

THE CONSTITUTION OF FLAIR SOUTH AFRICA

PREAMBLE

Whereas Flair SA wants to achieve a society where all can flourish professionally without boundaries or obstacles based on gender. A society that nurtures everyone equally and opportunities are abound. A society which does not tolerate Discrimination on the basis of gender, pregnancy, sexual orientation or marital status. A society where a gender is not considered more equal than another.

In order to achieve the above this national association shall be:

- non-discriminatory on the basis of race or gender;
- independent, autonomous and party politically non-aligned;
- guided by the respect for fundamental human rights as enshrined in the Constitution of the Republic of South Africa including the Bill of Rights.

Within the confines of the South African legal framework, we acknowledge the rights and responsibilities afforded to trade unions. As such, we collectively unite through the vehicle provided by this Association to deepen and advance our common interests.

We value fairness and equality and promote being reasonable, accountable and responsible in order to achieve gender equality at work.

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1. NAME

1.1 The name of the Association is Flair South Africa. It may also be shortened to Flair SA.

2. HEAD OFFICE

2.1 The head office of the Association shall be determined by the Exco.

3. LANGUAGE OF RECORD

3.1 The language of record of the Association shall be English.

4. STATUS OF ASSOCIATION

4.1 Flair SA shall be a body corporate with perpetual succession capable of entering into contractual and other relations and of suing and being sued in its own name and is independent from any direct or indirect influence by Employer(s) or Employers organisation(s) and shall be an organisation not for gain. A non-profit organisation has been registered, the ambits from which Flair SA will be operating.

5. DEFINITIONS AND INTERPRETATION

- 5.1 Any expressions used in this Constitution, its schedules or annexures or any rules formulated in terms thereof, which is defined in the LRA shall have the same meaning as in the LRA.
- 5.2 **“Association”** shall refer to Flair South Africa.
- 5.3 **“Affiliate”** or **“Affiliation”** shall mean any organisation with which Flair SA is formally associated.
- 5.4 **“Discrimination”** shall bear the meanings as attributed to it by the LRA and the Constitution of South Africa.
- 5.5 **“Employer”** shall mean any person, enterprise or organisation, including the State, who employs or provide work for a Member.
- 5.6 **“Emergency funds”** shall mean funds that are set aside and which are not allocated to any specific item in the budget. Such funds are to be used only in the event of an emergency, as determined by the EXCO.
- 5.7 **“EXCO”** shall mean the Executive Committee of the Association as more fully set out in clause 16.
- 5.8 **“EXCO Members”** shall mean all the members of EXCO currently in office.
- 5.9 **“Elected EXCO Members”** shall mean those EXCO Members that have been elected in accordance with the election process set out in clause 16, currently serving their term.
- 5.10 **“Fees”** shall mean membership Fees as are more fully set out in clause 12.
- 5.11 **“Fines”** shall mean any fines a Member is penalised with during disciplinary proceedings.
- 5.12 **“Founding Members”** shall mean those members who signed this Constitution.
- 5.13 **“Funds”** shall mean any Fund set up by the Association in aid of a particular cause, more fully set out in clause 21.
- 5.14 **“GM”** refers to the General Meeting of the Association which is more fully set out in clause 18.2.
- 5.15 **“Interests”** refers to the best interests of the Association and its Members which interests are to further the aims of the Association as set out in clause 8.
- 5.16 **“Legal opinion”** shall mean, in relation to all disputes which are the subject of potential legal proceedings, a written opinion obtained or given by the Association and made available to a Member under the hand of the General Secretary summarising the facts of the dispute as reported to the Association by the Member and making recommendations whether the dispute, given the facts, should proceed to receive legal assistance.
- 5.17 **“Legal assistance”** shall mean, in relation to a legal opinion, a dispute which is legally pursued by the Association.

- 5.18 **“Levies”** are any levies raised by the Exco for a specific purpose.
- 5.19 **“LRA”** shall mean the Labour Relations Act, Act 66 of 1995, as amended.
- 5.20 **“Majority”** shall mean 50% plus 1 vote.
- 5.21 **“Member or Members”** shall mean Members as further defined in clause 9.
- 5.22 **“Member in good standing”** shall mean Members whose Fees are up to date.
- 5.23 **“President”** shall mean either of the Presidents of the Association as elected in terms of this Constitution.
- 5.24 **“Protest Action”** refers to any action that is carried out by Members in protest of their working conditions as more fully set out in clause 10.
- 5.25 **“Representative”** shall mean a Member, official or office bearer who is delegated to represent the Association.
- 5.26 **“Regulate”** or **“Regulations”** shall mean rules that are enforced by whatsoever means, including the laws of the land.
- 5.27 **“Two-thirds majority”** shall mean 67% of the vote.
- 5.28 **“Serious offence”** shall mean any Schedule One Criminal offence as defined in the Criminal Procedure Act No 51 of 1977, as well as any of the following offences: assault, theft, fraud, rape, arson, murder and manslaughter, child abuse, child neglect, animal abuse.
- 5.29 **“Sponsor”** shall mean any person who contributes to the Association or its causes, without qualifying for any benefits, as is more fully set out in clause 9.3.
- 5.30 **“Unfair labour practice”** shall mean any action taken by an Employer against a Member, short of a dismissal.
- 5.31 **“Youth Member”** shall mean a member which is under the age of 27, as more fully defined in clause 9.2.
- 5.32 Unless the context indicates otherwise, words in the singular shall include the plural and reference to one of the genders shall include the other.
- 5.33 Provisions shall mean the terms, conditions, rights, promises, undertakings, covenants, restraints, obligations and provisions contained, conferred or imposed under this Constitution.
- 5.34 The provisions of this Constitution are severable and divisible as to each provision or part thereof, and should any provision be found to be invalid or unenforceable by a competent court, such finding shall, subject to the order of such court, not affect the validity and/or enforceability of the remaining provisions or parts thereof.
- 5.35 The Exco shall, in the event that circumstances so require:
- 5.35.1 determine a question of procedure, if not provided for in this Constitution; and

5.35.2 interpret this Constitution, should any query arise.

