

THE COMPANIES ACT (CAP.486)

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COMPANY LIMITED BY GUARANTEE AND  
NOT HAVING A SHARE CAPITAL

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Articles of Association  
Of  
THE KENYA ASSOCIATION OF  
HOTELKEEPERS AND CATERERS

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(Adopted by the ..... General Meeting Held on.....)

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PRELIMINARY

1. In these Articles the following words and phrases  
Shall have the meanings ascribed to them respectively, viz:-

"The Association"	The Kenya Association of Hotel- Keepers and Caterers.
"The Board"	The Members for the time being of the Board of Directors hereby constituted.
"The Region Committee"	The Members for the time being of the Region Committees hereby constituted.
"Member"	A person duly admitted and entered in the Register of Members as a Member of the Association whether as an Ordinary Member, Associate Member, or an Honorary Member.

"Ordinary Member"	A person eligible under Articles 6 and 7 and who becomes a Member.
"A Group Member"	An Ordinary Member having in his/her control more than one unit.
" A Region Voting Member"	An Ordinary Member having an Establishment situate within a Region.
"An Associate Member"	A person eligible who becomes an Associate Member under Article 8 hereof.
"Establishment"	Any bona fide Hotel, Restaurant, Private Club, Casino, Caterer, Fast Food unit, Lodge, Boarding Apartment, Camp, Guest house or other such premises situate within the Republic of Kenya and licensed under the Hotel and Restaurant Act (Cap.494 of the Laws of Kenya).
"General Meetings"	General Meetings (whether Ordinary or Extraordinary) of the Members duly convened and held in accordance with these Articles.
"A Region"	That area with geographical proximity and has been constituted to be held as a Region.
"These Articles"	The Articles of Association of the Association for the time being in force.

"The Code of Ethics"

The Kenya Association of Hotelkeepers and  
Caterers Code of Ethics.

"The Act"

The Companies Act (Chapter 486 of the Laws of Kenya)  
and every other Act for the time  
being in force with every statutory modification or  
re-enactment thereof for the time being in force and  
every other act for the time being in force

Unless the context otherwise requires words implying the singular number are extended to include the plural and vice versa, words implying persons include corporations and partnerships and words importing the masculine gender shall include the feminine.

These Articles shall be construed with reference to the provisions of the Act.

## **OBJECTS OF THE ASSOCIATION**

2. The Association is established for the purposes expressed in the memorandum of Association in the terms of which for the purpose of identification been signed by the first two of the subscribers to the Memorandum of Association.

## **MEMBERSHIP**

3. The subscribers to the Memorandum of Association and such other persons as the Board shall admit to the membership shall be members of the Association.

4. The Members of the Association shall be declared to be such as shall have subscribed as stipulated in the criteria of membership.

5. There shall be three categories of membership within the association;

- a) Ordinary Membership
- b) Associate Membership
- c) Honorary Membership

#### **ORDINARY MEMBERSHIP**

6. Any person operating (whether as Proprietor, Lessee or Managing Agent) any Establishment in Kenya, shall be eligible for election as an Ordinary Member in respect thereof provided always that in the case of the Proprietor of an Establishment being a Corporation, one of its Directors, or its Secretary, or Manager, or in the case of a Partnership one of the Partners, if duly nominated in writing for the purpose by the Corporation or Partnership, shall after election and payment of the fees prescribed be deemed for all purposes to be an Ordinary Member.

7. If any person eligible for ordinary Membership controls the operation of more than one Establishment (for which additional annual subscriptions shall be paid) such person shall be entitled to nominate as candidate for Ordinary Membership one additional person (being a Director, Partner, Secretary or Manager of the nominating person or any other person whom the Board can admit) for each such additional Establishment. PROVIDED THAT such nomination may be withdrawn at any time by the Board or by such person and upon receipt by the Board of notice in writing of the withdrawal such nominated Ordinary Member shall forthwith cease to be a Member.

#### **ASSOCIATE MEMBERSHIP**

8 Any person engaged at Management level in the day to day operation and administration of an Establishment of an Ordinary Member shall be eligible for election as an Associate Member of the Association by the Board. In addition Associate membership shall be granted to establishments outside the hotel & catering industry whose services or co-existence shall be to the mutual benefit of the Association and such establishments.

9. Every candidate for Ordinary Membership or Associate Membership must be proposed by an Ordinary Member and seconded by another such Member in the form approved by the Board,

and must sign an undertaking, in the event of his being elected, to accept, and abide by, these Articles, and any by-laws or other regulations of the Association, for the time being in force.

