

CONSTITUTION OF THE FERRO ALLOY PRODUCERS ASSOCIATION

INDEX

1.	NAME	1
2.	HEADQUARTERS.....	1
3.	DEFINITIONS AND TERMS.....	1
4.	OBJECTIVES.....	2
5.	STATUS OF THE EMPLOYERS' ASSOCIATION	4
6.	ELIGIBILITY AND APPLICATION FOR MEMBERSHIP.....	4
7.	MEMBERSHIP	4
8.	MEETINGS.....	5
9.	QUORUM, VOTES AND PROCEEDINGS AT MEETINGS.....	6
10.	RESIGNATIONS.....	7
11.	EXECUTIVE COMMITTEE	8
12.	REPRESENTATION ON OTHER BODIES	10
13.	APPOINTMENT OF OFFICIALS	11
14.	DUTIES OF OFFICE BEARERS AND OFFICIALS.....	11
15.	REMOVAL OF OFFICE BEARERS AND OFFICIALS.....	12
16.	REPRESENTATION ON BARGAINING AND STATUTORY COUNCILS.....	13
17.	DISCIPLINE.....	13
18.	ENTRANCE FEES AND SUBSCRIPTIONS.....	15
19.	FUNDS AND PROPERTY	15
20.	EXECUTION OF DOCUMENTS.....	15
21.	NOTICES.....	16
22.	INTERPRETATION.....	16
23.	INDEMNIFICATION AND LIABILITY OF MEMBERS	16
24.	ALTERATION IN CONSTITUTION AND FRAMING OF BYLAWS.....	16
25.	INSPECTION OF BOOKS	17
26.	AUDIT.....	17
27.	BALLOTS	17
28.	WINDING-UP.....	20

1. **NAME**

The name of the Association shall be the Ferro Alloy Producers Association (“FAPA”)

2. **HEADQUARTERS**

The Head Office of the Association shall be located within the borders of South Africa at a location decided by the Executive Committee from time to time.

3. **DEFINITIONS AND TERMS**

Any expression used in this Constitution and which is defined in the Labour Relations Act, 1995 (Act No. 66 of 1995), shall have the same meaning as in the Act.

In this Constitution:

“Act” means the Labour Relations Act, 1995, as amended;

“Adjourned Meeting” means a meeting of the members of the Association or the Executive Committee which continues a prior meeting at which a quorum was not present for the conduct of business.

“Administrator” means the Administrator of the Association appointed in terms of Clause 11.12.2.

“Affiliate Member” Means a member of the association who is not fully and actively engaged in the industry, but who is engaged in activities having a bearing on the industry and who has a vested interest in the industry.

“Applicant” means a company who is applying to become or who has been invited to become a member of the Association;

“Association” means the Ferro Alloy Producers Association

“Combined meetings” Means regular meetings of members of the Executive Committee and other members of the Association.

“Committee” means the Executive Committee of the Association

“Company” means a registered limited company, a closed corporation, a sole manufacturer and the like;

“Code of Conduct”	means the FAPA Anti-Bribery and Corruption Code of Conduct as set out in Annexure 1 hereto.
“Compliance Policy”	means the FAPA Competition Laws Compliance Policy as set out in Annexure 2 hereto.
“Employer”	means any person or the State who employs or provides work for any person who receives or is entitled to receive any remuneration;
“Executive Committee”	means the member/s elected in terms of Clause 11 to run the affairs of the Association;
“Financial Year”	means the period from 1st July in any one year until the 30th of June in the year following;
“First Member”	means a member of the Association who is fully and actively engaged as an employer in the manufacture and sale of ferro alloys;
General Meeting	means an Annual General Meeting or Special General Meeting of members of the Association.
“Industry”	means the manufacture and sale of ferro alloys;
“Member/s”	means a First Member or Affiliate member/s as the case may be;
“Objectives”	means the objectives of the Association as defined in Clause 4.
“Per Capita Levy”	means a levy payable to the association based on all fulltime employees and which amount shall be fixed at a General Meeting

Words referring to the singular shall include the plural and vice versa.