6. AUTHORITY OF THE CONSTITUTION

- 6.1 This Constitution is the source of all rights and obligations within the Association and is the final source of authority in the event of any dispute arising.

7. PURPOSE, POWERS AND ACTIVITIES

- 7.1 The purpose of the Association shall primarily be to enhance the rights of women in the workplace in striving for equality and to eliminate Discrimination in any prohibited form, with a specific focus on the prevention of Discrimination based on gender, pregnancy, marital status and sexual orientation.
- 7.2 The Association shall act in the furtherance of the aims listed in paragraph 8, subject to the provisions of this Constitution and resolutions thereunder.
- 7.3 The Association shall have perpetual succession, and shall be entitled to sue and be sued in its own name.
- 7.4 The Association shall have the power to:
- 7.4.1 conclude and enforce contracts and collective agreements pertaining to all aspects of the working lives of Members;
 - 7.4.2 take part in any form of consultation, litigation, arbitration or other dispute resolution proceedings on behalf of Members;
 - 7.4.3 establish a pension fund, provident fund, medical scheme and any other fund or scheme to provide benefits to officials, Members and staff;
 - 7.4.4 exercise any other power that may be necessary or desirable to achieve the objectives of the Association;
 - 7.4.5 subject to the provisions of this Constitution, formulate rules regarding the administration and the running of the Association and its business;
 - 7.4.6 formulate the procedure concerning its meetings, as well as meetings of any of its committees and structures;
 - 7.4.7 establish committees and structures, Regulate their functions, procedures and the delegation of powers to them where appropriate;
 - 7.4.8 set the duties of office-bearers, Representatives and officials;
 - 7.4.9 set and collect Membership subscriptions;

7.4.10 establish an institute, or any other structure, to further the objectives of the Association, provided that the governance, funding and operation of such a body is consistent with this Constitution;

7.4.11 as well as any other matters aimed at the effective functioning of the Association.

8. AIMS

- 8.1 The objectives of Flair SA shall be to –
- 8.2 defend and promote the interests of those it represents;
- 8.3 promote the development of Members by means of workshops, seminars and conferences;
- 8.4 assume financial responsibility for a fund or funds to be applied in the achievement of the objectives stated above, and to take action to raise or obtain funds;
- 8.5 assist Members with / advise Members on grievances, disciplinary cases and disputes;
- 8.6 Regulate relations between Members and their Employers and to protect and further the interest of Members in relation thereto;
- 8.7 strive for economic and social justice for all Members by means of, regulating relations, negotiating and settling disputes between Members and Employers;
- 8.8 oppose discriminatory practices in employment and fight for the rights of all Members to conduct any type of work;
- 8.9 promote support or oppose, as may be deemed expedient, any existing or proposed legislation or other measure affecting the interests of Members;
- 8.10 use all possible strategic means to recruit Members;
- 8.11 protect the job security of Members, to advance their employment prospects and generally advance the interest of Members in their individual and collective capacities;
- 8.12 improve the wages, salaries and terms and conditions of employment of Members through a specific focus on employment equity and the concept of equal pay for work of equal value;
- 8.13 provide, when deemed necessary, legal assistance to Members in connection with their employment and related matters.
- 8.14 instil a strength of unity and solidarity amongst all Members and guide them in the true spirit of family unity, oneness and solidarity based on the philosophy of individuality of each Member and their family;
- 8.15 safeguard and promote the dignity and rights and responsibilities of Members in an attempt to uplifting the socio-economic status of Members;
- 8.16 defend and protect Members against any acts of unfair labour practices by Employers and other threats to their job security;

- 8.17 play an active role in the fight against gender Discrimination at the workplace and at a societal level;
- 8.18 develop and maintain contacts and relationships with other organisations, both locally and internationally, in pursuance of maximum professional unity and solidarity;
- 8.19 participate in, seek to influence and lobby all relevant policy making bodies and institutions in furthering the interests of our Members;
- 8.20 promote or oppose, as the case may be, any laws and administrative procedures that affect the interests of the Members;
- 8.21 encourage the settlement of disputes between Members and Employers and/or Employer organisations by conciliation, mediation and arbitration;
- 8.22 enter into collective bargaining forums for the purpose of negotiating and entering into collective agreements with Employers and associations of Employers;
- 8.23 create awareness for Members' interests within the workplace and at societal level.

9. MEMBERSHIP

9.1 Flair SA shall represent Members whom are:

- 9.1.1 employed or unemployed
- 9.1.2 in South Africa
- 9.1.3 from all industries
- 9.1.4 throughout any sector and
- 9.1.5 at any job level
- 9.1.6 whose Fees are paid up to date

9.2 Flair SA Youth Members are:

- 9.2.1 employed or unemployed
- 9.2.2 in South Africa
- 9.2.3 under the age of 27 (twenty-seven) years
- 9.2.4 whose Fees are paid up to date

9.3 Flair SA Sponsors are:

9.3.1 Employed or unemployed;

9.3.2 Anywhere in the world (inside or outside South Africa);

9.3.3 Who contributes to the Association or its causes;

9.3.4 Either through monthly or annual contributions;

9.3.5 Which contributions are not lower than Membership Fees.

9.4 Membership applications:

9.4.1 Any person who wishes to become a Member of the Association shall complete the Application form and submit same to the General Secretary.

