

MEMORANDUM OF ASSOCIATION

AND

ARTICLES OF ASSOCIATION

OF

THE INSTITUTE OF CHATERED ACCOUNTANTS  
IN MALAWI (ICAM) LIMITED

[Amended]

*Amendment approved by members of the Institute at the 8th Annual  
General Meeting held on Friday, 13th November 2020*

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## MEMORANDUM OF ASSOCIATION

- 1) The name of the company is INSTITUTE OF CHATERED ACCOUNTACTS IN MALAWI LIMITED.
- 2) The objects for which the company is established shall: -

### Regulatory Objects

- (a) Generally, to carry out such regulatory objectives, powers, functions as provided in sections 40, 41 and 42 of the Public Accountants and Auditors Act No. 5 of 2013 and in particular carry out the following regulatory objectives as provided in section 40 of the said Act:
  - i. supervise the accountancy profession in the public interest;
  - ii. promote the highest standards of professional ethics and business conduct of, and enhance the quality of services offered by, chartered accountants or diplomate accountants;
  - iii. protect the public interest by ensuring that members of the Institute observe the highest standards of professional and ethical conduct;
  - iv. ensure the professional independence of accountants;
  - v. determine the eligibility criteria to become a member of the Institute;
  - vi. arrange for the assessment of candidates seeking certification as members;
  - vii. maintain and monitor high quality practical training at all levels of the profession;
  - viii. promote high quality accounting, auditing and financial reporting standards and practices;
  - ix. develop professional qualifications for accountants and auditors in Malawi;
- (b) to facilitate upward mobility towards Chartered Accountancy in an orderly, managed and controlled process;
- (c) to insist upon a high standard of professional behaviour on the part of members, to preserve and maintain the integrity and status of the profession, to take any steps which may be thought necessary to stop or prevent dishonourable conduct and practices by members, and for this purpose to hold enquiries into the conduct of members including the termination of their membership and their expulsion from the Institute;

- (d) to establish and, where appropriate, to register approved training schemes for trainees, to regulate service under such training schemes, to prescribe the fees which shall be payable in respect of such training schemes, and to insist upon high standard of training;
- (e) to prescribe syllabuses in respect of examinations and relevant competency assessments for trainee accountants and for persons wishing to become members; to set and administer accountancy examinations; to exempt from the obligation to pass any such examination or competency assessment of any person who has passed any other examination or competency assessment prescribed or approved by the Council; and to prescribe fees which are payable by such persons in respect of such syllabuses, examinations or competency assessments or in respect of such exemptions;
- (f) to prescribe the degrees, diplomas and other qualifications to be obtained by any person wishing to become a member or entitling any person to exemption from the requirements to be complied with by such person, as well as the fees which shall be payable in respect of such exemptions;
- (g) to issue members, on proof of due qualifications with certificates permitting them to conduct public practice or different classes of public practice and to prohibit other members from engaging in like activities;

#### **Administrative Objects**

- (h) to take over assets and liabilities of the Society of Accountants in Malawi recognized as the professional society in the Public Accountants and Auditors Act in force immediately before the coming into force of the Public Accountants and Auditors Act No. 5 of 2013;
- (i) generally, to carry out such administrative objectives, powers, functions as provided in sections 40, 41 and 42 of the Public Accountants and Auditors Act No.5 of 2013 and to take over and succeed to such assets and liabilities as are allocated to the Institute under the said Public Accountants and Auditors Act No.5 of 2013; including the assets of the Public Examinations Council established by and under the Public Accountants and Auditors Act in force immediately before the coming into force of the Public Accountants and Auditors Act No.5 of 2013, and in particular carry out the following administrative objectives as provided in section 40 of the said Act:
  - 1) promote the development of the accounting profession;
  - 2) promote, maintain and increase the knowledge, skills and competence of members of the Institute and students;

- 3) ensure that members of the Institute obtain the necessary technical and ethical guidance that enables them to meet the needs of the community in areas in which they have special knowledge and expertise;
  - 4) seek public recognition of a broad range of skilled services that chartered accountants or diplomate accountants and accounting technicians can provide;
  - 5) promote and protect the objectives and sustainability of the Institute and of the accounting profession;
  - 6) maintain the legitimate professional rights of members of the Institute;
  - 7) advance the theory and practice of accountancy in all aspects;
  - 8) develop and maintain effective working relationships with Government and other national, regional and international accountancy bodies;
  - 9) keep abreast of international developments affecting the accounting profession;  
and
  - 10) protect the interests of its members.
- (j) to secure for the community within its sphere of influence the existence of a class of person well qualified to be employed in the responsible and difficult duties which increasingly devolve upon public accountants as a result of growth and development of industry and commerce and the increasing diversity and complexity of all forms of social and economic activity;
- (k) generally, to do and undertake and advise on all matters which may be expedient and in the interests of members and the general public in relation to matters of concern to the accountancy profession;
- (l) to provide for research into accounting, auditing, financial management and kindred matters and to provide members and the public with information on developments in professional thought and methods both within and outside Malawi;
- (m) to encourage and promote the study of the accountancy profession and arrange, provide, conduct and supervise professional examinations, education and training;
- (n) to promote the interests of the members by means other than the carrying on by the Institute of any trading or other profit-making activities or the participation by the Institute in any business, profession or occupation carried on by any of its members, or the provision

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to any of its members of financial assistance or of any premises or continuous services or facilities required by its members for the purpose of carrying on any business, profession or occupation;

