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**REVISED VERSION AS PRINTED AND PUBLISHED
BY DIRECTION OF THE LAW REVISER
WITH EFFECT FROM 3rd SEPTEMBER 2010
[See General Notice 244/2010¹ of 3rd September 2010]**

Note by Veritas

**The differences between this revised version and the original version of
the Act as gazetted on 13th February 2009
are to be found in section 14 and in the additional text
at the end of this version which sets out the full text of
the Interparty Political Agreement.**

Act No. 1 of 2009

Published in the Government Gazette Extraordinary of 13th February 2009
(General Notice 7A of 2009)

Date of commencement: 13th February 2009.

ACT

To amend the Constitution of Zimbabwe.

ENACTED by the President and the Parliament of Zimbabwe.

1 Short title

This Act may be cited as the Constitution of Zimbabwe Amendment (No. 19) Act, 2008.

2 Interpretation

In this Act—

“fixed date” means the date of commencement of this Act.²

¹ GN 244/2010 states as follows over the name of the Law Reviser: “*IT is hereby notified that the Law Reviser has, in terms of section 11B(1) of the Statute Law Compilation and Revision Act [Chapter 1:03], directed the Government Printer to print and publish the Constitution of Zimbabwe Amendment Act (No. 19), 2009 (No. 1 of 2009) together with, for the information of the public, the Interparty Political Agreement as defined in section 115 of the Constitution*”.

² Note by Veritas. 13th February 2009 [date of publication in the Government Gazette].

3 New Chapter substituted for Chapter II of Constitution

Chapter II of the Constitution is repealed and the following is substituted—

“CHAPTER II

CITIZENSHIP

4 Zimbabwean citizenship

(1) There is a common Zimbabwean citizenship and all citizens are equal, that is to say citizens are entitled, subject to this Constitution, to the rights, privileges and benefits of citizenship and are subject to the duties and obligations of citizenship.

(2) It is the duty of every Zimbabwean citizen—

- (a) to observe this Constitution and to respect its ideals and institutions; and
- (b) to respect the national flag and the national anthem; and
- (c) to the best of his or her ability, to defend Zimbabwe in time of need.

(3) Every Zimbabwean citizen is entitled to the protection of the State wherever he or she may be.

(4) Zimbabwean citizenship may be acquired by birth, descent or registration.

5 Citizenship by birth

(1) Everyone born in Zimbabwe is a Zimbabwean citizen by birth if, when he or she was born—

- (a) either of his or her parents was a Zimbabwean citizen; or
- (b) either of his or her grandparents was a Zimbabwean citizen by birth or descent.

(2) Anyone born outside Zimbabwe is a Zimbabwean citizen by birth if, when he or she was born, either of his or her parents was a Zimbabwean citizen and was—

- (a) ordinarily resident in Zimbabwe; or
- (b) working outside Zimbabwe for the State or an international organisation.

6 Citizenship by descent

(1) Anyone born outside Zimbabwe is a Zimbabwean citizen by descent if, when he or she was born—

- (a) either of his or her parents or grandparents was a Zimbabwean citizen by birth or descent; or
- (b) either of his or her parents was a Zimbabwean citizen by registration;

and the birth is registered in Zimbabwe in accordance with the law relating to the registration of births.

(2) This section does not affect a person's right to citizenship by birth under section 5.

7 Citizenship by registration

(1) Anyone who has been voluntarily and ordinarily resident in Zimbabwe for at least ten years, or for a shorter period fixed in an Act of Parliament, may apply to become a Zimbabwean citizen by registration.

(2) If a Zimbabwean citizen legally adopts someone who is not a Zimbabwean citizen, the adopted person becomes a Zimbabwean on the date of the adoption order and must be regarded as a citizen by registration.

(3) A minor child of a person who has become a Zimbabwean citizen by registration is entitled, on application, to become a Zimbabwean citizen by registration.

(4) A person who is married to a Zimbabwean citizen and who has been ordinarily resident in Zimbabwe for at least five years since the marriage is entitled, on application, to become a Zimbabwean citizen by registration.

(5) An Act of Parliament may provide for—

- (a) the acquisition of citizenship by registration by persons other than those mentioned in subsections (1), (2), (3) and (4); and
- (b) the procedure for acquiring citizenship by registration.

8 Citizenship and Immigration Board

An Act of Parliament must provide for the establishment of a Citizenship and Immigration Board consisting of a chairperson and at least two other members, appointed by the President, to be responsible for—

- (a) granting and revoking citizenship by registration;
- (b) permitting persons, other than citizens, to reside and work in Zimbabwe, and fixing the terms and conditions under which they may so reside and work;
- (c) exercising any other functions that may be conferred or imposed on the Board by or under an Act of Parliament.

9 Powers of Parliament in relation to citizenship

An Act of Parliament may provide for—

- (a) the prohibition of dual citizenship;
- (b) procedures for the renunciation of citizenship;
- (c) the circumstances in which persons qualify for or lose their citizenship by descent or registration; and
- (d) any other matters regarding citizenship.

10 Interpretation and supplementary provisions regarding citizenship

(1) A reference in this Chapter to the citizenship of a person's parent or grandparent at the time of the person's birth must be construed, in relation to a person born after the death of the parent or grandparent, as a reference to the citizenship of the parent or grandparent when he or she died.

(2) Where a person became a citizen of Zimbabwe by virtue of his or her marriage to a citizen, the person remains a citizen of Zimbabwe even if the marriage is subsequently annulled or dissolved.”.

4 Amendment of section 18 of Constitution

Section 18 (“Provisions to ensure protection of law”) of the Constitution is amended by the insertion after subsection (1) of the following subsection—

“(1a) Every public officer has a duty towards every person in Zimbabwe to exercise his or her functions as a public officer in accordance with the law and to observe and uphold the rule of law.”.

5 New section inserted in Constitution after section 23

The Constitution is amended by the insertion after section 23 of the following section—

“23A Political rights

(1) Subject to the provisions of this Constitution, every Zimbabwean citizen shall have the right to—

- (a) free, fair and regular elections for any legislative body, including a local authority, established under this Constitution or any Act of Parliament;
- (b) free, fair and regular elections to the office of President and to any other elective office;
- (c) free and fair referendums whenever they are called in terms of this Constitution or an Act of Parliament.

(2) Subject to this Constitution, every adult Zimbabwean citizen shall have the right—

- (a) to vote in referendums and elections for any legislative body established under this Constitution, and to do so in secret; and
- (b) to stand for public office and, if elected, to hold office.”.

6 Amendment of section 31G of Constitution

Section 31G (“Cabinet”) of the Constitution is amended by the repeal of subsection (3) and the substitution of—

“(3) Every member of the Cabinet, other than the President shall, before entering upon his or her office as such, take and subscribe before the President or some other person authorised by the President in that behalf, the oath of a member of the Cabinet in the form set out in Schedule 1.”.

7 Amendment of section 41 of Constitution

Section 41 (“Tenure of seats of members”) of the Constitution is amended —

(a) in subsection (1) —

(i) in paragraph (e) —

- A. by the deletion of “section 38(1)(a)” and the substitution of “section 34(1)(a) or 38(1)”;

- B. by the deletion of “the Speaker” and the substitution of “the President of the Senate or the Speaker, as the case may be”;
- (ii) in paragraph (h) by the deletion of “section 38(1)(a)” and the substitution of “section 34(1)(a) or 38(1)”
- (iii) by repeal of paragraph (i) and the substitution of—
 - “(i) if, being a member referred to in section 34(1)(b), he ceases to hold office as Provincial Governor;”;
- (b) in subsection (2) by the repeal of paragraph (a) and the substitution of—
 - “(a) being a Vice-President, the Prime Minister, a Deputy Prime Minister, a Minister, a Deputy Prime Minister or Provincial Governor;”.

8 Amendment of section 57 of Constitution

Section 57 (“Standing Orders”) of the Constitution is amended by the repeal of subsection (2) and the substitution of—

“(2) There is, for the life of Parliament, a Committee to be known as the Committee on Standing Rules and Orders consisting of—

- (a) the Speaker; and
- (b) the President of the Senate; and
- (c) the Deputy Speaker; and
- (d) the Deputy President of the Senate; and
- (e) members appointed by the Speaker and the President of the Senate from their respective Houses of Parliament which shall include the Leader of Government Business, the Leader of the Opposition and the Chief Whips; and
- (f) members elected by each of the Houses of Parliament.

(3) With respect to the number of members of the Committee on Standing Rules and Orders from either House of Parliament, the number of members elected in terms of subsection (2)(f) is to be greater than that of members appointed in terms of subsection (2)(e).

(4) The election of members of the Committee on Standing Rules and Orders is to be based on the political and gender composition of the Parliament and is to be conducted as soon as possible after the commencement of each session.

(5) The Speaker is the Chairperson of the Committee on Standing Rules and Orders and the President of the Senate is to be its Deputy Chairperson.

(6) The procedure of the Committee on Standing Rules and Orders shall be as prescribed in Standing Orders.

(7) A vacancy occurring in the Committee on Standing Rules and Orders is to be filled in terms of the procedure applicable to the category of the position.

(8) The Committee on Standing Rules and Orders is responsible for—

- (a) supervising the administration of Parliament; and
- (b) appointing the staff of Parliament and fixing their conditions of service; and

- (c) considering and deciding all matters concerning Parliament; and
- (d) performing such other functions as are provided for under the Constitution.

