

CONSULTING ENGINEERS SOUTH AFRICA

CONSTITUTION (NOVEMBER 2023)

PREAMBLE

Consulting Engineers South Africa is a Voluntary Association of firms of consulting engineers and allied professionals who are members or eligible to be members of a professional institute with a code of ethics who :

- *derive a substantial portion of their income from the provision of impartial consulting services in the built, human and/or natural environment to a client for a fee*
- *are managed and have their operating policies determined by people whose professional qualifications and conduct are in keeping with the requirements of this Constitution and its By-laws*
- *are of high professional repute and uphold ethical standards*
- *commit to the aspiration of an industry association that is leading transformation through compassion and partnership, to grow a future that embraces diversity as an ongoing journey in a sustainable and structured manner*

1. THE ASSOCIATION

1.1 The name of the Association is -

"Consulting Engineers South Africa" also referred to by the acronym "CESA".

1.2 The Association is a body corporate with perpetual succession capable of acquiring rights, incurring obligations, entering into legal transactions and of suing and being sued in its own name.

1.3 The Association shall have Administrative Offices in such place as may be determined by the Board from time to time.

2. DEFINITIONS

2.1 In this Constitution and in the By-Laws the words listed below shall mean the following, unless the context indicates otherwise:

WORDS	MEANINGS
2.1.1 South Africa	The Republic of South Africa.
2.1.2 Board	The governing body of the Association, comprising Non- Executive and Executive Members.
2.1.3 The Association	The Association known as Consulting Engineers South Africa
2.1.4 Council	The Council of the Association comprising the members of the Board as provided for in Clause 13.2 and the Chairperson of each Branch.

2.1.5	Chief Executive Officer	The appointed Chief Executive Officer of the Association who is an ex-officio member of the Board and is responsible for the day to day management of the Association and such Executive functions of the Association as are provided for in the Constitution and By-laws.
2.1.6	Management	The Chief Executive Officer and staff employed by the Association.
2.1.7	Firm	A natural person or legal entity which provides primarily independent technology-based consultancy and engineering services in the built, human and natural environment to clients for a fee , whose application for membership has been approved by the Board in terms of Clause 6.
2.1.8	Principal	<p>A Principal of a Firm may be any of the following who is in active practice in the firm:</p> <ol style="list-style-type: none"> (1) A sole practitioner. (2) Where the Firm is a partnership, all the statutory directors. (3) Where the Firm is a close corporation, all the statutory members. (4) Where the Firm is a company, all the directors appointed in terms of the Companies Act or equivalent in the country of operation. (5) An appropriately professionally registered full-time employee of the Firm designated as such by the Firm. Such a person must: <ol style="list-style-type: none"> i. have delegated authority to manage the technical assets and operations of the Firm and ii. carry technical liability for the actions of the Firm and therefore be able to determine the technical polices and direct and control the technical operations of the Firm. <p style="margin-left: 40px;">To this end, the Firm may be required to demonstrate this authority to the satisfaction of CESA.</p>
2.1.9	Registered Principal	A Principal who is registered as a professional engineering practitioner with the Engineering Council of South Africa or as a professional registered with any other Professional body recognised by the South African Qualifications Authority (SAQA) or such equivalent recognised body outside of the Republic of South Africa.
2.1.10	Mandated Principal	A Principal who has been given a mandate by the fellow-Principals of his / her firm to sign documents and make undertakings on behalf of his / her firm in its capacity as a Member of the Association.
2.1.11	Member	A Firm which is a member of the Association.
2.1.12	Register of Members	A special register in which will be kept a record of Members in such form as the Board may decide from time to time.

2.1.13	Person	A natural person or a legal persona, depending on the context
2.1.14	Session	The period between two consecutive Annual General Meetings.
2.1.15	The Office	The registered office of the Association.
2.1.16	Month	Calendar Month.
2.1.17	In writing	Written, printed or other modes of representing or reproducing words in a visible form.
2.1.18	Mail	Postal service, courier service or other form of hand delivery, facsimile or electronic mail.
2.1.19	FIDIC	Federation Internationale des Ingenieurs Conseils (The International Federation of Consulting Engineers).
2.1.20	Constitution	the Constitution of the Association.
2.1.21	The Commissioner	the Commissioner for the South African Revenue Service.

2.2 Where the context so requires, any words in the singular only shall include the plural and vice versa, any words importing one gender shall include the other genders, and words importing persons shall include bodies corporate.

