



**KAPI**



**KAPI**

**THE CONSTITUTION OF  
KENYA ASSOCIATION OF PHARMACEUTICAL INDUSTRY**

**DEVELOPED BY  
THE CENTRE FOR CORPORATE GOVERNANCE  
AND REVISED ON NOVEMBER 27, 2023 AND RESUBMITTED ON JANUARY 16, 2024**

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## CONSTITUTION.

### **PREAMBLE:**

KAPI is a Membership organisation established in the late 1960s. The association represents manufacturers (or their local representatives) that through research; invent and develop medicines and technologies (e.g., Biopharmaceuticals, Vaccine Healthcare, Medical devices, Diagnostics) that significantly improve people's lives. KAPI is the industry voice promoting efficiency in the pharmaceutical industry for improved access to high quality, safe and effective medicines, health products and technologies for diagnosis.

The vision of KAPI is to be the leading in the provision of innovative world class quality healthcare solutions, products and services. Its mission is to promote an ethical, innovative and a responsible health-care industry. Key among core values of KAPI include Ethics, Integrity, Excellence and Relationships

KAPI leverages on its standing relationships within the policy environment to engage with and inform policies towards an enabling business environment in health and pharmaceutical industry. To shape policy, practice and healthcare trends in the country, KAPI injects professional and technical acumen into different engagement forums to drive an agenda for a proactive industry. Through its Membership and operations in the industry KAPI uses key insights from the industry that is of value to its Membership as well as in driving the industry agenda.

## **NAME.**

The name of the Association shall be” Kenya Association of Pharmaceutical Industry.”

## **OBJECTIVES.**

- (i) The overall objective of the Association is to represent and promote the interests of the healthcare industry in Kenya which shall embody; the -
  - a. To promote at all times the efficiency of the health care industry to ensure that medicinal products and health care technologies of the highest quality, safety and efficacy are readily available for the prevention, diagnosis and treatment of human and animal diseases.
  - b. To make every endeavour to safeguard the public against exploitation by misleading advertisements, promotions and product claims by the adulteration of products and by other malpractices and to assist and co-operate with all appropriate authorities on such matters.
  - c. To represent the views of the industry in all matters affecting the interest of Members of the Association and/or assist with Policy development and advocacy of regulations and legislations that affect the Industry. To promote continued activity in the development of the industry with the cooperation and assistance of any party actively engaged or involved in the improvement of healthcare in Kenya through the Research and Development of new innovative medicines, services, health technologies and allied products and the promotion, production and marketing of these products of reliable quality, safety and efficacy in accordance with locally and internationally defined standards of good practice.
  - d. To affiliate or co-operate with any organised bodies or institutions engaged in health care and pharmaceutical scientific research, public and professional health education and/or having objectives similar to those of the Association.
  - e. To take any lawful action incidental to or conducive to the attainment of the above objects.

- (ii) The Association shall be strictly non-political. It shall not be a trading organisation, is neither formed for acquisition of gain nor shall it concern itself in any way with the domestic matters or sales policies of its Members. However, the association shall mediate in situations where Member companies have a conflict
- (iii) The Association may join, own or cause to exist for profit or not for profit Enterprise to advance the efficiency of the sector or in support of Members.
- (iv) This constitution may be amended by a special resolution passed in accordance with the provisions of the by-law.
- (v) The Headquarters of the Association shall be in Nairobi with branches as shall be deemed appropriate by the Board of Directors with the approval of Members at a General Meeting.