(9) An Act of Parliament or Standing Orders may confer further functions on the Committee on Standing Rules and Orders.”.

9 Repeal of sections 61 and 61A of Constitution

Sections 61 and 61A of the Constitution are repealed.

10 Amendment of section 109 of Constitution

Section 109 (“General provisions as to Commissions, etc”) of the Constitution is amended by the repeal of subsection (1) and the substitution of—

“(1) Subject to this Constitution the Commissions—

- (a) are independent and are not subject to the direction or control of anyone; and
- (b) must exercise their functions without fear, favour or prejudice.”.

11 New Chapter inserted in Constitution

The Constitution is amended by the insertion of the following Chapter after Chapter XA—

“CHAPTER XB

OTHER INDEPENDENT COMMISSIONS

PART I

ZIMBABWE ELECTORAL COMMISSION

100B Establishment and composition of Zimbabwe Electoral Commission

(1) There is a Zimbabwe Electoral Commission consisting of—

- (a) a chairperson appointed by the President after consultation with the Judicial Service Commission and the Committee on Standing Rules and Orders; and
- (b) eight other members appointed by the President from a list of not fewer than twelve nominees submitted by the Committee on Standing Rules and Orders.

(2) The chairperson of the Zimbabwean Electoral Commission must be a judge or former judge of the Supreme Court or the High Court, or a person qualified for appointment as such a judge.

(3) At least four members of the Zimbabwean Electoral Commission, apart from the chairperson, must be women.

(4) Persons appointed to the Zimbabwean Electoral Commission must be chosen for their integrity and their experience and competence in the conduct of affairs in the public or private sector.

(5) Members of the Zimbabwean Electoral Commission must be appointed for a term of six years, and their appointment may be renewed for one further term only.

100C Functions and powers of Zimbabwe Electoral Commission

(1) The Zimbabwe Electoral Commission has the following functions—

- (a) to prepare for, conduct and supervise—
 - (i) elections to the office of President and to Parliament; and
 - (ii) elections to the governing bodies of local authorities; and
 - (iii) referendums;and to ensure that those elections and referendums are conducted efficiently, freely, fairly, transparently and in accordance with the law;
- (b) to supervise the registration of voters by the authority charged with that responsibility under the Electoral Law; and
- (c) to compile voters' rolls and registers; and
- (d) to ensure the proper custody and maintenance of voters' rolls and registers; and
- (e) to design, print and distribute ballot papers, approve the form of and procure ballot boxes, and establish and operate polling centres; and
- (f) to determine, subject to section 100J, limits of boundaries of local authority wards, House of Assembly constituencies and Senatorial constituencies; and
- (g) to conduct voter education; and
- (h) to accredit observers of elections and referendums in accordance with an Act of Parliament; and
- (i) to give instructions to persons in the employment of the State or of a local authority for the purpose of ensuring the efficient, proper, free and fair conduct of any election or referendum; and
- (j) to exercise any other functions that may be conferred or imposed on the Commission by the Electoral Law or any other law.

100D Disqualification for appointment to Zimbabwe Electoral Commission

A person who is—

- (a) a Member of Parliament; or
- (b) a public officer, other than a judge; or
- (c) a member or employee of a statutory body, a Provincial council or a local authority;

is not qualified for appointment to the Zimbabwe Electoral Commission.

100E Members of Zimbabwe Electoral Commission not to be members of political parties

(1) Persons who are members of a political party on their appointment to the Zimbabwe Electoral Commission must relinquish that membership without delay and in any event within fourteen days of their appointment.

(2) If a member of the Zimbabwe Electoral Commission becomes a member of a political party, he or she ceases immediately to be a member of the Commission.

100F Remuneration, allowances and benefits of members of Zimbabwe Electoral Commission

Members of the Zimbabwe Electoral Commission are entitled to such remuneration, allowances and other benefits as may be fixed by or under an Act of Parliament.

100G Removal of member of Zimbabwe Electoral Commission from office

A member of the Zimbabwe Electoral Commission may be removed from office by the President, in the case of the chairperson, with the approval of the Judicial Service Commission and the Committee on Standing Rules and Orders and, in the case of other members, with the approval of the Committee on Standing Rules and Orders—

- (a) for inability to exercise the functions of his or her office arising out of physical or mental incapacity; or
- (b) for misconduct; or
- (c) for incompetence; or
- (d) if he or she becomes disqualified for appointment to the Commission.

100H Provisions to ensure independence of Zimbabwe Electoral Commission

The State must make adequate and suitable provision, through legislation and other appropriate means, to ensure that—

- (a) the Zimbabwe Electoral Commission is able to exercise its functions under the Constitution efficiently and independently; and
- (b) the Zimbabwe Electoral Commission's staff carry out their duties conscientiously, fairly and impartially.

100I Reports of Zimbabwe Electoral Commission

In addition to any other report the Zimbabwe Electoral Commission is required to make under this Constitution or any other law, the Commission must without delay submit a report to Parliament on the conduct of every presidential, parliamentary, provincial council and local authority election and every referendum.

100J Delimitation of wards and constituencies

(1) The Zimbabwe Electoral Commission shall, no later than the date notified to it by the President, being a date no later than three months before the date fixed or to be fixed by a proclamation as the date on which Parliament is dissolved under section 63(7) or, as the case may be, the date of the dissolution of Parliament under section 63(4), determine, in accordance with subsections (2) to (7), the limits of the wards and constituencies into which Zimbabwe is to be divided for the purpose of electing members of the governing bodies of local authorities and members of Parliament respectively:

Provided that the Commission shall produce a preliminary report in terms of subsection (8) no later than one month before the date fixed or to be fixed by a proclamation as the date on which Parliament is dissolved under section 63(7) or, as the case may be, the date of the dissolution of Parliament under section 63(4).

(2) For the purpose of the election of members of the governing bodies of local authorities, local authority areas shall be divided into such number of wards as the Commission shall determine.

(3) Zimbabwe shall, for the purpose of the election of members of Parliament, be divided into two hundred and ten House of Assembly constituencies and sixty senatorial constituencies.

(4) Subject to subsections (5) and (6), the boundaries of the House of Assembly constituencies shall be such that at the time of delimitation the number of voters registered in each House of Assembly constituency is as nearly as may be equal to the number of voters registered in each of the other House of Assembly constituencies.

(5) In delimiting—

- (a) the boundaries of wards, the Commission shall ensure that no ward is divided between two or more local authority areas; and
- (b) the House of Assembly constituencies, the Commission shall ensure that no ward is divided between two or more House of Assembly constituencies.

(6) In dividing Zimbabwe into wards and House of Assembly constituencies the Zimbabwe Electoral Commission shall, in respect of any area, give due consideration to—

- (a) its physical features;
- (b) the means of communication within the area;
- (c) the geographical distribution of registered voters;
- (d) any community of interest as between registered voters; and
- (e) in the case of any delimitation after the first delimitation consequent upon an alteration in the number of House of Assembly constituencies, existing electoral boundaries;

and whenever it appears necessary to do so in order to give effect to the provisions of this subsection in relation to House of Assembly constituencies, the Commission may depart from the requirements of subsection (4), but in no case to any greater extent than twenty *per centum* more or less than the average number of registered voters in House of Assembly constituencies.

(7) After delimiting the wards and House of Assembly constituencies, the Commission shall divide each province into six senatorial constituencies by assigning to each senatorial constituency a House of Assembly constituency or two or more contiguous House of Assembly constituencies, and in so doing the Commission may be guided but not bound by any principle or consideration specified in subsections (4) and (6).

(8) The Zimbabwe Electoral Commission shall submit to the President a preliminary report comprising—

- (a) a list of wards and House of Assembly constituencies delimited by the Commission, with the names assigned to each and a description of their boundaries;

- (b) a list of senatorial constituencies delimited by the Commission, with the names assigned to each and a description of their boundaries;
- (c) a map or maps showing the wards and House of Assembly and senatorial constituencies into which Zimbabwe has been divided by the Commission; and
- (d) any further information or particulars which the Commission considers necessary;

and the President shall cause the report to be laid before Parliament within the next seven days after he has received it.

(9) No earlier than seven days after the President has caused the preliminary report of the Zimbabwe Electoral Commission to be laid before Parliament in terms of subsection (8), the President may refer back to the Commission for its further consideration and final decision any matter arising out of its report.

(10) If there appears to be any discrepancy between the description of the boundaries of any ward or House of Assembly constituency and the map or maps, the description shall prevail.

(11) Within fourteen days after receiving the Zimbabwe Electoral Commission's final report the President shall publish a proclamation in the *Gazette* declaring the names and boundaries of the wards and the House of Assembly and senatorial constituencies as finally determined by the Commission to be the wards and House of Assembly and senatorial constituencies of Zimbabwe, and those boundaries shall have effect for the purposes of the next and any subsequent general election.

PART II

ZIMBABWE ANTI-CORRUPTION COMMISSION

100K Establishment and composition of Zimbabwe Anti-Corruption Commission

(1) There is a Zimbabwe Anti-Corruption Commission consisting of at least four and not more than nine members appointed by the President in consultation with the Committee on Standing Rules and Orders.

