



**CONSTITUTION**

**OUT OF HOME MEDIA**

**SOUTH AFRICA (NPC)**

**Registration no: 2014/004036/08**

This Constitution was adopted by a Special Resolution passed  
at a Special General Meeting of the members of OHMSA held at Roodepoort

**CONSTITUTION OF OUT OF HOME MEDIA SOUTH AFRICA (NPC)**  
**Registration number: 2014/004036/08**

**1. NAME**

- a) The name of the Company shall be Out of Home Media South Africa (NPC) (the “Company”).
- b) The shortened name of the Company shall be OHMSA.

**2. LEGAL STATUS**

- 2.1 The Company is and shall continue to be a distinct and separate legal entity and body corporate, with the power to acquire, hold and alienate property of every description whatsoever, and with the capacity to acquire rights and obligations and having perpetual succession.
- 2.2 All actions or suits, proceedings at law or any arbitration shall be brought by or against the Company in the name of the Company and the board may authorize any person or persons to act on behalf of the Company and to sign all such documents and to take all such steps as may be necessary in connection with any such proceedings.
- 2.3 The Company will exist continuously regardless of any change in the composition of its board or of its membership unless, and until such time as, the provisions of paragraph 20 hereof are invoked.

**3. A COMPANY NOT FOR PROFIT**

Notwithstanding anything to the contrary herein contained:

- 3.1 The Company is not formed and does not exist for the purpose of carrying on any business that has for its object the acquisition of gain by the Company or its individual members.
- 3.2 The assets of the Company shall be applied solely for investment and for the promotion of the objects for which it is established.
- 3.3 No part of the assets of the Company shall be paid, directly or indirectly, by way of dividend, donation or otherwise, to any person.
- 3.4 The Company shall not be entitled to carry on any trading or other profit-making activities or participate in any business, profession or occupation carried on by any of its members or provide to any of its members financial assistance or any premises or continuous services or facilities for the purpose of carrying on any business, profession or occupation; Provided that the Company may trade and engage in profit making activities solely for the purpose of and in pursuance of achieving its aims and objectives under clause 4.

**4. AIMS AND OBJECTIVES**

The objectives of the Company shall be:

- 4.1 to promote and to protect the interests of the Company and its members, to encourage co-operation and to deal with all such matters as may affect the common interests of members;
- 4.2 to promote, support or oppose as may be deemed necessary, any legislative or other measures affecting the interests of the Company and its members;



- 4.3 to confer with the Government, Provincial Administration or local authorities and their Departments and all other interested bodies of concern to, or likely to be of concern to the Company or its members;
- 4.4 to be affiliated to any association or organisation as may be decided upon by the Company from time to time;
- 4.5 to collect and disseminate information likely to be of use to members and users of the medium;
- 4.6 to promote a high standard of quality, design, maintenance and workmanship in the Out of Home media industry;
- 4.7 to improve its product offerings and measurement of its performance;
- 4.8 to promote and publicise the Out of Home media industry, by way of advertisements, exhibitions and otherwise;
- 4.9 to elevate the status of the Out of Home medium and industry in the eyes of the public at large;
- 4.10 to elevate the skills, knowledge levels and professionalism of employees and users of the Out of Home medium;
- 4.11 to encourage free and fair competition within the Out of Home media industry;
- 4.12 to eradicate unlawful practice from the industry and to fully uphold the legal rules that apply to and affect the Out of Home media industry;
- 4.13 to enforce expeditiously the strict compliance by its members of the provisions of this Constitution.

## **5. POWERS**

The Company will also have the power:

- 5.1 to acquire any movable or immovable property for the Company calculated to benefit the Company and to advance its objectives and to maintain, improve and alter any of the Company's property;
- 5.2 to institute, conduct, defend, compound or abandon any legal proceedings by or against the Company or its officers, or otherwise concerning the affairs of the Company;
- 5.3 to open bank accounts in the name of the Company and to draw, accept, endorse, make and execute bills of exchange, promissory notes, cheques and other negotiable instruments connected with the business and affairs of the Company;
- 5.4 to invest and deal with any moneys of the Company not immediately required for the purposes of the Company;
- 5.5 to secure the fulfillment of any contracts or engagements entered into by the Company by the mortgage of all or any part of the property of the Company;
- 5.6 to establish, promote or assist in establishing or promoting and to subscribe to or become a member of any association or society whose objects are similar or partly similar to the objects of the Company, or the establishment or promotion of which may be beneficial to the Company,



provided that no subscription be paid to any such other association out of the funds of the Company except *bona fide* in furtherance of the interests of the Company;

- 5.7 to support and subscribe to any institution or society which may be for the benefit of the Company;
- 5.8 to borrow or raise and give security for money by the issue of bonds, debentures, debenture stock, bills of exchange, promissory notes or other obligations or securities of the Company or by mortgage of all or any part of the property of the Company;
- 5.9 subject to the objects above, to make donations, loans, exchanges, leases and any other forms of contract whatsoever including sales and purchase of property of any kind whatsoever;
- 5.10 to establish and maintain and/or assist in the establishment or maintenance of any fund or committee formed or which may be formed for the protection of the interests of the Company or its members, or for the protection and benefit of employees, or for the benefit and protection of the joint interests of employers and employees in the Out of Home media industry;
- 5.11 to provide legal assistance to members where deemed necessary and to institute or defend legal actions by or on behalf of the Company; Provided that if the legality of laws, regulations or other statutory instruments, by any national, provincial or local authority is to be challenged in court, the Company may, if authorised by majority vote at a general meeting or special general meeting, institute action for and on behalf of the Company and/or any member or members. In the event of the Company not instituting action, individual members may institute action in their own name.
- 5.12 to do all such other lawful things as may appear to be in the interests of the Company and/or its members and which are not inconsistent with the objects set out in this clause or any matter specifically provided for in this Constitution.

