

Kindly take notice that the following amendments to the Business Eswatini Constitution were adopted by the Annual General Meeting held at the Hilton Garden Inn, Mbabane on the 6th April 2022

Article	Content
2.1.3 – Subscriptions	(b) Prorating of annual subscriptions c) Special arrangements to discharge annual subscriptions. (k) Automatic expulsion for non-payment of annual subscriptions (old provision).
2.1.8 – Honorary Members	- Honorary members (individuals not companies) shall be entitled to all privileges except those of voting and eligibility for election as an officer.
2.2.4 – Term of Office	<ul style="list-style-type: none"> - President eligible for two terms in office. - Extension of Board term of office under extraordinary circumstances.
2.7 – Voting	Redistribution of the number of votes.
2.9 – EXCO	Changes to composition of EXCO to include executive management.
2.13 – CEO	<ul style="list-style-type: none"> - Consequent to the change in the composition of EXCO, engagement and dismissal of CEO now vests with the Board. - Voting privileges.

Thank you

E. Nathi Dlamini

Chief Executive Officer



(Incorporated under Section 17 of the Companies Act, 2009 as a company Limited by Guarantee)

CONSTITUTION

2023

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PREAMBLE

WHEREAS the Swaziland Chamber of Commerce & Industry can trace its origin as far back as the year 1916;

AND WHEREAS the Federation of Swaziland Employers was initially formed in the year 1964;

AND WHEREAS in terms of a Constitution adopted on the 26th of September 1986 the Federation of Swaziland Employers (Federation) was established *inter alia* to promote, protect and advance the mutual interest of employers and to provide a forum for consultation and collaboration on all matters arising out of the relationship between employers and employees and also to act as an advisory and consultative body on any law, matter or issue affecting employers generally or specifically;

AND WHEREAS in terms of a Constitution amended on the 5th November 1996 the Swaziland Chamber of Commerce and Industry (the Chamber) was established as a non-profit and voluntary association for the purposes *inter alia* of promoting and defending the interest of its members in such ways as may be considered necessary and to promote and foster trade, commerce and industry of all descriptions in and /or outside Eswatini;

AND WHEREAS in terms of a resolution taken at an Annual General Meeting of the members of the Chamber called and held in terms of clause 10 of its Constitution it was resolved that the Chamber should, in terms of clause 34 of its Constitution amalgamate and form one body with the Federation;

AND WHEREAS in terms of a resolution of the members of the Federation it was resolved that in terms of clause 29 of its Constitution which entitles the Federation to affiliate with Federations, to accept that the Chamber amalgamates with it in order that the Federation should become one united business Federation to represent the interests of business in Eswatini;

AND WHEREAS the Chamber did amalgamate with the Federation to form the Federation of Swaziland Employers and Chamber of Commerce (FSE&CC) on the 1st July 2003;

AND WHEREAS the FSE&CC has been in existence in terms of section 21 of the Companies Act 7 of 1912 and its own Constitution and as duly incorporated in terms of the Companies Act as a not-for-profit making organisation;

AND WHEREAS in terms of the Industrial Relations (Amendment) Act No. 11 of 2014 it is required that the FSE&CC should be registered and be issued with a certificate of registration;

AND WHEREAS informed by the change of the country's name from Swaziland to Eswatini, made in April 2018, the name of the organization was changed from the Federation of Swaziland Employers & Chamber of Commerce to Business Eswatini. This change of name was adopted and endorsed at the AGM of the 9th November 2018;

NOW THEREFORE this document is the Constitution of Business Eswatini, which:

- Adopted on the 23rd July 2003;
- Revised by the Board on the 26th November 2014, the revisions being adopted at the AGM of the 18th September 2015;
- Amended at the AGM of the 23rd September 2016;
- Amended at the AGM of the 22nd September 2017;
- Revised by the Board on the 12th October 2017 and on the 22nd June 2018, the revisions being adopted at the AGM of the 9th November 2018; and
- Further revised by the Secretariat around June 2021 and adopted by the Board on the _____; and endorsed by the AGM on _____.

1. MEMORANDUM OF ASSOCIATION OF BUSINESS ESWATINI

An Association not for gain in terms of Section 17 of the Companies Act, 2009

1.1 NAME AND STATUS

1.1.1 **Name:** The name of the Federation shall be “Business Eswatini,” herein after referred as “the Federation”.

1.1.2 **Status:** The Federation shall have the status of an amalgamated Employer Federation, operating as a chamber of commerce and industry. It shall further be;

- (a) A voluntary association with an existence separate from its members and thereby a body corporate with perpetual succession.
- (b) Capable of suing and being sued in its own name.
- (c) Representative of its members through a board of directors.
- (d) A non-profit making Federation, and any income earned or accruing to it shall be applied to the promotion of its objects.

1.2 OBJECTS AND POWERS

1.2.1 **Objects:** The objects for which the Federation is established are the carrying on of business as a company not for gain, and an amalgamated employer federation operating as a chamber of commerce and industry in the Kingdom of Eswatini. Such objects shall be:

A. Business Organisation:

- (i) To be an apex umbrella body for the private sector and business community in Eswatini.
- (ii) To promote, protect, defend and advance the interests of all members in all such ways as may be considered necessary or desirable.

