

*Systems Approach to influence Health*



# HeSMA

HEALTH SYSTEMS  
MANAGEMENT ASSOCIATION

## **The Constitution**

*Towards Professionalization of Health Care Management, a  
Game Changer for Leadership, Management and Governance in  
Kenya*

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WAMBUI KYAMA ADVOCATES, NAIROBI KENYA

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## **Preamble**

We, the Health Systems Managers of Kenya by this Constitution, establish the 'HEALTH SYSTEMS MANAGEMENT' ASSOCIATION CONSTITUTION as an Association that shall champion the aspirations of Health Systems Managers, guided by the functions of the Association as provided herein, and the motto: professionalism in health management.

We, the members of the Association, shall endeavor to support the growth and development of the HSMA, and to abide by such rules and regulations as will be agreed on at the Annual General Meeting, from time to time, for the welfare of Health Managers and health systems management and development in the country as a whole, in the interests of nation building and international co-operation.

## **Our vision**

Health Systems Management Association seeks to be an effective body of knowledge, skills and practice that promote the highest level of quality health service delivery in Kenya and the region

## **Mission**

Health Systems Management Association exists to:-

- a) To utilize systems approach to influence how health is delivered in Kenya and the region
- b) To identify, advocate, lead in raising a generation of Health system Managers who will apply the systems thinking to respond to the needs and opportunities in Kenya and the region
- c) To establish and develop a body of knowledge, skills and competencies who will be an authority in the leadership, Management and Governance of Health Systems in Kenya and the region

## **Article I-Definitions**

In this constitution unless the context or express provisions otherwise require:

- a) the headings to clauses and sub-clauses are for convenience only and shall not affect its constitution or interpretation and unless otherwise stated, the references to clauses sub-clauses and the schedules are to clauses and sub-clauses of and the schedules to this agreement;
- b) references to writing shall include any mode of reproducing words in a legible and transitory form;
- c) references to any statute or statutory provision shall be construed as references to such statute or provision as respectively amended or re-enacted or as their operation is modified by any other statute or statutory provision (whether before or after the date of this Agreement) and shall include any provisions of which they are re-enactments (whether with or without modification) and shall include subordinate legislation made under the relevant statute;

- d) references to and the definition of any document shall be deemed to be a reference to such document as it may from time to time be amended modified or replaced ( in whole or in part) but disregarding any amendment variation modification or replacement taking place in breach of such document;
- e) reference to person shall include any firm, company, corporation, government, state or agency of a state or any Association or partnership (whether or not having separate legal personality) of two or more of the foregoing and any other legal entity;
- f) expressions in the singular shall include the plural and words importing a gender shall include every gender;
- g) the expression "month" means a calendar month;
- h) the expression "hereof", "herein" "hereunder" and similar expressions shall be construed as references to this Charge as a whole and not be limited to the particular clause or provisions in which the relevant expression appears;
- i) the word "including" means "including without limitation" and "include" shall be construed in the same way;

The term "HEALTH SYSTEMS MANAGEMENT ASSOCIATION" shall mean the name of the Association established under this constitution;

The term "Health System Manager" thereafter shall refer to any person who holds a Certificate/Diploma/bachelor's degree in either health system management or health services management (HSM) or their equivalents or higher, from a recognized university/college or have attended a recognized training offered by HESMA or any affiliated Organization or institute;

The Board refers to the Advisory and supervisory Board of the Association; and

The Registrar shall mean the Registrar of Societies.

## **Article II- Name and registered office**

- a)** The name of the Association is "HEALTH SYSTEMS MANAGEMENT ASSOCIATION" (hereinafter referred to as the Association) established under the Societies Act Chapter 108 of the Laws of Kenya.
- b)** The Registered Office of the Association will be situated in the Republic of Kenya on Riara Rd, Box 52165 Nairobi, Kenya.