- (o) to consider and pass comments on existing, proposed or impending legislation in Malawi affecting the accountancy profession or otherwise and to apply for, petition for, or promote any Act of Parliament or other legislative enactment desirable for the betterment or enhancement of the accountancy profession;
- (p) to provide opportunities for an exchange of views among members;
- (q) to implement steps to enable the accountancy profession as far as practicable to speak with one voice on matters of national or international importance affecting the profession;
- (r) to promote and develop on behalf of members a public relations organization designed to inform the general public about the accountancy profession and to give a proper appreciation of its functions and problems;
- (s) to co-operate at all times with the Malawi Accountants Board established under section 3 of the Public Accountants and Auditors Act (Cap. 53.06) and relevant establishments of learning including Universities and accountancy colleges on all matters affecting the accountancy profession;
- (t) to join international bodies representing the interests of the accountancy profession and international bodies representing education and examination assessments;
- (u) to publish, distribute and sell journals to members, trainee accountants, students of accountancy, members of other professions and interested members of the public and to publish, distribute and sell to any of those persons' books, pamphlets or other publications relating to the professional affairs of the Institute or of its members or relating to the accountancy profession;
- (v) to organise, as far as may be necessary, national and international congresses of accountants;
- (w) to provide courses for members, trainee accountants, students of accountancy, members of other professions and interested members of the public and to charge reasonable fees to persons attending such courses;
- (x) to co-operate with and, if necessary, assist financially by way of grant or otherwise, those educational institutions, branches and district societies which provide education and

training for persons wishing to qualify as certified public accountants or diplomate accountants;

- (y) to publish from time to time lists of members;
- (z) to assist and collaborate with representative bodies of professional institutes and associations outside Malawi in regard to the accountancy profession;
- (aa) to provide for the amicable settlement or adjustment of professional disputes, including disputes between members of the public which relate directly or indirectly to the accountancy profession;
- (bb) to maintain and to and to promote the status of the accountancy profession, to promote and safeguard the rights and interests of its members in all matters affecting the profession, to uphold and enforce among its members a high standard of efficiency and professional conduct in the interests of the public in general and to give concentrated expression to their opinions upon all questions and laws affecting the business of the profession;
- (cc) to hold conferences and meetings for the reading of papers and delivery of lectures and for the acquisition and dissemination by these and other means of information connected with the profession and to encourage the use of the recognised best methods of record-keeping, costing, accountancy, auditing, insolvency practices and investigations into the affairs of companies and other bodies whether constituted by statute or otherwise;
- (dd) to act as trustee for any benevolent or similar purpose for the benefit of members, including the administration of any prize funds which may be established for the promotion of these objects, and to contribute thereto;
- (ee) to purchase or lease, rent, hold or dispose of any fixed property to be used as an institute, or a college, lecture or reading rooms, or any other property, real or personal, for the advancement of the above objects, or any of them;
- (ff) to levy and receive registrations fees and subscription from members;
- (gg) to promote and join the any other body of accountants in promoting any Act of Parliament or Statutory Instrument with a view to the attainment of these objectives;
- (hh) to facilitate the Institute to be recognised in any country or place and to exercise any of the above objects or powers in any part of the world;



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- (ii) to nominate members as representatives to any other bodies having similar aims and objectives and to receive by invitation representatives from such other bodies;
  - (jj) to amalgamate or merge or enter into partnership with any companies, institutes, societies or associations having objects similar to those of the Institute;
  - (kk) to make and to alter Articles of Association to provide for the administration of the Institute and its funds, and to enforce the provisions of these objects, or any of them;
  - (ll) to borrow money from any financial institution registered in Malawi in order to better carry out any of the objectives of the Institute; and;
  - (mm) generally, to do such other things as may be incidental or conducive to the attaining of the above objects.
- 3) The income and property of the company shall be applied solely towards the promotion of the object of the company, and no portion thereof paid or transferred directly or indirectly to the members of the company except as may be permitted by law.
- 4) The liability of the members is limited.
- 5) Each member of the Institute undertakes to contribute to the assets of the Institute, in the event of its wound up while he is a member, or within one year afterwards, for payment of the debts and liabilities of the Institute contracted before he ceases to be a member and of the costs, charges and expenses of winding up and for the adjustment of the rights of the contributories among themselves, such amount as may be required not exceeding K100,000 (One Hundred Thousand Kwacha) and as may be review by the Council from time to time. Guarantors for the Institute shall be council members in service at each given point.
- 6) If upon the winding up or dissolution of the company there remains after the discharge of all its debts and liabilities any property of the company, such property shall not be distributed among the members but shall be transferred to some other company limited by guarantee having objects similar to the objects to the object of the company or applied to some charitable object, such other company or charity to be determined by an ordinary resolution of members in general meeting prior to the dissolution.

## ARTICLES OF ASSOCIATION OF THE INSTITUTE OF CHARTERED ACCOUNTANTS IN MALAWI

### Interpretation

1. In these Articles:

- (a) “the Accountants Act” means the Public Accountants and Auditors Act (Cap. 53:06 of the Laws of Malawi)
- (b) “the Act” means the Companies Act.
- (c) “the seal” means the common seal of the Institute
- (d) “secretary” means any person appointed to perform the duties of the secretary of the Institute.
- (e) “the Board” means the Malawi Accountants Board.
- (f) “colleges” means all other accredited colleges.
- (g) “good standing” means payment of all required fees, having no disciplinary issues over a period or at a material time, full compliance and acquisition of all CPD units.
- (h) “accountant” means a person who has the requisite skill and experience in establishing and maintaining accurate financial records and related services for an individual or an organization and is a member of an IFAC member body.
- (i) “auditor” means a person performing assurance services requiring expression of an opinion on a subject matter.
- (j) “membership” means being duly registered with the Institute and the Board as full member or diplomate or any category as may be established by the Council.

2. Unless the context otherwise requires, words or expressions contained in these Articles shall bear the same meaning as in the Act or any statutory modification thereof in force at the date at which these articles become binding on the Institute.

### Number of Members

3. The Institute, for the purposes of registration, is declared to consist of an unlimited number of members.

### Definition of Members

4. (i) Every person shall be deemed to have agreed to become a member of the Institute who is admitted to the membership thereof in accordance with these Articles.

