demand or join in demanding a poll and a demand by a Person as proxy for a Full Member shall have the same effect as a demand by the Full Member.

10.27 The demand for a poll may be withdrawn.

10.28 Where a poll is duly demanded, it shall, subject to Article 10.24 above, be taken in such manner as the chairperson directs and the result of the poll shall be deemed to be the resolution of the General Meeting at which the poll is demanded.

10.29 A poll demanded on the election of a chairperson or on a question of adjournment, shall be taken immediately, on any other question, shall be taken at such time and place as the General Meeting directs and any business other than that on which a poll is demanded may be proceeded with pending the taking of the poll.

10.30 A Full Member may exercise his right to vote at a General Meeting by casting a postal vote in accordance with the Fifth Schedule to the Act. An Associate Member may not cast a postal vote.

## **Proxies**

10.31 A Member may exercise the right to vote either by

being present in person or by proxy.

10.32 A proxy for a Member may attend and be heard at a General Meeting as if the proxy were the Member.

10.33 A proxy shall be appointed by notice in writing signed by the Member and the notice shall state whether the appointment is for a particular General Meeting or a specified term.

10.34 No proxy shall be effective in relation to a General Meeting unless a copy of the notice of appointment is produced before the start of the General Meeting. Any power of attorney or other authority under which the proxy is signed or a notarially certified copy shall also be produced.

10.35 A proxy form shall be sent with each notice sent to a Member.

10.36 The instrument appointing a proxy shall be in writing under the hand of the appointer or of his agent duly authorised in writing or in the case of a corporation under the hand of an officer or of an agent duly authorised.

10.37 The instrument appointing a proxy shall be in such form as may be determined by the Board from time to time or, in default of such determination, in the following form -

*I/we ..... of ..... being  
members of the above named company hereby  
appoint ..... or failing him/her,  
..... of ..... as my/our  
proxy to vote for me/us at the meeting of the company  
to be held on ..... and at any adjournment of  
the meeting.  
Signed this ..... day of .....*

## **Minutes**

10.38 The Board shall ensure that minutes are kept of all proceedings at General Meetings.

10.39 Minutes which have been signed correct by the chairperson of the General Meeting are *prima facie* evidence of the proceedings.

## **Member proposals**

10.40 Each Member may nominate one individual who shall be eligible to be elected as a Director. Such nominations must be received at the registered address of the Company not less than 3 weeks and not more than 8 weeks prior to an annual General Meeting at which Directors will be elected. Such nominations shall contain the full name and address of the nominated person as well as a short description of the person, including the person's professional background, age, nationality, residential address and the region which the person is proposed to represent.

10.41 A Member may give written notice to the Board of a matter which the Member proposes to raise for discussion or resolution at the next General Meeting at which the Member is entitled to vote.

10.42 Where the notice is received by the Board not less than 28 days before the last day on which notice of the relevant General Meeting is required to be given by the Board, the Board shall, at the expense of the Company, give notice of the Member's proposal and the text of any proposed resolution to all Members entitled to receive notice of the General Meeting.

10.43 Where the notice is received by the Board not less than 7 days and not more than 28 days before the last day on which notice of the relevant General Meeting is required to be given by the Board, the Board shall, at the expense of the Member, give notice of the Member's proposal and the text of any proposed resolution to all Members entitled to receive notice of the General Meeting.

10.44 Where the notice is received by the Board less than 7 days before the last day on which notice of the relevant General Meeting is required to be given by the Board, the Board may, where practicable, and at the expense of the Shareholder, give notice of the Member's proposal and the text of any proposed resolution to all Members entitled to receive notice of the General Meeting.

10.45 Where the Directors intend that Members may vote on the proposal by proxy or by postal vote, they shall give the proposing Member the right to include in or with the notice given by the Board a statement of not more than 1000 words prepared by the proposing Member in support of the proposal, together with the name and address of the proposing Member.

10.46 The Board shall not be required to include in or with the notice given by the Board a statement prepared by a Member which the Directors consider to be defamatory, frivolous, or vexatious.

10.47 Where the costs of giving notice of the Member's proposal and the text of any proposed resolution are required to be met by the proposing Member, the proposing Member shall, on giving notice to the Board, deposit with the Company or tender to the Company a sum sufficient to meet those costs.

10.48 Notwithstanding the other provisions of this Article, where a proposal is made by an Associate Member, the Board shall have discretion as to whether notice of such proposal should be given to Members.

### **Corporations may act by representative**

10.49 A body corporate which is a Member may appoint a representative to attend a General Meeting on its behalf in the same manner as that in which it could appoint a proxy.