## **Article III – Objectives of the association**

*The Objectives for which the Association is established are:-*

- a) To bring together and to unite Health System Managers of all cadres and qualifications in Kenya.
- b) To determine the eligibility criteria for membership of the Association

- c) To provide means of co-operation among the Health Systems Managers and the expression of their collective opinions, views and decisions upon matters affecting the interest of healthcare provision and management in Kenya.
- d) To lead its own development by actively engaging all stakeholders on any policy issues touching on the delivery and stewardship of healthcare services and to ensure that its members have a voice.
- e) To promote the principles of equity, professionalism and meritocracies.
- f) To secure effective representation of the health managers on the Government, Public and Private organizations, where such representation may be required.
- g) To develop and maintain effective working relationships with government and with other national, regional and international health system management organizations.
- h) To seek public recognition of a broad range of skilled services that Health Systems Managers offer
- i) To place at the disposal of the Kenya Government, the Ministry of Health, and any Council, Board, Organization, Public, Private or Parastatal, who are concerned with or have relation to healthcare affairs, the advice, experience, and general co-operation of the Association.
- j) To co-operate with other Societies, Bodies, Societies, Unions Or Organizations within or outside Kenya having objectives together or in part similar to the objectives or some of the objectives of the Association.
- k) To raise and maintain the standards and status of the stated Profession and to endeavor to make available to members of the Association higher posts in the Healthcare System of the Country (career development of members).
- l) To observe the administration, management and the working of the various Healthcare provision codes, ordinances, regulations, minutes, and circulars and to procure the amendments of their terms and their removal where desirable.
- m) To offer advice and general assistance to individual members in Health Systems Management and professional matters, and in legal cases in which a member may be involved.
- n) Provide a forum to members for discussing matters of professional and other interests.
- o) Encourage and assist Health Systems Managers to undertake managerial research for the advancement and improvement of health system knowledge and practices.
- p) Influence public policy and legislation affecting Health Systems Management.
- q) To protect the public interest by ensuring that its members set, promote, observe and maintain high standards of professional service and conduct.
- r) To respond to the needs of its members by securing and maintaining unified and better terms and conditions of employment and service for all health managers.

- s) To settle disputes between members of the Association or between its members and their employers and to regulate their relations between them by collective and constitutional means.
- t) To participate with other organizations, in conferences, local or international.
- u) To encourage and assist members to form Credit Unions, Consumer Cooperatives, Education funds, Burial and Benevolent Funds/Schemes and any other socio-economic ventures and supervise their operations.
- v) To seek and obtain legal advice and any other assistance on any matters affecting the Association or for protecting the rights of a member or members on matters arising out of the relations with their employers provided that the National Executive Council shall have the sole right to decide whether or not such legal advice or assistance is in the best interest of the members concerned.
- w) To ensure that members obtain the necessary technical and ethical guidance that enables them to meet the needs of the public.
- x) To lobby for the formation of a regulatory body for Health Systems Managers and development of curriculums of the educational and training institutions.
- y) To enhance its reputation

### **Core activities**

In order to achieve the above objectives, the Association shall:-

- a) Form such branches as may be necessary anywhere in Kenya and have affiliates in any part of the world to promote and enhance the objectives of the Association;
- b) Collaborate with the Government of Kenya and any other organisations, corporations, Government or person in the carrying out or facilitating the carrying out of any of the objectives above;
- c) Acquire, purchase, take, lease or otherwise deal in any movable or immovable property and hold or apply the same for the purpose of the objects stated above;
- d) To mobilise and or organise financial and other resources that are or may be necessary for the achievement of the above stated objects, through lobbying, fundraising, entrance fees, voluntary contributions, subscriptions, levies, borrowing on such security and on such terms as may from time to time be approved by the Association and any other feasible method;
- e) To invest or deal with the moneys of the Association not immediately required upon such securities and in such manner as may from time to time be determined;
- f) Receive and administer gifts, offerings, grants, aid and other contributions for the carrying out of the objects of the Association;
- g) Operate, establish, engage in and carry out such activities, projects, schemes and programmes for the advancement and furtherance of the objects of the Association.

Do all such things legal necessary, expedient and appropriate to the accomplishment of any of the objects of the Association and do all such other things as may be conducive or incidental to the attainment of the above objects.