3. OBJECTIVES AND POWERS

3.1 OBJECTIVES

The Association is a voluntary association of persons established to promote the common interests of the firms which are the members of the Association, which carry on the profession of Consulting and Engineering and in so doing promote the professional and business interests, rights and powers of Members of the Association, for which purpose the Association shall have the following ancillary powers:

- 3.1.1 To promote excellence in serving the public in matters connected with technology-based intellectual services in the built, human and natural environment;
- 3.1.2 To promote a high standard for the conduct of Consulting and Engineering Professionals;
- 3.1.3 To encourage members to serve clients with professionalism, integrity and independence of judgement;
- 3.1.4 To promote the advancement of Consulting and Engineering Professions;
- 3.1.5 To assist Members to associate for the purposes of co-operation, mutual advantage and collaboration to provide holistic infrastructure solutions;
- 3.1.6 To build influence in national and international affairs which affect members of the Association;
- 3.1.7 To enhance the collective reputation and economic viability of the Members of the Association; and
- 3.1.8 To promote Membership, ensuring that it is inclusive and representative of Consulting and

Engineering Services in the built, human and/or natural environment;

3.2 POWERS

In connection with the foregoing objectives and for the purpose of promoting the same, the Association may:

- 3.2.1 Establish and enforce rules of conduct and for that purpose it may suspend and/or terminate the membership of a firm and/or reprimand and/or fine a firm;
- 3.2.2 Lobby and liaise with government, private sector and other bodies in order to further the interests of the Association and its Members;
- 3.2.3 Employ such staff and/or services as may be necessary for the proper conduct of the affairs of the Association;
- 3.2.4 Purchase, take on lease or in exchange, hire or otherwise acquire any movable or immovable property and any rights or privileges which the Association may think necessary or convenient for the purposes of its business. This includes in particular, any land, buildings or works necessary for such land and/or buildings such that it is rendered suitable for the business of the Association;
- 3.2.5 Sell, let, mortgage, donate, dispose of or turn to account, all or any of the property, rights or privileges of the Association;
- 3.2.6 Undertake and execute any trusts which may lawfully be undertaken by the Association and may be conducive to its objectives;
- 3.2.7 Borrow or raise money on such terms and on such security as may be thought fit;
- 3.2.8 Invest the moneys of the Association not immediately required for its purposes in or upon such investments, securities or property as may be thought fit;
- 3.2.9 Draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange and other negotiable or transferable instruments;
- 3.2.10 Participate in the formation of, and provide support to, entities with objectives similar to objectives of the Association and/or whose objectives may further the objectives of the Association.
- 3.2.11 Co-operate with any other organisation, institution or body engaging in activities which are calculated in whole or part to benefit, develop, enhance or otherwise advance the knowledge, practice, skills and economic effectiveness of Consulting Engineering and Allied Professional services.

4. PROPERTY AND ASSETS

- 4.1 The income and property of the Association, from whatever cause, origin or source derived from, shall be applied solely towards the promotion of the objectives of the Association as set forth herein and no part thereof shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise by way of profit, to the members of the Association.
- 4.2 No non-executive member of the Board or any committee may be paid by salary or fees and no remuneration or other benefit in money or money's worth shall be given to such member except as repayment of out-of-pocket expenses and except as provided in terms of the By-laws.
- 4.3 The Association shall not pay to any employee, office bearer, member or other person any

remuneration, as defined in the Fourth Schedule to the Income Tax Act, which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered.

- 4.4 The Association may not directly or indirectly distribute any of its funds to any person other than in the course of furthering its objectives.
- 4.5 No member may directly or indirectly have any personal or private interest in the Association.
- 4.6 The Association may not have a share or other interest in any business, profession or occupation which is carried on by its members.
- 4.7 The liability of the Members is limited to the subscriptions payable in terms hereof.
- 4.8 Substantially the whole of the funding of the Association must be derived from its annual or other long-term members.
- 4.9 If upon the winding up or dissolution of the Association there remain, after the satisfaction of all its debts and liabilities, any assets, the same shall not be paid to or among the Members of the Association, but shall be given or transferred to some other organisation or organisations which is/are approved by the Commissioner in terms of sections 30 or 30B of the Income Tax Act, such organisation/s to be determined by the Members of the Association at or before the time of dissolution.
- 4.9 True accounts shall be kept of the sums of money received and expended by the Association, and the matters in respect of which such receipt and expenditure take place and of the property, credits and liabilities of the Association; and, subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed in accordance with the regulations of the Association for the time being, shall be open to the inspection of the Members. Once every year the financial statements of the Association shall be examined by one or more properly qualified Auditor or Auditors.