4. OBJECTIVES

The objectives of the Association shall be:

- 4.1 To promote, encourage and protect the interests of members and to deal with each and all such matters as may affect the common interests of the members;
- 4.2 To promote, encourage, support, or oppose any proposed legislation or proposed amendment of legislation or proposed statutory provision or other proposed

administrative or legislative measure affecting the interests of the Association or its members. To make representations to any Government, Minister or Public Authority, Municipal, local, or otherwise, as to the necessity for an enactment or amendment of legislation or for the issue of regulations, bylaws, ordinances, or rules;

- 4.3 To collect, collate, tabulate, and disseminate any information likely to be of use to members in a manner not inconsistent with the FAPA Competitions Law Compliance Policy
- 4.4 Whenever requested by a member or members to provide assistance to members on matters affecting the relationship between themselves and their employees or trade unions;
- 4.5 Whenever requested by a member **to** encourage the settlement of disputes between members and their employees or trade unions by conciliation, mediation, or arbitration;
- 4.6 To plan and organise its administration and lawful activities;
- 4.7 Whenever considered necessary by the Executive Committee of the Association, to affiliate with and participate in the affairs of any federated body, national or international employers' or other association whose objects are wholly or in part similar to those of this Association;
- 4.8 To encourage and promote an advance in the overall levels of technical abilities and capabilities at all levels in operational employees of members;
- 4.9 To cooperate with members and code-making bodies;
- 4.10 To act as the centre for industry liaison, contact and knowledge;
- 4.11 To establish and administer funds for the furtherance of the objectives of the Association;
- 4.12 To secure contributions to the funds of the Association by such means as may be decided on;
- 4.13 Print and publish or to assist financially, or to subsidise any newspapers, periodicals, books, or leaflets, that the Association may think desirable for the promotion of any of its objects and to establish and maintain a reference library consisting of books and publications containing information;
- 4.14 Borrow, invest, lend, subscribe, or donate money for the furtherance of the objectives of the Association;

- 4.15 Participate and present at seminars, congresses and indaba's in order to promote the objectives of the association and to gain additional support where applicable.
- 4.16 Do such lawful things as may appear to be in the interest of the Association and its members and which are not inconsistent with the objectives or any matter specifically provided for in this Constitution.

5. STATUS OF THE EMPLOYERS' ASSOCIATION

This employers' Association 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 shall be an Association not for gain.

6. ELIGIBILITY AND APPLICATION FOR MEMBERSHIP

- 6.1 Any employer engaged in the production of ferro-alloys shall be eligible for first membership of the Association.
- 6.2 Any party who is engaged in activities having a bearing on the industry and whom have a vested interest in the industry, shall be eligible for affiliate membership of the Association.
- 6.2 Application for membership shall be made on the form prescribed by the Association and shall be lodged with the Administrator.

7. MEMBERSHIP

- 7.1 Membership of the Association shall consist of First and Affiliate Members.
- 7.2 Applications for membership shall be made on the form prescribed by the Association and shall be lodged with the Administrator of the Association.
- 7.3 All applications for membership shall be provisionally approved by the appointed Administrator and shall be ratified at the next properly constituted Executive Committee Meeting of the Association.
- 7.4 An applicant refused membership by the Executive Committee shall be provided with reasons for such refusal, shall have the right of appeal to the next General Meeting of members of the Association.
- 7.5 All members of the Association shall be represented at all meetings of the Association. The name of the representative of a member, and his alternate, shall be notified by the member concerned to the Administrator.

- 7.6 Members shall conduct their business in accordance with the FAPA Code of Conduct and, at no time, shall a member bring the name of the Association into disrepute.
- 7.7 Every member shall notify the Administrator, in writing, of his/her contact details and any change thereof within four weeks of the date on which the change occurred.
- 7.8 Members will always work, participate, and respect Competition legislation applicable between representatives of the Association.

8. MEETINGS

- 8.1 The Annual General Meeting of the Association shall be held as soon as possible after the close of the Financial Year, but not later than 31 December of that year, at a time and place fixed by the Executive Committee. The business of the Annual General Meeting shall be:
 - 8.1.1 To consider the Balance Sheet and Income and Expenditure Account of the Association and the report of the Auditors and of the Executive Committee of such accounts and of the operations or activities of the Association during such year;
 - 8.1.2 To elect a Chairperson, Vice-Chairperson, and members to the Executive Committee;
 - 8.1.3 To consider any amendments to the Association's Constitution.
 - 8.1.4 Such further or other business of which notice shall have been given. At least ten (10) days written notice of each Annual General Meeting and of the time and of the place at which it shall be held shall be given by the Executive Committee to the members.
- 8.2 Further meetings which shall be known as Combined Meetings of the Association may be held at such time and place as the Executive Committee may decide.
- 8.3 Upon receipt of a written requisition from no fewer than three (3) First Members, the Executive Committee shall call a Special General Meeting, to take place within three (3) weeks from the date of receipt of such requisition which shall clearly state the objectives of such meeting and no other business may be transacted.
- 8.4 Seven (7) days written notice of Special General Meetings shall be given to all members by the Administrator and shall state the items to be discussed. Shorter notice of not less than

twenty-four hours may, at the discretion of the Chairperson, be given in respect of Special General Meetings.

