



# FAMILY MEDIATORS' ASSOCIATION OF THE CAPE

[www.famac.co.za](http://www.famac.co.za)

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021 801 6176



## CONSTITUTION OF THE FAMILY MEDIATORS' ASSOCIATION OF THE CAPE

### 1. DEFINITIONS

- 1.1. “**Association**” shall mean the Family Mediators’ Association of the Cape.
- 1.2. “**Core exec**” shall mean the office bearers, namely the two co-chairpersons, the treasurer and the secretary.
- 1.3. “**CPD**” shall mean continuing professional development, and shall include, but not be limited to, training and mentoring.
- 1.4. “**Executive committee**” shall mean the executive committee elected in terms of Clause 5 hereof.
- 1.5. “**Good standing**” shall mean that the member’s membership has not been suspended or terminated, and that the member has complied with the CPD requirement for the previous calendar year.
- 1.6. “**Members**” shall, unless the context indicates otherwise, mean all the members of FAMAC and shall include ordinary members, associate members, student members, and organisation members.

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- 1.7. “**NPO**” shall mean a non-profit organisation registered as such in terms of the Non-Profit Organisations Act, Act 71 of 1997.
- 1.8. “**NGO**” shall mean a non-governmental organisation.
- 1.9. “**Paid-up**” shall mean that the member’s annual subscription fee has been paid in full.
- 1.10. “**Year**” shall, unless the context indicates otherwise, mean a calendar year commencing on 1 January and ending on 31 December annually.

## 2. NAME OF ASSOCIATION

- 2.1. The name of the Association is the Family Mediators’ Association of the Cape.
- 2.2. The abbreviated name of the Association is FAMAC.

## 3. LEGAL STATUS

- 3.1. FAMAC shall be a non-profit organisation with legal standing, an identity, and existence distinct from its members and/or office bearers.
- 3.2. FAMAC shall:
  - 3.2.1. Have perpetual succession notwithstanding changes in the composition of its membership and/or office bearers.

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- 3.2.2. Be entitled to sue and be sued in its own name.
- 3.2.3. Be capable of acquiring, holding and alienating moveable and immovable property.
- 3.2.4. Be capable of performing all such acts as are necessary for or incidental to the performance of its functions and duties in terms of its Constitution, as well as all acts necessary for or incidental to the carrying out of its objectives.
- 3.3. Office bearers and other members of the Executive Committee shall not be liable for any harm or damages suffered by any person as a result of acts or omissions which occur in good faith while the office bearer or member of the Executive Committee is performing functions for or on behalf of FAMAC.
- 3.4. Members and/or office bearers and/or members of the Executive Committee shall not be liable for the obligations and liabilities of FAMAC solely by their status as members and/or office bearers and/or members of the Executive Committee of FAMAC, and members and/or office bearers and/or members of the Executive Committee shall not have any rights in the property or assets of FAMAC solely by virtue of their being members or office bearers of FAMAC.
- 3.5. The liability of each member shall be limited to the amount of any subscription or debt owing to the member by FAMAC.
- 3.6. The entity is not knowingly, and will not knowingly become, a party to, and does not knowingly and will not knowingly permit itself to be used as part of an

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impermissible avoidance arrangement contemplated in Part IIA of Chapter III or a transaction or scheme, contemplated in Section 103(5) of the Income Tax Act.

## 4. OBJECTIVES

4.1. The objectives of FAMAC are:

- 4.1.1. To professionalise family mediation by setting high ethical and professional standards and engaging with its members and the discipline through training, professional and personal development, and mentorship.
- 4.1.2. To develop and maintain high standards of training and practice and, in this regard, without derogating from the generality of the foregoing, to develop and offer training and accreditation to persons who are in the sole discretion of FAMAC suitably and adequately qualified to participate in and benefit from such training and to become so accredited.
- 4.1.3. To provide its members with a platform in which to establish and foster working relationships with other professionals based on mutual respect and professionalism.
- 4.1.4. To establish and foster working relationships with other organisations involved in family dispute resolution.