(ii) The following shall be eligible to be non-full members or diplomate members of the Institute as may be called:

- a) those with the Institute Accounting Diploma or its equivalent accredited qualification or level of study of professional qualification;
- b) an accredited accounting degree or its equivalent; and
- c) affiliate members or those who have passed the final examinations of a professional accountancy body recognized by the Board.

5. A member in good standing shall be any individual admitted to full membership or diplomate membership in accordance with Articles 11 to 13 hereof and whose membership has not lapsed without restoration, whose subscriptions and registration fees collectible by the Institute are not in arrears and who is not currently under disciplinary sanction involving suspension of membership or, where applicable, of the right to carry on activity as a holder of a Certificate of Practice without restriction.

#### **Types and Qualifications for Membership**

6. Full Member: For enrollment and admission into full membership, the applicant for admission shall meet either a) and b) or b) and c) of the three eligibility criteria below:

- a) any applicant for admission being in possession of such professional qualification(s) and being a member in good standing of such professional accounting organisation as may from time to time expressly be designated or recognised by the Institute in the Institute's by-laws made in that specific respect;
- b) any person whom the Institute deems a fit and proper person for admission to membership;
- c) any person who has passed the Institute's final professional examination after successfully completing the appropriate course of study and training approved by the Council.

7. Diplomate Member: A person shall be eligible for diplomate membership of the Institute after successfully completing the appropriate course of study and training or if the person holds a qualification approved by the Council and by members of the Institute at a General Meeting from time to time.

8. Honorary Member: It shall be competent with the approval of an ordinary resolution of the Institute to appoint any person to be an Honorary Member of the Institute and not withstanding that such person may not be eligible under Article 6 or Article 7 to be admitted as

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a member of the Institute. An Honorary Member of the Institute shall not be liable or be called upon to pay any fee or sum on admission or to pay any annual subscription to the Institute. An Honorary member shall not by reason of such membership alone be qualified to be admitted as a member of the Institute, or be entitled to receive notice of, or to attend without invitation or to vote at any General Meeting of the Institute.

9. Non-resident membership: Any individual shall be eligible for non-resident membership of the Institute who is otherwise eligible for full membership in terms of Article 5 and is in partnership in Malawi with a holder of a Practising Certificate issued by the Institute and eligible himself in terms of Article 15 (a) and (b), or who is a citizen or permanent resident of Malawi and has been a full member or a diplomate member of the Institute in good standing for a period of at least one year prior to departure from Malawi and who remains in good standing with the Institute and with any foreign professional body of accountants of which he may be a member or registrant. A non-resident member shall be entitled to all rights, duties, obligations and sanctions applicable to membership except that he shall not be entitled to act as a member of the Council.
10. Student Members: All students registered by the Institute and studying for the technician examinations or professional examinations; or students undergoing the Institute's practical training scheme, shall be eligible to become student members of the Institute. Student members shall have the rights and obligations as stipulated by the Council from time to time.

### **Application for Membership**

11. Application for membership of the Institute shall be made to the Council in the prescribed form. Each applicant shall pay the admission fee and subscription for the year current in accordance with Article 20 and certify on the prescribed form that the information given by him therein is true and correct in every detail and shall undertake in the event of his admission to observe the provisions of these Articles, and any by-laws made by the Council from time to time.
12. Each applicant shall satisfy the Council in such manner as it may require that at the date of his application he is qualified for admission under Article 6 and that he is a fit and proper person to be admitted to membership.
13. The Council shall have full discretion to determine as to the admission of all applicants, on a case by case basis.

### **Restriction on Members**

14. No member shall engage in public practice in Malawi as an accountant or auditor or hold himself out or allow himself to be held out as an accountant or auditor in practice or use any

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designation or description calculated to create the impression that he is an accountant or auditor in public practice unless he has obtained a Certificate of Practice from the Institute.

15. a) A member shall not be eligible to engage in public practice as an accountant or auditor until he has obtained at least three years approved practical experience.
- b) Approved practical experience will be post-qualification experience approved by the Council and which has been obtained as an employee of a person approved for the purpose by the council, who is in public practice.
- c) No new Practising Certificate shall be granted to a member unless that member shall have taken and passed the most advanced examinations prescribed by the Institute from time to time, at the relevant date. For this purpose, the relevant date shall be the date at which the said examinations were actually taken and passed in the case of members admitted by satisfying the requirements of the Institute and a date not earlier than two years prior to the initial grant of a Practising Certificate in any other case.

### Addresses of Members

16. It shall be the duty of each member to inform the Secretary of any change of address (physical, postal, e-mail or mobile phone number), place or places of business or employment or if he begins or ceases to practice. It shall further be the duty of each member to supply the Council with any other information relative to his practice or employment, which the Council may reasonably require. If any member shall fail to give an address (physical, postal, e-mail or mobile phone number) he shall not be entitled to received notice of any of the General Meetings or other proceedings of the Institute, and no meeting or other proceeding shall be invalidated by reason of his not having received such notice.

### Admission Fees and subscriptions

17. Admission fees and subscriptions shall be payable to the Institute by all members at such rates as may be determined, from time to time, by the Institute in a General Meeting.
18. Fees payable by full members, diplomate accountant members and non-resident members in partnership with full members holding a Practising Certificate to the Malawi Accountants Board under the Act shall be collectible through the Institute where so specified in the Accountants Act and shall be regarded for the purposes of these Articles as though they were fees and subscriptions due to the Institute and collectible as such.
19. Before the first day of January in each year every member shall make a return to the Institute showing whether he is in public practice or not. The return shall be in such form as the Council may from time to time prescribe.