9. QUORUM, VOTES AND PROCEEDINGS AT MEETINGS

- 9.1 Three (3) First Members in good standing shall form a quorum at any meeting of the Association.
- 9.2 The Chairperson shall have the power, with the consent of the meeting, to adjourn a meeting from time to time and from place to place, but no business shall be transacted at any Adjourned Meeting other than the business unfinished at the meeting from which the adjournment took place.
- 9.3 Questions arising for decision at any such meeting shall, unless otherwise provided herein, be decided on motion by a majority vote of Members on a show of hands, where a motion is duly seconded, or by ballot should the meeting so decide provided that in, the case of elections, the candidates up to the required number receiving the highest number of votes shall be declared elected. In the case of an equality of votes the Chairperson shall have the casting vote in addition to his/her deliberative vote.
- 9.4 The proceedings of any meeting shall not be invalidated by reason of the non-receipt of notice of any meeting.
- 9.5 No Member shall be regarded as in good standing nor have the right to vote nor be entitled to any of the benefits of membership if and so long as any subscription due by him/her is unpaid for a period exceeding three (3) months.
- 9.6 The Chairperson, or in his/her absence, the Vice-Chairperson, shall preside at all meetings. In the event of the Chairperson and Vice-Chairperson not being present within five minutes after the time for which the meeting is called, the members present shall proceed to elect an Acting Chairperson.
- 9.7 If, within fifteen minutes from the time appointed for any General Meeting, a quorum is not achieved, the meeting, if convened on the requisition of members, shall be dissolved, but in any other case it shall stand adjourned to the same day in the week following, or in the event of such day being a public holiday, to the succeeding working day at the same time and place, and at such Adjourned Meeting the members present shall form a quorum. Notice of such Adjourned Meeting shall be given by the Administrator to members.
- 9.8 All matters shall be decided on motion or in the case of elections by ballot and, if the presiding officer so decides, any motion shall be reduced to writing and shall be delivered

to the Chairperson or presiding officer to be read at the Meeting. No motion shall be considered unless seconded.

- 9.9 At every Meeting the minutes of the last preceding Meeting shall be read by the Administrator or have been circulated by the Administrator prior to the meeting and be signed by the presiding officer after confirmation.
- 9.10 All members of the Association shall be entitled to be represented at meetings of the Association either personally or by a duly accredited representative whose name shall be notified by the member to the Administrator from time to time.
- 9.11 Every First Member of the Association who is in good standing shall be entitled to exercise one (1) vote at meetings of the Association. Such vote may be exercised by the representative nominated in terms of Clause 9.10.
- 9.12 Meetings may be conducted entirely by electronic communication and members may participate in a meeting by electronic communication so long as the electronic communication facility employed ordinarily enables all persons participating in that meeting to communicate concurrently with each other without an intermediary, and to participate effectively in the meeting and a decision made in the manner contemplated in 9.12 is of the same effect as if it had been approved by voting at a meeting.
- 9.13 Any decision that could be voted on at any meeting of the Association may instead be adopted by written consent of a majority of the members, given in person, or by electronic communication, provided that each member has received notice of the matter to be decided and a decision made in the manner contemplated in 9.13 is of the same effect as if it had been approved by voting at a meeting.
- 9.14 Affiliate Members shall be entitled to attend all meetings of the Association and may participate but shall not be entitled to vote.

10. RESIGNATIONS

No resignation shall be accepted of which one (1) months' notice in writing has not been received by the Administrator of the Association, and no resignation shall take effect until all monies due to the Association by the member concerned have been paid. Any member resigning may not claim any refund of monies paid to the Association.