## **6. MEMBERSHIP**

6.1 The qualification for membership of the Company shall be:

a. Full Membership

Any person, company, close corporation, partnership, trust or other business enterprise, whether such organization is a legal person or not, engaged in the advertising media industry by way of selling or letting out advertising space to advertisers in or on all forms of Out of Home media within Southern Africa shall be eligible for membership of the Company (hereinafter referred to as a Full Member), provided such applicants have no interest directly or indirectly in the purchasing of media space on behalf of third parties as a business. Fixed Term Membership for a period of six months shall initially be given to a company, person or firm that desires to become a Full Member and who has satisfied the Board of its bona fides. Full Membership will only be accorded to the member on satisfactory compliance with the Constitution, the Company's directives and the Code of Practice and Standards for Out of Home advertising; Provided that during the term of Fixed Membership, such a member will have no voting rights. The Board may determine different classes of Full Membership determined according to the annual turnover of the particular Full Member.

b. Associate Membership

Any company, person or firm not qualifying for full membership in terms of paragraph (a) but who is, in the opinion of the Board in any way interested in or of interest to the Out of Home media industry, may be admitted to Associate Membership of the Company at the discretion of the Board (hereinafter referred to as Associate Members) provided that Associate Members shall not be



entitled to minutes of meetings of the Company nor be entitled to propose motions nor to vote at any meeting of the Company or of the Board at which the Associate Member may be present by invitation only.

c. Special Membership

Any company, person or firm, which, in the opinion of the Board is sufficiently representative of a particular industry or interest, may be invited to become Special Members of the Company; Provided that such members will not be liable to pay an entrance or annual fee and will not have any voting rights and shall attend meetings by invitation only.

d. International Membership

Any person, company, close corporation, partnership, trust or other business enterprise, whether such organization is a legal person or not, engaged in the advertising media industry by way of selling or letting out advertising space to advertisers in or on all forms of Out of Home media not qualifying for full membership merely because such company, person or firm is not domiciled within Southern Africa but who is, in the opinion of the Board in any way interested in or of interest to the Out of Home media industry in South Africa, may be admitted to International Membership of the Company (hereinafter referred to as International Members) at the discretion of the Board provided that International Members shall not be entitled to propose motions nor to vote at any meeting of the Company.

6.2 Applications for membership shall be lodged in writing with the Chief Executive Officer/Executive Director and shall be accompanied in each case by the entrance fee and subscription prescribed by this Constitution.

6.3 Every member of the Company shall, on becoming a member, sign a written consent to become a member and such signature shall bind the Association and the members *inter se* to the terms of the Constitution to the same extent as if they had signed it and such member will ensure that, his/her heirs, executors and administrators or successors in title, will observe all the provisions of the Constitution.

6.4 Applications for membership shall be considered by the Board at its first meeting after the date of receipt thereof by the Chief Executive Officer/Executive Director and the applicant concerned shall be notified in writing by the Chief Executive Officer/Executive Director of the decision of the Board within 7 days of the date of such decision.

6.5 An applicant to whom admission to membership is refused shall be entitled to a refund of the entrance fee and subscription paid by him on application.

6.6 A member who has resigned or been expelled from the Company, but who is still engaged in the interests set forth in clause 6.1, may be re-admitted to membership on such conditions as the Board may determine. Where an applicant for re-admission considers the conditions fixed by the Board unreasonable, he may appeal to the Appeal Committee established in terms of this Constitution, whose decision shall be final.

6.7 An appeal in terms of sub-clause 6.6 shall be lodged in writing with the Chief Executive Officer/Executive Director within 7 (seven) days of the decision by the Board, together with the deposit stipulated in terms of clause 15.7.

6.8 A member shall be represented by the Chief Executive Officer or an experienced senior professional serving as a director or manager of that member, or a member in the case of a close corporation, provided that "director" shall also include an alternate director who shall have full authority to act for and on behalf of that member in respect of the business of the Company and the provisions of this Constitution.



## **7. ENTRANCE FEES & SUBSCRIPTIONS**

- 7.1 An entrance fee, shall be payable on application for membership, the actual amount to be determined by the Board from time to time.
- 7.2 Full Members shall pay a monthly levy at a flat rate in advance by eft as determined by the Board.
- 7.3 Each Associate Member shall pay in advance to the Company an annual or monthly subscription which shall be determined by the Board from time to time.
- 7.4 Annual subscriptions shall be paid in advance by eft in favour of the Company.
- 7.5 The first annual subscription payable by an applicant for membership in terms of sub-clause 3 shall fall due and be paid on the date of application.
- 7.6 Fixed Term Members as defined in 6.1.a shall pay, in addition to the entrance fee, three months levies in advance and thereafter monthly in advance by eft.
- 7.7 The Board may, subject to approval of a General Meeting of the association, exempt any Associate Member for any period from the obligation to pay annual subscriptions.
- 7.8 International members shall pay an annual fee of R12 000.00 (twelve thousand rand) on application. Should the application of the International member be turned down, the full membership fee will be refunded. A majority vote by members present at a General Meeting of members may amend this amount.

## **8. RIGHTS OF MEMBERS**

- 8.1 Membership of the Company in any of the classes of membership does not and shall not give any member of any class a right to any of the moneys, property or assets of the Company but only confers upon such members the privilege of membership subject to such charges and reasonable restrictions as the Board may from time to time impose and subject to the by-laws in force for the time being.
- 8.2 A member whose application for membership has been accepted shall be bound by the constitution, rules and directives of the Company which are then in force, or which subsequently may be altered or amended and in force at any future time. No person shall be absolved from the effect and application of the constitution, rules and by-laws by reason of the fact that he may not have received a copy thereof.