## **Article IV – Membership**

### **Qualification Of Membership**

In order to qualify to be a full member of the Association one must:

- a) Believe in the vision, mission and objectives of the Association as are stipulated from time to time;
- b) Agree to be bound by the core values of the Association;
- c) Be studying or have an academic and professional qualification in the field of Health services or health Systems Management
- d) To satisfy the eligibility criteria for membership of the body that will be set out by the Board
- e) Be approved by the Board
- f) Shall satisfy the guiding principles of leadership and integrity set out in Article 73 of the Kenyan Constitution adjusted and duly adopted to suit this Association
- g) Pay an annual subscription fee not later than the 31<sup>st</sup> day of January of every year that shall be determined by the Board depending on the category of membership.

### **Categories of Membership**

The members of the Association shall comprise of Student members, associate members, full members, Fellow Members, Life Members, and Honorary Members. Membership of the Association shall be categorized according to the following criteria:

#### **Student Membership**

Student members are persons who are undergoing a course of training related to health system management in an institution recognized by the Association.

Any person over the age of eighteen years and who is undergoing any training in a health related field in an institution recognized by the Association shall be eligible for membership of the Association and shall, subject to meeting the criteria set out in clause .....above, become a member on payment of an entrance fee of Kshs. 1,000/= or any other amount that may be determined by the Board as a joining fee.

#### **Associate Membership**

Associate membership of the Association shall be open to any manager or individual in health-related field of practice including but not limited to persons in the fields of health management

#### **Full Membership**

Full membership of the Association shall be open to any health manager with a diploma, a degree or any higher qualifications recognized by the Association and are involved in management functions. Membership is based on renewal, satisfying the board that one has



undergone professional development within the year and other criteria as approved by the board. A full member is entitled to vote

### **Fellows**

Fellow membership shall be conferred to health managers with more than 10 years of study and experience and have rendered outstanding service to the profession of Health Systems Management. Fellowship is conferred after a candidate has proved to the credentialing committee an outstanding career pathway, professional and personal development, community service and theoretical contribution to improvement of knowledge and skills.

### **Life Membership**

A Life Membership shall be conferred by a special resolution of the Assembly upon a health manager who has been recognized by the Assembly as having made an outstanding contribution to the profession

### **Honorary Membership**

Honorary membership may be conferred on any person (not a member of the Association) who in the majority opinion of the Assembly has made an outstanding contribution to health management.

### **Corporate Membership**

This shall be conferred to companies and corporate bodies.

## **Article V-Membership Fees**

Membership Joining Fee shall be Kshs. 1,000 or any other sum that may be determined by the Board from time to time.

Every member shall pay an annual subscription fee not later than the 31<sup>st</sup> day of January of every year that shall be determined by the Board depending on the category of membership.

## **Article VI-Cessation Of Membership**

A member may cease to be a member of the Association if:

- a) He dies
- b) He gives a written resignation to the Secretary of the Association and the resignation shall take effect from the date of receipt by the Secretary
- c) Gross misconduct
- d) 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 on the grounds that his conduct has adversely affected the reputation or dignity of the Association, or that he has contravened any of the provisions of the constitution of the Association. The Board shall have power to suspend a member from his membership until the next general meeting of the Association following such suspension but notwithstanding such suspension a member whose expulsion

is proposed shall have the right to address the general meeting at which his expulsion is to be considered.

- e) Any member who falls into arrears of his annual subscriptions for more than six months shall automatically cease to be a member of the Association and his name shall be struck off the register of members. The Board may, however, at its discretion, reinstate such members on payment of the total amount of subscription outstanding and a penalty that will be determined by the board.
- f) The register of members shall be reviewed by the Board every year. During the review the Board will determine whether one will continue to be a full, associate or general member of the Association depending on whether one has satisfied the requirements for membership set out in clause 4 (a), (b), and (c) above and whether one is actively engaged in the affairs of the Association.
- g) Any person who resigns or is removed from any category of membership shall not be entitled to a refund of any moneys contributed by him at any time.
- h) All members will be subject to the regulations of the constitution and by joining the Association will be deemed to accept these regulations.