### **HONORARY MEMBERSHIP**

10. The Board shall have power to propose and admit such persons as they think fit, other than persons for the time being engaged in the administration of an Establishment, as Honorary Members who in the view of the Board would add value to the objectives of the Association. In the event of an Honorary Member becoming engaged in an administrative capacity in an Establishment his Honorary Membership shall at once cease.

11. An Honorary member must sign an undertaking in the event of his/her being elected to accept, and abide by these Articles and any by-laws or other regulations of the Association, for the time being in force,

12. Membership shall run from the 1<sup>st</sup> January to 31<sup>st</sup> December of the same year.

13. Membership shall subsist for one year. Renewal of membership shall be annual. Honorary Members will automatically have their membership renewed unless otherwise voted by the Annual General Meeting.

14. The power of admission and re-admission of Members shall, subject to the provisions of these articles, be vested in the Board whose decision shall be final.

15. Any Member may resign his Membership provided he/she gives written notice to the Secretary at least three months before the 30<sup>th</sup> day of November in any year of his/her wish to resign and unless the Board otherwise determines, his resignation shall become effective at the 31<sup>st</sup> day of December of that year. Any Ordinary Member wishing to resign who fails to give such notice shall be liable for the subscription for the ensuing year.

16. The Board shall have power to admit for the purpose of affiliation such other Associations as it may deem desirable, subject to payment of a fee to be determined in each case by the Board in its own discretion, and shall also have power at the like discretion and at any time by Resolution

carried by a majority of two-thirds of those personally present at a meeting of the Board to suspend or to cancel the rights and privileges of any such affiliated Association and after giving any such Association a reasonable opportunity of being heard at the meeting, but shall not be obliged to give any reason for its decision.

### **ELECTION OF MEMBER**

17. The election of Members shall be ratified by a majority vote of the Board, upon recommendation by the organ of the Board endowed with such authority.

### **TERMINATION OF MEMBERSHIP**

18. A member shall cease to be a member if such member

- a) Resigns by giving notice in writing of resignation to the Chief Executive Officer in accordance with Article 15.
- b) Becomes mentally incapacitated.
- c) Fails to pay subscription in terms of Article 20.
- d) Is excluded pursuant to Articles 19 and 20.
- e) Is adjudicated bankrupt, goes into liquidation or compounds with his creditors, or being a partnership is dissolved, unless such member enjoys special exemption as approved by the Board
- f) The Board determines so pursuant to Article 21

PROVIDED always that any member who ceases to be a member by resignation, or otherwise, shall remain liable in the terms of the Memorandum of Association for all contributions, subscriptions and liabilities falling within the year in which he/she ceases to be a member, and he/she shall not be entitled to any refund in respect of any unexpired portion of his/her subscription for the year in which he ceases to be a Member.

19. The Board may terminate the membership of any member who by his/her conduct renders himself/herself unfit in the opinion of a majority of the Board to remain a member of the Association.

20. No member may exercise any of the rights and privileges of membership if his/her subscription remains unpaid for more than one month after its due. If the subscription remains unpaid for more than three months after its due date, the Board may terminate membership.

#### **SUSPENSION AND CANCELLATION**

21 a) The Board shall have power by resolution carried by a majority of two-thirds of those personally present at a meeting of the Board, to suspend or to cancel the Membership of any Member, after giving such Member a reasonable opportunity of being heard at the meeting, and shall not be obliged to give any reason for its decision.

b) During this period of suspension the member forfeits all rights and privileges except that of appeal pursuant to Article 28

22. A member whose membership has been suspended or terminated may re-apply for membership after twelve months from the date of the letter informing him/her of the suspension or termination of membership. In the event of re-admittance the terms of Articles 29,30, 31 and 25 shall apply.

#### **TRANSFER OF RIGHTS AND PRIVILEGES**

23. The rights and privileges of a Member shall not be transferable or transmissible by his own act, or by operation of law, or on the transfer of the ownership or control of the Establishment in respect of which he is a Member.

24. The rights, privileges and liabilities attached to any class of membership may be modified abrogated or varied with the consent in writing of three-fourths of the members of that class or with the sanction of an Extraordinary Resolution passed at a General Meeting of the Association.

This Article is not by implication to curtail the power of Modification which the Association would have if the Article were omitted.