## **9. DUTIES AND LIABILITIES OF MEMBERS**

- 9.1 The financial liability of members of any class for or on behalf of the Company is limited to the amount of unpaid subscriptions or other moneys owing by them to the Company.
- 9.2 All members shall comply with the OHMSA Constitution, the directives or Standards and Code of Practice in terms of the Constitution and with all applicable national and other regulations and by-laws in the countries, cities, towns and villages in which they conduct business.
- 9.3 Members shall collect and pay across all industry levies agreed to by the Company, including, but not limited to, levies required for research or any other jointly funded advertising industry body as decided by the Company.
- 9.4 Members shall comply with requests for information if requested to do so in writing by the Company. These shall include, but not be limited to, providing monthly advertising expenditure figures to Niensens for AdEx.



- 9.5 Members shall not contract for or erect an outdoor advertising site or display for which approval has not been given – by the landlord or owner, the municipal authority, where applicable, and, where necessary, the Provincial or National Roads authorities or their appointed bodies/officials or any other appropriate regulatory authority. If a particular procedure is prescribed by the Company for obtaining all or any of said approvals or permission, whether on the basis of an agreement by the Company and the relevant authorities or not, the member hereby agrees that he/she will follow the prescribed procedure.
- 9.6 No signage or advertising display will be erected or exhibited by members without the existence of the proper permission from the landlord or owner, the municipal authority, where applicable and, where necessary, the Provincial or National Roads authorities or their appointed bodies/officials or any other appropriate regulatory authority. In the event that doubt exists as to existence of the proper permission from the landlord or owner, the municipal authority, where applicable and, where necessary, the Provincial or National Roads authorities or their appointed bodies/officials or any other appropriate regulatory authority, the matter will be referred to a Tribunal Committee established in terms of this Constitution. The decision of the Tribunal Committee as to the existence of the proper permission from the landlord or owner, the municipal authority, where applicable and, where necessary, the Provincial or National Roads authorities or their appointed bodies/officials or any other appropriate regulatory authority will be binding on the member brought before the Tribunal Committee. The Tribunal Committee may, in its discretion, determine a period within which signage or advertising displays erected or displayed without proper permission from the landlord or owner, the municipal authority, where applicable and, where necessary, the Provincial or National Roads authorities or their appointed bodies/officials or any other appropriate regulatory authority must be taken down. The period so determined shall not be unreasonable, but may not exceed 90 days from the date of the finding by the Tribunal Committee. Should the member wish to appeal the decision of the Tribunal Committee an Appeal Committee in terms of paragraph 15 of this Constitution will be established.
- 9.7 Any signage or advertising display erected without the existence of the proper permission from the landlord or owner, and the municipal authority, where applicable and, where necessary, the Provincial or National Roads authorities or their appointed bodies/officials or any other appropriate regulatory authority before membership was acquired, will be taken down within a period determined by the Board. The period so determined shall not be unreasonable, but may not exceed 24 (twenty four) months from the date that the Board admits a person as a new member. In the event that doubt exists as to existence of the proper permission from the landlord or owner, the municipal authority, where applicable and, where necessary, the Provincial or National Roads authorities or their appointed bodies/officials or any other appropriate regulatory authority, the matter will be referred to a Tribunal Committee established in terms of clause 15 this Constitution. The decision of the Tribunal Committee as to the existence of the proper permission from the landlord or owner, the municipal authority, where applicable and, where necessary, the Provincial or National Roads authorities or their appointed bodies / officials or any other appropriate regulatory authority will be final and binding on the member alleged to have transgressed this clause.
- 9.8 Any dispute between a member and a municipal authority, the Provincial or National Roads authorities or their appointed bodies/officials or any other regulatory authority, will, if the municipal authority, the Provincial or National Roads authorities or their appointed bodies / officials consents thereto, be referred for consideration by an Appeal Committee appointed in terms of clause 15.7 of this Constitution. A member may only exercise his rights in law or otherwise if a decision by the Appeal Committee could not be made within 90 (ninety) days of the dispute being referred to the Appeal Committee and the member has obtained a certificate to that effect from the Appeal Committee.
- 9.9 Every member shall, upon acceptance as a member, notify the Chief Executive Officer / Executive Director, in writing, of his postal address and any change thereof within 14



(fourteen) days of the date on which the change took place.

## **10. MEETINGS AND VOTING**

- 10.1 A General Meeting of Members of the Company shall ordinarily be held at least once per annum on a date fixed by the Chairperson, provided that such General Meeting may be the Annual General Meeting. Special General Meetings shall be called whenever desired by a majority of the Board or upon a requisition signed by not less than two-fifths of the members of the Company in good standing. Such special General Meetings shall be called within 1 (one) month from the date of decision of the majority of the Board or from the date of receipt of the requisition by the Chairperson.
- 10.2 The Annual General Meeting of the Company shall be held within six months after the end of the Financial Year of the Company.
- 10.3 Any notice under this Constitution may be sent in electronic format and for purposes of this Constitution a notice sent in electronic format will be deemed to be in writing. Notices sent in electronic format will be deemed to be delivered to the representative of the member if it is sent to the address supplied by the member in writing or electronically and is not returned as undelivered within 24 (twenty four) hours from the time that it is sent.
- 10.4 Notices of General Meetings showing the business to be transacted thereat shall be given to Full Members and Associate Members in writing by the Chief Executive Officer/Executive Director not less than 7 (seven) days before the dates of such meetings; provided that in the case of Special General Meetings such shorter notice being not less than 48 (forty eight) hours, as may be decided by the Chairperson, may be given. To every notice of meeting, an Agenda shall be attached.
- 10.5 If the Chairperson so decides all motions at the General Meeting shall be reduced to writing and shall be delivered to the presiding officer to be read to the meeting. No motion shall be considered unless seconded. All matters forming the subject of motions shall, unless otherwise provided herein, be voted upon by show of hands, of one representative of each member, or by ballot and shall, unless otherwise provided herein, be decided by the votes of a majority of the members present in person or represented by proxy, except in the case of elections when the candidates up to the required number receiving the highest number of votes of members present in person or represented by proxy, shall be declared elected.
- 10.6 All matters of procedure on which this Constitution is silent shall be decided on motion by a majority vote of members present or represented by proxy at a General Meeting.
- 10.7 The quorum for any General Meeting shall be 35% (thirty five percent) of the Company's Members in good standing and for meetings of the Board 50% (fifty percent) of the members of the Board. If within 30 (thirty) minutes of the time fixed for any meeting a quorum is not present, the meeting shall stand adjourned to a day not less than 7 (seven) days and not more than 14 (fourteen) days from the date of the meeting at a time and place determined by the Chairperson. At such an adjourned meeting of which written notice shall be given, the members present shall form a quorum. If a quorum of a meeting requested by members under clause 10.1 is not present within 30 (thirty) minutes of the time fixed for the meeting, the meeting will be adjourned.
- 10.8 At every General Meeting the Minutes of the last preceding General Meeting shall be read by the Chief Executive Officer/Executive Director and signed by the presiding officer after confirmation. Minutes of meetings of the Board shall be similarly dealt with by that body.
- 10.9 Notwithstanding the provisions of clause 10.8, it shall be competent for a meeting to authorise the presiding officer to sign and confirm Minutes as correct if after perusal thereof