- (iii) To promote and foster trade, commerce and industry of all descriptions whatsoever in and outside Eswatini.
- (iv) To promote, support and/or make representations in relation to legislative or other measures affecting or likely to affect the interests of members and the trading environment both internally and internationally.
- (v) To create awareness throughout the business community of the existence, purpose and services of the Federation.
- (vi) To print, publish, sell and issue documents and certificates in respect of goods obtained or produced in Eswatini, or of the movement of goods into and/or from Eswatini.
- (vii) To collect, classify and disseminate statistical and other information of relevance and interest to members.
- (viii) To undertake research in order to enable the Federation to formulate appropriate strategies for resolving perceived problems which may affect members.
- (ix) To organize and run training courses and seminars for the benefit of members.
- (x) To disseminate information to keep the business community aware of current business conditions, and general interest to members.
- (xi) To be the voice of Business and Employers on issues of public interest and public policy.
- (xii) To establish and maintain contacts with business Federations and other relevant institutions throughout the world, in an endeavor to promote the interests of business and employers and derive benefits from such co-operation.
- (xiii) To participate in any discussions and any activities, and to be part of any forum, the objectives of which are to allow commerce to liaise with the public sector in planning and development process, and to cooperate with the members of any institution, society or association which has objects similar to, in whole or in part, the objects of the Federation. To further inform the members of progress from discussions, negotiation or dialogue the Federation is involved in. (Amendment endorsed in 2015 AGM).
- (xiv) To provide communication between the private and public sector on matters of general interest or concern in areas including but not limited to commerce, trade, the economy, investment, employment, legislation and such other related matters upon which either the private or public sector can initiate discussion.

- (xv) To execute the mandate of the Annual General Meeting (AGM) or special general meeting.
- (xvi) To do all such other things as are incidental or conducive to the attainment of the above objects.

B. Employer's Organisation

- (i) To create awareness throughout the business community of the existence, purpose and services of the Federation.
- (ii) To collect, classify and disseminate statistical and other information of relevance and interest to members.
- (iii) To organize and run training courses and seminars for the benefit of members.
- (iv) To conciliate, negotiate, arbitrate or by any other means contribute to the settlement of commercial or industrial disputes where the Board of Directors deems it necessary or advisable to do so on behalf of members.
- (v) To carry out any function(s) to be performed by an employers' Federation or association in terms of the law.
- (vi) To execute the mandate of the Annual General Meeting (AGM) or special general meeting.

1.2.2 **Powers:** In order to carry out and for the purposes of fulfilling its objectives the Federation shall also have the powers:

- (a) To purchase, alienate and sell movable and immovable property of whatsoever description and wheresoever situation.
- (b) To expend the Federation's funds on maintenance, construction, improvement, alteration or demolition of buildings on land either belonging to the Federation or any other party so long as it is in furtherance of the objectives and mandate of the Federation.
- (c) To invest or deposit any monies not immediately required for any of its objects in such a manner as may from time to time be determined by the Board and

- Executive Committee and provided that the interest, increment or profit deriving from such investment shall be applied to the furtherance of its objects.
- (d) To borrow money and if necessary, mortgage the immovable property or pledge the leasehold or movable property of the Federation as security thereof.
 - (e) To let and hire property.
 - (f) To allow any person to occupy any building belonging to the Federation free of charge or at a rental or other consideration.
 - (g) To pay all rates, taxes and other expenses incurred in connection with the administration of the Federation.
 - (h) To employ persons to carry out the objects of the Federation and pay them out of the Federation's funds.
 - (i) To appoint an agent or agents to represent the Federation for any specific purposes.
 - (j) To take action in Courts of Law for the recovery of the amounts due to the Federation or to compel fulfillment of obligations in its favour, and also to defend any proceedings that may be instituted against the Federation.
 - (k) To allow time for payment of debts to the Federation and to compromise claims by the Federation in its discretion.
 - (l) To accept and receive donations from any person or body corporate and to work for and obtain sufficient capital for the purpose of carrying out and promoting the objects and aims of the Federation, and to administer donations subject to the terms and conditions laid down by the donors or testators, provided that such conditions are not inconsistent with the terms and objects of the Federation.
 - (m) To fix, collect from, and enforce the payment by members of subscriptions, annually or otherwise.

1.3 LIABILITY

- 1.3.1 The liability of the members is limited as stated in sub paragraph 1.3.2 below.
- 1.3.2 Each member undertakes to contribute to the assets of the Federation in the event of the Federation being wound up while he/she is a member or within one year of its winding up, for payment of the debts and liabilities of the Federation contracted before he/she ceases to be a member, and the costs, charges, and expenses of the winding up, and for adjustment of the rights of the contributions amongst members, such amount as may be required, not exceeding a specified amount but not less than one lilangeni.