25. (a) Every Member shall pay to the Association, on election, and on the 1<sup>st</sup> January in each subsequent year, a subscription based on a scale to be laid down from time to time by the Board, such scale to be approved by the Annual General Meeting following its original implementation or the implementation of any subsequent variation thereof and the details of any such variation

shall be included in the Agenda of any Annual General Meeting approving the same. PROVIDED ALWAYS THAT the Board may, in special cases and from time to time, vary the rate of subscription and/or the method of its ascertainment, subject to confirmation at the succeeding Annual General Meeting.

(b) Payment of annual membership fee may be made in two installments provided that a member wishing to do so shall make a written request to the Board whose prerogative it shall be to grant or deny such request.

26. The Board shall have power to admit for the purpose of affiliation such other Institutions as it may deem desirable, subject to payment of a fee to be determined in each case by the Board in its own discretion, and shall also have power at the like discretion and at any time by Resolution carried by a majority of two-thirds of those personally present at a meeting of the Board to suspend or to cancel the rights and privileges of any such affiliated Institution and after giving any such Institution a reasonable opportunity of being heard at the meeting, but shall not be obliged to give any reason for its decision.

27. (a) The Board shall have power to inspect and report at any time on the Establishment of any Ordinary Member of the Association.

(b) Where, upon such inspection, the Board is satisfied that a member is Operating below the minimum standards prescribed by the Association, or fails to adhere to the Association's Code of Ethics, the Board shall have power to terminate the membership of such a member.

#### **RIGHT OF APPEAL**

28. A member whose membership has been terminated or suspended shall have the right to appeal to the Board, which shall determine the matter without further recourse. A member wishing to appeal shall lodge his appeal with the Chief Executive Officer in writing within thirty days of the date of written notice of suspending or terminating the membership. The item shall be included in the Agenda of an extraordinary General meeting called at the earliest opportunity thereafter. The decision for the appeal to succeed shall require three fourths majority of the members present and voting at that Board meeting.

**ENTRANCE FEE AND ANNUAL SUBSCRIPTION**

29. New Members shall pay such entrance fees as may be recommended by the Board.

30. The entrance fee so prescribed shall accompany the application for membership and if the applicant is admitted to membership such fee shall become the property of the Association. If the applicant is not admitted, the entrance fee shall be refunded to the applicant.

31. a) An Annual subscription shall be payable within one month of the date of election to membership and for the first year of membership shall be calculated at the rate of one-twelfth part of the full annual subscription for each month remaining in the first year starting with the month following the date of election into membership. Thereafter for the second and subsequent years of membership the annual subscription shall be payable in full on the first day of January in each year.

b) Payment of annual membership fee may be made in two installments provided that a member wishing to do so shall make a written request to the Board whose prerogative it shall be to grant or deny such request.

32. In addition to any other fees or dues payable by Members hereunder the Board may from time to time impose a levy and/or cess on Members payable and assessed in such a manner as the Board may decide PROVIDED THAT any levy or cess so imposed shall be automatically rescinded if the same is not confirmed by a Resolution passed by a two-thirds majority of the votes of Members present at the first General Meeting next following the imposition thereof and in the event of such rescission any moneys already paid by Members shall be refunded forthwith.

33. Membership subscription for the ensuing year shall be payable by any member in respect of whom notice of resignation is received by the Association between 1st December and 31<sup>st</sup> December both dates inclusive.

### **BOARD OF DIRECTORS**

34. The business of the Association shall be managed by a Board of Directors who may exercise all such powers and do all such acts and things as may be exercised or done by the Association, and are not hereby or by statute expressly directed or required to be exercised or done by the Association in General Meeting, but subject to any regulations from time to time made by the Association in General Meeting, provided that no such regulation shall invalidate any prior act of the Board which would have been valid if such regulation had not been made.

35. The Board shall have power from time to time to make, alter, and repeal such by-laws or regulations as the Board may deem expedient for the proper management of the business of the Association and shall take all such steps as may be necessary or sufficient to bring to the notice of the Members all such by-laws or regulation, alterations and repeals. Provided always that no such by-law or regulation shall be inconsistent with or shall affect or repeal anything contained in these articles or constitute such an addition thereto as could only validly be made by Special Resolution, and that any by-law or regulation may be set aside by a Special Resolution of the Association.

36. The Board shall consist of Members of Association comprising of:-

- a) The Board Chairman and the vice-chairman duly elected at the AGM.
- b) The Region chairman of each of the five Regions and where the Region Chairman is already a member by virtue of another category, the Region vice-chairman shall automatically become a member. In case the Chairman cannot become a member for whatsoever reasons the Region vice-chairman shall become a member and where both cannot the Region members shall nominate one of their own to be such.
- c) Five representatives from the entire membership who pay the highest subscription fees.