11. EXECUTIVE COMMITTEE

- 11.1 The management of the affairs of the Association shall, between Annual General Meetings, be vested in an Executive Committee.
- 11.2 The Executive Committee shall be comprised as follows and shall be elected from the ranks of the First Members at the Annual General Meeting of the Association:
- 11.2.1 The Chairperson and Vice-Chairperson;
- 11.2.2 At least four (4) other members;
- 11.3 The Executive Committee shall have power to co-opt members to the Committee. Such co-option shall be for the purpose of advising the Committee on any particular matter and for such period as the Committee may determine, but for no longer period than to the next Annual General meeting. Co-opted members shall be entitled to attend Committee Meetings and may participate but shall not be entitled to vote.
- 11.4 All elected members of the Executive Committee shall hold office until the Annual General Meeting, when they shall retire from office, but shall be eligible for re-election.
- 11.5 Each member of the Executive Committee shall have one (1) vote and in the case of an equality of votes, the Chairperson shall have a casting vote in addition to his/her deliberative vote. An alternate may not vote if his principal is present.
- 11.6 The Executive Committee shall meet from time to time but not less than twice a year to conduct the business of the Association. Special meetings of the Executive Committee shall be called by the Chairperson whenever he/she deems it advisable or upon requisition signed by not less than two (2) members of the Executive Committee.
- 11.7 The quorum for a meeting of the Executive Committee shall be three (3) members.
- 11.8 If within fifteen minutes from the time appointed for any Executive Committee Meeting a quorum is not present, the Meeting may stand adjourned to the same day in the week following, or in the event of such a day being a public holiday, to the succeeding working day at the same time and place, and at such Adjourned Meeting the members present shall form a quorum. Notice of such Adjourned Meeting shall be given by the Administrator to Executive Committee members.
- 11.9 Members of the Executive Committee shall be given not less than seven (7) days' notice in writing of the time and place of Meetings by the Administrator, provided that shorter notice of not less than twenty-four hours may, at the discretion of the Chairperson, be

given in respect of Special Meetings. To every notice of a Meeting an agenda shall be attached whenever practicable or sent to the members at not less than twenty-four hours before the time of the Meeting.

11.10 Vacancies occurring on the Executive Committee shall be filled by the Committee from First Members of the Association. A member so appointed to fill a vacancy shall hold office for the unexpired portion of the period of office of his/her predecessor.

11.11 The office of a member of the Executive Committee shall ipso facto be vacated:

11.11.1 On suspension or expulsion of his/her Company from membership of the Association;

11.11.2 On being absent from three consecutive meetings of the Committee, other than Special Meetings, without the permission of the Committee being first obtained;

11.11.3 On resigning by giving one (1) months' notice in writing to the Administrator of the Association;

11.11.4 On ceasing to be in good standing, that is when the subscription or any special fund contributed by his/her Company is more than three (3) months in arrears;

11.11.5 If he/she becomes insolvent or being the representative of a Company if a Company he/she represents be placed under liquidation whether voluntarily or by Order of Court.

11.12 The Executive Committee shall have power:

11.12.1 To hire or secure suitable premises for the purposes of the Association, and to provide all necessary furniture, books, papers, fittings, and requisites;

11.12.2 To engage the Administrator and other employees, to fix their salaries, prescribe their duties and to dismiss such persons subject to normal notification being given;

11.12.3 To enforce bylaws and/or rules not inconsistent with the Constitution of the Association for the time being in force or with the Act or any other law;

11.12.4 To regulate the form of procedure in the Committee;

11.12.5 To call meetings of all or any group of members of the Association;

- 11.12.6 To appoint from time to time one or more sub-committees consisting of members of the Association for the purpose of investigating and making recommendations to the Executive Committee on matters referred to them by the Executive Committee, and to add to such sub-committees any other members of the Association or representative of any member appointed under Clause 9.10 hereof, as it may think fit, and to fix the quorum for meetings of any sub-committee so appointed and the same at pleasure to revoke and to discharge such sub-committee wholly or in part. All sub-committees appointed by the Executive shall report to the Executive Committee if deemed necessary. In the absence of a quorum, sub-committee meetings shall stand adjourned for fifteen minutes, and thereafter whether or not a quorum is present, the meeting will be proceeded with;
- 11.12.7 Subject to the provisions of Clause 6 to accept or refuse applications for membership;
- 11.12.8 To acquire, either by purchase, lease or otherwise, any movable or immovable property, and also to sell, let, mortgage, or otherwise deal with or dispose of movable or immovable property belonging to the Association; provided that no immovable property shall be alienated or mortgaged or leased for longer periods than five (5) years without the sanction of a resolution of the Association in General Meeting, convened on not less than fourteen (14) days' notice either by circular to members or by advertisement, for the purpose of authorising such alienation, mortgage or lease;
- 11.12.9 To open and operate on a banking account in the name of the Association and to appoint an Auditor or Auditors;
- 11.12.10 To further the objectives of the Association generally and to do and carry out all its purposes, aims and objects with the exception of those that this Constitution are expressed to be carried out by the Association in a General Meeting.
- 11.12.11 Subject to the direction of a General Meeting, to invest surplus moneys in such a manner that the organisation stands to benefit from such investments.
- 11.12.12. The Executive Committee shall have the power to decide any matter by written consent or electronic communication.

12. REPRESENTATION ON OTHER BODIES

The Executive Committee of the Association shall be empowered to elect representatives from all members to other bodies. Such members or any duly appointed representative of a member

appointed under Clause 7.5 of this Constitution elected by the Association to represent it on other bodies to which the said Association is affiliated or with which it is co-operating shall serve in that capacity and not as individuals.