2. ARTICLES OF ASSOCIATION

2.1 MEMBERS

2.1.1 Membership: Individuals, firms, registered companies, partnerships, corporations engaged in commerce or industry and Non-Governmental Organisations (NGOs) or associations as employers in Eswatini shall be eligible for membership.

- (a) The Federation has voting members who are classified into 1 (one) of the following categories:
 - (i) SME membership
 - (ii) General membership
 - (iii) Aluminium membership
 - (iv) Bronze membership
 - (v) Silver membership
 - (vi) Gold membership
 - (vii) Platinum membership

- (b) All members shall abide by this constitution and on default may be liable to expulsion from membership of the Federation.
- (c) Nothing in the Constitution shall be construed to preclude any member of the Federation from joining and/or becoming a member of any other Federation of Employers and/or Chamber of Commerce and/or Association of Employers.
- (d) All members of the Federation shall appear in the Member's Register, which shall be kept and maintained by the Federation. All members appearing on the member's register, by so remaining members of the Federation, accept the rights and obligations associated with membership of the Federation and bind themselves in terms of these Articles of Association.
- (e) Membership shall not be transferable and shall cease or be terminated as provided for in the constitution.

2.1.2 Application for Membership:

- (a) Application for membership shall be made in writing on the approved form to the Chief Executive Officer together with payment of the joining and subscription and shall provide such details as to the trade, business or industry conducted by the applicant as may be reasonably required. The Chief Executive Officer shall table the application at the next meeting of the Executive Committee and shall thereafter advise the applicant of the grant of his/her application.
- (b) All applications for membership shall be made to the Board in writing on a form approved by the Federation.
- (c) The said application shall provide such details as;
 - (i) Trade, business, or industry conducted by the applicant as may be reasonably required.
 - (ii) A constitution (or other constitutive documents), the terms of which are consistent with the principles established in the Constitution of the Kingdom of Eswatini and this constitution.
 - (iii) The application shall be accompanied by a proof of payment of an application fee and shall be submitted to the executive officer for consideration by the Federation, in accordance with the membership qualification criteria set by the Board.

2.1.3 Subscriptions

- (a) Annual subscriptions shall be determined by the board and shall become due for payment by members on the 1st of July of each year.
- (b) New members accepted after July of each year shall be charged pro-rated annual subscriptions for that year.
- (c) Being aware of the exigencies which may arise in business from time to time, a member, may under extremely exceptional circumstances, apply that the payment of their annual subscriptions be discharged through special arrangements and for a specific period. Such application shall be subject to the consideration of the Finance Committee and approval of the board.
- (d) A member who fails to pay the subscription for that year by 31 December, shall cease to be a member; but may be re-admitted to membership at the discretion of the Finance Committee, on payment of all arrears.
- (e) As a condition of membership, every member accepts the services rendered by the Federation as the full value of the subscriptions paid and agrees that the Federation may charge an additional fee for certain services. The Board is empowered to impose an additional levy to deal with extra-ordinary circumstances.

- (f) Annual subscriptions shall be determined or adjusted by the Board as they may deem fit.
- (g) The subscriptions shall become due for payment by members in advance, not later than the first day of July of each year or as otherwise directed by the executive committee from time to time, upon the presentation of an invoice issued by the Federation.
- (h) At least 60 days prior to the 1st day of July each year, the board shall deliver to each member an invoice which shall specify the subscription to be paid by that member for the following financial year of the Federation.
- (i) In the event that a member fails to pay the subscription fee, or any portion thereof timeously after receiving the invoice, as contemplated above, the Federation shall, within 30 (thirty) business days from the first day of July, deliver to the member a written notice setting out the amount due and payable by the member.
- (j) A member that further fails to pay its annual subscription, or any portion thereof, on or before the last day of the month of August of that year, shall be given an additional 5 (five) business day's written notice setting out the amount due and payable.
- (k) Should the amount due and payable remain unpaid by the 31st December, the member concerned shall cease to be a member forthwith, unless that member has obtained a written extension from the Executive Committee.
 - (i) Membership readmission will be at the discretion of the Executive Committee on payment of all arrears.
- (l) As a condition of membership, every member accepts the services rendered by the Federation as the full value of the subscriptions paid and agrees that the Federation may in their sole discretion charge an additional fee
- (m) for certain services.
- (n) The board shall be empowered to impose an additional levy to deal with extraordinary circumstances.

2.1.4 Representatives of Firms and Companies

- (a) Every member of the Federation shall nominate in the application form, or in writing a person and his/her alternate to be its representative at General and Special Meetings of the Federation. Such persons alone shall be allowed to exercise the privileges of membership for the member he/she represents. Provided that any alternate shall be empowered to vote only in the absence of the substantive representative. No person may be nominated who is not a partner, director, owner, secretary, senior executive or manager of such firm, registered company, partnership or corporation.

- (b) Every member of the Federation shall nominate in its application form or otherwise in writing, a person and his/her alternate to be its representative at General and Special meetings of the Federation.
- (c) Such persons alone shall be allowed to exercise the privileges of the membership for the member he or she represents: provided that any alternate shall be empowered to vote only in the absence of the substantive representative.
- (d) No person may be duly nominated who is not a partner, director, owner, secretary, senior executive or manager of such firm, registered company, partnership or corporation.

