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PAB Constitution

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CONSTITUTION OF THE PROFESSIONAL ACCREDITATION BODY

1. PURPOSE OF THIS CONSTITUTION

The purpose of this constitution is to provide an institutional framework for the quality assurance education and training in the PAB scope of accreditation. This organization therefore aims to devise ; implement national, provincial and workplace strategies in order to quality assure the delivery of educat and training in order to maintain and improve the skills of the current and future workforce of the indu: that falls within the PAB scope of accreditation.

2. NAME

The name of this Education and Training Quality Assurance Body (ETQA) shall be the "PROFESSION ACCREDITATION BODY", referred to in this Constitution as the "ETQA".

3. LEGAL STATUS

- 3.1 This constitution of the ETQA is established in terms of Regulation 9 the South African Qualificati Authority Act No. 58 of 1995 and read with the Skills Development Levies Act No. 9 of 1999 and Skills Development Act No. 97 of 1998.
- 3.2 The ETQA is a juristic person.
- 3.3 The ETQA may authorize any person or persons to act on its behalf and to sign all documents and take all steps as may be necessary in connection with any legal proceedings brought by or aga the ETQA.

4. REGISTERED OFFICE

The registered office of the ETQA shall be at 1st Floor, 11 Schoeman Street, Pretoria and the registe postal address as Postnet Suite 180, Private Bag X06, Waterkloof, 0145. The Quality Assurance Divis of SAQA and SARS shall be notified in writing of any changes thereto.

5. DEFINITIONS

Any expression used in this Constitution which is not specifically defined hereunder, but which is define the SAQA Act, 1995, Skills Development Act, 1998, or an Act read together with the Skills Developrr Act, 1998 shall, unless the contrary intention is apparent from the wording contained herein, bear meaning assigned to it in the Act concerned.

- 5.1 "accreditation" means the certification of the ETQA by SAQA as an Education and Trair Quality Assurance Body in terms of the SAQA Act;
- 5.2 "Act" means the SAQA Act, 1995 (Act No. 58 of 1995);
- 5.3 "SD Act" means the Skills Development Act, 1998.
- 5.4 "alternate" means a person appointed to act on behalf of a member serving on the ETQA or ; of its committees in the temporary absence of the member;
- 5.5 "Industry within PAB scope of accreditation" includes all, but is not restricted to the econo activities and occupations contemplated in our primary focus;
- 5.6 "Department" means the Department of Labour;
- 5.7 "Director-General" means the Director-Generat of the Department of Labour;
- 5.8 "education and training provider" means a body duly accredited by the ETQA in terms of SAQA regulations concerned to provide education and training in the PAB scope of accreditati
- 5.9 "employers' organisation" or "employers' federation" means any employers' body, registerec terms of any appropriate act, associated for the purpose, whether by itself or with other purpos.

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- of regulating relations between employers and employees or trade unions, or the furtherance of employer interests, and which is recognised as such by the ETQA;
- 5.10 "ETQA Body" means Education and Training Quality Assurance Body;
- 5.11 "Minister" means the Minister of Education;
- 5.12 "National Skills Authority" means the National Skills Authority established in terms of section 4 of the Skills Development Act;
- 5.13 "party" means organised employers, organised labour, government departments or **professional bodies**; as provided for in Section 11 of the Skills Development Act; which are active in, or have an interest in the Industry within the PAB scope of accreditation and recognised by the ETQA;
- 5.14 "SAQA" means the South African Qualifications Authority established in terms of section 3 of the South African Qualifications Authority Act, 1995 (Act No. 58 of 1995);
- 5.15 "SETA" means a Sector Education and Training Authority contemplated in Chapter 3 of the Skills Development Act;
- 5.16 "Skills Development Levies Act" or "Levies Act" means the Skills Development Levies Act, 1997;
- 5.17 "trade union" means a trade union registered in terms of the Labour relations Act, 1995 which is actively involved in the industry and which is recognised by the SETA's interfacing with providers and workplace providers in our primary focus. These are, for the record, the Services SETA, Health SETA

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6. ESTABLISHMENT OF THE ETQA

The ETQA was established in terms of the provisions of the SAQA Act, 1995 and its initial members shall be appointed by the Director of the ETQA, a body aspiring towards being representative of employer and employee organisations in the industry within the PAB scope of accreditation, other related national stakeholders and government departments.

