

Wireless Access Providers' Association Constitution

Version 4

Adopted at AGM on 26 March 2024

1. Name

- 1.1. The Association hereby constituted will be called "**The Wireless Access Providers' Association**".
- 1.2. Its shortened name and official abbreviation will be "**WAPA**".

2. Interpretation

- 2.1. In this Constitution the following terms and phrases shall have the meanings attributed to them below:

" Association "	means WAPA;
" Constitution "	means the last adopted version of this document;
" ECA "	means the Electronic Communications Act, No. 36 of 2005;
" ECS "	means electronic communications service as contemplated by the ECA;
" ECNS "	means electronic communications network service as contemplated by the ECA;
" wireless access provider "	means a person who provides either wholesale or retail ECS or ECNS utilising either licensed or licence exempt radio frequency spectrum and "wireless access" shall be construed accordingly;
" wireless access services "	means the retail and wholesale services provided by a wireless access provider;

- 2.2. Clause headings have been inserted for convenience and shall not be considered in the interpretation of this Constitution.
- 2.3. Any reference to:
 - 2.3.1. the singular shall include the plural and *vice versa*;
 - 2.3.2. natural persons includes legal persons and *vice versa*;
 - 2.3.3. a gender includes the other genders.

3. Body Corporate

- 3.1. The Association shall be a juristic entity which shall:
 - 3.1.1. exist in its own right, separately from its members.
 - 3.1.2. continue to exist even when its membership changes and there are different office bearers.
 - 3.1.3. be capable of owning and disposing of property and other possessions and dealing with same.
 - 3.1.4. be capable of acquiring rights and incurring obligations.
 - 3.1.5. be able to sue and be sued in its own name.

4. Objectives

- 4.1. The Association is an industry-representative body for the wireless access provider industry (“the industry”) and operates as an independent non-profit organisation registered under the Non-Profit Organisations Act, No. 71 of 1997.
- 4.2. The Association’s main objectives are to
 - 4.2.1. provide a forum for the promotion and furthering of the interests of the industry and its members;
 - 4.2.2. provide a vehicle for active co-operation and dispute resolution within the industry;
 - 4.2.3. create and maintain a Code of Conduct and to promote ethical consumer practices; and,
 - 4.2.4. co-ordinate, regulate and enforce technical and legal standards relating to wireless access provision and in this regard to interact with the regulatory authorities, other licensees and stakeholders.
- 4.3. The Association’s secondary objectives will be to:
 - 4.3.1. develop technical capacity and expertise relating to the industry;
 - 4.3.2. provide regulatory advice and make submissions to relevant industry bodies; and
 - 4.3.3. register as an Industry Representative Body in terms of the Electronic Communications and Transactions Act, No. 25 of 2002.
- 4.4. The Association explicitly acknowledges the need to ensure compliance with competition law and regulation in seeking to promote lawful competition in the provision of wireless access services.

5. Income and Property

- 5.1. The Association will keep a record of its assets and liabilities.
- 5.2. The Association may not cede, assign or transfer any of its property to its members or office bearers.

- 5.3. Notwithstanding clause 5.2 above the Association may pay reasonable remuneration to any member or office bearer that has provided goods or services to the Association upon receipt of a valid invoice and subject to verification of the receipt of such goods or services.
- 5.3.1. A member of the Association will only be reimbursed by the Association in respect of reasonable expenses that she or he has paid for or on behalf of the Association.
- 5.3.2. The onus is on such member to obtain prior written approval for such expenditure from the Management Committee.
- 5.3.3. Where circumstances dictate that it is not possible to obtain prior approval for the incurring of reasonable expenses the member shall as soon as possible thereafter approach the Management Committee with full details of the expenditure and the reasons for which it was incurred.
- 5.4. Members or office bearers of the Association shall not have any rights in respect of the property of the Association.

6. Membership

- 6.1. Membership of the Association is open to wireless access providers operating within the boundaries of the Republic of South Africa as well as entities and institutions from related fields and disciplines which have completed the application form and paid the joining fee (if applicable) or followed such other application procedure as may be adopted by the Management Committee of the Association.
- 6.2. Acceptance or refusal of applications for membership is at the discretion of the Management Committee, although a decision to refuse membership must be accompanied by the reasons for that decision.
- 6.3. All new members will be considered to be Probationary Members for the first 3 (three) months of their membership or until they have confirmed compliance with the Association's Code of Conduct.
- 6.3.1. Probationary Members who are not compliant with the Association's Code of Conduct at the end of the 3 (three) month period may apply in writing, giving full reasons for their continuing non-compliance, for a further extension of 1 (one) month within which to attain compliance. The grant or refusal of such an extension shall be entirely within the discretion of the Management Committee. No more than 1 (one) application for extension will be granted per Probationary Member.
- 6.3.2. Probationary Members will be entitled to attend meetings of the Association but may not vote at such meetings or serve on the Management Committee or any working groups.

6.4. There shall be the following categories of membership:

6.4.1. Full Members

6.4.1.1. This category will include fully licensed or licence-exempt wireless access providers and the resellers of wireless access services who have confirmed compliance with the Association's Code of Conduct.

6.4.1.2. This category of members will be entitled to attend meetings of the Association.

6.4.1.3. This category of members will have voting rights at Association meetings, except for those Full Members who are exempt from paying membership fees.

6.4.1.4. Members in this category may be elected to the Management Committee and may serve on working groups constituted by the Management Committee.

6.4.2. Vendor Members:

6.4.2.1. This category will include vendors with an interest in selling products and services to the wireless access industry who have confirmed compliance with the Association's Code of Conduct.

6.4.2.2. This category of members will be entitled to attend meetings of the Association.

6.4.2.3. This category of members will have voting rights at Association meetings.

6.4.2.4. Members in this category may be elected to the Management Committee, but only a maximum of 2 such members may be elected to the Management Committee at any time. Members in this category may serve on working groups constituted by the Management Committee, but a working group cannot consist of only Vendor Members.

6.4.3. Associate Member: This category will include members not specifically catered for above and who have confirmed compliance with the Association's Code of Conduct, and shall include but not be limited to:

6.4.3.1. Non-profit organisations with an interest in the wireless access industry;

6.4.3.2. Research entities with an interest in the wireless access industry;

6.4.3.3. Government organisations with an interest in the wireless access industry;

6.4.3.4. Other industry associations.

6.4.3.5. This category of members will be entitled to attend meetings of the Association.

- 6.4.3.6. This category of members will not have voting rights at Association meetings.
- 6.4.3.7. Members in this category may not be elected to the Management Committee, however they may serve on working groups constituted by the Management Committee, but a working group cannot consist of only Associate Members.
- 6.4.3.8. The Management Committee shall have the authority to consider applications for membership from persons who provide wireless access services or have an interest in such services in other countries. If accepted, such members shall be considered to be Associate Members.
- 6.5. Membership fees pertaining to the different categories of membership and the date and method by which such fees shall be paid shall be determined and published by the Management Committee. If any formal objections to any changes to the membership fees are received, it will be put to a vote of the members at a General Meeting.
- 6.6. No member whose membership fees have not been paid on the due date will be regarded as being in good standing with the Association and they shall not be entitled to vote or participate in the structures of the Association until such time as membership fees are paid in full.
- 6.7. Notwithstanding the further provisions of the Association's Code of Conduct all members must ensure compliance with the requirements of the ECA and its regulations, to the extent that these apply to a given member, together with all other applicable laws of the Republic of South Africa.
- 6.8. The Management Committee shall be entitled to set and raise special levies for the purpose of funding specific activities for the benefit of the Association. If any formal objections to the raising of special levies are received, it will be put to a vote of the members at a General Meeting.
- 6.9. The Management Committee shall be authorised, at its discretion, to revoke the membership of any member who fails to make payment of all due membership fees within a period of 90 calendar days of the due date set for the payment of such fees.
- 6.10. All categories of members of the Association have the right to attend the annual and other General Meetings of the Association and to participate in the discussion of the policy of the Association.
- 6.11. In addition to 6.7 above, a member's membership may be terminated in the following ways:

- 6.11.1. by a vote of 75% of the members at a General Meeting;
- 6.11.2. by the giving of written notice to this effect to the Management Committee by the relevant member;
- 6.11.3. at the discretion of the Management Committee where the member is found to be in breach of the Association's Code of Conduct at the completion of a disciplinary process.
- 6.11.4. Notwithstanding the reasons for such termination all membership fees and other amounts paid by a member shall be forfeit to the Association upon termination of membership.

7. Management

- 7.1. The Management Committee of the Association will undertake the day-to-day management of the Association and shall report thereon to the Association at General Meetings of the Association.
- 7.2. The Management Committee will be made up of not less than 5 members, elected by the membership of the Association at the Annual General Meeting, who will be the office bearers of the Association.
- 7.3. Members of the Management Committee will be elected in their personal capacities and not as representatives of any member organisation of the Association.
- 7.4. The Management Committee shall elect or appoint the following office bearers:
 - 7.4.1. A **Chairperson**, who shall preside at meetings and enforce compliance with this Constitution, sign minutes after their confirmation, and perform such duties generally accepted as pertaining to the office of a Chairperson.
 - 7.4.1.1. If the Chairperson does not attend a meeting, then members of the Management Committee who are present shall, prior to the commencement of the meeting, elect 1 of their number as Chairperson for the purposes of such meeting.
 - 7.4.2. A **Chief Executive Officer**, who shall at the direction of the Management Committee, undertake the performance of all financial and administrative functions in pursuit of the Association's objectives as outlined in this Constitution and exercise any power which may otherwise be delegated to them by the Management Committee.
 - 7.4.3. A **Treasurer**, who shall be responsible for ensuring the proper management of the financial affairs of the Association including the proper collection, administration and disbursement of funds. The duties of the Treasurer shall further include:

- 7.4.3.1. maintaining the bank accounts and financial records of the Association; and
- 7.4.3.2. presenting final records and status to Management Committee and members.
- 7.4.4. An **Association Secretariat** who shall perform such duties as may be decided by the Management Committee.
- 7.4.5. The Association Secretariat shall not necessarily be constituted by members of the Association and the Management Committee shall be authorised to engage the services of a third party to perform the function of a Secretariat on a remunerated basis.
- 7.4.6. The duties of the Secretariat shall include:
 - 7.4.6.1. the drafting and sending of formal notices and correspondence on behalf of the Association including notices of meetings;
 - 7.4.6.2. the maintenance of the records of the Association;
 - 7.4.6.3. the taking of minutes and a register at all General and Management Committee meetings;
 - 7.4.6.4. the drafting and circulation of agendas for meetings.
- 7.5. The Management Committee shall be authorised but not obliged to co-opt additional members to the Management Committee as it sees fit in order to assist with specific activities. Such co-opted members shall not be deemed to be elected members of the Management Committee.
- 7.6. Office bearers will serve for a period of 1 year or until the next Annual General Meeting, whichever happens later, and may be re-elected in the same capacity for such further periods as the members see fit.
- 7.7. The Management Committee will meet at least once every 2 months.
- 7.8. When necessary the Management Committee will vote on issues. If the votes are equal on an issue, then the Chairperson has either a second or a deciding vote.
- 7.9. The Chairperson, or 2 members of the Management Committee, may call a special meeting on not less than 7 calendar days written notice to other members of the Management Committee. Such written notice must set out the proposed agenda for the meeting.
- 7.10. A quorum for a Management Committee meeting shall be constituted by the attendance of at least 60% of the members of the Management Committee being present.
- 7.11. Minutes will be taken at every meeting to record the Management Committee's decisions and shall be made available to members of the Association. The minutes of each meeting will be given to Management Committee members at least 2 weeks before the next

- meeting. The minutes shall be confirmed as a true record of proceedings, by the next meeting of the Management Committee, and shall thereafter be signed by the Chairperson.
- 7.12. The Management Committee has the right to form, mandate and dissolve sub-committees.
- 7.12.1. The Management Committee shall provide each sub-committee with a written mandate and statement of objectives. Such mandate and statement of objectives shall be open to the general membership.
- 7.12.2. Decisions taken by sub-committees must be communicated to the Management Committee in writing within 14 calendar days of being taken.
- 7.12.3. The Management Committee must either ratify or decline to ratify decisions taken by sub-committees at the next Management Committee meeting.
- 7.12.4. Sub-committees to be formed and mandated by the Management Committee must consist of at least 3 members and shall report back to the Management Committee on a regular basis.
- 7.12.5. The Management Committee shall appoint a chairperson for each sub-committee.
- 7.12.6. Members of the Management Committee shall be ex officio members of sub-committees.
- 7.13. Subject to any requirement set out in this Constitution requiring decisions to be approved by all members, all members of the Association have to abide by decisions that are taken by the Management Committee.
- 7.14. Where a member of the Management Committee vacates his or her position other than through the election of new office bearers, then the Management Committee is empowered to co-opt a replacement member who will remain in office until the next Annual General Meeting.
- 7.15. The members of the Association or the members of the Management Committee may propose a motion of no confidence in any member of the Management Committee. Where such motion is supported by at least 75% of the Management Committee then such member will be discharged from the Management Committee and a new office bearer may be elected by the members of the Association (which nomination and election can be done by email or other electronic means) for the period remaining until the next Annual General Meeting. Details of such discharge will be conveyed to the members following the discharge of the member of the Management Committee. The

members of the Management Committee may only follow this process a maximum of two times per term.

- 7.16. If a member of the Management Committee does not attend, either physically or virtually, 3 (three) Management Committee meetings in a row, without having applied for and obtaining leave of absence from the Management Committee, then such member will be regarded as having resigned and the Management Committee is empowered to co-opt a replacement member who will remain in office until the next Annual General Meeting.

8. Conduct of Members of the Management Committee

- 8.1. Members of the Management Committee shall at all times when acting as such, act exclusively in the best interests of the Association and shall under no circumstances act in the furtherance of any personal, corporate or commercial interest.
- 8.2. Where a conflict of interest arises on the part of a member of the Management Committee, this shall be immediately declared in writing to the other members of the Management Committee. The remaining members of the Management Committee shall thereafter decide, in their sole discretion, as to the future conduct of the matter in which the conflict arises.
 - 8.2.1. For the purposes of this clause a conflict of interest shall be interpreted as a situation where, in the opinion of an objective third party, the corporate or personal financial or non-financial interests of a member of the Management Committee may affect the ability of such member to act impartially and in the exclusive best interests of the Association.
 - 8.2.2. Non-financial interests shall include but not be limited to personal associations and relationships, the giving and receipt of gifts and present or prospective business relationships.

9. Powers of the Association

- 9.1. Subject to applicable law and the provisions of this Constitution the Management Committee may take on the power and authority that it reasonably believes it needs to be able to achieve the Association's objectives.
- 9.2. Without limiting the generality of the foregoing, the Management Committee has the power and authority to:
 - 9.2.1. raise funds or to invite and receive contributions;
 - 9.2.2. generally administer the assets of the Association;
 - 9.2.3. buy, hire or exchange for any property that it needs to achieve its objectives;

- 9.2.4. make by-laws for proper management, including procedures for application, approval and termination of membership;
 - 9.2.5. form, mandate and dissolve sub-committees;
 - 9.2.6. issue press statements, commentary and endorsements on behalf of the Association;
 - 9.2.7. open and close bank accounts at registered commercial banks in South Africa on behalf of the Association;
 - 9.2.8. negotiate and accept offers from members or third parties to pay for special projects for the benefit of the Association.
- 9.3. The Association will decide on the further powers and functions of office bearers.