9.4.2 In order for an Application to be processed, payment of the administration fee together with at least one month's Fees must accompany any Application. If these monies are not included, the Application will be placed on hold until such time that the monies have been received and the Application can be processed.

9.4.3 The EXCO shall consider every Application within two (2) weeks of receipt thereof by the General Secretary.

9.4.4 An applicant to whom admission of Membership is refused shall be provided with reasons for such refusal and shall be entitled to a refund of the Fees paid.

9.5 Appeal to refusal of admission of Membership

9.5.1 If admission was refused, the applicant concerned shall have a right to appeal to the next GM, which shall have the right to confirm or reverse the decision of the EXCO.

9.5.2 Such an appeal shall be in writing and shall be submitted to the General Secretary at within 14 (fourteen) days of such refusal being communicated.

9.5.3 The appeal will be heard at the next scheduled meeting of the GM, regardless of the period between the appeal and the next scheduled meeting.

9.6 Notification of change in personal particulars

9.6.1 Members shall notify the General Secretary in writing within 14 (fourteen) days of any change in their personal particulars as reflected on their Application form.

10. MEMBERS' RIGHTS AND BENEFITS

- 10.1 To retain any rights under this Constitution, every Member of the Association shall abide by this Constitution and such by-laws as may be made under it.
- 10.2 Members' rights are as set out in this Constitution and as determined by any lawful organ of the Association from time-to-time.
- 10.3 Members' right to legal assistance are set out in clause 11.
- 10.4 The EXCO shall have the power to establish benefit schemes on behalf of its Members.
- 10.5 Benefit schemes shall be operated as separate financial entities or units governed by the regulations applicable in their field of business.
- 10.6 Members' rights shall be terminated as set out in clause 15.
- 10.7 Members have the right to protest subject to such protest action being approved. Approved protest action refers to such actions which have been confirmed by the EXCO as acceptable.
- 10.8 Non-acceptable protest action are any actions which have not been approved by the EXCO and will always include the following conduct:
 - 10.8.1 Any violent acts or conduct of Members;
 - 10.8.2 Any damage to property;
 - 10.8.3 Any abuse, including physical and verbal abuse of any other person;
 - 10.8.4 Any looting or plundering;
 - 10.8.5 Any other conduct contradicting to our values; or
 - 10.8.6 Any other conduct that will bring the Association into disrepute.
- 10.9 Members in good standing will, in principle, have access to the following benefits:
 - 10.9.1 Support on labour issues for all members, with specific focus on issues related to the Association's areas of expertise:
 - 10.9.1.1 equal rights for all genders,
 - 10.9.1.2 sexual harassment,
 - 10.9.1.3 discrimination based on gender, sexual orientation, marital status, pregnancy
 - 10.9.2 Special discounts from Affiliates
 - 10.9.3 Special discounts for events based on membership status
 - 10.9.4 Newsletters and access to subject matter information for all members
 - 10.9.5 Access to mentorships for all members
- 10.10 Members will only have access to benefits after being a Member for a minimum period of 3 (three) months. The EXCO may, in special circumstances, waive this clause.

11. LEGAL ASSISTANCE

- 11.1 Any Member in need of Legal Assistance from the Association, shall submit to the General Secretary, within 7 (seven) days of such dispute arising, a claim in such form and together with such annexures as may be prescribed from time-to-time.
- 11.2 The EXCO may, on good cause shown, condone late claims.
- 11.3 The General Secretary will, within a further 7 (seven) days from receipt of such claim, respond to the Member concerned with a decision from the Association as to whether such Legal Assistance will be afforded to the Member or not.
- 11.4 The Member shall submit duly sworn and attested affidavits setting out the full facts and circumstances of the alleged dispute within 3 (three) days of having been requested to do so by the General Secretary.
- 11.5 The EXCO may initiate or defend any legal proceedings concerning labour disputes involving the Association or its Members.
- 11.6 The EXCO may authorise specific persons to take all necessary steps and sign all documentation on behalf of the Association in connection with any legal proceedings.
- 11.7 Every Member, by means of Membership, cedes their legal rights in any labour dispute to the Association. Such cession will stand, unless the Association opts not to pursue a specific matter and so communicates with the Member in writing.
- 11.8 All Members irrevocably afford the Association the right to prosecute any legal proceedings in the name of the Member, including the right to depose to any Founding Affidavit on behalf of that Member in any legal proceedings, and grant the Association the right to do all things necessary to prosecute the proceedings on their behalf, including the right to settle or compromise the dispute and undertake to provide the Association, at the Member's sole expense and within a reasonable time of being requested to do so, with all information and other material reasonably required by the Association in order to render legal assistance and/or to institute legal proceedings for and on behalf of the Member.
- 11.9 Any Member who requires legal proceedings to be instituted on his behalf shall be obliged, if requested by the Association in writing to do so, to submit to the Association a written acknowledgement of debt on such terms and conditions as are acceptable to the Association or as may be prescribed by the EXCO from time to time, in respect of such amount as represents the prescribed excess, being the first amount payable by the Member, in respect of all legal costs and necessary disbursements incurred by the Association in instituting legal proceedings for and on behalf of the Member, which acknowledgement shall be signed by the Member.