## **Other proceedings**

10.50 Unless otherwise expressly provided in this Constitution or otherwise mandatory as per the provisions of the Act, a General Meeting may regulate its own procedure.

## **11. APPOINTMENT OF DIRECTORS**

11.1 The Board shall comprise up to seven (7) Directors, comprising of six Primary Directors and the Chief Executive Officer.

11.2 Each Primary Director shall have an Alternate Director. Each of the following six sub-regions of Africa shall be represented by one Primary Director and one Alternate Director:

- (i) Northern Africa;
- (ii) Western Africa;
- (iii) Indian Ocean;
- (iv) Central Africa;
- (v) Southern Africa; and
- (vi) Eastern Africa.

11.3 Each Elected Director shall hold office for a term of approximately three years, which term of office shall

expire on the date of the annual General Meeting held on or around the third anniversary of the date of appointment of such Elected Director. Subject to Article 11.7, such Elected Director shall be eligible for re-election on the expiry of his term of office, provided that no Elected Director shall serve more than two consecutive terms.

11.4 For the avoidance of doubt, the sequential election of Elected Directors prevailing at the date of adoption of this Constitution shall be continued so that, on the expiry of the respective terms of office of Elected Directors, the Directors shall be elected in the following sequence:

*(i) Election for Directors representing Northern Africa and Western Africa;*

*(ii) Election for Directors representing the Indian Ocean and Central Africa; and*

*(iii) Election for Directors representing Southern Africa and Eastern Africa.*

11.5 The Primary Directors and the Alternate Directors shall be elected by Members on the date of each annual General Meeting every three years. For the avoidance of doubt, the election of Directors shall not be considered as being part of the annual General Meeting but the proceedings of such election shall, subject to Article 10.15 above, be the same as for a General Meeting.



11.6 Subject to Article 11.10 below, with respect to each region, the individual who shall have the most number of votes shall be elected as Primary Director and the individual who shall have the second highest number of votes shall be elected as Alternate Director.

11.7 In the case where there is no eligible candidate for a particular region, the Director already in office in the particular seat shall be deemed to have been elected for one further term.

11.8 Notwithstanding any other provision of this Constitution, the Company shall at all times have at least one Director who shall be ordinarily resident in Mauritius.

11.9 No person shall be appointed or hold office as a Director if he is a person who:

*(i) is under 18 years of age;*

*(ii) is an undischarged bankrupt;*

*(iii) would, but for the repeal of Section 117 of the Companies Act 1984 of Mauritius, be prohibited from being a Director or promoter of, or being concerned or taking part in the management of, a company within the meaning of that Act;*

*(iv) is prohibited from being a director or promoter of or being concerned or taking part in the management of a company under Sections 337 or 338 of the Act;*

*(v) is not a natural person; or*

*(vi) has been adjudged to have been of unsound mind.*

11.10 A person shall not be appointed a Director of the Company unless:

*(i) that person has consented in writing to be a Director and certified that he is not disqualified from being appointed or holding office as a Director in accordance with the Act; and*

*(ii) that person has signed the forms required to be a Full Member under Article 6.3 above*

11.11 The provisions of Section 137(1) of the Act shall not apply to the Company.

11.12 The Directors shall have power at any time and from time to time to appoint any person to be a Director to fill a casual vacancy in the Board. Any Director so appointed shall hold office only until the next following annual General Meeting at which Directors are elected and shall then be eligible for re-election.

## **12. REMOVAL OF DIRECTORS**

12.1. A Director shall cease to hold office until:

*(i) his term of office expires, without prejudice to Article 11;*

*(ii) he signs a written notice of resignation and delivers it to the address for service of the Company, which notice shall be effective when it is received at that address or at such later time as may be specified in the notice;*

*(iii) he is removed by the affirmative vote of two-thirds of all other Directors;*

*(iv) upon the recommendation of the Member who nominated that Director for election pursuant to Article 10.40, he is removed by the affirmative vote of the majority of all other Directors;*

*(v) he otherwise ceases to be a Director pursuant to Section 139 of the Act; or*

*(vi) the Director being the Chief Executive Officer, on the Board terminating his employment as Chief Executive Officer.*

## **13. POWERS OF DIRECTORS**

13.1 The business and affairs of the Company shall be managed by, or under the direction and supervision of, the Board.

13.2 Subject to such modifications, adaptations, exceptions or limitations which may be contained in the Act and the Constitution, the Board shall have all the power necessary for managing, and for directing and supervising the management of, the business and affairs

of the Company.

