



**S.A.T.S GENERAL BOTHA OLD BOYS**  
**ASSOCIATION BURSARY FUND**  
**Shortened Name: SATS GBOBA Bursary Fund**

*PBO Exemption No 930 037 633*

**CONSTITUTION**  
**Amended September 2012**

**S.A.T.S GBOBA BURSARY FUND CONSTITUTION**

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## S.A.T.S GBOBA BURSARY FUND CONSTITUTION

### Constitution

#### **1. Name of Fund**

- 1.1. The SATS General Botha Old Boys Association (GBOBA) Bursary Fund with the shortened name being "*SATS GBOBA Bursary Fund*", hereafter referred to as "the Fund".

#### **2. Legal Status:**

- 2.1. The fund is constituted as a non-profit Public Benefit Organisation formed to satisfy the objectives as laid out in 4 below. It is a Body Corporate and as such has its own legal Identity, which is separate from that of the GBOBA and its members, with the Fund continuing to exist even after its office bearer's change.

#### **3. Income and Property of the Fund**

- 3.1. Members of the GBOBA and office bearers of the Fund have no rights in the property or other assets of the Fund solely by being members or office bearers.
- 3.2. The income and property of the fund shall be used solely for the promotion of its stated objectives and shall not be paid or distributed directly or indirectly to any person employed by the fund, with the exception of expenses as directed in paragraph 4.6 below

#### **4. Objectives of the Fund**

- 4.1. The principal objective of the fund is to financially assist students who wish to enter, or who already attend an approved educational establishment, to study towards a Maritime career. In particular students studying, or wishing to study, at the Lawhill department of Maritime Studies in the Simon's Town School.
- 4.2. Alternatively, should it be found by the administrators that for any reason that they cannot satisfy the principle objective as laid out in 4.1 above. The Fund can decide to materially support an approved institution, which provides maritime education and/or training.

#### **5. Administration and Governance of the Fund**

- 5.1. The Fund shall be administered by a minimum of three fund administrators (Management), who accept fiduciary responsibility for the Fund and will actively manage the fund. The funds initial management, who will also be bank signatories, are as follows:
  - Keith Howard Burchell ID No.4407315052087 Chairman
  - Peter Dwight Coetzee ID No 4403125061087 Treasurer
  - Derek Russell ID No 4312205121085 Secretary
- 5.2 Any two of the above mentioned persons will be required to authorise any cheques or electronic payments from the fund's accounts.

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- 5.3 The Chairman or a Committee member of the Cape Town Branch of the GBOBA will be appointed on an annual basis (At its AGM) as an ex Officio member of the fund management and as such shall be entitled to attend meetings of the fund and report on fund activities to the GBOBA committee.
- 5.4 The Cape Town Branch of the GBOBA at their sole discretion may appoint a replacement and/or additional administrator/s to manage the fund from time to time.
- 5.5 Should the Cape Town Branch of the GBOBA become dormant or cease to exist then a senior member of the South African maritime industry will be nominated by the funds management to appoint a replacement and/or additional administrators from time to time.
- 5.6 The fund management shall perform their duties on a voluntary basis and as such shall not receive remuneration. However, at the management of the funds discretion, compensation for direct expenses incurred in the carrying out of their duties can be paid.
- 5.7 The Fund's management will formally meet at least twice a year, with such meetings being Chaired by the Fund Chairman and conducted face to face and/or electronically, and properly recorded in meeting minutes. Important operational decisions can be decided by round robin approval between meetings and formally recorded at the next meeting.
- 5.8 A quorum for a meeting of the administrators shall be two thirds of the serving administrators.
- 5.9 Management decisions will be made by majority vote of the administrators and the Chairman will have both a deliberative and a casting vote.
- 5.10 Special meetings can be constituted by the Fund's management as necessary and required.
- 5.11 Auditors or Suitable Tax Consultants/Accountants as required by the current Legislation will be appointed annually by the Fund's management and such organisation will produce audited annual accounts.
- 5.12 A formal annual report on the Fund shall be drawn up and made available to the AGM of the GBOBA held every March, to donors, and any other party on request.
- 5.13 The initial headquarters and postal address of the Fund shall be as follows:-  
No 1 El Meadows, 6 Wren Way,  
Meadowridge, Western Cape  
7806

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5.14 A Current bank account and as necessary an interest bearing Investment Account will be maintained with a first class bank in the Republic of South Africa. Additionally, funds may be invested in other first class financial institutions as and when decided by the Fund's management.