- 11.10 Despite any limitation on the right to legal assistance or proceedings contained in this Constitution, in cases where the EXCO is of the view that legal assistance should be afforded to a particular Member or that legal proceedings should be instituted on behalf of a particular Member, the EXCO may resolve that such legal assistance be afforded to such Member or that legal proceedings be instituted by the Association on behalf of such Member.
- 11.11 Every Member, by means of Membership, agrees that, in the event of a case being pursued by the Association on their behalf, and such action is successful, that 25% (twenty-five percent) of the proceeds, if any, will go towards the Association in lieu of contingency Fees.
- 11.12 No Member shall be entitled to demand that any or specific legal proceedings be instituted by the Association on his or her behalf, despite the content of any written opinion obtained in the context of legal assistance afforded to the Member, or that the Association continue with any proceedings already instituted, in cases where the General Secretary is of the view and has certified in writing that in his or her opinion the dispute no longer has reasonable prospects of success in the light of any further legal opinion obtained, or further facts that have now come to light and/or, having had due regard to all other considerations of policy as prescribed by the EXCO from time to time, that in his or her opinion the proposed or current legal proceedings are no longer in the interests of both the Member and the Association.

12. MEMBERSHIP FEES

- 12.1 A monthly Membership fee shall be payable in advance by each Member of the Association.

- 12.2 For Membership of Flair SA:
- 12.2.1 R100 (one hundred rand) per month; or
 - 12.2.2 R1000 (one thousand rand) per annum.
- 12.3 For Membership of Flair SA Youth Confederate:
- 12.3.1 R50 (fifty rand) per month; or
 - 12.3.2 R500 (five hundred rand) per annum.
- 12.4 Upon Application, every prospective Member will, in addition to the Fees, pay an application fee equivalent to 50% of the monthly fee. The application fee is non-refundable.
- 12.5 Any Member whose Fees are in arrears for more than 30 (thirty) days will be considered a suspended Member until such time that their Fees are up to date.
- 12.6 During suspension, Members do not qualify for any benefits and are not eligible to vote.
- 12.7 In order to qualify for the rebate by means of the annual fee, such annual fee must be paid annually in advance in total on the anniversary of Membership to the General Secretary in any accepted prescribed manner.
- 12.8 All Members shall pay the monthly/annual Fees to Flair SA as determined by the GM of the Association and shall be required to pay any other amounts as determined by the EXCO.
- 12.9 No alteration of the Fees shall be made unless the EXCO shall have given at least 7 (seven) days' notice of such alteration.
- 12.10 The EXCO may from time to time approve a levy to be paid by Members of the Association for a specified purpose.
- 12.11 In addition to Fees, all Members shall also be liable to pay:
- 12.11.1 Contributions towards any benefit fund established by the Association; and
 - 12.11.2 Any Fines and/or Levies imposed by the Association in terms of this Constitution.
- 12.12 Upon resignation or expulsion of the Association, a Member will:
- 12.12.1 Remain responsible for any Fees or other monies owed to the Association at the date of such resignation or expulsion;
 - 12.12.2 Have no further claim on the benefits of membership or any assets or funds of the Association.
- 12.13 The EXCO shall take lawful steps against any Member or ex-Member to pursue any claim for recovery of assets and monies owed to the Association.

13. WAIVER AND INDEMNITY

- 13.1 Applicants for Membership, by applying for Membership of the Association, declare themselves fully acquainted with their rights and the nature and effect of this Constitution, this provision in particular, and solely by way of submission of their written application for Membership offer to waive all past and future rights, giving rise to any claim whatsoever that such applicant for Membership has or may have in the future, regardless of whether these rights have vested or could vest in the future, to claim damages from the Association, its office bearers, officials, Members and/or agents arising from any allegations of negligence or any other alleged actionable conduct on the part of the Association, its office bearers, officials, Members and/or agents and the Association shall be deemed to have accepted such offer to waive upon acceptance of the Applicant to Membership.
- 13.2 The Members of the Association jointly and severally indemnify and hold the Associations office bearers, officials, Members and agents harmless against all costs and financial consequences of any claim that may be instituted against such persons by any prospective Member, Member or former Member of the Association. Such waiver shall endure irrevocably after such prospective Member has been admitted to Membership and after the person making such claim has ceased to be a Member.
- 13.3 The office bearers, Members of all committees provided for in this Constitution, elected officials and other officials of the Association:
- 13.3.1 Will be indemnified by the Association for all proceedings, costs and expenses incurred for any act or omission performed in accordance with the provisions of the Constitution, provided that they have acted in good faith within the provisions of the Constitution;
- 13.3.2 Will be held personally liable for any expenditure incurred on behalf of the Association if they have incurred such liability not provided for in this Constitution or contrary to any lawful resolution taken by the Association.