Every representative elected is to carry out the instructions of the Association in all matters pertaining to his/her appointment and the Association may at any time recall the appointment of any representative and appoint another in his/her place.

13. APPOINTMENT OF OFFICIALS

The appointment of every paid Official of the Association shall be subject to such notice as agreed between that Official and the Executive Committee unless authorised by the Association in General Meeting.

14. DUTIES OF OFFICE BEARERS AND OFFICIALS

14.1 Chairperson

The Chairperson shall preside at all meetings at which he/she is present, enforce observance of the Constitution of the Association, sign minutes of meetings after confirmation, fix dates of meetings, endorse all accounts for payment after approval by the Executive Committee and generally exercise supervision over the affairs of the Association and perform such other duties as by usage and custom pertain to the office. In the case of an equality of votes, the Chairperson shall have the casting vote in addition to his/her deliberative vote.

14.2 Vice-Chairperson

The Vice-Chairperson shall exercise the powers and perform the duties of Chairperson in the absence of the latter.

14.3 Acting Chairperson

In the event of both the Chairperson and the Vice-Chairperson being unable, either temporarily or permanently, to perform their duties, the Executive Committee shall appoint a member of the Association to act as Chairperson until the Chairperson or Vice-Chairperson is able to resume his/her duties or until the next election.

14.4 Administrator

14.4.1 The Administrator shall conduct the correspondence, issue notices of meetings, attend all meetings of the Association, take minutes of the proceedings and all

communications and papers that he/she may be instructed to read, keep a register of members and a record of the subscriptions paid by each member and the period to which these payments relate, the address of each member, the date on which he/she became a member in terms of the Constitution and in the event of the cessation of membership the date thereof and the reason therefore, prepare annual and other reports and publications as directed by the Association. Ensure that the website is updated with most recent information. When so directed, take charge of the property and papers of the Association, collect all subscriptions, and prepare accounts of income and expenditure of such funds as he/she is authorised to deal with, submit reports in regard to the financial position of the Association to the Executive Committee not less than once every three months; and generally, carry out such duties and functions as may be assigned to him/her from time to time. He/she shall keep proper books of account in such form as shall be prescribed.

All matters of urgency and importance requiring an immediate decision shall be referred by him/her to the Chairperson, and in the event of being unable to communicate with the Chairperson, he/she shall refer the matter to any two members of the Executive Committee.

The Administrator shall not be entitled to vote at any meetings of the Association.

- 14.4.2 In addition to the duties laid down in Clause 14.4.1 the Administrator shall perform the duties imposed on him/her by Section 98, 99 and 100 of the Act, relating to the retention of records and the supply of information to the Registrar of Labour Relations.

15. REMOVAL OF OFFICE BEARERS AND OFFICIALS

- 15.1 An office bearer or official may be removed from office: -

15.1.1 if he/she infringes any of the provisions of this Constitution; or

15.1.2 if he/she acts in a manner which is detrimental to the interests of the Association.

- 15.2 No office bearer or official may be removed from office unless he/she has been afforded chance to state his/her case personally at a Meeting of the Executive Committee.

- 15.3 An office bearer or official who has appeared before the Executive Committee and who is dissatisfied with the decision of the Committee shall have the right to appeal to the first

ensuing General Meeting of the Association. Notice of the appeal shall be given to the Administrator, in writing, within thirty days of the date on which the decision of the Executive Committee was communicated to the person concerned. The General Meeting may confirm or reverse the decision of the Executive Committee and the decision of the General Meeting shall be final.

16. REPRESENTATION ON BARGAINING AND STATUTORY COUNCILS

- 16.1 A General Meeting may at any time decide that the Association shall become a party to a bargaining or statutory council established in terms of the Labour Relations Act, 1995.
- 16.2 Candidates for election as representatives on any such council or board may be nominated at the meeting and the election shall take place by a majority vote on a show of hands on a motion duly proposed and seconded.
- 16.3 Representatives on a bargaining or statutory council may be removed by a General Meeting and may resign on giving one month's notice to the Executive Committee, or such notice as may be prescribed in the Constitution of the Council concerned.
- 16.4 In the event of the resignation or death of a representative or his/her removal by a General Meeting, the vacancy shall be filled by the Executive Committee pending the next General Meeting.