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- 4.1.5. To encourage and promote research and publications in the field of family dispute resolution.
- 4.1.6. To provide a database of suitable, qualified, and accredited, and professional mediators and parent coordinators from which practitioners and members of the public can appoint a mediator and/or parent coordinator; and to act as a conduit for the appointment of mediators and parent coordinators where parties are unable to reach agreement on the appointment.
- 4.1.7. To liaise with its members, and to promote the collective views and interests of its members to executive government authorities, the legislature, and the judiciary.
- 4.1.8. To promote the interests of its members and the interests of the discipline of family mediation in shaping legislative initiatives which affect mediation and parent coordination as disciplines.
- 4.1.9. To promote mediation and parent co-ordination as a preferred alternative to litigation.
- 4.1.10. To promote and protect the interests of its mediating and parent co-ordinator members.
- 4.1.11. To ensure that its members provide effective, professional services to clients.

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- 4.1.12. To do all things necessary and expedient to achieve these objectives.

## 5. GOVERNANCE

### 5.1. Executive committee composition

- 5.1.1. FAMAC shall have an Executive Committee elected by way of a simple majority at the Annual General meeting.
- 5.1.2. The Executive Committee shall consist of no less than eight persons who are unrelated to each other, who do not practice in partnership or association with one another, and who are willing to accept the fiduciary responsibility for Association. No single person may directly or indirectly control the decision-making powers relating to FAMAC.
- 5.1.3. The Executive Committee shall comprise of the following:
- 5.1.3.1. 4 (four) office bearers, who shall form the core exec, namely:
- 5.1.3.1.1. Two Co-Chairpersons who shall be from a different professional background, one being a mental health professional and one being a legal practitioner unless circumstances otherwise dictate.

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5.1.3.1.2. A Treasurer; and

5.1.3.1.3. A Secretary.

5.1.3.2. A minimum of 4 (four) and a maximum of 8 (eight) additional members.

## 5.2. Election of executive committee

5.2.1. Only paid-up ordinary members in good standing shall be eligible for election to the Executive Committee.

5.2.2. Nominations for election to each position shall be in writing, signed by the nominator and a seconder, both of whom must be paid-up ordinary or associate members in good standing.

5.2.3. No nomination for election will be valid unless accepted and signed by the nominated member.

5.2.4. Nominations shall be submitted to the Secretary no less than 5 (five) working days before the Annual or Special General Meeting.

## 5.3. Term of office of executive committee

5.3.1. Members of the Executive Committee shall be elected to serve for a 24-month term.

5.3.2. At least one Co-Chairperson, one other office bearer, and half of the Executive Committee, shall, be elected at every Annual General

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Meeting, with the effect that, as far as possible, a Co-Chairperson, one other office bearer, and half of the Executive Committee, elected at an Annual General Meeting shall serve the first twelve months of their 24-month term with a Co-Chairperson and office bearer and half of the Executive Committee, at the Annual General Meeting in the preceding year and who would have already served at least twelve months of their 24- month term.

- 5.3.3. Members of the Executive Committee shall be eligible for re-election, but subject to the aforesaid principle of rotation.
- 5.3.4. A member of the executive committee, including office bearers, shall cease to be a member of the executive committee if:
  - 5.3.4.1. The committee member resigns from the committee or from FAMAC.
  - 5.3.4.2. The committee member fails to attend three consecutive meetings of the executive committee without good reason.
  - 5.3.4.3. The committee member's membership of FAMAC is suspended or terminated.

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## 5.4. Replacement and co-opting of members of the executive committee

- 5.4.1. If an office bearer resigns from their position during the first eighteen months of their elected term, a replacement will be elected either at an Annual or Special General Meeting, which meeting shall take place no later than two (2) months after the resignation of the office bearer.
- 5.4.2. If an office bearer resigns from their position during the last six months term, the remaining members of the Executive Committee may appoint an acting office bearer to serve until the next Annual General Meeting.
- 5.4.3. The Executive Committee shall have the power to co-opt additional members to fill a vacancy to serve on the Executive Committee until the next Annual General Meeting.
- 5.4.4. The Executive Committee shall be empowered to co-opt any persons with special expertise as members of the Executive Committee, and such co-opted members shall have all the rights and powers of members of the Executive Committee as provided herein for such defined period as many be determined by the Executive Committee, or failing a defined period, until the next election of the Executive Committee.
- 5.4.5. The Executive Committee shall be entitled to establish as many sub-committees as it may deem necessary, and to further determine the composition of such sub-committees, save that the sub-committees

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shall include at least an Accreditation Sub-Committee established in accordance with 5.9 below, and an Ethics and Compliance Sub-Committee established in accordance with 5.10 below.