14. MEMBERS' RESPONSIBILITIES

- 14.1 Every Member must observe the provisions of the Constitution and the lawful decisions of any body of the Association.
- 14.2 Every Member agrees to act in the best interests of the Association and its Members and agree not to act in any way which is detrimental or prejudicial to the Association, its reputation or its Members.
- 14.3 Every Member agrees to pay their Fees in advance, either monthly or annually.
- 14.4 A Member may be suspended, fined or expelled if:-
- 14.4.1 She/he fails to, within 14 (fourteen) days of demand, in writing, by the General Secretary, to pay Fees, Fines or Levies which are 3 (three) months in arrears;
 - 14.4.2 If she/he infringes any of the terms of this Constitution or act in a manner which is detrimental to the interests of the Association or its Members, as determined by the EXCO.
- 14.5 Right to Appeal:
- 14.5.1 Any Member who has been suspended, fined or expelled for a reason other than that of their Fees being in arrears, has the right to request an opportunity to state her/his case at a meeting of the EXCO, by manner of an appeal.
 - 14.5.2 Such appeal will be made in writing, to the General Secretary, within 21 (twenty-one) days of the sanction being passed on the Member.
 - 14.5.3 A Member shall be entitled to call witnesses in support of her/his case at an appeal hearing.
 - 14.5.4 Any decision taken by the EXCO at such an appeal shall be final and binding on the Member.

15. TERMINATION OF MEMBERSHIP

15.1 Membership may be terminated in any of the following ways:

15.1.1 Written resignation by the Member with 1 (one) month's notice

15.1.2 Death of the Member

15.1.3 Disciplinary measures as set out in clause 14.4

15.1.4 Arrears in Fees: any Member whose Fees are 3 (three) months in arrears shall automatically cease to be a Member of the Association.

15.2 A Member shall cease to be entitled to any rights or benefits, including their right to vote, in the event that:

15.2.1 Fees or any other charges due by her/him to the Association are 3 (three) months in arrears;

15.2.2 During any period while she/he is under suspension;

15.2.3 If she/he infringes any of the terms of this Constitution

15.2.4 If she/he acts in a manner which is detrimental to the interests of the Association or its Members

15.2.5 If she/he acts in a manner which brings the Association or its Members in disrepute, including social media activities.

16. MANAGEMENT STRUCTURE OF THE ASSOCIATION

- 16.1 The Association operates within South Africa on a centralised management structure. Centralised does not refer to the physical location of office bearers, officials or Representatives. The Association believes that, with the modern technology available today, physical location does not play an active role in the management structure of the Association.
- 16.2 The management of the affairs of the Association shall be vested in an EXCO.
- 16.3 The Founding Members shall always have a position on the EXCO.
- 16.4 Other EXCO Members shall be elected by the GM, in accordance with the following process:
- 16.4.1 Only Members can serve on the EXCO;
 - 16.4.2 On instruction by the General Secretary, Members in good standing must submit nominations of qualifying candidates for specified positions;
 - 16.4.3 A nominee must accept such nomination and submit their curriculum vitae (“cv”) to the EXCO
 - 16.4.4 It is the duty of the EXCO to ensure the continued existence and prosperous future of the Association. As such, the EXCO will evaluate qualifying applications in line with the qualifications set out for each position and compile a shortlist of all candidates.
 - 16.4.5 Such shortlist will be communicated to all Members.
 - 16.4.6 Each shortlisted candidate will be required to do a short presentation to the AGM and explain why they should be elected to serve on the EXCO.
 - 16.4.7 The GM will cast a vote (one vote per Member per vacant position).
 - 16.4.8 The candidate(s) with the most votes (per vacant position) will be appointed to the EXCO.
 - 16.4.9 The term of an elected Exco member is 2 (two) years.
 - 16.4.10 An EXCO member may be re-elected, subject to the election process being adhered to.
- 16.5 The EXCO, within the parameters of the Constitution, shall have the power to:
- 16.5.1 Engage and dismiss, except where otherwise provided in this Constitution, any Members, including the General Secretary, fix their remuneration and define their duties;
 - 16.5.2 Appoint, from time-to-time, such committees as it may deem fit for any purpose they may require, including investigating and reporting on any matter;
 - 16.5.3 Appoint, from time-to-time, such service providers as it may deem fit for the purpose of rendering services to the Association and its Members;

- 16.5.4 Institute legal proceedings on behalf of the Association or to defend proceedings against the Association where possible;
- 16.5.5 Institute legal proceedings on behalf of Members or provide legal assistance to Members on matters affecting their employment;
- 16.5.6 Open and operate a Banking account in the name of the Association;
- 16.5.7 Decide on all matters of interpretation or procedure where the Constitution is silent;
- 16.5.8 Do all such lawful things as is, in the opinion of the EXCO, appear to be in the interests of the Association or its Members;
- 16.5.9 Acquire, either by purchase, lease or otherwise, any movable or immovable property on behalf of the Association and sell, let, mortgage or otherwise deal with or dispose of any movable or immovable property of the Association;
- 16.5.10 Recommend the Association's participation in the establishment of a bargaining or statutory council and, subject to the constitution of any such council, to determine the Association's representation thereon.

16.6 An EXCO Member shall vacate her/his seat in any one of the following circumstances:

- 16.6.1 Written resignation (on 1 (one) month's notice);
- 16.6.2 Death of the EXCO Member;
- 16.6.3 If the EXCO Member has brought the Association in disrepute;
- 16.6.4 If the EXCO Member has not fulfilled their fiduciary duties (including actual duties described for their portfolio);
- 16.6.5 If the EXCO Member did not abide by the Constitution;
- 16.6.6 If the EXCO Member, in a criminal court, is found guilty of a Serious Offence;
- 16.6.7 If the EXCO Member is incarcerated
- 16.6.8 For any other reason as is set out in the Companies' Act to be a justifiable reason for a director to be removed from its position.

16.7 Portfolios of EXCO Members

- 16.7.1 EXCO Members must fulfil tasks required by each of the portfolios.
- 16.7.2 A portfolio does not necessarily represent a position and as such, one EXCO Member may serve more than one portfolio at any given time.
- 16.7.3 The EXCO will determine when positions become available on the EXCO and the qualifications required for each position, bearing in mind the form and extent of portfolio(s) such EXCO Member will need to fulfil.