20. All subscriptions, other than subscriptions payable on admission, shall be payable before the first day of January in each year, on which day the financial year of the Institute shall commence.
21. In cases of exceptional hardship the Council may by resolution passed by three-fourths at least of those present as a meeting of the Council suspend or waive payment of the subscription payable by any member on such terms and for such period as in its sole discretion it may think fit.

### **Retirement from or forfeiture of Membership**

22. The privileges of a member shall not be transferable and shall cease on his death, but without prejudice to the rights of the Institute to claim from such person or his estate any subscription or other sums due from him to the Institute at the date of his death.
23. Any member may resign on giving notice to the Council but shall remain liable to pay any subscription or other sums due from him at the date of such notice.
24. A member shall cease to be a member in the event of his annual subscription or any other sum payable by him to the Institute being unpaid on the date on which such subscriptions or other sum or sums respectively become payable, but shall, nevertheless, be liable to pay the amount of such year's subscription and any other arrears of subscription or other sum due by him to the Institute, and shall be liable otherwise on the footing that his membership continued until the date when all such subscriptions, arrears and other sums were fully paid. In case of a person who has ceased to be a member under this Article or who has previously resigned, the Council may, in their discretion, by resolution passed by three-fourths at least of those present at a meeting of the Council, re-admit him to membership upon such conditions and terms as they may think fit.
25. Resignation, expulsion, cessation or suspension from membership shall not render any member or former member immune from proceedings of the Institute's Disciplinary Committee in respect of his action or omissions prior to or while being a member or suspended from membership.
26. If any member shall become bankrupt, or shall either individually or as a partner in a firm make or agree to make assignment for the benefit of his creditors, or shall take or attempt to take benefit of any statutory provisions for arrangement with his creditors, he shall cease to be a member, but the Council may, at its discretion, by resolution passed by three-fourths at least of those present at a meeting of the Council, re-admit him to membership upon such conditions and terms as they may think fit.

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27. Any person ceasing by death, resignation or otherwise, to be a member of the Institute shall not, nor shall his representatives, have any claim upon or interest in the funds of the Institute.

### Branches and district institutes

28. The Council may sanction the formation of branches and district institutes under the Institute, and may appoint representatives in any place, and may make regulations for the conduct of and determine the scope of the activities but shall not confer upon them any executive authority or financial control over the affairs or funds of the Institute other than the funds of the branch itself. The Council shall have power to dissolve any branch or district institute and remove any representative connected with such Institute.
29. Each branch, district Institute, and representatives shall submit reports to the Council at such periods as the Council may think fit.

### Council of Directors

30. The number of directors shall not be less than six nor more than fourteen, including ex-officio members and designated directors provided that not less than four of the directors not counting ex-officio and designated directors shall be members in the public practice, one shall be a diplomate member, one shall be a representative of institutions of higher learning and the least remaining directors must be full members of the Institute. Provided further that at all times persons occupying the following offices or their representatives shall be ex-officio members of the Council, that is to say:
  - (i) the Accountant General
  - (ii) The Auditor General
31. The first directors shall be appointed by the subscribers of the Institute's Memorandum of Association.
32. The directors shall constitute the Council which shall for all purposes be the governing body of the Institute and shall be elected by the Institute in a General Meeting.
33. At the first meeting of the Council after such General Meeting of the Institute, the members of the Council then present shall choose one of the full members of their number to act as President and another to act as Vice President, until the close of the next Annual General Meeting, and any casual vacancy in these offices shall be filled up for the current year in like manner at the next meeting of the Council after the occurrence of such vacancy. Special notice of such meeting and the existence of any such vacancy shall be given to all the members of the Council.

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34. The Council and its members may act and exercise all their respective powers at any time notwithstanding that for the time being there may be for any reason less than one-half of its members in public practice or employed by members in public practice.
35. The Council shall have power to invite any person to attend a meeting of the Council and address the Council at that meeting on any particular issue that the Council may deem necessary but such person shall not have power to vote at the meeting.

### Election of Directors

36. At the Annual General Meeting in every year members of the Council who have served maximum number of years for a term in office shall retire from office, and the Meeting may re-elect them, or elect other members to fill their places but so that the ratios in Article 30 shall not be breached. Members may be elected into Council for a maximum period of two terms of three years each. A retiring member of the Council shall retain office until the dissolution of the meeting at which he retires. A member may have consecutive terms or terms with breaks in between, and in any lifetime of any member, they will serve in a maximum of cumulative of six years.
37. As between two or more persons who have been members of the Council on equal length of time, both or all of them shall retire and may present themselves for re-election. The length of time a person has been a member of the Council shall be computed from his last election, or appointment if he has previously vacated office. Wherever any question arises as to the retirement rotation of any member of the Council, it shall be decided by the Council.
38. A member shall not be qualified to be elected a member of the Council unless notice in writing be given to the Secretary not later than sixty days before the day for the election, by six members not having been members of the Council since the date of the last Annual General Meeting, qualified to vote for such election, of their desire to propose such person for election. A statement under the hand of the person proposed for election of his willingness to be elected a member of the Council must accompany the notice provided that the Governance and Nomination Committee have vetted and given no objection for the member to compete for a seat at the Council.
39. The members for the time being of the Council at any time may act notwithstanding any vacancy in the Council: Provided always that in case the members shall at any time be reduced in number to less than six or if the required proportion of full members be not maintained it shall be lawful for the members for the time being of the Council to act as such in emergencies or for the purpose of filling up vacancies in the Council or the summoning a General Meeting of the Institute, but not for any other purpose.



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40. Any casual vacancy among the members of the Council may be filled up by the Council by the appointment of a qualified person to fill the same, and the Council may at any time appoint any qualified person to be an additional member of the Council provided that the number of members of the Council shall not at any time exceed the maximum number fixed by these Articles but any person so appointed shall retain his office only until the next following Annual General Meeting of the Institute, and shall then retire but be eligible for election.