he is of the opinion that the Minutes reflect a true record of the proceedings. Minutes so confirmed shall be deemed to be confirmed in terms of clause 10.8.

- 10.10 The proceedings of any meeting shall not be invalidated by reason of the non-receipt by any member of the notice of the meeting.
- 10.11 Every Full Member will have one vote at a meeting of the Company; provided that if a member is a subsidiary of a holding company as defined in section 1 of the Companies Act or any person that is controlled by a member, that subsidiary or controlled person shall not have a vote as long as the holding/subsidiary situation or the controlled/controlling relationship exists. "Control" shall mean the right to control, manage and regulate the affairs of such other person and the Board shall have the complete discretion to decide whether in any particular case control exists and such decision shall be final.
- 10.12 Notwithstanding anything in this Constitution, a written resolution setting out the resolution, the reasons for the resolution and the effect of the resolution and which is signed by every member of the Company entitled to vote at a meeting of the Company will have the same effect as an ordinary or special resolution taken at a meeting of the Company.

## **11. BOARD**

- 11.1. The Management of the affairs of the Association between General Meetings shall be vested in a Board of Directors (Board) consisting of the Chairperson and not more than 7 (seven) Full Members of the Association, which includes the Vice Chairperson.
- 11.2 The Board will be appointed by the general membership at the Annual General Meeting of the Company on nomination, duly seconded and voted upon by the members present in person or represented by proxy by a show of hands, of one representative per member, or, if the General Meeting so decides, by ballot.
- 11.3 The Chairperson and Vice-chairperson shall be elected by the Board, from the representatives elected to the Board in terms of the process outlined in 11.2 above, on nomination by a Board Member.
- 11.4. The members of the Association will be entitled to be represented on the Board as follows:
- 1) Chairperson (Independent) (voted by the board members on an equal basis)
  - 2) 7 Full Members of the Association (which include the Vice Chairperson) (voted by the full membership on an equal basis).
- 11.5. The members of the Board shall, subject to the provisions of clause 11.9, hold office until the next Annual General Meeting and be eligible for re-election on termination of their period of office. The Chairperson and Vice-Chairperson of the Board shall ipso facto be Chairperson and Vice-Chairperson of the Company. The remaining members of the Board shall each be the Chief Executive Officer or an experienced senior professional serving as a director of that member, or a member in the case of a close corporation, provided that "director" shall also include an alternate director.
- 11.6. The Board shall have the power to co-opt at its discretion persons to serve on the Board whether by so doing the number prescribed in paragraph 11.1 be exceeded or not, provided that such persons shall have no voting power at meetings of the Board or be taken into consideration for the purpose of constituting a quorum at meetings of the Board, provided further that such persons shall only serve on the Board for as long as determined by the Board or a General Meeting.
- 11.7. The Board may appoint regional representatives in KwaZulu Natal and the Western Cape, or



any other region where Company representation may become necessary. The regional representatives would be responsible for furthering the aims of the Company in those areas and would be required to hold at least 2 (two) meetings per annum with local members. Minutes must be taken at meetings and forwarded to the Chief Executive Officer/Executive Director for distribution to the Executive Committee.

- 11.8. The Board may, at the first or any subsequent meeting following the annual election, appoint a Treasurer from amongst its members.
- 11.9. Subject to the proportions in 11.4 vacancies occurring on the Board shall be filled at the first ensuing General Meeting on nomination duly seconded and voted by Full Members present in person or represented by proxy by show of hands of One representative per member, or, if the General Meeting so decides, by ballot. Where a vacancy occurs subsequent to the date on which the notice of that meeting was issued it shall be filled at the next ensuing General Meeting. Nominations for the vacancy may be submitted to the Chief Executive Officer/Executive Director in writing at any time before the meeting or may be made verbally or in writing during the meeting. A member appointed to fill a vacancy shall subject to the provisions of clause 11.11 hold office for the unexpired portion of the period of office of his predecessor.
- 11.10. Nominations for membership of the Board may, subject to the provisions of clause 11.1, be lodged in writing with the Chief Executive Officer/Executive Director at any time before the date of the Annual General Meeting or may be made verbally or in writing during the Annual General Meeting.
- 11.11. A member of the Board shall vacate his seat in any one of the following circumstances:
  - a. on resignation, suspension, or expulsion from membership of the Company of the employer whom he represents or upon ceasing to be engaged in the interests set forth in clause 6.1.a;
  - b. on absenting himself without the permission of the Board from three consecutive General Meetings or meetings of the Board;
  - c. on ceasing to be in good standing;
  - d. on resigning from the Board by giving not less than 1 (one) month's written notice to the Chief Executive Officer/Executive Director;
  - e. on abandoning or discontinuing the business or interests which entitled him to membership;
  - f. on expiry of his term of office.
- 11.12. The Board shall, subject to the general direction and control of General Meetings and to the provisions of this Constitution, and without any diminution of the rights, powers, functions and duties of General Meetings, have power:
  - a. to make recommendations to the Company or its members;
  - b. make or enforce directives relating to the conduct of members, procedural, administrative and disciplinary matters;
  - c. make and enforce a Code of Practice and Standards that applies to all actions by members
  - d. to appoint, on such terms and conditions as it may deem fit, and at its discretion remove or suspend a Chief Executive Officer/Executive Director to the Company and such attorneys,



