



THE ASSOCIATION OF CONSULTING ENGINEERS OF KENYA

CONSTITUTION

REVISED APRIL 2006

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CONSTITUTION

NAME

1) The name of the Association is THE ASSOCIATION OF CONSULTING ENGINEERS OF KENYA

ADMINISTRATIVE OFFICES

2) The administrative offices of the Association shall be centred in Nairobi, Republic of Kenya.

INTERPRETATION

3) In this Constitution the words standing in the first column of the table next hereinafter contained shall bear the meaning set opposite to them respectively in the second column thereof, if not inconsistent with the subject or context:

Words

Meanings

Consulting Engineer

A person possessing the necessary qualifications and experience to practise in one or more of the various branches of engineering who devotes himself to advising the public on engineering matters or to designing and supervising the construction of engineering works, and for such purposes employs either solely or in conjunction with another Consulting Engineer his own office and staff or, in the case of a partner, director or consultant of a firm of Consulting Engineers, uses the office and staff of the said firm and is not directly or indirectly concerned or interested in commercial, manufacturing or contracting interests such as would tend to influence his exercise of independent professional judgment in the matters upon which he advises.

A Firm of Consulting Engineers

A Professional firm in which all the Partners, or all the directors and shareholders of a company are Consulting Engineers provided that other suitable persons or bodies who adhere to the rules of Professional Conduct incorporated hereinafter may also be partners, directors, or shareholders, but in such event the majority of partners or directors, to the extent of compliance with Clause 11(1) (a), shall be Consulting Engineers who have financial control of the firm,

The Association

The above-named Association.

The Council	The Council for the time being of the Association.
Kenya	The Republic of Kenya
Month	Calendar Month
In Writing	Written, printed or lithographed, faxed or electronically mailed or partly one and partly another, and other mode of representing or reproducing words in a visible form.

Words importing the singular number only shall include the plural number, and vice versa; words importing the masculine gender only shall include the feminine gender; and words importing the person shall include corporations

OBJECTS

4. (1) The objects of the Association are:-
- (a) To establish a standard for the conduct of Consulting Engineers in Kenya;
 - (b) To serve the public in matters connected with engineering;
 - (c) To promote the training of Engineers in Kenya;
 - (d) To promote the advancement of the profession of Consulting Engineering;
 - (e) To associate Consulting Engineers as defined herein for the purpose of co-operation and mutual advantage and consultation
 - (f) To promote the professional interests, rights and powers of Consulting Engineers.
- (2) In connection with the foregoing objects and for the purpose of promoting the same:-
- (a) To give the legislature, public bodies and other organizations facilities for conferring with and ascertaining the collective views of Consulting Engineers established in Kenya;
 - (b) To seek representation in educational bodies in connection with the training of professional Engineers;
 - (c) To confer with associations representing manufacturers, contractors and other persons engaged in engineering works on matters of common interest;
 - (d) To purchase, take on lease or in exchange, hire or otherwise acquire any movable or immovable property and any rights or privileges which the Association may think necessary or convenient for the purpose of its business, and in particular any lands buildings or works, and to construct, maintain and alter any building or works;
 - (e) To sell, let mortgage, donate, dispose of, or turn to account, all or any of the property, rights or privileges of the Association;
 - (f) To undertake and execute any trusts which may lawfully be undertaken by the Association;

- (g) To borrow or raise money on such terms and on such security as may be thought fit;
- (h) To invest the moneys of the Association not immediately required for its purposes, in or upon such investments, securities or property as may be thought fit, and generally to lend and advance money to any persons or companies without security, or upon such security and terms and subject to such conditions as may seem expedient;
- (i) To establish and support or aid in the establishment and support of any charitable or benevolent association or institutions and to subscribe or guarantee money for charitable or benevolent purpose;
- (j) To draw, make, accept, endorse, discount, execute and make promissory notes, bills of exchange and other negotiable or transferable instruments;
- (k) To do all such other things as are incidental, or the Association may think conducive, to the attainment of the above objects or any of them