## **RULES AND BY-LAWS**

### **1. MEMBERSHIP.**

- (i) The Association's Membership shall be open, subject to the approval of the Board of Directors of the Association to companies as follows;
  - a. Original Equipment Manufacturers (OEM, being manufacturers of medical devices and In-Vitro Diagnostics) or their representatives in Kenya.
  - b. Kenyan companies engaged in the improvement of healthcare in Kenya through Research and Development of new innovative medicines, health technologies, services, digital innovation companies and allied products.
    - i. The allied products shall include cosmetics, nutritional supplements



- c. Kenyan companies engaged in the manufacturing of pharmaceuticals according to internationally- accepted standards of good manufacturing practice and quality control. Upon attainment of specific SRA or WHO accreditation or standard marks
  - d. Foreign companies engaged in the manufacturing or marketing of pharmaceuticals in Kenya according to internationally- accepted standards of good manufacturing practice and quality control and/or represented by a Kenyan company in Kenya.
  - e. Kenyan companies involved in the distribution of products manufactured by companies in (a) and /or (b) above and which must conform to the Code of Ethical Practice and Kenyan Law A Kenyan Company is duly registered according to the Laws of Kenya.
  - f. Other entities as may be described by the Board from time to time with the associated governance articles (Add a clause on AGM inclusion on the decision).
- (ii) No company shall be entitled to become or to continue to be a Member of the Association unless such company is and continues to fulfil the qualifications prescribed in sub-clause (i) hereof.
- (iii) All applicants for Membership shall sign an application in such form as may from time to time be prescribed and shall lodge the same with the Executive Director of the Association. The Board of Directors shall consider each application and may accept or reject any application by a majority of votes of those present, and shall not be bound to give any reasons for rejection of any application. Acceptance and rejection by the Board of Directors of any Membership application shall be subject to ratification by a majority of votes of Members present at the next following general meeting.

- (iv) Each Member shall receive a copy of the Constitution, By-Laws and a Code of Conduct and shall acknowledge receipt thereof to the Executive Director. Such acknowledgement shall be deemed for all purposes an admission by such Member that he is fully acquainted with the terms and conditions of the Membership and until such acknowledgement is received by the Executive Director the Member shall not be deemed to be a Member and shall not be entitled to exercise any of the privileges of Membership.
- (v) The Board of Directors shall cause to be kept a register of Members of the Association and the Executive Director shall enter therein the following particulars;
  - a. The name and address of each Member.
  - b. The name of the person appointed to attend and vote at such meetings on behalf of the Member, and the name of the two alternative representatives.
- (vi) Members shall comply with all provisions of the Constitution, By-Laws and Code of Conduct and any alterations or additions thereto as may be made from time to time in general meetings.
- (vii) Every Member shall appoint a person to attend as the representative of and vote for such Member at any general meeting of the Association. Every Member may appoint an alternative representative in its place and shall notify the Executive Director in writing of any such alteration.
- (viii) No Member shall assign or transfer its Membership or any of the rights, privileges or any of the benefits of the Membership.

- (ix) Membership of the Association shall be deemed to begin when all the conditions of the clause have been complied with and on payment of annual subscription fees. For fiscal purposes, Membership shall date from **1st January each year.**

## **OTHER MEMBERS**

The Association shall invite certain personalities or entities into Membership of the Association as Honorary, Observer, Associate or any other as may be deemed appropriate and advancing of the objectives of the Association. Such Members shall be subject to the provisions of article 1(f) hereinabove. Such Members shall have no voting rights. All such invitations shall be recommended either by the Board of Directors or Members of the Association for approval at the Annual General Meeting.

The number of Honorary Members shall not at any time exceed ten (10), and not more than two (2) Honorary Members shall be elected in any one year.

## **2. LIABILITY OF MEMBERS**

- (i) Nothing in these Presents shall be deemed to constitute a partnership between the Members of the Association or any of them.
- (ii) No Member, Board Member or officer of the Association or any other person whatsoever shall have any power or authority either express or implied to pledge the credit of any Member of the Association or to incur any liability of any description whatsoever on his, their or its behalf and it is upon the faith of this provision that all Members shall be deemed to have joined the Association and to have accepted these By-Laws.