- agents or clerks for permanent, temporary or special services; to determine their duties and fix and vary their salary or emoluments;
- e. to appoint from time to time such ad hoc committees and sub-committees for the performance of such duties as may be determined by the Board;
  - f. to admit or refuse to admit any company, person or firm as members of the Company, to fix the conditions under which former members of the Company may be re-admitted to membership, and to suspend, fine or expel any member if he infringes or contravenes the terms of this Constitution or any of the provisions of the Code of Practice and Standards made under this Constitution or acts in a manner which is, in the opinion of the Board, detrimental to the interests of the Company and/or its Members; Provided that any decision to suspend or expel any member must be taken according to the principles of natural justice, including but not limited to an impartial hearing with the right to bring and cross-examine evidence and to an appeal.
  - g. to exercise the powers and institute on behalf of, or defend legal proceedings against the Company, or on behalf of individual members in connection with matters affecting the relationship between themselves and their employees, or against individual members;
  - h. to acquire, either by purchase, lease or otherwise, any movable or immovable property on behalf of the Company, and to sell, let, mortgage, or otherwise deal with or dispose of any movable or immovable property belonging to the Company; provided that no immovable property shall be acquired or sold nor shall it be mortgaged, let or leased for a period longer than five years, unless at least 14 day's written notice of intention to do so has been given to each member of the Company by the Chief Executive Officer/Executive Director. If during this period not less than two-fifths of the members demand that a ballot be taken on the proposed action, such ballot shall be taken;
  - i. to deal with disputes between members and to endeavour to settle disputes by conciliatory methods;
  - j. to open a banking, savings or investment account in the name of the Company and, should the necessity arise, to negotiate a loan or an overdraft with the banking, savings or investment institution upon such security as the Board may decide;
  - k. to provide legal assistance to any member or members on matters affecting their industry interests;
  - l. to do such other lawful things as, in the opinion of the Board appear to be in the interests of the Company or its members and which are not inconsistent with the objects set out in clause 4 or any matter specifically provided for in this Constitution;
  - m. to institute action by and on behalf of the Company in respect of any matter concerning the Company and any business carried out by the Company and/or its members;
  - n. to initiate any action against any member in respect of any illegal action by the member.
- 11.13. The Board will be the official spokesperson for the Company and no statements in respect of the Company may be made without the prior permission of the Board. Board may delegate its rights and duties in this respect to a committee of members constituted out of the Board.
- 11.14. Each member of the Board will be entitled to appoint an alternate to represent him/her at the Board, should he/she be unable to attend. Such alternate however, will have to be approved in advance unanimously by all members of the Board and shall also be the Chief Executive Officer or an experienced senior professional serving as a director of that member, and provided further that "director" shall also include an alternate director. In the event of both the member of the



Board and the alternate being unable to attend a meeting, the member of the Board will be entitled to appoint a proxy from the other members of the Board.

- 11.15. Notwithstanding anything in this Constitution, a written resolution setting out the resolution, the reasons for the resolution and the effect of the resolution and which is signed by a simple majority of the Board entitled to vote at a meeting of the Board will have the same effect as a resolution taken at a meeting of the Board.
- 11.16. The Board shall ensure that proper financial records of the Company are kept and that Annual Financial Statements be presented to the Annual General Meeting.
- 11.17. The Board shall ordinarily meet at least six times per annum on dates to be fixed by the Chairperson. Special meetings of the Board shall be called by the Chairperson whenever he deems it advisable or upon a requisition signed by not less than two-fifths of the members of the Board, in which event the meeting shall be called within 14 (fourteen) days of receipt of the requisition by the Chairperson. The quorum for a meeting of the Board shall be an ordinary majority of members of the Board. If within 30 (thirty) minutes of the time fixed for the meeting a quorum is not present, the meeting shall stand adjourned to a day not less than 7 (seven) days and not more than 14 (fourteen) days from the date of the meeting at a time and place determined by the Chairperson. At such an adjourned meeting of which written notice shall be given, the members present shall form a quorum.
- 11.18. Members of the Board shall be notified in writing of the time and place of meetings of the Committee by the Chief Executive Officer/Executive Director at least 7 (seven) days before the dates of such meetings; provided that such shorter notice being not less than 24 (twenty four) hours, as may be decided by the Chairperson, may be given in respect of Special Meetings. To every notice of meeting an Agenda shall be attached. All matters for consideration by the Board shall be decided on motion duly seconded and voted upon by show of hands or by ballot, and shall unless otherwise provided herein, be decided by the votes of a majority of the members of the Board present in person or represented by proxy.

## **12. OFFICE-BEARERS AND OFFICIALS**

12.1. The duties of the Office Bearers and Officials of the Company shall be:

a. Chairperson:

The position of Chairperson of the Company is a non-remunerated position.

The Chairperson shall be elected by the Board. He or she can either be a representative of a full members company of the Company or an independent third party, provided that such a person must in the opinion of the General Meeting:

- i. be available for all meetings of the Company;
- ii. have extensive experience in the out of home industry;
- iii. have extensive knowledge of issues pertaining to the out of home industry;
- iv. benefit the Company and the out of home industry.

