

CONSTITUTION OF THE BOARD OF LEGAL COSTS MEDIATORS ("BLCM")

Acceptance of the Constitution is a prerequisite for BLCM membership.

1. NAME OF ASSOCIATION

The name of the Association shall be THE BOARD OF LEGAL COSTS MEDIATORS (focusing on the mediation and assessments of bills of costs) (hereinafter referred to as "BLCM").

2. LEGAL STATUS

The BLCM shall be a organization with legal standing apart from its members and with perpetual succession notwithstanding changes in the composition of its members or office bearers and limited liability and shall be capable in law of suing and of being sued in its own name, of acquiring, holding and alienating movable and immovable property, and of performing all such acts as are necessary or incidental to the carrying out of its objectives and the performance of its functions and duties in terms of its Constitution and shall have an identity and existence distinct from its members and office bearers.

3. MISSION

- 3.1 Promote mediation, alternative dispute resolution disciplines, and engage in and promote restorative justice; to engage with organisations, institutions and other parties promoting and engaging in the aforesaid;
- 3.2 To coordinate training opportunities according to standards set by the BLCM and according to international standards;
- 3.3 To accredit mediators in taxations for mediation and Alternative Dispute Resolution (ADR);
- 3.4 To provide conferences and training opportunities to its members and interested parties for continuing professional development (CPD) purposes;
- 3.5 To set standards and norms of performance and ethics and to ensure that these standards and norms of performance and ethics of its members are maintained.

4. VISION

- 4.1 To be the preferred Mediation and Alternative Dispute Resolution (ADR) association for Taxation Mediators and ADR practitioners in Southern Africa;
- 4.2 To promote taxation mediation and Alternative Dispute Resolution disciplines in South Africa;
- 4.3 To become a world class association;
- 4.4 To unify the taxation mediation industry in Southern Africa;
- 4.5 To be the public's first choice of referral for taxation mediation and ADR practitioners;
- 4.6 To set and follow international acceptable standards for training, conduct and qualifications of taxation mediators and ADR practitioners;
- 4.7 To set the benchmark in developing the taxation mediation and ADR industry;
- 4.8 To collaborate with Government Departments, other Associations in the same industry, training institutions and places of learning including but not limited to universities;
- 4.9 To strategically establish regions for its members where local members can gather, interact and participate in CPD related training;

5. DEFINITIONS

In this Constitution the following words and expressions shall have the following meanings:-

- 5.1 Association:- Shall mean the Board of Legal Costs Mediators as herein constituted;
- 5.2 Accredited Members:- Shall mean a paid up member who has been accredited by BLCM to practice in one or more disciplines of taxation mediation and ADR;
- 5.3 Alternative Dispute Resolution (ADR):- Shall mean a range of mechanisms and processes designed to assist parties in resolving differences;
- 5.4 Court Annexed Mediation:- Mediation by a mediator appointed by a court;
- 5.5 Conciliation:- Shall mean a process conducted by persons who possess expert knowledge of the domain in which they conciliate, who make suggestions for settlement terms and can give advice on the subject matter and who may use their role to actively encourage the parties to resolve the dispute;
- 5.6 CPD: – Shall mean Continuing Professional Development training, including mentoring;

- 5.7 Executive Committee:- Shall mean the Executive Committee elected in terms of Clause 12 hereof;
- 5.8 Members:- Shall, where no specific category of member is mentioned, mean all the members of the BLCM and shall include ordinary, practitioner, honorary, affiliate, student and sponsor members;
- 5.9 Mediation:- Shall mean the intervention in a dispute or negotiation by an acceptable, impartial and neutral third party, who has no authoritative decision-making power, to assist disputing parties in voluntarily reaching their own mutually acceptable settlement of issues in dispute and shall include alternative dispute resolution disciplines which include but are not limited to taxations of bills of costs and such other disciplines as may be developed and refined from time to time;
- 5.10 Mediator:- shall include but not be limited to –
 Taxation Mediator;
 Civil/Commercial Mediator;
 Collaborative Mediator, who has undergone training in any field of mediation and ADR.
- 5.11 Secretary: – Shall mean any person elected or appointed to perform the duties of Secretary of the BLCM.
- 5.13 Unaccredited Member:- Shall mean a paid up member who has not been accredited by BLCM to practice in any discipline, or whose accreditation has lapsed.