13.3 Without prejudice to the generality of Articles 13.1 and 13.2 above, the Directors shall be entitled to:

*(i) determine the guidelines for the allocation of address space for Members;*

*(ii) consider broad Internet policy issues in order to ensure that the policies and strategies of the Company fully respond to the changing Internet environment;*

*(iii) determine a financial budget for the activities of the Company for a given period;*

*(iv) establish a ceiling for expenditures for a given period and from time to time to vary such ceiling as they deem fit;*

*(v) fill any casual vacancy in the office of the auditor of the Company;*

*(vi) provide any general directives to the Chief Executive Officer regarding the staffing of the Company;*

*(vii) determine the conditions of employment of the employees of the Company who are employed at an Executive level;*

*(viii) reduce or waive fees payable by any person to the Company, or to amend in any manner whatsoever the conditions relating to the payment thereof;*

*(ix) to appoint or remove the secretary of the Company and to determine the remuneration payable to such secretary; and*

*(x) to appoint such committees for such reasons and with such terms of reference as they shall consider necessary or desirable.*

13.4 Subject to Section 13.1 of, and the Seventh Schedule to, the Act, the Directors may delegate their powers to such Persons as they shall consider necessary and/or desirable.

## **14. CHIEF EXECUTIVE OFFICER**

14.1 The Elected Directors shall, by majority vote, appoint the Chief Executive Officer on such terms and conditions as they shall determine.

14.2 The Chief Executive Officer may, subject to applicable labour laws, be removed from time to time by the Elected Directors by majority vote.

*(i) The Chief Executive Officer: shall manage the day to day business of the Company;*

*(ii) shall have power to determine the remuneration and other conditions of employment of all employees of the Company (except for employees at management level); and*

*(iii) shall have such other powers as may be delegated to him from time to time by the Board.*

## **15. REMUNERATION OF ELECTED DIRECTORS**

15.1 An Elected Director shall not be an employee of the Company and shall not be entitled to be remunerated in his capacity as Elected Director.

15.2 However, Elected Directors shall be entitled to be reimbursed for reasonable out-of-pocket expenses (including travelling, hotel and subsistence expenses), as determined by the Board from time to time, incurred in the fulfilment of their duty towards the Company or otherwise in connection with the business of the Company.

## **16. PROCEEDINGS OF DIRECTORS**

### **Chairperson and Deputy Chairperson of the Board**

16.1 The Directors shall elect a Primary Director as chairperson and, if they think fit, a Primary Director as deputy chairperson, of the Board. The chairperson and the deputy chairperson shall hold office for a period of twelve months.

16.2 The chairperson or, failing him, the deputy chairperson, shall preside at all meetings of the Directors, but if at any meeting the chairperson and deputy chairperson are not present within fifteen minutes after

the time appointed for holding the same, the Directors present may choose one of their number to be chairperson of the meeting.

## **Notice of Board Meeting**

16.3 A Director or, if requested by a Director to do so, an employee or the secretary of the Company, may convene a meeting of the Board by giving at least fourteen days' notice, provided that shorter notice may be given where at least three-fourths of the Directors consent to such shorter notice or if the chairperson of the Board considers that the business of the meeting is urgent.

16.4 A notice of a meeting of the Board shall be sent to the Chief Executive Officer, every Primary Director and every Alternate Director, and the notice shall include the date, time, and place of the meeting and the matters to be discussed. The notice may be delivered by post, fax, electronic mail or such other method as the Board shall reasonably determine from time to time.

16.5 An irregularity in the notice of a meeting is waived where all Directors entitled to receive notice of the meeting attend the meeting without protest as to the irregularity or where all Directors entitled to receive notice of the meeting agree to the waiver.

## **Methods of holding Board Meetings**

16.6 A meeting of the Board may be held:

*(i) by a number of the Directors who constitute a quorum, being assembled together at the place, date, and time appointed for the meeting;*

*(ii) by means of audio, or audio and visual, communication by which all Directors participating and constituting a quorum can simultaneously hear each other throughout the meeting; or*

*(iii) such other methods of communication whereby all Directors participating and constituting a quorum can simultaneously communicate with each other throughout the meeting.*

16.7 Regular meetings of the Board will be held on dates to be determined by the Board. To the extent practicable, meetings should be held in different locations around the continent of Africa on a regular basis.

16.8 Every Primary Director, Alternate Director and the Chief Executive Officer shall be entitled to attend each Board meeting.

## **Quorum**

16.9 A quorum for a meeting of the Board shall be the majority of Primary Directors (either present or represented by their Alternate Directors).

16.10 No business may be transacted at a meeting of Directors if a quorum is not present, provided that, if a



quorum is not constituted, the Directors present may adjourn the meeting. If a meeting is adjourned for more than 24 hours, notice shall be given to those Directors not present at the meeting at the time of adjournment. At the adjourned meeting, the Directors present, not being less than three in number, shall constitute a valid quorum.