## **Article VII – National Officers of The Association**

- a) The Officers of the Association shall comprise a Chairman, Vice Chairman, Secretary, Assistant Secretary a Treasurer and an Assistant Treasurer all of whom shall be members of the Association.
- b) The Board shall request the members to nominate potential officers of the Association. The Board shall presented a list of the nominees to the members of the Association for election for a term of three years each at the annual general meeting to be held in each year.
- c) The officials will be eligible for re-election for only two more terms.
- d) The office bearers shall be fully paid-up members of the Association and shall be elected at the annual general meeting to be held in each year.
- e) The officials shall hold office from the date of election until the succeeding annual General Meeting subject to the conditions contained in sub-paragraphs ( c) and (d) of this rule but shall be eligible for re-election.
- f) Any office bearer who ceases to be a member of the Association shall automatically cease to be an office bearer thereof.
- g) Office bearers may be removed from office in the same way as is laid down for the expulsion of members in Article VI above and vacancies thus created shall be filled by persons elected at the general meeting resolving the expulsion.

## **Article VII- Duties Of The Office Bearers**

### **The Chairman**

- a) He shall be responsible to the Board and to the members in the general meeting;
- b) The Chairman shall whenever possible chair all the meetings of the General meeting and it's Board;
- c) The Chairman shall undertake any other duties as may be assigned by the General Meeting or its Board.

### **The Vice Chairman**

The Vice-Chairman shall whenever possible:

- a) Deputize for the Chairman as well as undertake those duties delegated to him by the Chairman or the General Meeting or the Board.
- b) In the event that a Chairman resigns or dies or becomes incapacitated or is removed from office before his term ends, the Vice-Chairman shall automatically become Acting Chairman for the remainder of the term.
- c) If the Vice-Chairman is unwilling to take up the position, the Board shall appoint an Acting Chairman from among its members.
- d) If the Vice Chairman resigns or dies or becomes incapacitated or is removed from office before his term ends, the Board shall appoint from among its members an Acting Vice-Chairman to serve for the remainder of the term.

### **Secretary**

The Secretary of the Association is the CEO of the Association and shall:

- a) Handle all business connected with the consultative, regulatory, administration and other relevant affairs of the Association;
- b) Be responsible for the calling and processing of business for the General Meeting and the Board meetings as laid down in the Constitution;
- c) Keep minutes of the meetings of the Board, General Meetings and all executive Boards in one or more books provided for that purpose;
- d) See that all notices are duly given in accordance with the provisions of this constitution or as required by the law;
- e) Be the custodian of the records of the Association;
- f) File the annual returns in accordance with the Association's Act 1992;
- g) Carry out all correspondence and publicity on behalf of the Association;
- h) In general perform all duties incident to the office of the Secretary and such other duties as from time to time may be assigned to the Secretary by the Board;
- i) Be the spokesman of the Association provided that in all crucial matters he shall make appropriate consultations with the Chairman or in his absence the Vice-Chairman;
- j) He shall provide general guidelines related to the affairs of the Association.

## Deputy Secretary

- a) The Deputy Secretary shall deputize for the Secretary whenever he is away from duty;
- b) The Deputy Secretary shall undertake those duties delegated to him by the Secretary or
- c) The Board whether the Secretary is present or not.

## Treasurer

There shall be a Treasurer who shall be knowledgeable in financial matters;

- a) The treasurer shall receive and shall also disburse, under the directions of the Board, all moneys belonging to the Association and shall issue receipts for all moneys received by him and preserve vouchers for all moneys paid by him;
- b) The treasurer is responsible to the Board and to the members that proper books of account of all moneys received and paid by the Association are written up, preserved and available for inspection;
- c) The Treasurer shall *ipso facto* be a member of the Finance and Administration sub-committee, the Board and the General Meeting;

## Assistant Treasurer

- a) The Assistant treasurer shall perform such duties as may be specifically assigned to him by the Treasurer or by the Board and in the absence of the Treasurer shall perform the duties of the Treasurer;
- b) If the Treasurer resigns or dies or becomes incapacitated or is removed from office before his term ends, the Assistant Treasurer shall become acting treasurer for the remainder of the term. If the Assistant Treasurer resigns or dies or becomes incapacitated or is removed from office before his term ends, the Board shall appoint from among its members an Acting Assistant Treasurer to serve for the remainder of the term.

## Article VII-The National Advisory and Supervisory Board

### Composition of the Board

The National Advisory and Supervisory Board shall consist of all the office bearers of the Association and other members elected at the annual general meeting in each year; such National Advisory and Supervisory Board members shall hold office until the following annual general meeting. The number of members constituting the Board shall be fixed from time to time by the Board but shall be no less than seven and no more than eleven.

