

**CONSTITUTION OF  
THE INDEPENDENT ENTREPRENEURS ASSOCIATION  
OF MOSSEL BAY**

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**To whom it may concern:**

The original constitution corrected by a law firm for legal correctness was in Afrikaans and was duly accepted as such by O.E.V members at an Annual General Meeting held on the 5<sup>th</sup> of August 2009.

This is a direct translation in English as a courtesy and to accommodate the Associations English speaking members.

In the event of a dispute where a matter cannot be settled due to a possible incorrect interpretation or misrepresentation of any clause the Afrikaans version will come into force as the only and correct version for clarification purposes. Clause 28- "Interpretation" will also be applicable at all times in any event.

**1. NAME**

1.1 The name of this Association will be the INDEPENDENT ENTREPRENEURS ASSOCIATION OF MOSSEL BAY, hereinafter referred to as 'THE ASSOCIATION'.

**2. CHARTER**

2.1 Notwithstanding anything to the contrary, it shall be accepted that the founding date of the Association is 17 April 1995.

**3. MAIN PURPOSE**

3.1 The main objective of the Association shall be to promote and manage Entrepreneurship in the Mossel Bay Municipal area, with specific reference to informal trading in an endeavour to promote job creation. The Association shall further strive to empower the unemployed in order to enable them to become independent and self-supporting.

**4. AIMS AND OBJECTIVES**

4.1 To rationalise all informal trading in Mossel Bay;

4.2 To create an encouraging environment for informal trading;

4.3 To create norms and standards for informal trading;

4.4 To ensure economic fairness for all the members and to create opportunities for everyone;

4.5 To endeavour to create an atmosphere of unity between all the informal traders, irrespective of race, religion, nationality or sex;

4.6 To inform and educate members so that they understand how the economy of the country affects them and how the economy can be used to promote the interests of the informal traders;

4.7 To assist members upon request and to encourage co-operation between members;

4.8 To strive towards settling disparity amongst members within the Association, failing which to try and find fair and reasonable solutions for such differences and disputes;

4.9 To institute disciplinary action against members, where necessary, and to take reasonable steps to resolve disputes in terms of such procedures or other legal passage;

4.10 To promote and co-ordinate training and instruction for all informal traders in order to promote the interests of the traders;

- 4.11 To inform members regarding all aspects relating to informal trading;
- 4.12 To provide clarification regarding all legal aspects and/or policy of the local authority or any other institution which may affect the interests of the members as well as to promote or oppose such matters;
- 4.13 To raise funds by way of membership fees or any other legal manner in order to promote these aspirations and objectives.

## **5. MEMBERSHIP**

- 5.1 The Association shall be comprised of local and non-local members;
- 5.2 All applications for membership shall be submitted in writing to the management for selection and approval, which approval and acceptance of membership shall be at the exclusive discretion of the management;
- 5.3 Local membership is only for members who permanently reside in Mossel Bay;
- 5.4 Non-local membership is only for members who do not permanently reside in Mossel Bay;  
  
The IEA Management has the prerogative of allocating local membership status with benefits to non-local members in exceptional circumstances;
- 5.5 Obtaining membership does not guarantee the allocation of a stall;
- 5.6 The parents or legal guardian of any applicant under the age of eighteen shall be required to co-sign the application form as well as an exemption form of the Association and any other relevant documentation. Such member will have no right to vote.
- 5.7 The Management of the Association shall determine the annual membership fees as well as any other fees or costs, which funds shall be utilised for the purposes of the Association;
- 5.8 All members must pay the membership fees in advance on or before 01 December of each year;
- 5.9 The Management of the Association has the power of attorney to consider all cases/ written applications – on merit for local membership in respect of persons who would not normally qualify for it, on merit. Such applications may include persons who do not actively trade. The Management's decision regarding membership shall be final;
- 5.10 A member whose previous membership has been withdrawn can apply through the prescribed appeal procedures to have his/her membership restored. The outcome of such appeal shall be final and binding on the parties. All

procedures with regard to the appeal shall be conducted in accordance with the Association's Appeal Procedural Manual.

**MEMBERSHIP WILL BE TERMINATED:-**

- 5.10.1 If a member's membership fees or any other monies and/or fees payable are unpaid or outstanding on 01 December of any year;
- 5.10.2 When a member, in the objective opinion of the Management, acts against the objectives and aims of the Association;
- 5.10.3 When a member is found guilty of having consumed alcohol whilst trading or is under the influence of any drug;
- 5.10.4 When a member is found guilty of trading in liquor;
- 5.10.5 When a member, in the presence of a member of the Management, or in the absence of such a member and after proper investigation, is found guilty of defamatory or insulting behaviour towards a member of the public or any fellow trader;
- 5.10.6 When a member refuses in any manner to comply with the rules and regulations as determined and amended from time to time, including all rules and regulations determined by the Mossel Bay Municipality;
- 5.10.7 If any member is found guilty of any punishable offence.