- iii) No Member whether an officer or not or any Committee shall have power or authority to pledge the credit or make any payments from the funds of the Association unless a resolution specifically authorising the particular expenditure and duly passed and minuted in the records of the Board of Directors of the Association is made.

### **3. PROFESSIONAL CONDUCT**

A Member of any category is required to uphold the highest ethical principles both within the association and in their endeavours as stipulated in the code of conduct which may be revised from time to time.

Every Corporate Member is required to uphold integrity and the highest level of professionalism in whatever capacity they may be engaged, in a strictly fiduciary manner towards their stakeholders whom their work is connected and towards other Members, in a manner consistent with the best interests of the Association.

Any breach of By-Laws and rules which may be brought before the Board properly vouched for and supported by sufficient evidence shall be dealt with by the Board in line with the agreed disciplinary procedures.

### **4. EXPULSION**

- Any Member may be expelled from Membership if the Board so recommends and if a general meeting of the Association shall resolve by a two-thirds majority of the Members present that such a Member should be expelled because its conduct has adversely affected the reputation or dignity of the

Association, or that it has contravened any of the provisions of the Constitution of the Association.

- Notwithstanding the generality of the foregoing sub-paragraph any Member who does not attend three consecutive Members Meetings without a valid reason acceptable to the Members will forfeit its Membership.
- Any Member who fails to pay its subscription within six (6) months from the due date (1st January) shall cease to be a Member and shall be struck off the register of Members. The Board may, however, reinstate such Members on payment of the total amount of subscriptions outstanding, including entrance fees.
- Any Member who withdraws or is expelled shall not be refunded its subscription or any part thereof or any moneys contributed at the time.

## **5. OFFICE BEARERS.**

- (i) The Board of Directors, consisting of employees of Member companies, except for the Immediate Past Chairman, shall be elected at the Annual General Meeting.
- (ii) The Executive Director will call for nominations when giving notice of the meeting; these nominations shall reach the Executive Director not less than 48 hours before the start of the meeting and shall be signed by the proposer, seconder and nominee. If insufficient nominations are received, further

nominations to fill the remaining vacancies may be taken from the floor of the AGM.

- (iii) The Board of Directors shall consist of a Chairman, Vice Chairman, Treasurer and five Directors (Three Directors shall be elected from the Membership and two independent Directors), the Executive Director (ex-officio) and the immediate past Chairman. The Board of Directors shall have the power to co-opt an additional Member(s) with special skills to the Board for purposes of enriching the decision-making process. Such a Member shall not be entitled to have any voting rights at any meeting of the Board.

## **6. THE CHAIRMAN.**

The Chairman shall chair all meetings of the Board of Directors and all General Meetings. He shall provide general policy guidelines related to the affairs of the Association as expressly provided in the constitution. In his absence, the Vice-chairman shall chair the meetings. In the absence of both the Chairman and the Vice-chairman, the Board of Directors Members shall appoint one of them to chair the meeting.

## **7. THE VICE-CHAIRMAN.**

The Vice-Chairman shall deputize and assist the Chairman in the performance of his/her duties.

## **8. THE TREASURER.**

The Treasurer shall, in general, ensure that proper accounting procedures are adhered to, and shall:

- (i) Keep, on a proper accounting basis, all the financial records of the Association;
- (ii) Open a bank account on the advice of the Board and ensure that the signatories of the bank accounts

will be the Treasurer, the Executive Director and one other Board Member.

- (iii) Provide reports on the financial statement of the Association and audited accounts to the General Meeting.
- (iv) Have the custody and control of the cash securities, books of account and other valuable papers of the Association, such books and accounts to be at all times open for inspection of the Members of the Board.
- (v) Prior to the 31st January in each year prepare a statement of accounts of the Association for the previous year ended 31st December and retain a copy thereof in the office of the Association and upon request produce the same for inspection by any Member.
- (vi) As soon as possible, after receipt, deposit all funds in his/her possessions in the Bank or Banks prescribed by the Board.