2.1.5 Expulsion of Members for Misconduct

- (a) There shall be a Membership Code of Good Governance and Disciplinary Policy to regulate the standards of conduct of the members of the Federation. (Amendment endorsed in 2015 AGM)
- (b) The Board of Directors may expel, in terms of the Disciplinary Policy, any member whose conduct, in the opinion of the majority of the Board of Directors, renders him/her unfit to be a member of the Federation, an offending member shall have the right to attend the meeting of the Board of Directors at which the proposal to expel him/her from the Federation is to be discussed but for the sole purpose of explaining his/her conduct. (Amendment endorsed in 2015 AGM)
- (c) Such person shall, from the passing of the resolution, cease to be a member of the Federation. The Chief Executive Officer shall notify in writing the member concerned of the decision of the Board of Directors.

2.1.6 Acquiescence in and Submission to Constitution

- (a) As the payment of his/her subscription shall entitle a member to enjoy all the privileges and advantages of the Federation, such payment shall be held to imply his/her acceptance of its Constitution and his/her adherence thereto.

2.1.7 Notice of Resignation

- (a) Any member wishing to retire from the Federation shall give written notice thereof to the Chief Executive Officer on or before 30th April failing which he/she shall be liable for the ensuing year's subscription.

2.1.8 Honorary Membership

- (a) The Board of Directors shall have the power to elect Honorary Members, who may be a retired Chief Executive Officer or Managing Director of a company or association of the Federation, who shall be entitled to all privileges except those of voting and being eligible for election as officer.
- (b) The Federation shall have power to confer upon any person Honorary membership in the Federation upon such terms and conditions as may be stated in such resolution conferring such membership.
- (c) Honorary members shall be entitled to all the privileges except those of voting and eligibility for election as an officer.
- (d) Proposals for honorary members shall be made by any person who is an officer of the Federation, stating the reasons for the nomination, which may include possession of special skills or expertise which are relevant for the attainment of the objects of the Federation.
- (e) The proposal is to be submitted to the Chief Executive Officer as confidential mail, where upon the Chief Executive Officer shall ask for the opinion of the members of the Executive Committee by confidential mail.
- (f) If the members of the Executive Committee are in favour of the nomination by at least eighty percent (80%) majority vote, a recommendation for honorary membership shall be then made by the Board to a general meeting of the Federation.
- (g) In the concerned general meeting, the nominee shall be excused from the agenda item to consider the nomination.
- (h) At the said general meeting, approval of this Honorary Membership nomination shall be by at least eighty percent (80%) majority vote.
- (i) In the event of the passing of the resolution, the secretariat shall prepare a certificate which the president shall present to the person concerned on a suitable occasion.

2.1.9 Members Becoming Insolvent

- (a) Any member becoming insolvent or compounding with his/her creditors shall, ipso facto, cease to be a member of the Federation. The Federation however, may re-admit such a member subject to the conditions of Clauses 2.1.1, 2.1.2, and 2.1.3.

2.2 BOARD OF DIRECTORS (BOARD)

2.2.1 The management of the affairs and business of the Federation shall be vested in a Board of Directors.

2.2.2. Members shall elect at an Annual General Meeting the following members of the Board of Directors;

(a) The President;

(b) The Vice-President - Industrial Relations;

(c) The Vice-President -Commerce and Trade;

(d) Not more than thirty-two (32) Members chosen from commercial and industrial sectors. These members, duly assisted by the Secretariat, shall be the chairpersons and conveners of their respective sector meetings. (Amendment endorsed and adopted in the 2018 AGM)

2.2.3 Co-option of Members to the Board

(a) The Board may, at its sole discretion, co-opt to its membership not more than ten (10) other Members. In exercising this discretion to co-opt, the Board shall be sensitive to gender balance, and be representative of small and micro companies. (Amendment endorsed and adopted in the 2018 AGM)

2.2.4 Term of Office

(a) Each term of office for Board Members shall be a period of two years.

(b) Notwithstanding the above, board members, including the President may, if willing and available, be eligible for re-appointment for further terms of office.

(c) The Immediate Past President shall continue to be a member of the Board and the Executive Committee for two (2) years following the end of his term of office, for continuity purposes.

(d) Where the circumstances are extraordinary, such as during a pandemic, the term of office of the Board may be extended by up to two years; provided that the extension shall be endorsed by the members in an Annual General Meeting.

2.2.5 Elections of The Board of Directors

- (a) The board shall comprise a balance of knowledge, skills, experience, diversity and independence for it to discharge its governance roles and responsibilities effectively.
- (b) Any member of the Federation may propose name(s) for election as a member of the Board; provided that a member of the Federation who:
 - (i) holds a non-Executive directorship in any other Federation of Employers, Chamber of Commerce or Association of Employers; or
 - (ii) who supervises a particular industry or business activity,shall not be eligible to be nominated, appointed and/or co-opted to the Board of Directors of the Federation.
- (c) The names of those proposed for election as members of the Board of Directors shall be handed to the Chief Executive Officer, in writing, not less than 7 (seven) days before the date of the Annual General Meeting.
- (d) The proposer of any such member, notwithstanding his/her absence from the Meeting, shall, provided he/she has complied with the Constitution, be held to have voted in favour of the election of such member and his/her vote shall be recorded as a vote in favour of such member.
- (e) Members of the Board of Directors shall be elected at an Annual General Meeting by secret ballot.