**6. WAIVING OF MEMBERSHIP FEES / OTHER RELEVANT COSTS**

The Management may, upon request from a member, exempt a member from the payment of membership fees. The Management will consider the merits of the application and, should such member qualify for exemption in their opinion, grant such waiving of the fees. All information pertaining to the waiving of the fees shall be handled confidentially by the Management. The Management may also grant further exemption to any person who has been elected as a member with regard to a specific function, who does not otherwise qualify as a member of Management.

**7. STALL FEES**

The stall fees shall be paid and revised annually by the Municipality and will be payable by all applicable members in addition to their membership fees. All stall fees shall be paid punctually as and when it becomes payable, failing which the member concerned will lose his rights with regard to the stall. In such circumstances the Management will be entitled to re-lease the stall.

**8. INDEMNIFICATION**

Every member shall, together with his Application form, sign an indemnification in terms of which the Association and the Municipality are indemnified against any claims of any nature. All existing members also indemnify the Association and the

Municipality against any liability, which indemnification occurs by virtue of his or her membership of the Association.

## **9. RULES APPLICABLE TO STALL HOLDERS (EXHIBITIONERS)**

The Management shall be entitled to lay down rules with regard to the operation of the stalls from time to time, which rules shall be applicable to all subsequent trading areas. In the event of any amendments with regard to such rules, the Management shall convey such amendments in writing to all members and affected parties.

## **10. MUNICIPAL BY-LAWS RELATING TO THE SUPERVISION AND CONTROL OF THE CARRYING ON OF THE BUSINESS OF STREET VENDORS, PEDDLERS OR HAWKERS**

All members shall ensure that the Constitution of the Republic of South Africa as well as all other existing Laws of the Republic, Regulations of the Province as well as Municipal Regulations and By-laws are complied with, including all future Laws, Regulations and By-laws.

## **11. STRUCTURE**

11.1 For the purposes of this Constitution the IEA shall be an Association with its own identity and right of existence and is thus deemed a “legal person”. It is agreed that the Association shall be a separate identity, which will exist independently of its members. The Association shall be entitled to conclude agreements in its own name as well as to institute or defend legal action in its name. The Association may accordingly appoint, discipline and dismiss officials as well as appoint and remunerate professional persons;

11.2 No change in the Association’s membership or office-bearers can influence the continued existence of the Association in any way. The Association is a separate entity that exists independently of its members;

11.3 The Management of the Association will consist of the following members:

- Chairperson;
- Deputy Chairperson;
- Treasurer;
- Five additional members, subject to sub-paragraph 11.7;
- A representative of the Mossel Bay Municipality;
- Two additional persons (who may be increased to a maximum of 4 (four), as required) – may be co-opted by the Management, which persons shall not be members).

All the abovementioned members have full voting power.

All the abovementioned members (except the Municipal representative and up to four(4) additional members if required) must be elected at an Annual General Meeting;

- 11.4 The Management shall have the following powers and duties:
- 11.4.1 The control, management and administration of the Association and the Management shall attend to the execution of all the powers and duties of the Association, as well as its business operations;
- 11.4.2 Without distracting from the generality of the aforementioned, the powers referred to above shall include, but shall not be limited to:
- 11.4.2.1 The setting of acceptable standards, rules and regulations with regard to trading, stalls and related matters;
- 11.4.2.2 Entering into such actions and taking such steps in order to strive towards and execute the objectives of the Association, whether expressly detailed herein or otherwise;
- 11.4.2.3 The appointment and remuneration of agents, employees and other parties, including professional persons, on behalf of the Association, as well as the termination of their services;
- 11.4.2.4 The making, amendment and revoking of rules, which shall be applicable to members;
- 11.4.2.5 The determination and levying of membership fees and stall fees as well as related costs;
- 11.4.2.6 The appointment of legal representatives in order to institute or defend legal action;
- 11.4.2.7 To execute all the further duties detailed in paragraph 12 hereof;
- 11.5 A representative of the Mossel Bay Municipality will also be a member of the Management, which management member shall be appointed by the Mossel Bay Municipality. The said Municipal member shall have full voting power but shall not be responsible for any membership fees by virtue of his position as mentioned above;
- 11.6 The Management may appoint an editor, if necessary.
- He/she shall have no voting power or additional right to vote.
- He/she does not have to pay a membership fee if he/she is not an active member.
- The position does not form part of active Management;

### 11.7 Additional persons:

Two (2) additional persons, who may be increased to four (4) persons, as required, may be co-opted by Management for the same period as the term applicable to the Management. Should the number be increased, such persons shall replace the additional members that may be eligible, to the effect that the additional members and the co-opted members will jointly amount to a maximum of seven (7) persons.