## **9. THE COMPANY (ASSOCIATION) SECRETARY**

The Association shall create the position of a “Company” Secretary when deemed necessary. The Secretary shall act under the general direction of the Chairman or in his/her absence the Vice-Chairman. The Secretary shall perform the following tasks:

- (i) In consultation with the Executive Director, ensure that the Board processes and procedures run

smoothly, efficiently, and effectively.

- (ii) Assist and advise the Board on corporate governance issues.
- (iii) Assist the Executive Director in organizing Board activities, including providing information, preparing agendas, issuing notices and preparing for meetings
- (iv) Convene all meetings, stating in writing the business to be transacted thereat, and shall supply information to Members on all matters connected with the Association.
- (v) Keep correct records of all meetings of the Association.
- (vi) Ensure timely preparation and circulation of Board and Committee papers and minutes.
- (vii) Sit in on all meetings of the Board of Directors and record the proceedings thereof.
- (viii) Deliver to the Registrar of Societies all such returns as are required under the Societies Act
- (ix) Keep a Register of Members of the Association showing their names and addresses.
- (x) Maintain a register of declared Conflicts of Interest.
- (xi) Ensure the safe custody of the Association's seal and maintain a record of its usage.
- (xii) Perform all other duties incidental to his/her office.

## 10. THE BOARD OF DIRECTORS AND MEETINGS

The Board of Directors of the Association shall meet at least four (4) times per year. Additional Board meetings may be held based on demand. Board meetings shall be held at such time and date as stipulated in the Board Work plan.

The Chairman, or in his absence the Vice-Chairman, shall preside at all meetings of the Board of Directors.

At all meetings of the Board of Directors, five (5) voting Members of the Board shall constitute a quorum. Each Member of the Board shall have one vote, and in the event of an equality of votes, the Chairman shall have a casting vote.

No Member company is permitted to nominate or have more than one Director serving on the Board at any given time.

Casual vacancies occurring among Members of the Board of Directors shall be filled by the Board and ratified in the next AGM, and any person chosen to fill such vacancy shall retain his office only so long as the Member whose place he has taken would have retained the same if no vacancy had occurred.

In the event of an insufficient number of Directors on the Board, the resolution to increase Board Membership shall be addressed and decided upon during the Annual General Meeting (AGM).

## 11. POWER OF THE BOARD OF DIRECTORS.

- (i) The Board of Directors shall have plenary powers in the direction and oversight of the management of the business and affairs of the Association including management of its property and funds in the application and disposal thereof.
- (ii) For the better exercise of its functions, the Board of Directors may establish one or more Committees in which it may vest such of its functions as it considers appropriate. Committees may comprise Members of the Board of Directors or others at the absolute discretion of the Board of Directors.
- (iii) The Terms of Reference of each Committee are more specifically provided for in the Schedules of this Constitution.
- (iv) The vesting of any function in a Committee shall not divest the Board of Directors of their function, and the Board of Directors may amend or rescind any decision of a Committee in the exercise of that function.
- (v) The Committees shall be headed by Chairpersons who are elected by Board Members.
- (vi) The Board may form the following Committees when necessary:
  - a. Audit, Risk and Compliance Committee
  - b. Finance, Project & Membership Committee
  - c. Industry & Government Affairs Committee

The Board may establish such other Committees as may from time to time be necessary in accordance with the Rules or by a Resolution of the Board, whose specific Terms of Reference shall be provided.

- (vii) The Board Chairperson may be invited to any of the Committees as deemed necessary.
- (viii) The Committees shall be under the general directions of the Board of Directors and their recommendations shall be subject to the consideration of the Board of Directors.

## **12. TENURE OF OFFICE**

The term of office of a Board Member shall be three (3) years, renewable once. To ensure continuity and proper succession planning, the appointment of Directors shall be staggered to the best extent possible.

No Board Member shall occupy the office for more than six (6) years.