## **Term of Office of the Board**

Each Board Member shall hold office for a term of three (3) years and if eligible offer himself at the annual general meeting for another three (3) years. Members of the Board will be re-elected for only two more terms.

## **Qualifications of Board Members**

The members of the Board are required to be persons who:

- i. Satisfy the qualifications set out in Article IV(a) above
- ii. Strongly support the ideals and vision of the Association
- iii. have the skills and competencies required by the Board

## **Appointment of Initial Interim Board Members**

The interim members of the Board shall be appointed in writing by the subscribers to this constitution; until the conclusion of the first general meeting when a substantive Board shall be appointed to serve for a period of 3 years. The retiring Board shall be eligible for re-election unless they are disqualified under Article VI a above.

## **Casual vacancies in the Board**

The Board may from time to time appoint any member of the Association, in case of vacancy, or by way of addition, to the Board; provided that the prescribed maximum is not thereby exceeded and provided also that the proposal to appoint any new member of the Board under this section shall be set out in a formal resolution forming part of the notice convening the Board meeting. Any casual vacancies or additions to the Board shall be until the next annual general meeting of the Association when the members shall offer themselves for re-election

## **Removal of a Board Member from the Board.**

The Board may by resolution remove any member of their body from office, but if such a member should be aggrieved at his removal he may appeal for a General meeting to be called for this purpose. In the meantime, he shall cease to act as a member of the Board and to hold any other office under the Association, and members for the time being of the Board may act notwithstanding any vacancy in their body; provided always that in case the members of the Board shall at any time be reduced in number to less than the minimum number prescribed by this Constitution, that number shall be the quorum for the purpose of filling up vacancies in their body and of summoning a General Meeting, but not for any other purpose. Provided also that the Board may co-opt any person to advise the Board in any capacity which the Board shall think fit.

## **Article IX-Duties Of The Board**

### **Management of Association Affairs**

The business and affairs of the Association shall be managed by its Board members. The Board shall be the policy-making organ of the Association and for that purpose may give directions to the office bearers as to the manner in which, within the law, they shall perform their duties.

### **Sub-Committees**

Board may delegate any of their powers to sub-committees consisting of members of the Board and other officials of the Association as they think fit, and any sub-committee so formed shall, in the exercise of the powers delegated, conform to any regulations prescribed by the Board. The meetings and proceedings of any such sub-committee shall be governed by the provisions of this constitution for the time being regulating the meetings and proceedings of the Board so far as applicable and so far as the same shall not be superseded by any rules made by the Board.

### **Authorization to Expend**

All moneys disbursed on behalf of the Association shall be authorized by the Board except as specified in Article 22 below.

### **Validity of Board Decisions**

All acts bona fide done by any meeting of the Board or of any sub-committee of the Board or by any person acting as a member of the Board, shall, notwithstanding that 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 that they or any of them were disqualified, be as valid as if every such person had been duly appointed or had duly continued in office and was qualified to be a member of the Board.

### **Effect of written resolution**

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

## **Article X- Disqualification Of Members Of The Board**

The office of a member of the Board shall be vacated:

- a) If a receiving order is made against him or he makes an arrangement or composition with his creditors;
- b) If he becomes of unsound mind;
- c) If he fails to attend six (6) consecutive Board meetings except by special leave of the Chairman;
- d) If by notice in writing to the Association he resigns his office;
- e) If being a member of the Association he is removed from membership of the Association pursuant to a resolution of the Association.

- f) If he violates the qualifications set out in rule 4 (a) above.

### **Article XI- Meetings Of The Board Members**

The Board shall meet at such times and places as it shall resolve but shall meet not less than once in any three months and a minimum of four Board meetings per year at the registered office of the Association or at such other place as the Board may designate.

The Board may meet for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit. The quorum necessary for the transaction of business shall be three members.

Questions arising at any meeting shall be decided by a majority of votes. In case of any equality of votes the Chairman shall have a casting or second vote.

### **Article XII- Proceedings Of The Board**

All normal meetings of the Board shall be summoned by the Secretary, acting in consultation with the Chairman, by giving at least 21 days notice accompanied by the proposed agenda.

