

**CPA CONSTITUTION – TO BE READ IN CONJUNCTION WITH MEMORANDUM OF INCORPORATION**

**SCHEDULE 1**

**INCORPORATION AND NATURE OF THE COMPANY**

**PART A**

*Insert any provisions limiting the purposes or powers of the Company, as contemplated in section 19 (1) (b) of the Act*

**• OBJECTS**

- 1) The objects and aims for which the Association is formed are, inter alia, that it shall be empowered through or by its Board to:
- 2) Promote and foster good relations between the Association and all persons and organizations with whom the industry is in association both locally and internationally including:
  - a) the advertising profession – marketers, agencies and production companies;
  - b) all broadcasters
  - c) processing and facility houses
  - d) suppliers of goods
  - e) Government departments, National, Provincial and Metropolitan structures.
  - f) people, Organizations, Associations and Federations that provide services to the Industry
  - g) crew and talent agents and those represented by them;
- 3) Adopt codes of conduct and ethics and such other instruments as may be appropriate to regulate the conduct of its members, including any procedures applicable to the alleged breach of such codes and the sanctions therefore.
- 4) Set standards of membership of the Association such that those employing the services of, or having dealings with members shall have such assurance and safeguard of professional competency and honourable dealing as shall justly encourage them to deal preferentially with members.
- 5) Protect the industry from unfair competition by organizations or person whose businesses cannot be legally classified within the Industry or whose businesses may hold an unfair advantage.
- 6) Provide a forum for the members to raise concerns, and matters for the general benefit of the entire Industry.
- 7) Ensure that members are aware of their legal rights and obligations.

8) In general, provide, inter alia, such services as shall be considered commensurate with an association of this nature.

## **PART B**

*Insert any 'Ring fencing' provisions as contemplated in section 15 (2) of the Act.*

## **PART C**

*Insert provisions establishing, or providing for the establishment of, a scheme of distribution of the net assets of the Company upon its dissolution, as required by Item 1 (4) of Schedule 2 of the Companies Act, 2008.*

### **• DISSOLUTION OF ASSOCIATION**

The Association may be dissolved by a special resolution passed at an Extra Ordinary General Meeting. The special resolution shall be passed by not less than three quarters of all members present and voting at such meetings.

## **PART D**

*(a) any provisions relating to the amendment of the Memorandum of Incorporation, as contemplated in section 16 (1) (c) of the Act; and*

### **• AMENDMENT OF THE MEMORANDUM OF INCORPORATION**

The Association may change this constitution at any time by a resolution adopted by unanimous vote of all the members on a motion to amend tabled without prior notice; or by a resolution adopted by at least two-thirds of all the members after at least one month's notice of that motion to amend had been given to the Executive Director; and two weeks' notice of that motion had been given to all the other members.

Voting may take place by means of an electronic vote, the results of which must be verified by a quorum of the Board.

*(b) Any provisions relating to the Board's authority to make rules for the Company, as contemplated in section 15 (3) to (5) of the Act.*

## **PART E**

*Provisions setting out the terms and conditions of membership*

### **• MEMBERSHIP**

- 1) The members of the Association shall consist of all natural persons, registered companies, partnerships or proprietorships from the Industry.
- 2) On admission as a member of the Association, a member agrees to be bound by this Constitution, the Code of conduct, the MAC or generic BEE Charter and the rules and regulations of the Association, as amended from time to time.

• **APPLICATION FOR MEMBERSHIP AND MEMBERSHIP FEES**

- 1) Application for membership of the Association shall be made on the official application form addressed to the Executive Director.
- 2) The Executive Director shall submit the application to the Board.
- 3) The Board of Directors shall have the sole discretion of approving or rejecting the application provided only that such approval/rejection is endorsed by the majority of the members of the Board.
  - a) The reasons for the rejection of membership may only be disclosed at the discretion of the Board.
  - b) In the event that membership is denied, applicants may reapply after a 12 month period.
- 4) An initial membership fee shall be payable by any duly admitted applicant as a member of the Association and an annual subscription shall be payable thereafter (the annual subscription shall not be paid in addition to the initial membership fee) subject to the following conditions:
  - a) The initial membership fee shall be decided by the Board and will be payable within thirty (30) days after admission as a member of the Association.
  - b) The membership fee is subject to revision at the discretion of the Board and shall be ratified at the Annual General Meeting.
  - c) The annual subscription shall be payable by all members of the Association not later than the first day of August each year or within 30 days of invoice;
  - d) where the Association has not received the initial membership fee or the annual subscription of a member by the due date;
    - i. the Executive Director shall cause a written notice to be addressed to such a member by e-mail requiring such a fee to be paid within thirty (30) days;
    - ii. from the date of e-mail the notice to date of payment such defaulting member shall automatically be suspended from the Association.
- 5) The appropriate sub-committee may, on good grounds, cancel the membership of such defaulting member.
- 6) For the purposes of termination of membership or other matters in terms of this Constitution, a member shall be deemed to be responsible for the actions of its directors, members/ agents and employees.