## **13. REMUNERATION OF DIRECTORS**

The compensation for Directors, such as sitting allowance, travelling, accommodation and other expenses properly incurred by them in the execution of their duties as Directors will be determined from time to time by the Members in Annual General Meetings (AGMs).

## **14. DISQUALIFICATION OF OFFICERS.**

- (i) An office bearer of the Association shall be deemed to have vacated his office on the happening of any

of the following events: -

- a. If he/she or the firm or company he/she represents ceases to be a Member of the Association.
- b. If he/she or the firm he/she represents becomes bankrupt or insolvent, or if the company he represents goes into liquidation or is wound up other than for purposes of reconstruction.
- c. If he/she becomes of unsound mind or otherwise incapable of acting.
- d. If he/she resigns his/her office through a written notice to the Chairperson.
- e. If he/she is absent for three consecutive meetings of the Board of Directors without leave of absence.
- f. If any Member of the Board of Directors is absent from three consecutive meetings of the Board, the Board may declare that he/she has vacated his/her office.
- g. If he/she exits from the industry.
- h. Notwithstanding the foregoing disqualification provisions, a Member of the Board, shall complete their term unless they indicate intent otherwise.

## **15. THE SECRETARIAT**

There shall be a Secretariat which shall be headed by the Executive Director, and its offices shall be situated at a place to be agreed upon by the Members present in the first General Meeting.

The Secretariat shall comprise of the following offices;

- a. Executive Director;
- b. Project, Policy and Trade Officer;
- c. Research Project Officer;
- d. Communication and Public Relations Project Officer;
- e. Finance Officer;
- f. Audit, Risk and Compliance Officer;
- g. Programme Assistant.

The Secretariat shall be responsible to the Board of Directors and shall:

- a. Represent and act on behalf of the Association generally on administrative issues;
- b. Do all such acts as may be necessary for the efficient running of the Association in line with the directions of the Board of Directors;
- c. Keep a full, complete, and up-to-date record of the Association's affairs;
- d. Keep minutes of the meetings of the Board of Directors, Board Committees and Annual General Meetings;

- e. Arrange for the meetings of the Association on instructions of the Board of Directors.
- f. Do all such acts as are necessary for the efficient and effective running of the Association's affairs.

## **16. THE EXECUTIVE DIRECTOR**

The Executive Director shall be the Chief Executive Officer of the Association.

The Executive Director shall be appointed by the Board of Directors and shall hold office for such terms, and subject to such conditions as the Board shall determine.

## **17. RESPONSIBILITIES OF THE EXECUTIVE DIRECTOR**

The Executive Director shall have overall responsibility for planning, integrating, implementing and reviewing the strategic direction of the Association.

In particular, the Executive Director shall: -

- (i) Serve as the Chief Executive of the Association under the order of the Board.
- (ii) Be responsible for all correspondence of the Association under the General Supervision of the Board.
- (iii) Act under the general direction of the Chairman or in his absence the Vice-Chairman in convening all meetings, stating in writing the business to be transacted thereat, and shall supply information to Members on all matters connected with the Association.

- (iv) Issue notice convening all meetings of the Association and shall be responsible for keeping minutes of all such meetings for the preservation of all records of proceedings of the Association.
- (v) In urgent matters, where the Board cannot be convened for consultation, the Executive Director shall consult with the Chairman or if he/she is not available, with the Vice-Chairman. The decisions reached shall be subject to ratification or otherwise at the next Board meeting.
- (vi) Assist the Treasurer in the maintenance of proper books of account and normal financial transactions of the Association.
- (vii) Keep all Members informed of all matters of interest to the Association.
- (viii) Advise the Board on all matters of interest to the Association.
- (ix) Sign all cheques, notes and other instruments drawn by the Association necessary for the proper conduct of its business and procure such additional or counter signatures in accordance with these rules or the Resolutions of the Board.
- (x) Deliver to the Registrar of Societies all such returns as are required under the Societies Act.
- (xi) Keep a Register of Members of the Association showing their names and addresses.