### Resignation and Removal of Directors

41. A member of the Council other than the ex-officio members may be removed from office following the procedure prescribed for the removal of a director of a company in the Companies Act (Cap.46.03). The Institute may appoint another duly qualified person to be a member of the Council in the place of any person so removed but so that the ratio of members in public practice to members not in public practice, and of full members to diplomate accountant members, shall be maintained.
42. Every member of the Council shall vacate his office on ceasing to be a member of the Institute, or being suspended for any period from membership of the Institute, or being censured by the Disciplinary Committee, or being found a lunatic, or becoming of unsound mind or being found incapable of managing his affairs or being bankrupt, or having made an arrangement with his creditors or being found guilty by any court of competent jurisdiction of an offence involving a breach of trust.
43. Any member of the Council who fails to attend meetings of the Council for three consecutive meetings without resolution granting leave of absence from the Council prior to the third such meeting shall vacate his office at the conclusion of the third such meeting.
44. Any member who fails to attend a majority of meetings of the Council held in any one year shall ipso facto vacate his office at the conclusion of that year but shall be eligible for re-election in like manner as any other full member or diplomate member.
45. A member of the Council may at any time give notice in writing to the Council of his wish to resign from the Council, and on the receipt of his resignation by the Council, but not before, his office shall be vacant. A member of the Council who shall resign under this Article shall not thereby be disqualified from being at any time thereafter re-elected.

### Duties and Powers of the Council

46. The Council shall, subject to the provisions of the Accountants Act, the Memorandum and these Articles and to any regulations from time to time made by the Institute in General Meeting, but not so as to render invalid any prior act of the Council which would have been

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valid if such regulation had not been made, make by-laws for the regulation of the Institute and its affairs;

- a) conduct and manage all the business and affairs of the Institute;
- b) exercise all the powers, authorities and discretions of the Institute;
- c) obtain or oppose applications by others for all such concessions, grants, and legislative acts and authorisations from any government or authority;
- d) enter into such contracts and do all such acts and things as may be obtained, entered into or done by the Institute, except only such of them as under these Articles or the Statutes for the time being in force are expressly directed or required to be exercised, obtained, entered into or done by the Institute in General Meeting.

### Indemnities

47. No act done by the Council, including any act which may prove to be *ultra vires* the Council but which the Institute in General Meeting might validly have done or sanctioned, which shall receive the express or implied sanction of the Institute in General Meeting, shall be afterwards impeached by a member of the Institute on any ground whatsoever, but shall be deemed to be an act of the Institute.
48. The members of the Council, members of the Committees, Secretary, and other officers, shall be indemnified by the Institute from all losses and expenses justifiably incurred by them in or about the discharge of their respective duties and no member of the Council or of a Committee, or any officer shall be liable for any other member of the Council or of such Committee, or officer or for joining in any receipt or other act for conformity, or for any loss or expense happening to the Institute or any other person arising out of acts or proceedings of the Institute or the Council or any Committee.

### Committees

49. The Council may appoint a Committee or Committees, who shall have authority, subject to the directions of and in accordance with principles laid down from time to time by the council, to exercise all or any of the powers of the council. A Committee may from time to time elect a Chairperson of such Committee for a year or for any less period.
50. The Council may appoint to any Committee any person who in its opinion may be specially qualified to assist such Committee in its deliberations.
51. The Council may from time to time revoke all or any of the powers delegated to any committee and discharge any Committee in whole or in part.
52. Any casual vacancy in any such Committee may be filled up by the Council by appointment of another person who shall in all respects stand in the place of his predecessor. The continuing

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members of such Committee or Committees may act notwithstanding any vacancy or vacancies in respective Committees, provided always that the number of members has not fallen below any minimum fixed number.

53. Without prejudice to the powers of the Council under these Articles every Committee appointed other than ad hoc Committees shall remain in office until the first meeting of the Council after the next Annual General Meeting following the appointment thereof.
54. The Council, at the meeting at which any Committee ceases to remain in office, may appoint a new Committee, and may re-appoint all or any of the members of the previous Committee. If no appointment of a new Committee shall be made the Committee retiring shall, unless otherwise determined by the Council, remain in office until a new Committee is appointed by the Council, which may be done at any meeting of the Council.
55. The number of members of any Committee having power to authorise any expenditure shall not be less than four, and the quorum for a meeting of any such Committee shall be three members personally present. The number of members and the quorum for a meeting of any other Committee shall, subject to the express provisions of these Articles with reference to the Disciplinary Committee, be fixed by the Council.

### **Proceedings of Council and Committees**

56. The Council shall hold at least four meetings in every year. Subject thereto meetings of the Council and Committees shall be held at such times as the members of the Council or Committee respectively shall think fit.
57. All meetings of the members of Council and Committees shall be held at such place as the Council or Committee shall from time to time appoint.
58. A meeting of the Council or of a Committee shall at any time be called by the Secretary at the request of the President, or three members of the Council or Committee, as the case may be by giving at least seven days' notice to the members of the Council or Committee as the case may be or at the shortest notice at which a quorum can be secured in the event of a matter in the nature of an emergency arising.
59. The Council may determine the quorum necessary for the transaction of business by the Council. Unless otherwise determined three members of the Council shall constitute a quorum.
60. A meeting of the Council or of a Committee may adjourn at pleasure, for such time and to such place as the members of the Council or Committee present may determine.