5. MEMBERSHIP

- 5.1 The Members of the Association shall comprise Firms only. Every Member shall, on admission and at all times thereafter, conform to the following requirements:
 - 5.1.1 It shall conform to the definition of a Firm given in this Constitution.
 - 5.1.2 Its main business shall be the provision of independent technology-based intellectual services in the built, human and natural environment to clients for a fee.
 - 5.1.3 It shall act in the legitimate interests of its clients and shall make full disclosure of any material or potential conflict of interest.
 - 5.1.4 It shall in the opinion of the Board have high professional repute and ethical standards and meet all requirements for practice as established in the By-Laws.
 - 5.1.5 Its practice must not be conducted under an arrangement that involves a conflict of interest or that prevents the Member from exercising independent judgement.
 - 5.1.6 It shall be indemnified to the satisfaction of the Board against claims for acts or omissions arising out of the conduct of its professional practice.
 - 5.1.7 It shall comply with the Code of Conduct contained in the By-laws.

5.2 The privileges of membership shall not be transferable provided that a change in the name of a firm only or the dissolution of a partnership following which the majority of the partners form a new partnership, close corporation or limited company under the same name shall not require re-registration of such firm or partnership.

6. APPLICATIONS FOR MEMBERSHIP

6.1 A Firm wishing to become a Member shall make its application in writing in such format as shall be approved by the Board from time to time.

6.2 The procedures to be followed by the Board in dealing with applications by Firms to become Members, shall be as described in the By-laws.

6.3 No election of a new Member shall become effective until the pro rata subscription for the then current year has been paid.

7. CESSATION OF MEMBERSHIP

7.1 A Member shall cease to be a Member upon the happening of any of the following events:

- (a) giving to the Association notice in writing of its resignation from membership;
- (b) if a receiver is appointed over any of the assets of the Member or the Member makes any arrangement or composition with its creditors or becomes subject to an administration order;
- (c) if a Member is declared insolvent or goes into liquidation otherwise than for the purposes of amalgamation or reconstruction;
- (d) if a Member ceases to conform to the definition of a Firm set out in Clause 2 or shall otherwise cease to be qualified as a Member under this Constitution; or
- (e) If the Member fails to pay its annual subscription within two months after the same has become due and if, after due warning, continues for a further two months to be in default and the Board then approves that the Member be deregistered

7.2 The Board shall have the power by resolution to call for the resignation of or expel any Member from membership where, in the opinion of the Board, the Member shall have committed a breach of the provisions of this Constitution or any By-laws approved of in terms of Clause 17.6 hereof or shall have been guilty of such conduct as shall in the opinion of the Board have rendered the Member unfit to belong to the Association. The Board shall further have the power by resolution to suspend a Member's membership of the Association temporarily pending the outcome of an investigation into any alleged breach of the provisions of this Constitution, any By-laws or misconduct.

7.3 The Board shall have the power by resolution to suspend a Member's membership of the Association temporarily if, in the opinion of the Board, such Member shall have committed a breach of the provisions of this Constitution or any By-laws approved in terms of Clause 15.6 hereof or shall have been guilty of such misconduct as shall in the opinion of the Board have merited temporary suspension from the Association.

7.4 No resolution in terms of Clause 7.2 or 7.3 shall have any operation or effect unless the Member or person shall have been given proper opportunity of submitting for the consideration of the Board a statement or explanation in writing and/or of attending a meeting and being heard by the Board.

7.5 Should any Member cease to be a Firm that renders independent technology-based intellectual services in the built, human and natural environment in order to engage in other work or for any other reason be unable to comply any longer with the requirements of this Constitution, or should it for any reason desire to leave the Association, it shall send in its resignation in writing together with its Membership Certificate and its name shall be removed from the Register of Members.

8. SUBSCRIPTIONS

8.1 The annual subscription payable by a Member shall be related to the number of votes to which the Member is entitled in terms of the formula given in the By-laws for ballots of Members.

8.2 The annual subscriptions of all Members shall be such amounts and shall be payable on such date or dates as shall from time to time be fixed by the Board and approved by the Members at a General Meeting.

8.3 No pro rata reduction of subscriptions will be refundable for any curtailment of membership.

8.4 The Board may require Members to contribute special levies from time to time.

9. DISCIPLINE

9.1 The Board shall have the power to apply and enforce the disciplinary procedures described in the By-laws in respect of any Member which contravenes the Code of Conduct contained in the By-laws.

10. GENERAL MEETINGS

10.1 A general meeting shall be held by the Association as its Annual General Meeting once in each calendar year and not more than fifteen months shall elapse between the date of one Annual General Meeting of the Association and that of the next. The Annual General Meeting of the Association shall be held at such place and time as the Board may from time to time determine. All other general meetings shall be called Special General Meetings.

10.2 Only Principals of Members, shall be entitled to attend any general meeting, save as may be permitted by the Board or by the Chairperson of the meeting.