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7. SCOPE OF COVERAGE OF THE ETQA

The scope of coverage of the ETQA is providers / institutions functioning within the ETDP, Services, W and H&W sectors as determined by the Minister of Labour in terms of section 9 of the SD Act.

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8. POWERS OF THE ETQA

The ETQA shall, subject to the provisions of the SAQA Act, have all such powers as may be necessary to enable it to carry out its functions and fulfil its objectives and without limiting the generality thereof it shall have the following powers:

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- 8.1 appoint and alternate ETQA Advisory Committee members if necessary;
- 8.2 establish committees and appoint members to such committees;
- 8.3 dissolve or reconstitute any committee if need be;
- 8.4 delegate of its powers and duties to its committee members, committees and employees, provided that the ETQA may impose conditions for the delegation of powers, but shall not be divested of its power or duty by virtue of the delegation, and may vary or set aside any decision made under such delegation: Provided that every delegation by the ETQA must be in writing, setting out the terms and conditions of such delegation which must be recorded;
- 8.5 impose a code of conduct for ETQA and committee members;
- 8.6 formulate the policies and procedures of the ETQA;
- 8.7 make rules relating to ETQA and committee meetings, financial matters, general procurement and administrative matters;
- 8.8 Submit an annual budget of the ETQA to the Director for approval;
- 8.9 approve the annual business plan of the ETQA;

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- 8.10 adjust the ETQA levies as prescribed by the Levies Act, or determine another rate and basis for industry, if deemed necessary;
- 8.11 impose registration, accreditation and any other fees where necessary in the prescribed manner;
- 8.12 determine the rules for funding of education and training by the ETQA in the prescribed manner;
- 8.13 award study loans and bursaries, in the prescribed manner, for further, as well as tertiary education and training relevant to the industry, if grants become available;
- 8.14 determine the allowances and other remuneration, and other related matters for the ETQA : committee members based on the economic principle;
- 8.15 approve the ETQA's recruitment policy, objective selection criteria for all employees as well as terms and conditions of employment of the ETQA Manager and other employees of the ETQA;
- 8.16 appoint the Chief Executive Officer;
- 8.17 initiate and support standards generation bodies for domains or sub-fields covered by the primary focus of the ETQA;
- 8.18 acquire by purchase, lease or otherwise any movable or immovable property and also to sell, mortgage or otherwise deal with or dispose of movable or immovable property or other assets belonging to the ETQA; and
- 8.19 delegate selected powers and/or functions to other bodies, provided that such delegation shall be in writing;
- 8.20 exercise any other powers not specifically mentioned, or as required by the SAQA Act in order to fulfil the objectives of the ETQA.

9. FUNCTIONS AND OBJECTS OF THE ETQA

The functions and objects of the ETQA shall be to:

9.1 Implement the activities required to achieve the functions of an ETQA as stipulated in regulation 9 of the SAQA Act, Act No: 58 of 1995.

9.1.1 Regulation 9 of the SAQA Act is included as an extract below:

- a. accredit constituent providers for specific standards or qualifications registered on the National Qualifications Framework;
- b. promote quality amongst constituent providers;
- c. monitor provision by constituent providers;
- d. evaluate assessment and facilitation of moderation among constituent providers;
- e. register constituent assessors for specified registered standards or qualifications in terms of criteria established for this purpose;
- f. take responsibility for the certification of constituent learners;
- g. co-operate with the relevant body or bodies appointed to moderate across Education : Training Quality Assurance Bodies including but not limited to, moderating the quality assurance on specified standards or qualifications for which one or more Education and Training Quality Assurance Bodies are accredited;
- h. recommend new standards or qualifications to National Standards Bodies for consideration and modifications to existing standards or qualifications to National Standards Bodies for consideration;
- i. maintain a data-base acceptable to the Authority;
- j. submit reports to the Authority in accordance with the requirements of the Authority, and
- k. perform such other functions as may from time-to-time be assigned to it by the Authority.