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61. At all meetings of the Council the President, or in his absence the Vice President, shall be Chairperson, and in the absence of both a Chairperson shall be elected from amongst those present.
62. Except as otherwise provided by these Articles, every question at a meeting of the Council shall be determined by a majority of the votes of the members of the Council present, every member of the Council having one vote.
63. Minutes of the proceedings of every meeting of the Council and of every Committee and of the attendance of the members thereof respectively shall be recorded by the Secretary in records kept for that purpose, and be signed by the Chairperson of the meeting at which they are adopted. The minutes of all Committees shall be reported to the next meeting of the Council.
64. Every such minute, when so recorded and signed, in the absence of proof of error therein, shall be considered a correct and an original proceeding.
65. Whenever a Committee does any act which the Council is authorised by these Articles to do, such Committee shall do such an act in a delegated capacity, and the authority to proceed with such an act shall rest with the Council and the Committee shall only recommend an action to the Council for approval to proceed with the action and the Committee shall proceed on such basis.
66. All acts done by any meeting of the Council, or of any Committee of the Council, or by any member of the Council, shall notwithstanding that it shall afterwards be discovered that there was some defect in the appointment of any such Council, Committee of the Council or member of the Council, or that they or any of them were not qualified at the time of their appointment, or had become disqualified, be as valid as if such Council, Committee of the Council or member of the Council had been duly appointed and was qualified to act.

### **Disciplinary Committee**

67. A Disciplinary Committee, which shall consist of seven members, shall be formed with the powers and for the purposes mentioned in the by-laws. Members of the Disciplinary Committee shall be elected by ballot by the Council. At a meeting of the Disciplinary Committee, four members shall constitute a quorum.
68. All vacancies from time to time occurring in the Disciplinary Committee shall be filled by the Council but the Disciplinary Committee may act notwithstanding any vacancy, provided that the number has not fallen below the minimum authorised number for a quorum.
69. The Disciplinary Committee shall meet at such times and in such places as it may from time to time determine. Minutes shall be kept of all proceedings of the Disciplinary Committee.

70. The Disciplinary Committee may suspend any member, who is proved, to the satisfaction of the Committee, to have been guilty of any act, or conduct discreditable to a member or the profession, from the exercise of all rights and privileges as a member during such period as it may think fit, not extending beyond two years; and require the member to pay costs for determining his/her case; or require the member to pay a fine; or censure the member; or impose any penalty as outlined in an approved Code of Ethics, for any act or conduct which shall, in its opinion render censure, the payment of costs or fine, or the imposition of any penalty, necessary or expedient: Provided that the member whose act or conduct is under consideration shall have been given proper opportunity of being heard by the Committee, and that at least five members of the Committee present at the meeting at which the suspension or censure shall be resolved upon shall consent thereto.
71. If any member shall, in the opinion of the Disciplinary Committee, be guilty or if any member shall either before or after his admission to the Institute, be accused of discreditable conduct, or of any act or conduct which would, in the absence of satisfactory explanation, be derogatory to the Institute, or render him unfit to remain a member, then the Disciplinary Committee shall send to such member at his last registered address, by hand or through the Post Office or through electronic means a statement in writing of the act or conduct imputed to him and shall afford him an opportunity of giving an explanation personally or in writing, as he may elect.
72. If on consideration of such explanation or, in the absence of any explanation, the Disciplinary Committee shall be of opinion that such member ought to be excluded from membership of the Institute, it shall state its opinion in the form of a report to be laid before the Council.
73. On any report being laid before the Council by the Disciplinary Committee recommending the exclusion of a member, a special meeting of the Council shall be convened of which meeting at least seven days' notice shall be sent to such member at his last registered address, and at which he shall be entitled and shall be given a proper opportunity to attend and be heard and such member may, by resolution passed by two-thirds at least of the members of the Council present at such special meeting, be excluded from membership of the Institute, or otherwise dealt with as the Council may think fit, but such decision may at any time be revoked or modified by the Council at a like meeting by such majority as aforesaid, subject to such terms and conditions, if any, as the Council in its discretion may deem fit.
74. In the event of the suspension of a member every certificate of membership of practice then held by him shall be delivered up by him to the Secretary, in the case of suspension to be retained during the period of suspension, or in the case of exclusion to be cancelled.
75. The Disciplinary Committee shall also be empowered to consider allegations or acts or conduct which would render any party undergoing approved practical training under a training contract with a full member of the Institute unfit to become a member of the Institute and, if it finds the allegations to be correct and proven, to order the cancellation of the

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trainee's contract. The procedure to be adopted by the Disciplinary Committee and the Council in considering such allegations shall be as detailed in Article 72, 73 and 74 of these Articles.

76. The provisions in these Articles contained relating to Committees generally shall apply to the Disciplinary Committee, except in so far as they may be inconsistent or inapplicable by reason of the express provisions relating to the Disciplinary Committee.
77. Where the Institute has found that a member contravened any disciplinary rules as provided for in the By-laws and has been disciplined, the Institute shall report that fact to the Board in writing within fourteen days and shall provide the Board with information regarding the case.
78. A member who has been disciplined shall have the right to appeal to the Board per section 37 and 38 of the Accountants Act.

### Examinations Committee

79. (a) An Examinations Committee shall be formed with the powers and for the purposes mentioned in the by-laws.
- (b) The composition of the Examinations Committee shall be as follows:-
- (i) four members of the Council one of whom shall be the Chairperson;
  - (ii) a representative of the Ministry of Finance;
  - (iii) a representative of the Ministry of Education;
  - (iv) a representative of the Malawi National Examinations Board;
- (c) At a meeting of the Examinations Committee, any four members shall constitute a quorum.
80. Any vacancy occurring from time to time in the Examinations Committee shall be filled by a person appointed in accordance with Article 79 (b).
81. The examinations Committee shall meet at such times and in places as it may from time to time determine and minutes shall be kept of all proceedings of the Examinations Committee.
82. The provisions contained in these Articles relating to Committees generally shall apply to the Examinations Committee, except in so far as they may be inconsistent or inapplicable by reason of the express provisions relating to the Examinations Committee.