- d) One representative each from the divisions of Restaurants and Private members clubs.
- e) The Chief Executive Officer
- f) The Board may from time to time co-opt a person to the Board but whose powers shall be limited without voting rights.

This Article does not allow any extra representation from any of the above categories if any of the Representatives is subsequently elected as the Chairman or the vice-chairman of the Board.

37. The Board shall have power to delegate to any Region such of the powers and duties of the Association conferred on it hereunder as it may from time to time determine.

38. A Member of the Board shall vacate his office:

- (a) If a receiving order be made against him/her or if he/she becomes bankrupt, or suspends payment of his/her debts, or compounds with his creditors;
- (b) If he/she be found mentally incapacitated;
- (c) If by notice in writing to the Board he/she resigns his/her office;
- (d) If he/she as the person by whom he/she was nominated as an Ordinary Member under Article 6 ceases to be a Member;
- (e) If he be removed by Extraordinary Resolution of the Association;
- (f) If he/she ceases to be the Chairman or Vice-Chairman of the Board;
- (g) Becomes prohibited from being a Director by reason of any Order made under section 189 of the Act.
- (h) If he fails to attend three consecutive meetings of the Board or at least Four meetings within a given year without a cause which the Board is satisfied to be sufficient and reasonable.

39. (a) Each member of the Board shall have the power to appoint a person approved for that purpose by the Chairman of the Board to act as Alternate Member of the Board in his/her place during his absence and may at his/her discretion remove such alternate Member of the Board. The person so appointed shall (except as regards qualification and power to appoint an Alternate) be subject in all respects to the terms and conditions existing with reference to the other Members of the Board and each Alternate Member, while so acting, shall exercise and discharge

all the functions powers and duties of his/her Appointer as a member in Appointer's absence. Any Member of the Board acting as an Alternate shall have an additional vote for each Member for whom he/she acts as an Alternate. An Alternate Member of the Board shall ipso facto cease to be an Alternate Member if his Appointer ceases for any reason to be a Member, PROVIDED THAT if any Member of the Board retires by rotation or otherwise but is re-elected at the same Meeting, any appointment made by him/her pursuant to this Article which was in force immediately before his/her retirement shall remain in force as though he/she had not retired.

(b) Any appointment or removal of an Alternate Member of the Board shall be effected by instrument in writing delivered at the registered office of the Association and signed by the Appointer.

40. The tenure for Board and Region Committee membership shall be two years with the option of renewal upon election at a General meeting.

41. If at any Annual General Meeting new Members of the Board are not elected as hereinbefore provided, the retiring Members of the Board if qualified to hold office shall continue in office until the Annual General Meeting in the next year, and so on from year to year until the vacancies are filled up, unless it shall be determined at such meeting to reduce the number of the Board

#### **CHAIRMAN AND VICE-CHAIRMAN**

42. The Chairman and the Vice-Chairman shall be elected during the Annual General Meeting in accordance with Article 51.

43. The Chairman and Vice-Chairman of the Board shall be the Chairman and Vice-Chairman of the Association and shall hold such office so long as they are the Chairman and Vice-Chairman of the Board

#### **PROCEEDINGS OF THE BOARD**

44. The Board shall have amongst its members a Chairman and a vice-chairman elected at a General meeting of the Association. The Chairman or in his absence the Vice-Chairman shall take the chair at meetings or if at any meeting no one of them is present at the time appointed for holding the same, the Members of the Board present shall choose some one of their number to be Chairman of such meeting.

45. The Board may meet together for the dispatch of business, adjourn and otherwise regulate its meetings as it thinks fit, and may determine the quorum necessary for the transaction of business and unless so determined the quorum shall be one half of the Members.

46. The Chairman or a section of the Board may at any time convene an extra-ordinary meeting of the Board provided that: -

- a) Five working days notice shall be given for such meeting.
- b) The quorum for such meeting shall be one half (fifty percent) of all members of the Board.
- c) Any question or matters arising out of such Board meetings shall be decided voting through a secret ballot. In the case of an equality of votes, the Chairman shall have a second or casting vote.

47. All acts done at any meeting of the Board or by any person acting as a Member of the Board, shall notwithstanding that it shall afterwards be discovered that there was some defect in the appointment of any Member of the Board, or person acting as aforesaid, or that he/she was disqualified, be as valid as if he had been duly appointed and was qualified to be a Member of the Board.