PROPERTY AND ASSETS

5. The income and property of the Association whencesoever derived, shall be applied solely towards the promotion of the objects of the Association as set forth in this Constitution and no part thereof shall be paid or transferred, directly or indirectly, by way of dividend, bonus or otherwise howsoever by way of profit, to the members of the Association; PROVIDED THAT nothing here-in contained shall prevent the payment in good faith of reasonable and proper remuneration to any officer or servant of the Association or to any member thereof not being a member of the Council or governing body, in return for any services actually rendered to the Association, nor prevent the payment of interest at a rate not exceeding the current commercial lending rate charged by the Association bankers on money lent or reasonable and proper rent for premises demised or let by any member of the Association; but so that no member of the Council or governing body of the Association shall be appointed to any office of the Association paid by salary or fee, and that no remuneration or other benefit in money or money's worth shall be given to any member of such Council or governing body except repayment of out-of-pocket expenses and interest at the rate aforesaid on money lent or reasonable and proper rent for premises demised or let to the Association PROVIDED THAT the provision last aforesaid shall not apply to any railway, tramway, gas, electric lighting, water, cable or telephone company of which a member of the Council or governing body may be a member, or any other company in which such member shall not hold more than one-hundred part of the capital, and such member shall not be bound to account for any share of the profits he may receive in respect of any such payment.

LIABILITY OF MEMBERS

6. The liability of the members is limited to the subscriptions payable in terms hereof.

DISSOLUTION

7. If upon the winding up or dissolution of the Association there remains, after the satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the members of the Association, but if and so far as effect can be given to the next provision, shall be given or transferred to some other institution or institutions having objects similar to the objects of the Association and which shall prohibit the distribution of its or their income and property among its or their members to an extent at least as great as is imposed

on the Association by virtue of Clause 5 hereof, such institution or institutions to be determined by the members of the Association at or before the time of dissolution, and if and so far as effect cannot be given to such provision, then to some charitable object.

8. True accounts shall be kept of the sums of money received and expended by the Association, and the matters in respect of which such receipts and expenditure take place, and of the property credits and liabilities of the Association and, subject to any reasonable restrictions as to the time and manner of inspections of the Association for the time being, shall be open to the inspection of the members. In the year 1968 and once at least in every subsequent year, the accounts of the Association shall be examined and the correctness of the balance sheet ascertained by one or more properly qualified Auditor or Auditors.

MEMBERSHIP

9. (1) Every member of the Association shall sign a written consent to become a member
- (2) Only one partner or director of a firm of consulting engineers needs be a member of the Association
- (3) Visiting qualified Engineers may apply for “Reciprocal Membership” not exceeding 12 (twelve) months duration. At the expiry of the 12 months such a “Reciprocal Member” will be required to apply for membership in the normal manner.
10. The privileges of membership shall not be transferable or transmissible.

QUALIFICATION OF MEMBERS

11. (1) No person shall be qualified for membership of the Association unless he:
- (a) Shall be in practice as a Registered Consulting Engineer either individually or as a partner, director or consultant of a firm of Consulting Engineers or as a director of either a limited or an unlimited company whose Memorandum of Association restricts its activities to those permitted to members of the Association. In the case of companies ownership by professional engineers, or allied disciplines in the construction industry, should be a minimum of 75% (seventy five per cent);
- (b) Shall be a Corporate Member of The Institution of Engineers of Kenya, a member of any of the associations of consulting engineers within the countries forming the East African Community, or any other professional body approved by the Council
- (c) Has registered his practice in terms of the Business Names Ordinance or other relevant legislation.
- (d) Is a Registered Consulting Engineer under the Engineers Registration Act Chapter 530 or other similar legislation within the East African Community region
- (2) No person shall be qualified for “Reciprocal Membership” of the Association unless:
- (a) He is professionally qualified as an Engineer in the country from which he comes and he, as his primary occupation, devotes himself to advising the Public on Engineering matters.

(b) His firm incorporated in the appropriate country conforms to the structure set out in the constitution of the Association of Consulting Engineers of Kenya (ACEK).

c) He is a temporary resident in Kenya.

d) He is a member of an association approved by the Association for reciprocation.

(3) No person shall be qualified for membership of the Association if he:

(a) Shall be a director, managing director or employee of, or partner in, or agent for a company or firm carrying on any commercial, contracting or manufacturing business dealing with the class of work to which his practice relates, or shall be the holder in any such company or firm of shares or other financial interest either directly or indirectly likely to influence his exercise of independent professional judgment rules for Professional Conduct incorporated hereinafter such company or firm of shares or other financial interest either directly or indirectly likely to influence his exercise of independent professional judgment in matters upon which he advises. This provision shall not however preclude otherwise qualified engineers from participating openly in Design - Build, Design Build and Operate or other similar Turnkey engineering projects.

(b) Shall be a director or employee of, or an agent for any Company undertaking engineering insurance work;

(c) Shall advertise or canvass or be connected with or interested in any company, firm or person who advertises or canvasses for Consulting Engineering work. This Clause does not however prohibit advertising in strictly professional publications dealing with the construction industry.