2.2.6 Incapacity

- (a) Should as a result of death and incapacity any vacancy arise among those persons elected to office the Board shall appoint a person to hold that office or position until such time as an election may be properly conducted for the purpose of filling that vacancy provided that the provisions of this article shall not apply to the office of the president.

2.2.7 Chairperson

- (a) The President shall be Chairman of all meetings of the Federation, the Board of Directors and of the Executive Committee. In his/her absence the chair shall be taken by any of the two Vice Presidents or, in their absence, by any member of the Executive Committee who may be elected by the meeting.
- (b) In the case of an equality of votes, the Chairperson of any meeting shall have a casting vote in addition to his/her deliberative vote to break the deadlock.

2.2.8 Meetings of The Board of Directors

- (a) Meetings of the Board of Directors shall be held once every three months. Other meetings shall be called as required by the Chief Executive Officer on the instruction of the President or, in his/her absence or inability to act, on the instructions of any of the two Vice Presidents or of any two members of the Board of Directors.
- (b) Voting at Board Meetings shall be by simple majority.
- (c) Meetings of the Board shall be open to:
 - (i) board members, and
 - (ii) non-board members of the Federation in good standing who have sought and obtained the prior consent of the President to attend, but they may not vote.

2.2.9 Quorum for Meetings

- (a) At any meeting of the Board of Directors, the President or in his absence, the Vice President and eleven elected members of the Board shall form a quorum.
- (b) At any meeting of the Finance or any other sub-Committee, three members present shall form a quorum. (Amendment adopted in 2017 AGM)
- (c) In the event a quorum is not formed at a meeting of the Board, the meeting shall continue on condition that the resolutions taken in that meeting shall be ratified at the next Board meeting or by round robin. (Amendment adopted in 2017 AGM)

2.2.10 Powers of the Board of Directors

- (a) The Board of Directors shall have the following powers:
 - (i) To regulate the form of procedure at Board Meetings.
 - (ii) To appoint, from time to time, Councils, Standing Sub-Committees and Ad Hoc Committees and delegate to such Councils, Committees consisting of members of their own body; to add to such councils or committees any other members of the Federation they may think fit; to delegate to such councils or committees such of their own powers as may be appropriate for the task assigned and to revoke the same at their discretion; and to discharge councils or

committees wholly or in part. All councils or committees appointed by the Board of Directors shall report to the Board of Directors, which will in turn report to the Federation if deemed necessary.

- (iii) To suspend and expel any member from membership for any cause appearing sufficient to a majority of the Board.
 - (iv) To nominate representatives to other Federations, associations or committees.
 - (v) To open and operate such bank accounts as may be deemed necessary.
 - (vi) To cause true accounts to be kept of all monies received or expended by the Federation and of matters in respect of which such receipts or expenditure take place and of the assets, credits and balances of the Federation which shall be duly audited as provided under this Constitution.
 - (vii) To formulate policy of the Federation in pursuance of the objects specified in Article 1.2
- (b) Without prejudice to any other provision of this Constitution and in addition to the generality of any other duties which it may execute in pursuance of the objects of the Federation, the Board shall -
- (i) determine the rate of subscription to be levied under Article 2.1.3;
 - (ii) approve the raising of funds by loan, levy or mortgage.

2.2.11 Absentees

- (a) In the event of any member of the Board of Directors being absent from three consecutive meetings of the Board without leave of absence, his/her seat shall ipso facto become vacant unless a majority of the Board determines otherwise; but he/she shall be eligible for re-election at a subsequent Annual General Meeting.

2.2.12 Board to Fill Vacancies

- (a) In the event of any vacancies occurring in the Board of Directors between the Annual General Meetings, the remaining members of the Board of Directors shall have the power to appoint another member of the Federation in good standing to fill such vacancies whether or not a quorum can be formed. Such appointees shall hold office until the next Annual General Meeting.

2.2.13 Filling of vacant position of President

- (a) Whenever the office of President becomes vacant for any reason before expiry of the incumbent's term of office, the Board shall have the power to appoint, one or other of the Vice Presidents to hold office as President either through secret ballot or by consensus, until the next Annual General Meeting.
- (b) At the next Annual General Meeting, members therein present and entitled to vote shall have the power to either confirm the appointment, if it is not an election year or veto the appointment and call for the nomination and appointment of a new President.

2.2.14 Filling of vacant position of Vice President

- (a) Whenever the office of one or the other of the Vice Presidents becomes vacant for any reason before the expiry of the incumbent's term of office, the Board shall elect one of their number, as Vice President until the next Annual General Meeting.
- (b) At the next Annual General Meeting, members therein present and entitled to vote shall have the power to either confirm the appointment, if it is not an election year or veto the appointment and call for the nomination and appointment of a new Vice President.