9.2.2 In performing its functions an ETQA Body -

- a. shall abide by regulations 2 to 12 of the National Standards Bodies Regulations (R452 of March 1998, Government Gazette No 18787);

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- b. may delegate selected functions contemplated in subregulation (1) to a constituent provider or of body with the prior approval of the Authority, but may not delegate its accountability to the Authority and
 - c. if established under another Act of Parliament to govern a single co-ordinated system of m- qualification providers, shall delegate the function of registering constituent assessi contemplated in subregulation (1)(e), to its providers if their quality management system inclu the monitoring of this function and the South African Qualifications Authority is notified.
- 9.2 Determine the qualitative and quantitative education and training needs of the industry within PAB scope of accreditation by actively involving all stakeholders who are party to the ETQA in development and maintaining of industry skills, with special reference to the needs informal/emerging learner groups/enterprises, within the framework of the national s development strategy;
 - 9.3 Quality assure the Implementation of industry related WSP in the industry by -
 - 9.3.1 monitoring education and training delivered by providers wishing to be accredited education and training within the PAB scope of accreditation;
 - 9.3.2 monitoring the demand for and the delivery of education and training in the identified sect with whom we have entered into a MOU;
 - 9.3.3 initiating and supporting standards generation;
 - 9.3.4 supporting further and higher education and training, including;
 - 9.4 Promote the development of learnerships and skills programmes for our industry by -
 - 9.4.1 Initiating the concept of learnerships and Skills programmes at FET and HET level;
 - 9.4.2 Identifying workplaces for practical work experience;
 - 9.4.3 supporting the development of learning materials;
 - 9.4.4 improving the facilitation of learning; and
 - 9.4.5 assisting in the conclusion of learnership agreements;
 - 9.5 Promote education, training and career opportunities;
 - 9.6 Obtain accreditation from SAQA as the ETQA for the industry that falls within the PAB scope accreditation and perform the functions arising from such accreditation;
 - 9.7 Liaise with SAQA, the band ETQA bodies and the related SETAs on:
 - 9.7.1 the national skills development policy;
 - 9.7.2 the national skills development strategy; and
 - 9.8 Report to SAQA on -
 - 9.8.1 its income and expenditure; and
 - 9.8.2 the implementation of outcomes based qualifications;
 - 9.9 Disburse information to the relevant SETA we have entered into a MOU with, concern employment services or any education and/or training issues to improve their informat concerning:
 - 9.9.1 employment opportunities; and
 - 9.9.2 education and training providers/institutions.
 - 9.10 Appoint staff necessary for the performance of its functions;
 - 9.11 Ensure the conducting of research and development within providers;
 - 9.12 Aspire towards raising donor and other funding;
 - 9.13 Establish and maintain an efficient and effective administration;
 - 9.14 Facilitate the involvement of relevant government departments in the activities of the ETQA to:
 - 9.14.1 address the competency requirements for social delivery,
 - 9.14.2 address the learning needs of the most vulnerable segments of the different sectors \ whom we have a MOU.
 - 9.14.3 promote training of informal/emerging enterprises to enable them to qualify for pu and private contracts and to comply with any registration requirements;
 - 9.15 Liaise with relevant Government Departments, their nominated agencies or statutory bodies matters of mutual interest;

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9.16 Perform any other functions not specifically mentioned in order to fulfil the objectives of the ETQA

10. PARTIES TO THE ETQA

It is the policy of the ETQA to obtain input from all parties/stakeholders within the industry that falls within the PAB scope of accreditation.

10.1 The respective parties to the ETQA are listed in 11.2 of this constitution and may be extended means of recorded acceptance at an Advisory Committee meeting.