(d) Shall be a partner or co-director of a person who is ineligible for membership in terms of Clause 11 (1) (b) or Clause 11 (3) (a), (b) or (c) hereof.

The requirements of Clause 11 (1) (b) so far as they relate to the ineligible partner shall not be applied if the partnership or firm conforms to the definition of a firm of Consulting Engineers incorporated in Clause 3 hereinbefore.

(4) No person shall be a member of the Association unless he and all the partners of his firm, or all the directors and shareholders of the company, adhere to the rules for Professional Conduct incorporated hereinafter

(5) No person shall be elected to membership of the Association unless he shall be of such standing and experience as in the opinion of the Council entitles him to practise as a Consulting Engineer.

ELECTION OF MEMBERS

12. Every person desirous of becoming a member of the Association shall make his application in writing according to such form as shall be approved by the Council from time to time. The application shall be accompanied by a non-refundable application fee which shall be fixed by the Council from time to time. On receipt of such application form and the application fee, the Honorary Secretary shall submit the application to a meeting of the Council, and if approved by the Council, the candidate shall be nominated for election. Notice of such nominations giving the name, address and qualifications of the candidate shall be sent in advance to each member of the Association.

13. A confirmatory meeting of the Council shall be held after an interval of not less than 3 (three) weeks from the previous meeting, and in the event of no objections having been received in the interim or if such objection, if any, being over-ruled under the next following Clause, the candidate shall be duly elected and the Honorary Secretary shall forward him Forms “A” and “B”, set out in the Appendix to this Constitution, and on receipt of the latter duly signed, the member’s name shall be added to the Register of Members.

14. If any objections be received, they shall be considered by the Council, the final decision whether or not they shall be over-ruled resting with the Members of the Council present at such meeting or any adjournment thereof.

ELECTION OF NON-PRACTISING MEMBERS

15. The Council may, on the retirement from practice of any member of the Association, and provided that he is not otherwise ineligible for membership, elect him for such period as they may decide as a non-practising member of the Association, without subscription. A non-practising member shall be entitled to notice of and to attend all General Meetings and to take part in discussions thereat, but he shall not vote on any question nor shall he have any other privilege attaching to membership.

SUBSCRIPTIONS OF MEMBERS

16. Every new member shall immediately, upon his election, pay his entrance fee and subscription for the then current year, and no election shall become effective until such fees and subscription shall have been paid.

17. The entrance fee and subscription shall be such amounts and the subscription shall be payable on such date or dates as shall from time to time be fixed by the Council and approved by the members at a General Meeting.

18. In the event of any member not paying his subscription within 6 (six) months after the same has become due, the Honorary Secretary shall make application in accordance with Form “C” set out in the Appendix to this Constitution; and in the event of subscription not being paid at the end of a further 6 (six) months shall make further application by means of Form “D” set out in the Appendix to this Constitution. At the expiration of another 3 (three) months from the date of the second application, the Council shall submit such member’s name to the next Association General Meeting, if the subscription be still unpaid, for the removal of such member’s name from the Register of members.

DUTIES OF MEMBERS AND RULES OF PROFESSIONAL CONDUCT

19. Every member shall in all professional matters act as a faithful agent and trustee for his clients, and his charges to such clients shall constitute his only remuneration in connection with his work.

20. Members shall strictly adhere to the provisions of clause 11(1) (a) regarding ownership. Additionally they shall provide such professional insurance cover as may be necessary to afford the Clients adequate risk protection.

21. No member shall accept any trade commission, discount, allowance or indirect payment or other consideration in connection with any professional work on which he is engaged.

22. No member shall, without disclosing the fact in writing to his client, be a shareholder in or have a financial interest in any company, firm or person carrying on any contracting or manufacturing business which, in the opinion of the Council, might influence his professional advice to that client.

23. No member shall receive directly or indirectly any royalty on or any gratuity or commission in respect of any patented or protected article or process used on or for the purpose of the work in respect of which he is acting for a client unless and until such royalty, gratuity or commission has been authorized in writing by such client.

24. No member shall be the medium of payments on his client's behalf (unless specifically so requested in writing by his client) but shall only issue certificates for payments.

25. No member shall place orders on his own behalf but shall only do so explicitly on behalf of his clients.

26. No member shall solicit professional work either directly or indirectly by an agent nor shall he pay, by commission or otherwise, any person who may introduce clients to him.