(2) Persons appointed to the Zimbabwe Anti-Corruption Commission must be persons of integrity chosen for their knowledge of and experience in administration or the prosecution or investigation of crime or for their general suitability for appointment, and—

- (a) at least one must be entitled to practise as a legal practitioner; and
- (b) at least one must be entitled to practise as an auditor or public accountant in Zimbabwe; and
- (c) at least one shall have had at least ten years' experience in the investigation of crime.

100L Functions of Zimbabwe Anti-Corruption Commission

The Zimbabwe Anti-Corruption Commission has the following functions—

- (a) to combat corruption, theft, misappropriation, abuse of power and other improprieties in the conduct of affairs in both the public and private sectors; and
- (b) to make recommendations to the Government and to organisations in the private sector on measures to enhance integrity and accountability and to prevent improprieties; and
- (c) to exercise any other functions that may be conferred or imposed on the Commission by or under an Act of Parliament.

100M Powers of Zimbabwe Anti-Corruption Commission

An Act of Parliament may confer powers on the Anti-Corruption Commission, including power—

- (a) to conduct investigations and inquiries on its own initiative or on receipt of complaints; and
- (b) to require assistance from members of the Police Force and other investigative agencies of the State; and
- (c) through the Attorney-General, to secure the prosecution of persons guilty of corruption, theft, misappropriation, abuse of power and other improprieties.

PART III

ZIMBABWE MEDIA COMMISSION

100N Establishment of Zimbabwe Media Commission

(1) There is a Zimbabwe Media Commission consisting of a chairperson and eight other members appointed by the President from a list of not fewer than twelve nominees submitted by the Committee on Standing Rules and Orders.

(2) Persons appointed to the Zimbabwe Media Commission must be chosen for their knowledge of and experience in the press, print or electronic media, or broadcasting.

100P Functions of Zimbabwe Media Commission

- (1) The Zimbabwe Media Commission has the following functions—
 - (a) to uphold and develop freedom of the press; and
 - (b) to promote and enforce good practice and ethics in the press, print and electronic media, and broadcasting; and
 - (c) to ensure that the people of Zimbabwe have equitable and wide access to information; and
 - (d) to ensure the equitable use and development of all indigenous languages spoken in Zimbabwe; and
 - (e) to exercise any other functions that may be conferred or imposed on the Commission by or under an Act of Parliament.

100Q Powers of Zimbabwe Media Commission

An Act of Parliament may confer powers on the Zimbabwe Media Commission, including power to—

- (a) conduct investigations and inquiries into—
 - (i) any conduct or circumstance that appears to threaten the freedom of the press; and
 - (ii) the conduct of the press, print and electronic media, and broadcasting; and
- (b) the disciplinary action against journalists and other persons employed in the press, print or electronic media, or broadcasting, who are found to have breached any law or any code of conduct applicable to them.

PART IV**ZIMBABWE HUMAN RIGHTS COMMISSION****100R Zimbabwe Human Rights Commission**

(1) There is a commission to be known as the Zimbabwe Human Rights Commission which shall consist of—

- (a) a chairman who has been qualified for at least five years to practise as a legal practitioner and who is appointed by the President after consultation with the Judicial Service Commission and the Committee on Standing Rules and Orders; and
- (b) eight other members, at least four of whom shall be women, appointed by the President from a list of sixteen nominees submitted by the Committee on Standing Rules and Orders.

(2) If the appointment of a chairman of the Zimbabwe Human Rights Commission is not consistent with any recommendation of the Judicial Service Commission in terms of subsection (1)(a), the President shall cause the Senate to be informed as soon as practicable.

(3) Persons appointed to the Zimbabwe Human Rights Commission shall be chosen for their knowledge of and experience in the promotion of social justice or the protection of human rights and freedoms.

(4) A member of the Zimbabwe Human Rights Commission shall, before entering upon his or her office, take and subscribe before the President or some person authorized by the President in that behalf the oath of loyalty and the oath of office in the forms set out in Schedule 1.

(5) The Zimbabwe Human Rights Commission shall have the following functions—

- (a) to promote awareness of and respect for human rights and freedoms at all levels of society;
- (b) to promote the development of human rights and freedoms;
- (c) to monitor and assess the observance of human rights in Zimbabwe;

- (d) to recommend to Parliament effective measures to promote human rights and freedoms;
- (e) to investigate the conduct of any authority or person, where it is alleged that any of the rights in the Declaration of Rights has been violated by that authority or person; and
- (f) to assist the Minister responsible for the Act of Parliament referred to in subsection (8) to prepare any report required to be submitted to any regional or international body constituted or appointed for the purpose of receiving such reports under any human rights convention, treaty or agreement to which Zimbabwe is a party.

(6) The Zimbabwe Human Rights Commission may require any person, body, organ, agency or institution, whether belonging to or employed by the State, a local authority or otherwise, to provide the Commission annually with such information as it may need for the purpose of preparing and submitting any report required to be submitted to any regional or international body constituted or appointed for the purpose of receiving such reports under any human rights convention, treaty or agreement to which Zimbabwe is a party.

(7) The Zimbabwe Human Rights Commission shall have power—

- (a) to take over and continue any investigation that has been instituted by the Public Protector in terms of section 108(1), where it determines that the dominant question in issue involves a matter pertinent to its function referred to in subsection (5)(e); or
- (b) refer to the Public Protector for investigation in terms of section 108(1) any matter in respect of which it determines that the dominant question in issue involves a matter pertinent to the functions of Public Protector.

(8) An Act of Parliament may confer power on the Zimbabwe Human Rights Commission—

- (a) to conduct investigations on its own initiative or on receipt of complaints;
- (b) to visit and inspect prisons, places of detention, refugee camps and related facilities in order to ascertain the conditions under which inmates are kept there, and to make recommendations regarding those conditions to the Minister responsible for administering the law relating to those places or facilities;
- (c) to visit and inspect places where mentally disordered or intellectually handicapped persons are detained under any law in order to ascertain the conditions under which those persons are kept there, and to make recommendations regarding those conditions to the Minister responsible for administering the law relating to those places; and
- (d) to secure or provide appropriate redress for violations of human rights and for injustice.”.

12 Repeal of sections 108A and 108B of Constitution

Sections 108A and 108B of the Constitution are repealed.

13 Amendment of section 113 of Constitution

Section 113 (“Interpretation”) of the Constitution is amended by the repeal of the definition of “Committee on Standing Rules and Orders” and the substitution of—

““Committee on Standing Rules and Orders” means the committee established in terms of section 57;”.

14 New section inserted in Constitution after section 114

The Constitution is amended by the insertion after section 114 of the following sections³—

“115 Transitional provisions: Schedule 8

(1) In this section⁴ and Schedule 8—

“after consultation” means that the person required to consult before arriving at a decision makes the consultation but is not bound by the advice or opinion given by the person so consulted;

“in consultation” means that the person required to consult before arriving at a decision arrives at the decision after securing the agreement or consent of the person so consulted;

“Interparty Political Agreement” means the agreement between the Presidents of the Zimbabwe African National Union-Patriotic Front (ZANU-PF) and the two formations of the Movement for Democratic Change (MDC), on resolving the challenges facing Zimbabwe⁵, which was signed at Harare on the 15th September, 2008, and witnessed by the President of the Republic of South Africa as facilitator mandated the Southern African Development Community (SADC), as subsequently amended;

“Prime Minister” means the Prime Minister whose appointment is referred to in Article 20.1.4 of the Interparty Political Agreement.

(2) Schedule 8 shall have effect from the date of commencement of the Constitution of Zimbabwe Amendment (No. 19) Act, 2008, and continue in force during the subsistence of the Interparty Political Agreement.

(3) The provisions of this Constitution shall, for the period specified in subsection (2), operate as amended or modified to the extent or in the manner specified in Schedule 8.”.

15 Insertion of Schedules 8 to Constitution

The Constitution is amended by the insertion of the following Schedule after Schedule 7—

³ *sic.* Only one section (115) is inserted. In the Bill for this Act four sections (115 to 118) were inserted, but sections 116 to 118 do not appear in the Act. The omitted sections referred to Schedules 9, 10 and 11, which also do not appear in the Act.

⁴ Introductory words as shown in Revised Version of Constitution Amendment 19 published on 3rd September 2010. Previous words “and section 118” have been omitted [there is no section 118].

⁵ Wording as shown in Revised Version of Constitution Amendment 19 published on 3rd September 2010. Previous words “as set in Schedule 11” have been omitted [there is no Schedule 11].

“SCHEDULE 8
(Section 115(2) and (3))

TRANSITIONAL AMENDMENTS AND PROVISIONS

Framework for a New Government

1. For the avoidance of doubt, the following provisions of the Interparty Political Agreement, being Article XX thereof, shall, during the subsistence of the Interparty Political Agreement, prevail notwithstanding anything to the contrary in this Constitution—

“20. Framework for a new Government

Acknowledging that we have an obligation to establish a framework of working together in an inclusive government;

Accepting that the formation of such a government will have to be approached with great sensitivity, flexibility and willingness to compromise;

Recognising that the formation of such a Government would demonstrate the respect of the Parties for the deeply-felt and immediate hopes and aspirations of the millions of our people.