### Secretary

83. There shall be a Secretary of the Institute who shall be appointed by the Council and the Secretary shall, under the control of the Council and Committees, conduct all the correspondence of the Institute and of the Council, and of the Committees, attend all their meetings, keep a correct record of their proceedings, and see that the applications for admissions and the recommendations accompanying the same are in the form prescribed, and that all notices required by these Articles are duly sent. The Secretary shall receive such remuneration as the Council shall from time to time determine.

### Audit

84. Auditors shall be appointed and their duties and powers regulated in accordance with the Companies Act (Cap 46:03) and the Accountants Act except that a member of the Institute shall not be disqualified from acting as auditor provided he is not a member of the Council or of a Committee involved with financial affairs of the Institute.

### Financial Provisions

85. The funds of the Institute, which shall consist of subscriptions by members, subscriptions by students and examination fees, grants, subsidies, bequests, donations and gifts from the Government or any other person, shall be applied in the first place in defraying current expenses and for such other purposes as the council shall from time to time think expedient with a view to the promotion of the objects of the Institute or any of them. The administration of the funds shall be subject to the general direction of the Council.

86. No person, except the Council and Committees, and persons duly authorised by them and acting within the limits of the authority so conferred, shall have authority to give receipts for moneys or otherwise, or to sign any cheque, or to enter into any contract, so as thereby to impose any liability on the Institute or otherwise to pledge the credit of the Institute.

### Accounts

87. The Council shall cause proper books of account to be kept with respect to all sums of money received and expended by the Institute.

88. The Council shall lay before each Annual General Meeting a report of its proceedings and financial statements for the previous year.

89. A copy of every statement of financial position which is to be laid before the Institute in General Meeting together with a copy of the Auditors' Report shall, not less than twenty-one

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days before the date of the meeting, be sent to all persons entitled to receive notices of General Meetings of the Institute.

90. Every account of the Institute when audited and approved by a General Meeting, shall be conclusive. Any errors discovered therein after the approval thereof shall be adjusted in the next financial period.

### Investment of Moneys

91. All moneys of the Institute not immediately required for any payment to be made by the Institute may be invested by the Council in such manner as the Council may from time to time think proper, in any form of investment for the time being authorised for the investment of funds, and the Council may from time to time vary or realise such investments as they deem expedient.

### General Meetings

92. The first general meeting shall be held at such time, not being less than one month nor more than three months after incorporation of the Institute, and at such place, as the Council may determine.
93. A general meeting shall be held once every year at such time, not being more than fifteen months after the holding of the last preceding general meeting and place, as the Council may appoint. The business of such meetings shall be for the election of members of the Council and an Auditor, or Auditors, for the following year, for fixing the remuneration of the Auditors and for the receiving the statement of financial position and the income and expenditure account for the past year with Auditors' certificate and report, and also a report from the Council on the past year's transactions and accounts, as well as for the discussion of questions incidental to the profession. All business other than the above to be transacted at an Annual General Meeting and all business to be transacted at an Extraordinary General Meeting shall be deemed special business. In default of a General Meeting being so held, a General Meeting shall be held in the month next following, and may be convened by any two full members in the same manner as nearly as possible as that in which meetings are to be convened by the Council.
94. It shall be competent for members to tender to the Council written papers on such questions as are incidental to the profession, and if the Council thinks fit, such papers may be read and discussed at an Annual General Meeting.
95. All General Meetings other than the Annual General Meetings shall be called Extraordinary General Meetings.



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96. Any member wishing to bring any motion before the Annual General Meeting shall give notice of such motion to the Council not later than fourteen days prior to the meeting, and no such motion shall come before the meeting unless such notice has been given or unless the Council shall see fit to dispense with this Article in any particular case.
97. The Secretary shall, in the case of the Annual General Meeting, send to every member at his registered place of address, with the notice of the meeting, a statement of attendances of members of the Council during the preceding year, and a copy of any motion of which notice has been given. The Secretary may also serve any notice in any electronic form including through a member's email address or through the Institute's website.
98. The Council may, whenever it thinks fit, and shall, on a requisition made in writing by any group consisting of not less than one-tenth of the members, subject to a minimum of five requisitionists, convene an Extraordinary General Meeting.
99. Any requisitions made by members must state the object of the meeting proposed to be called, and must be signed by the requisitionists and deposited at the registered office of the Institute.
100. On receipt of the requisition the Council shall forthwith proceed to convene a general meeting: If it does not proceed to cause a meeting to be held within twenty-eight days from the date of requisitions being so deposited, the requisitionists may themselves convene a meeting.

### **Proceedings at General Meetings**

101. Not less than twenty-one days' notice of every General Meeting, specifying the place, the day and hour of the meeting, and in case of special business, the general nature of such business, shall be given to the members subject as and in manner hereinafter mentioned, but the accidental omission to give any notice to or the non-receipt of any notice by any member, whether by reason of his not having any registered address in Malawi or otherwise, shall not invalidate the proceedings of any meeting.
102. At all General Meetings the President of the Council for the time being, and in his absence the Vice President of the Council, shall be Chairperson and in the absence of both, the Chairperson shall be one of the full members of the Council elected by the members of the Council present. In case none of the full members of the Council shall be present or willing to take the chair, the Chairperson shall be elected by the full members present from among themselves.
103. Seven full members present personally or virtually, shall constitute a quorum, and unless the quorum requisite shall be present at any General Meeting within half an hour after the time appointed for the meeting, the meeting shall (unless convened on the requisition of

members) stand adjourned for a fortnight, and be then held at the same time and place, and the business on the agenda paper, but no other, shall then be disposed of by the full members present in person or proxy, who shall constitute a quorum. Unless a quorum be present at any General Meeting convened on the requisition of members within half an hour after the time appointed for the meeting, the meeting shall be dissolved.