27. No member shall advertise directly or indirectly for professional employment, nor shall he answer any advertisement for a Consulting Engineer, PROVIDED THAT nothing in this Article contained shall be construed as preventing or precluding a member if he so chooses from :-

(a) having his name, designation and address inscribed in a manner approved by the Council on display boards erected on the sites of works for which the member is the Consulting Engineer or commemorative tablets or stones incorporated in the finished structures;

or

(b) publishing, with his clients' approval, articles treatises or illustrations relating to the works for which the member is the Consulting Engineer either on his own account or in association with other parties concerned with such works;

or

(c) permitting his name to appear with illustrations or works with which he has been professionally connected, publishing as parts of advertisements by contractors or manufacturers provided that the member takes all reasonable steps to ensure that his name appears in an unobtrusive manner and not in any way as suggesting solicitation of professional work.

or

(d) responding to advertisement for open bidding for assignments in accordance with Clause 28

28. No member shall knowingly compete on the basis of professional charges with another member for employment. This Clause shall not be taken to prohibit members from participating in open bidding where both technical qualification and price shall be considered. In this case the process shall not be objectionable to the Association. Again the process shall be subject to judgment by professionals acceptable to the Association.

29. No member shall attempt, directly or indirectly, to supplant another member, nor shall he review or take over work of another member acting as a Consulting Engineer for the same client, until he has either obtained the consent of such member or has been formally notified by the client that the connection of such a member with the work has been terminated.

30. No member shall conduct himself in a manner nor act in any capacity, nor hold any appointment which, in the opinion of the Council, prejudices his position as a Consulting Engineer, or as a member of the Association, or is prejudicial to its interests.

31. Members may enter competitions involving the submission of proposals and designs for

engineering works but should always promote the concept of selection by ability and always to encourage prospective clients to engage the services of competent assessors who shall be Engineers of acknowledged standing to adjudicate such proposals and designs.

32. A member practicing outside Kenya may order his conduct in such country according to the rules of professional conduct and the code of ethics of any national society or body in that country recognized for this purpose by the Council.

CESSATION OF MEMBERSHIP

33. (a) A member shall cease to be member of the Association upon the happening of any of the following events:-

(i) upon his giving to the Association notice in writing that he Resigns membership;

(ii) if a sequestration order is made against him or he makes any arrangement or composition with his creditors;

(iii) if he becomes of unsound mind or if he is convicted of a criminal offence of a nature which the Council considers would or might react unfavourably upon the Association;

(iv) if he shall cease to be qualified under Clause 11(1) or becomes disqualified under Clause 11 (2);

(v) upon his being called upon by the Council to resign;

(vi) upon his name being removed from the Register of Members.

(vii) If he fails to mend ways after conviction by an *ad hoc* committee of the Association of unprofessional conduct.

(b) The Council shall have power by Resolution to expel from membership of the Association any member who in their opinion shall have committed a breach of the provisions of this Constitution or bye-laws duly made and approved in terms of Clause 58 here-of, or shall have been guilty of such conduct as shall have rendered him unfit to continue to belong to the Association. PROVIDED THAT no such Resolution shall have any operation or effect unless the member concerned shall have been given a proper opportunity of submitting for the consideration of the Council any statement or explanation in writing which he may desire and of attending and being heard by it at the meeting at which his actions or conduct are to be under consideration.

GENERAL MEETINGS

34. The Association shall hold its First General Meeting in the year 1968 and in every succeeding year shall hold its Annual General Meeting on such date after the 31st.(thirty first) day of January and before the 31st. (thirty first) day of March, at such place as may be determined by the Council who shall specify the meeting as such in the notices calling it.

35. All General meetings, other than Annual General Meetings, shall be called Extraordinary General Meetings.

36. (1) The Council may whenever they think fit convene an Extraordinary General Meeting and an Extraordinary General Meeting shall also be convened by the Council within 21 (twenty-one) days of the receipt by a member of the Council of a requisition in writing signed by not less

than 4 (four) members in good standing stating the objects of such meeting. Such meeting shall be convened for a date not less than 14 (fourteen) days nor more than 28 (twenty-eight) days from the date of the deposit of the requisition.

(2) If the Council does not, within 21 (twenty one) days from the date of the deposit of the requisition, convene a meeting as required by the sub-paragraph (1) of this Clause, the requisitionists, or any of them numbering not less than one half, may themselves convene a meeting stating the objects thereof on 21 (twenty-one) days notice, but no meeting so convened shall be held after the expiration of 3 (three) months from the said date.

(3) Any meeting convened under this Clause by the requisitionists, shall be convened in the same manner as nearly as possible as that in which meetings are to be convened by the Council.

(4) Any reasonable expense incurred by the requisitionists by reason of the failure of the Council duly to convene a meeting shall be repaid to the requisitionists by the Association.