These include:

- 10.1.1 organised employers, including small business;
- 10.1.2 organised labour;
- 10.1.3 government departments, government agencies and/or statutory institutions; and
- 10.1.4 All Further and Higher Education and Training Providers that operate within the scope of accreditation;

10.2 The ETQA may, subject to the provisions of the Skills Development and SAQA Acts, recognise additional organised employers, organised labour, government departments or professional bodies which apply for recognition, if it is satisfied that such recognition will make the ETQA more representative of the parties in the sector.

11. COMPOSITION OF THE ETQA

11.1 The ETQA shall comprise the following natural persons as employees to the ETQA:

- 11.1.1 A Director (CEO)
- 11.1.2 An ETQA Manager
- 11.1.3 An Accreditations and auditing officer
- 11.1.4 An Administrator
- 11.1.5 A Financial Auditor (This will be an outsourced Function)
- 11.1.6 Any other portfolio identified in the future to achieve the objectives of the ETQA

11.2 The ETQA shall comprise the following natural persons as members to the ETQA Advisory Committee:

- 11.2.1 One representative for FET Providers;
- 11.2.2 One Representative for Examining body CIDESCO;
- 11.2.3 One representative for Examining body ITEC;
- 11.2.4 One representative for Examining body SAAHSP;
- 11.2.5 One representative for Examining body CIBTAC;
- 11.2.6 One representative for HAPA Governance;
- 11.2.7 One Representative for Learners;
- 11.2.8 One representative for Industry (replaced SGB's June 2009);
- 11.2.9 One representative for the ETQA operations;
- 11.2.10 One representative for the Disabled;
- 11.2.11 One representative for APPETD (seat removed June 2009);
- 11.2.12 One representative for HET Providers;

11.3 The Chief Executive Officer shall attend all meetings of the ETQA in an ex officio capacity but have the final vote on staffing and financial matters.

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12. NOMINATION AND APPOINTMENT OF STAFF AND MEMBERS TO THE ETQA.

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Staff and Members nominated to the ETQA shall be knowledgeable with regard to the industry matters and committed to the advancement of skills development for the industry within the F scope of accreditation.

- 12.1. The ETQA Manager being responsible to achieve the objectives will have sole discretion as to employment of ETQA Staff members.
- 12.2. The Director (CEO) of the ETQA being accountable to achieve the objectives of the ETQA will have the sole right to employ the ETQA Manager.
- 12.3. HAPA being financially accountable and accountable for achieving the ETQA objectives has the sole right with regard to the identification and employment of the ETQA Director (CEO).
- 12.4. The Chairperson of the Advisory Committee shall be the ETQA Manager.
- 12.5. The vice Chairperson will be elected from the members of the committee.
- 12.6. The Chief Executive Officer/ETQA Manager must invite nominations from the party or parties concerned, at least two months before the expiry of the term of office of a member of the ETQA or any committee.
- 12.7. Any person representing a party on an ETQA committee may be appointed or nominated by that party for which that portfolio has been identified.

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13. TERM OF OFFICE OF ETQA MEMBERS, OFFICE BEARERS AND ADVISORY COMMITTEE MEMBERS

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- 13.1. ETQA staff members will be appointed and hold office as per the requirements of the Labour Relations Act.
- 13.2. ETQA Committee Members
 - 13.2.1. A member, or alternate member, shall hold office for a term of three years and shall be eligible for re-appointment for a further term;
 - 13.2.2. Should a member, or alternate member, having been so appointed, die, resign or be unable for whatever reason to continue in office during the three-year period, he or she will be replaced by a member, nominated and appointed as provided for in clause hereof and the new member's three-year term of office will commence from the date of his or her appointment.
 - 13.2.3. The Chairperson and Deputy Chairperson of a committee shall hold office for a term of three years and shall be eligible for re-election for a further term of office.
 - 13.2.4. Vacancies shall be filled by the party concerned or as otherwise determined;