48. A resolution in writing signed by not less than three fourths of the Members of the Board shall be as valid and effectual as if it had been passed at a meeting of the Board convened and held.

## **GENERAL MEETINGS**

49. a) An Annual General Meeting shall be held once in each year at such date (not being later than the 30th June), place and time as may be determined by the Board. Such meeting shall be called the Annual General Meeting. All other General Meetings shall be called Extraordinary General Meetings.

b) Meetings of the Association called pursuant to any other enabling Article or Statutory provision apart from part (a) above shall be known as Extraordinary General Meetings

c) Such other meetings of members as shall be deemed necessary by the Board shall be called under arrangement made by the Board.

## **ANNUAL GENERAL MEETING**

50. The notice convening the Annual General meeting, and the Agenda therefore shall be given to members in writing not less than twenty one days before the date of the meeting. Such notice shall be sent by post, e-mail or otherwise served as provided. The accidental omission to give any such notice to or the non-receipt of any such notice by any member shall not invalidate any Resolution passed at any such meeting provided always that, if all the Members entitled to attend and vote at such meeting so agree, a resolution may be proposed and passed at the Meeting. Such notice shall state the time, date, place and the agenda of the Annual General Meeting and shall be accompanied by a copy of the audited summary of accounts for the preceding year.

51. The business of an Annual General Meeting shall be:

- a) to approve the minutes of the last preceding Annual General meeting and any extraordinary General meetings held in the meantime
- (b) to receive and consider the report of the Board.
- (c) to receive the audited summary of accounts for the preceding year and the reports of the auditors thereon;
- d) to appoint and fix remunerations of the auditors for the ensuing year
- e) to elect members of the Board as hereinbefore provided, including the election of the Chairman and Vice-Chairman of the Board from nominees whose names shall have been proposed and seconded at least 21 days before the date of the Annual General Meeting. These elections are to be held once in every two years in accordance with Article 40 herein.

f) to transact any other business which under these Articles ought to be transacted at an Annual General Meeting.

All other business transacted at an Annual-General Meeting and all business transacted at an Extraordinary General Meeting shall be deemed Special.

52. The Board may, whenever it thinks fit, convene an Extraordinary General Meeting of the Association and such requisitions as provided by the Act shall also convene Extraordinary General Meetings. No special business shall be transacted at any General Meeting except that of which notice is given in the circular convening such meeting.

#### **NOTICE OF MEETING**

53. Non-receipt of a notice of a meeting by a member entitled to receive notice thereof shall not itself invalidate the proceedings at such meetings.

#### **PROCEEDINGS AT GENERAL MEETINGS**

54. No business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business. Save as otherwise provided a quorum shall be one-third of the members entitled to vote or twenty members present and entitled to vote whichever is the least.

55. If fifteen minutes after the time appointed for a meeting a quorum be not present, the meeting, if convened upon a requisition as aforesaid, shall be dissolved, but, in any other case, it shall stand adjourned to the same day, in the next week, at the same time, and place (unless the same be a public holiday when it shall stand adjourned to the next working day after such public holiday at the same time and place) and if at such adjourned meeting a quorum be not present, those Members who are present shall be a quorum and may transact the business for which the meeting was called.

56. The Chairman, or in his absence the Vice-Chairman shall be entitled to take the chair at every General Meeting, or if at any meeting no one of them shall be present within fifteen minutes of the time for which the meeting was convened and willing to act as Chairman, the Members

present shall choose a Member of the Board as Chairman, and if no Member of the Board be present, or if all the Members of the Board present decline to take the chair, then the Members present shall choose one of their number to be Chairman.

57. Subject to the provision of the Act, a resolution in writing signed by all members for the time being entitled to receive notice of and to attend and vote at any general meeting (or being corporations by the duly authorized representatives) shall be as valid and effective as if the same had been passed at a general meeting of the Company duly convened and held.

#### **EXTRAORDINARY GENERAL MEETING**

58. The notice convening an extraordinary General meeting shall be given in the manner prescribed by these Articles of the Association to each member not less than Seven days before the date of the meeting.

59. The exclusive business of an Extraordinary General Meeting shall be limited to:

- a) matters specifically required by these Articles to be so determined; and/or
- b) matters (not being the business of the Annual General meeting ) required in law to be determined by the Association in General Meeting.

60. Save as otherwise provided a quorum shall be one-third of the members entitled to vote or twenty members present and entitled to vote whichever is the least.