## **18. ANNUAL GENERAL MEETING**

The Annual General Meeting of the Members shall be held not later than the last day of March of each year at such time and place as may be determined by the Board of Directors.

At such meetings, the duly audited statement of the year ended 31st December immediately preceding and duly signed by the chairman shall be submitted to Members. The Board of Directors for the ensuing year shall be elected and any other business transacted that may be deemed necessary or advisable in the interests of the Association or its Members.

## **19. EXTRAORDINARY GENERAL MEETINGS.**

- (i) The Chairman or Board of Directors may whenever they think fit, and the Chairman shall upon the requisition in writing by one-third of Members, convene an Extraordinary General Meeting. Such requisition shall state the purpose for which such meeting is desired to be called and should be left at the office of the Association.
- (ii) Upon receipt of such requisition, the Chairman shall forthwith proceed to convene a General Meeting of Members. If the Chairman does not proceed to convene the same within fourteen days from the date of requisition, the requisitioners may themselves convene the meeting.
- (iii) At any Extraordinary General Meeting convened on the requisition of Members, only such business as is specified in the requisition shall be transacted at such meeting.

## **20. NOTICE OF ANNUAL/SPECIAL GENERAL MEETINGS**

For AGM, a twenty-one (21) working days' notice is required, and a Special General Meeting (SGM) will require seven (7) working days' notice.

Before every meeting of Members, each Member shall have the Notice posted to them by the Executive Director. A notice in writing shall specify the place, date, and hour of the meeting, and in case of a Special General Meeting, the general nature of such business shall be specified. The non-receipt of such notice by any Member shall not invalidate the proceedings at any General Meetings.

The quorum for the AGMs, SGMs and EGMs will be one third of the duly registered Members.

## **21. PROCEEDINGS AT GENERAL MEETINGS.**

- (i) No business shall be transacted at any general meeting unless a quorum of not less than one-third of Members is present at the commencement of such a meeting.
- (ii) If within thirty minutes of the time fixed for the commencement of the meeting, a quorum is not present the meeting if convened on the requisition of Members, shall be dissolved. In any other case, it shall stand adjourned at the discretion of the Chairman.
- (iii) If during a General Meeting or Extraordinary General Meeting, any Member shall propose a vote of no confidence either in an officer or officers of the Association or indeed in the Board of Directors, such vote shall not be valid unless there is a quorum of 75% of the voting Membership which shall include

alternate or proxy votes. This provision allows for one vote per Member Company.

## **22. ELECTION OF DELEGATES.**

Delegates to represent the Association on any federation or council of employers or any conference or deputation shall be elected by the Board of Directors of the Association.

## **23. ANNUAL SUBSCRIPTION AND ENTRANCE FEE.**

- (i) Each Member shall, immediately upon admission pay to the Association a prescribed entrance fee as the Association in general meeting may upon the recommendation of the Board of Directors from time to time determine.
- (ii) The general meeting of Members shall from time to time pass a resolution to increase subscription fees and issue a two-month notice to Members indicating the effective dates of the new rates. Any Member who fails to pay the revised fees from the effective date shall automatically cease to enjoy all rights and privileges of Membership until such fees are paid in full, and shall not be entitled to any refund of any fees already paid.
- (iii) Members who are admitted to Membership after the first day of January and before September 30<sup>th</sup> in any year shall be liable for the full year's subscription. Members joining after September 30<sup>th</sup> in any year shall be liable to pay a prorated sum of the subscription fees.
- (iv) Participation in the voting process during the Annual General Meeting (AGM) is restricted to Members who are fully paid-up.

## **24. LEVIES.**

If further funds shall be required for any purpose, the Board of Directors shall convene an Extraordinary General Meeting of the Association to consider the question and such meeting, by a resolution passed by a majority of not less than three-fourths of the votes (as assessed below under Voting Powers). Levies of Members present at such meeting personally or by proxy may authorise the Board of Directors to call for such further contributions from all Members as the meeting may determine.