### **6. Fund Requirements for award of bursaries and or material institutional support**

- 6.1. An award is made at the sole discretion of the Fund's administrators on grounds of each candidate's merit and need.
- 6.2. The award is irrevocable, save for reasons of material failure by the award recipient to conform to the purposes and conditions of the award.
- 6.3. All awards will in principle be paid direct to service providers, no cash or other payment will be made directly to the recipient.
- 6.4. The Fund reserves the right to attach further conditions to an award of the Fund in the event of any non-compliance by the recipient.
- 6.5. All recipients must be South African citizens.
- 6.6. All award decisions are to be unanimously made by a selection committee of at least three appointed by the Fund's administrators not connected in any way to the donor.
- 6.7. A selection criteria document based on the principles expressed in paragraph 4, as above, will be drawn up by the Fund Administrators and used for the purposes of bursary candidate and recipient selection or for selection of an institution to receive an award, and adjusted to the circumstances existing at the time of the selection process.

### **7. Capital Fund-Limitation of Benefits**

- 7.1. Awards may be made on the condition that the capital of the Fund is maintained at a level necessary to manage the fund and where possible at a minimum level of R10, 000.

### **8. Donations**

- 8.1. All donations will be acknowledged and recorded in writing by the Fund's management.

### **9. Taxation of the Fund**

- 9.1. The South African Revenue Service (SARS) has granted the fund Public Benefit Organisation Exemption status in terms of Sections: 10(1)(cN); 30 & 56(1)(h) of the Income Tax Act and Section 4(h) of Estate Duty Act 45 of 1955. In respect of this status all requirements of SARS Tax Act as laid out in 10 and 11 below will be adhered to.
- 9.2. Annual returns of income and accounts (IT12E1) will be submitted to the Tax Exemption Unit in order to ensure retention of PBO Status

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### **10. Award of Bursaries – SARS Exemption Conditions:**

The fund shall ensure that the requirements of the Tax Act in respect of the granting of scholarships, bursaries or awards as laid out below are invoked whereby the fund will ensure that:

- 10.1 All scholarships, bursaries or awards granted by the organisation will be *bona fide* and be granted to an individual on grounds of objective merit or need.
- 10.2 No scholarship, bursary or award granted will be:
  - 10.2.1 revocable, otherwise than for reasons of a material failure to conform to the designated purposes and conditions of the scholarship, bursary or award;
  - 10.2.2 subject to conditions which would enable the donor of the funds of the scholarship, bursary or award or any connected person in relation to the donor, to derive some direct benefit from the application of the scholarship, bursary or award; or
  - 10.2.3 granted to any person who is or will become an employee of the donor of the funds of the scholarship, bursary or award or the organisation (or any associated institution in relation to the donor or organisation) or any relative of the person, unless circumstances indicate that the scholarship, bursary or award would have been granted to the person or his or her relative, even if that person had not been an employee of the donor, organisation or associated institution.
- 10.3 All decisions regarding the granting of scholarships, bursaries and awards will be made by a duly constituted committee consisting of at least three persons who are not connected persons in relation to the donors or the person to whom the scholarship, bursary or award is granted.
- 10.4 All scholarships, bursaries and awards granted in respect of overseas study, research or teaching will be subject to an undertaking by the person to whom the scholarship, bursary or award is granted —
  - 10.4.1 to apply the knowledge obtained from the study, research or teaching immediately after completion thereof, in the Republic for a period of at least the period that the study, research or training was funded by the organisation or
  - 10.4.2 to refund the full amount of the scholarship, bursary or award should he or she decide not to apply the knowledge as contemplated in subparagraph (a) above.
- 10.5 The activities of the fund are carried on in a non-profit manner and with an altruistic or philanthropic intent.
- 10.6 No activity will directly or indirectly promote the economic self interest of any fiduciary or employee of the organisation otherwise than by way of reasonable remuneration.