The Chairperson of the Board shall de facto be chairperson of the Company and is independent and as such will not be entitled to represent his/her company on the Board, if he or she is a representative of a full member. The chairperson's company may however be entitled to nominate a senior executive in terms of 11.5 other than the chairperson as its representative on the Board.



The Chairperson shall preside at all meetings at which he is present to enforce observance of the Constitution of the Company, sign Minutes of meetings after confirmation or on authority to confirm in terms of clause 10.8 and 10.9, sign cheques of the Company, generally exercise supervision over the affairs of the Company and perform such other duties as by usage and custom pertain to the office. He or she shall have a deliberative vote and in the event of equality of voting, a casting vote.

b. Vice-Chairperson:

The Vice-Chairperson shall exercise the powers and perform the duties of the Chairperson in the absence of the latter.

c. Chief Executive Officer/Executive Director:

i. The Chief Executive Officer/Executive Director shall receive requisitions for meetings; issue notice of meetings; conduct all correspondence of the Company, keeping originals of letters received and copies of those despatched; attend all meetings and record minutes of the proceedings; keep a register of all Members past and present; record therein every Members' address, name and date of enrolment, and, in the event of the resignation or expulsion of a member, the date thereof, and in the case of expulsion also the reason therefore; collect entrance fees, subscriptions, fines and levies, issue of official receipts for monies received, bank all monies within 7 (seven) days of receipt; sign cheques of the Company; submit reports in regard to the financial position of the Company to the Board not less than once per annum, or as directed by the Board; and perform such other duties as the Board or a General Meeting may direct. He or she shall have no voting power and may resign by giving 2 (two) months' notice to the Board.

ii. The Chief Executive Officer/Executive Director shall also take the necessary steps to ensure that the requirements of sub-section 5 of section 8 of the said Act relating to the maintenance of a register of members, the keeping of proper books of account, the auditing of such books and the preparation of a Balance Sheet and a Statement of Income and Expenditure and the submission or making available thereof to members, are complied with.

d. Treasurer:

i. The Treasurer, if appointed, shall be responsible for the funds of the Company; endorse all accounts for payment after approval by the Board and co-sign all cheques on the Banking Account of the Company.

ii. The Board shall have the power to vary or alter the powers and duties of the Treasurer and to allocate to other Office-Bearers or officials such of the Treasurer's duties as the Board may in its discretion direct.

e. Acting Chairperson:

In the event of both the Chairperson and the Vice-Chairperson being temporarily unable to perform their duties, the Board shall appoint a member of the Committee to act as Chairperson until the Chairperson or Vice-Chairperson is able to resume his or her duties, or, in the event of the Chairperson and Vice-Chairperson being permanently unable to perform their duties, until the next ensuing General Meeting when a new Chairperson and Vice Chairperson shall be elected in accordance with the provisions of clause 11.9.

12.2 Indemnity

Every Board member, manager and officer of the Company and every person (whether an officer of the Company or not) employed by the Company shall be indemnified out of the funds of the Company against all liability incurred by him as such Board member, manager, or officer



when acting as a result of, or implementing a decision taken by the Board, or a general meeting of the Company provided that such actions are not illegal nor in contravention of the King 3 guidelines on corporate governance.

### **13. FINANCE**

13.1 The Funds of the Company shall be applied to the payment of expenses, the acquisition of property, the objects of the Company specified in clause 4, and such other lawful purposes as may be decided upon by the Board, or if the latter so desires, by a general meeting for the attainment of the objects specified in clause 4 of this Constitution but shall not be distributed to members or office-bearers except as reasonable compensation for services rendered.

13.2 All amounts due or collected on behalf of the Company, where not paid by eft as provided for in 7.4 and 7.6 above, shall be paid to the Company's bank account as has been approved by the Board; provided that any surplus funds not for the time being required for the purposes specified in clause 13.1 may be invested upon such security and on such terms and conditions as the Board may approve.

13.3 Payments shall require the approval of the Board and shall be made by cheque or electronic transfer, except where the amount in question is less than the amount agreed upon by the Board, when payment may be made from petty cash under such conditions and procedure as may be imposed by the Board.

13.4 Payments from petty cash in any one month shall not exceed R5 000.00 (five thousand rand) without the approval of the Board. Funds required for a petty cash account which shall be kept in such form as the Board may determine, shall be provided by the drawing of cheques or electronically.

13.5 No single item of expenditure in excess of the amount agreed upon by the Board, (other than the remuneration of employees of the Company) shall be met from the funds of the Company unless such expenditure is approved by the Board or by a general meeting.

13.6 A general meeting may at any time with a view to securing funds for any particular purpose, impose a special levy, the amount and method of payment of which will be determined by a majority vote of members present at the meeting, provided that:

- a. notice of the proposed levy appeared in the Agenda for the meeting;
- b. a levy may only be imposed by a resolution passed by a two-thirds majority of the members in good standing represented in person or by proxy at such meeting; and
- c. the amounts of levy imposed on members may be varied at that or any subsequent meeting and that any member may be exempted in whole or in part for any period from the obligation to pay such levy.

13.7 A member who resigns or is expelled from membership shall have no claim on the funds of the Company as from the date of his resignation or expulsion.

13.8 The Company's financial year end shall be the last day of February.

### **14. REPRESENTATION ON BODIES**

A General Meeting may decide that the Company shall become a party to any other statutory or lawful non-statutory body, board, council or the like.