All Members shall be subjected to the same levy with provisions to vary levies on Associate Members, Honorary Members, Observer Members and other categories where it may be appropriate.

A Member may by giving notice at any general meeting of their intention to consider resignation because of the imposition of a levy, exempt themselves from the payment of a levy in the event of their subsequent resignation.

Voting powers: All Members shall be entitled to one vote per Member.

## **25. LEGAL REPRESENTATION.**

The Association may be represented before any court, commission court or other tribunal in the interests of the Association or its Members by any person whom the Board of Directors may from time to time appoint and for this purpose the Board of Directors may engage council, solicitors and other professional persons as they may think fit.

## **26. AUDITOR.**

The Association shall at every Annual General Meeting appoint an auditor to hold the office for the ensuing year at a fee to be fixed by the AGM. No Member of the Association shall be eligible to act as an Auditor.

The Treasurer shall produce to the External Auditor an account of his/her receipts and payments and a statement of assets and liabilities made up to the date which shall be not less than six weeks and not more than three months before the date of the Annual General Meeting.

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

No Auditor shall serve for more than three (3) years unless an agreement is reached to rotate the partner.

## **27. NOTICES.**

Any notice may be served by the Association on any Member either personally, through electronic mail to addresses availed by Members to the Executive Director, or by sending it through the post in a prepaid letter addressed to such Member at its registered address and every such notice shall be deemed to have been served at the time when it would in the ordinary course of the post have been delivered.

## **28. ALTERATION OF CONSTITUTION/RULES AND BY-LAWS.**

(i) This Constitution/Rules and by-laws or any of them may be altered or amended or new constitution/

Rules and by-laws adopted by a Special Resolution passed in accordance with By-law thereof. Every such alteration or amendment or new constitution/rules and by-laws shall be binding on all Members and shall come into effect subject to the approval of the Registrar of Societies as from the date of such resolution as if the same was inserted and contained in the original Constitution/Rules and by-laws.

- (ii) Notice of intention to propose any such alteration amendment or addition shall be given in writing to the Executive Director at least 28 days before the meeting at which it is intended to propose such alteration, amendment or addition, and shall be communicated by him/her to all Members in the notice convening the meeting.
- (iii) Amendments to the Constitution of the Association shall be approved by at least two-thirds majority of full Members at a General Meeting of the Association. Such amendments shall not however be implemented without the prior consent of the Registrar of Societies obtained upon application to them made in writing and signed by the Chairperson, the Executive Director and one other office bearer.

## **29. BREACHES OF CONSTITUTION AND BY-LAWS AND POWERS OF THE BOARD OF DIRECTORS IN RELATION THERETO.**

- i. If any Member of the Association shall in the opinion of a majority of the Board of Directors infringe any of the provisions of the Constitution or any of the by-laws of the Association, or be guilty of any act proceeding or practice which the Board of Directors may consider to be dishonourable or to be inconsistent with its position as a Member of the Association or to bring discredit on the Association or to be otherwise inimical to its interests and objects, the Board of Directors may, by notice in writing, request the Member to attend a meeting of the Board of Directors at a time and a place specified by the Board of Directors to answer the criticism of Members' conduct.

- ii. If after such a meeting at which the Member shall be given every opportunity to justify the case of the criticisms, a majority of the Board of Directors considers that the Member should cease to be a Member of the Association, the Board of Directors shall request the Member to resign within a time to be specified.
- iii. If the Chairman does not receive such resignation within the specified time, the Chairman shall instruct the Executive Director to call for an Extraordinary General Meeting of the Members to consider whether such a Member should be expelled from the Association.
- iv. At such a meeting, the Member whose expulsion is subject to the Resolution shall be allowed to explain verbally or in writing, of their conduct, and if thereafter three-fourths (3/4) of the Members present in person or by proxy, and entitled to vote, shall vote for his expulsion he shall thereupon cease to be a Member, always provided that the voting at any such Extraordinary General Meeting shall be by ballot.

