

## CONSTITUTION

### **1. NAME**

- 1.1 The Association shall be called "Taxpayers' Foundation of South Africa" (hereinafter called "TFSA") of which the provisions herein contained shall be the Constitution.

### **2. OBJECTS AND GUIDING PRINCIPLES**

- 2.1 The TFSA's objects shall be:
- 2.1.1 The promotion of tax policies that facilitate economic growth characterised by simplicity, transparency and efficiency;
  - 2.1.2 The advocacy for prudent expenditure of government revenues in the public's best interests;
  - 2.1.3 The elimination of distortionary and wasteful taxes and expenditure;
  - 2.1.4 A resource to educate taxpayers of their rights and what constitutes sound fiscal policies;
  - 2.1.5 To serve as a forum whereby all interested individuals, corporations and government can freely debate fiscal issues.

### **3. OFFICE**

- 3.1 The head office of the TFSA will be situated in Johannesburg or at such other place within the Republic of South Africa as the Board may decide.

### **4. STATUS**

- 4.1 The TFSA shall be a body corporate with perpetual succession and capacity in its own name to acquire rights and incur obligations independently of its members.
- 4.2 No member shall have any right, title or interest to any of the assets, property or funds of the TFSA.
- 4.3 The profits, income and property of the TFSA however so derived shall be applied solely toward the promotion of its objects, and no portion thereof shall be paid or transferred, directly or indirectly, by way of dividend, bonus, or otherwise to its members: Provided that nothing herein contained shall prevent the payment in good faith of reasonable remuneration to any officer, member or servant of the TFSA in return for services rendered to it.
- 4.4 The liability of members shall be limited to any amount due by such members to the TFSA by way of subscriptions or membership fees.

### **5. POWERS OF THE TFSA**

- 5.1 The TFSA shall have plenary powers to enable it to realise its objects including, but not by way of limitation, the following:
- 5.2 To purchase or acquire in any way stock-in-trade, plant, machinery, land, buildings, agencies, shares, debentures and every other kind or description of movable and immovable property whether it be tangible or intangible;
  - 5.3 To manage, insure, sell, lease, mortgage, dispose of, give in exchange, work, develop, build on, improve, turn to account or in any way otherwise deal with its undertaking of all or any part of its property and assets;
  - 5.4 To apply for, purchase or by any other means acquire, protect, prolong and renew any patents, patent rights, licences, trade marks, concessions or other rights and to deal with and alienate them as provided in paragraph 5.2;
  - 5.5 To borrow money;

- 5.6 To secure the payment of moneys borrowed or other obligations in any manner including the mortgaging and pledging of property;
- 5.7 To invest money in any manner;
- 5.8 To open and operate banking accounts and to overdraw such accounts;
- 5.9 To enter into indemnities, guarantees and suretyships and to secure payment thereunder in any way;
- 5.10 To remunerate any person or persons for services rendered to it;
- 5.11 To act as principals, agents, contractors or trustees;
- 5.12 To sell or otherwise dispose of and transfer any of its property;
- 5.13 To purchase, lease and hire property of all kinds.

## **6. MEMBERS**

- 6.1 Membership shall be open to anyone who subscribes to the objects and undertakes to pay the subscription determined from time to time by the TFSA.

## **7. ADMISSION TO MEMBERSHIP**

- 7.1 The Governing Board (hereinafter called the "Board") may from time to time:
- 7.2 Prescribe the manner and method in which applications for membership will be made;
- 7.3 Admit persons as Honorary Members or Life Members by invitation;
- 7.4 Fix and determine rates of entrance fees and subscriptions which will be payable in such manner and at such times and for such periods as the Board may determine, provided that different rates of entrance fees and subscriptions (if any) may from time to time be fixed for the different classes of members and for different members and for different areas.

## **8. TERMINATION OF MEMBERSHIP**

- 8.1 Membership of the TFSA (including that of Honorary Members and Life Members) may or shall be terminated:
  - 8.1.1 By resignation;
  - 8.1.2 By the Board, provided that this is subsequently ratified by a resolution at a general meeting and that at such general meeting such member shall be given the opportunity to answer any complaints against him/it. During the interim period until such ratification, the said member will not be able to vote. The Board, however, may only terminate such membership where it can be reasonably established that such member is bringing the TFSA into disrepute and/or acting contrary to this Constitution or any by-laws so established or where such member is not bone fide.
- 8.2 If the membership of any member is for any reason terminated such member shall nonetheless remain liable for all unpaid subscriptions, fees and other liabilities of whatever nature (if any) then owing by such member to the TFSA, which shall automatically and immediately become due and payable upon termination of membership.