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14. VACATION OF OFFICE BY MEMBERS OF THE ETQA AND ITS COMMITTEES

Any member of the ETQA or a committee shall vacate his or her office if-

- 14.1. His or her term of office expires;
- 14.2. His or her estate is sequestrated or he or she enters into a compromise with his or her creditors;
- 14.3. S/he is permanently incapacitated;
- 14.4. S/he is absent from two consecutive meetings of the ETQA or Committee without leave from the ETQA or Committee concerned or in the case of ETQA Staff, as per the HR policies and procedures for the ETQA;
- 14.5. S/he resigns by giving notice in writing to the Chairperson, ETQA Manager or Chief Executive Officer;
- 14.6. S/he during the course of his or her term of office is found guilty of a criminal offence;
- 14.7. The nominating party withdraws its representative in writing;
- 14.8. The nominating party ceases to exist;

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- 14.9 Found guilty of serious misconduct;
- 14.10 S/he fails to comply with the ETQA Code of Conduct;
- 14.11 The Chairperson of a committee, or committee member, is found to have used that position to further private economic interests.

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15. VOTING AT COMMITTEE MEETINGS

- 15.1 The ETQA shall endeavour to take decisions by consensus, however, in the event of this not being possible the decision of the majority of members at a quorate meeting will constitute the decision of the ETQA save in circumstances involving a decision to amend this constitution or where financial matters are of concern. In the case of an equality of votes the Chairperson shall have a casting vote;
- 15.2 Decisions shall be made by a show of hands or at the request of a member and concurrence of the Chairperson by way of a secret ballot.

16. POWERS OF COMMITTEES

Unless otherwise determined the powers of Advisory and other committees of the ETQA shall be to advise and report and make recommendations to the ETQA.

- 16.1 **Advisory Committees**
The ETQA shall not establish any chambers but shall establish an Advisory Committee: (**see section 20 for powers and duties**)
- 16.2 **Other Committees**
The ETQA shall establish any other committees deemed necessary and may, subject to such conditions as it may deem fit, either generally or in relation to any particular matter, assign to such committee any assignment, functions, power conferred or duty imposed upon the ETQA in terms of this Constitution or the Act: Provided that the ETQA may at any time vary or set aside any decision made by any of its committees in the exercise of any power or the carrying out of any task so assigned;
- 16.3 The ETQA may at any time alter the assignment, functions, area of jurisdiction or the scope of powers of any such committee;
- 16.4 The ETQA may determine Rules of Procedure relating to the calling and conduct of meetings of the ETQA and of committees, and generally relating to all matters necessary or incidental to the exercise of a committee's powers and the performance of its functions; and may repeal or alter such rules;
- 16.5 The ETQA shall appoint any co-opted or ETQA member/s as member/s of a committee, if it so desires.

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17. CODE OF CONDUCT

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Members of the ETQA and members of any committees of the ETQA must:

- 17.1 Perform their functions in good faith, giving full effect to the obligations and spirit of the Act;
- 17.2 Abstain from any conduct which may conflict with the interests of the ETQA and must notify the ETQA at the earliest opportunity practicable in the circumstances, of the nature and extent of any direct or indirect material interest which they may have in any dealings of the ETQA;
- 17.3 Not make improper use of any information acquired as a member of the ETQA or any committee of the ETQA;
- 17.4 Not disclose information which is privileged or confidential to the ETQA;
- 17.5 Declare any conflict between their personal interests and those of the ETQA;
- 17.6 Declare any fiduciary interests they have relating to the functions or affairs of the ETQA;

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- 17.7 Not abuse the resources of the ETQA;
- 17.8 Protect and promote the reputation and goodwill of the ETQA;
- 17.9 Exercise their powers for the benefit and in the interests of the ETQA.

18. EXECUTIVE COMMITTEE

18.1 Composition.

The Executive Committee shall be composed as follows and must elect its members from members of the ETQA.