• **VOTING**

- 1) At annual general meetings voting shall be by show of hands and each member shall have one vote. Voting for the new Board shall be by way of secret ballot. Only members in good standing will be eligible for election to the Board.
- 2) In conducting a ballot the Executive Director shall cause slips of paper to be distributed only to those duly enrolled members of the Association entitled vote, who shall record thereon:
  - i. Their endorsement either for or against any resolution or if an office bearer is to be elected, the name of such preferred candidate.
- 3) The ballot slips shall be scrutinised and counted by not less than two members of the Board.
- 4) If the principal place of business of a member is situated more than 50 kilometres from the place of the Annual General Meeting or the extraordinary Annual General Meeting, the member may vote in writing on any matter before the meeting by means of an e-mail addressed to the Executive Director. Such vote shall be null and void if it is not received by the Association in time to be included among the votes when these are counted at such meeting.

**END OF SCHEDULE 1**

**SCHEDULE 2**  
**RIGHTS OF MEMBERS**

**PART A**

*Insert any provisions limiting or restricting the right of members to act without meeting formal requirements, as contemplated in section 57 (4) of the Act.*

**PART B**

*Insert any provision creating additional information rights of members, as contemplated in section 26.*

**PART C**

*Insert any provision relating to the powers of members to appoint proxies, the appointment of proxies, and the powers of any such proxy, as contemplated in section 58 of the Act.*

**PART D**

*Insert any provision respecting the fixing of a record date, as contemplated in section 59 of the Act.*

**END OF SCHEDULE 2**

**SCHEDULE 3**  
**MEMBERS MEETINGS**

**PART A**

*Insert any provisions imposing a requirement to hold a members meeting.*

• **GENERAL MEETINGS**

- 1) The Annual General Meeting of the Association shall be held each year in August, September or October.
- 2) Save as may be provided in the Act, members may not convene a general meeting of the Association, except where all the directors have become incapacitated or have ceased to be directors, in which event 2 (two) or more members may convene a general meeting on due notice to all members entitled thereto, and may recover cost of so doing from the Company.

• **NOTICE OF GENERAL MEETINGS**

- 1) The Executive Director shall upon formal instructions by the Board give not less than twenty one (21) days' notice in writing to each member of the Association to the date and venue of the Annual General Meeting.
  - a) in the manner hereinafter determined;
  - b) To such persons as are, in accordance with the provisions of the Articles, entitled to receive notice of all meetings from the Association.
- 2) The notice shall specify the place, day and time of the meeting and the nature of the business to be transacted thereat, and in the case of special business, in addition to any other requirements contained in these presents, the general nature of that business, and in the case of a special resolution, the terms and the effect of the resolution and the reasons for it shall be given in the manner herein after mentioned or in such manner, if any, as may be prescribed by the directors to such persons as are under these presents entitled to receive such notices from the association; provided that a general meeting of the association shall; notwithstanding that it is called by shorter notice than specified in these presents, be deemed to have been duly called if it is so agreed.
- 3) Whenever notice of a meeting is given pursuant to this Article, the Association shall forward a copy thereof to the auditors of the Association and to the Executive Director.
- 4) The accidental omission to give notice of a meeting or, where applicable, to send an instrument of proxy therewith, or the failure to receive a notice or proxy by any person entitled thereto, or the late receipt thereof, shall not invalidate the proceedings at the meeting.

• **PROCEEDINGS AT GENERAL MEETINGS**

- 1) The agenda of an annual general meeting shall be modelled along the following:
  - Minutes of the previous annual general meeting;
  - Correspondence and matters arising;
  - Executive Director's report and matters arising;
  - Special motions or resolutions of which notice has been given;
  - Election and admission of members not automatically eligible under the Constitution;
  - Election of new Board;
  - General

2) In the event of any member wishing to submit a motion or resolution for consideration at an annual general meeting such member must furnish formal notice thereof in writing to the Executive Director at least ten (10) days prior to the said annual general meeting.