37. 21 (twenty-one) days notice at the least of every Annual General Meeting and of every meeting convened to pass a Special resolution and 14 (fourteen) days notice at the least of every other General Meeting (exclusive in every case both of the day on which it is served or deemed to be served and of the day for which it is given), specifying the place, the day and the hour of that meeting, and in the case of special business the general nature of that business, shall be given in the manner hereinafter mentioned to such members and other persons (including the Auditors) as are under this constitution entitled to receive such notices from the Association; but with the consent of all members entitled to receive notices thereof, a meeting may be convened by such notice as those members may think fit.

38. The accidental omission to give notice of a meeting to, or the non-receipt of such notice by, any person entitled to receive notice thereof, shall not invalidate any resolution passed or proceeding taking place at such meeting.

39. The following kinds of business shall be deemed to be special:-

(i) All business transacted at an Extraordinary General Meeting;

(ii) All business transacted at the Annual General Meeting with the exception of the consideration of the income and expenditure account and balance sheet and the reports of the Council and of the Auditors, the election of members of the Council and the appointment of and fixing of the remuneration of the Auditors.

PROCEEDINGS AT GENERAL MEETINGS

40. At every Annual General Meeting the Association shall:-

(i) Consider the accounts and balance sheet of the Association, the report of the Auditors of the Association and any reports laid before it by the Council;

(ii) appoint Auditors in accordance with the provisions of this constitution.

41. No business shall be transacted at any General Meeting unless a quorum is present when the meeting proceeds to business. Save as herein otherwise provided, 10 (ten) members present in person shall be a quorum.

42. If within half an hour from the time appointed for the holding of a General 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 to the same day in the next week at the same time and place, or at such other place as the Council shall appoint, and if at such adjourned meeting a quorum is not present within half an hour from the time appointed for holding the meeting, the members present shall be a quorum

43. The Chairman of the Association shall preside as Chairman at every General Meeting, but if there shall be no Chairman of the Association, or if at any meeting he shall not be present within 15 (fifteen) minutes after the time appointed for holding the same, or shall be unwilling to preside, the members present shall choose some member of the Council, or if no such member be present, or if all the members of the Council present decline to take the chair, they shall choose some member of the Association who shall be present to preside as Chairman.

44. The Chairman of the meeting may, with the consent of any meeting at which a quorum is present (and shall, if so directed by the meeting) adjourn a meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting from which the adjournment took place, other than the business which might have been transacted at the meeting from which the adjournment took place. Whenever a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given in the same manner as of any original meeting. Save as aforesaid, the members shall not be entitled to any notice of an adjournment or of the business to be transacted at an adjourned meeting.

45. At all General meetings a resolution put to the vote of the meeting shall be decided on show of hands, unless a secret ballot is, before or upon the declaration of the result of the show of hands, demanded by the Chairman of the meeting or by at least 3 (three) members present in person and entitled to vote, and unless a secret ballot be so demanded, a declaration by the Chairman of the meeting that a resolution has been carried, or carried unanimously or by a particular majority, and an entry to that effect in the Minutes if of the Association, shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against that resolution. The demand for a poll may be withdrawn.

46. Subject to the provision of Clause 47, if a secret ballot be demanded in the manner aforesaid, it shall be taken at such time and place and in such manner as the Chairman of the meeting shall direct, and the result of the secret ballot shall be deemed to be the resolution of the meeting at which the secret ballot was demanded.

47. No secret ballot shall be demanded on the election of a Chairman of a meeting or any question of adjournment.

48. In the case of an equality of votes, whether on a show of hands or on a secret ballot, the Chairman of the meeting shall be entitled to a second or casting vote.

49. Any member entitled to be present and vote at a meeting may submit any resolution to any General Meeting PROVIDED THAT at least 6 (six) weeks in the case of an Annual General Meeting and two weeks in the case of any other General meeting, before the day appointed for the meeting he shall have served upon the Association a notice in writing signed by him containing the proposed resolution and stating his intention to submit the same.

50. Upon a receipt of any such notice, as in Clause 49 the Honorary Secretary shall include in the notice of the meeting notice that such resolution will be proposed.

51. The demand of secret ballot shall not prevent the continuance of a meeting for the transaction of any business other than the question on which a secret ballot has been demanded.

52. The Council may at any time take a postal vote on any matters relating to the affairs of the Association in such form and manner as it may prescribe.

VOTES OF MEMBERS

53. Every member shall have one vote. A member who is unable to attend a General Meeting may appoint another member to cast his vote by proxy in such form and such manner as the Council may determine.