10.3 The Board may call a Special General Meeting whenever it thinks fit. In the event that such Special General Meeting needs to be held to ratify urgent matters which cannot be held over to the next Annual General Meeting, such matters may be tabled by the Board to Principals of Members for consideration by email in a "round-robin" manner over a specified limited period of time to allow for members to consider the matter and vote accordingly. Only one vote per member will count in this instance and any motion needs at least 15 member companies to vote, with at least 51% of the votes determining the outcome of such vote.

10.4 The Board shall call a Special General Meeting whenever a request in writing signed by Mandated Principals of not less than ten Members of the Association being completely separate firms not having any common Principals, stating fully the objects of the meeting, shall be deposited at the Office of the Association. A request may consist of several documents in like form each signed by one or more requestors.

10.5 If the Board within fourteen days after the deposit of any such request, does not issue notices calling a meeting in accordance therewith for a day not later than thirty-five days after such deposit, the requestors, or a majority of them, may themselves convene a Special General Meeting for the business described in the requisition, to be held within ninety days from the date of such deposit and

at such place as they think fit.

All meetings convened by requestors under this clause shall be convened as nearly as possible in the same manner as that in which meetings are to be convened by the Board and any resolutions taken at such meetings shall be as binding on the Association as if the meetings had been called by the Board.

- 10.6 At least twenty-one days' notice of every Annual General Meeting and of every Special General Meeting (exclusive of both the day it is served or deemed to be served and the day for which it is given) specifying the place, the day and the time of the Meeting and, in the case of special business, the general nature of that business, shall be given to such Members..
- 10.7 The accidental omission to give notice of a Meeting to, or the non-receipt of such notice by any person, firm or company entitled to receive notice shall not invalidate the proceedings of that meeting.
- 10.8 All Members shall be entitled to receive notice of and to send Principals to attend General Meetings.

11. PROCEEDINGS AT GENERAL MEETINGS

- 11.1 General meetings shall have the power to transact the following kinds of business:
 - (a) At a Special General Meeting, members may pass resolutions on issues of which notice has been given and may discuss matters of policy for the purpose of giving guidance
 - to the Board in respect of decisions which the Board must take or
 - to Members in respect of matters to be decided by ballot or poll.
 - (b) In addition to having the same powers as those at a Special General Meeting at an Annual General Meeting ,the members shall consider the financial statements and the reports of the Board and the Auditors, the election of the ordinary members of the Board and the appointment of the Auditors.
- 11.2 Any Member entitled to be represented and to vote at a General Meeting may submit a resolution to any General Meeting, provided that the Member shall notify the Association of its intention in writing, or shall submit the actual resolution in writing, at least seven days before such General Meeting.
- 11.3 Upon receipt of any such notice, the Chief Executive Officer shall inform members that such resolution has been or will be proposed.
- 11.4 No business shall be transacted at any General Meeting unless a quorum is present. The quorum for General Meetings shall be fifteen Members each represented in person by a Principal.
- 11.5 If within 15 minutes from the time appointed for the holding of a General Meeting a quorum is not present, the Meeting shall be dissolved and shall stand adjourned to the same day in the next week at the same time and place, or at such other place as the Board shall appoint and if, at such adjourned Meeting, a quorum is not present within 15 minutes from the time appointed for holding the meeting the Principals present shall be a quorum.
- 11.6 The Chairperson of the Meeting may, with the consent of any Meeting at which a quorum is present (and shall if so directed by the Meeting), adjourn a Meeting from time to time, and from place to place, as the meeting shall determine. Whenever a Meeting is adjourned for twenty-one days or more, notice of the adjourned Meeting shall be given in the same manner as of an original meeting. Save as aforesaid, the Members shall not be entitled to any notice of an adjournment or of the

business to be transacted at an adjourned Meeting. No business shall be transacted at any adjourned Meeting other than business which might have been transacted at the Meeting from which the adjournment took place.

11.7 The President of the Association shall preside as Chairperson at every General Meeting but, if there shall be no President of the Association, or if at any Meeting he/she shall not be present within fifteen minutes after the time appointed for holding the same, or shall be unwilling to preside, the persons entitled to attend the meeting present shall choose some member of the Board, or if no such member be present, or if all the members of the Board shall decline to take the chair, they shall choose any Principal present to preside as Chairperson.

11.8 At all General Meetings a Resolution put to the vote at the Meeting shall be decided on a show of hands by a majority of persons present and entitled to vote, unless before or upon the declaration of the result of the show of hands a written poll be demanded by the Chairperson or by at least three Principals present in person or represented by proxy and entitled to vote.