6. OBJECTIVES

The objectives of the Association shall be:-

- 6.1 To promote and encourage the adoption and use of the procedure of mediation and ADR as a means of resolving disputes and to refer persons, families, companies, organizations or other entities to mediation if required;
- 6.2 To provide and/or support the education and training for those practicing or wishing to practice as taxation mediators and ADR practitioners and promote the study and practice relating to taxation mediation and ADR;
- 6.3 To determine standards of admission to the various grades of membership of the BLCM and to provide means for evaluating the qualification of candidates for admission to the appropriate grades of membership;

- 6.4 To promote and encourage the use of taxation mediation services where required;
- 6.5 To provide a forum for the exchange of views and information on matters pertaining to taxation mediation, ADR and related matters;
- 6.6 To print, publish and circulate among members of the BLCM and other interested persons, papers, books, periodicals, circulars and other literature dealing with taxation mediation, ADR and related matters where required to do so;
- 6.7 To refer or nominate persons as mediators or ADR practitioners for the settlement of disputes;
- 6.8 To ensure standards of professional competence and conduct on the part of its members are maintained;
- 6.9 To liaise with and to present the collective views of its members to related bodies, public authorities and to other interested organizations and persons;
- 6.10 To consider, originate, support and procure improvements in the law relating to mediation and ADR and the general practice of mediation;
- 6.11 To watch over, promote and protect the interests of its members;
- 6.12 To promote the professional status of mediators and ADR practitioners;
- 6.13 To do all such things as are necessary and expedient to achieve the ends referred to herein.

7. POWERS

7.1 The powers of the Association shall be:-

7.1.1 Exercised by the Executive Committee;

7.1.2 Generally to take such action as may be required for the achievement of its objectives as laid down in the Constitution, notwithstanding the specific powers stated in sub-clauses 7.1.3 to 7.1.18 hereunder;

7.1.3 To appoint and dismiss a secretary and such other employees as it may deem fit, and on such terms as it may from time to time consider expedient;

- 7.1.4 To receive annual subscriptions and all other revenues of the Association;
- 7.1.5 To open and operate an account or accounts with any registered financial institution and to pay by means of electronic transfers, draw, accept cheques, promissory notes and other negotiable instruments;
- 7.1.6 to invest any monies of the Association not immediately required for any of its objectives on commitments in such manner as may from time to time be determined, provided that the income or profits from any investment or any other source shall be applied to the furtherance of the objectives of the Association and not to the payment of any dividend to its members;
- 7.1.7 To raise funds to enable the Association to meet its objectives;
- 7.1.8 To acquire by purchase or other means, furniture, office fittings, office equipment, stationery and any other movable property, reasonably necessary for the furtherance of the Association's objectives, and to dispose of same by way of sale or otherwise;
- 7.1.9 To determine, where not otherwise provided for in this Constitution, the requirements in respect of educational standards and practical experience for the admission of applicants to the various grades of membership, to receive, consider and decide upon such applications for membership, and to devise appropriate means of assessing the competence of such applicants;
- 7.1.10 To maintain a register of membership, and to design, print and issue such Certificates of Accreditation as may from time to time be prescribed;
- 7.1.11 To establish such sub-committees and Provincial, Regional and/or Sub-Committees as may be required or desired and to prescribe for the control, management, administration and regulation of such committees and their affairs insofar as these are not regulated for herein, and to delegate to them such powers as may be deemed necessary;
- 7.1.12 matters which in terms of this Constitution may be prescribed;
- 7.1.13 To take any steps with regard to the publication, distribution and disposal of journals, newsletters and other forms of printed matter as it may deem necessary and to establish and maintain a specialist library;
- 7.1.14 To recommend to its members conditions of appointment and fees to be paid to its members for their services as mediators and ADR practitioners;