54. No person other than a member duly registered, who shall have paid every subscription and other sum (if any) which shall be due and payable to the Association in respect of his membership, procurement or otherwise, shall be entitled to be present or to vote on any question at the General Meeting

THE COUNCIL

55. The affairs of the Association shall be managed by a Council which, until otherwise determined by a General Meeting, shall consist of 10 (ten) elected members.

In addition to the elected members the Council may from time to time co-opt other members of the Association to participate in *ad hoc* committees of the Council.

CHAIRMAN, HONORARY SECRETARY AND HONORARY TREASURER

56. (a) At their first meeting after every Annual General Meeting of the Association (which shall be held within 1 (one) month after such Annual General Meeting), the Council shall elect one of their members:-

(i) to hold office as Chairman of the Association;

(ii) to hold office as Honorary Secretary and chief administrator of the Association; and

(iii) to hold office as Honorary Treasurer of the Association until the election of their successors at the first meeting of the Council following the next Annual General Meeting of the Association .

(b) If a casual vacancy arises at any time in any of the aforesaid offices, it shall be filled by the appointment by the Council of one of their members, and the member so appointed shall hold office until the close of the first meeting of the Council following the next Annual General Meeting of the Association.

(c) The retiring Chairman, the Honorary Secretary and the Honorary Treasurer shall all be eligible for re-election more than once. The Chairman will however not be eligible for election for more than two consecutive one year terms.

POWERS OF THE COUNCIL

57. The Council may exercise all such powers of the Association and do on behalf of the Association all such acts as may be exercised and done by the Association, and as are not by this Constitution required to be exercised or done by the Association in General Meeting, SUBJECT nevertheless to the provisions of this Constitution and to such regulations, being not inconsistent with the aforesaid provisions, as may be prescribed by the Association in General Meeting shall invalidate any prior Act of the Council which would have been valid if such regulation had not been made.

58. The Council may from time to time propose bye-laws for the purpose of regulating matters connected with the Association PROVIDED THAT such bye-laws shall not amount to an alteration of this Constitution and shall be submitted to a Special General Meeting of which 21 (twenty-one) days notice shall be given to each member of the Association specifying the proposed bye-laws. If such bye-laws shall be approved by such Special General Meeting, then such bye-laws shall be in force and a copy of the same shall be sent to each member of the Association. Any bye-laws may from time to time be varied or rescinded in like manner.

59. The members for the time being of the Council may act notwithstanding any vacancy in their body; PROVIDED ALWAYS that in case the members of the Council shall at any time be or be reduced in number to less than 5 (five) it shall be lawful for them to act as the Council for the Purpose of filling up vacancies in their body or of summoning a General Meeting, but not for any other purpose.

60. All moneys, cheques, bills and notes belonging to the Association shall be paid to or deposited with the Association's bankers to an account opened in the name of the Association. Cheques on the Association's bankers, until otherwise from time to time resolved upon by the Council shall be signed by the Honorary Treasurer and then countersigned by either the Chairman or the Honorary Secretary. The Association's banking account shall be kept with such banker or bankers as the Council shall from time to time determine.

DISQUALIFICATION OF MEMBERS OF THE COUNCIL

61. The office of a member of the Council shall be vacated:

- (a) if he ceases to be a member of the Association;
- (b) if by notice in writing to the Chairman of the Council of the Association he resigns his office;
- (c) if he is removed from office by a resolution passed at a General Meeting duly called and constituted;
- (d) if he fails to attend at least 3 (three) of any 6 (six) consecutive meetings of the Council unless he has obtained from the Council Chairman advance leave of absence owing to absence abroad, illness or other sufficient reason.

ROTATION OF MEMBERS OF THE COUNCIL

62. (a) The Council shall at least 8 (eight) weeks before the Annual General Meeting in each year nominate and appoint 4 (four) of its number, from among those who have served for only one year but including the Chairman if he is retiring, to continue in office for a second year, and members so nominated and appointed shall continue in office accordingly.

(b) Save for the members appointed to continue in office in terms of sub- paragraph (a) hereof, all members of the Council shall retire annually.

(c) All retiring members of the Council shall be eligible for re-election.

63. A declaration of the election of all members of the Council shall be made at the Annual General Meeting and such members shall take office immediately after such meeting.

64. Not less than 8 (eight) weeks before the Annual General Meeting in each year the Honorary Secretary shall send to every member of the Association a list of members of the Association specifying the retiring Council members and those appointed to continue in office for a further year in terms of Clause 62 (a), together with a form of nomination for the vacancies to be filled in the ensuing year.