104. The Chairperson of any meeting may, with the consent of any meeting adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. No notice need be given of any meeting unless it is so directed in the resolution for the adjournment.
105. The first business at every General Meeting after the chair is taken shall be the consideration of the minutes of the last General Meeting, and they shall on being found or made correct, be signed by the Chairperson of the meeting at which they are considered.
106. Subject to a poll demanded, as hereinafter mentioned, every question to be decided by any General Meeting, unless resolved on without dissent or unless otherwise prescribed by these Articles, shall be decided by a majority of the votes of the members personally present thereat, and qualified according to these Articles to vote, by way of show of hands.
107. At any General Meeting, unless a poll on any resolution thereof be demanded by at least three full members immediately on declaration by the Chairperson of the meeting of the result of the show of hands thereon, a declaration by the Chairperson that a resolution has been carried by a particular majority, or lost, or not carried by a particular majority, an entry to that effect in the minutes of the proceedings of the meeting shall be conclusive evidence of the fact so declared, without proof of the number or proportion of the votes given for or against the resolution. Provided always that no poll shall be taken as to the election of a Chairperson, or the appointment of scrutineers, or on a question of adjournment and that notwithstanding a demand for a poll the meeting shall continue for the transaction of business other than the question in respect of which a poll has been demanded. The members demanding a poll may nominate three members to act as scrutineers on their behalf.
108. On a poll being demanded in manner aforesaid, it shall be taken at such time, either at the meeting at which the poll is demanded or within fourteen days after the said meeting and place and in such manner as the Chairperson shall direct and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded
109. In case of equality of votes either on a show of hands or at the poll the Chairperson of the meeting at which the show of hands takes place or at which the poll is demanded as the case may be shall be entitled to a further or casting vote.

**Voting at General Meeting**

- 110. Every full member as described in Article 6 other than diplomates and any other lower membership category as may be established, shall have one vote at every General Meeting, whether on a show of hands or on a poll, physical or electronic.
- 111. A member qualified to vote, being personally present at any General Meeting, may decline to vote on any question before the meeting, but shall not by so declining be considered absent from the meeting, nor shall his presence invalidate any proxy duly given by him, except as regards any question on which he may vote in person.
- 112. A member entitled to vote may from time to time appoint as his proxy any other member who is qualified to vote.
- 113. Every instrument of proxy shall be in writing according to the following form, or as near thereto as circumstances will admit, and shall be signed by the appointor or his attorney and deposited with the Secretary together with the power of attorney, if any, under which it is signed at least forty –eight hours before the time for holding the General Meeting or adjourned meeting at which it is to be acted on.

I, ..... a full member of the Institute of Chartered Accountants in Malawi hereby appoint the Chairperson of the meeting, or in his absence (E.F)\* both full members of the Institute, to act as my proxy at the General Meeting of the Institute, to be held on the ..... day of .....20....., and at every adjournment thereof.

Dated this ..... day of .....20 .....

Signed

\*delete as appropriate

- 114. No member shall be entitled to be present or to vote, either personally, or by proxy, at any General Meeting, or upon a poll, or to be reckoned in a quorum, who is in arrears with any subscription or sum payable by him to the Institute.
- 115. No objection shall be made to the validity of any vote except at the meeting or poll at which such vote shall be tendered, and every vote not disallowed at such meeting or poll shall be valid. The Chairperson at the meeting shall be the sole and absolute judge of the validity of every vote tendered at any meeting or poll.

### Minutes of General Meetings

116. Every entry in the minute book of the proceedings of General Meetings purporting to be entered and signed according to these Articles shall, in the absence of proof to the contrary, be deemed to be a correct record and an original proceeding of the Institute accordingly; and in every case the burden of proof of error shall be on the person making any objection to the entry.

### By-Laws

117. The Council shall have power to make by-laws and any by-laws so made may be amended by the Council from time to time.

118. All by-laws so made and for the time being in force shall be binding on all members and shall have full effect accordingly.

119. No by-laws made by the Council or any Committee shall operate so as to abrogate, modify or vary any provisions contained in these Articles, and in case of any conflict or inconsistency between any by-laws so made as aforesaid and these Articles such by-laws shall be inoperative and void to the extent of such conflict or inconsistency.

120. Any by-laws purporting to make provision for anything which under these Articles should be provided for by resolution of the Institute in a General Meeting shall be inoperative and void to the extent of the provisions purporting to be so made.

### Notices

121. All notices required by these Articles to be given to members shall, unless personally served, be given to the members having registered places of address by sending letters to such addresses through the post.

122. As regards any member who has no registered place of address, a notice posted in the Registered Office of the Institute shall be deemed to be well served on him at the expiration of twenty-four hours after it is posted.

123. All notices shall be signed by, or have printed at the foot thereof, the name of the Secretary, or such other person in his place as the Council shall appoint, except in the case of a meeting convened by members in accordance with these Articles, and in that case shall be signed by, or have printed at the foot the names of, the members convening the same.

124. Any such notice sent through the post or by courier to the registered address of any member shall be deemed to have been served on him seven days thereafter and where the notice is

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sent by facsimile service or by electronic mail, the notice shall be deemed to have been served if there is a record of successful transmission.

125. When a given number of days' notice or notices extending over any other period is required to be given, the day of service shall, unless it is otherwise provided be counted in such number of days or other period.

### Electronic Service

126. The above provisions notwithstanding, the Institute shall alternatively serve any notice in any electronic form including through a member's email address or through the Institute's website.

### The Seal

127. The seal of the Institute shall not be affixed to any instrument except by the authority of a resolution of the Council, specifying the Council members appointed to sign the instrument to which the seal is to be affixed.

### Winding Up

128. If upon the winding up of the Institute there remains after the satisfaction of all its debts and liabilities any property or cash whatsoever the same shall not be paid or distributed among the members of the Institute but shall be given or transferred to some other Institute or association having objects similar to the objects of the Institute or to a charity to be determined by the members at or before the time of winding up.

----END OF MEMARTS----