- 7.1.15 Make such rules, and amend them from time to time, in regard to the appointment of Mediators and ADR practitioners;
- 7.1.16 To keep, supervise and implement a register of members and accredited members who the Association approves of to practice as mediator and ADR practitioner.
- 7.2 The income and profit of the Association from whatever source derived, shall be applied solely towards the promotion of the objectives 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 or bonus or otherwise, or by way of profit, to persons who at any time may be or have been members of the Association, or to any person claiming through any of them, provided that nothing herein shall prevent the payment in good faith of remuneration to any officers or servants of the Association or to any member of the Association or other person in return for any services actually rendered to the Association.
8. MEMBERSHIP
- 8.1 There shall be the following categories of members of the Association:-
- 8.1.1 Associate members, being members who have paid their membership fees;
- 8.1.2 Practicing members, who shall have passed such qualifying mediation training and who have attained such general educational standards as may from time to time be prescribed by this Association and which entitles them to practice as mediators or ADR practitioners who actually practice as mediators or ADR practitioners;
- 8.1.3 Honorary members, who shall be members who have been elected honorary members by the Executive Committee on account of particular expertise, experience or contribution in the field of mediation and ADR;
- 8.1.4 Student members, being members who are bona fide registered students at a University, or any other institution recognized by the Executive Committee and who are enrolled for a qualification in such fields of expertise as may be recognized by the Executive Committee.
- 8.1.5 Accredited Members, who have been granted accreditation by the Executive Committee based on a successful application procedure.
- 8.2 Application for membership shall be made to the Executive Committee who shall be entitled to reject applications and Applicants shall furnish such information as may be required by the Executive Committee, which shall have the right to require Applicants to confirm by affidavit any information submitted in support of an application for

membership.

- 8.3 The name and address of every member shall be entered in a roll to be called the "Roll of Members" in which the various categories of members shall be listed separately.
- 8.4 Every member shall be entitled to:-
 - 8.4.1 receive all notices, circulars, balance sheets, agendas of general meetings and other documents issued to members;
 - 8.4.2 take part in any discussion on any matter at any general or special meeting of members;
 - 8.4.3 attend and participate in all conferences, lectures, workshops, symposia, courses or other activities organized or sponsored by the Association subject to such limitations and on such terms and on payment of such fees as the Executive Committee shall determine.
- 8.5 Only paid up members shall be entitled to vote on any resolution at any general or special meeting of members and to vote for candidates for election to the Executive Committee.
- 8.6 Only paid up members shall be eligible for election to the Executive Committee or hold any office in the Association.
- 8.7 The liability of each member shall be limited to the amount of any subscription or other debt owing by him to the Association.
- 8.8 Neither members nor office bearers have any rights in the property or other assets of Association solely by virtue of their being members or office bearers of the Association.
- 8.9 Neither members nor office bearers shall be liable for any of the obligations or the liabilities of the Association solely by virtue of their status as members or office bearers of the Association
9. ACCREDITATION

The Executive Committee shall be responsible for determining accreditation requirements from time to time.

10. ENROLMENT FEES AND SUBSCRIPTIONS

- 10.1 Every application for membership shall be accompanied by the prescribed application fee, provided that where any application for membership is rejected, the application fee shall be refunded to the Applicant.
- 10.2 Enrolment fees and subscriptions shall be determined by the Executive Committee. The Secretary shall inform each member of the annual subscription and enrolment fees.
- 10.3 The amount of the subscription fees shall be determined from time to time by the Executive Committee.
- 10.4 The Executive Committee shall be entitled to determine a discount of the annual subscription fee at the discretion of the Executive Committee.
- 10.5 Annual subscription shall be payable on or before the 31st March in each year.