### **30. RESIGNATION.**

Any Member company wishing to resign from the Association must give one month's notice of its intention to do so in writing to the Executive Director and such notice shall be accompanied by payments of all subscriptions, levies, fines, fees and dues of whatsoever description that may then be due and owing by the Member unless declared bankrupt. All subscriptions, fines, levies and dues which may subsequently accrue during the said one month period must also be paid by the Member. Otherwise, the notice shall not be binding on the Association. The Membership of the Member resigning shall terminate on the expiry of one month's notice, provided that the conditions laid down by this rule have been complied with.

### **31. SPECIAL RESOLUTIONS**

A Resolution shall only be deemed to be special if put to a quorum of 75% of the voting Membership and that Special Resolution shall only be deemed to be passed when approved by a majority of those present. For interpretation, voting Membership shall include alternate or proxy votes. This provision allows for one vote per Member.

### **32. WINDING UP.**

The Association may be wound up and dissolved by a special resolution passed at a meeting duly convened for that purpose and at such meeting where no less than 75% of active and voting Members are present. However, it should be ensured that the resources and remnant assets of the Association are gifted to other entities pursuing the same objectives.

### **33. INDEMNITY FOR SERVANTS.**

The Chairman, Vice-Chairman, Members of the Board, Executive Director and other officers, servants or agents of the Association may be defended and indemnified from and against any prosecution action or other legal proceedings brought against or incurred by them in the proper and reasonable discharge of their duties and all damages, costs and expenses which may be incidental to or result from such prosecution, action or other legal proceedings by and the costs of the Association and the funds and property of the Association shall be applied for such purpose at the discretion of Board of Directors whose decision shall be final.

### **34. USE OF FUNDS.**

- (i). Funds and assets of the Association shall be applied solely towards the promotion of the objects of the organisation as set for in this constitution; and no portion thereof shall be paid or transferred directly, or indirectly by way of dividend, gift, bonus or otherwise by way of profit to the Member of the Association provided that nothing herein shall prevent the payment in good faith, of reasonable and proper remuneration to any officer or servant of the Association or any Member of the Association, in return or any services rendered to the Association, or prevent the payment of interest at a rate or money lent or reasonable and proper rent for premises demised or let by any Member to the Association. The Funds of the Association shall not be distributed among Members for any purpose.
- (ii). The funds of the Association shall be banked in the Association's bank in a bank account chosen by the Members.
- (iii). For any payments and disbursements of resources, there should be a documented approval process defined by the Board
- (iv). The Board shall nominate the bank signatories consisting of four of which the treasurer must be included.
- (v). The inventory of assets, records and proprietorship documents of the Association's assets will be under the custody and accountability of the Treasurer.

### **35. INSPECTION OF BOOKS.**

The books of accounts and all documents relating thereto and the list of the Members of the Association shall be available for inspection at the registered offices of the Association by any officer or Member of the Association on giving not less than seven (7) days' notice in writing to the Secretary/Executive director.

### **36. COMMON SEAL.**

The common seal of the Association shall be under the control of the Board of Directors and shall be retained in the custody of the Executive Director. It shall not be affixed to any document except by authority of a resolution of the Board, upon which any two Board Members shall sign every document to which the seal of the Association is affixed in their presence.

### **37. INTERPRETATION OF RULES.**

If at any time any matter shall arise not provided for in these rules or any doubt arise to the interpretation of these rules the same shall be determined by the Board of Directors whose decision shall be final.

### **38. MATTERS NOT PROVIDED**

Any matters not provided for in the Constitution shall be dealt with by the Board at its discretion.



**KENYA ASSOCIATION OF THE  
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