## 5.5. Powers and duties of the Executive Committee

- 5.5.1. The Executive Committee shall have the power and duty to take all steps reasonably necessary for the furtherance of the objectives of FAMAC.
- 5.5.2. The Executive Committee shall accept fiduciary responsibility for FAMAC.
- 5.5.3. The Core Exec shall have the duty to deal with day-to-day management of FAMAC, with the assistance of the Executive Committee. The Core Exec shall report to the Executive Committee at Executive Committee meetings.
- 5.5.4. The Executive Committee will ensure that no activity of FAMAC will directly or indirectly promote the economic self-interest of any member or employee of FAMAC other than by way of reasonable remuneration.
- 5.5.5. The Executive Committee shall be entitled to appoint employees, provided that a budget for such appointment has been approved by the AGM prior to such appointment.

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## 5.6. Meetings

5.6.1. The Executive Committee shall, as far as is practicable, meet once per month in person or online.

5.6.2. The dates of the Executive Committee meetings will, as far as is practicable, be arranged at the first such meeting annually. Reasonable notice shall be given of the first Executive Committee meeting, which shall be no less than 7 days prior to the meeting. In the event a meeting cannot take place on a pre-arranged date, reasonable notice shall be given of the postponed date of the meeting, depending on the circumstances.

## 5.7. Quorums

5.7.1. Four members of the Executive Committee shall constitute a quorum for any meeting of the Executive Committee.

5.7.2. Three members of the core exec shall constitute a quorum for any meeting of the core exec.

## 5.8. Reporting

5.8.1. The Executive Committee shall submit a written report, , including a statutory financial report, of all its activities for the past twelve months at the Annual General Meeting. The approved report and statements

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are to be sent to the SARS Tax Exemption unit within 30 days of such an Annual General Meeting.

## 5.9. Accreditation sub-committee

- 5.9.1. There shall be an Accreditation Sub-Committee responsible for considering and approving applications for mediation and parenting coordination accreditation in accordance with the accreditation criteria determined by the Executive Committee.
- 5.9.2. The Accreditation Sub-Committee shall consist of a minimum of four members appointed by the Executive Committee, at least one of whom must be a member of the Executive Committee. Save where it is impracticable to do so, half of the members of the Accreditation Sub-Committee shall be legal practitioners and a half shall be mental health professionals.
- 5.9.3. If an applicant for accreditation is aggrieved with the decision of the Accreditation Sub-Committee, such applicant may appeal the decision of the Accreditation Sub-Committee setting out their reasons in writing to the Executive Committee, provided that such an appeal shall be lodged no later than four (4) weeks from the date of the decision of the sub-committee.



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## 5.10. Ethics and Compliance Sub-Committee

- 5.10.1. There shall be an Ethics and Compliance Sub-Committee responsible for considering complaints submitted to FAMAC and dealing with it in a manner that will advance the objectives of FAMAC.
- 5.10.2. The Ethics and Compliance Sub-Committee shall consist of a minimum of four members appointed by the Executive Committee, at least one of whom must be a member of the Executive Committee. The members of the Ethics and Compliance Sub-Committee must have at least five years' mediation experience. Where a complaint relates to an alleged breach of the Code of Conduct by a parent coordinator, acting in the capacity of a parent coordinator, the at least three of the members of the Ethics and Compliance Sub-Committee must be accredited parent co-ordinators with at least 5 years' experience. If necessary, additional *ad hoc* members may be co-opted onto the Ethics and Compliance Sub-Committee for this purpose.
- 5.10.3. The Ethics and Compliance Sub-Committee shall have all powers necessary to investigate and deal with complaints and shall be entitled to make recommendations to the Executive Committee regarding the desirability of suspending or terminating the membership of a member in respect of whom a complaint or complaints have been found to be justified.