11. DURATION AND TERMINATION OF MEMBERSHIP

- 11.1 Any practitioner or honorary member shall be deemed to be a practitioner or honorary member, when he/she has accepted his/her appointment.
- 11.2 The membership of any member:
 - 11.2.1 shall terminate if he submits his resignation in writing to the Secretary;
 - 11.2.2 may terminate if such member fails to pay any annual subscription for which such member may be liable within three (3) months of the date upon which such subscription becomes due, subject to the provision that the Executive Committee may on good cause shown, permit the member additional time in which to pay his subscription.
- 11.3 No refund of any subscription or part thereof shall be made to a person ceasing to be a member and he shall in any event remain liable to the Association for any subscription or other debts or obligations due by such member.
- 11.4 The Association shall be entitled to terminate summarily the membership of any member if such member is not, in the opinion of the Executive Committee, a person in good standing who brings the Association into disrepute.

12. EXECUTIVE COMMITTEE

- 12.1 The affairs of the Association shall be managed and controlled by an Executive Committee which may be elected at the Annual General Meeting.
- 12.2 The Executive Committee shall consist of at least 4 (FOUR) members.
- 12.3 The members of the Executive Committee shall be paid-up members of the Association for a period of not less than 12 (twelve) months standing.
- 12.4 The period of office of members of the Executive Committee shall be 2 (two) years. Three quarters of the Executive Committee may remain for the full two year term and quarter of the Executive Committee may be re-elected annually. All members retiring from the Executive Committee shall be eligible for re-election.
- 12.5 A member of the Executive Committee, including office bearers, shall cease to be a member if:
 - 12.5.1 he/she tenders his resignation in writing;
 - 12.5.2 he/she fails to attend 3 (three) consecutive meetings of the Executive Committee without good reason;
 - 12.5.3 he/she ceases to be a member of the Association.
- 12.6 The Executive Committee shall be entitled to co-opt a member to fill any vacancy that may occur on the Executive Committee between one annual general meeting and the term of office of such co-opted member shall equal the unexpired term of office of the member whose vacated seat he/she is co-opted to fill. The Executive Committee shall furthermore be empowered to co-opt so many persons with special expertise as members of the Executive Committee and such members shall have all the rights and powers of members of the Executive Committee as herein provided for such defined period as may be determined, and failing a defined period, their term of office shall expire on the next election.
- 12.7 The Executive Committee shall, at its first meeting after the annual general meeting, elect from among its members a Chairperson, Vice-Chairperson, a Treasurer and any other office bearers deemed necessary and such portfolios as deemed necessary or expedient from time to time, all of whom shall hold office until the successors are appointed at the first meeting of the Executive Committee after the annual general meeting in the next succeeding year.
- 12.8 The Executive Committee shall meet at least once in every month at such place and at such time as it may from time to time determine to deal with the business of the organization in accordance with its powers and objectives.

- 12.9 The quorum at meetings of the Executive Committee shall be not fewer than one half of the number of its members. In the event that a quorum of members is not personally present when any meeting of the Executive Committee is due to commence and for 30 (thirty) minutes thereafter, the meeting shall be adjourned for 7 (seven) days and the members present at such adjourned meeting shall constitute a quorum provided always that these resolutions shall not take effect until a subsequent quorate meeting of the Committee has adopted such resolution.
- 12.10 The Chairman of all Executive, General and Special meetings shall procure that accurate minutes of Executive, General and Special meetings shall be prepared and circulated to members of such meetings not less than 48 (forty eight) hours prior to the next Executive, General or Special meeting and shall be approved, with or without amendment, at such subsequent meeting.
- 12.11 Office bearers shall not be personally liable for any loss suffered by any person as a result of any act or omission which occurs in good faith and without negligence while the office bearer is performing duly authorized or implied functions for and on behalf of the Association.
- 12.12 The Executive Committee shall be entitled to determine sound and non-speculative investments of funds at a recognized banking or other investment institutions not immediately required for the furtherance of the Association's objectives and to make provision for future projects in accordance with the objectives of the Association.
- 12.13 The Executive Committee shall determine its own procedures and processes.
- 12.14 The Executive Committee may establish or agree to the establishment of Provincial and/or Regional Committees in the various areas of the Republic of South Africa in which the Association operates, in terms of clause 7.1.11 of this Constitution.
- 12.15 The Executive Committee may from time to time prescribe policies to be followed by such Committees in regard to the control, management, administration and regulation of such Committees. These policies may be rescinded, added to, and/or amended from time to time.
- 12.16 The Executive Committee may dissolve any Sub-Committee if, in its considered determination, the Sub-Committee in question has failed, refused and/or neglected to carry out any of the objectives of the Association and/or has failed, refused and/or neglected to comply with the prescribed policies. Prior to its dissolution, such Committee will be given an opportunity to show good cause to the Executive Committee as to why it should not be dissolved;
- 12.17 The Executive Committee shall be entitled to determine disciplinary procedures as may be required in order to discipline any of its members and unless it is entitled to summarily terminate membership of a member in terms of 11.4, the member shall be given an opportunity to show good cause to the Executive Committee in writing or in