### **15. DISCIPLINE**



- 15.1. Subject to Clause 17 below, a Member may be suspended, fined or expelled if:
- a. fines, levies and the penalties in clause 15.7 are more than 90 (ninety) days in arrears;
  - b. it is found guilty by a Tribunal Committee or Appeal Committee, if applicable, of having infringed any of the terms of this Constitution or of the Standards and Code of Practice, or acted in a manner which is detrimental to the interests of the Company and/or its members;
- 15.2 No disciplinary action shall be taken against a member unless:
- a. a written complaint has been lodged with the Chief Executive Officer/Executive Director by another member; or
  - b. the Board, in exercising its powers in terms of clause 10 of this constitution, resolves to take disciplinary action against a member in respect of alleged conduct as described in clause 15.1 above.
- 15.3 Upon receipt of a written complaint or a resolution of the Board the Chief Executive Officer/Executive Director shall convene a Tribunal Committee to hear and decide the complaint or allegations of misconduct.
- 15.4 A Tribunal Committee shall consist of the Chairperson of the Board plus two other members of the Board who have no direct interest in the subject matter of the complaint or allegation. Provided that in the event that the Chairperson has a direct interest in the complaint or allegation it shall be competent for a Tribunal Committee to consist of three other members of the Board.
- 15.5 The member against whom a written complaint has been laid and who is to appear before a Tribunal Committee shall be given written notice of not less than 14 (fourteen) days, setting forth sufficient detail of the allegations or complaint against the member concerned to enable the member to consider the matter and to make representations in connection therewith.
- 15.6 At any Tribunal Committee hearing to be held, the member against whom a complaint/complaints have been laid:
- a. shall be entitled to call witnesses;
  - b. shall not be entitled to be represented at such hearing other than by a director, partner or employee of such member who is not a practising attorney;
  - c. shall be obliged to produce such books, documents and records and other information as shall be required by the Tribunal Committee.
- 15.7 Any member found guilty and sanctioned in terms of this paragraph, will have a right to appeal against the conviction and/or sanction to an Appeals Committee appointed by the Chief Executive Officer/Executive Director. Any member wishing to make use of an Appeal Committee must lodge a deposit as determined by the Board prior to the Appeal Committee being appointed. The Appeal Committee will consist of:
- a. two qualified lawyers, one of which may be a junior, or senior counsel, or an attorney with a minimum of twelve year's experience in practice, and who shall be the Chairperson of the Appeal Committee; and
  - b. two members of the Board, who shall not be the same members who were part of the Tribunal



Committee, and who shall not have a direct interest in the subject matter of the Appeal.

- c. in the event that there are insufficient members of the Board who qualify in terms of 15.7.b to sit on the Appeal Committee the committee will be filled from the General Membership of the association.
- 15.8 Any party affected by an Appeal hearing shall be given at least 14 (fourteen) days notice of such hearing.
- 15.9 An Appeal hearing shall not be a re-hearing of the complaint or allegations, but shall be confined to the record of the Tribunal Committee hearing.
- 15.10 Any affected party may be represented at an Appeal hearing by a legal practitioner.
- 15.11 The Appeal Committee may confirm or set aside or reduce the sanction of the Tribunal Committee, subject to the penalties prescribed by the Constitution.
- 15.12 The decision of the Appeal Committee shall be final, and shall be binding on all parties to the dispute.
- 15.13 Upon expulsion of a member, all monies due to the Company by such member shall become payable. If payment thereof is not made within 30 (thirty) days, the Board may take such steps as it deems necessary to secure payment.
- 15.14 A member shall cease to be entitled to any of the benefits of membership, including the right to vote, and shall be deemed to be out of good standing -
  - a.
    - i. if the subscriptions or other charges due by him to the Company are more than three months in arrears;
    - ii. during any period while he is under suspension in terms of this Constitution.
  - b. In the event of the subscriptions or other charges due to the Company, by a member being more than three months in arrears, the member shall continue to be subject to the disabilities imposed by paragraph a.i until the arrears have been paid.
- 15.15. An extract from the books and records of the Company made by the Chief Executive Officer/Executive Director will be sufficient proof of the amounts in arrears and the period for those amounts or any part thereof is in arrears. If the amounts in arrears and/or the period for payment of those amounts, or any part thereof, are contested, verification by the auditor of the Company will be made, and the decision of the auditor will be final.

## **16. MEDIATION AND ARBITRATION**

- 16.1. Where a dispute arises between members as to the implementation, interpretation or any alleged breach of this Constitution or of the Standards and Code of Practice the Board shall, if requested to do so by all parties to such dispute, appoint a mediator or arbitrator with a view to resolving the dispute under the auspices of the Company, provided that; two members of the Board who do not have a direct interest in the matter under mediation/arbitration will assist the mediator/arbitrator and that the Chief Executive Officer/Executive Director will attend the mediation/arbitration proceedings in his official capacity.
- 16.2. No mediation or arbitration hearing, where the OHMSA Chief Executive Officer/Executive Director may not be represented, will be considered by the association.





- 16.3. The identity of the mediator or arbitrator may be agreed between the parties, subject to the Board having no objection to that person, failing which the Board shall, in its sole discretion, appoint such person.
- 16.4. No disciplinary action shall be taken against a member concerning the subject matter of arbitration or mediation proceedings before the conclusion of such proceedings.
- 16.5. No agreement reached between members during mediation or arbitration proceedings shall preclude the Board from exercising its disciplinary powers referred to in clause 15.1 and 15.2 above where the Board believes that such action is warranted in the interest of the Company or its members in general.
- 16.6. No mediation or arbitration will be entered into until such time as the parties requiring mediation or arbitration have lodged a deposit as determined by the Board with the Chief Executive Officer/Executive Director.
- 16.7. In the event of mediation, the parties will be responsible for the costs incurred on an equal basis, while in the event of arbitration the Chairperson of the Arbitration Committee will determine the apportionment of costs between the parties.
- 16.8. Any decision by the Chairperson of an arbitration hearing will be binding on the parties to the arbitration only but will be appealable.