## **9. MANAGEMENT AND CONTROL**

- 9.1 Subject only to the powers of the TFSA in a general meeting, all the powers of the TFSA shall be vested in the Board, which shall have full power to manage and conduct all the business and affairs of the TFSA, and shall in all things act in the name of the TFSA and in particular, but not

by way of limitations, the Board shall:

- 9.1.1 Be responsible for determining within the scope of the objects of the TFSA, the policy governing its affairs and no other Committee of the TFSA shall take any action contrary to the policy so established;
  - 9.1.2 Have power to make by-laws, rules and regulations not repugnant to this Constitution for the conduct and working of the TFSA and any of its Committees and to revoke, amend and add to such by-laws;
  - 9.1.3 Subject to 13.1, meet as often as it may deem desirable to enable it to effectively discharge its duties and obligations to the TFSA and its members.
- 9.2 Between meetings of the Board, the business and affairs of the TFSA will be conducted by such office bearers or other persons appointed from time to time by the Board, who shall have such powers and who will perform such functions and duties as the Board may from time to time decide. Such office bearers and other persons need not be elected members of the Board or members of the TFSA.
- 9.3 The TFSA shall not be permitted to distribute any of its surpluses or gains to any person and is required to utilise its funds solely for investment or the objects for which it has been established.

## **10. THE BOARD**

- 10.1 The Board shall consist of not less than three members elected from candidates nominated by members or their representatives. The Board need not comprise members or representatives of members of the TFSA.
- 10.2 Should any casual vacancy occur in the Board such vacancy shall be filled by the majority vote of the remaining members of the Board and such appointment shall remain in force until the next Annual General Meeting or until a special meeting which may be called specifically for the purpose of filling such vacancy has been held. A vacancy on the Board shall not disentitle the remaining members thereof from acting until such vacancy is filled.
- 10.3 The Board may, subject to such terms and conditions as it may impose, appoint an Honorary President of the TFSA who need not be a member of the TFSA but who will be an ex officio member of the Board. If the Board shall at any time so desire it may co-opt additional persons to serve as Board members.

## **11. ELECTION AND PERIOD OF OFFICE OF BOARD MEMBERS**

- 11.1 The first Board shall be elected at the inaugural meeting of the TFSA to be held at Johannesburg on 31 January 2010, and all persons present at such meeting shall have one vote in respect thereof.
- 11.2 Thereafter the Board shall be elected at the first Annual General Meeting and at every subsequent Annual General Meeting and all Board members shall hold office until the next Annual General Meeting following their election, co-option or appointment. Board members may also be elected at a meeting specifically designated for such purpose. Additional Board members may also be co-opted by the current Board.

## **12. OFFICERS OF THE BOARD**

- 12.1 The members of the Board may elect from amongst themselves a Chairman, who shall serve as such until termination of office for any reason, or until the next election as aforesaid, or for such shorter period as the Board may deem fit. A retiring officer or any other Board member shall be eligible for re-election any number of times.

## **13. PROCEEDINGS OF BOARD**

- 13.1 The Board shall meet as often as it may determine but at least once per annum.
- 13.2 The Chairman shall at the request of any three Board members convene a meeting of the Board.
- 13.3 A quorum for a Board meeting shall include at least two elected members of the Board. Minutes must always be taken.
- 13.4 The manner and method of voting at Board meetings shall be determined by the Board and failing which by the Chairman provided that all members of the Board who are entitled to vote will have equal voting rights.
- 13.5 Any member of the TFSA not being a Board member or any other person shall on the invitation of the Board be entitled to attend and speak at a Board meeting but not to vote thereat.
- 13.6 Subject to the foregoing, the Board members shall regulate their meetings as they deem fit.
- 13.7 Any elected Board member shall be entitled to nominate an alternate for a particular meeting or an adjournment thereof. Such nominations shall be communicated in writing prior to the meeting concerned.
- 13.8 Unless the Board generally or specifically otherwise decides only elected members of Board shall be entitled to a vote at Board meetings.

#### **14. GENERAL MEETINGS**

- 14.1 The TFSA shall hold at least one general meeting during each calendar year, which meeting shall be known as the Annual General Meeting. Further general meetings may be convened at the discretion of the Board, or shall be convened by the Board upon the request to it of at least 15 percent of the members, provided that such request shall be in writing and shall set out in detail the reasons for which the meeting is required.