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- 5.10.4. A member against whom a finding has been made by the Ethics and Compliance Committee must be permitted to make representations to the Executive Committee before a decision on whether to suspend or terminate the member's membership is taken by the Executive Committee.

## 6. MEMBERSHIP

- 6.1. There shall be the following categories of members of FAMAC:

- 6.1.1. Ordinary members, being members who have complied with the CPD criteria determined by FAMAC from time to time, who have been granted accreditation by FAMAC, and who have paid the annual subscription fee.
- 6.1.2. Associate members, being members who are not active mediators, but who wish to be kept informed of and participate in FAMAC's activities, and who have paid the annual subscription fee.
- 6.1.3. Student members, being members who have completed the prescribed training course, and who are in the process of fulfilling other criteria necessary for acquiring accreditation. Student members are not required to pay the annual subscription fee for the first year of their membership but shall be required to pay the annual subscription fee for any subsequent years of student membership. Student

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membership does not entitle the student member to vote on any resolution at a general or special meeting nor shall it entitle the student member to vote for candidates at the election of the executive committee.

6.1.4. Organisation members, being members who are NPO, NGO, government institutions or other organisations with legal standing who wish to be kept informed of and participate in FAMAC's activities. Organisation members shall not be required to pay the annual subscription fee nor shall Organisation members be required to comply with the CPD criteria determined by FAMAC from time to time. Organisation members shall be entitled to nominate individuals from their own organisation to participate in activities of FAMAC from time to time. Organisation membership does not entitle the organisation member to vote on any resolution at a general or special meeting nor shall it entitle the organisation member to vote for candidates at the election of the executive committee.

6.2. Application for membership shall be made to the executive committee and shall be accompanied by such information as may be required by the executive committee from time to time. The executive committee or its designated sub-committee shall be entitled to require applicants to confirm by affidavit any information submitted in support of an application for membership. The Executive Committee or its designated sub-committee shall be entitled to reject any application for membership for good reason.

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## 6.3. Every member shall be entitled to:

- 6.3.1. Receive all notices, circulars, agendas of general meetings and other documents issued to members.
- 6.3.2. Attend and participate in all conferences, lectures, workshops, courses and other activities organised or sponsored by FAMAC, subject to such limitations and on such terms and on payment of such fees as the Executive Committee shall determine.
- 6.3.3. Participate in any discussion on any matter at any general or special meeting, subject thereto that only paid-up ordinary and associate members in good standing shall be entitled to vote on any resolution at a general or special meeting, to vote for candidates at the election of the executive committee, and to petition the executive committee to hold a special general meeting.

## 7. MEMBERSHIP FEES

- 7.1. The Executive Committee shall, from time to time, determine the annual subscription payable by members of FAMAC, and the Secretary shall inform each member of the annual subscription fees.
- 7.2. The Executive Committee may, in its sole discretion, determine a discount of the annual subscription fee.

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- 7.3. Annual subscription fees shall be payable on or before 31 March annually.

## 8. TERMINATION OR SUSPENSION OF MEMBERSHIP

- 8.1. The membership of any member may be terminated through resignation of the member by written notice to the Secretary.

- 8.2. Membership of FAMAC is terminated through the death of the member or through the dissolution of FAMAC.

- 8.3. The membership of any member may be terminated by FAMAC if:

- 8.3.1. The member fails to pay the annual subscription and/or fails to comply with the CPD criteria for two consecutive years.

- 8.3.2. The member has, in the opinion of the Executive Committee, brought FAMAC or the practice of mediation into disrepute.

- 8.3.3. The member's professional governing body has suspended or terminated their professional registration.