3) The Executive Director shall circulate the motion or proposed resolution to all members.

• **EXTRA ORDINARY GENERAL MEETINGS**

- 1) The Board may, whenever they consider it fit, convene an Extra-Ordinary General Meeting for the purpose of any special business of the Association, alternatively at the request of not less than 20% of the members of the Association.
- 2) The request shall be in writing stating the purpose of such meeting.
- 2) The Executive Director shall convene an Extra Ordinary General Meeting on notice to all members. The procedure for the conduct of the Extra-Ordinary General Meeting shall be the same as that of conducting the Annual General Meeting.

**PART B**

*Insert any provision limiting or restricting the authority of the Board to determine the location of members meetings, or the authority of the Company to meet outside the Republic*

• **LOCATION OF MEMBERS MEETINGS**

Subject to the provisions of the Companies Act, 2008 –

- a) all general meetings whether annual or otherwise;
- b) All adjourned general meetings; shall be held at such time and place as the directors shall appoint.

**PART C**

*Insert any provision limiting or restricting the authority of the Board with respect to the use of electronic communication for members meetings, as contemplated in section 63 of the Act.*

- Members to be enabled to vote electronically.

**PART D**

*Insert any provision regarding the quorum requirements for members meetings, or varying the provisions of section 64 of the Act.*

• **QUORUM FOR A GENERAL MEETING**

- 1) A quorum of members necessary for the purposes of holding duly constituted annual general meeting or extra-ordinary general meeting shall be 30% of the total number of members attending in person or by proxy at the said meeting.

- 2) Where no quorum is present, the Executive Director shall adjourn the meeting to the fourteenth day thereafter unless such day is a holiday, in which case adjournment of the meeting shall be the first working day after the fourteenth day
- 3) Those present at the adjourned meeting shall constitute a quorum.
- 4) Attendance at general meetings shall be open only to members and invited guests.

#### **PART E**

*Insert any provision varying section 64 (13) of the Act with respect to the maximum period for adjournment of a members meeting.*

#### **PART F**

*Insert –*

- (a) any provision establishing different requirements for adoption of an ordinary resolution for different matters;*
- (b) any provision establishing different requirements for adoption of an special resolution for different matters; or*
- (c) Any provision imposing the requirement of a special resolution to approve any matter, as contemplated in section 65 (11) of the Act.*

#### **END OF SCHEDULE 3**

#### **SCHEDULE 4** **DIRECTORS OF THE COMPANY**

#### **PART A**

*Insert any provisions setting out the process for the election of Directors by the voting members.*

#### **• ELECTION OF DIRECTORS**

- 1) The Association shall have not less than 3 (Three), and not more than 10 (Ten) directors.
- 2) The election of the board of directors shall take place at the Annual General Meeting of the Association subject to the following conditions:
  - All candidates shall be nominated in writing by a member who shall sign the nomination form and submit same to the Executive Director at least fourteen (14) prior to the Annual General Meeting
  - All candidates shall be elected by a secret ballot at the Annual General Meeting;
  - There will be a minimum of five (5) South African director based Board members.
  - Equally service members should be well represented.
- 3) Where the nominations exceed the number of positions available and the nominees all wish to stand, the general body of members shall be required to vote by secret ballot on the basis of one vote per member.
- 4) The newly elected Board shall fix a date which is not less than thirty (30) days after such

Annual General Meeting, for its first meeting at which Board sub committees shall be constituted.

- 5) If a member of the Board vacates his or her office, the replacement will be elected by the Board.
- 6) The Board shall exercise all such rights and powers of the Association as are noted by this Constitution required to be exercised by the Association in a General meeting.
- 7) The Board shall be empowered to make rules and regulations for the management and conduct of the affairs of the Association.
  - All Board meetings and correspondence between Board members will be confidential and minutes and recordings of meetings will only be available to Board members.
  - Dissemination of minutes to members or outside parties will be at the discretion of the Board.
  - A simple majority of votes will carry where the Board is required to vote on matters before it.
- 8) The Board may from time to time entrust to, delegate or confer upon a sub-committee or a committee member or a non-member such of its powers and authority as the said committee may in its sole discretion deem fit and may likewise revoke, vary and alter such powers and authorities.

#### • **DUTIES OF THE BOARD**

##### **The Executive Director**

- 1) The Executive Director shall be a director of the Board.
- 2) The role of the Executive Director shall be to chair and conduct all meetings of the CPA at which he/she is present and shall also include:
  - i. To give all instructions necessary to give effect to the decisions and policies of the CPA and this Memorandum of Incorporation;
  - ii. To perform all duties on behalf of the Association including:
    - a) Dealing with all correspondence by and with the Association;
    - b. notification of meetings to members;
    - c. the issuing of statements concerning the Association;
    - d. keeping and maintaining a register of all members of the Association;
    - e. Oversee the recording of meetings and the compilation of minutes and to circulate these, or any resolutions that may be taken, where appropriate.
    - f. receive all the moneys of the Association;
    - g. ensure that all the moneys so received are credited to the Association's bank account;
    - h. make payments on the Association's behalf;
    - i. prepare accounts of the Associations' finances for the Annual General Meeting, or when requested to do so by the Board;



- j. Ensure that all Electronic transfers made out in the name of the Association, shall be authorized/ signed by the finance subcommittee and the Executive Director.
- k. Within 30 days of receipt of the auditor's report, provide the Registrar with a certified copy thereof.

### **Elected Executive Committee Members**

3) The role of the elected Board members shall be to attend all committee meetings and assist in the general running of the Association's affairs.

### **• VACATION OF OFFICE**

The office of a member of the Board shall become vacant if such member:

- Resigns by giving one (1) month written notice to the Executive Director;
- if such member fails to attend three (3) consecutive meetings of the committee or any sub-committee without just and proper cause;
- upon refusal to abide by a decision taken by the Board or upon the dismissal of a member by the disciplinary sub-committee.

### **PART B**

*Insert any provisions establishing the rights of any person to appoint a director, or establishing the right of any person to be an ex officio director of the Company.*

### **PART C**

*Insert any provision imposing additional eligibility or qualification requirements for directors and prescribed officers of the Company.*

### **PART D**

*Insert any provision limiting or restricting the authority of the Board to manage and direct the business and affairs of the Company, as contemplated in section 66 (1) of the Act.*

### **• FINANCES**

- 1) The Association must open and maintain an account in its name with a bank of its choice that is registered in the Republic, and
  - a) Deposit all moneys it receives in that account within three (3) days of receipt; and
  - b) Pay the expenses of and make all payments on behalf of the Association by electronic transfers drawn on that account.
- 2) The Association may invest any surplus funds not immediately required for current expenditure or contingencies, in –
  - a) Savings accounts, permanent shares or fixed deposits in any registered bank or financial institution.
  - b) Internal registered stock as contemplated in section 21 of the Exchequer Act, 1975 (Act No.66 of 1975)
  - c) a registered unit trust
  - d) any other manner

3) All payments from the Associations funds must be:

Made by electronic payments drawn on the Association's bank account and signed/authorised by the Executive Director and one Executive member of the finance sub-committee.

However, the Association, by special resolution, may authorize any board member to sign or countersign/authorize electronic payments drawn on the Association's bank account in the event of the Executive Director not being readily available for that purpose.

4) Despite the above:

a) the Executive Director may make petty cash payments by means of the Association's credit card account. All petty cash transactions must be reconciled in the books of the Association.

5) At the end of each quarter of the financial year, the Executive Director must prepare a statement showing the income and expenditure of the Association for that quarter, and another reflecting its assets, liabilities and financial position as at the end of that period.

6) The financial year of the Association begins on 1 July in each year and ends on 30 June of the following year, except the first financial year, which begins on the day that the Association is registered and ends on 28th February of the following year.

7) Not later than 6 months after the end of the financial year, the Executive Director must prepare a statement of the Association's financial activity in respect of that financial year, showing –

1) all moneys received for the Association;

2) expenditure incurred on behalf of the Association, under the following heads:

i. remuneration and allowances of officials and employees

ii. amounts paid to officers for their attendance at meetings, the travelling and subsistence expenses incurred by them, and the salary or wage deducted or not received by them due to their absence from work by reason of their involvement with the Association;

iii. office accommodation

iv. printing and stationery requirements; and

v. miscellaneous operating expenditure; and

vi. The Association's assets, liabilities and financial position as at the end of that financial year.

vii. The annual financial statement must be signed by the Executive Director and submitted to an auditor for auditing and preparing a report to the Association.

viii. Certified copies of the audited statements and the auditor's report must be made available for inspection at the office of the Association to members who are entitled to make copies of those statements and the auditor's report.

3) The Executive Director must send certified copies of the audited financial statement and the auditor's report to the registrar within 30 days of receipt thereof.

- 8) Every year the Executive Officer must prepare, for submission at the annual general meeting of the Association, a budget for the Association for the next financial year.
- 9) The Association shall preserve each of its books of account, supporting vouchers, records of subscriptions or levies paid by members, income and expenditure statements and auditor's reports for a period of 5 years from the end of the financial year to which they relate.
- 10) At the Annual General Meeting the Association must appoint an auditor to perform the audit of the Association for the next financial year.

**PART E**

*Insert any provision limiting or restricting the authority of the Board to consider a matter other than at a meeting as contemplated in section 74 of the Act.*

**PART F**

*Insert any provision limiting, restricting or varying the authority of the Board with respect to the conduct of its meetings, as contemplated in section 73 of the Act.*

**PART G**

*Insert any provision limiting, restricting or extending the authority of the Company to advance expenses to a director, indemnify a director, or purchase insurance to protect the Company or a director, as contemplated in section 78 of the Act.*

**PART H**

*Insert any provision limiting or restricting the authority of the Board with respect to the establishment of committees, as contemplated in section 72 of the Act.*

**• BOARD OF DIRECTORS**

- 1) The business of the Association shall be managed by a Board of Directors. The Board shall be elected each year at the Annual General Meeting.
- 2) The Board shall consist of:
  - i. The Executive Director, who may be a paid employee of the Association and appointed by the Board;
  - ii. Eight to ten elected Board members.
- 3) The Board shall hold office for a period of twenty four (24) months. This does not preclude a member from being re-elected in accordance with the provisions of the Constitution.

**• DUTIES OF THE BOARD**

- 1) The Board shall be empowered to make rules and regulations for the management and conduct of the affairs of the Association and regulations for the conduct of its proceedings at meetings.
- 2) The Board may from time to time entrust to, delegate or confer upon a sub-committee or a member or a non-member such of its powers and authority as the said committee may in its sole discretion deem fit and may likewise revoke, vary and alter such powers and authorities.

- 3) The Board may:
- i. Appoint persons to represent the Association in respect of any of its affairs including legal representation.
  - ii. appoint paid employees of the Association

- 4) The Board shall Committee shall:
- i. Hold meetings at least once a calendar month or as often as may be required. 50% of members of the Board shall constitute a quorum.
  - ii. Call general meeting of the Association when matters affecting the interests of the industry arise or with a view to obtaining the mandate of a general meeting.
  - iii. Negotiate with the Government of South Africa and respective authorities on matters of interest to the Association.

• **SUB-COMMITTEES**

1) The Board is empowered to set up additional permanent and Ad Hoc sub-committees to deal with matters including but not limited to:

- a) The infringement of any provision of a code or standard established in terms of Part A of Schedule 1, Clause 3.
- b) Disputes arising between the Association and its board members or members; and
- c) Disputes arising between the members and their employees, suppliers, commissioning principals or independent contractors.

The structure and membership of any sub-committee established in terms of 10.1 shall be determined by the Board and may include:

- a) a full time employee of the CPA;
- b) a non-member of the CPA who may be a practicing attorney appointed at the discretion of the Board
- c) a member of the Board
- d) Any other person who may be appropriate by virtue of their training, skills experience, knowledge of the industry etc.

Any sub-committee established in terms of 10.1 may propose any method of resolving a matter which falls under the ambit of that sub-committee including the private resolution of disputes provided that :

- a) the terms of reference of any such private dispute resolution process shall be contained in a private dispute resolution agreement signed by all parties concerned; and
- b) In the event that the dispute concerns an issue provided for in 10.1.1, due regard shall be had to any applicable process contained in the instrument/code concerned.

**All acts performed by the directors or by a committee of directors or by any person acting as a director or a member of a committee shall; notwithstanding that it shall afterwards be discovered that there was some defect in the appointment of the directors or persons acting as aforesaid, or that any of them were disqualified from or had vacated office; be as valid as if every such person had been duly appointed and was qualified and had continued to be a director or member of such committee.**