#### **15. PROCEEDINGS AT GENERAL MEETINGS**

- 15.1 Three members present in person or by proxy shall constitute a quorum at any general meeting.
- 15.2 The Board shall convene all general meetings and prepare agendas therefor, subject to the right of any general meeting with the consent of such meeting to depart from any agenda so prepared.
- 15.3 The Chairman shall preside over all general meetings. In the absence thereof the members present may elect a Chairman for that meeting by a majority vote on a show of hands.
- 15.4 In the absence of a quorum, a general meeting shall stand adjourned to the same time and place on the following weekday not being a public holiday and the members then present shall constitute a quorum for that meeting. If the same place be not available on such following weekday, the members present may, by majority vote on a show of hands, decide upon an alternative place.
- 15.5 All members or their proxies may pass resolutions at any general meeting, provided that if any such motion is inconsistent with the notice for the meeting the permission of the meeting shall be required in respect thereof.
- 15.6 Subject only to the discretion of the general meeting concerned any general meeting or part thereof may be open to attendance by non-members at the invitation of the Board.

#### **16. VOTING AT GENERAL MEETINGS**

- 16.1 At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded by any one of the members and, unless a poll is so demanded, a declaration by the Chairman that a resolution has, on a show of hands, been carried or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of the proceedings of the TFSA shall be

conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

- 16.2 If a poll is duly demanded it shall be taken in such a manner as the Chairman directs and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. Scrutineers shall be elected to declare the result of the poll and their decision, which shall be given by the Chairman of the meeting, shall be deemed to be the resolution of the meeting at which the poll was demanded.
- 16.3 A poll demanded on the election of a Chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the Chairman of the meeting directs. The demand for a poll shall not prevent the continuation of a meeting for the transaction of any business other than the question upon which the poll has been demanded.
- 16.4 Each member whose subscriptions are not in arrear, present in person or by proxy at a general meeting, or, in the case of corporations and artificial persons, through their duly appointed representatives, shall be entitled to one vote on a show of hands or on a poll.
- 16.5 At all general meetings the Chairman shall have a deliberative vote but shall not have a casting vote.

## **17. BUSINESS AT GENERAL MEETINGS**

- 17.1 The ordinary business of the Annual General Meeting shall be:
- 17.1.1 To receive and consider the annual reports and the auditor's report and audited financial statements;
- 17.1.2 To elect board members for the forthcoming year;
- 17.1.3 To elect auditors.
- 17.2 Any business at a general meeting not being ordinary business shall be special business.
- 17.3 The business at any general meeting other than the Annual General Meeting shall be such special business as the notice for such meeting or the agenda accompanying such notice may specify.
- 17.4 No special business shall be transacted at any general meeting unless the notice thereof sets out the general nature thereof or unless the permission of the meeting is obtained in respect thereof.

## **18. SPECIAL POWERS OF BOARD**

- 18.1 Without in any way limiting its powers the Board shall be entitled to:
- 18.2 Employ and terminate the employment of personnel and to delegate or assign such powers and duties to such personnel upon and subject to such conditions as the Board may determine;
- 18.3 Pay all costs, charges or expenses incidental to or for the promotion, formation, operation and/or establishment of the TFSA, whether incurred for the benefit of the TFSA prior to the coming into force of this Constitution or otherwise; and
- 18.4 From time to time constitute or establish any subsidiary, ad hoc, local or other committees or bodies as it may deem fit for any purpose and to determine the scope of operations, powers and activities and the rules for the procedure of such committees or bodies.

## **19. SPECIAL PROVISION CONCERNING MOTIONS IN THE BOARD**

- 19.1 A resolution in writing signed by all members of the Board present and reasonably accessible in the Republic of South Africa at the date of the resolution shall be as valid and effectual as if it had been passed at a duly constituted Board meeting. Resolutions passed by way of email shall also

be effectual as if it had been passed at a duly constituted Board meeting.

## **20. MINUTES OF MEETINGS**

20.1 The Board shall cause minutes of its meetings and of general meetings to be kept in books to be provided for that purpose. The minutes shall indicate, inter alia:

20.1.1 All resolutions passed;

20.1.2 The names of all members present at each meeting;

20.1.3 The proceedings of meetings as may be recorded by the secretary or secretaries thereof.

## **21. ACCOUNTS**

21.1 The Board shall cause:

21.1.1 True accounts to be kept of monies received and expended by the TFSA and of the assets and liabilities of the TFSA;

21.1.2 Proper accounting records to be kept as are necessary fairly to present the state of affairs of the TFSA and explain its transactions and financial position.