- 8.4. The membership of any member may be suspended by FAMAC if:

- 8.4.1. The member has failed to pay the annual subscription fee for which the member may be liable within two (2) months of the date upon which the subscription becomes due, subject thereto that the Executive Committee may, upon good cause shown, permit the member

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additional time in which to pay the subscription fee. Upon payment of the full subscription fee the suspension of the member's membership shall be lifted.

8.4.2. The member has failed to meet the CPD criteria in the preceding year. The suspension of the member's membership shall be lifted upon the member's meeting of the CPD criteria.

8.4.3. The member has, in the opinion of the Executive Committee, brought FAMAC or the practice of mediation into disrepute and termination of the member's membership is not considered appropriate. The Executive Committee shall, at the time of the suspension of the member's membership, determine the requirements for the lifting of the suspension.

8.4.4. The member has requested, in writing, a suspension of their membership for a period. A member's membership may not be suspended at the request of the member for more than two (2) consecutive years.

8.5. No refund of any subscription or part thereof shall be made to a person ceasing to be a member of FAMAC or whose membership of FAMAC has been suspended.

8.6. A member ceasing to be a member, or a member whose membership of FAMAC has been suspended, shall remain liable to FAMAC for any subscriptions due or other debts or obligations due by such member.

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## 9. ACCREDITATION

- 9.1. The Executive Committee shall determine the accreditation requirements from time to time, and the Accreditation Sub-Committee shall determine whether an applicant for accreditation meets the requirements and should be granted accreditation.

## 10. CONTINUED PROFESSIONAL DEVELOPMENT

- 10.1. The Executive Committee shall, from time to time, determine the minimum CPD criteria to be met by members of FAMAC.
- 10.2. The Executive Committee shall ensure that sufficient opportunities are available for members to acquire sufficient CPD credits during the course of each year.
- 10.3. The Executive Committee shall determine what fees, if any, are payable by members for attendance of CPD programmes.

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## 11. CODE OF CONDUCT

- 11.1. The Executive Committee shall, from time to time, adopt a code of ethics.
- 11.2. Prior to the adoption of any code of conduct or amendments to the code of conduct, the draft code of conduct or draft amendments thereto, as the case may be, shall be circulated to members for comment.
- 11.3. Members shall have a period of one week after circulation of proposed amendments to the code of conduct to register any concerns or propose any further amendments to the code of conduct, and the Executive Committee shall consider such concerns or proposed amendments before amendments to the code of conduct is put to a vote of the Executive Committee.
- 11.4. Within 30 days after adoption by the Executive Committee, the code of conduct, as amended, shall be circulated to members and published on the website of FAMAC.
- 11.5. All members of FAMAC shall be required to familiarise themselves with the Code of Conduct of FAMAC and members shall be required to abide by the Code of Conduct.

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## 12. MEETINGS OF MEMBERS

### 12.1. Annual General Meeting ("AGM")

12.1.1. FAMAC shall convene one Annual General Meeting annually, and it shall be held no later than 15 December in each year.

12.1.2. All members in good standing may attend and be heard at the AGM, provided that only those members who have voting rights will be entitled to vote at such a meeting.

12.1.3. The purpose of the AGM is to:

12.1.3.1. Report back to members from the Executive Committee on the achievements and work over the year.

12.1.3.2. Report on FAMAC's financial position and approve the annual budget.

12.1.3.3. Elect members of the Executive Committee to fill any vacancies which may arise.

12.1.3.4. Make changes to the Constitution, if necessary.

12.1.3.5. Enable members to discuss and decide on the policies of FAMAC.

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## 12.2. Special General Meeting ("SGM")

12.2.1. The Executive Committee may call a SGM when a mandate or guidance is required from the members, for the election of office bearers, or when issues require urgent attention and cannot wait until the AGM.

12.2.2. Any paid-up ordinary member or associate member in good standing may petition the Executive Committee to call a SGM, provided that such member shall prove, to the satisfaction of the Executive Committee, that at least one third of members support the call for a SGM.

## 12.3. General meetings ("GM")

12.3.1. The Executive Committee shall determine the date of ordinary General Meetings, of which there shall be at least six per year, in addition to the Annual General Meeting.