#### **COMMITTEES**

61. The Board if it deems necessary may establish a Committee for which the terms of reference shall be as stipulated by the Board subject to approval at the succeeding General meeting PROVIDED the committee so established shall be for the purpose of furthering the Association's mandate.

62. There shall be standing committees established they being;

- a) Finance and Audit committee,
- b) Marketing and Standards committee,
- c) Legal and Policy committee

- d) Human Resource committee and
- e) Any other committee as provided in Article 61.

63. Membership to any Committee established under Article 61 shall be determined by the constituting authority. Such Committee shall have an operational chairman who shall be appointed by the Board and such operational chairman shall present the proposed committee members to the board for their appointment.

### **VOTES**

64. The voting rights of ordinary members shall be in accordance with the voting rights set out by the Board to be in effect for the time being.

65. Members shall be entitled to vote by proxy at General meetings of the Association but no member shall vote by proxy at any meetings of the Board, Region Committee or any Committee of the Association.

66. The instrument appointing a proxy shall be in writing under the hand of the appointer or of his/her attorney but no person shall be appointed or act as a proxy unless he/she is entitled on his/her own behalf to be present at a Meeting.

67. The instrument appointing a proxy shall be in the usual or common form or in any other form which the Board may approve and such instrument and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority shall be deposited at the Registered Office of the Association not less than forty eight hours before the time of the meeting at which it is proposed to be used.

68. No member shall be entitled to vote unless he/she shall have paid in full all fees and subscriptions due to the Association.

69. Voting at meetings of the Association shall be by secret ballot.

70. In the event of equality of votes the Chairman of the meeting shall have a casting vote as well as a deliberative vote.

71. An employee of the Association shall neither be appointed an accredited representative of a member nor have a vote.

72. No objection shall be made to the validity of any vote except at the meeting at which such vote shall be tendered, and every vote not disallowed at such meeting by the Chairman shall be deemed valid.

### **MINUTES**

73. (a) The Board shall cause Minutes to be duly entered in books provided for the purpose of all meetings of the Association and the Board and any such minutes, if signed by the Chairman of such meeting, or by the Chairman of the next succeeding meeting, shall be receivable as prima facie evidence of the matters stated in such minutes.

(b) Minutes of every Board shall be distributed within 14 days of that meeting.

### **FINANCE**

74. All monies received by the Association shall be immediately paid to its credit at the Association's Bankers.

75. All cheques shall be signed in such manner as the Board may from time to time direct.

### **FINANCIALYEAR**

76. The Financial year of the Association shall be 1<sup>st</sup> January to 31<sup>st</sup> December of the same year.

### **FUNDS**

77. All income to the Association shall be the property of the Kenya Association of Hotelkeepers and Caterers.

78. Funds of the Association shall only be used for:-

- a) the payment of legitimate expenses, salaries and wages; and
- b) any other purpose in accordance with the objects of the Association.

79. The Board shall spend the moneys of the Association and all cheques or other negotiable instruments shall be signed and executed in such a manner as the Board may from time to time determine in the Rules.

80. The annual and supplementary grants to Regions from the Association's funds shall be determined by the Board.

81. Funds may be collected on behalf of the Association by the Regions by the order of the Board, which shall also be empowered to withdraw this authority at its discretion.

82. True accounts shall be kept of the sums of money received and expended by the Association and of the matters in respect of which such receipts and expenditures take place and of all sales and purchases of goods and services and of the property credits and liabilities of the Association. Once every year the accounts of the Association shall be examined and the correctness of the same ascertained and the balance sheet certified by one or more properly qualified Auditors.

#### **AUDITORS**

83. Auditors shall be appointed for the following year at the Annual General Meeting which shall also fix their remuneration.

84. All accounts records and documents shall be open to the inspection of the auditors at any time.

85. The Chief Executive Officer shall produce an account of the receipts and payments of the Association and a statement of the assets and liabilities prepared as at the end of a financial year immediately preceding the Annual General Meeting.

86. The Auditors shall examine such annual accounts and statements and either certify that they are correct, duly vouched and in accordance with the law or report to the Association in what respect they are found to be incorrect, unvouched or not in accordance with the law.

### **RULES**

87. The Board may from time to time make repeal or amend Rules for the conduct of the Affairs of the Association as a whole or in part. Any Rule prescribed by the Board may be repealed or varied by a resolution passed at a General Meeting. PROVIDED that any such repeal or variation shall not invalidate any action taken by the Board prior to the passing of the Resolution to repeal or vary the Rules.