65. Every member may nominate not more than 2 (two) members for election as members of the Council and shall enter the nomination on the forms for the purpose sent as mentioned in the preceding Clause. Such forms must be signed by the member nominating and by another member seconding the nomination and the form so signed must be delivered to the Honorary Secretary not less than 5 (five) weeks before the date of the annual General Meeting at which the election of the Council is to be declared, together with a statement from the member nominated that he accepts nomination and will serve if elected.

66. The Honorary Secretary shall send to each member of the Association a complete list of such nominations on ballot paper forms giving names and business addresses of nominees at least 3 (three) weeks before the date of the Annual General Meeting at which the election is to be declared; and each member may mark on each such ballot paper an "X" against the name of each of the persons for whom he wishes to vote but not exceeding 3 (three), and shall send such ballot papers so marked in a sealed envelope to the Honorary Secretary at least 24 (twenty-four) hours before the time fixed for such Annual General Meeting. Any ballot paper bearing more than the prescribed number of names marked shall be void.

67. The Council shall appoint from amongst the members of the Association who are not on the list of nominations 2 (two) members to act as scrutineers, who shall, on the morning of and prior to the Annual General Meeting, open the ballot papers and count the votes, and shall at the Annual General Meeting declare to be duly elected as members of the Council such candidates as receive the most votes and are required to fill the vacancies on the Council. In the event of an equality of votes, the names of such candidates as have an equal number of votes shall be submitted to a ballot of the members present at the Annual General Meeting and the election shall be determined accordingly and not by the casting vote of the Chairman of the Meeting.

68. Any casual vacancy in the Council may be filled up by the Council.

69. Subject to the provisions of Clause 37 as to the giving of notice of special business, the Association may from time to time, in a General Meeting increase or reduce the number of members of the Council and make any consequential alterations in the provisions of this Constitution as to the manner of election of members of the Council.

70. The Association may, by Resolution passed at a General Meeting duly called and constituted, remove any member of the Council before the expiration of his period of office and appoint another member in his stead.

PROCEEDINGS OF THE COUNCIL

71. (a) The Council may frame such rules for the conduct of their business, including the determination of the place and time of meetings of the Council and for the giving of notice thereof as they think fit, subject to the provisions of this constitution.
- (b) The quorum at meetings of the Council shall be 5(five) members.
- (c) Voting at meetings of the Council shall be by show of hands and every member of the Council shall have one Vote; in the event of an equality of votes the Chairman of the meeting shall have an additional or casting vote
- (d) A member of the Council may, and on the request of a member of the Council or any 5 (five) members of the Association the Honorary Secretary shall, at any time, summon a meeting of the Council by notice served upon the members of the Council.
- (e) In the case of a member of the Council who is absent from Kenya, notice of any Council meeting shall be deemed to have been duly served if sent through the post in prepaid letter addressed to such member of the Council at his registered address as appearing in the Register of Members of the Association.
72. The Chairman of the Association shall preside as Chairman at every meeting of the Council, but if there shall be no Chairman of the Association, or if at any meeting he shall not be present within 10 (ten) minutes after the time appointed for holding the same, or shall be unwilling to preside, the members of the Council present shall choose one of their number to be Chairman of the meeting.
73. A meeting of the Council at which a quorum is present shall be competent to exercise all the authorities, powers and discretion by or under this Constitution for the time being vested in the Council generally.
74. The Council may delegate any of their powers to committees consisting of such members of the Council as they think fit, and any committee so formed shall, in the execution of the powers so delegated, conform to any regulations imposed on it by the Council. The meetings and proceedings of any such committee shall be governed by the provision of this Constitution for regulating the meetings and proceedings of the Council so far as applicable and so far as the same shall not be superseded by any regulations made by the council as aforesaid. The Council may also appoint committees for special purposes, composed of members of the Council and ordinary members of the Association, with such powers as the Council may prescribe.
75. All acts bona fide done by any meeting of the Council or of any committee of the Council or by any person acting as a member of the Council shall, notwithstanding it be afterwards discovered that there was some defect in the appointment or continuance in office of any such member or person acting as aforesaid, shall be deemed lawful and binding as if they had been duly appointed or had duly continued in office and they qualified to be members of the Council.
76. The Council shall cause proper minutes to be made of all appointments of officers made by the Council and of the proceedings of all meetings of the Association and of the Council and of committees of the Council and all business transacted at such meetings, and any such minutes of any meetings, if purporting to be signed by the Chairman of such meeting, or by the Chairman of the next succeeding meeting, shall be sufficient evidence without any further proof of the facts therein stated.