These co-opted persons do not have to pay a membership fee if they are not active traders.

Co-opted members have full voting power.

11.8 Management shall appoint the Chairperson, Deputy Chairperson and Treasurer by way of election. In the event of resignation of the entire management of the Association, the Chairperson, or in his absence the Deputy Chairperson, shall act as Chairperson of the Association until a new management has been properly elected in terms of this Constitution.

## 12. DUTIES OF THE MANAGEMENT

The Management is entitled to proceed with the work of the Association to the best of its ability and in the best interest of the members, subject to the general policy of the Association. The Management is authorised:

- 12.1 To appoint not more than two additional co-opted members as fellow members of management, over and above those elected at the Annual General meeting. These posts can be left vacant but may particularly be preferable where a need may arise for the expertise or knowledge of a specific person/persons. Such fellow members who have been elected may, if necessary, be remunerated for services rendered;
- 12.2 To appoint Sub-Committees for specific activities or a specific purpose and to nominate a convenor thereof. To determine their duties and to authorise them to chose fellow members as additional members. Decisions of any Sub-Committee must be submitted to the Management for approval at their next meeting. Sub-Committees may also be appointed to execute specific functions in accordance with clear guidelines determined by the Management;
- 12.3 To appoint salaried officials. To determine their salaries and conditions of service and to terminate their services, if necessary;
- 12.4 To enter into agreements in the interest of the Association and to sell, purchase, lease and, if in the interest of the Association, to pawn fixed and movable property;
- 12.5 To declare the membership of any member of Management who is absent from three consecutive meetings without apology, as vacant;

- 12.6 To invest the proceeds from any assets or any monies of the Association or to make any investments or alternate them with other investments;
- 12.7 To borrow money at the best obtainable interest rates, at the responsibility of Management members, to further the objectives of the Association or to enter into other financial transactions on such terms and conditions as Management may deem desirable;
- 12.8 To open and operate a bank account on behalf of the Association;
- 12.9 The Management is further authorised to act on behalf of the Association in any undertaking or action that is to the exclusive benefit of the Association.

### **13. DUTIES OF THE MEMBERS OF MANAGEMENT**

#### **13.1 CHAIRPERSON**

- 13.1.1 The Chairperson shall be elected from the Management as detailed above and shall serve as Chairperson for a term of 2 years;
- 13.1.2 The Chairperson shall convene all meetings and shall act as Chairperson during such meetings;
- 13.1.3 The Chairperson shall at all times, in consultation with members of the Management, at all times organise, control and manage the interests of the Association in accordance with this Constitution;
- 13.1.4 The Chairperson shall sign all Official Minutes of meetings.

#### **13.2 DEPUTY CHAIRPERSON**

- 13.2.1 All powers and duties as detailed in this Constitution;
- 13.2.2 Acts as Chairperson in the absence of the Chairperson, in which case he/she shall execute the duties of the Chairperson.

#### **13.3 TREASURER**

- 13.3.1 All powers and duties as detailed in this Constitution;
- 13.3.2 Handling of, and supervision of all financial aspects and matters of the Association;
- 13.3.3 Updating the Association's Accounts and rendering of financial reporting to the Management meeting on a monthly basis as well as to all Members' Meetings and the Annual General Meeting;
- 13.3.4 Updating financial books in accordance with generally accepted accounting practice;



13.3.5 Banking of all revenue received for the Association;

13.3.6 All other duties related to the abovementioned or any other duties as instructed by the Management.

#### **13.4 OTHER COMMITTEE MEMBERS**

13.4.1 All powers and duties as detailed in this Constitution;

13.4.2 Assistance to the Chairperson and/or all members of the Management in respect of all tasks and duties as delegated.