person (as may be required by the Executive Committee) why his/her membership should not be terminated.

- 12.18 A proper record, duly signed by the Chairperson or someone delegated by him, shall be kept of all decisions made by the Executive Committee;

13. GENERAL MEETINGS

- 13.1 The Executive Committee shall convene an annual general meeting of members not later than the last day of November in each year at such place as it may from time to time determine, and shall give all members at least 14 (fourteen) days written notice of such meeting, which notice may be delivered by e-mail, SMS, or similar reliable electronic media at the address provided by the member.
- 13.2 The quorum at any general meeting shall be 4 (four) members. In the event that a quorum of members is not personally present 15 (fifteen) minutes after the meeting is due to commence the meeting shall be adjourned for 7 (seven) days and the members present at such adjourned meeting shall constitute a quorum.
- 13.3 The ordinary business of any general meeting shall include, but not be limited to the following :-
- 13.3.1 To receive and consider the report of the Executive Committee and/or the Sub-Committees;
- 13.3.2 To receive and consider the financial statements of the Association;
- 13.3.3 To elect members to the Executive Committee to fill any vacancies which may exist provided that any nominator must be a paid-up member prior to the Annual General Meeting.
- 13.3.4 To consider any matter, proposal or resolution raised or proposed by any member, provided that at least 14 (fourteen) days written notice to the Executive Committee, care of the Chairperson, shall be given by the member concerned requesting that such matter, proposal or resolution be included on the agenda of such meeting.

14. SPECIAL MEETING

Within 14 (fourteen) days of receipt of a written petition for the holding of a special meeting signed by not less than 4 (four) members stating the purpose of such meeting, the Executive Committee shall convene such meeting and shall give all members not less than 14 (fourteen) days written notice of such meeting.

15. VOTING

- 15.1 Voting at all Executive, General or Special meetings shall be by a show of hands or a poll if more than 50% (fifty per centum), of the members present call for a vote by poll. In the event of an equality of votes the chairperson shall have a casting vote.
- 15.2 Every member present in person or by proxy shall have one vote on a poll or by proxy.
- 15.3 On a poll votes may be given personally or by proxy.

16. PROXIES

- 16.1 The instrument appointing a proxy shall be in writing under the hand of the appointer. The proxy need not be a member of the Executive Committee.
- 16.2 The instrument appointing a proxy shall be handed to the Chairman, Vice Chairman or secretary prior to the meeting at which voting is to take place. The proxy shall only be valid for the meeting which is to take place, unless otherwise stated. The proxy may be used at an adjourned meeting.
- 16.3 The instrument appointing a proxy shall be in the following form or as near thereto as circumstances permit.