## **17. PENALTIES**

If any member is found to be guilty of any conduct falling within the categories described in clause 15.1 above by a Tribunal Committee or Appeal Committee, the Tribunal Committee or Appeal Committee shall be entitled to:

- a. reprimand such member;
- b. require from such member any specific or general undertaking as to such member's future conduct;
- c. suspend such member for a period not exceeding 12 months upon such terms and conditions as the Board or Tribunal Committee may decide;
- d. expel such member from the Company, or otherwise terminate such member's membership thereof; provided that such a member may reapply for membership;
- e. impose a fine up to a maximum of R25 000,00 (twenty five thousand rand) to be paid to the Company and within a period as determined by the Tribunal Committee;

Provided that whilst a member is suspended, such member shall not be entitled to vote at or attend meetings of the Company or to receive notices, minutes or circulars relating to the Company's activities, but such member shall, whilst so suspended, remain liable for subscriptions, levies and other payments due to the Company. Whilst the Tribunal Committee is considering what form of disciplinary action is to be taken, the Board or Tribunal Committee may temporarily suspend such member's membership, or refuse the privileges of membership to such member whilst such proceedings are being conducted.

## **18. FORUMS**

- 18.1 The Association can, through its Board as established under 11, at its sole discretion establish or recognize a Forum or Forums set up to address or investigate or research any issue that, in the discretion of the Board, is in the interest of the Company or supports its Aims



and Objectives as set out in 4 above.

- 18.2 The particular Forum will function totally separate from the Company and it will not have the power or capacity to bind the Company or to take any action for or on behalf of the Company without the prior written authority from the Company.
- 18.3 No relationship between the Company and the Forum other than that provided for in this Constitution will exist or should be inferred or implied.
- 18.4 The Company will not be liable for any expenses or obligations incurred by the Forum unless such expenses or obligations are incurred by the Company on behalf of the Forum. Income generated by the Forum, from whatever sources, will be the property of the members of the Forum. Any surplus funds collected by the Company from Forum members for a specific cause will be refunded to the remaining Forum members in proportion to their original contributions with respect to that cause. Any shortfall will be made good to the Company by Forum members.
- 18.5 Subject to directives from the Board, the Forum may accept members of the Forum under the conditions and subject to membership fees as determined by the Forum and may, by majority vote, elect a chairperson. If the Forum chairperson is a full time employee, executive director or officer of a Full Member of the Company, such Chairperson may be co-opted to the Board in terms of 11.4, provided that such Chairperson will not have any voting rights on the Board and will only be entitled to rights and privileges in terms of this Constitution if expressly conferred by the Board.

## **19. RESIGNATIONS**

A member may resign at any time by giving 1 (one) month's written notice to this effect to the Chief Executive Officer/Executive Director; provided that his resignation shall not absolve a member from the duty of paying any money due or owing by him to the Company at the time of his resignation and provided further that all monies owed to the Company shall immediately become due and payable

## **20. WINDING-UP**

- 20.1 The Company may be wound up if at a Special General Meeting called for the purpose or at a ballot conducted in a manner prescribed in the Constitution, not less than 60 per cent of the total number of members of the Company in good standing vote in favour of a resolution that the Company be wound up.
- 20.2 If a resolution for the winding-up of the Company has been passed as provided in sub-clause 20.1, or if for any reason the Company is unable to continue to function, the following provisions shall apply:
- a. The Board shall appoint a liquidator to carry out the winding-up. The liquidator shall not be a member of the Company and shall be paid such fees as may be agreed upon between him and the Members of the Company's last-appointed Board who were in good standing as at the date of dissolution. Should the parties fail to agree upon the fees to be paid, the Registrar shall fix the basis on which the liquidator shall be paid.
- b. The liquidator so appointed shall call upon the last-appointed office-bearers and officials of the Company to deliver to him the Company's books of account showing the Company's assets and liabilities together with the register of members showing for the 12 (twelve) months prior to the date on which the resolution for the winding-up was passed or the date as from which the Company was unable to continue to function, as the case may be, hereinafter referred to the date of dissolution, the subscriptions paid by each member and his address as at the



said date. The liquidator shall also call upon the said office bearers and officials of the Company to hand over to him all unexpended funds of the Company and to deliver to him the Company's assets and the documents necessary in order to liquidate the assets.

- c. The liquidator shall take the necessary steps to liquidate the debts of the Company from its unexpended funds and any other monies realised from any assets of the Company and if the said funds and monies are insufficient to pay all creditors after the liquidator's fees and the expenses of winding-up have been met the order in which creditors shall be paid shall, subject to the provisions of paragraph e, be the same as that prescribed in any law for the time being in force relating to the distribution of the assets of an insolvent estate and the liquidator's fees and the expenses of winding-up shall rank in order of preference as though he were a liquidator of an insolvent estate and as though the expenses were the cost of sequestration of an insolvent estate.
- d. After the payment of all debts in accordance with paragraph c, the remaining funds, if any, shall be transferred to another non-profit organization having similar objectives.
- e. The liability of members shall for the purposes of this clause be limited to the amount of subscriptions due by them to the Company in terms of this Constitution as at the date of dissolution.

**21. AMENDMENTS**

Any of the provisions of this Constitution may be repealed, amended or added to in any manner by a 75% (seventy five percent) majority resolution taken by members present at a General Meeting or Special General Meeting of the Company held at the Company's offices in Johannesburg; provided that at least 14 (fourteen) day's notice of any proposed alteration, the reasons for and effect of the alteration shall have been given to all the members of the Company.

**THUS DONE AND SIGNED AT** \_\_\_\_\_

**ON THIS DAY** \_\_\_\_\_ **OF** \_\_\_\_\_ **20** \_\_\_\_\_

For and on behalf of: \_\_\_\_\_  
(Company name)

Signature/s \_\_\_\_\_

Designation/s \_\_\_\_\_

For and on behalf of Out of Home Media South Africa NPC

\_\_\_\_\_  
Chairperson

\_\_\_\_\_  
Chief Executive Officer