#### **13.5 REPRESENTATIVE OF MUNICIPALITY**

13.5.1 All powers and duties as detailed in this Constitution;

13.5.2 Act as link and advisor between the Association and the Municipality;

13.5.3 Ensure ratification of the decisions of the Association by Council, where necessary.

### **14. DUTIES OF:**

#### **14.1 THE SECRETARY**

14.1.1 All powers and duties as detailed in this Constitution;

14.1.2 Keeping of minutes of all meetings;

14.1.3 Receipt and despatching of all correspondence;

14.1.4 Handling enquiries from members and non-members;

14.1.5 Effect the issuing of notices required with regard to the activities of the Association;

14.1.6 General office duties, administrative tasks and management tasks of the Association and the Management.

### **15. VOTING OF THE MANAGEMENT**

15.1 All Management decisions shall be made by way of a vote, either by way of show of hands or voting by ballot.

15.2 The Chairperson shall have one (1) ordinary vote as well as a casting vote, which may only be used in the event of a deadlock with regard to any matter which has been voted upon;

15.3 All other Management members shall each have one (1) vote.

## **16. MEETINGS**

### **16.1 MANGEMENT MEETINGS**

The Association shall have the following meetings and the following will be applicable:

#### **16.1.1 Management Councils**

The Management of the Association shall meet on a date and at a place as determined by the Chairperson, which shall take place at least (1) once per month;

16.1.2 The Chairperson shall make the date in respect of ordinary meetings known to all Management members at least 21 (twenty one) days prior to the meeting, whilst a Special Meeting may be convened by the Chairperson, or at least 2 (two) other Committee members, in which case a notice of at least 48 (forty eight) hours will be applicable;

16.1.3 If no quorum is achieved within 15 (fifteen) minutes from the scheduled commencement of the meeting, the Chairperson may adjourn the meeting for a period of at least 7 (seven) days, or such period as agreed upon between all the parties present;

16.1.4 If a Management member fails to attend 3 (three) consecutive meetings of the Management, the Chairperson may request that his position be declared vacant.

### **16.2 GENERAL MEETINGS**

Meetings shall be held as and when required but every possible endeavour should be made to ensure that at least three Members' Meetings (including the Annual General Meeting) are held every year.

### **16.3 ANNUAL GENERAL MEETING (AGM)**

16.3.1 The Annual General Meeting of the Association shall be held once a year, but not later than 40 (forty) days after the closing of the financial year at the end of June, and at such place and time as determined by the Executive Committee from time to time. All the members must be given at least 21 (twenty-one) days notice in respect of each Annual General Meeting (or Special General Members' Meeting). The said notice must indicate the place, date and time of the meeting;

16.3.2 Notice of the Annual General Meeting shall be given at least 21 (twenty-one) days prior to the scheduled meeting and such notice must indicate the place, date and time of the meeting.

**17. QUORUM**

- 17.1 The quorum for any Management Meetings will be at least 50% (fifty per cent) of the total number of members of Management;
- 17.2 General Members' Meetings and Annual General Meetings:-  
The quorum for a General Members' Meeting and an Annual General Meeting of the Association shall be half (50%) of the local members present plus one;
- 17.2 Only local members who actively operate a stall shall have a right to vote at the Annual General Meeting, provided his/her membership fees are paid-up.

**18. SUB-COMMITTEES**

Should the Management Committee consider it necessary:

- 18.1 one or more Sub-Committees may be appointed to handle and investigate specific matters;
- 18.2 A Sub-Committee must be comprised of at least three persons;
- 18.3 The Sub-Committee must report to the Management Committee regularly regarding its progress and activities.

**19. FINANCIAL YEAR**

The financial year of the Association commences on the first day of July and ends on the last day of June of each year.

**20. ELECTION AND TERM OF OFFICE**

- 20.1 Management members of the Association shall be elected at the Annual General Meeting and such election shall be valid for a period of at least 2 (two) years. A Management member may be nominated and elected for more than one term of two years;
- 20.2 The Management may co-opt additional members to Management, to a maximum of 4 (four) members, which members do not necessarily have to be active members or elected from the available members;
- 20.3 The four additional members do not necessarily have to be active members or elected from the available members.

**21. FINANCES**

- 21.1 The funds of the Association shall consist of the monies received for Membership fees or any other monies obtained on an acceptable basis within the framework of this Constitution;

- 21.2 Members or office-bearers have no claim to any property, funds or any other assets of the Association;
- 21.3 Authority to sign cheques or other withdrawals from the funds of the Association shall be granted to any three of the following members, namely:
- 21.3.1 The Deputy Chairperson  
 21.3.2 Treasurer  
 21.3.3 Other elected or appointed members of the Management
- subject thereto that the Treasurer's signature shall appear on all cheques at all times, subject further thereto that if the Treasurer is not available, the Deputy Chairperson's signature shall replace that of the Treasurer;
- 21.4 All cheques shall be signed by at least 2 (two) persons;
- 21.5 No revenue, assets or property of the Association may be allocated to any member or members or office-bearers;
- 21.6 An amount of remuneration as approved by the Management, may be allocated to an office-bearer or member in respect of services rendered to the Association;
- 21.7 Attendance of other meetings or functions by any official for or on behalf of the Association must be approved at a Management meeting;
- 21.8 No revenue in any monetary form held by the Association or due to it, as well as any assets (fixed or movable), may be distributed to any member or members or any office-bearers, except as reasonable remuneration for services rendered to the Association. The amount in remuneration must be reasonable for the work that has been done.