12.3.2. The purpose of general meetings is to conduct standard orders of business of FAMAC and/or to provide CPD opportunities for members.

## 12.4. Notices of meetings

12.4.1. Members shall be given fourteen days written notice of the AGM. The notice shall include, as far as possible, the agenda, the Executive Committee's report and the Treasurer's report, together with the

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proposed budget, proposed resolutions, as well as proposed amendments to the Constitution.

12.4.2. Should circumstances require a Special General Meeting, fourteen days written notice shall be given to members of such Special General meeting, together with any proposed resolutions, unless circumstances require that an urgent Special General Meeting be called.

12.4.3. Notice of meetings shall be given to members by electronic communication or whichever manner is most convenient, to the addresses provided by members. Notices shall be deemed to have been delivered at the last known contact details of members unless the contrary is proven. Members shall be responsible for ensuring that their new contact details are provided to the Secretary should their contact details change.

## 12.5. Procedure at meetings

12.5.1. The Executive Committee shall regulate meetings and proceedings as it deems fit, subject thereto that one of the co-chairpersons or, in the absence of both co-chairpersons, another office bearer shall chair the meeting.

## 12.6. Voting and quorums at annual general meeting and special meetings

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- 12.6.1. Twenty percent (20%) of the paid-up ordinary and associate members shall constitute a quorum at the AGM, a SGM, or a GM of FAMAC. Where a GM is held for the sole purpose of providing CPD opportunities or information to members, and not decisions need be made at the meeting, no quorum is required for the meeting to proceed.
- 12.6.2. Should there not be a quorum present at the appointed time of the meeting, the Meeting shall stand down for 20 minutes. If a quorum is still not present after 20 minutes, the meeting shall adjourn for a week. During such week, the Executive Committee shall endeavour to contact all members to inform them of the adjournment.
- 12.6.3. Should there still not be a quorum present at such adjourned meeting, the members present shall automatically constitute a quorum.
- 12.6.4. Unless otherwise determined by the chair of the meeting, voting shall take place by a show of hands or by poll, provided that poll need only be used where more than 50% of those present at the meeting call for a vote by poll.
- 12.6.5. Decisions shall be made by a simple majority vote of those present at the meeting, provided that a quorum is present, and provided further than in the case of amendments to the Constitution or decisions relating to the dissolution of FAMAC, the provisions of Clause 15 or Clause 16 below shall apply, as the case may be.

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12.6.6. In the event of an equality of votes, the co-chairperson presiding at the meeting shall have a casting vote.

12.6.7. Only those members present and eligible to vote (i.e. paid-up ordinary and associate members in good standing) shall be allowed to vote, and no provision is made for votes by proxy.

## 12.7. Record and Minutes

12.7.1. Minutes of all AGM and SGM, as well as GM's where decisions are made, shall be kept. Such minutes shall be confirmed as a true and correct record of proceedings at the next meeting of members and shall thereafter be signed by the co-chairpersons.

12.7.2. Minutes of meetings will be kept on record, and made available to members upon request.

12.7.3. Attendance registers shall be kept of all meetings, and other CPD opportunities, and it is the responsibility of members to ensure that their attendance is recorded.

## 13. FINANCES

13.1. All funds, assets and properties of FAMAC shall be administered by the Executive Committee on behalf of FAMAC.

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- 13.2. FAMAC's financial transactions are to be conducted by means of a bank Account held at a commercial bank in South Africa, and the signatories on any of FAMACs' bank account(s) shall be two of the following:
  - 13.2.1. The Treasurer;
  - 13.2.2. A co-chairperson; and/or
  - 13.2.3. A designated member of the Executive Committee.
- 13.3. The Treasurer is responsible for ensuring that the money of Association is safe and accounted for, and the Treasurer shall regularly report to the Executive Committee on the finances of FAMAC, which should include all incomes, expenditures and balances that remain.
- 13.4. The financial year of FAMAC shall be from 1 March in a year to 28 February the next year.
- 13.5. The Executive Committee shall keep proper account of all money received and expended, and of all assets and liabilities of FAMAC and a statement of such accounts shall be drawn up at the conclusion of the financial year and shall be presented to the members at the next ensuing Annual General Meeting after approval of the auditor or accounting officer.
- 13.6. The Executive Committee shall appoint an auditor or accounting officer who shall audit the accounts of FAMAC.