BOARD OF LEGAL COSTS MEDIATORS

(BLCM)

I, _____

Of _____

hereby appoint _____ or failing him _____ or any member of the Executive Committee of BLCM,

as my proxy to vote for me or on my behalf at the Annual General Meeting or any adjournment thereof;

the meeting to be held on the _____ day of _____ 20__, any adjournment thereof as he/she thinks fit or as follows:

Signed this the _____ day of _____ 20__.

Note: A member entitled to attend and vote is entitled to appoint a proxy to attend, speak and vote in his stead and such proxy shall be a member of BLCM.

16.4 No nominee shall hold more than 10 (ten) proxies.

17. FINANCE

17.1 All the funds, assets and properties of the Association, movable or immovable, shall be administered by the Executive Committee on behalf of the Association.

17.2 The Association shall operate a bank account with a registered bank and the signatories on any of the Association's bank accounts shall be 2 (two) of the following:-

17.2.1 The Treasurer;

17.2.2 The Chairman or another member of the Executive Committee.

17.3 The financial year end of the Association is end of February.

17.4 The Executive Committee shall keep proper account of all money received and expended and of all assets and liabilities of the Association and a statement of such accounts, drawn up to the last day of February, shall be submitted to members at the next ensuing annual general meeting after approval by the auditor or accounting officer appointed in terms of 17.5.

17.5 The Executive Committee shall appoint an Auditor or Registered Accounting Officer who shall audit the annual accounts of the Association.

17.6 The organization's income and property shall not be distributable to its members or office bearers save as reasonable compensation for services rendered.

17.7 The assets and the funds of the Association shall be utilized or appropriated for or towards the fulfilment of its objectives.

18. CODE OF CONDUCT

18.1 Every member of the Association shall uphold the highest standards of integrity and shall conduct himself in accordance with the code of conduct consistent with the mission and vision recorded in this Constitution and in accordance with generally accepted norms and standards for persons who qualify as Mediators and/or promulgated by the Association from time to time which shall be binding on each and

every member of the Association.

- 18.2 Improper conduct on the part of a member shall consist of any act of commission or omission, either in respect of his activities as a mediator or ADR practitioner or of any business or undertaking of whatever nature in which he may be engaged, personal conduct which in the opinion of the Executive Committee is inconsistent with the standards of behaviour which are expected of a member of the Association or of a mediator in the execution of his duties.
- 18.3 The Executive Committee shall inquire into any written allegation of improper conduct on the part of any member and shall afford such member adequate opportunity to answer any written allegations made against him.
- 18.4 The Executive Committee shall refer all written complaints of improper conduct on the part of any member to a designated Complaints Officer, appointed by the Executive Committee who shall investigate such complaint.
- 18.5 If the Complaints Officer finds that the member is guilty of improper conduct he/she is empowered in his/her own discretion to make an appropriate recommendation.
- 18.6 The Executive Committee may then act on the recommendation, alternatively may impose its own sanction. Any decision by the Executive Committee shall be final and binding and not subject to appeal.

19. AMENDMENTS TO THE CONSTITUTION

- 19.1 Any proposal to amend this constitution shall be submitted either to an annual general meeting of members or to a special meeting of members convened for this purpose. The quorum and period of notice of such special meeting shall be as hereinbefore laid down for an annual general meeting.
- 19.2 No proposal to amend this constitution shall be put to any general meeting of members unless notice of the resolution has been set out in the notice convening the meeting.
- 19.3 Any proposal to amend this constitution shall be put to the vote of the members present and shall not be effective unless it received the votes of two-thirds of the members present in person or by proxy and voting at such general or special meeting.

20. DISSOLUTION

- 20.1 The Association may be dissolved by a resolution of the Executive Committee submitted to the members of the Association at a general or special general meeting for the decision by vote, provided that the Association may not be dissolved unless two-thirds of the members are in favour of dissolution.
- 20.2 The terms of any such resolution shall provide for the manner in which any surplus assets of the Association, after satisfaction of the debts of the Association, shall be applied.
- 20.3 Any surplus assets or funds of the Association shall, after being wound up, be transferred to another non-profit organization having similar objectives to the Association.