### **CODE OF ETHICS**

88. The Association shall have a Code of Ethics which shall outline in addition to the objects stated in the Memorandum of Association, the Basic Rights and Obligations of the Members, the Governing Principles and the Collective Focus, Vision and Values the Members should submit to and possess in light of the Association's benefit as well as in pursuance of Social and Economic Development of the host country Kenya.

### **SECRETARY**

89. (a) There shall be a Secretary of the Association who shall not necessarily be the Chief Executive of the Association.

(b) There shall be a Chief Executive Officer of the Association who shall be appointed by the Board.

(b) The Chief Executive shall cause be communicated to all members decisions reached by the Board and all other important matters of the Association as and when they are due.

### **ACCOUNTS**

90. The Board shall cause true accounts to be kept of all sums of money received and expended by the Association, and of all sales and purchases of goods by the Association and of the assets and liabilities of the Association. The books of accounts shall be kept at the Registered Office of the Association, or at such other place or places as the Board may determine.

91. Once, at least in every year, the Accounts of the Association - including those of the Region offices shall be examined and their correctness ascertained by an Auditor, qualified under the Accountants Act (Cap 531 of the Laws of Kenya).

92. The Board shall from time to time in accordance with the Act cause to be prepared and laid before the Association in General Meeting such income and expenditure accounts, balance sheets and reports as are referred to in the Act. A copy of every balance sheet (including every document required by law to be annexed thereto) that is to be laid before the Association in Annual General Meeting together with a copy of the Auditor's Report, shall not less than seven days prior to the meeting be sent to all the Members.

93. The books and accounts of the Association shall be open to the inspection of the Members at all reasonable times, subject to any reasonable restrictions as to the time and manner of inspecting the same that may from time to time be imposed by the Association in a General Meeting.

#### **NOTICES**

94. A notice may be served by the Association upon any Member, either personally or by sending it through the post in a registered mail, envelope or wrapper, addressed to such Member at his/her registered address, or through e-mail for those Establishments with the facility.

95. Any notice sent by post shall be deemed to have been served on the day on which the letter, envelope, or wrapper containing the same is posted, and in proving such service it shall be sufficient to prove that the letter, envelope or wrapper was properly stamped, addressed and posted.

96. Any notice sent by e-mail shall be deemed to have been duly served the minute the same is displayed on the recipient's machine or as may be proved to have been displayed.

97. As regards those Members who have no registered address in Kenya, a notice posted up in the Registered Office of the Association, shall be deemed to be served on them at the expiration of seventy-two hours after it is so posted up.

**EXTERNAL BODIES**

98. Members may be nominated by the Board for appointment to public or private, or partnerships bodies and persons so nominated shall so represent the Association as a position.

**AFFILIATION**

99. The Association may be bound by the Board to engage into any contractual arrangement domestically, regionally or globally for the benefit of the Association. Collective bargaining agreements, Partnerships and any other corporate arrangement are permissible under this Article as the Board may deem fit.

**COMMON SEAL**

100. The Board shall provide a Common Seal for the Association, and shall have power from time to time to destroy the same and substitute a new Seal in lieu thereof. Such Common Seal shall be kept at the Registered Office of the Association.

101. The seal shall not be affixed to any instrument except by the authority of the Board or a resolution of two Directors or at least one Director and the Secretary or some other person approved by the Board, and the Directors or the Director and the Secretary or the other person as the case may be, shall sign every instrument to which the seal is so affixed in their presence.

**BORROWING POWERS**

102. The Board may from time to time upon direction by the Annual General Meeting or a special General Meeting called for the purpose exercise all the powers of the Association to raise or borrow from any person, firm or corporation, any sums of money for the purposes of the Association. The resolution to mandate the Board to exercise the aforesaid power must be passed by at least three fourths majority of the Annual General Meeting.

103. The Board may (subject to the conditions of Clause 4 of the Memorandum of Association), raise or secure the repayment of such moneys, in such manner and upon such terms and conditions in all respects as it thinks fit

**INDEMNITY**

104. Subject to the provisions of the Act, every Member of the Board, a Region Committee, the Secretary and other officer or servant of the Association, shall be indemnified by the Association against all costs, losses and expenses which any such officer or servant may lawfully incur or become liable for by reason of any contract properly entered into or his/her act or deed as such officer or servant, or in any way in the discharge of his/her duties, including traveling expenses, and it shall be the duty of the Board, out of the funds of the Association, to pay all such costs, losses and expenses.