17. DISCIPLINE

- 17.1 A General Meeting may expel from membership of the Association any member who is more than three (3) months in arrears with his/her subscription or who as shown by a majority vote:
 - 17.1.1 has committed any breach of the Constitution, FAPA Code of Conduct or bylaw of the Association; or
 - 17.1.2 has by his/her conduct rendered himself/herself unfit to remain a member of the Association; or
 - 17.1.3 has by his/her conduct brought the name of the Association into disrepute; or
 - 17.1.4 has committed any breach of any agreement, notice or award published or made under the Act or any amendment thereof or of any law relating to the control of industry or labour whether or not such member has been charged or convicted in a Court of Law for such breach.

17.2 Any member whom it is proposed to expel or who is alleged to have been guilty of any conduct referred to in Clause 17.1 shall, by not less than four (4) days' notice delivered personally or addressed by registered letter to his/her address registered under Clause 21, or to his/her last known address, be required to appear before a meeting of the Executive Committee held to deal with the matter. The reasons for the proposed expulsion or the nature of the alleged misconduct, as the case may be, shall be set out in the notice. At such Meeting, at which such member may appear in person or by a representative authorised in writing, such member shall be given an opportunity of denying or explaining the conduct complained of.

Should such member fail to appear by himself/herself or by a representative authorised in writing, the Committee may deal with the matter in his/her absence. The decision of the Committee shall be notified to the member by notice delivered personally or by registered letter as above within fourteen (14) days of the date of the Meeting or Adjourned Meeting at which the matter was considered.

17.3 A member expelled by the Executive Committee for any reason other than non-payment of subscription shall, by written notice, delivered to the Administrator not more than seven (7) days after the date of expulsion, be entitled to appeal to a General Meeting of members of the Association, which the Administrator shall on receipt of the notice forthwith convene in terms of Clause 8.2 of the Constitution.

17.4 Such General Meeting may by not less than two-thirds (2/3rds) majority vote of those present and entitled to vote reinstate such member.

17.5 A member shall be entitled to call witnesses in support of his/her case, when attending a Meeting of the Executive Committee or a General Meeting in terms of Clause 17.2 or Clause 17.3, as the case may be.

17.6 The expulsion of a member shall become effective from the date on which the decision of the Executive Committee or, in the event of an appeal, from the date on which the decision of the General Meeting was notified to him/her. A member who is expelled from membership shall have no claim on the funds of the Association.

17.7 When a member is expelled from the Association, the Committee shall advise all the members of the Association of the fact that such a person or Company is no longer a member.

18. ENTRANCE FEES AND SUBSCRIPTIONS

- 18.1 The annual subscription shall be due in advance on the 1st of July in each year, notwithstanding the date of the Annual General Meeting at which such subscriptions shall be fixed.
- 18.2 New members' subscriptions shall be pro-rata for the balance of the current year in which they join, but in each case shall be calculated from the first day of the month prior to their joining and shall be payable in advance on admission of membership.
- 18.3 Special funds may be raised from members of the Association for the purposes other than secretarial fees or winding up by a decision of a General Meeting of the Association, after prior notice has been given, and such meeting may fix the maximum payable by members should it consider it necessary.
- 18.4 The amount of the annual subscription in respect of the following classes of membership, shall not exceed:
- 18.4.1 In the case of First Members, a Per Capita Levy of Fifty Rand (R50,00) per employee per annum, and an annual subscription of Seven Thousand Rand (R7 000,00) per member.
- 18.4.2 In the case of Affiliate Members, an annual subscription not exceeding Seven Thousand Rand (R7 000, 00) per annum.

19. FUNDS AND PROPERTY

The funds and property of the Association whensoever derived shall be applied solely towards the promotion of the objectives of the Association as set forth in this Constitution and no portion thereof shall be paid or transferred directly or indirectly by way of dividend, bonus or in any other manner by way of profit, to the members of the Association, provided, however, that any payments in respect of remuneration to any officer or servant, of the Association, and the reimbursement of expenses incurred for and on behalf of the Association shall not be regarded as a contravention of this clause.

20. EXECUTION OF DOCUMENTS

- 20.1 All Powers of Attorney, Bonds, Deeds and other documents, the execution of which has been authorised by the Executive Committee, shall be signed by the Chairperson and Administrator, or two persons lawfully acting in their stead, and appointed for that purpose by the Executive Committee.

20.2 All payments shall require the prior approval of the Executive Committee. Cheques drawn on the account of the Association shall be signed by two persons appointed by the Executive Committee.

20.3 The funds of the Association shall be applied to the payment of expenses, the acquisition of property, and for the objects specified in Clause 4 as may be approved by the Executive Committee or for such other purposes as may be decided upon by a Special Meeting, or by the members voting by ballot.

21. NOTICES

Every member shall register with the Administrator an address and except where otherwise provided herein notices may be served upon any member either personally, or by sending them through the post, in a prepaid letter addressed to such member at his/her registered address, or by facsimile or other electronic medium. Should a member fail to so register his/her address he/she shall be deemed to have waived his/her right to receive notices.