Determined to carry out sustained work to create the conditions for returning our country to stability and prosperity;

Acknowledging the need for gender parity, particularly the need to appoint women to strategic Cabinet posts;

20.1 The Parties hereby agree that:

20.1.1 Executive Powers and Authority The Executive Authority of the Inclusive Government shall vest in, and be shared among the President, the Prime Minister and the Cabinet, as provided for in this Constitution and legislation.

The President of the Republic shall exercise executive authority subject to the Constitution and the law.

The Prime Minister of the Republic shall exercise executive authority subject to the Constitution and the law.

The Cabinet of the Republic shall exercise executive authority subject to the Constitution and the law.

In the exercise of executive authority, the President, Vice Presidents, the Prime Minister, the Deputy Prime Ministers, Ministers and Deputy Ministers must have regard to the principles and spirit underlying the formation of the Inclusive Government and accordingly act in a manner that seeks to promote cohesion both inside and outside government.

20.1.2 The Cabinet

- (a) shall have the responsibility to evaluate and adopt all government policies and the consequential programmes;
- (b) shall, subject to approval by Parliament, allocate the financial resources for the implementation of such policies and programmes;
- (c) shall have the responsibility to prepare and present to Parliament, all such legislation and other instruments as may be necessary to implement the policies and programmes of the National Executive;

- (d) shall, except where the Constitution requires ratification by Parliament, or action by the President, approve all international agreements;
- (e) shall ensure that the state organs, including the Ministries and Departments, have sufficient financial and other resources and appropriate operational capacity to carry out their functions effectively; and
- (f) shall take decisions by consensus, and take collective responsibility for all Cabinet decisions, including those originally initiated individually by any member of Cabinet.
- (g) The President and the Prime Minister will agree on the allocation of Ministries between them for the purpose of day-to-day supervision.

20.1.3 The President

- (a) chairs Cabinet;
- (b) exercises executive authority;
- (c) shall exercise his/her powers subject to the provisions of the Constitution;
- (d) can, subject to the Constitution, declare war and make peace;
- (e) can, subject to the Constitution, proclaim and terminate martial law;
- (f) confers honours and precedence, on the advice of Cabinet;
- (g) grants pardons, respites, substitutes less severe punishment and suspends or remits sentences, on the advice of Cabinet;
- (h) chairs the National Security Council;
- (i) formally appoints the Vice Presidents;
- (j) shall, pursuant to this Agreement, appoint the Prime Minister pending the enactment of the Constitution of Zimbabwe Amendment No. 19 as agreed by the Parties;
- (k) formally appoints Deputy Prime Ministers, Ministers and Deputy Ministers in accordance with this agreement;
- (l) after consultation with the Vice Presidents, the Prime Minister and the Deputy Prime Ministers, allocates Ministerial portfolios in accordance with this Agreement;
- (m) accredits, receives and recognizes diplomatic agents and consular officers;
- (n) appoints independent Constitutional Commissions in terms of the Constitution;
- (o) appoints service/executive Commissions in terms of the Constitution and in consultation with the Prime Minister;
- (p) in consultation with the Prime Minister, makes key appointments the President is required to make under and in terms of the Constitution or any Act of Parliament;
- (q) may, acting in consultation with the Prime Minister, dissolve Parliament;
- (r) must be kept fully informed by the Prime Minister on the general conduct of the government business and;
- (s) shall be furnished with such information as he/she may request in respect of any particular matter relating to the government, and may advise the Prime Minister and Cabinet in this regard.

20.1.4 The Prime Minister

- (a) chairs the Council of Ministers and is the Deputy Chairperson of Cabinet;
- (b) exercises executive authority;
- (c) shall oversee the formulation of government policies by the Cabinet;

- (d) shall ensure that the policies so formulated are implemented by the entirety of government;
- (e) shall ensure that the Ministers develop appropriate implementation plans to give effect to the policies decided by Cabinet: in this regard, the Ministers will report to the Prime Minister on all issues relating to the implementation of such policies and plans;
- (f) shall ensure that the legislation necessary to enable the government to carry out its functions is in place: in this regard, he/she shall have the responsibility to discharge the functions of the Leader of Government Business in Parliament;
- (g) shall be a member of the National Security Council;
- (h) may be assigned such additional functions as are necessary further to enhance the work of the Inclusive Government;
- (i) shall, to ensure the effective execution of these tasks, be assisted by Deputy Prime Ministers; and
- (j) shall report regularly to the President and Parliament.

20.1.5 Council of Ministers To ensure that the Prime Minister properly discharges his responsibility to oversee the implementation of the work of government, there shall be a Council of Ministers consisting of all the Cabinet Ministers, chaired by the Prime Minister, whose functions shall be:

- (a) to assess the implementation of Cabinet decisions;
- (b) to assist the Prime Minister to attend to matters of coordination in the government;
- (c) to enable the Prime Minister to receive briefings from the Cabinet Committees;
- (d) to make progress reports to Cabinet on matters of implementation of Cabinet decisions;
- (e) to receive and consider reports from the Committee responsible for the periodic review mechanism; and
- (f) to make progress reports to Cabinet on matters related to the periodic review mechanism.

20.1.6 Composition of the Executive (1) There shall be a President, which Office shall continue to be occupied by President Robert Gabriel Mugabe.

(2) There shall be two (2) Vice Presidents, who will be nominated by the President and/or Zanu-PF.

(3) There shall be a Prime Minister, which Office shall be occupied by Mr Morgan Tsvangirai.

(4) There shall be two (2) Deputy Prime Ministers, one (1) from MDC-T and one (1) from the MDC-M.

(5) There shall be thirty-one (31) Ministers, with fifteen (15) nominated by ZANU PF, thirteen (13) by MDC-T and three (3) by MDC-M.

(6) There shall be fifteen (15) Deputy Ministers, with (eight) 8 nominated by ZANU PF, six (6) by MDC-T and one (1) by MDC-M.

(7) Ministers and Deputy Ministers may be relieved of their duties only after consultation among the leaders of all the political parties participating in the Inclusive Government.

20.1.7 Senior Government appointments The Parties agree that with respect to occupants of senior Government positions, such as Permanent Secretaries and Ambassadors,

the leadership in Government, comprising the President, the Vice-Presidents, the Prime Minister and Deputy Prime Ministers, will consult and agree on such prior to their appointment.

20.1.8 Parliament Persons appointed to the posts of Vice-President, Prime Minister and Deputy Prime Minister and who are not already Members of Parliament, become *ex officio* members of the House of Assembly. Should persons so appointed be already members of Parliament, then the Party of which that person is a member or nominee shall have the right to nominate a non-constituency member of the relevant House.

20.1.9 Senate

- (a) The President shall, in his discretion, appoint five (5) persons to the existing positions of Presidential senatorial appointments.
- (a) There shall be created an additional six (6) appointed senatorial posts, which shall be filled by persons appointed by the President, 4 of whom will be nominated by MDC-T and 2 by MDC-M.

20.1.10 Filling of vacancies In the event of any vacancy arising in respect of posts referred to in clauses 20.1.6 and 20.1.9 above, such vacancy shall be filled by a nominee of the Party which held that position prior to the vacancy arising.”.

Appointment of members of the Committee on Standing Rules and Orders

2.(1) For the duration of the Interparty Political Agreement as stipulated in section 115(2) of the Constitution, and notwithstanding anything contained in section 57 of the Constitution, the Committee on Standing Rules and Orders shall consist of—

- (a) the Speaker; and
- (b) the President of the Senate; and
- (c) the Deputy Speaker; and
- (d) the Deputy President of the Senate; and
- (e) the two Vice-Presidents; and
- (f) the Prime Minister, who is also the leader of Government business; and
- (g) the Minister responsible for constitutional and parliamentary affairs; and
- (h) the Minister responsible for finance; and
- (i) the Whip of each of the political parties that signed the Interparty Political Agreement; and
- (j) the Deputy Leader of Government Business in the House of Assembly; and
- (k) the Deputy Leader of Government Business in the Senate.
- (l) eight members elected by the House of Assembly and four members elected by the Senate, based on the political and gender composition of the relevant House.

(2) The election of members of the Committee on Standing Rules and Orders is to be based on the political and gender composition of the Parliament and is to be conducted as soon as possible after the commencement of each session.

(3) The Speaker is the Chairperson of the Committee on Standing Rules and Orders and the President of the Senate is to be its Deputy Chairperson.

New section inserted in Constitution

3. The Constitution is amended by the insertion after section 31C of the following sections—

“31CA Acting Prime Minister

(1) Whenever the Prime Minister is absent from Zimbabwe or is unable to perform the functions of his office by reason of illness or any other cause, his functions shall be assumed and performed—

- (a) by the Deputy Prime Minister whom the Prime Minister, in consultation with the President, has designated for the eventuality; or
- (b) the Deputy Prime Minister who last acted as Prime Minister in terms of this section, where neither Deputy Prime Minister has been designated for such an eventuality in terms of paragraph (a); or
- (c) during the absence or incapacity of both Deputy Prime Ministers, by such Minister as may be designated for such an eventuality—
 - (i) by the Prime Minister, in consultation with the President; or
 - (ii) by the Cabinet, where no Minister has been designated by the Prime Minister in terms of subparagraph (i).”.