105. Subject to the provisions of the Act, no Member of the Board, a Region Committee and no officer or servant of the Association shall be liable for the acts, receipts, neglects or defaults of any other Member of the Board or officer or servant or for joining in any receipt or other act for conformity, or for any loss or expense happening to the Association, through the insufficiency or deficiency of title to any property acquired by order of the Board for or on behalf of the Association, or for the insufficiency or deficiency of any security in or upon which any of the moneys of the Association shall be invested, or for any loss or damage arising from the bankruptcy, insolvency or tortuous acts of any person with whom any moneys, securities or effects shall have been deposited, or for any loss occasioned by any error of judgment or oversight on his/her part, or for any other loss, damage or misfortune whatsoever, which shall happen in the execution of the duties of his/her office, or in relation thereto.

**REGION**

106. The Association shall be divided into five Regions. These shall be based on geographical proximity of the members' Establishment situate in such a Region.

107. a) Regions shall be subject to the terms of the Memorandum of Association of the Association and shall be established to further the objects as stated in the Memorandum of Association and shall uphold the Code of Ethics of the Association

b) In so far as these Regions may be purely of local significance in nature and content Regions may act on their own behalf.

c) In all other matters the Regions shall act through and with the authority of the Board

108. Each Region shall hold its Annual General Meeting once in every year not less than twenty one days before the Association's Annual General Meeting at such a time, date and place as shall be determined by the Region Committee and as shall be notified to all members of the Region as per the Articles herein guiding on Notices for Meetings.

109 The business at each of the Region Annual General Meeting shall be;

- a) To approve the minutes of the last Annual General Meeting;
- b) To receive the report of Region Chairman;
- c) To receive a financial statement for the preceding year;
- d) The election of the Chairman, vice-Chairman and members to the Region Committee.

110. The term of office of the Region Committee members shall be two years and shall be eligible for re-election for a further term. The Board shall determine the number of Region Committee members.

111. Members of each Region shall elect their Region Chairman, vice-Chairman and members of the Region Committee during a Region's General meeting convened not less than twenty-one days before the Association's Annual General Meeting.

112. Regions shall elect their own Region Committee in accordance with guidelines issued by the Board, which in doing so will have regard to peculiarities of different Regions logistics.

113. The five Regions so established shall be: -

- a) Nairobi Region,
- b) Mara Region,
- c) Western Region,
- d) the Central Region and
- e) the Coast Region.

## **DISPUTE RESOLUTION**

114. Whenever any difference arises between the Association on the one hand and any of the members, on the other hand, touching the true intent or construction, or the incidents, or consequences of these Articles, or of the statutes, or touching anything then or thereafter done, executed, omitted, or suffered in pursuance of these Articles, or of the statutes or touching any breach, or alleged breach, of these Articles, or any claim on account of any such breach or alleged breach, or otherwise relating to the premises, or to these Articles or to any statutes affecting the Association, or to any of the affairs of the Association, every such difference shall be referred to the decision of an arbitrator, to be appointed by the parties in difference, or if they cannot agree upon a single arbitrator to the decision of two arbitrators, of whom one shall be appointed by each of the parties in difference.

115. Whenever a dispute arises between two or more members of the Association touching the true intent or construction, or the incidents, or consequences of these Articles, or Statutes, or touching anything then or thereafter done, executed, omitted, or suffered in pursuance of these Articles, or of the statutes or touching any breach, or alleged breach, of these Articles, or any claim on account of any such breach or alleged breach, or otherwise relating to the premises, or to these Articles or to any statutes affecting the Association, or to any of the affairs of the Association, every such difference shall be referred to the decision of the Board.

116. The Board in pursuance of the above Article 116 may either on its own decide upon the matter or refer it to a specialized Committee it may set up in accordance to Article 61 to resolve on the issue.

## **ALTERATION OF ARTICLES**

117. Any enactment, amendment, repeal or overhaul to these Articles shall be effected through a resolution of a General Meeting of the Association. The same must be supported by at least two thirds of the members present and voting.

## **WINDING UP**

118. If the Association shall be wound up the liquidator may, with the sanction of a special resolution of the Association and any other sanction required by the Act, divide amongst the

Members in specie or kind the whole or any part of the assets of the Association (whether they shall consist of property of the same kind or not) and may, for such purpose set such value as he deems fair upon any property to be divided as aforesaid and may determine how such division shall be carried out as between the Members or different classes of Member. The liquidator may, with the like sanction, vest the whole or any part of such assets in trustees upon such trusts for the benefit of the Members as the liquidator, with the like sanction shall think fit, but so that no Member shall be compelled to accept any asset or other securities whereon there is any liability.