22. INTERPRETATION

In cases of doubt as to the meaning or interpretation of any of the provisions of this Constitution or any bylaws or regulation, or matters on which the Constitution is silent, the interpretation of the Chairperson shall be final and binding on all members, provided that any ruling given by the Chairperson may be subsequently amended by a General Meeting.

23. INDEMNIFICATION AND LIABILITY OF MEMBERS

The liability of members is limited to the amount unpaid on their subscriptions. Every Office Bearer, Committee person, Paid Official and Employee of the Association shall be indemnified by the Association against all costs, losses, and expenses he/she may incur as a result of his/her carrying out the instructions of the Association or in the performance of his/her legitimate official duty of the Association.

24. ALTERATION IN CONSTITUTION AND FRAMING OF BYLAWS

24.1 This Constitution may be amended, altered, added to, repealed, or substituted and bylaws adopted by resolution passed by a majority of not less than two-thirds (2/3rds) of the First Members in good standing present at a General Meeting or Special General Meeting of the Association called for that purpose.

24.2 Upon such amendment, alteration, repeal of, or addition to any of the provisions thereof, or substitution of this Constitution being made as aforesaid, or bylaws being adopted, the same shall be binding upon all members of the Association provided that no such

amendment, alteration, repeal of, or addition to the provisions of this Constitution or the substitution thereof, shall have any force or effect until certified in terms of Sub-Section (3) of Section 101 of the Labour Relations Act, 1995

24.3 Bylaws shall not be inconsistent with the Constitution, the Act, or any other law.

25. INSPECTION OF BOOKS

Every member shall have free access during business hours to the Minute Books of all Meetings of the Association and to all audited accounts, and to the Auditors report thereon; they shall not be removed without the consent of the Executive Committee but members shall be permitted to make copies of or to take extracts from the Annual Statement of Income and Expenditure and Balance Sheet and the Auditors' Report thereon and for this purpose true copies of such documents shall be made available to them.

26. AUDIT

The accounts of the Association shall be audited annually by Auditors appointed by a General Meeting. The auditors shall be "Public Accountants" as defined in the Act. The report of the Auditors on the Accounts of the Association, and the Balance Sheet and the Statement of Income and Expenditure prepared by him/her shall be submitted to each Annual General Meeting of the Association. Such Auditors shall be registered in terms of the Public Accountants and Auditors Act, 1951.

27. BALLOTS

27.1 A Ballot on any question shall be taken if a General Meeting, Special General Meeting, or the Executive Committee so decide and shall also be taken:

27.1.1 if demanded in writing by not less than 25 percent of the members of the Association in good standing; or

27.1.2 on any proposal to declare or take part in a national lock-out.

27.2 Ballots conducted under the Constitution shall be performed in the following manner:

(a) A ballot shall be conducted in terms of a voters' roll of those members who are in good standing in terms of the Association's Constitution. The voters' roll shall be derived from the Association's membership records which will identify which members are entitled to vote and must be marked to ensure that members vote once only;

- (b) In the case of an electronic ballot conducted by email or SMS, the voters' roll must reflect the email address or mobile phone number of the members concerned and must be scrutinized and conducted by the CCMA or any independent organisation. The CCMA or any independent organization must keep the records of balloting for three months and thereafter submit to the Association for record keeping;
- (c) In the case of a postal ballot, the voters' roll must reflect the postal addresses of the members and the CCMA or any independent organization must keep the postal ballots for three months and thereafter submit to the Association for record keeping;
- (d) Notice of a ballot shall be given to each member of the Association in writing, including emails, facsimiles, or SMS's, by the Secretary, at least three days before the ballot is to be taken, provided that a ballot may be taken without notice at any General Meeting on the decision of a majority of the members present;
- (e) Two scrutineers shall be appointed by the Executive Committee or a General Meeting to supervise any ballot and to ascertain the result thereof;
- (f) Except in the case of electronic and postal ballots, ballots shall be conducted at the place, on the date and during the hours as may be specified in the notice referred to in paragraph (d) of this subclause;
- (g) Ballot papers shall be provided by the Secretary. The issue to be voted upon shall be set forth clearly on the ballot papers and such papers shall not contain any information by means of which it will be possible to identify the voter and all voting by ballot shall be secret;
- (h) One ballot paper only shall be issued on demand at the place and during the hours fixed for the taking of the ballot, to each member who is entitled to vote;
- (i) Each voter shall, in the presence of the scrutineers, be issued with one ballot paper which he/she shall there upon complete, fold and deposit in an unmarked ballot box provided for the purpose;
- (j) Ballot papers shall not be signed or marked in any way apart from the mark required to be made by a member in recording his/her vote. Papers bearing any other marks shall be regarded as spoiled and shall not be counted;
- (k) Ballot boxes shall be inspected by the scrutineers and sealed by the Secretary in their presence prior to the issue of ballot papers;