2.3 ANNUAL MEETINGS

2.3.1 An Annual General Meeting of members of the Federation shall be convened not later than the 31st day of December in each calendar year. The Board shall determine the date, time and format – whether physical or virtual, for the conduct of the Annual General Meeting.

2.3.2 Members shall be given twenty-one days' notice of the Annual General Meeting and of the business to be transacted.

- (a) Notice of the annual general meeting may be given electronically
- (b) Resolutions to be placed before the Annual General Meeting must be in the hands of the Chief Executive Officer seven days before the date of the Annual General Meeting.

2.3.3 Quorum for the conduct of the Annual General Meeting shall be 25 members in good standing present or represented.

- 2.3.4 Voting shall be by simple majority and in a manner agreed by those present, provided that the President or any three members may require the conduct of a secret ballot.
- (a) Each paid-up member shall have the number of votes allocated to him/her under Article 2.8 of this constitution.
 - (b) Where there is an equality of votes the President shall have a casting vote.
- 2.3.5 Proxy votes may be cast provided they are in writing, signed by a member in good standing, specifying by name the person, who shall be a member in good standing, who is to cast the vote.
- 2.3.6 Notwithstanding the afore-going a member may request a card vote on any matter before the meeting, whether or not it has already been the subject of a ballot. Where a card vote has been required it shall take precedence over all other voting. A card vote shall be by secret ballot and members shall cast votes in the ratio of one vote for each E1000.00 paid shall be counted as one vote.
- 2.3.7 Provided that a card vote may, however, not be taken at the time it is requested in respect of any matter before the meeting. The president, upon receipt of a request for a card vote from any member in good standing, shall convene an Extraordinary General Meeting to consider the matter upon which the card vote has been sought. The Extraordinary General Meeting shall be convened and conducted in accordance with the procedure set out in Article 2.4, as soon as possible after the request has been received.
- 2.3.8 The business to be conducted at the Annual General Meeting shall be –
- (a) To receive and adopt the Annual Report of the Federation;
 - (b) To receive and adopt the Audited Accounts for the Financial Year;
 - (c) To elect during the election year, thirty-two (32) board members who shall be representative of all important sectors of commerce and industry:
 - (i) A President;
 - (ii) a Vice President (Commerce & Trade)
 - (iii) a Vice President (Industrial Relations & Social Policy)
 - (iv) Thirty-two (32) Board members who shall be representatives of sectors of commerce and industry. (Endorsed and adopted in the 2018 AGM)
 - (d) To appoint Auditors;
 - (e) Such other business of which due notice has been given.

(f) The General Meeting shall have the powers of appointing for a specific period any Committee to act or oversee on its behalf, the affairs of the Federation; the conduct of officers; and deciding policies of the Federation. (Amendment endorsed in 2015 AGM)

2.3.9 The Annual General Meeting shall be the forum for deciding policies of the Federation and for reviewing its affairs and conduct of an officer. (Amendment endorsed in 2015 AGM)

2.3.10 Notwithstanding the afore-going, any member of the Federation may, at an Annual General Meeting, propose a resolution or question an officer on the business being transacted. (Amendment endorsed in 2015 AGM)

2.4 EXTRAORDINARY GENERAL MEETING

2.4.1 An Extraordinary General Meeting of the Federation shall be called by the President, upon the written request of ten members in good standing or upon a motion by the Board.

2.4.2 Notice of twenty-one days shall be given to members of the convening of an Extraordinary General Meeting. Notice of the meeting shall contain details of the business to be transacted or the issue to be considered.

2.4.3 The conduct of an Extraordinary General Meeting shall be in accordance with the procedure for the Annual General Meeting.

2.5 SPECIAL GENERAL MEETING

2.5.1 A Special General Meeting of the Federation may be called as follows:

(a) At any time by the Executive Committee;

(b) By the Executive Committee upon a written requisition from not less than twenty paid-up members which requisition shall state clearly the matters to be discussed at such meeting and provide that no other business may be transacted. Upon receipt of the aforesaid requisition the Executive Committee shall call a Special General Meeting to take place within, at most, six weeks from receipt of such requisition.

2.5.2 At any Special General Meeting it shall be competent for any minority of not less than one third of the members present or voting to require a minority statement to be recorded.

2.5.3 A quorum at a Special General Meeting shall, subject to the amendment clause hereof, consist of twenty paid up members.

2.6 VOTING MAJORITY AT GENERAL MEETINGS

2.6.1 All issues, unless otherwise specially provided for herein, shall be decided in any manner agreed by those present, or if requested by any three members, by ballot. In all questions submitted to a meeting, the decision of a simple majority shall be binding, except where a specified majority is required by this Constitution.

2.7 VOTING

2.7.1 Each paid up member shall have the following number of votes during any voting at an Annual General Meeting;

- (a) SME membership – one (1) vote;
- (b) General Membership – one (1) vote;
- (c) Aluminium membership – two (2) votes;
- (d) Bronze membership – three (3) votes;
- (e) Silver membership – four (4) votes;
- (f) Gold membership – five (5) votes;
- (g) Platinum membership – six (6) votes

2.8 VOTING BY PROXY

Any member shall have the right to appoint, in writing, a proxy who must be a member of the Federation. Such proxy shall be entitled to attend any meeting of the Federation at which the said member cannot be present to vote and exercise generally all powers of the said member at such meeting.

2.9 EXECUTIVE COMMITTEE (EXCO)

2.9.1 The Executive Committee shall be constituted by the President, Vice President Industrial Relations and Social Policy, Vice President Commerce and Trade, and Finance Chairperson (the Presidency), and up to 7 members of the executive management of the secretariat.

2.9.2 The Executive Committee shall be constituted by not more than four (4) members of the Board and up to seven (7) members of the executive management of the secretariat.

2.9.3 The President of the Federation shall be the Chairperson of the Executive Committee, in his or her absence, the President shall designate one of the members of the Presidency as Chairperson of the Executive Committee.

2.9.4 The Board, at its sole discretion, shall appoint such person as may deem fit to fill, temporarily, any vacancies, which may occur in the membership of the Executive Committee.

2.10 POWERS OF EXECUTIVE COMMITTEE

2.10.1 The Executive Committee shall have the following powers:

- (a) To implementing the policies adopted by the Board and general membership at meetings, and all the duties and powers prescribed by the Constitution and Bylaws.
- (b) To take all steps and to adopt all measures which it may deem appropriate to further the interests of the Federation in accordance with the terms of the Constitution.
- (c) To oversee the administrative, financial and domestic activities of the Federation and to undertake other functions as may be assigned by the Board.
- (d) To make and enforce by-laws not inconsistent with the Constitution for the time being in force.
- (e) To consider applications for membership of the organisation.

2.11 EXECUTIVE COMMITTEE MEETINGS

- 2.11.1 The Executive Committee shall meet at least four times each year, provided that any such meeting may, if thought fit, be held immediately before or after a meeting of the Board of Directors at such places as the chair may determine.
- 2.11.2 The Chief Executive Officer or his nominee shall compile the minutes of all meetings and table them at the next meeting for confirmation or amendment and signature by the Chairperson
- 2.11.3 The quorum for a meeting of the Executive Committee shall be five (5); the President or his nominee and four (4) more members. (Endorsed and approved at the 2018 AGM)
- 2.11.4 The Chairperson shall determine the procedure to be observed at meetings of the Executive Committee.

2.12 FINANCE COMMITTEE

- 2.12.1 The Board shall appoint a Finance Committee. The chairperson shall be a member of the Executive Committee and the Board.
- 2.12.2 The Finance Committee shall be tasked with the following responsibilities:
- (a) To oversee, and to control the financial affairs of the Federation;
 - (b) To implement any control measures deemed necessary and essential;
 - (c) To approve the audited accounts for presentation and approval at the AGM; and
 - (d) To present a budget annually to the Executive Committee by 30 April each year.

2.13 CHIEF EXECUTIVE OFFICER (CEO)

- 2.13.1 The Board shall, in terms of this constitution, appoint a CEO.
- 2.13.2 The power to engage and dismiss the Chief Executive Officer and other staff and to fix salaries and conditions of service, and define their duties may be assigned by the Board to a sub-committee.
- 2.13.3 The Chief Executive Officer shall be charged and mandated by the Board, through the President:

- (a) To promote, protect, defend and advance the interests of the members and grow the Federation by providing and developing services relevant and appropriate to the need of the members.
- (b) To manage the affairs and office of the Federation;
- (c) To represent the Federation on statutory and other bodies.
- (d) To draw up an annual performance contract with the sub-committee.

2.13.4 The Chief Executive Officer shall be the Secretary of the Federation.

2.14.5 The CEO shall be an *ex officio* member of the Board, however, with voting privileges.

2.14 PAYMENT OF ACCOUNTS

2.14.1 The CEO and staff shall not commit the Federation to any expense not included in the annual budget.

2.14.2 Payment of invoices, within these parameters, shall be made promptly after authorization by the CEO and countersigned by the President or nominee.

2.14.3 The Finance Committee shall approve expenditure in excess of E50,000 before commitment.

2.15 AUDIT

2.15.1 Auditors appointed by the members at the Annual General Meeting shall audit the accounts of the Federation annually.

2.15.2 The Federation's financial year shall be from 01 July to 30 June.

2.15.3 The auditor's report shall be tabled at the AGM of the Federation.

2.15.4 Should any auditor or auditors so appointed be unable or unwilling to act, the Executive Committee shall have power to fill the vacancy or vacancies at any time before the next annual general meeting.

2.16 INSPECTION OF BOOKS

- 2.16.1 The member of the Federation shall have the right to inspect the register of members and other books of the Federation. (Amendment endorsed in 2015 AGM)
- 2.16.2 Provided that the Board of Directors shall determine whether and to what extent and at what time and place and under what conditions, any members shall have access to any documents, accounts or other papers of the Federation. (Amendment endorsed in 2015 AGM)
- 2.16.3 No member shall have any right to access thereto save as may be granted by the Board of Directors.

2.17 PROPERTY

- 2.17.1 The property of the Federation shall, movable and immovable, shall be held in the name and under the control of the Board subject to Article 2.2 All contract, deeds, bonds, powers of attorney and instruments required to be signed by the Federation, shall be signed under the authority of a resolution of the Board of Directors, made by three members.
- 2.17.2 All monies received by the Federation shall be paid into accounts to be opened in the name of the Federation. Operation of the account shall be by persons nominated by the Executive Committee.
- 2.17.3 The Board shall be entitled to purchase, take on lease, or otherwise acquire both movable and immovable property and to hold, sell, let, alienate, mortgage or otherwise deal with movable and immovable property of every description.
- 2.17.4 The Board may develop and turn to account in any manner whatsoever any land or property acquired by or in which the Federation is interested, and/or in respect of which it may have any rights; to lease and let out such property and grant rights of any description over the same.
- 2.17.5 The Board may raise or borrow or secure the payment of money, or performance of any obligation, in such manner and on such terms as may seem expedient, and in particular, by the grant and passing of mortgages and bonds charged upon all or any of the Federation's assets, movable and immovable, present and future.
- 2.17.6 The Board may deal with and invest the monies of the Federation not immediately required or such other monies raised by the Federation for the purpose of investment in such securities and in such manner as the Board from time to time may determine.

2.18 ASSETS OF BUSINESS ESWATINI

- 2.18.1 All the assets of the Federation, whether in cash or property, shall be the property of the Federation as represented by the members thereof for the time being.
- 2.18.2 In the event of liquidation, reconstruction, or other circumstances, no member who had resigned, was expelled, or otherwise ceased to be a member of the, shall have any claim on the property or assets of the Federation.

2.19 AMENDMENT OF THE CONSTITUTION

- 2.19.1 The Constitution may only be altered by a resolution passed at any General Meeting or Extraordinary General Meeting by a majority of at least two-thirds of the total votes cast at the meeting.

2.20 INDEMNITY

- 2.20.1 Every office bearer of the Federation shall be and is hereby indemnified by the Federation out of its funds against costs, charges, expenses, losses, and liabilities incurred by him/her in the conduct of the Federation's business or in the discharge of his/her duties.
- 2.20.2 No such person shall be liable for the acts or omissions of any other such person by reason of his/her having joined in any receipt of money not received by him/her personally, or for the loss on account of defect in title to any property acquired by the Federation or on account of the insufficiency of any security in or upon which any monies of the Federation shall be invested, or for any loss incurred upon any ground whatever other than his/her own willful acts or defaults.

2.21 GENERAL

- 2.21.1 In the event of doubt as to the meaning or interpretation of any of the provisions of the Constitution, the decision of the Board shall be final and binding on all members.
- 2.21.2 An omission to give the requisite notice to any member shall not invalidate any proceedings of the Federation.
- 2.21.3 Any failure to observe any provision of the Constitution, if such failure is due to inadvertence and no substantial prejudice is occasioned to any member, shall not invalidate any decision taken or act performed by the Federation, its officers and employees.

2.21.4 The liability of a member shall be limited to the amount of his subscription.

2.22 NONVIOLENT ACTION

2.22.1 The members of the Federation may decide to engage in protest action, which shall be nonviolent, for the promotion or defending of the socio-economic interests of employers. (Amendment endorsed in 2015 AGM)

2.22.2 Decisions pertaining to the handling of protest action by members of the Federation shall be by secret ballot. (Amendment endorsed in 2015 AGM)

2.22.4 Should the members of the Federation decide to undertake protest action; such action shall be taken in accordance with the laws of the Kingdom of Eswatini. (Amendment endorsed in 2015 AGM)

2.23 AMALGAMATION

2.23.1 The Federation may merge or amalgamated with another body by a vote in favour of not less than two thirds of those members present or voting at a Special General Meeting or Annual General Meeting convened and held in accordance with the provisions of Articles 2.5 or 2.3 respectively.

2.24 DISSOLUTION

2.24.1 The Federation may be wound up, liquidated or dissolved by a resolution of any General Meeting provided such resolution has a majority of at least three quarters of the members present and voting.

2.24.2 Upon dissolution, all property of the Federation shall be sold and the proceeds of the sale and all monies standing to the credit of the Federation may be divided among the members in proportion to their annual subscriptions.

2.25 ACTIONS AT LAW

2.25.1 The Federation may sue and be sued in its aforesaid name and service of all summonses; notices and the like shall be valid and effectual if served at the office of the Chief Executive Officer.

2.25.2 All powers to sue or defend shall be under the authority of a resolution of the Board of Directors signed by two members of the Board and the Chief Executive Officer.

2.26 REGISTERED OFFICE

2.26.1 The registered office of the Federation shall be located at such place as the Board may from time to time determine.

2.26.2 Currently, the Federation is located at Emafini Business Centre, Malagwane Hill, Emafini, Kingdom of Eswatini.