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- 13.7. FAMAC may not distribute any of its funds to any person other than for the purpose of furthering the objectives of FAMAC, unless expressly otherwise provided for from time to time by the Executive Committee. FAMAC's funds and assets shall not be distributed to its members or office bearers, except as reasonable compensation for services rendered.
- 13.8. Substantially the whole of the activities of FAMAC shall be directed at the furtherance of FAMAC's objectives and not for the exclusive benefit of an individual member or group of members.
- 13.9. FAMAC shall not have a share or other interest in any business, profession or occupation which is carried on by its members.
- 13.10. No activity of FAMAC shall directly or indirectly promote the economic self-interest of any member, fiduciary, or employee of FAMAC otherwise than by way of reasonable remuneration for services rendered.
- 13.11. Members or office bearers have no rights to the property or other assets of FAMAC solely as a result of them being members or office bearers, or at all, or any personal or private interest in FAMAC as such.
- 13.12. FAMAC may invest, use its funds, and acquire and control assets for any purpose in the furtherance of the objectives of FAMAC.
- 13.13. An annual subscription fee in respect of ordinary members and associate members shall be payable in amounts to be determined from time to time by the Executive

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Committee. No subscription fee shall be payable by student members or organisation members.

## 14. DISPUTE RESOLUTION

- 14.1. In the event of any dispute between a member and FAMAC, the dispute shall be referred to mediation, and failing agreement being reached, the dispute shall be subject to mandatory binding arbitration.
- 14.2. The arbitrator shall be a practicing advocate in good standing with the Legal Practice Council ("LPC"), with at least 10 years' post admission experience, who shall be jointly appointed by the parties, or failing such agreement, who shall be appointed by the chairperson *pro tempore* of the LPC or his/her delegate.
- 14.3. The terms of reference of the arbitration shall be determined by agreement between the parties to the arbitration, or failing such agreement, by the appointed arbitrator after having considered submissions from the parties thereon.
- 14.4. The standard rules of the Arbitration Forum of South Africa shall apply, save in so far as the arbitrator may determine individual issues of procedure.
- 14.5. The costs of the arbitration shall be borne in equal shares by the parties to the arbitration, provided that the arbitrator shall be entitled to make a determination as to costs.

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## 15. AMENDMENT OF THE CONSTITUTION

- 15.1. Any amendments to this Constitution shall be a simple majority vote at an Annual or Special General Meeting after due notice has been given by means of the agenda distributed to all members at least fourteen days before the Annual or Special General Meeting. The agenda shall include the proposed amendments.
- 15.2. The Executive Committee shall submit an amendment to the Constitution to the Commissioner of Inland Revenue (hereinafter “the Commissioner”) within 30 days of its amendment.

## 16. DISSOLUTION

- 16.1. FAMAC may be dissolved by a simple majority vote of paid-up ordinary and associate members in good standing.
- 16.2. Upon the dissolution, winding up, or liquidation of FAMAC, FAMAC shall transfer its assets remaining after the satisfaction of its liabilities to:
  - 16.2.1. Another entity with similar objectives which is approved in terms of Section 10(1)(d)(iii) or (iv) of the Income Tax Act; or
  - 16.2.2. A public benefit organisation approved in terms of Section 30 of the Income Tax Act; or

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- 16.2.3. Any institution or body approved in terms of Section 10(1)(c)(i) of the Income Tax Act; or
- 16.2.4. Any department of state or administration in the national or provincial or local sphere of government of the Republic of South Africa, contemplated in Section 10(1)(a) or (b) of the Income Tax Act, which is required to use those assets solely for the purpose of carrying on one or more public benefit activities.

**Adopted 19 March 2014, amended 29 March 2017, and amended on 24 October 2019 and further amended on 13 March 2024.**

Co-Chair (Mental Health)

Co-Chair (Legal)