The purpose for which the Association's funds may be utilised is determined by the Association's Management Committee, at its discretion. The Management Committee shall, however, endeavour, at all times, after provision has been made for the daily maintenance and continued existence of the Association, to utilise surplus funds for the improvement of the circumstances of members, with everything associated therewith, as well as to channel funds to the Mossel Bay community to improve the quality of life of those who need it.

## **22. GENERAL PROCEDURES RELATING TO MEETINGS OF THE ASSOCIATION**

- 22.1 The Chairperson will lead all meetings and in his/her absence, the Deputy Chairperson and/or any other member chosen will do so;
- 22.2 A proper Agenda will be compiled in respect of the points to be discussed at the meeting, which Agenda shall be strictly followed, except as otherwise agreed upon by the meeting;

- 22.3 Minutes of the points discussed during the Meeting will be kept and such minutes shall be retained in safekeeping for at least 5 (five) years;
- 22.4 All proposals shall be submitted by way of a written motion, properly seconded, and shall be voted in or out by way of voting at a meeting.

**23. THE RIGHT TO VOTE AT MEMBERS' MEETINGS**

Only local paid-up active stall members will have the power to vote (person to whom a stall has been allocated since 1 December of the preceding year) during Members' Meetings. Only 1 (one) vote per stall shall be permitted, notwithstanding the fact that the stall is owned by more than one person.

**24. INDEMNIFICATION OF OFFICIALS AND MANAGEMENT MEMBERS**

The Management members of the Association, their officials and agents or any person appointed by them for a specific purpose or duty, are indemnified against any responsibility by virtue of their activities as such, which shall include any omission, negligence or any other action carried out during the execution of such person's duties in terms of this Constitution. The Association, its Management or any person appointed by them for the execution of a specific task, shall further not be responsible for any loss and/or damage suffered by any member.

**25. SUSPENSION AND/OR WITHDRAWAL OF MEMBERSHIP**

- 25.1 The Management shall be entitled to withdraw the Membership of any member, if such member is found guilty of misbehaviour;
- 25.2 Any steps with regard to the suspension or withdrawal of a member's membership shall be undertaken in accordance with the Association's Disciplinary and Grievance Procedure, as amended from time to time;
- 25.3 If a member has been suspended or his membership has been terminated, such member shall not be entitled to a refund of any membership fees already paid to the Association;
- 25.4 A member shall further be entitled to resign as a member of the Association by way of a written resignation. Such resignation shall only be effective once such member's membership fees are fully paid-up and any unfinished matter with regard to such member in relation to the Management and/or the Association has been properly finalised.

**26. AMENDMENT OF THE CONSTITUTION**

The provisions of the Constitution may be amended, revoked or extended by way of a two-thirds majority of the local members present at a Members' Meeting specially convened for such purpose, subject thereto that:

- 26.1 proper notice of such meeting is given in terms of the provisions of this Constitution; and
- 26.2 any proposed amendment, revocation or extension being placed on the Agenda for the meeting and circulated to the members of the Association at least 21 (twenty one) days prior to the meeting being held.

**27. DISBANDING OF THE ASSOCIATION**

- 27.1 The Association may be disbanded if at least two-thirds of the local members present at a General Meeting of Members, specifically convened for such purpose, agree to such disbanding;
- 27.2 Notice of the meeting contemplated in sub point 1 shall be given at least 21 (twenty one) days prior to such meeting being held, and such notice shall clearly refer to the fact that the purpose of the meeting is to vote regarding the disbanding of the Association;
- 27.3 Should the Association hold any assets after it has been disbanded and after payment of all expenses and/or liabilities, such assets will be allocated to the Mossel Bay Municipality for re-allocation to a similar organisation with the same objectives as the Association.

**28. INTERPRETATION**

Should any dispute arise with regard to the interpretation of any of the provisions of this Constitution, the decision of the Chairperson, upon consultation with the Management, shall be final and binding.

**Approved on this 5th day of August 2009**

**W.F.T. Van Schalkwyk**  
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**CHAIRPERSON**