10. Annual and other General Meetings

- 10.1. The Annual General Meeting (AGM) must be held once every financial year.
- 10.2. The Association should deal with the following items of business, amongst others, at its AGM
- 10.2.1. Agree to the items to be discussed on the agenda.
 - 10.2.2. Take a register and note apologies.
 - 10.2.3. Read and confirm the previous General Meeting's minutes with matters arising.
 - 10.2.4. Chairperson's report.
 - 10.2.5. Treasurer's report.
 - 10.2.6. Changes to the Constitution.
 - 10.2.7. Elect new office bearers.
 - 10.2.8. General matters.
- 10.3. The Management Committee shall give written notice of the date, time and venue of the AGM to all members of the Association in good standing not less than 1 calendar month prior to the date of the meeting.
- 10.3.1. Such notice shall provide details of items placed on the agenda and shall provide for a period of 7 calendar days within which members may submit further items for such agenda.
 - 10.3.2. The Management Committee shall, not later than 14 calendar days prior to the date of the meeting, send out full particulars of the final agenda for the AGM to all members of the Association in good standing.
- 10.4. The Management Committee shall be entitled to call a Special General Meeting (SGM) of the Association at any time subject to the giving of not less than 14 calendar days' written notice to the members of the Association.

10.4.1. The provisions of clause 10.3 shall apply, with the necessary amendments, to such SGM.

10.5. A quorum for General Meetings shall be at least one-third of members of the Association in good standing, who are present in person or via electronic communications link, or 10 members (whichever is the smaller number).

10.6. Any Association member unable to attend a meeting may authorise by written proxy another to represent it. Such written proxy must be delivered to the Secretariat not later than 3 calendar days before the relevant meeting.

10.7. All meetings of the Association shall be open to interested parties other than members at the discretion of the Management Committee.

11. Finance

11.1. An accounting officer shall be appointed by the Management Committee. His or her duty is to audit and check on the finances of the Association.

11.2. The Treasurer in consultation with the Management Committee will develop a financial policy to address their responsibility in terms of the financial management of the Association, dealing with the Association's finances and the management of the Association's funds by the Management Committee.

11.3. The financial year of the Association ends on 31 August.

11.4. The Association's accounting records and reports must be ready and handed to the Director of Nonprofit Associations within 6 months after the financial year end.

11.5. If the Association has funds that can be invested those funds may only be invested with registered financial institutions as contemplated variously by the Financial Institutions (Protection of Funds) Act, No. 28 of 2001 and the Financial Sector Regulations Act, No. 9 of 2017, alternatively the Association may invest in securities that are listed on a licensed stock exchange as set out in the Stock Exchanges Control Act, No. 40 of 2001.

12. Indemnity

12.1. The Association shall not be liable for the acts or omissions of its members in regard to the Code of Conduct.

13. Amendments to the Constitution

13.1. Constitutional amendments may only be effected through a Special Resolution agreed upon and passed by not less than two-thirds of the members who are present at the Annual General Meeting or Special General Meeting.

13.2. A quorum as set out in point 10.4 is required before a decision to change the Constitution is taken. Any Annual General Meeting may vote upon such a motion, if the details of the changes are set out in the notice referred to in point 10.2.

13.3. A written notice must go out not less than 14 calendar days before the meeting at which the changes to the Constitution are going to be proposed. The notice must indicate the proposed changes to the Constitution that will be discussed at the meeting.

13.4. No amendments may be made which would have the effect of making the Association cease to exist.

14. Dissolution/Winding-up

14.1. The Association may close down if at least 75% of the members of the Association voting at a Special General Meeting convened for the purpose of considering such matter, are in favour of closing down.

14.2. On the dissolution of the Association and after liquidation of all debts and obligations any remaining assets, including cash, shall be transferred to the Universal Service and Access Fund or other association not for gain as is decided in the sole discretion of the Management Committee.

15. Acceptance

15.1. This Constitution was approved and accepted by members of The Wireless Access Providers' Association at the Annual General Meeting held on 26 March 2024.

16. Version History

Version	Date adopted	Date effective	Summary of revisions
1.0	17 November 2006	17 November 2006	
2.0	21 September 2011	21 September 2011	
2.1	11 September 2013	11 September 2013	
3	2 April 2014	2 April 2014	
4	26 March 2024	26 March 2024	