Unless a poll be so demanded a declaration by the Chairperson of the meeting that a Resolution has been carried, or has been carried by a particular majority, or lost, or not carried by the particular majority, shall be conclusive and an entry to that effect made in the Minute Book of the Association shall be conclusive evidence thereof without proof of the number or proportion of the votes recorded in favour of or against such resolution. The demand for a poll may be withdrawn.

11.9 No poll shall be demanded on the election of a Chairperson of a meeting or on any question of adjournment.

11.10 If a poll be demanded in the manner aforesaid, it shall be taken at such time and place and in such manner as the Chairperson of the meeting shall direct and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

11.11 In the case of an equality of votes, whether on a show of hands or at the poll, the Chairperson of the Meeting shall be entitled to a second or casting vote.

11.12 The demand for a poll shall not prevent the continuance of a Meeting for the transaction of any business other than the question on which a poll has been demanded.

12. VOTES OF MEMBERS

12.1 For the purpose of voting by a show of hands or by poll at General Meetings or at Branch Meetings, every Firm entitled to attend the meeting shall be entitled to one vote. Proxy voting shall be permitted. The procedures for regulating the voting shall be in accordance with the By-laws.

12.2 An emailed vote shall be taken

- where voting by email is prescribed in the Constitution; or
- where the Board decides that voting by email is desirable; or
- at the request of not less than ten Members being completely separate Firms not having any common Principals at a general meeting; or
- at the request of not less than two Members being completely separate Firms not having any common Principals at a branch meeting.

The Chief Executive Officer shall, within three weeks after any General Meeting or meeting of the Board at which it is decided to take a vote by email, forward by email to each Mandated Principals

voting papers which shall contain the resolution on which the Member is required to vote and the date of the meeting at which it was decided to take the vote. The voting papers shall be returned to the Management in order to reach it not later than six weeks after the aforesaid meeting. If any voting paper is received after the said period it shall not be recognised.

- 12.3 For the purpose of exercising its right to vote in emailed votes (including the ballot for the election of members of the Board) every Member shall be entitled to a number of votes based on the total number of personnel of the Member in South Africa on the first day of January of the year in which the vote is being exercised, as reported to the Association in terms of the requirements of the By-laws.
- 12.4 The procedures for regulating emailed votes shall be in accordance with the By-laws.
- 12.5 A Member shall not be entitled to be represented at any General Meeting or Branch Meeting nor shall any of its Principals be entitled to vote on any question at any General Meeting or Branch Meeting unless every subscription and other sum (if any) which shall be due and payable to the Association in respect of the Member has been paid.
- 12.6 No objection shall be raised to the qualification of any voter except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting shall be valid. Any objection made in due time shall be referred to the Chairperson whose decision shall be final and conclusive.

13. THE GOVERNING BODY

- 13.1 The governance of the Association shall be vested in the Board, whose members, other than the Chief Executive Officer, shall be Principals of Members of the Association ordinarily resident in South Africa and who shall hold office for such period or periods as laid down herein. At least 51% of the Board shall comprise of Principals who are registered Professional Engineering practitioners. The Board shall include at least three persons who are not connected persons in relation to each other, to accept the fiduciary responsibility of the Association, and no single person may directly or indirectly control the decision-making powers relating to the Association.
- 13.2 The Board shall comprise:
- 13.2.1 The President
 - 13.2.2 The Deputy President
 - 13.2.3 The immediate Past President as provided for in clause 13.3.4
 - 13.2.4 Six ordinary members elected by ballot by Registered Principals of Members.
 - 13.2.5 four additional co-opted members to serve for the Year, one of whom shall be a person not more than 35 years old.
 - 13.2.6 The Chief Executive Officer, *ex officio*.
- 13.3 Officers of the Board referred to in clauses 13.2.1 to 13.2.3 shall be elected as follows:
- 13.3.1 Prior to the date when nominations for election of ordinary members of the Board are sent to members the then existing Board shall elect from amongst its membership a President and a Deputy President who shall take office at the next Annual General Meeting for the ensuing Year and may continue for a second successive year.