A member of the Board may request for a meeting, and on the request of at least three (3) members of the Board, the Secretary shall at any time summon a meeting of the Board by at least 21 days notice served upon other members of the Board, with an indication of the proposed agenda

### **Article XIII- Rotation**

At the first annual general meeting of the Association all the members of the Board shall retire from office, and at the annual general meeting in every subsequent year one-third of the Board members for the time being shall retire from office.

The Board members to retire in every year shall be those who have been longest in office since their last election, but as between persons who became Board members on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.

A retiring Board member shall be eligible for re-election for two more terms.

### **Article XIV- General Meetings**

- a) There shall be two classes of general meetings-annual general meetings and extra-ordinary general meetings.
- b) The Association shall hold an annual General Meeting on the 30<sup>th</sup> of September of every year in addition to any other meetings, and shall specify the meeting as such in the notice calling it. Not more than twelve months shall elapse between the date of one annual General Meeting of the Association and that of the next.
- c) The annual General Meeting shall be held at such time and place as the Board shall appoint. Notice in writing of such annual general meeting, accompanied by the annual statement of account and the agenda for the meeting shall be sent to all members not less than 21 days

before the date of the meeting and, where practicable, by Press advertisement not less than 14 days before the date of the meeting.

- d) Quorum for annual general meetings shall be not less than two thirds of the full members of the Association.
- e) The annual General Meeting held in every year shall be called an Ordinary General Meeting and all other meetings shall be called Extraordinary General Meetings.

### **Article XV- Manner of Convening Extra Ordinary General Meetings**

- a) The Board may, whenever it thinks fit, convene an extraordinary general meeting;
- b) Notice in writing of such extraordinary general meeting shall be sent to all members not less than 7 days before the date thereof and where practicable by press advertisement not less than 7 days before the date of such meeting.
- c) An extra-ordinary general meeting may also be requisitioned for a specific purpose by order in writing to the secretary of not less than two thirds of the full members. The requisition must state the objects of the meeting and must be signed by the requisitionists, and the meetings shall be held within 21 days of the date of the requisition. The notice for such meeting shall be issued as per Article XVI below and no matter shall be discussed other than that stated in the requisition.

### **Article XVI- Notice Of General Meetings**

Twenty one (21) days' notice at least (exclusive of the day on which the notice is served or deemed to be served and of the day for which it is given) shall be delivered to the members, by hand or sent by prepaid telegram or by post or by fax or by electronic mail, to the notified address of each member, specifying the place, the day and the hour, the meeting of the Association shall be held, notwithstanding that it is called by shorter notice than that specified in the constitution, it shall be deemed to have been duly called if it is so agreed by all the members entitled to attend and vote provided also that the accidental omission to give notice to or the non-receipt of notice of a meeting by any person entitled to receive such notice shall not invalidate the proceedings of that meeting.

### **Article XVII- Proceedings At General Meetings**

- a) All Business shall be deemed special that is transacted at an Extraordinary general meeting and also all that is transacted at an Ordinary General meeting with the exception of the consideration of the accounts and balance sheets, the reports of the Board and Auditors, the election of Board, appointment of auditors, and the fixing of the remuneration of the Auditors
- b) Provided that 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. One third of all the



full Members of the Association shall constitute a quorum. Members may attend the meetings in person or by proxy.

- c) If within half an hour from the time appointed for the meeting a quorum is not present, the meeting if convened upon the requisition of members shall be dissolved, and in any other case it shall stand adjourned to the same day in the next week at the same time and place and if at such adjourned meeting, a quorum is not present within half an hour from the time appointed for the meeting, the meeting shall then be dissolved.
- d) The Chairman, or vice chairman or in his absence a temporary Chairman appointed for that purpose by the Board, shall preside at every General Meeting. If there is no such Chairman or temporary Chairman within 15 minutes after the time appointed for holding the meeting, the members present shall designate one of their members to be Chairman of the meeting.
- e) The Chairman of any meeting at which a quorum is present may, with the consent of the meeting adjourn the meeting from time to time and from place to place but no business shall be transacted at any adjourned meeting other than the business left unfinished. When such adjournment extends to more than 30 days since the original schedule date of the meeting, notice of the adjourned meeting shall be given as in the case of an original meeting.
- f) At all meetings of the Association the Chairman or in his absence, the Vice chairman or in the absence of both these officers, a member selected by the meeting shall take the chair.
- g) The Chairman may at his discretion limit the number of persons permitted to speak in favor of and against any motion.
- h) h. Resolutions shall be decided by simple voting by a show of hands. In the case of equality of votes, the Chairman shall have a second or casting vote.