16.7.4 The portfolios that are identified in this Constitution may be amended/updated by the EXCO.

16.7.5 As at inception, the portfolios for management by the EXCO are the following:

16.7.5.1 Two Presidents, acting jointly as co-Presidents

16.7.5.2 General Secretary

16.7.5.3 Treasurer / CFO / FD

16.7.5.4 Technical / Technology

16.7.5.5 Communications (including branding and marketing)

16.7.5.6 Membership (recruitment of members / "sales")

16.7.5.7 Youth (should always be managed by a representative Youth Member)

16.7.5.8 Legal

16.7.5.9 General / Procurement / Affiliations

16.7.5.10 Benefits

16.7.6 Duties for each portfolio may be determined and updated by the EXCO as is required.

16.8 Members may supply services to the Association and no conflict of interest will exist in such an event. Any such services must be supplied at a similar standard and at a reasonable market-related price. The EXCO Member responsible for the portfolio of Procurement may never also be the supplier of services.

16.9 Duties of the Presidents. The Presidents shall jointly or separately:

16.9.1 preside at all meetings at which she/he is present;

16.9.2 have a casting vote

16.9.3 enforce observance of the Constitution;

16.9.4 sign minutes of meetings and confirmation;

16.9.5 endorse all accounts for payment after approval by the EXCO;

16.9.6 authorise all payment on the banking account of the Association;

16.9.7 generally exercise supervision over the affairs of the Association; and

16.9.8 perform any other duties as the office may require.

16.10 Duties of the General Secretary. The General Secretary shall:

16.10.1 Receive requisitions for meetings of the EXCO or GM

16.10.2 Issue notices of meetings

16.10.3 Conduct all correspondence of the Association

16.10.4 Keep originals of all letters received and copies of those dispatched

16.10.5 At each EXCO meeting, table correspondence which has taken place since the previous meeting;

16.10.6 Attend all EXCO meetings and record minutes of the proceedings

16.10.7 Issue official receipts for all monies received, in accordance with the accounting practices put in place by the Treasurer;

16.10.8 Perform the duties as set out in the LRA, sections 98, 99 and 100;

16.10.9 Perform any such other duties as imposed by the Constitution or as directed by the EXCO.

16.11 Duties of the Treasurer. The Treasurer shall:

16.11.1 Administer the finances of the Association in accordance with the direction of the EXCO;

16.11.2 Submit reports in regard to the financial position of the Association to the EXCO at least once every 3 (three) months;

16.11.3 Keep all accounts of the Association and shall authorise all payments on behalf of the Association together with the Presidents;

16.11.4 Be responsible for distributing all monies as instructed by the EXCO;

16.11.5 Prepare and present an audited statement and balance sheet at the AGM;

16.12 The Treasurer may outsource all or some of the accounting functions to an external supplier, subject to the approval of the EXCO.

16.13 Any EXCO Member may, subject to the approval of the EXCO, delegate any of its duties by completing a Delegation of Authority for a specified period.

17. OFFICE BEARERS, OFFICIALS AND REPRESENTATIVES

- 17.1 No Member may serve as an office bearer, official or Representative if such Member is not a Member in good standing.
- 17.2 Office bearers and officials will be compensated for their duties in accordance with the directive from the EXCO.
- 17.3 The duties of the office bearers, officials and Representatives shall be as set out in the Constitution and may be amplified by the EXCO within reason at any time.
- 17.4 Office Bearers, Officials and Representatives will vacate their seat in accordance with the rules set out for EXCO members under clause 16.6.
- 17.5 Office Bearers
- 17.5.1 In addition to the portfolios of the EXCO, the EXCO may at any time appoint other Office Bearers to assist with their portfolios for any items that they do not wish to outsource.
- 17.6 Officials
- 17.6.1 The EXCO may appoint any officials to manage Representatives as and when the need arises.
- 17.6.2 The EXCO will, at such appointment, also set out the duties for such an appointed official.
- 17.7 Representatives
- 17.7.1 Representatives must first be trained for their duties, in accordance with the training program directed by the EXCO
- 17.7.2 Representatives shall
- 17.7.2.1 implement and give effect to decisions of the GM and EXCO;
- 17.7.2.2 recruit members and generally promote their interests;
- 17.7.2.3 represent members in matters before the CCMA or another appropriate forum;
- and
- 17.7.2.4 perform any other functions as the EXCO may direct.

18. MEETINGS

18.1 EXCO Meetings

18.1.1 The EXCO shall ordinarily meet once per month to conduct the affairs of the Association.

18.1.2 All decisions at the EXCO shall be agreed upon by a majority vote.

18.1.3 The Presidents shall have an ordinary and a casting vote.

18.1.4 Exco Members shall be notified in writing of the time and place of meeting by the General Secretary at least 7 (seven) days in advance, together with an agenda.

18.1.5 Shorter notice may, at the direction of the Presidents, be given in respect of Special EXCO meetings.

18.1.6 The quorum for meetings of the EXCO shall be 40% (forty percent).

18.1.6.1 If, within 30 minutes of the commencement time a quorum is not present, the meeting shall be postponed for not less than 4 (four) and not more than 10 (ten) days.

18.1.6.2 Not less than 2 (two) days' notice of a postponed meeting shall be given to all EXCO Members.

18.1.6.3 At such postponed meeting, the EXCO Members present shall form a quorum.

18.1.7 If, between meetings of the EXCO, a question arises which can be answered by a simple "yes" or "no", a vote of Exco Members may be taken by electronic communication, including email or text message.

18.1.8 All matters for consideration by the EXCO shall be decided on motion, duly seconded and voted upon by a show of hands.

18.2 Annual General Meeting ("AGM"):

18.2.1 An AGM of the Association shall be held on a date fixed by the EXCO, once per annum.

18.2.2 The notices and agenda for the AGM shall be communicated electronically by the General Secretary to the Members at least 14 (fourteen) days in advance.

18.2.3 At any GM of the Association, 25% of the Members in good standing shall constitute a quorum.

18.2.4 Failing a quorum the meeting shall be postponed

18.2.4.4 If, within 30 minutes of the commencement time a quorum is not present, the meeting shall be postponed for not less than 6 (six) and not more than 21 (twenty-one) days.

18.2.4.5 Not less than 3 (three) days' notice of a postponed meeting shall be given to all Members.

18.2.4.6 At such postponed meeting, the Members present shall form a quorum.

18.2.5 Once a quorum is present, the meeting shall be properly constituted and its proceedings shall be valid until it is adjourned, even if the quorum is not maintained.

18.2.6 Every Member has one vote at any GM.

18.2.7 Resolutions of the GM shall be adopted by a majority vote of Members present in person, as well as Members represented by proxy.

18.2.8 Voting on a resolution shall be by show of hands.

18.2.9 The Presidents (or other presiding person) shall have a casting vote.

18.2.10 The General Secretary shall ensure that minutes of all meetings of the GM are kept and distributed to all Members.

18.2.11 Special General Meetings ("SGM"):

18.2.11.7 A SGM may be called by a President on the advice of the EXCO or when requested in writing by not less than 20 (twenty) Members in good standing.

18.2.11.8 Notice of such SGM shall be communicated electronically at least 7 (seven) days' in advance, or in cases of extreme urgency, a shorter period as approved by the EXCO.

19. AUTHORITY TO ACT ON BEHALF OF ASSOCIATION

19.1 Only the Presidents may (acting jointly or separately) :

19.1.1 enter into or sign agreements, including collective agreements, on behalf of the Association and its Members.

19.1.2 represent the Association or act as spokespersons of the Association and its Members.

19.2 The EXCO may appoint any other person to act on behalf of the Association for any specific purpose.

19.3 Only agreements consistent with this Constitution and the policies and resolutions of the Association may be concluded.

20. FINANCIAL PROVISIONS

- 20.1 The Fees and any other monies shall be received by the Association directly into its fund manager's banking account.
- 20.2 Payments outside of budget in excess of R5,000 (five thousand rand) shall require prior approval of the EXCO and shall be made by electronic funds transfer authorised by a President and the Treasurer.
- 20.3 The budget of the Association shall be met from:
- 20.3.1 Fees
 - 20.3.2 Donations
 - 20.3.3 Sponsorships
 - 20.3.4 Any other income received
 - 20.3.5 Provided that acceptance of any such monies would not constitute a breach of the Constitution.
- 20.4 All disbursements to be made from the monies of the Association shall be in terms of a budget which has been approved by the EXCO.
- 20.5 The Treasurer shall be responsible for all payments in accordance with the budget via electronic funds transfer. Either President shall authorise each transaction together with the Treasurer.
- 20.6 All extra-ordinary expenditure shall be recommended by the Treasurer or a committee set up for that purposes and approved by the EXCO.
- 20.7 Most services will be outsourced, the Association is not foreseeing a large inhouse staff.
- 20.8 The Association should at all times endeavour to be liquid enough to sustain overheads in accordance with its budget for at least six months.
- 20.9 Should more monies be available than provided for in clause 20.3, some monies should be invested for any emergency funds. These funds would be for any situation regarded by the EXCO as appropriate.
- 20.10 Exco members will receive a monthly fee for their services. Bonuses may be authorised annually to the Exco members.
- 20.11 Any remaining profits at the end of the Financial year may be distributed to any Fund that the Association wishes to establish, or has been established. Such distribution must be authorised by the EXCO.
- 20.12 The Treasurer shall be responsible to the EXCO to administer the funds of the Association in accordance with the directives of the EXCO.

20.13 In accordance with the provisions of section 98(1)(b) of the LRA, the General Secretary shall prepare an information pack containing the statement of income and expenditure and a balance sheet together with the auditor's report in respect of each financial year to submit in accordance with section 98(2) of the Act.

21. ESTABLISHING OF FUNDS

- 21.1 The Association, in accordance with the aims and objectives in this Constitution, agrees to set up Funds to be used to the benefit of its Members.
- 21.2 Each Fund will be independently managed as a registered trust and the trustees of each of those funds will be elected by the Members at an AGM. Trustees, at the time of their election, must be members of EXCO.
- 21.3 The term of a trustee's service is 5 (five) years. A trustee may resign in accordance with the prevailing law and a new trustee must immediately appointed by the EXCO.
- 21.4 Trustees must abide by the provisions of the Companies' Act and their specific duties and requirements for fulfilling the duties of a trustee will be set out in the Founding Deed of each independent trust.

22. REPRESENTATION ON BARGAINING AND STATUTORY COUNCILS

- 22.1 The EXCO may at any time recommend that the Association shall become a party to a bargaining or statutory council established in terms of the LRA.
- 22.2 Any Member may volunteer as a Representative for such councils.
- 22.3 Representatives and/or alternates shall be appointed by the EXCO.
- 22.4 Representatives or their alternates on such council may be removed by the EXCO or may resign with 1 (one) month's written notice to the EXCO.
- 22.5 In the event of the resignation, removal or death of a Representative or alternate, the EXCO shall fill the vacancy as soon as is practically possible.
- 22.6 The EXCO may fill a vacancy with an acting Representative until such time as a permanent Representative and alternate may be appointed.

23. ESTABLISHMENT AND CONTROL OF REPRESENTATIVE ASSOCIATION COUNCILS

- 23.1 A Representative Association Council may be established in any workplace where the Association has no less than 10 (ten) Members.
- 23.2 Application for the establishment of a Representative Association Council shall be made, in writing, to the EXCO, by no less than 5 (five) of the Members in the workplace concerned.
- 23.3 If the EXCO approves of the establishment of a Representative Association Council, the General Secretary shall notify the Members who submitted the application therefor and arrange for an inaugural meeting.
- 23.4 At the inaugural meeting:
- 23.4.1 Nominations for membership of the Management Committee of the Representative Association Council shall be called.
 - 23.4.2 Election of the Management Committee shall take place by showing of hands and by majority vote.
 - 23.4.3 The Management Committee shall consist of, at minimum, a chairperson and secretary and additional members as may be decided by the meeting.
- 23.5 Generally, such Representative Association Council shall meet once a month and may be convened by the Management Committee whenever necessary.
- 23.6 The main duties of the Representative Association Councils shall be to:
- 23.6.1 implement and give effect to decisions of the GM;
 - 23.6.2 recruit members and promote their interests;
 - 23.6.3 investigate complaints from members in their workplace;
 - 23.6.4 represent members at the CCMA; and
 - 23.6.5 collect membership fees.

24. AMENDMENT OF CONSTITUTION

- 24.1 Any of the provisions of the Constitution may be repealed, changed or added to in any manner by resolution of the EXCO of the Association, provided that at least 14 (fourteen) days' notice of any proposed change(s) shall first have been given to the Members.
- 24.2 The Exco may not resolve for any amendment to the Constitution without a two-thirds majority vote.
- 24.3 No amendments shall have any force or effect until certified in terms of section 101 (3) of the LRA.

25. BALLOTS

- 25.1 In addition to those cases on respect of which the taking of a ballot of Members is compulsory in terms of the LRA, a ballot on any question shall be taken if the EXCO so directs.
- 25.2 Ballots shall be conducted in the following manner:
 - 25.2.1 A ballot may, at discretion of the EXCO, taken by email or other electronic means.
 - 25.2.2 Notice of a ballot shall be given to each Member in writing by the General Secretary at least 3 (three) days in advance.
 - 25.2.3 The Notice shall specify the manner, place and time of a ballot.
 - 25.2.4 The issue to be voted upon shall be clearly set forth on the ballot papers and such paper shall not contain any information by means of which it will be possible to identify the voter.
 - 25.2.5 Ballot papers may be electronic.
 - 25.2.6 Completed ballot papers shall be placed in ballot boxes, inspected and sealed by the General Secretary
 - 25.2.7 Each Member shall be allocated one ballot only
- 25.3 On completion of a ballot, or as soon as is possible thereafter, the result thereof shall be ascertained by the General Secretary and communicated to the EXCO which shall as soon as is practical advise the Members.
- 25.4 Ballot papers shall be retained for no less than 2 (two) years. Such retention may be by electronic means.
- 25.5 Special ballots: A ballot may be taken without notice at any GM on the decision of a majority of the Members present.

26. DISSOLUTION

- 26.1 The Association shall be dissolved if, at a ballot of the GM, conducted in the prescribed manner, a two-thirds majority vote in favour thereof is obtained.
- 26.2 Upon such resolution of dissolution, or in the event that the Association is unable to continue to function, the following provisions shall apply:
- 26.2.1 Either President of the Association or, if she/he is not available, the remaining EXCO Members, shall forthwith submit to the Labour Court a statement signed by her/him/them setting forth the resolution adopted or the reasons for the Association's inability to continue to function, as the case may be, and request the Labour Court to grant an order in terms of section 103 of the LRA.
- 26.3 The liquidator, appointed by a President or the EXCO Members, shall call upon the last appointed office bearers to deliver to her/him the Association's books of accounts showing the assets and liabilities together with the register of the Members for the 12 (twelve) months prior to the resolution for dissolution was passed or to the date as from which the Association was unable to continue to function, as the case may be (hereinafter referred to as the date of dissolution), the membership fees paid by each Member and her/his address at said date.
- 26.4 The liquidator shall also call upon said office bearers to hand over to her/him all unexpended monies of the Association and to deliver to her/him the Association's assets and documents necessary to liquidate the assets.
- 26.5 The liquidator shall take the necessary steps to liquidate the debts of the Association from its unexpended funds and any other moneys realised from liquidation of any assets. If the monies are insufficient to pay all the creditors after the liquidator's fees and the expenses of the dissolution are met, the order in which the creditors shall be paid shall be in accordance with the relevant law for the time being in force to the distribution of assets in an insolvent estate, in accordance with the provisions of the LRA.
- 26.6 After payments of all debts, the remaining monies, if any, shall be distributed among the remaining Members of the Association on the basis of Fees actually paid in advance. Any further remaining monies will be equally distributed to the Founding Members.
- 26.7 The liability of Members shall, for the purpose of this clause, be limited to the amount of Fees due by them to the Association in terms of this Constitution at the date of dissolution.