## **22. ANNUAL ACCOUNTS**

22.1 The Board shall cause to be prepared and to be laid before the TFSA at its Annual General Meeting a balance sheet and income statement as at the end of and covering the last completed financial year, which balance sheet and income statement shall be accompanied by a report by the Auditors.

## **23. NOTICE OF MEETINGS**

23.1 In respect of any general meeting twenty-one days notice at the least (exclusive of the day on which the notice is deemed to be served but inclusive of the day for which notice is given) specifying the place, the day and the hour of meeting, and in the case of special business the general nature of such business, shall be given in the manner hereinafter mentioned or in such other manner as may be prescribed by the TFSA in general meeting, to such members as are in terms of this constitution entitled to receive notice, but the non-receipt of any notice by any member shall not invalidate the proceedings at any general meeting.

23.2 Notice in terms of 23.1 shall be given to every member except those who have not supplied TFSA an address within the Republic of South Africa for the giving of notices to them.

23.3 Any notice may be given by the TFSA or the Board to any member either personally or by sending it by email or post to his registered address in the Republic of South Africa supplied by him to the TFSA for the giving of notices to him. Other than for the purpose of paragraph 33, notice on the website, displayed in a reasonably prominent area, will also constitute sufficient notice.

23.4 Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice and (unless the contrary is proved) to have been effected on the third day after posting.

23.5 The manner, method and period of notice of Board meetings may be determined by the Board from time to time, and of any other committee meetings by the Board in respect of such meeting, or failing such determination by such committee at its first or any subsequent meeting, provided that in all cases if nothing to the contrary is determined the provisions of 23.1 to 23.4 inclusive shall be deemed to apply.

## **24. CUSTODY OF BOOKS**

24.1 The records of the TFSA shall be kept at such place or places as the Board shall think fit and shall always be open to inspection by any member of the Board.

**25. INSPECTION OF BOOKS**

25.1 The Board shall from time to time determine at what times and places and under what conditions and regulations the accounts and books of the TFSA or any of them shall be open to inspection of members not being members of the Board, and no members (not being members of the Board) shall have any right to inspect any account or book or document of the TFSA except as authorised by the Board or by the TFSA in general meeting.

**26. FINANCIAL YEAR**

26.1 The financial year of the TFSA shall be from 1 January to 31 December.

**27. CHEQUES**

27.1 The Board shall from time to time determine from their members which persons shall act as signatories of the TFSA's cheques and other instruments and any two of those persons shall be required to sign all TFSA cheques and other instruments.

**28. REGISTER OF MEMBERS**

28.1 The Board shall cause a Register of all members to be kept as far as reasonably possible.

**29. INDEMNITY**

29.1 Every officer or servant of the TFSA shall be indemnified by the TFSA against all costs, losses and expenses which he or they may incur or become liable to by reason of any act or thing done by him in the discharge of his duties unless the same happens through his or their own negligence, default, breach of duty or breach of trust.

**30. AGREEMENT BY MEMBERS**

30.1 Each member, by virtue of his membership, shall be deemed to have agreed to abide by the provisions of this Constitution and any by-laws, rules and regulations made in terms thereof and to have agreed to pay to the TFSA any subscriptions or fees fixed or determined from time to time as applicable to members.

**31. ADDITIONAL FINANCE**

**31.1 Contributions, Donations, etc.**

31.1.1 The TFSA may receive contributions, grants, donations and the like.

**31.2 Other Revenue**

32.1.2 The TFSA may receive revenue from any other source whatsoever, including, without limitation to the generality of the foregoing, the sale of goods or the rendering of services of any description.

**32. DISSOLUTION**

32.1 The TFSA may, subject to such conditions as a general meeting may determine, be dissolved by a resolution passed by not less than three-fourths of the members of the TFSA present at a general meeting called especially for that purpose.

32.2 If upon winding-up or dissolution of the TFSA there remains, after the satisfaction of all its debts and liabilities, any property or assets whatsoever, the same shall not be paid to or distributed among the members, but shall be given or transferred to another public benefit organisation having objects similar to those of the TFSA, to be determined by the members in general

meeting at or before the time of dissolution.

**33. CONSTITUTION**

- 33.1 This Constitution may be amended by a resolution passed by a two-thirds majority vote at a general meeting, in which 21 clear days notice has been given, and the notice of which specified the intention to propose and the terms and effect of the amendment.