- 13.3.2 A President may hold such office for not more than two consecutive years. The Deputy President may hold such office for not more than two consecutive years.
- 13.3.3 In the event of the death, resignation or deposition of a President, the Board shall, either at a meeting or by emailed vote, appoint the then serving Deputy President as President for the remainder of the Session, and shall appoint a Deputy President. The persons so appointed shall be eligible for election as President or Deputy President respectively for the ensuing year notwithstanding the provisions of Clause 13.3.2.
- 13.3.4 The Immediate Past President shall be an officer of the Board for one year after the expiration of his/her term.
- 13.4 Ordinary members of the Board shall be elected as follows:
- 13.4.1 Not less than six weeks before every annual general meeting the Board shall cause each Member of the Association to be given an opportunity to nominate Registered Principals of Members of the Association to fill any vacancies for ordinary members of the Board which occur at the end of the current Session. Should the number of nominations received exceed the number of vacancies, the members to fill the vacancies shall be elected by Members by secret ballot, the results of which shall be determined by scrutinisers selected by the Board from those members who are not on the list of nominations.
- 13.4.2 The ordinary members of the Board shall be declared elected at the Annual General Meeting and shall thereupon take office for the ensuing Session.
- 13.4.3 Any casual vacancy on the Board or any vacancy that is not filled at an Annual General Meeting may be filled by appointment by the remaining members of the Board, but the Registered Principal appointed to fill such vacancy shall retire from office on the date on which the member of the Board whose place is so filled would in the ordinary way have retired.
- 13.4.4 The Association may by resolution of a General Meeting remove any member of the Board before the expiration of his/her period of office and may by resolution appoint another member in his/her stead but any person so appointed shall retain his/her office so long as the member in whose place he/she is appointed would have held the same if he/she had not been removed.
- 13.4.5 Ordinary members of the Board, elected by ballot, shall hold office for two consecutive Sessions, where after they shall retire unless they be elected as members of the Board for the ensuing Session.
- 13.4.6 Any member of the Board at the expiry of his/her term of office shall be eligible for re-election as an ordinary member of the Board
- 13.5 The Board shall meet as often as the business of the Association may require, but not less than twice per Session, the first meeting to be within one month after the Annual General Meeting.
- 13.6 Notice convening Board meetings shall be despatched to Board members not later than seven days prior to the dates determined for such meetings, provided that if no member dissents, meetings may be called at shorter notice in special circumstances.
- 13.7 Should any seven members of the Board for any reason wish the Board to meet at a time other than as determined in terms of 13.5 hereof, then they may cause a notice to be issued convening a Board meeting on a date not less than two weeks later than the date of the notice and which notice shall give the reason for the requested meeting.

- 13.8 On the request of any ten Members being completely separate firms not having any common Principals, a meeting of the Board shall be caused to take place within twenty-one days of such request which shall set out in detail the purpose of the meeting. Such meeting shall be convened by notice served upon the several members of the Board and such notice shall set out the purpose and agenda for the meeting.
- 13.9 A minimum of 50% (fifty percent) of the members of the Board shall be required to form a quorum at all meetings of the Board .
- 13.10 At least eight weeks before the Annual General Meeting the Chief Executive Officer shall send to each Member a list of the members of the Board , distinguishing the names of those retiring.
- 13.11 Every Member may nominate one candidate to be elected to serve on the Board . Such candidate shall be a Registered Principal of any Member of the Association. The candidate and the Mandated Principal of the Member making the nomination, must sign each nomination form. The form must be delivered to the Chief Executive Officer at least five weeks before the Annual General Meeting. The person nominated must agree to serve on the Board and the subscription of the Member of which he/she is a Principal must have been paid.
- 13.12 At least three weeks before the Annual General Meeting the Chief Executive Officer shall send to every Member a ballot form. Every Member shall be supplied with the list of nominations. Members may make on each ballot form an "X" against the name of each of the persons for whom the Member wishes to cast votes, subject to the maximum number of votes stipulated on the voting form. The completed forms shall be delivered to the Chief Executive Officer at least twenty-four hours before the Annual General Meeting. Spoilt ballot forms will be void.

14. DISQUALIFICATION OF MEMBERS OF THE BOARD

- 14.1 The office of a member of the Board, other than the Chief Executive Officer, shall be vacated:
- 14.1.1 If he/she ceases to be a Principal of a Member.
- 14.1.2 If by notice in writing to the Association he/she resigns his/her office.
- 14.1.3 If he/she fails to attend two consecutive meetings of the Board unless he/she has obtained leave of absence from the Board.

15. POWERS, DUTIES AND OBLIGATIONS OF THE BOARD

- 15.1 The Board shall be responsible for the governance of the Association and shall direct the affairs of the Association in accordance with this Constitution and a Board resolution interpreting the Constitution shall be binding on all Members.
- 15.2 The Chief Executive Officer shall be responsible for the day to day management of the Association, , including the duty to employ such staff and/or services and to hire or otherwise acquire such accommodation, furniture and equipment as may be necessary and/or prescribed in the By-Laws to carry out the day to day administration of the Association's affairs. Such duties shall at all times be in compliance with good governance and aligned to the strategy of the organisation determined by the Board, as reviewed from time to time. The Chief Executive Officer shall report to the Board.
- 15.3 Questions arising at any Board meetings shall be decided by a majority of votes, except for those cases where the Constitution requires four-fifths or two-thirds majority, as the case may be, and, in case of an equality of votes, the Chairperson shall have a second or casting vote.
- 15.4 The Board may for specific purposes appoint committees consisting of one or more members of the

Board and/or Principals and/or representatives of other bodies and/or other persons approved by the Board , with such powers as the Board may prescribe. Each such committee shall report to the Board. The Board may dissolve such committees as it deems fit.