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### **11. Operations of a Public Benefit Organisation – Tax Act Requirements:**

That the requirements of the Tax Act in respect of the operations of a PBO as laid out below will be invoked whereby the fund shall:

- 11.1. Have at least three persons acting as administrators, who are not connected persons in relation to each other, to accept the fiduciary responsibility of the fund.
- 11.2. Ensure that no single person directly or indirectly controls the decision making powers relating to the fund.
- 11.3. Prohibit the distribution of any of its funds to any person (otherwise than in the course of undertaking any public benefit activity) and is required to utilise its funds solely for the object for which it has been established.
- 11.4. Prohibit acceptance of any donation which is revocable at the instance of the donor for reasons other than a material failure to conform to the designated purposes and conditions of such donation, including any misrepresentation with regard to the tax deductibility thereof in terms of section 18A; provided that a donor may not impose conditions which could enable such donor or any connected person in relation to such donor to derive some direct or indirect benefit from the application of such donation.
- 11.5. Ensure that it is not knowingly a party to, and does not knowingly permit itself to be used as part of any transaction, operation or scheme of which the sole or main purpose is or was the reduction, postponement or avoidance of liability for any tax, duty or levy, which, but for such transaction, operation or scheme, would have been or would have become payable by any person under the Act or any other Act administered by the commissioner.
- 11.6. Submit to the Commissioner a copy of any amendment to this constitution.
- 11.7. Not pay any remuneration to any employee, office bearer, member or other person, which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered.
- 11.8. Comply with such reporting requirements as may be determined by the Commissioner.
- 11.9. Take reasonable steps to ensure that the funds which it may provide to any association of persons as contemplated in paragraph 10(iii) of Part 1 of the Ninth Schedule of the Act are utilised for the purpose for which they are provided.
- 11.10. Ensure that the fund has not and will not use its resources directly or indirectly to support, advance or oppose any political party.

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### **12. Dissolution of the Fund**

12.1. On dissolution of the public benefit organisation, the remaining assets must be transferred to –

- 12.1.1. A public benefit organisation, which has been approved in terms of section 30 of the Act.
- 12.1.2. Any institution, board or body which is exempt from the payment of income tax in terms of section 10(1)(cA)(i) of the Act, which has as its sole or principal object the carrying on of any public benefit activity; or
- 12.1.3. Any department of state or administration in the national or provincial or local sphere of government of the Republic, contemplated in section 10(1)(a) or (b) of the Act.

### **13. Changes ,alterations or amendments to the Funds constitution**

13.1. Proposed alterations and amendments to the constitution of the Fund may only be approved by the GBOBA Cape Town Branch or/by an AGM or a Special General Meeting of the GBOBA should they deem it necessary.

### **14. Indemnity**

- 14.1. Subject to the provisions of any relevant law, the administrators of the fund shall be indemnified by the Fund and the GBOBA, for all acts done by them in good faith on its behalf.
- 14.2. Subject to the provisions of any relevant law, no administrator of the fund or appointed delegate/s shall be liable for the acts, receipts, neglects or defaults of any other administrator or delegate/s of the fund or for any loss, damage or expense suffered by the fund, which occurs in the execution of his or her office unless it arises as a result of his or her dishonesty, or failure to exercise due care, diligence and skill as required by law.



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**15. Approved Amendments to the constitution:**

**15.1 September 2012**

Signed into force this ..... Day of .....2012 at Cape Town

**On Behalf of Initial Administrators:**

1) Capt. Keith Howard Burchell.....

**Chairman**

2) Peter Dwight. Coetzee.....

**Treasurer**

3) Derek Keith Russell.....

**Secretary**

**For and on behalf of the SATS General Botha OBA:**

4) Capt. Anthony David Nicholas.....

ID No 5110145044089

**Chairman**

**Cape Town Branch**

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**16 Amendment to Constitution**

**Attached as Addendum B – February 2012**

**17. Fund Establishment**

**Attached as an Addendum A – Original Fund Establishment Signature Page**