### **Article XVIII- Voting At General Meetings**

- a) Every member shall have one vote, provided that when any matter affecting a member personally comes before the meeting, although he may be present at it, he shall not be entitled to vote on the question and Chairman may require him to withdraw during the discussion, and he shall in the case withdraw accordingly.
- b) At any General Meeting a resolution put to the vote of the meeting shall be decided by a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by the Chairman or by at least three members present.
- c) In case of an equality of votes whether by show of hands or by poll the Chairman of the meeting shall be entitled to a second or casting vote.

## Article XIX- Trustees

- a) All land, buildings and other immovable property and all investments and securities which shall be acquired by the Association shall be vested in the names of not less than 3 trustees who shall be members of the Association and shall be appointed at an annual general meeting for a period of seven years. On retirement such trustees shall be eligible for re-election. A general meeting shall have the power to remove any of the trustees and all vacancies occurring by removal, resignation or death, shall be filled at the same or next general meeting.
- b) The trustees shall pay all income received from property vested in the trustees to the Treasurer. Any expenditure in respect of such property which in the opinion of the trustees is necessary or desirable shall be reported by the trustees to the Board which shall authorize expenditure of such moneys as it thinks fit.
- c) The Association shall establish and register a Trust under **“The Trustees (Perpetual Succession) Act”** (Cap. 164 of the Laws of Kenya).

## Article XX- Auditors

- a) An auditor shall be appointed for the following year by the annual general meeting. All the Association’s accounts, records and documents shall be opened to the inspection of the auditor at any time. The treasurer shall produce an account of his receipts and payments and a statement of assets and liabilities made up to a date which shall not be 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 statements and either clarify 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, un-vouched or not in accordance with the law.
- b) A copy of the auditor’s report on the accounts and statements together with such accounts and statements shall be furnished to all members at the same time as the notice convening the annual general meeting is sent out.
- c) No auditor shall be an office bearer or a member of the Board of the Association.
- d) The Board may fill any casual vacancy in the office of the Auditor, but while any such vacancy continues, the surviving or continuing Auditor or Auditors, if any, may act.
- e) The remuneration of the Auditors of the Association shall be fixed at the annual General Meeting, except that the remuneration of any auditors appointed to fill any casual vacancy may be fixed by the Board.

## Article XXI- Application Of Funds And Assets

The funds and assets of the Association shall be applied solely towards the promotion of the objects of the Association as set forth in this Constitution; and no portion thereof shall be paid or transferred directly, or indirectly by way of dividend, gift bonus or otherwise by way of profit

to the members of the Association provided that nothing herein shall prevent, in good faith, the reasonable and proper remuneration to any officer or servant of the Association or any member or the Association, in return for any services actually rendered to the Association, or prevent the payment of interest at a rate not exceeding current bank rates on money lent or reasonable and proper rent for premises demised or let by any member to the Association.

Provided also that no Non-Executive member of the Board of the Association shall be appointed to any salaried office of the Association no remuneration or other benefit in money or money's worth shall be given by the Association to any such Board member 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.

## **Article XXII- Accounts**

The treasurer shall cause accounts to be kept and in particular as regards;