- 15.5 The Board may appoint representatives to act on behalf of the Association for such purposes and with such power as it may decide.
- 15.6 The Council, comprising the members of the Board and the Chairperson of each Branch, shall act as an advisory body to the Board, for the purpose of bringing matters of importance to the attention of the Board and considering and making recommendations on issues referred to it by the Board.
- 15.7 The Board may from time to time adopt By-Laws for the purpose of regulating matters connected with the Association provided such By-Laws shall not be inconsistent with this Constitution. Such By-Laws shall be considered at a General Meeting. If such By-Laws shall be approved by not less than a **two-thirds majority** of those present and entitled to vote at such General Meeting then such By-Laws shall be in force and a copy of the same shall be sent to each Member of the Association. Any By-Law may from time to time be varied or rescinded in like manner.
- 15.8 The continuing members of the Board may act notwithstanding any vacancy in their body; provided always that in case the members of the Board shall at any time reduce in number to less than seven it shall be lawful for them to act as the Board for the purpose of filling up vacancies in their body but not for any other purpose.
- 15.9 If present the President shall preside at meetings of the Board or, if the office of the President be vacant, or if at any meeting the President is not present within five minutes after the time appointed for holding a meeting, the members present shall choose someone of their number to be Chairperson of the meeting.
- 15.10 All bona fide acts of the Board or any committee of the Board or any person acting as a member of the Board shall, notwithstanding it be afterwards discovered that there was some defect in the appointment or continuance in office of any such member or person acting as aforesaid or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a member of the Board.
- 15.11 The Board shall cause proper minutes to be kept of the proceedings of all meetings of the Association and of the Board and of all committees and Branches and any such minute of any meeting, if purporting to be signed by the Chairperson of such meeting or by the Chairperson of the next succeeding meeting, shall be conclusive evidence without further proof of the facts therein stated. Copies of all minutes of committee meetings shall be forwarded to the Management.
- 15.12 The board shall take responsibility for ensuring that: -
- 15.12.1 the Association will comply with such reporting requirements as may be determined by the Commissioner: SA Revenue Services from time to time;
- 15.12.2 the Association is not knowingly and will not knowingly become a party to, and does not knowingly and will not knowingly permit itself to be used as part of, an impermissible avoidance arrangement contemplated in Part IIA of Chapter III, or a transaction, operation or scheme contemplated in section 103(5) of the Income Tax Act; and
- 15.12.3 substantially the whole of the activities of the Association will be directed to the furtherance of its principal object and not for the specific benefit of an individual member or minority group.

16. BRANCHES

- 16.1 To promote the interest of members and to allow for discussion and consideration of local problems and opportunities, Branches may be established in terms of the By-laws or as otherwise approved by the Board.
- 16.2 Before the commencement of every second Session, each Branch shall convene a general meeting of the Principals of the Members within the local area and shall elect from amongst their own number a Chairperson who shall be a Principal and who shall as Chairperson become a member of Council for the ensuing two Sessions. The Chairperson of a Branch shall be elected for a maximum of two years at a time. At such meeting such other office bearers, committees and sub-committees as the members deem necessary shall be elected. The election of the Chairperson, office bearers, committee members and sub-committee members shall be carried out on the basis of one vote for each Principal present unless before or upon the declaration of the result of the show of hands a mailed vote be demanded by not less than two Members being completely separate Firms not having any common Principals and being represented at the meeting.
- 16.3 Branches may investigate and discuss any matters which they wish, but may take no decisions in the name of the Association. Should they desire any decisions in respect of their wishes to be implemented in the name of the Association, they shall refer such matters to the Board who, after due consideration, shall make decisions in the name of the Association.
- 16.4 Branches shall meet as often as deemed necessary by themselves, but not less than three times per Session.
- 16.5 Branches may make such rules of procedure as may be necessary for administrative purposes, provided that in so doing no contravention of the Constitution is embodied in such rules and provided further that any such rules are approved by the Board.
- 16.6 Allocation of funds to Branches shall be determined annually and approved by a duly authorised committee of the Board.

17. ACCOUNTS

- 17.1 The Board shall ensure that there is an appropriate Committee appointed to provide oversight on the Finances and Governance of the Association. Such Committee shall cause to be kept such books of account as are necessary to exhibit a true and fair reflection of the state of the Association's affairs. The books of account as required by Clause 4.5, shall be kept at the Office of the Association or at such other place as the Board deems fit. Reporting on such performance will be done on a regular basis to this oversight Committee.
- 17.2 The Association may from time to time, by means of such By-Laws as are hereinbefore provided for, make reasonable conditions as to the time and manner of the inspection of the accounts and books of the Association or any of them. Subject to such conditions the accounts and books of the Association shall be open to the inspection of Members at all reasonable times during business hours.
- 17.3 The Board shall direct that the financial statements as at the end of the previous financial year shall be prepared and laid before the Association at each Annual General Meeting.
- 17.4 Such financial statements shall be accompanied by a report of the Board as to the financial state of the Association and the report and financial statements shall be signed by the President, Chairperson of the Finance and Staff Committee and the Chief Executive Officer.
- 17.5 All moneys, bills and notes belonging to the Association shall be paid or deposited with the Association's bankers to an account in the name of the Association. The Chief Executive Officer and

Financial Manager shall authorise any payments that need to be processed as part of the ongoing daily operations of the Association. The Association's banking account shall be kept with such bank or banks as the CEO in consultation with the Finance and Staff Committee shall from time to time determine.

18. AUDIT

- 18.1 The financial statements of the Association shall be examined at least once every year and shall be reported upon by the Auditors.
- 18.2 The Auditors shall be appointed at an Annual General Meeting and shall hold office until they resign or are removed at a General Meeting.
- 18.3 The Auditors shall report on the financial statements in terms of generally accepted accounting practice. The Auditors shall at all reasonable times have access to the books and accounts of the Association and they may in relation thereto examine the members of the Board or officers of the Association or Management.
- 18.4 The financial statements, when approved by an Annual General Meeting, shall be deemed final, and shall not be reopened, provided that, if any error is discovered therein within three months after such approval, the accounts shall forthwith be corrected and thenceforth shall be conclusive.

19. INDEMNITY

- 19.1 Every Board member, the Chief Executive Officer, and every other officer or employee of the Association or member of any committee appointed by the Board shall be indemnified by the Association against claims against their person unless proven to have been wilfully negligent or dishonest in conducting their duties. It shall be the duty of the Board to pay out of the funds of the Association, all costs, losses and expenses which any such party may incur or become liable for by reason of any bona fide contract entered into or bona fide act or deed done by him/her in such capacity, and in any way in the discharge of his/her duties.
- 19.2 No Board member, nor the Chief Executive Officer, nor any other officer or employee of the Association nor any member of any committee appointed by the Board shall be liable for the acts, receipts, neglects, or defaults of any other Board Member or officer or employee or for joining in any receipt or other act of conformity or for loss of expense happening to the Association through the insufficiency or deficiency of title to any property acquired by order of the Board for or on behalf of the Association, or for the insufficiency or deficiency of any security in or upon which any of the moneys of the Association shall be invested, or for any loss or damage arising from the insolvency or tortuous act of any person with whom any moneys, securities or effects shall be deposited, or for any loss or damage occasioned by an error of judgement or execution of the duties of his/her office or in relation thereto, unless the same happens through his/her own dishonesty.

20. NOTICES

- 20.1 A Notice may be served by the Association upon any Member either by handing it to a Principal of the Member or by sending it by mail addressed to such Member at the registered address as appearing in the Register of Members.
- 20.2 Any summons, notice, order or other document required to be sent to or served upon the Association or upon any officer of the Association may be delivered by hand or sent by registered mail addressed to the Association or to such officer at the Office of the Association.
- 20.3 Any notice, if served by mail, shall be deemed to have been served fourteen days after the day on which the notice is mailed and in proving such service it shall be sufficient to prove that the notice

was properly addressed and mailed by a method which could reasonably have been expected to deliver the notice within this period.

21. AMENDMENTS TO THE CONSTITUTION

- 21.1 Proposals to alter or add to the Constitution may be initiated by the Board or submitted in writing to the Chief Executive Officer by not less than ten Members being completely separate Firms not having any common Principals and shall be considered at a General Meeting, provided at least 21 days' notice of the proposed alteration or addition shall be given to Members.
- 21.2 Such proposals, either in the original or in amended form, if approved by **not less than a two-thirds majority** of those present and entitled to vote, shall be submitted to a mail vote in accordance with the procedure laid down in Clauses 12.3 and 12.4.
- 21.3 Provided **not less than two-thirds of the mail votes** received approve of the proposal, the approved amendment shall be circulated to all Members by mail and shall become effective one week after the date of mailing.
- 21.4 Board shall submit any amendment of the Constitution to the relevant Authorities and the Commissioner where so required to ensure compliance with Revenue Authorities and any relevant such Authority within 30 days of its amendment.
-