The committee shall constitute the following persons:

- 18.1.1 The Director (CEO) of the ETQA, who shall chair this meeting and be representative of HAPA and the ETQA.
- 18.1.2 The ETQA Manager who shall attend all executive meetings and shall represent operational arm of the ETQA.

18.2 Powers and Duties of the Executive Committee.

The Executive Committee shall:

- 18.2.1 Exercise such powers and perform such functions as may be delegated to it by HAPA, SAQA, a SETA or a Band ETQA;
- 18.2.2 Be responsible for the management of the operational affairs of the ETQA;
- 18.2.3 Deal with the funds, conduct financial transactions and enter into contracts on behalf of the ETQA on such conditions as determined by the HAPA approved budget: Provide that any extraordinary financial transactions or contractual obligations shall be referred to HAPA;
- 18.2.4 The Executive Committee shall, but without limiting the generality of this, have the following special functions:
 - 18.2.4.1 Present the annual budget, business plan, Workplace Skills Plan and quality management plan for the approval of HAPA;
 - 18.2.4.2 Manage and co-ordinate the activities of other Advisory and ad hoc committees of the ETQA;
 - 18.2.4.3 Determine the terms and conditions of service and remuneration of the ETQA Staff and to direct and supervise the ETQA Manager in the performance of his/her duties;
 - 18.2.4.4 Appoint or recommend the appointment of ad hoc committees as may be required; and
 - 18.2.4.5 Seek and consider the advice or opinion of consultants.
 - 18.2.4.6 Function as a finance committee. **(See section 19)**
- 18.2.5 The Executive Committee shall have the power to refer such matters as it may deem to any other Advisory Committee or to an ad hoc committee that it may establish and may withdraw or vary such reference at any time;
- 18.2.6 The Executive Committee shall not be entitled to decide questions of general policy shall be empowered to act on behalf of the ETQA in an emergency. In such event, the Executive Committee shall report its actions and the reasons for them to HAPA at the next meeting.

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19. FINANCE COMMITTEE

19.1 Composition

The executive committee shall be deemed the finance committee;

19.2 Powers and Duties of the Finance Committee

The Finance Committee shall:

- 19.2.1 Oversee the compilation of, and review from time to time, the ETQA financial management systems, policies and procedures;

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- 19.2.3 Approve and review the ETQA insurance portfolio;
- 19.2.4 Determine, review and monitor internal auditing procedures;
- 19.2.5 Determine rules for ETQA Levy payments subject to the applicable regulations;
- 19.2.6 Ensure the management of roll-over funds;
- 19.2.7 Review and advise HAPA on the ETQA's approach to financial investment, subject to applicable legislation and regulations;
- 19.2.8 Review management accounts and financial statements; and
- 19.2.9 Review and advise its annual budget.
- 19.2.10 Appoint an accountant to record and present financial statements reflecting the affairs of the ETQA.

20. ETQA ADVISORY COMMITTEE

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Powers and Duties of the Committee
The Committee shall:

- 20.1 Guide the ETQA's application to SAQA to be accredited as an ETQA Body;
- 20.2 Guide the ETQA's application to SAQA to renew its accreditation as an ETQA Body;
- 20.3 Guide and support the drafting of a Quality Management System (QMS);
- 20.4 Review and maintain the effectiveness of the quality management system;
- 20.5 Guide policies and procedures regarding provider accreditation;
- 20.6 Guide the monitoring of education and training provision;
- 20.7 Guide the auditing of quality management procedures;
- 20.8 Guide policy and procedures with regard to assessor registration;
- 20.9 Guide the policies and procedures for the certification function;
- 20.10 Guide the promotion of quality;
- 20.11 Guide the monitoring of standards and qualifications and the recommendation of revisions and generation of new standards;
- 20.12 Guide and review ETQA reports for SAQA;
- 20.13 Consider and review any relevant reports received from SAQA;
- 20.14 Aid the ETQA in fulfilling all its functions in terms of SAQA regulations.
- 20.15 Guide and review reports on the impact of learning;
- 20.16 Provide feedback on the implementation of QA Systems required by SAQA;
- 20.17 Assist in the identification of structured workplace learning opportunities;
- 20.18 Identify gaps in national qualifications and standards; and
- 20.19 Identify weaknesses and problem areas in QA the delivery of ETD in the industry within the F scope of accreditation.

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21. MEETINGS OF THE ETQA AND COMMITTEES

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- 21.1 The ETQA executive committee shall meet at least once per month;
- 21.2 The ETQA and committees thereof shall adopt at its first meeting and thereafter by not later than the last meeting of a calendar year a schedule of meetings for the ensuing calendar year for ETQA and its committees;
- 21.3 With respect to special meetings, the Chief Executive Officer in consultation with the Chairperson of the ETQA or Advisory Committee as the case may be, may on grounds of urgency, call a special meeting on 48 hours notice;
- 21.4 If the Chief Executive Officer receives a request signed by at least half of the members of ETQA or an Advisory Committee, as the case may be, he or she must as soon as practicable give notice of a special meeting of the ETQA or Advisory Committee and that special meeting must be held within 15 working days of receiving the request;
- 21.5 The proceedings of the ETQA or a committee shall not be invalid by reason of a vacancy on ETQA or committee;

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- 21.6 At any meeting of the ETQA or a committee of the ETQA -
 - 21.6.1 the chairperson must preside;
 - 21.6.2 if the chairperson of the ETQA is absent from the meeting, then the deputy chairperson must preside;
 - 21.6.3 if the deputy chairperson or the chairperson of a committee is absent, then the CEO of ETQA shall act as chairperson at that meeting; and
 - 21.6.4 the chairperson may order any member to leave a meeting if in the opinion of chairperson the behaviour of such member is disruptive to the orderly conduct of meeting.
- 21.7 A quorum at an ETQA meeting shall be constituted by one third plus one of the ETQA members. Provided that a minimum of one employer and one employee members shall be present.
- 21.8 When the number of members present at the time and place fixed for a meeting is insufficient to form a quorum, the meeting shall continue, with the proviso that any recommendations or decisions reached shall be subject to ratification at the next meeting, provided that matters of urgency shall be subject to postal ratification unless otherwise provided for;
- 21.9 Notices convening meetings shall include an agenda of the matters to be considered and shall be forwarded to persons required to attend at least 14 days before the scheduled date of the meeting to the postal address registered with the ETQA;
- 21.10 Minutes of each meeting shall be compiled in the English language by a staff member designated by the Chief Executive Officer, and tabled for approval at the following meeting. These shall be circulated with the notice convening the next meeting or as otherwise determined;
- 21.11 The Chairperson of a meeting must sign the minutes as confirmation of their correctness;
- 21.12 Minutes shall be a summarised record of the proceedings, resolutions and actions required. Members may request that his or her particular views be reflected in the minutes.

22. THE CEO AND OTHER EMPLOYEES

- 22.1 HAPA shall appoint the Chief Executive Officer in accordance with objective selection criteria whenever the position becomes vacant;
- 22.2 The Chief Executive Officer is responsible to HAPA for the execution of its functions in terms of the SAQA Act and this Constitution and must -
 - 22.2.1 Supervise the other employees of the ETQA;
 - 22.2.2 Perform the role of the accounting officer of the ETQA charged with accounting for moneys received, payments made and property purchased by the ETQA;
- 22.3 The Chief Executive Officer shall be assisted in the performance of his or her duties by other employees of the ETQA appointed by the Chief Executive Officer in accordance with the ETQA recruitment policy and selection criteria;

23. FINANCES OF THE ETQA

- 23.1 The money received by the ETQA must be paid into a bank account at a registered bank and must be invested only in -
 - 23.1.1 savings accounts, permanent shares or fixed deposits in any registered bank or other financial institution;
 - 23.1.2 internal registered stock contemplated in section 21(1) of the Exchequer Act, 1975; and
 - 23.1.3 any other manner approved by the Minister of Finance;
- 23.2 The moneys received by the ETQA may only be used in the prescribed manner to -
 - 23.2.1 fund the performance of its functions; and
 - 23.2.2 pay for its administration;
- 23.3 In each financial year the ETQA must submit a statement of the ETQA's estimated income and expenditure for the following financial year;

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- 23.4 The ETQA must, in accordance with the standards of generally accepted accounting practice -
 - 23.4.1 keep proper record of its financial transactions, assets and liabilities; and
 - 23.4.2 within three months after the end of each financial year, prepare accounts reflecting income and expenditure and a balance sheet showing its assets, liabilities and financial position as at the end of that financial year;
- 23.5 The Financial Auditor must -
 - 23.5.1 audit the accounts, financial statements and financial management of the ETQA; and
 - 23.5.2 report on that audit to the CEO and in that report express an opinion as to whether ETQA has complied with the provisions of the Act, and its constitution, relating to financial matters.
- 23.6 The Executive Committee is responsible for ensuring that the ETQA complies with the financial requirements of the Act, this Constitution and any other applicable law.
- 23.7 The Executive Committee must appoint at least three signatories to each account of the ETQA.
- 23.8 At least two of the three signatories must be required to authorise any payment by the ETQA;
- 23.9 The provisions of the Public Finance Management Act, 1999 will be complied with.

24. INDEMNITY

Every member of the ETQA and every member of the Executive Committee and any other committee of the ETQA and the staff of the ETQA are indemnified by HAPA against any liability arising from the performance of their duties carried out in good faith.

25. TAKING OVER ADMINISTRATION OF THE ETQA

- 25.1 HAPA may, after consultation with SAQA and the Executive committee, by notice in Government Gazette, appoint an administrator to take over the administration of the ETQA and relinquish administration if HAPA or SAQA is of the opinion that -
 - 25.1.1 The ETQA fails to perform its functions;
 - 25.1.2 There is mismanagement of its finances; or
 - 25.1.3 Its membership no longer substantially represents the composition contemplated in clause 25.1.
- 25.2 In that notice HAPA -
 - 25.2.1 Shall determine the powers and duties of the administrator appointed in terms of clause 25.1;
 - 25.2.2 May suspend or replace one or more members of the ETQA for a reason contemplated in clause 25.1;
 - 25.2.3 May, in the prescribed manner, suspend or transfer funds in the ETQA's bank account to an account where the funds will be safeguarded.
- 25.3 If a notice is published in terms of clause 25.1, HAPA may, to ensure that the ETQA resumes performance of its functions -
 - 25.3.1 Amend its constitution;
 - 25.3.2 Reinstatement its members; and
 - 25.3.3 Withdraw or amend any provision of the notice contemplated in clause 25.2 on such conditions as HAPA and SAQA considers appropriate.

26. AMENDMENTS TO THIS CONSTITUTION

- 26.1 HAPA, after consultation with the ETQA, may amend this Constitution.
- 26.2 The Chief Executive Officer must give notice to members of the ETQA of any proposed amendment to this Constitution at least 21 days prior to the meeting of the ETQA.

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27. DISPUTE RESOLUTION

- 27.1 Any person involved in a dispute concerning the application or interpretation of this constitution must refer the dispute in writing to the Chief Executive Officer.
- 27.2 The Chief Executive Officer must serve copies of such referral to HAPA.
- 27.3 The Chief Executive Officer must refer the dispute to arbitration within 30 days of receipt of referral, in accordance with the decision of HAPA and the ETQA, to either of:
 - Commission for Conciliation and Arbitration; or
 - Any arbitrator appointed by HAPA or the ETQA to resolve the dispute.

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28. COMPREHENSION AND ACCEPTANCE

SIGNED AT _____ ON THIS THE ____ DAY OF _____ 2009.
FOR AND ON BEHALF OF THE ETQA BY:

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1. CEO

2. ETQA Manager

SIGNED AT _____ ON THIS THE ____ DAY OF _____ 2009.
FOR AND ON BEHALF OF HAPA BY:

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