- a) The sums of money received and expended by the Association and the matters in respect of which such receipts and expenditures takes place;
- b) The assets and liabilities of the Association;
- c) A proper Balance sheet, and an income and expenditure statement as well as other financial statements for the year shall be prepared and presented to the Board during the first Board meeting of the following year;
- d) The Board shall during the general meeting present to the members a proper income and expenditure account, balance sheet for each fiscal year accompanied by proper reports of the Board and the auditors since the last general meeting;
- e) Copies of the income and expenditure account, balance sheet and reports, all of which shall be framed in accordance with any statutory requirements for the time being in force, and of any other documents required by law to be annexed or attached thereto or to accompany the same shall, not less than twenty one (21) clear days before the date of the General Meeting be sent to the Auditors and to all other persons entitled to receive notices of such meetings in the prescribed manner;
- f) All moneys and funds shall be received by and paid to the Treasurer and shall be deposited by him in the name of the Association in any bank or banks approved by the Board;
- g) No payments shall be made out of the bank account without a resolution of the Board authorizing such payments and all cheques on such bank account shall be signed by the Treasurer of the Assistant Treasurer and two other office bearers of the Association who shall be appointed by the Board;
- h) A sum not exceeding Kshs. 10,000/= or any other sum as may be determined by the Board may be kept by the Treasurer for petty disbursements of which proper account shall be kept;
- i) The Board shall have power to suspend any office bearer who it has reasonable cause to believe is not properly accounting for any of the funds or property of the Association and shall have power to appoint another person in his place. Such suspension shall be reported

to a general meeting to be convened on a date not later than two months from the date of such suspension and the general meeting shall have full power to decide what further action should be taken in the matter;

- j) The financial year of the Association shall be from 1<sup>st</sup> January to 31<sup>st</sup> December;

### **Article XXIII-Branches**

The Association may have offices at such other places, within or outside Kenya, as the Advisory and Supervisory Board (hereinafter referred to as "the Board") may determine or as the affairs of the Association may require from time to time.

Branches of the Association may be formed with the approval of the Board and the Registrar of Societies and they will adopt the same constitution as that of the headquarters with the following exceptions:

- a) The aims and objects will not include the formation of branches
- b) Amendments to the constitution can only be made by the headquarters of the Association in accordance with the provisions of Article XXV.
- c) The provisions of rule 15 shall apply to branches but, in addition, branches will not be dissolved without consultation with their headquarters

### **Article XXIV-Property- Land And Buildings**

All land and buildings purchased by the Association or its branches shall be held centrally by the Trust established under Clause 18(iii) above.

### **Article XXV- Amendments To The Constitution**

Amendments to the constitution of the Association must be approved by at least a two-thirds majority of full members at a general meeting of the Association. They cannot, however, be implemented without the prior consent in writing of the Registrar, obtained upon application to him made in writing and signed by three of the office bearers.

### **Article XXVI-Dissolution And Disposal Of Property**

The Association shall not be dissolved except by a resolution passed at a General Meeting of members by a vote of two-thirds of the full members present. The quorum at the meeting shall be as shown in clause 23 if no quorum is obtained, the proposal to dissolve the Association shall be submitted to a further General Meeting which shall be held one month later. Notice of this meeting shall be given to all members of the Association at least 14 days before the date of the meeting. The quorum for this second meeting shall be the number of members present. Provided, however, that no dissolution shall be effected without prior permission in writing of the Registrar, obtained upon application to him made in writing and signed by three of the office bearers.

When the dissolution of the Association has been approved by the Registrar, no further action shall be taken by the Board or any office bearer of the Association in connection with the aims

of the Association other than to get in and liquidate for cash all the assets of the Association. Subject to the payment of all the debts of the Association, the balance thereof shall be distributed in such other manner as may be resolved by the meeting at which the resolution for dissolution is passed.

#### **Article XXVII-Inspection Of Books Of Accounts And List Of Members Of The Association**

The books of accounts and all documents relating thereto and a list of members of the Association shall be available and open for inspection during business hours at the registered office or any other place the Board deems fit, by any member of the Association, on giving not less than seven (7) days notice in writing to the Association.

#### **Article XXVIII- Arbitration Clause**

Save where by this Constitution the decision of the Board is made final if at any time hereafter any dispute difference or question shall arise between the Founders, Members, Trustees (if any) or other persons or their personal representatives or any of them respectively touching the construction meaning or effect of this Constitution or any cause or thing therein contained or the rights or liabilities of the said parties respectively or any of them under this Constitution or otherwise howsoever in relation to the Constitution then every such dispute or question shall be referred to arbitration by a single arbitrator appointed by agreement between the parties and in default of such agreement by the Chairman for the time being of the Chartered Institute of Arbitrators (Kenya Branch) in accordance with and subject to the provisions of the Arbitration Act (Chapter 49) of the Laws of Kenya or any statutory modification or re-enactment thereof for the time being in force.

**Approved 2013**  
**HeSMA Board**  
**AGM**