77. A resolution in writing signed by all members for the time being of the Council or of any committee of the Council who are duly entitled to receive notice of a meeting of the Council or of such committee, shall be as valid and effectual as if it had been passed at a meeting of the Council or of such committee duly convened and constituted.

STAFF

78. The Council may employ such staff as it may deem necessary for such time, at such remuneration and upon such conditions as they may think fit, and such staff so appointed may be removed by them.

ACCOUNTS

79. The Council shall cause proper books of account to be kept with respect to:-

- a) all sums of money received and expended by the Association and the matters in respect of which such receipts and expenditure take place;
- b) all sales and purchases of goods by the Association; and
- c) the assets and liabilities of the Association.

Proper books shall not be deemed to be kept if there are not kept such books of account as are necessary to give a true and fair view of the state of the affairs of the Association, and to explain its transactions, and it shall be the duty of the Honorary Treasurer to keep or see to the keeping of such books of account and to prepare the annual balance sheet of the Association for the consideration and approval of the Council.

80. The books of accounts shall be kept at the administrative offices or at such other place as the Council shall think fit, and shall always be open to the inspection of the members of the Council.

81. The Association in General Meetings may from time to time make reasonable conditions and regulations as to the time and manner of the inspection by the members of the accounts and books of the Association, or any of them and subject to such conditions and regulations the accounts and books of the Association shall be open to the inspection of members of the Association at all reasonable times of day.

82. The Council shall cause to be prepared and to be laid before the Association at each Annual General Meeting an Income and Expenditure Account and a Balance Sheet as at the end of the previous financial year. Every such Balance Sheet shall be accompanied by a report of the Council as to the state and condition of the Association and the Report and Balance Sheet shall be signed by the Chairman, the Honorary Secretary, and the Honorary Treasurer or some other persons appointed by the Council.

83. The accounts of the Association shall be made up to the 31st (thirty-first) day of December in each year and the year ending on the 31st (thirty-first) day of December shall be the financial year of the Association for the purposes of this constitution.

AUDIT

84. Once at least in every year the accounts of the Association shall be examined and the correctness of the profit and Loss or Income and Expenditure Accounts and Balance Sheets ascertained and Certified by the Auditors.

85. The Auditors shall be appointed at an Annual General Meeting and shall hold office until they resign or are removed at a General Meeting. The remuneration of the Auditors shall be fixed by the Association in General Meeting or in such manner as the Association in General Meeting may determine.

86. Any casual vacancy occurring in the office of the Auditor may be filled by the Council and any person so appointed shall continue in office until the Annual General Meeting next after his appointment, but while any such vacancy continues, the surviving and continuing Auditors may continue to act.

87. Any Auditor shall be supplied with copies of the Balance Sheet and Income and Expenditure Accounts intended to be laid before the Annual General Meeting. The Auditors shall make a report to the Members as to the Correctness of the Balance Sheet and Income and Expenditure Accounts. The Auditors shall at all reasonable times have access to the books and accounts of the Association, and they may in relation thereto examine the members of the Council or other officers in the Association.

88. Every account of the Council when audited and approved by an Annual General Meeting shall be deemed conclusively correct, and shall not be re-opened, although if an error is discovered therein within 3 (three) months next after the approval thereof, the accounts shall forthwith be corrected and thenceforth shall be conclusive.

NOTICES

89. A notice may be served by the Association upon any member either personally or by sending it through the post in a prepaid letter to such member at his registered address as appearing in the Register of Members.

90. Any notice, if served by post, shall be deemed to have been served by the fourteenth day following that on which the letter containing the same is put into the post, and in providing such service it shall be sufficient to prove that the letter containing the notice was properly addressed and put into the post office as a prepaid letter.

91. Every Council member, officer or servant of the Association shall be indemnified by the Association against, and it shall be the duty of the Council to pay out of the funds of the Association, all costs, losses and expenses which any such officer or servant may incur or become liable to by reason of any contract entered into or act or deed done by him as such officer or servant, or in any way in the discharge of his duties, including travel expenses.

92. No Council member shall be liable for the acts, receipts, neglects or defaults of any other Council member or officer or servant or for joining in any receipt or other act of conformity or for loss of expense happening to the Association through the insufficiency or deficiency of title to any property acquired by order of the Council 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 insolvency or tortuous act of any person with whom any moneys, securities, or effects shall be deposited, or for any loss or damage occasioned by an error of judgment or over-sight on his part, or for any loss, damage or misfortune whatever which shall happen in the exercise of the duties of his office or in relation thereto, unless the same happen through his own dishonesty