Amendment of section 47 of Constitution

4. Section 47 (“Vice-Presidents, Ministers, Deputy Ministers, Provincial Governors and Attorney-General in Parliament”) of the Constitution is amended—

- (a) by the deletion of the heading and the substitution of “Vice-Presidents, Prime Minister, Deputy Prime Ministers, Ministers, Deputy Ministers, Provincial Governors and Attorney-General in Parliament”;
- (b) by the repeal of subsection (1) and the substitution of—

“(1) A Vice-President, the Prime Minister and every Deputy Prime Minister and Minister shall have a right to sit and speak in Parliament but shall only have the right to vote in the House of which they are a member.”.

AGREEMENT BETWEEN THE ZIMBABWE AFRICAN NATIONAL UNION-PATRIOTIC FRONT (ZANU-PF) AND THE TWO MOVEMENT FOR DEMOCRATIC CHANGE (MDC) FORMATIONS, ON RESOLVING THE CHALLENGES FACING ZIMBABWE⁶

PREAMBLE

We, the Parties to this Agreement;

⁶ Text of Interparty Political Agreement, as included in Revised Version of Constitution of Zimbabwe Amendment (No. 19) Act published on 3rd September 2010.

CONCERNED about the recent challenges that we have faced as a country and the multiple threats to the well-being of our people and, therefore, determined to resolve these permanently.

CONSIDERING our shared determination to uphold, defend and sustain Zimbabwe's sovereignty, independence, territorial integrity and national unity, as a respected member of the international community, a nation where all citizens respect and, therefore, enjoy equal protection of the law and have equal opportunity to compete and prosper in all spheres of life.

ACKNOWLEDGING the sacrifices made by thousands of Zimbabwe's gallant sons and daughters in the fight against colonialism and racial discrimination and determined to accept, cherish and recognise the significance of the Liberation Struggle as the foundation of our sovereign independence, freedoms and human rights.

DEDICATING ourselves to putting an end to the polarisation, divisions, conflict and intolerance that has characterised Zimbabwean politics and society in recent times.

COMMITTING ourselves to putting our people and our country first by arresting the fall in living standards and reversing the decline of our economy.

EMPHASISING our shared commitment to re-orient our attitudes towards respect for the Constitution and all national laws, the rule of law, observance of Zimbabwe's national institutions, symbols and national events.

RESPECTING the rights of all Zimbabweans regardless of political affiliation to benefit from and participate in all national programmes and events freely without let or hindrance.

RECOGNISING, accepting and acknowledging that the values of justice, fairness, openness, tolerance, equality, non-discrimination and respect of all persons without regard to race, class, gender, ethnicity, language, religion, political opinion, place of origin or birth are the bedrock of our democracy and good governance.

DETERMINED to build a society free of violence, fear, intimidation, hatred, patronage, corruption and founded on justice, fairness, openness, transparency, dignity and equality.

RECOGNISING and accepting that the Land Question has been at the core of the contestation in Zimbabwe and acknowledging the centrality of issues relating to the rule of law, respect for human rights, democracy and governance.

COMMITTED to act in a manner that demonstrates loyalty to Zimbabwe, patriotism and commitment to Zimbabwe's national purpose, core values, interests and aspirations.

DETERMINED to act in a manner that demonstrates respect for the democratic values of justice, fairness, openness, tolerance, equality, respect of all persons and human rights.

SUBMITTING ourselves to the mandate of the Extraordinary Summit of the Southern African Development Community (SADC) held in Dar-es-Salaam, United Republic of Tanzania, on 29th March 2007 and endorsed in Lusaka on 12th April 2008 and in the AU Summit held in Sharm El Scheik, Egypt from 30th June to 1 July 2008.

RECOGNISING the centrality and importance of African institutions in dealing with African problems, we agreed to seek solutions to our differences, challenges and problems through dialogue.

ACKNOWLEDGING that pursuant to the Dar-es-Salaam SADC resolution, the Parties negotiated and agreed on a draft Constitution, initialed by the Parties on 30 September 2007, and

further agreed and co-sponsored the enactment of the Constitution of Zimbabwe Amendment Number 18 Act, amendments to the Electoral Act, the Zimbabwe Electoral Commission Act, Public Order and Security Act, Access to Information and Protection of Privacy Act and Broadcasting Services Act.

APPRECIATING the historical obligation and need to reach a solution that will allow us to put Zimbabwe first and give the people a genuine chance of rebuilding and reconstructing their livelihoods.

PURSUANT to the common desire of working together, the Parties agreed to and executed a Memorandum of Understanding on 21 July 2008, attached hereto as Annexure “A”.

NOW THEREFORE AGREE AS FOLLOWS:

ARTICLE I

DEFINITIONS

1. Definitions

The “Agreement” shall mean this written Agreement signed by the representatives of ZANU-PF and the MDC, in its two formations (“the Parties”) in fulfilment of the material mandate handed down by the SADC Extraordinary Summit on 29th March 2007 and endorsed by SADC in Lusaka, Zambia and adopted by the African Union Summit in Sharm-el-Sheik, Egypt.

The “Parties” shall mean ZANU-PF, the two MDC formations led by Morgan Tsvangirai and Arthur Mutambara respectively.

The “Government” or “New Government” means the new Government to be set up in terms of this Agreement.

ARTICLE II

DECLARATION OF COMMITMENT

2. Declaration of Commitment

The Parties hereby declare and agree to work together to create a genuine, viable, permanent, sustainable and nationally acceptable solution to the Zimbabwe situation and in particular to implement the following agreement with the aims of resolving once and for all the current political and economic situations and charting a new political direction for the country.

ARTICLE III

RESTORATION OF ECONOMIC STABILITY AND GROWTH

3. Economic recovery

3.1 The Parties agree:

- (a) to give priority to the restoration of economic stability and growth in Zimbabwe. The Government will lead the process of developing and implementing an economic recovery strategy and plan. To that end, the parties are committed to working together on a full and comprehensive economic programme to resuscitate Zimbabwe’s economy, which will urgently address the issues of production, food security, poverty and unemployment and the challenges of high inflation, interest rates and the exchange rate;
- (b) to create conditions that would ensure that the 2008/2009 agricultural season is productive;

- (c) to establish a National Economic Council, composed of representatives of the Parties and of the following sectors:
 - (i) Manufacturing
 - (ii) Agriculture
 - (iii) Mining
 - (iv) Tourism
 - (v) Commerce
 - (vi) Financial
 - (vii) Labour
 - (viii) Academia; and
 - (ix) Other relevant sectors
- (d) that the terms of reference of the Council shall include giving advice to Government, formulating economic plans and programmes for approval by government and such other functions as are assigned to the Council by the Government;
- (e) to endorse the SADC resolution on the economy.

ARTICLE IV

SANCTIONS AND MEASURES

4. Sanctions and Measures

- 4.1 **Recognising** and acknowledging that some sections of the international community have since 2000 imposed various sanctions and measures against Zimbabwe, which have included targeted sanctions.
- 4.2 **The Parties** note the present economic and political isolation of Zimbabwe by the United Kingdom, European Union, United States of America and other sections of the International Community over and around issues of disputed elections, governance and differences over the land reform programme.
- 4.3 Noting and acknowledging the following sanctions and measures imposed on Zimbabwe:-
 - (a) enactment of the Zimbabwe Democracy and Economic Recovery Act by the United States of America Congress which outlaws Zimbabwe's right to access credit from International Financial Institutions in which the United States Government is represented or has a stake;
 - (b) suspension of Zimbabwe's voting and related rights, suspension of balance of payment support, declaration of ineligibility to borrow Fund resources and suspension of technical assistance to Zimbabwe by the International Monetary Fund;
 - (c) suspension of grants and infrastructural development support to Zimbabwe by The World Bank; and
 - (d) imposition of targeted travel bans against current Government and some business leaders.
- 4.4 **Noting** that this international isolation has over the years created a negative international perception of Zimbabwe and thereby resulting in the further isolation of the country by the non-availing of lines of credit to Zimbabwe by some sections of the international community.
- 4.5 **Recognising** the consequent contribution of this isolation to the further decline of the economy.

- 4.6 **Desirous and committed** to bringing to an end the fall in the standards of living of our people, the Parties hereby agree:-
- (a) to endorse the SADC resolution on sanctions concerning Zimbabwe;
 - (b) that all forms of measures and sanctions against Zimbabwe be lifted in order to facilitate a sustainable solution to the challenges that are currently facing Zimbabwe; and
 - (c) commit themselves to working together in re-engaging the international community with a view to bringing to an end the country's international isolation.

ARTICLE V

LAND QUESTION

5. Land Question

- 5.1 **Recognising** that colonial racist land ownership patterns established during the colonial conquest of Zimbabwe and largely maintained in the post independence period were not only unsustainable, but against the national interest, equity and justice.
- 5.2 **Noting** that in addition to the primary objective of the liberation struggle to win one man one vote democracy and justice, the land question, namely the need for the re-distribution of land to the majority indigenous people of Zimbabwe was at the core of the liberation struggle.
- 5.3 **Accepting** the inevitability and desirability of a comprehensive land reform programme in Zimbabwe that redresses the issues of historical imbalances and injustices in order to address the issues of equity, productivity, and justice.
- 5.4 **While differing** on the methodology of acquisition and redistribution the parties acknowledge that compulsory acquisition and redistribution of land has taken place under a land reform programme undertaken since 2000.
- 5.5 **Accepting** the irreversibility of the said land acquisitions and redistribution.
- 5.6 **Noting that** in the current Constitution of Zimbabwe and further in the Draft Constitution agreed to by the parties the primary obligation of compensating former land owners for land acquired rests on the former colonial power.
- 5.7 **Further recognising** the need to ensure that all land is used productively in the interests of all the people of Zimbabwe.
- 5.8 **Recognising** the need for women's access and control over land in their own right as equal citizens.
- 5.9 The Parties hereby agree to:
- (a) conduct a comprehensive, transparent and non-partisan land audit, during the tenure of the Seventh Parliament of Zimbabwe, for the purpose of establishing accountability and eliminating multiple farm ownerships.
 - (b) ensure that all Zimbabweans who are eligible to be allocated land and who apply for it shall be considered for allocation of land irrespective of race, gender, religion, ethnicity or political affiliation;
 - (c) ensure security of tenure to all land holders.
 - (d) call upon the United Kingdom government to accept the primary responsibility to pay compensation for land acquired from former land owners for resettlement;
 - (e) work together to secure international support and finance for the land reform programme in terms of compensation for the former land owners and support for new farmers; and

- (f) work together for the restoration of full productivity on all agricultural land.

ARTICLE VI

CONSTITUTION

6. Constitution

Acknowledging that it is the fundamental right and duty of the Zimbabwean people to make a constitution by themselves and for themselves;

Aware that the process of making this constitution must be owned and driven by the people and must be inclusive and democratic;

Recognising that the current Constitution of Zimbabwe made at the Lancaster House Conference, London (1979) was primarily to transfer power from the colonial authority to the people of Zimbabwe;

Acknowledging the draft Constitution that the Parties signed and agreed to in Kariba on the 30th of September 2007, annexed hereto as Annexure “B”;

Determined to create conditions for our people to write a constitution for themselves; and

Mindful of the need to ensure that the new Constitution deepens our democratic values and principles and the protection of the equality of all citizens, particularly the enhancement of full citizenship and equality of women.

6.1 The Parties hereby agree:

- (a) that they shall set up a Select Committee of Parliament composed of representatives of the Parties whose terms of reference shall be as follows:
 - (i) to set up such subcommittees chaired by a member of Parliament and composed of members of Parliament and representatives of Civil Society as may be necessary to assist the Select Committee in performing its mandate herein;
 - (ii) to hold such public hearings and such consultations as it may deem necessary in the process of public consultation over the making of a new constitution for Zimbabwe;
 - (iii) to convene an All Stakeholders Conference to consult stakeholders on their representation in the sub-committees referred to above and such related matters as may assist the committee in its work;
 - (iv) to table its draft Constitution to a 2nd All Stakeholders Conference; and
 - (v) to report to Parliament on its recommendations over the content of a New Constitution for Zimbabwe
- (b) that the draft Constitution recommended by the Select Committee shall be submitted to a referendum;
- (c) that, in implementing the above, the following time frames shall apply:
 - (vi) the Select Committee shall be set up within two months of inception of a new government;
 - (vii) the convening of the first All Stakeholders Conference shall be within 3 months of the date of the appointment of the Select Committee;
 - (viii) the public consultation process shall be completed no later than four months of the date of the first All Stakeholders Conference;
 - (ix) the draft Constitution shall be tabled within three months of completion of the public consultation process to a second All Stakeholders Conference;

- (x) the draft Constitution and the accompanying Report shall be tabled before Parliament within one month of the second All Stakeholders Conference;
- (xi) the draft Constitution and the accompanying Report shall be debated in Parliament and the debate concluded within one month;
- (xii) the draft Constitution emerging from Parliament shall be gazetted before the holding of a referendum;
- (xiii) a referendum on the new draft Constitution shall be held within three months of the conclusion of the debate;
- (xiv) in the event of the draft Constitution being approved in the referendum it shall be gazetted within one month of the date of the referendum; and
- (xv) the draft Constitution shall be introduced in Parliament no later than one month after the expiration of the period of 30 days from the date of its gazetting.

ARTICLE VII

PROMOTION OF EQUALITY, NATIONAL HEALING, COHESION AND UNITY

7. Equality, National Healing, Cohesion and Unity

7.1 The Parties hereby agree that the new Government:

- a) will ensure equal treatment of all regardless of gender, race, ethnicity, place of origin and will work towards equal access to development for all;
- b) will ensure equal and fair development of all regions of the country and in particular to correct historical imbalances in the development of regions;
- c) shall give consideration to the setting up of a mechanism to properly advise on what measures might be necessary and practicable to achieve national healing, cohesion and unity in respect of victims of pre and post independence political conflicts; and
- d) will strive to create an environment of tolerance and respect among Zimbabweans and that all citizens are treated with dignity and decency irrespective of age, gender, race, ethnicity, place of origin or political affiliation.
- e) will formulate policies and put measures in place to attract the return and repatriation of all Zimbabweans in the Diaspora and in particular will work towards the return of all skilled personnel.

ARTICLE VIII

RESPECT FOR NATIONAL INSTITUTIONS AND EVENTS

8. Respect for National Institutions and Events

8.1 In the interests of forging a common vision for our country, the Parties hereby agree:-

- (a) on the necessity of all Zimbabweans regardless of race, ethnicity, gender, political affiliation and religion to respect and observe Zimbabwe's national institutions, symbols, national programmes and events; and
- (b) that all Zimbabweans regardless of race, ethnicity, gender, political affiliation and religion have the right to benefit from and participate in all national programmes and events without let or hindrance.

ARTICLE IX

EXTERNAL INTERFERENCE

9. External Interference

9.1 The Parties reaffirm the principle of the United Nations Charter on non-interference in the internal affairs of member countries.

9.2 The Parties hereby agree:-

- (a) that the responsibility of effecting change of government in Zimbabwe vests exclusively on and is the sole prerogative of the people of Zimbabwe through peaceful, democratic and constitutional means;
- (b) to reject any unlawful, violent, undemocratic and unconstitutional means of changing governments; and
- (c) that no outsiders have a right to call or campaign for regime change in Zimbabwe.

ARTICLE X**FREE POLITICAL ACTIVITY****10. Free political activity**

Recognising that the right to canvass and freely mobilise for political support is the cornerstone of any multi-party democratic system, the Parties have agreed that there should be free political activity throughout Zimbabwe within the ambit of the law in which all political parties are able to propagate their views and canvass for support, free of harassment and intimidation.

ARTICLE XI**RULE OF LAW, RESPECT FOR THE CONSTITUTION AND OTHER LAWS****11. Rule of law, respect for the Constitution and other laws**

11.1 The Parties hereby agree that it is the duty of all political parties and individuals to:

- (a) respect and uphold the Constitution and other laws of the land;
- (b) adhere to the principles of the Rule of Law.

ARTICLE XII**FREEDOM OF ASSEMBLY AND ASSOCIATION****12. Freedoms of Assembly and Association**

12.1 Recognising the importance of the freedoms of assembly and association in a multi-party democracy and noting that public meetings have to be conducted in a free, peaceful and democratic manner in accordance with the law, the Parties have agreed:-

- (a) to work together in a manner which guarantees the full implementation and realisation of the right to freedom of association and assembly; and
- (b) that the Government shall undertake training programmes, workshops and meetings for the police and other enforcement agencies directed at the appreciation of the right of freedom of assembly and association and the proper interpretation, understanding and application of the provisions of security legislation.

ARTICLE XIII**STATE ORGANS AND INSTITUTIONS****13. State organs and institutions**

13.1 State organs and institutions do not belong to any political party and should be impartial in the discharge of their duties.

13.2 For the purposes of ensuring that all state organs and institutions perform their duties ethically and professionally in conformity with the principles and requirements of a multi-

party democratic system in which all parties are treated equally, the Parties have agreed that the following steps be taken:-

- (a) that there be inclusion in the training curriculum of members of the uniformed forces of the subjects on human rights, international humanitarian law and statute law so that there is greater understanding and full appreciation of their roles and duties in a multi-party democratic system;
- (b) ensuring that all state organs and institutions strictly observe the principles of the Rule of Law and remain non-partisan and impartial;
- (c) laws and regulations governing state organs and institutions are strictly adhered to and those violating them be penalised without fear or favour; and
- (d) recruitment policies and practices be conducted in a manner that ensures that no political or other form of favouritism is practised.

ARTICLE XIV

TRADITIONAL LEADERS

14. Traditional Leaders

14.1 Recognising and acknowledging that traditional leaders are community leaders with equal responsibilities and obligations to all members of their communities regardless of age, gender, ethnicity, race, religion and political affiliation, the Parties hereby agree to:-

- (a) commit themselves to ensuring the political neutrality of traditional leaders; and
- (b) call upon traditional leaders not to engage in partisan political activities at national level as well as in their communities.

ARTICLE XV

NATIONAL YOUTH TRAINING PROGRAMME

15. National Youth Training Programme

Recognising the desirability of a national youth training programme which inculcates the values of patriotism, discipline, tolerance, non-violence, openness, democracy, equality, justice and respect.

Determined to ensure that the National Youth Training Programme raises awareness of the HIV and AIDS pandemic, engenders a spirit of community service, skills development and a commitment to the development of Zimbabwe.

15.1 The Parties hereby agree that:-

- (a) all youths regardless of race, ethnicity, gender, religion and political affiliation are eligible to participate in national youth training programmes;
- (b) the National Youth Training Programme must be run in a non-partisan manner and shall not include partisan political material advancing the cause of any political party; and
- (c) while recognising that youths undergoing training at national youth training centres have a right to hold political opinions, they shall not, during the period of their training, collectively and as part of a scheme of the training centre be used or deployed for partisan political work.

ARTICLE XVI

HUMANITARIAN AND FOOD ASSISTANCE

16. Humanitarian and food assistance

16.1 In times of need, every Zimbabwean regardless of race, ethnicity, gender, political affiliation and religion is entitled to request and receive humanitarian and food assistance from the State.

16.2 It is the primary responsibility of the State to ensure that every Zimbabwean who needs humanitarian and food assistance receives it.

16.3 Non-Governmental Organisations involved in giving humanitarian and food assistance shall do so without discrimination on the grounds of race, ethnicity, gender, political affiliation and religion and in doing so, shall not promote or advance the interests of any political party or cause.

16.4 In this regard the Parties hereby agree:

(a) that in the fulfillment of its obligations above, the Government and all State Institutions and quasi State Institutions shall render humanitarian and food assistance without discrimination on the grounds of race, ethnicity, gender, political affiliation or religion;

(b) that humanitarian interventions rendered by Non-Governmental Organisations, shall be provided without discrimination on the grounds of race, ethnicity, gender, political affiliation and religion.

(c) that all displaced persons shall be entitled to humanitarian and food assistance to enable them to return and settle in their original homes and that social welfare organisations shall be allowed to render such assistance as might be required;

(d) that all NGO's rendering humanitarian and food assistance must operate within the confines of the laws of Zimbabwe.

ARTICLE XVII

LEGISLATIVE AGENDA PRIORITIES

17. Legislative agenda

17.1 The Parties hereby agree that:

- (a) the legislative agenda will be prioritized in order to reflect the letter and spirit of this agreement;
- (b) the Government will discuss and agree on further legislative measures which may become necessary to implement the Government's agreed policies and in particular, with a view to entrenching democratic values and practices.

ARTICLE XVIII

SECURITY OF PERSONS AND PREVENTION OF VIOLENCE

18. Security of persons and prevention of violence

18.1 **Noting** the easy resort to violence by political parties, State actors, Non-State actors and others in order to resolve political differences and achieve political ends.

18.2 **Gravely concerned** by the displacement of scores of people after the election of March 29, 2008 as a result of politically motivated violence.

18.3 **Recognising** that violence dehumanises and engenders feelings of hatred and polarisation within the country.

18.4 **Further recognising** that violence undermines our collective independence as a people and our capacity to exercise our free will in making political choices.

18.5 The Parties hereby agree:

- (a) to promote the values and practices of tolerance, respect, non-violence and dialogue as means of resolving political differences;
- (b) to renounce and desist from the promotion and use of violence, under whatever name called, as a means of attaining political ends;
- (c) that the Government shall apply the laws of the country fully and impartially in bringing all perpetrators of politically motivated violence to book;
- (d) that all political parties, other organisations and their leaders shall commit themselves to do everything to stop and prevent all forms of political violence, including by non-State actors and shall consistently appeal to their members to desist from violence;
- (e) to take all measures necessary to ensure that the structures and institutions they control are not engaged in the perpetration of violence;
- (f) that all civil society organisations of whatever description whether affiliated to a political party or not shall not promote or advocate for or use violence or any other form of intimidation or coercion to canvass or mobilise for or oppose any political party or to achieve any political end;
- (g) to work together to ensure the security of all persons and property;
- (h) to work together to ensure the safety of any displaced persons, their safe return home and their enjoyment of the full protection of the law;
- (i) to refrain from using abusive language that may incite hostility, political intolerance and ethnic hatred or unfairly undermine each other;
- (j) that while having due regard to the Constitution of Zimbabwe and the principles of the rule of law, the prosecuting authorities will expedite the determination as to whether or not there is sufficient evidence to warrant the prosecution or keeping on remand of all persons accused of politically related offences arising out of or connected with the March and June 2008 elections.

ARTICLE XIX

FREEDOM OF EXPRESSION AND COMMUNICATION

19. Freedom of Expression and Communication

Recognising the importance of the right to freedom of expression and the role of the media in a multi-party democracy.

Noting that while the provisions of the Broadcasting Services Act permit the issuance of licences, no licences other than to the public broadcaster have been issued.

Aware of the emergence of foreign based radio stations broadcasting into Zimbabwe, some of which are funded by foreign governments.

Concerned that the failure to issue licences under the Broadcasting Services Act to alternative broadcasters might have given rise to external radio stations broadcasting into Zimbabwe.

Further concerned that foreign government funded external radio stations broadcasting into Zimbabwe are not in Zimbabwe's national interest.

Desirous of ensuring the opening up of the air waves and ensuring the operation of as many media houses as possible.

19.1 The Parties hereby agree:-

- (a) that the government shall ensure the immediate processing by the appropriate authorities of all applications for re-registration and registration in terms of both

- the Broadcasting Services Act as well as the Access to Information and Protection of Privacy Act;
- (b) all Zimbabwean nationals including those currently working for or running external radio stations be encouraged to make applications for broadcasting licences, in Zimbabwe, in terms of the law;
 - (c) that in recognition of the open media environment anticipated by this Agreement, the Parties hereby:-
 - (i) call upon the governments that are hosting and/or funding external radio stations broadcasting into Zimbabwe to cease such hosting and funding; and
 - (ii) encourage the Zimbabweans running or working for external radio stations broadcasting into Zimbabwe to return to Zimbabwe; and
 - (d) that steps be taken to ensure that the public media provides balanced and fair coverage to all political parties for their legitimate political activities.
 - (e) that the public and private media shall refrain from using abusive language that may incite hostility, political intolerance and ethnic hatred or that unfairly undermines political parties and other organisations. To this end, the inclusive government shall ensure that appropriate measures are taken to achieve this objective.

ARTICLE XX

FRAMEWORK FOR A NEW GOVERNMENT

20. Framework for a new Government

Acknowledging that we have an obligation to establish a framework of working together in an inclusive government;

Accepting that the formation of such a government will have to be approached with great sensitivity, flexibility and willingness to compromise;

Recognising that the formation of such a Government would demonstrate the respect of the Parties for the deeply-felt and immediate hopes and aspirations of the millions of our people.

Determined to carry out sustained work to create the conditions for returning our country to stability and prosperity;

Acknowledging the need for gender parity, particularly the need to appoint women to strategic Cabinet posts;

20.1 The Parties hereby agree that:

20.1.1 Executive Powers and Authority

The Executive Authority of the Inclusive Government shall vest in, and be shared among the President, the Prime Minister and the Cabinet, as provided for in this Constitution and legislation. The President of the Republic shall exercise executive authority subject to the Constitution and the law.

The Prime Minister of the Republic shall exercise executive authority subject to the Constitution and the law.

The Cabinet of the Republic shall exercise executive authority subject to the Constitution and the law.

In the exercise of executive authority, the President, Vice Presidents, the Prime Minister, the Deputy Prime Ministers, Ministers and Deputy Ministers must have regard to the principles and

spirit underlying the formation of the Inclusive Government and accordingly act in a manner that seeks to promote cohesion both inside and outside government.

20.1.2 The Cabinet

- (a)** shall have the responsibility to evaluate and adopt all government policies and the consequential programmes;
- (b)** shall, subject to approval by Parliament, allocate the financial resources for the implementation of such policies and programmes;
- (c)** shall have the responsibility to prepare and present to Parliament, all such legislation and other instruments as may be necessary to implement the policies and programmes of the National Executive;
- (d)** shall, except where the Constitution requires ratification by Parliament, or action by the President, approve all international agreements;
- (e)** shall ensure that the state organs, including the Ministries and Departments, have sufficient financial and other resources and appropriate operational capacity to carry out their functions effectively;
- (f)** shall take decisions by consensus, and take collective responsibility for all Cabinet decisions, including those originally initiated individually by any member of Cabinet. and
- (g)** The President and the Prime Minister will agree on the allocation of Ministries between them for the purpose of day-to-day supervision.

20.1.3 The President

- (a)** chairs Cabinet;
- (b)** exercises executive authority;
- (c)** shall exercise his/her powers subject to the provisions of the Constitution;
- (d)** can, subject to the Constitution, declare war and make peace;
- (e)** can, subject to the Constitution, proclaim and terminate martial law;
- (f)** confers honours and precedence, on the advice of Cabinet;
- (g)** grants pardons, respites, substitutes less severe punishment and suspends or remits sentences, on the advice of Cabinet;
- (h)** chairs the National Security Council;
- (i)** formally appoints the Vice Presidents;
- (j)** shall, pursuant to this Agreement, appoint the Prime Minister pending the enactment of the Constitution of Zimbabwe Amendment no.19 as agreed by the Parties;
- (k)** formally appoints Deputy Prime Ministers, Ministers and Deputy Ministers in accordance with this agreement;
- (l)** after consultation with the Vice Presidents, the Prime Minister and the Deputy Prime Ministers, allocates Ministerial portfolios in accordance with this Agreement;
- (m)** accredits, receives and recognizes diplomatic agents and consular officers;
- (n)** appoints independent Constitutional Commissions in terms of the Constitution;
- (o)** appoints service/executive Commissions in terms of the Constitution and in consultation with the Prime Minister;
- (p)** in consultation with the Prime Minister, makes key appointments the President is required to make under and in terms of the Constitution or any Act of Parliament;
- (q)** may, acting in consultation with the Prime Minister, dissolve Parliament;
- (r)** must be kept fully informed by the Prime Minister on the general conduct of the government business and;

(s) shall be furnished with such information as he/she may request in respect of any particular matter relating to the government, and may advise the Prime Minister and Cabinet in this regard.

20.1.4 The Prime Minister

- (a) chairs the Council of Ministers and is the Deputy Chairperson of Cabinet;
- (b) exercises executive authority;
- (c) shall oversee the formulation of government policies by the Cabinet;
- (d) shall ensure that the policies so formulated are implemented by the entirety of government;
- (e) shall ensure that the Ministers develop appropriate implementation plans to give effect to the policies decided by Cabinet: in this regard, the Ministers will report to the Prime Minister on all issues relating to the implementation of such policies and plans;
- (f) shall ensure that the legislation necessary to enable the government to carry out its functions is in place: in this regard, he/she shall have the responsibility to discharge the functions of the Leader of Government Business in Parliament;
- (g) shall be a member of the National Security Council;
- (h) may be assigned such additional functions as are necessary further to enhance the work of the Inclusive Government;
- (i) shall, to ensure the effective execution of these tasks, be assisted by Deputy Prime Ministers; and
- (j) shall report regularly to the President and Parliament.

20.1.5 Council of Ministers

To ensure that the Prime Minister properly discharges his responsibility to oversee the implementation of the work of government, there shall be a Council of Ministers consisting of all the Cabinet Ministers, chaired by the Prime Minister, whose functions shall be:

- (a) to assess the implementation of Cabinet decisions;
- (b) to assist the Prime Minister to attend to matters of coordination in the government;
- (c) to enable the Prime Minister to receive briefings from the Cabinet Committees;
- (d) to make progress reports to Cabinet on matters of implementation of Cabinet decisions;
- (e) to receive and consider reports from the Committee responsible for the periodic review mechanism; and
- (f) to make progress reports to Cabinet on matters related to the periodic review mechanism.

20.1.6 Composition of the Executive (1) There shall be a President, which Office shall continue to be occupied by President Robert Gabriel Mugabe.

(2) There shall be two (2) Vice Presidents, who will be nominated by the President and/or Zanu-PF.

(3) There shall be a Prime Minister, which Office shall be occupied by Mr Morgan Tsvangirai.

(4) There shall be two (2) Deputy Prime Ministers, one (1) from MDC-T and one (1) from the MDC-M.

(5) There shall be thirty-one (31) Ministers, with fifteen (15) nominated by ZANU PF, thirteen (13) by MDC-T and three (3) by MDC-M.

(6) There shall be fifteen (15) Deputy Ministers, with (eight) 8 nominated by ZANU PF, six (6) by MDC-T and one (1) by MDC-M.

(7) Ministers and Deputy Ministers may be relieved of their duties only after consultation among the leaders of all the political parties participating in the Inclusive Government.

20.1.7 Senior Government appointments The Parties agree that with respect to occupants of senior Government positions, such as Permanent Secretaries and Ambassadors, the leadership

in Government, comprising the President, the Vice-Presidents, the Prime Minister and Deputy Prime Ministers, will consult and agree on such prior to their appointment.

20.1.8 Parliament Persons appointed to the posts of Vice-President, Prime Minister and Deputy Prime Minister and who are not already Members of Parliament, become *ex officio* members of the House of Assembly. Should persons so appointed be already members of Parliament, then the Party of which that person is a member or nominee shall have the right to nominate a non-constituency member of the relevant House.

20.1.9 Senate

- (a) The President shall, in his discretion, appoint five (5) persons to the existing positions of Presidential senatorial appointments.
- (b) There shall be created an additional six (6) appointed senatorial posts, which shall be filled by persons appointed by the President, 4 of whom will be nominated by MDC-T and 2 by MDC-M.

20.1.10 Filling of vacancies In the event of any vacancy arising in respect of posts referred to in clauses 20.1.6 and 20.1.9 above, such vacancy shall be filled by a nominee of the Party which held that position prior to the vacancy arising.”.

ARTICLE XXI
ELECTORAL VACANCIES

21. Electoral Vacancies

Aware of the divisive and often times confrontational nature of elections and by elections;

Noting the need to allow this agreement to take root amongst the parties and people of Zimbabwe; and

Cognisant of the need to give our people some breathing space and a healing period;

21.1 The Parties hereby agree that for a period of 12 months from the date of signing of this agreement, should any electoral vacancy arise in respect of a local authority or parliamentary seat, for whatever reason, only the party holding that seat prior to the vacancy occurring shall be entitled to nominate and field a candidate to fill the seat subject to that party complying with the rules governing its internal democracy.

ARTICLE XXII
IMPLEMENTATION MECHANISMS

22. Implementation mechanisms

22.1 To ensure full and proper implementation of the letter and spirit of this Agreement, the Parties hereby constitute a Joint Monitoring and Implementation Committee (“JOMIC”) to be composed of four senior members from ZANU-PF and four senior members from each of the two MDC Formations. Gender consideration must be taken into account in relation to the composition of JOMIC.

22.2 The committee shall be co-chaired by persons from the Parties.

22.3 The committee shall have the following functions:-

- (a) to ensure the implementation in letter and spirit of this Agreement;

- (b) to assess the implementation of this Agreement from time to time and consider steps which might need to be taken to ensure the speedy and full implementation of this Agreement in its entirety;
 - (c) to receive reports and complaints in respect of any issue related to the implementation, enforcement and execution of this Agreement;
 - (d) to serve as catalyst in creating and promoting an atmosphere of mutual trust and understanding between the parties; and
 - (e) to promote continuing dialogue between the Parties.
- 22.4** JOMIC shall be the principal body dealing with the issues of compliance and monitoring of this Agreement and to that end, the Parties hereby undertake to channel all complaints, grievances, concerns and issues relating to compliance with this Agreement through JOMIC and to refrain from any conduct which might undermine the spirit of co-operation necessary for the fulfillment of this Agreement.
- 22.5** The new Government shall ensure that steps are taken to make the security forces conversant with the Constitution of Zimbabwe and other laws of Zimbabwe including laws relating to public order and security.
- 22.6** The implementation of this agreement shall be guaranteed and underwritten by the Facilitator, SADC and the AU.
- 22.7** The Parties and the new Government shall seek the support and assistance of SADC and the AU in mobilizing the international community to support the new Government's economic recovery plans and programmes together with the lifting of sanctions taken against Zimbabwe and some of its leaders.
- 22.8** The Parties agree that they shall cause Parliament to amend any legislation to the extent necessary to bring this agreement into full force.

ARTICLE XXIII

PERIODIC REVIEW MECHANISM

23. Periodic review mechanism

23.1 Having regard to the Objectives and Priorities of the New Government as set out in this Agreement, the Parties hereby agree that:

- (a) they shall constitute a committee composed of 2 representatives each to review on an annual basis progress on the implementation and achievement of the priorities and objectives set out in this Agreement, namely: Economic (restoration of economic stability and growth, sanctions, land question) Political (new constitution, promotion of equality, national healing and cohesion and unity, external interference, free political activity, rule of law, State organs and institutions, legislative agenda and priorities) Security (security of persons and prevention of violence) and Communication (media and external radio stations);
- (b) the committee shall make recommendations to the Parties and the new government on any matters relating to this Agreement, more particularly on

measures and programmes that may be necessary to take and make to realise full implementation of this Agreement; and

- (c) this Agreement and the relationship agreed to hereunder will be reviewed at the conclusion of the constitution-making process.

23.2 The Parties will continually review the effectiveness and any other matter relating to the functioning of the Inclusive Government established by the Constitution in consultation with the Guarantors.

ARTICLE XXIV

INTERIM CONSTITUTIONAL AMENDMENTS

24. Interim Constitutional amendments The Parties hereby agree:

24.1 that the constitutional amendments which are necessary for the implementation of this agreement shall be passed by parliament and assented to by the President as Constitution of Zimbabwe Amendment Act No 19. The Parties undertake to unconditionally support the enactment of the said Constitution of Zimbabwe Amendment No 19;

24.2 to include in Constitutional Amendment No. 19 the provisions contained in Chapters 4 and 13, and section 121 of the draft Constitution that the Parties executed at Kariba on 30 September 2007 (Kariba draft).

ARTICLE XXV

COMMENCEMENT

25. Commencement

This Agreement shall enter into force upon its signature by the Parties.

In **WITNESS WHEREOF** the Parties have signed this Agreement in the English language, in six identical copies, all texts being equally authentic:

DONE AT HARARE, ON THIS..... DAY OF 2008

ROBERT G MUGABE
PRESIDENT, ZANU-PF

MORGAN R TSVANGIRAI
PRESIDENT, MDC

ARTHUR G O MUTAMBARA

PRESIDENT, MDC

In **WITNESS THEREOF** the Facilitator:

THABO MBEKI
SADC FACILITATOR