## **Voting**

16.11 Every Director shall have one vote. The chairperson shall not have a casting vote. An Alternate Director may only vote when his Primary Director is not present.

16.12 A resolution of the Board is passed if it is agreed to by all Directors present and entitled to vote without dissent or if a majority of the votes cast on it are in favour of it.

16.13 A Director present at a meeting of the Board is presumed to have agreed to and to have voted in favour of a resolution of the Board unless he expressly dissents from or votes against the resolution at the meeting.

## **Minutes**

16.14 The Board shall ensure that minutes are kept of all proceedings at meetings of the Board.

16.15 Any such minute, if purporting to be signed by the chairman of the meeting at which the proceedings took place, or by the chairman of the next succeeding

meeting, shall, unless the contrary be proved, be conclusive evidence of their proceedings.

## **Resolutions in writing**

16.16 A resolution in writing, signed or assented to by two-thirds of all Primary Directors then entitled to receive notice of a Board meeting, is as valid and effective as if it had been passed at a meeting of the Board duly convened and held.

16.17 Any such resolution may consist of several documents (including facsimile or other similar means of communication) in like form each signed or assented to by one or more Directors.

16.18 For the purpose of the foregoing, signature or assent by an Alternate Director shall be as valid as the signature or assent of his Primary Director unless the Primary Director has expressly refused to sign or assent to the resolution.

16.19 A copy of any such resolution must be entered in the minute book of Board proceedings.

## **Other proceedings**

16.20 Except as provided herein, the Board may regulate its own procedure.

## **17. SECRETARY**

17.1 The secretary shall be appointed by the Directors.

17.2 No person shall be appointed as secretary unless that person has consented to be the secretary and has the qualifications specified under section 165 of the Act.

## **18. INDEMNITY AND INSURANCE**

18.1 The Directors and employees of the Company shall be indemnified by the Company to such extent as is authorised by the Act.

18.2 The Board may cause the Company to provide insurance to a Director or employee of the Company to such extent as is authorised by the Act.

## **19. WINDING-UP**

19.1 If the Company shall be wound up while a person is a Full Member or within one year after that person ceases to be a Full Member, every Full Member of the Company will contribute such amount as may be required, not exceeding Rs. 500 (five hundred Mauritian rupees) to the assets of the Company for payment of the Company's debts and liabilities accrued before the Full Member ceases to be a Full Member, and of the costs and expenses of winding-up.

19.2 If on the winding up or dissolution of the Company, there remain any surplus assets after satisfaction of the Company's debts and liabilities, the surplus shall not be

paid to the Members but shall instead be given or transferred to some other institution or institutions having objects similar to the objects of the Company. The institution to which the surplus shall be transferred shall be determined by the Full Members or, in default of such determination, by the liquidator after considering the advice of the Board.

## **20. COMMON SEAL, AUTHENTICATION OF DOCUMENTS**

20.1 The Company may have a seal, known as the common seal, which shall contain the name of the Company and which shall not be affixed to any instrument without the authority of the Board and/or the Chief Executive Officer.

20.2 All instruments, deeds, acts and documents executed on behalf of the Company may be in such form and contain such powers, provisos, conditions, covenants, clauses and agreements as the Board and/or the Chief Executive Officer may think fit and shall be signed either by the Chief Executive Officer or by two Directors or by such other person or persons as the Board may from time to time appoint.

20.3 All bills of exchange, promissory notes or other negotiable instruments shall be accepted, made, drawn or endorsed for and on behalf of the Company and all cheques or orders for payment shall be signed either by

the Chief Executive Officer or by two Directors or by such other person or persons as the Board may from time to time appoint.

20.4 Articles 20.2 and 20.3 shall be subject to such authorisation policy as may be determined or varied by the Board from time to time.

20.5 All moneys belonging to the Company shall be paid to such bankers as the Board of Directors shall from time to time appoint and all receipts for money paid to the Company shall be signed by the Chief Executive Officer or a Director or by such officer as the Board may from time to time appoint.

20.8 Cheques or other negotiable instruments paid to the Company's bankers for collection and requiring the endorsement of the Company shall be endorsed on its behalf by the Chief Executive Officer plus one Director who shall be so nominated and mandated by the Board, or by two Directors equally mandated by the Board in case of unavailability of the Chief Executive Officer.

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Adiel Akplogan

Chief Executive Officer of AFRINIC Ltd.

[\*] 2007

I certify that this document has been adopted as the constitution of AFRINIC Ltd. on [\*] 2006.