- (l) Ballot papers, including spoilt papers, shall be placed in a container which shall be sealed after they have been counted and retained by the Secretary for not less than three (3) years;
 - (m) On completion of a ballot or as soon thereafter as possible, the result thereof shall be ascertained by the scrutineers in the presence of the Secretary and made known to the Executive Committee. In the case of elections, the candidates up to the required number receiving the highest number of votes shall be declared elected.
 - (n) The same procedure shall mutatis mutandis apply to a ballot confined to members of the Executive Committee of the Association.
- 27.3 The Executive Committee may decide that a postal ballot of members be taken, in which event the ballot shall be conducted in the following manner:
- 27.3.1 The secretary shall send by registered post to each member of the Association a ballot paper and a stamped and addressed envelope marked "Ballot". The ballot paper shall on completion be inserted in the envelope provided for the purpose, shall be sealed, and posted so as to reach the secretary within 21 days from the date of dispatch from head office to such member. On receipt of such envelopes the secretary shall immediately place such envelopes in a sealed ballot box.
 - 27.3.2 Two scrutineers shall be appointed by the Executive Committee to ascertain the result of the ballot. The ballot box shall be opened, and the ballot papers counted by the scrutineers in the presence of the secretary, who shall immediately advise the Executive Committee of the result of the ballot.
 - 27.3.3 The same procedure shall mutatis mutandis apply to a postal ballot confined to members of the Executive Committee of the Association.
- 27.4 No ballot involving the declaration of or participation in a lock-out shall be taken until the matter giving occasion therefore has been dealt with as provided for in the Labour Relations Act, 1995 (as amended).
- 27.5 Notwithstanding anything to the contrary contained in this constitution, members of the Association shall not be disciplined or have their membership terminated for failure or refusal to participate in a lock-out if:
- 27.5.1 no ballot was held about the lock-out; or
 - 27.5.2 a ballot was held but a majority of the members who voted did not vote in favour of the lock-out.

28. WINDING-UP

- 28.1 The Association shall be wound up if at a ballot conducted in the manner prescribed in the Constitution not less than two thirds (2/3rds) of the total number of First Members of the Association vote in favour of a resolution that the Association be wound up.
- 28.2 If a resolution for the winding-up of the Association has been passed or if for any reason the Association is unable to continue to function the following provisions shall apply:
- 28.2.1 The last appointed Chairperson of the Association, or if he/she is not available, the available members of the last appointed Executive Committee of the Association, shall forthwith transmit to the Labour Court a statement signed by him/her or 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 Labour Relations Act, 1995.
- 28.2.2 The liquidator appointed by the Labour Court shall call upon the last-appointed office-bearers of the Association to deliver to him/her the Association's books of accounts showing the assets and liabilities together with the register of members showing, for the 12 months prior to the date on which the resolution for winding-up 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 his/her address as at the said date.
- 28.2.3 The liquidator shall also call upon the said office-bearers to hand over to him/her all unexpended funds of the Association and to deliver to him/her the Association's assets and the documents necessary in order to liquidate the assets.
- 28.2.4 The liquidator shall take the necessary steps to liquidate the debts of the Association from its unexpended funds and any other monies realised from any assets of the Association, and if the said funds and monies are insufficient to pay all creditors after the liquidator's fees and the expenses of winding-up have been met, the order in which creditors shall be paid shall be the same as that prescribed in any law for the time being in force relating to the distribution of the assets of an insolvent estate, and the liquidator's fees and the expenses of winding-up shall rank in order as though the expenses were the costs of sequestration of an insolvent estate.

28.2.5 After the payment of all debts in accordance with paragraph 28.2.4, the remaining funds, if any, shall be distributed among the remaining members of the Association on the basis of membership fees actually paid during the 12 months prior to the date of dissolution.

28.2.6 After the payment of all the liabilities any assets that cannot be disposed of in accordance with the provisions of this clause shall be realised by the liquidator and the proceeds paid to the Commission for Conciliation, Mediation and Arbitration in accordance with Section 103(5) of the Labour Relations Act, 1995.

28.2.7 The liability of members shall for the purpose of this clause be limited to the amount of subscriptions due by them to the Association in terms of this Constitution as at the date of dissolution.

SIGNED:

CHAIRPERSON

ADMINISTRATOR

DATE:
