



**AS CONTEMPLATED IN SECTION 13(1) OF THE SKILLS DEVELOPMENT  
AMENDMENT ACT, ACT 26 OF 2011**

**CONSTITUTION**

of the

**CULTURE, ARTS, TOURISM, HOSPITALITY AND SPORTS  
SECTOR EDUCATION AND TRAINING  
AUTHORITY**

**“CATHSSETA”**

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## 1. DEFINITIONS

1.1 In this Constitution, words importing any one gender includes the other gender, the singular includes the plural and vice versa; natural persons include juristic persons and vice versa

1.2 Unless inconsistent with the context, the words and expressions set forth below shall bear the following meanings and cognate expressions shall bear corresponding meanings:

1.2.1. "Accounting Authority"	- means the Board of Directors of CATHSSETA duly appointed in terms of the Skills Development Act, its regulations read together with this Constitution;
1.2.2 "Alternate"	- means alternate member of the Board;
1.2.3 "the Board"	- means the Board of Directors of CATHSSETA appointed in terms of the Skills Development Act and its Regulations read with this Constitution;
1.2.4 "Business Day"	- means a day other than a Saturday, Sunday or public holiday in the Republic of South Africa;
1.2.5 "the CATHSSETA"	- means the Culture, Arts, Tourism, Hospitality and Sport Sector Education and Training Authority duly established in terms of the Skills Development Act;
1.2.6 "the Chairperson"	- means the Chairperson of the Board appointed from time to time;
1.2.7 "the Chief Executive Officer"	- means the chief executive officer of CATHSSETA appointed in terms of clause 6.10 herein below;
1.2.8 "Committee"	- means any permanent, ad hoc or sub-committee of the SETA established by the Accounting Authority in terms of this constitution;
1.2.9 "Constituency"	- means Organised Labour, Organised Employers, government departments, professional bodies, bargaining councils and organisations contemplated in section 11(2) of the Act and listed in Annexure 4;
1.2.10 "Constitution"	- means this Constitution of the CATHSSETA including the Annexures thereto;

<b>1.2.11</b> "Designated Groups"	- means black people, women and people with disabilities;
<b>1.2.12</b> "Executive Committee"	- means the Executive Committee established in terms of item 9;
<b>1.2.13</b> "Member"	- means a natural person appointed as a member of the Accounting Authority or any of its chambers or committees;
<b>1.2.14</b> "NQF Act"	- means the National Qualification Framework Act, 2008 (Act No. 67 of 2008);
<b>1.2.15</b> "NSA"	- means the National Skills Authority established in terms of section 4 of the Act;
<b>1.2.16</b> "NSDS"	- means the National Skills Development Strategy referred to in section 5(1)(a)(ii) of the Act;
<b>1.2.17</b> "Organised Employers"	- means any employers' organisation in the Sector registered in terms of the Labour Relations Act, 1995 (Act 66 of 1995) and any other association of employers in the Sector that represents the interests of its members as employers; and includes a State Department referred to in Schedule 1 of the Public Service Act, 1994 (Proclamation No. 103 of 1994), as an employer in that Sector;
<b>1.2.18</b> "Organised Labour"	- means any trade union or federation of trade unions in the Sector registered in terms of the Labour Relations Act, 1995 and any other association of employees in the Sector representing that represents the interests of its members as employees;
<b>1.2.19</b> "PFMA"	- means the Public Finance Management Act, 1999 (Act 1 of 1999);
<b>1.2.20</b> "SDLA"	- means the Skills Development Levies Act, 1999 (Act No. 9 1999);
<b>1.2.21</b> "Sector"	- means the Culture, Arts, Tourism, Hospitality & Sports Sector determined by the Minister in terms of section 9(2) of the Act;
<b>1.2.22</b> "SLA"	- means the service level agreement contemplated in section 10A of the Act;
<b>1.2.24</b> "the Act"	- means the Skills Development Act, 1998 (Act No. 97 of 1998);

<b>1.2.25. “SETA”</b>	- Means the Sector Education and Training Authority, established by the Minister in terms of Section 9(1) of the Act;
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**2. BACKGROUND AND PURPOSE OF CONSTITUTION**

- 2.1 The Act makes provision for the establishment or re-establishment of a SETAs for each national economic sector. The Minister determined the discrete Sector of the Culture, Arts, Tourism, Hospitality and Sports Sector Education and Training Authority (CATHSSETA) in terms of section 9 of the Act.
- 2.2 This Constitution was drawn up in accordance with the requirements of the Act and provides an institutional framework for the SETA to develop and implement national, sectoral and work-place strategies in order to develop and improve the skills of the South African workforce.
- 2.3 The SETA pursues the development of a skilled workforce in order to provide improved service to the people of South Africa. The SETA is inspired by the vision of an appropriately skilled workforce, who is empowered to render quality services, which are comparable with world-class standards.

**3. EXECUTIVE AUTHORITY**

- 3.1. The Executive Authority must exercise its powers and responsibilities in order to ensure that the implementation of the objectives and execution of the functions of the CATHSSETA comply with both the Act and the policies of the Executive Authority.
- 3.2. In executing its accountability and responsibility functions, the Executive Authority must exercise its powers in terms of the Act, the PFMA, this constitution and any other relevant legislation.

**4. IDENTIFICATION AND NATURE OF THE CATHSSETA**

**4.1. Name**

The name of this SETA is the Culture, Arts, Tourism, Hospitality and Sports Sector Education and Training Authority, situated at Ground, 1 Newton Avenue, Killarney, Johannesburg.

#### **4.2. Scope of coverage**

The national economic sector for which the CATHSSETA is established in the Culture, Arts, Tourism, Hospitality and Sports Sector. Its scope of coverage, as determined by the Minister in terms of section 9(2) of the Act, is recorded in Annexure 1 as amended from time for time.

#### **4.3. Constituencies in the Sector**

Organised labour, organised employers, government departments, professional bodies, bargaining councils and organisations contemplated in Section 11(2) of the Act are listed in Annexure 4.

#### **4.4. Legal status**

4.4.1. The CATHSSETA is a statutory body and juristic person.

4.4.2. The CATHSSETA, through the Accounting Authority, may authorise any person or persons to act on its behalf, to sign all documents and to take all steps as may be necessary in connection with any legal proceedings brought by or against the CATHSSETA.

4.4.3. The CATHSSETA and the Accounting Authority are governed by the Act, the PFMA, the SDLA, this Constitution and any other relevant legislation.

### **5. OBJECTIVES OF THE CATHSSETA**

In performing its functions contemplated in the Act and in this Constitution, the CATHSSETA must seek to promote the objectives contemplated in sub-items (1) to (3) and 4(3) of this Constitution.

#### **5.1 General objectives**

The main objectives of the CATHSSETA are to –



- 5.1.1 facilitate, coordinate and monitor the implementation of the NSDS within the Culture, Arts, Tourism, Hospitality, and Sports Sector;
- 5.1.2 identify skills shortages within the Sector;
- 5.1.3 support the development of the skills of employees in the Sector;
- 5.1.4 support the improvement of the quality of life and labour market prospects of employees in the Sector;
- 5.1.5 strengthen the institutional capacity of the CATHSSETA in order to improve the productivity and the quality of services it provides to its stakeholders;
- 5.1.6 through the skills development levy, increase the levels of investment in skills development and improve returns on such investment;
- 5.1.7 support improved performance and productivity in the work-places in the Sector as well as the competitiveness of employers;
- 5.1.8 support the improvement of the employment prospects of persons previously disadvantaged by unfair discrimination;
- 5.1.9 in liaison with employment services, assist work seekers to gain access to work experience;
- 5.1.10 in liaison with employment services, assist retrenched workers to re-enter the labour market;
- 5.1.11 liaise with employers in respect of skills development programmes;
- 5.1.12 promote the development of skills aimed at self-employment;
- 5.1.13 support skills development in the informal sector, cooperatives and other income generating initiatives for the unemployed;
- 5.1.14 support and promote the development of artisans, technicians, professionals and persons in other categories;
- 5.1.15 support, facilitate and promote the quality of occupation-based learning in the Sector;
- 5.1.16 promote effective communication between, and participation by bodies involved in skills development - both inside and outside the Sector;
- 5.1.17 co-operate with and support the QCTO in matters relating to QCTO functions and operations referred to in section 10 of the Act; and

5.1.18 co-operate with and support the functions of other agencies in matters related to skills development.

## 5.2 **Objectives in relation to employers in the Sector**

The objectives of the CATHSSETA in relation to employers are to encourage them to-

- (a) identify skills needs in the workplace;
- (b) provide employees with opportunities to acquire new skills;
- (c) use their work-places and facilities to create active learning environments;
- (d) develop their capacity to manage and provide occupation-based learning;
- (e) facilitate new entrants to the labour market by providing them with opportunities to learn through exposure to work experience during learnership, internships, apprenticeships and other programmes that provide learning in the work-place;
- (f) support occupation-based learning interventions, linked to the objectives and mechanisms of the Employment Equity Act, 1998 (Act No. 55 of 1998);
- (g) ensure occupation-based learning of quality in the work-place; and;
- (h) develop appropriate partnerships with other public, private and non-governmental organisations in promoting skills development.

## 5.3. **Objectives in relation to employees in the Sector**

The objectives of the CATHSSETA in relation to employees are to encourage them to-

- (a) participate in learnerships, apprenticeships, professional training, skills development programmes and other learning programmes;
- (b) take responsibility for their learning by utilising learning opportunities offered to them; and
- (c) provide input into and feedback on occupation-based learning programmes they undertake.

## **6. POWERS AND FUNCTIONS OF THE CATHSSETA**

### **6.1. CATHSSETA functions**

The CATHSSETA must perform its functions in accordance with the Act, the SDLA, the PFMA, any other relevant legislation and this Constitution.

The CATHSSETA must, in accordance with any prescribed requirements –

- 6.1.1. develop a Sector Skills Plan within the NSDS framework;
- 6.1.2. implement its Sector Skills Plan by –
  - 6.1.2.1. establishing learning programmes,
  - 6.1.2.2. approving work-place skills plans and annual training reports,
  - 6.1.2.3. allocating grants in the prescribed manner and in accordance with any prescribed standards and criteria to employers, skills development providers and workers, and
  - 6.1.2.4. by monitoring the quality of occupation-based learning in the Sector;
- 6.1.3. promote occupation-based learning programmes that include work experience by:
  - 6.1.3.1. identifying work-places for practical work experience,
  - 6.1.3.2. supporting the development of learning materials,
  - 6.1.3.3. improving the facilitation and assessment of learning, and
  - 6.1.3.4. assisting in the conclusion of agreements for learning programmes;
- 6.1.4. perform any function delegated to it by the QCTO in terms of section 261 of the Act;
- 6.1.5. support and form partnerships with other agencies on matters related to skills development;
- 6.1.6. when required to do so, as contemplated in section 7(1) of the SDLA, collect and disburse the skills development levies allocated to it in terms of sections 8 and 9 of the SDLA, in its Sector;
- 6.1.7. liaise with the National Skills Authority on –
  - 6.1.7.1. national skills development policy,
  - 6.1.7.2. the National Skills Development Strategy; and
  - 6.1.7.3. its Sector Skills Plan;

- 6.1.8. liaise with the provincial offices of the Department, the provincial skills development forums and any relevant education bodies established in terms of any law regulating education and training in the Republic to improve information about placement opportunities, and between skills development providers and the labour market;
- 6.1.9. formulate policies and procedures of the CATHSSETA;
- 6.1.10. appoint the employees necessary for the performance of its functions;
- 6.1.11. promote the national standard established in terms of section 30B of the Act; and
- 6.1.12. perform any other functions –
  - 6.1.12.1. imposed on it by the Act, the SDLA, other relevant legislation and this constitution, or
  - 6.1.12.2. that are consistent with the purposes of the Act, the SDLA, any other relevant legislation and this constitution.

## 6.2. **CATHSSETA POWERS**

The CATHSSETA has the powers:

- 6.2.1. necessary to enable it to perform its duties referred to in paragraph 5.1 above;
- 6.2.2. subject to the provisions Section 7(2) of the SDLA, to collect the skills development levy from employers falling within its jurisdiction;
- 6.2.3. to distribute funds received in terms of clause 5.2 above in terms of Section 9 of the SDLA;
- 6.2.4. take decisions on any matter related to the performance of its functions in terms of the Act and this Constitutions;
- 6.2.5. in consultation with the Executive Authority to establish committees of the CATHSSETA to assist it in performing its functions; and
- 6.2.6. in consultation with the Executive Authority to establish chambers of the CATHSSETA contemplated in section 12 of the Act.

## **7. SERVICE LEVEL AGREEMENT AND STRATEGIC PLAN OF THE CATHSSETA**

- 7.1. The CATHSSETA must conclude an SLA for every financial year with the Director-General in accordance with section 10A of the Act, concerning –
  - 7.1.1. CATHSSETA's performance of its functions in terms of the Act and the NSDS;
  - 7.1.2. CATHSSETA's annual strategic plan as contemplated in terms of Regulation 30 of the Public Finance Management Act;
  - 7.1.3. any assistance that the Director-General is to provide to the CATHSSETA in order to enable it to perform its functions;
  - 7.1.4. any assistance that the CATHSSETA is to provide in terms of the act to assist the Minister in complying with his or her responsibility in accordance with the policy determined by the President relating to service delivery and relating to the functions of the relevant CATHSSETA; and
  - 7.1.5. any prescribed matters.
- 7.2. The SLA must be concluded in the prescribed manner and within the prescribed period.
- 7.3. If the SETA and the Director-General are unable to agree on the contents of the SLA within the prescribed period, the Minister must determine the contents of the SLA after consulting the NSA.
- 7.4. The standards, criteria and targets measuring and evaluating the level of service delivery of the CATHSSETA.
- 7.5. The reports that the CATHSSETA must submit to the Director-General for the purposes of measuring and evaluating the CATHSSETA'S performance, conduct and practices.
- 7.6. The format and information requirements of annual strategic plans and reports.

## **8. THE ACCOUNTING AUTHORITY**

### **8.1. Duties of the Accounting Authority**

The Accounting Authority must –

- 8.1.1. govern and manage the CATHSSETA in accordance with the PFMA, the Act and any other applicable legislation;

- 8.1.2. ensure that the CATHSSETA achieves the objectives contemplated in item 4 and performs the functions contemplated in item 5;
- 8.1.3. provide effective leadership to and ensure that the CATHSSETA implements the goals of the NSDS and the Performance Agreement with the Minister;
- 8.1.4. provide a strategic direction for the CATHSSETA;
- 8.1.5. liaise with stakeholders;
- 8.1.6. ensure that the CATHSSETA complies with the relevant statutory requirements of this Constitution;
- 8.1.7. exercise the duty of utmost care to ensure reasonable protection of the assets and records of the CATHSSETA;
- 8.1.8. act with fidelity, honesty, integrity and in the best interests of the CATHSSETA in managing the financial affairs of the CATHSSETA;
- 8.1.9. on request, disclose to the Minister all material facts, including those reasonably discoverable, which in any way may influence the decisions or actions of the Minister
- 8.1.10. manage institutional risk; and
- 8.1.11. monitor the performance of the CATHSSETA.
- 8.1.12. ensure that its members and the members of the committees established by it, comply with the Code of Conduct set out in Annexure 2.

## **8.2. Delegation of functions**

- 8.2.1. The Accounting Authority may delegate any of its functions to –
  - 8.2.1.1. the Executive Committee;
  - 8.2.1.2. the Chief Executive Officer; or
  - 8.2.1.3. any other committee or chamber of CATHSSETA.
- 8.2.2. A delegation by the Accounting Authority is subject to such, conditions as the Accounting Authority may impose and must be in writing, must state the terms and conditions of the delegation and must be recorded.
- 8.2.3. Subject to any rights that may have vested as a consequence of the delegation, a delegation under paragraph (a) –

- 8.2.1.1. does not divest the Accounting Authority of the function delegated and the Accounting Authority may at any time review, amend or set aside any decision made under the delegation;
- 8.2.1.2. does not prevent the performance of the function by the itself; and
- 8.2.1.3. may be revoked by the Accounting Authority at any time.

### **8.3. Composition of the Accounting Authority**

- 8.3.1. Except with the approval of the Executive Authority, the Board shall consist of a minimum of 7 members and a maximum of 15 members who collectively have wide experience of and demonstrate acumen in the following:
  - 8.3.1.1. corporate management;
  - 8.3.1.2. commerce, ICT, HR, finance, legal and economic matter;
  - 8.3.1.3. skills development and training; and
  - 8.3.1.4. knowledge of any of the workings of chambers within the jurisdiction of CATHSSETA.
- 8.3.2. The Executive Authority, after consultation with the NSA, must appoint a person as Chairperson of the Accounting Authority of the CATHSSETA.
- 8.3.3. The Chairperson has no voting rights, but in the case of an equality of votes the Chairperson has a casting vote.
  - 8.3.3.1. Subject to paragraph 8.3.3 and section 13(2) of the Act, the Executive Authority must appoint 15 persons as members of the Board of the CATHSSETA.
  - 8.3.3.2. the members referred to in paragraph 8.3.1 have full voting rights and include
  - 8.3.3.3. three persons nominated by organised labour;
  - 8.3.3.4. three persons nominated by organised employers including small business or government departments that are employers; and
  - 8.3.3.5. two persons nominated by –
    - 8.3.3.5.1. four government departments that have an interest in the sector but the departments are not an employer as contemplated in subsection (2)(b);

- 8.3.3.5.2. two persons appointed by the Executive Authority;
  - 8.3.3.1.1. one any bargaining council with jurisdiction in the sector; or
  - 8.3.3.1.2. one organisation of community which have an identifiable interest in skills development in the sector.
- 8.3.4. Each constituency represented on the Accounting Authority must be represented by persons who are sufficiently representative of designated groups.
- 8.3.5. The members of the CATHSSETA are listed in item 2(4) of Annexure 4.
- 8.3.6. The Accounting Authority may, on good cause shown, recommend to the Minister the removal of any trade union or employer organisation listed in item 2(4) of Annexure 4.

#### **8.4. Nomination and appointment of Members of the Accounting Authority**

- 8.4.1. The Minister initiates the appointment procedure by inviting the public and stakeholders to nominate persons who have experience of and demonstrate acumen in the matters and areas contemplated in sub-clause 3 above and who are not disqualified in terms of this constitution.
- 8.4.2. At least three (3) months before the expiry of the term of office of Members of the Accounting Authority Board, the Chief Executive Officer must invite nominations for Members for the forthcoming term of office from Organised Labour Organised Employers.
- 8.4.3. Any person nominating another person for appointment as a member of the Accounting Authority must take into account the eligibility criteria set out in item 3 of Annexure 4.
- 8.4.4. The Minister must by notice in the Gazette at least three months prior to the expiration term of the office of the members invite nominations for the position of Chairperson of the Accounting Authority of the CATHSSETA from interested parties in the Sector.
- 8.4.5. The Chief Executive Officer must provide members appointed to the Accounting Authority with formal letters of appointment on the CATHSSETA letterhead and must set out in the letter the duties and responsibilities of the members.



8.4.6. Members must accept their appointment within seven (7) days and declare in writing that they accept and will be bound by, the Code of Conduct of the CATHSSETA.

**8.5. Conflict of interest of board member or board committee member**

8.5.1. The purpose of this clause is to ensure that the Members are not biased because of financial, organizational, or other interests which may impair their judgment and discharging of the fiduciary duties and responsibilities towards the CATHSSETA.

8.5.2. A member of the board must upon appointment submit a declaration to the Minister, made under oath or by affirmation, to the effect that he or she is not disqualified from appointment.

8.5.3. A board member or a member of a board committee may not be present during, or take part in, a discussion of, or the taking of a decision on, any matter before the board or board committee, as the case may be, in which that member or his or her spouse, life partner, child, business partner or associate or employer, other than the State, has a direct or indirect financial interest.

8.5.4. A board member or a member of a board committee, as the case may be, must immediately when he or she becomes aware of any conflict of interest in writing inform the chairperson of the board or the chairperson of a board committee, as the case may be, of such conflict, and the relevant chairperson must immediately excuse that member from participating and voting in any part of a meeting or proceedings where the matter that has caused such a conflict is considered.

8.5.5. The chairperson of the board or of a board committee must immediately when he or she becomes aware of any conflict of interest in writing inform the board or the board committee of such conflict, and that chairperson must recuse himself or herself from participating and voting in any part of a meeting or proceedings where the matter that has caused such a conflict is considered.

## **8.6. Consultation on proportional representation**

- 8.6.1. Organised Employers must by means of consultation endeavour to reach agreement on the proportional division of Members to represent Organised Employers on the Accounting Authority.
- 8.6.2. Organised Labour must by means of consultation, endeavour, to reach agreement on the proportional division of Members to represent Organised Labour on the Accounting Authority.
- 8.6.3. If organisations cannot reach agreement on the proportional allocation of Members, then the principle of proportionality must be applied on the basis of the formula provided in item 4 of the Annexure 4.

## **8.7. Alternates to Members of the Accounting Authority**

- 8.7.1. The organisations contemplated in clause (5) (b) may nominate an alternate for each member in the same manner as nominations for members.
- 8.7.2. The number of alternates at any meeting may be no more than one third of the number of members contemplated in Annexure 4.
- 8.7.3. A member and his or her alternate may not attend the same meeting.
- 8.7.4. An alternate for a member has voting rights in the absence of the member he or she represented.
- 8.7.5. CATHSSETA may only appoint one the alternate member for each of the members represented in the Accounting Authority contemplated in paragraph (a) by nominating:
  - 8.7.5.1. one alternate for each member; or
  - 8.7.5.2. Such of number of alternatives per category of members contemplated in Section 11(3)(a) to (c) of the Act as the CATHSSETA may determine and any of the alternatives identified in a special category may represent any member in that category who cannot attend a meeting.

## **8.8. Term of office of Members of the Accounting Authority**

8.8.1. Subject to sub-clause (10) below, the term of office of a member of the Accounting Authority is five years.

8.8.2. A Member is eligible for re-appointment upon expiry of that Member's term of office but the re-appointed members may not exceed one third of the members of the in any one term.

## **8.9. Induction and capacity building of Members**

The Accounting Authority must ensure that –

8.9.1. within one (1) month of taking office, the appointed Members of the Accounting Authority attend an induction session that covers the purpose, mandate, management structures and processes, operations and governance practices of the Accounting Authority;

8.9.2. within three (3) months of taking office, Members attend a training session that covers the role and responsibilities of –

8.9.2.1. the Accounting Authority; and

8.9.2.2. the role and responsibilities of Members and how to discharge their duties;

8.9.3. Members receive training on an ongoing basis to enhance or update their understanding of the operations of the Accounting Authority and matters relevant thereto.

## **8.10. First meeting of each new term of office of the Accounting Authority**

8.10.1. The Chief Executive Officer must set a date for the first meeting of the new term of office, which must convene within two (2) months of the establishment of the Accounting Authority.

8.10.2. The Executive Authority must notify the Members of the Accounting Authority in writing of the date, time, venue and agenda of the first meeting.

8.10.3. At that meeting, Members must –

8.10.3.1. set the dates for the forthcoming meetings during that year; and

8.10.3.2. take such other decisions as are necessary in order to ensure the prompt and effective functioning of the CATHSSETA

8.10.4. In the event that the Chairperson has not yet been appointed, the Chief Executive Officer presides over the first meeting of the Accounting Authority, where after the members must choose a Chairperson within their own ranks, for each meeting convened until such time as the Chairperson has been appointed by the Minister.

#### **8.11. Suspension of members of the Accounting Authority**

The Accounting Authority may, on reasonable grounds and subject to sub-clause (10) (c), (d) and (e), recommend to the Minister the suspension of a member.

#### **8.12. Vacating of office by members of the Accounting Authority**

8.12.1. A member of the Accounting Authority vacates office if that member –

8.12.1.1. resigns by written notice, addressed to the Accounting Authority and the Minister;

8.12.1.2. no longer satisfies the eligibility requirements contemplated in Annexure 4;

8.12.1.3. is removed from office in terms of paragraph (b).

8.12.2. On the recommendation of the Accounting Authority, the Minister may remove a member –

8.12.2.1. upon the written request of the organisation represented by that Member;

8.12.2.2. who is absent from three consecutive meetings of the Accounting Authority without prior and written permission of the Accounting Authority, unless the member shows good cause why he or she should not be removed;

8.12.2.3. due to permanent incapacity;

8.12.2.4. for serious misconduct.

8.12.2.5. for failure to comply with any provision in the code of conduct contained in Annexure 2;

8.12.2.6. for conduct that undermines the Accounting Authority or brings the Accounting Authority or any of its members into disrepute; or

8.12.2.7. on good cause shown.

8.12.3. Before recommending the removal of a member, the Accounting Authority must –

8.12.3.1. give notice of its intention to do so to that member;

8.12.3.2. give reasons for the intention to recommend removal; and

8.12.3.3. give the member reasonable opportunity under the circumstances to make representations to the Accounting Authority.

8.12.4. The Chairperson must inform the member in writing and in sufficient detail of-

8.12.4.1. the allegations against the member; and

8.12.4.2. refer the matter to the Minister for an inquiry.

8.12.5. The member must be given adequate time to prepare for the inquiry and may be represented at the inquiry by a person of his or her choice.

### **8.13. Filling vacancies in the Accounting Authority**

8.13.1. Subject to paragraph (b), if a member of the Accounting Authority dies or vacates office before expiry of that member's term of office in accordance with sub-clause (10), the procedure contained in sub-clause item 9(6) applies with the necessary changes.

8.13.2. The replacement member must be from the same sector of the constituency from which the original member was appointed.

#### **8.14. Application to the Accounting Authority by new organisations**

8.14.1. Any organisations that meet the criteria in sub-clause (5) (a) and that are not listed in Annexure 4, may apply to the Accounting Authority to be so listed.

8.14.2. The Accounting Authority must list the organisation if the Minister has determined that that organisation belongs in the Sector.

### **9. EXECUTIVE COMMITTEE OF THE ACCOUNTING AUTHORITY**

#### **9.1. Establishment of the Executive Committee of the Accounting Authority**

9.1.1. The Accounting Authority must establish an Executive Committee with the approval of the Minister.

9.1.2. The Executive Authority may not consist of more than five members and must include the Chairperson.

#### **9.2. Composition of the Executive Committee**

Organised labour and organised employers must have equal representation in the Executive Committee.

#### **9.3. Term of office of the Executive Committee**

A member of the Executive Committee holds office for the period of that member's term of office as a member of the Accounting Authority.

Functions of the Executive Committee

9.3.1. Subject to the directions of the Accounting Authority, the Executive Committee must oversee the management of the CATHSSETA.

9.3.2. Without limiting its functions contemplated in paragraph (a), the Executive Committee must-

9.3.2.1. supervise the proper management of all financial matters;

9.3.2.2. coordinate and supervise the implementation of the CATHSSETA's policies;

- 9.3.2.3. monitor national policy issues and developments and must make recommendations regarding the adoption of policies by the CATHSSETA;
- 9.3.2.4. coordinate the functioning of committees, chambers and structures of the CATHSSETA and must monitor their activities in order to ensure that they act within the terms of any powers delegated to them by the Accounting Authority;
- 9.3.2.5. oversee staff employment issues;
- 9.3.2.6. determine budgets and business plans;
- 9.3.2.7. monitor the relations and interactions of the CATHSSETA with other CATHSSETAs and other agencies on matters related to skills development; and
- 9.3.2.8. perform any other function, delegated to it by the Accounting Authority.

## **10. AUDIT AND RISK COMMITTEE OF CATHSSETA**

- 10.1. Establishment, composition and accountability of Audit and Risk Committee
  - 10.1.1. The Accounting Authority must establish an Audit and Risk Committee as an independent committee, which reports to the Accounting Authority.
- 10.2. The Audit Committee must be constituted in terms of section 77 of the PFMA, read with Chapter 9 of the Treasury Regulations made in terms of the PFMA.
- 10.3. The Accounting Authority must compile written Terms of Reference that describe the membership, authority and duties of the Audit and Risk Committee.
- 10.4. The Audit and Risk Committee must be constituted in terms of the requirements of sound corporate governance and it must operate within that framework.
- 10.5. The chairperson of the Audit and Risk Committee must -
  - 10.5.1. be an independent person and may not be the Chairperson of the Accounting Authority; and
  - 10.5.2. be knowledgeable about the status of the position and must have the requisite financial, business, leadership and communication skills.

- 10.6. The majority of the members of the Audit and Risk Committee must be independent persons who must be financially literate.
- 10.7. One member of the Audit and Risk Committee must be nominated by members representing organised employers and one member must be nominated by members representing organised labour.
- 10.8. The Chairperson, the members of the Executive Committee and the Chief Executive Officer may not be members of the Audit Committee but they may attend Audit Committee meetings by invitation, if this is considered necessary by the chairperson of the Audit Committee.
- 10.9. The Audit and Risk Committee has explicit authority to investigate any matter within its Terms of Reference, and it must be provided with the required resources to access required information.
- 10.10. The Audit and Risk Committee may not perform any management functions or assume any management responsibilities.
- 10.11. The Accounting Authority must periodically review and evaluate the Audit and Risk Committee's decisions and effectiveness and must review and confirm the Audit Committee's Terms of Reference on an annual basis.
- 10.12. Functions of Audit and Risk Committee
- 10.13. The Audit and Risk Committee must perform the functions of an audit committee in terms of the PFMA.
- 10.14. The Audit and Risk Committee must monitor and reinforce the effectiveness of both the internal control system and the internal audit function.
- 10.15. The Audit and Risk Committee must review and make recommendations in respect of:
  - 10.15.1. The functioning and overall efficiency and effectiveness of the internal control system;
  - 10.15.2. the functioning of the internal Audit and Risk Department;
  - 10.15.3. the risk areas of the CATHSSETA's operations, which are to be covered by the scope of internal and external audits;
  - 10.15.4. the adequacy, reliability and accuracy of the financial information provided to the Accounting Authority;
  - 10.15.5. the scope and results of the external audit and its cost-effectiveness, as well as the independence and objectivity of the external auditors;
  - 10.15.6. the cooperation and coordination between the internal and external audit



- functions, and their cooperation and coordination pertaining to the management of the CATHSSETA;
- 10.15.7. any accounting or auditing concerns identified through internal and external audits and by the Auditor-General;
  - 10.15.8. the adequacy and effectiveness of the risk management processes followed and the development, maintenance and enhancement of fraud prevention plans;
  - 10.15.9. the adequacy and effectiveness of the risk management processes followed and the development, maintenance and enhancement of fraud prevention plans;
  - 10.15.10. the effectiveness of the system for monitoring compliance with laws, regulations and policies, and the results of management's investigation and follow-up action (including disciplinary action) of any instance of non-compliance; and
  - 10.15.11. the CATHSSETA's compliance with relevant legal and regulatory requirements and its Code of Conduct and the action taken to address any violations.
- 10.16. The Audit and Risk Committee must review annual financial statements and establish whether the statements have been prepared in accordance with the PFMA and related Treasury Regulations, including the applicable accounting framework.
  - 10.17. The Audit and Risk Committee must review and confirm the Internal Audit Charter and the Internal Audit Plan and must review and confirm the resources required to implement such plan.
  - 10.18. The Audit and Risk Committee must develop a direct, strong and candid relationship with the external auditors and its communication with the external auditors must facilitate independence from the management of the CATHSSETA and encourage the external auditors to speak freely, regularly and confidentially with the Audit and Risk Committee.
  - 10.19. The Audit and Risk Committee must draw up a recommendation for the Accounting Authority regarding the appointment and removal of the internal and external auditors.
  - 10.20. The Audit and Risk Committee must recommend such measures as may be necessary to ensure the reliability, integrity and objectivity of the CATHSSETA.

- 10.21. The Audit and Risk Committee must acknowledge and identify all of the risks facing the CATHSSETA
- 10.22. The Audit and Risk Committee must should approve the company's chosen risk philosophy.

## **11. FINANCE AND REMUNERATION COMMITTEE**

- 11.1. Establishment and composition of Finance and Remuneration Committee.

The Accounting Authority must establish a Finance and Remuneration Committee consisting of a suitable number of persons with the knowledge and skills needed to perform the functions of the Committee.

- 11.2. Functions of Finance and Remuneration Committee

- 11.3. The Finance and Remuneration Committee must perform all functions delegated to it by the Accounting Authority in order to ensure that the CATHSSETA meets the requirements of the Act, the SDLA, PFMA and the Treasury Relations that relate to finance and the remuneration of the Chief Executive Officer, members, committee members and staff.

- 11.4. The Finance and Remuneration Committee must evaluate and must make recommendations to the Accounting Authority in respect of –

11.4.1. the budget, cash flow and financial statements of the CATHSSETA;

11.4.2. the financial policies of the CATHSSETA;

11.4.3. actions to implement the recommendations of the Auditor-General's Report and the internal and external audit reports of the CATHSSETA;

11.4.4. the execution of the legally mandated financial functions of the CATHSSETA;

11.4.5. the financial implications of policies, decisions and changes to the budget and Business Plan of the CATHSSETA;

11.4.6. developing guidelines for, and reviewing the compensation and performance of staff members of the organization.

11.4.7. reviewing and approving corporate goals that are relevant to the compensation of the Chief Executive Officer.

11.4.8. determining the Chief Executive Officer's compensation in accordance with applicable rules and regulations.

- 11.4.9. evaluating the Chief Executive Officer's performance against the goals and objectives contemplated in this paragraph.
- 11.4.10. reviewing and reassessing the adequacy of the remuneration policy annually and recommending changes, if any, to the Accounting Authority for approval.
- 11.4.11. ensuring that the members' and committee members' remuneration is in accordance with the requirements of the PFMA and the Treasury Relations that relate to finance and the remuneration of those members.

## **11.5. GOVERNANCE AND STRATEGY COMMITTEE**

Establishment and composition of Governance and Strategy Committee

- 11.5.1. The Accounting Authority must establish a Government and Strategic Committee consisting of a suitable number of persons with the knowledge and skills needed to perform the functions of the Committee.

Functions of the Governance and Strategy Committee

- 11.5.2. The Governance and Strategy Committee must:
  - 11.5.2.1. develop policies, principles, criteria and guidelines that are necessary for the governance and strategy functions for the CATHSSETA;
  - 11.5.2.2. promote good governance;
  - 11.5.2.3. report to the Accounting Authority on such matters as it deems necessary; and
  - 11.5.2.4. develop the skills development strategy for the Sector.

## **11.6. Committees of Accounting Authority**

- 11.6.1. The Accounting Authority may in consultation with the Minister and with the Minister's approval, in addition to such committees as may be required by law:
  - 11.6.1.1. Establish such committees as it considers necessary to assist it in the performance of its functions; and
  - 11.6.1.2. Appoint as members of any such committee such persons,

including members of the Accounting Authority, staff of the CATHSSETA, and industry association or any member of the association, organised labour as the Accounting Authority considers appropriate.

## **12. CHAIRPERSON OF ACCOUNTING AUTHORITY**

12.1. Only the Minister may appoint the Chairperson.

12.1.1. The Chairperson may not be a member of the Audit Committee.

### **12.1.2. Term of office of Chairperson**

12.1.2.1. The term of office of the Chairperson is five years.

12.1.2.2. The person appointed as Chairperson may only serve one term of office.

12.1.2.3.

### **12.2. Functions of Chairperson**

The Chairperson of the Accounting Authority

12.2.1. must preside at meetings of the Accounting Authority;

12.2.2. must conduct such meetings in accordance with item 11; and

12.2.3. may perform such other functions as are generally associated with the position of chairperson.

12.3. Temporary absence or incapacity of Chairperson

If the Chairperson is temporarily absent or incapacitated, the meeting ordinarily presided over by the Chairperson must appoint a person from its own ranks to preside over such meeting.

12.4. Vacating of office of Chairperson

12.5. The Chairperson must vacate office if he or she—

12.5.1. is removed as a member ;

12.5.2. is unable to attend meetings or business of the Accounting Authority for a consecutive period of six months; or

- 12.5.3. if the Minister, on good cause shown, decides to terminate his or her appointment.
- 12.6. If the Chairperson has vacated office, the same process followed to appoint the Chairperson applies to the appointment of a new chairperson.

### **13. MEETING PROCEDURES**

- 13.1. Meetings of Accounting Authority
- 13.2. The Accountancy Authority must meet at least once every three months;
- 13.3. The business of the Accounting Authority includes-
  - 13.3.1. the discussion of any matter referred to it or arising from the financial statements or reports;
  - 13.3.2. the discussion of any matter of which notice has been given to the Chairperson at least 10 days before the date of notice regarding the meeting;
  - 13.3.3. the transaction of such business as is required as is requires to be transacted by the Accounting Authority in terms of the Act, the PFMA, the SDLA or this Constitution; and
  - 13.3.4. the delegation of its functions to members, employees or committees.
- 13.4. An Annual General Meeting must be held and must be advertised in the media at least 30 days before the meeting.
- 13.5. The business of the Accounting Authority at the Annual General Meeting must include consideration of -
  - 13.5.1. the annual financial statement of the CATHSSETA;
  - 13.5.2. an Annual Report on the CATHSSETA's affairs;
  - 13.5.3. the report of the Auditor-General on the Accounting Authority; and
  - 13.5.4. acceptance, for recommendation to the Director-General of the CATHSSETA's annual budget and business plan.

13.6. Meetings of Executive Committee

13.6.1. The Executive Committee must meet at least once a month or may meet more when necessary.

13.6.2. Meetings of the Executive Committee must comply with the procedures contemplated in item 11.

13.7. Special meetings of Accounting Authority, Executive Committee and other Committees.

13.7.1. The Chairperson may, on grounds of urgency, call a special meeting of the Accounting Authority or Executive Committee on at least 48 hours' notice, whether in the form of a physical meeting or by using any electronic medium.

13.7.2. If the Chairperson receives a request for a meeting, signed by at least 50 percent of the members of the Accounting Authority the Chairperson must, as soon as is practicable, give notice of a special meeting of the Accounting Authority as the case may be, and that special meeting must be held within 15 working days of receiving such request.

13.7.3. The chairperson of any committee of the Accounting Authority may on ground of urgency, call a special meeting on at least 48 hours' notice, whether in the form of a physical meeting or by using any electronic medium.

13.8. **Meeting procedures for all committees**

13.9. In respect of meetings of the Executive Committee or any other committee established by the Accounting Authorised listed in Annexure 5, whether in the form of a physical meeting or by using any electronic medium, the relevant chairperson must-

13.9.1. give at least 10 working days written notice of the proposed meeting to members; and

13.9.2. include an agenda with such notice.

13.10. A quorum at a meeting whether in the form of physical meeting or by using an electronic medium, consists of at least 50 per cent of the total number of members plus one member provided that at least 50 per cent of the members representing organised labour and at least 50 per cent of the members representing organised

employers are present.

13.11. If, within one hour of the time fixed for the meeting, a quorum is not formed –

13.11.1. that meeting must stand adjourned to another day; and

13.11.2. the members present at the follow-up meeting held within 14 days thereafter will constitute a quorum for the purposes of that meeting.

13.12. When a member is unable to attend a meeting that member must inform the relevant chairperson accordingly no later than 48 hours before the meeting takes place but in unforeseen circumstances the relevant chairperson must be informed as soon as possible.

13.13. The voting procedures and decision-making procedures at meetings are as follows:

13.13.1. Each member present has a single vote on any matter serving before a meeting for its decision.

13.13.2. Votes by proxy are not allowed.

13.13.3. Any decision at a meeting requires the support of at least 50 per cent plus one of the members present.

13.13.4. Decisions must be taken by way of a show of hands or, if at least 50 per cent of the members present so require, by way of a closed ballot.

13.13.5. In the event of an equality of votes, the chairperson has a casting vote

13.14. The Chairperson must ensure that -

13.14.1. the minutes of each meeting are taken;

13.14.2. the minutes are forwarded to the members within two weeks of the meeting;

13.14.3. the minutes are tabled at the next meeting for approval by the members; and

13.14.4. the minutes that are approved, are retained in a record system.

13.15. The Chairperson must sign the approved minutes as confirmation of their approval.

## **14. CHIEF EXECUTIVE OFFICER AND OTHER EMPLOYEES**

14.1. Appointments by Accounting Authority

14.2. The Accounting Authority must -

14.2.1. within six months of taking office, after following a transparent process, recommend to the Minister the names of three suitable qualified candidates for appointment to the position of Chief Executive Officer; and

14.2.2. consider the suitable qualified candidates in accordance with fair and reasonable criteria acknowledged in labour law before making the recommendation in terms of subparagraph (i).

14.3. Subject to paragraph (c), the appointment of the Chief Executive Officer is linked to the term of the office of the Subject to paragraph (c), the Accounting Authority.

14.4. The Chief Executive Officer may be retained for a further six months in the event that the CATHSSETA is re-established in accordance with section 9(1) (b) of the Act.

14.5. Duties of Chief Executive Officer

The Chief Executive Officer must –

14.5.1. implement the decisions of the Accounting Authority;

14.5.2. execute the strategic and management operations of the CATHSSETA;

14.5.3. attend the meetings of the Accounting Authority and the Executive Committee;

14.5.4. promote strategic planning and policy development;

14.5.5. ensure strict and responsible control of the finances of the CATHSSETA, in compliance with the financial management requirements of the PFMA;

14.5.6. supervise and direct the other employees of the CATHSSETA; and

14.5.7. perform such other functions as determined by the Accounting Authority or the Executive Committee.



## **15. FINANCES**

### **15.1. Sources of finance**

The sources of finance for funding the activities of the CATHSSETA as set out in section 14(1) of the Act are –

- 15.1.1. 80 per cent of the skills development levies, interest and penalties collected in respect of the CATHSSETA, allocated in terms of sections 8(3)(b) of the 9(b) of the SDLA;
- 15.1.2. grants, donations and bequests received;
- 15.1.3. income earned on surplus money deposited or invested;
- 15.1.4. income earned on services rendered; and
- 15.1.5. money received from any other legitimate source.

### **15.2. Investments**

The money received by the CATHSSETA in terms of section 14(2) of the Act must be paid into a bank account at any registered bank and may only be invested in –

- 15.2.1. savings accounts, permanent shares or fixed deposits in any registered bank or other financial institution provided for in terms of the PFMA; and
- 15.2.2. any other manner approved by the Minister.

### **15.3. Purpose for which funds may be used**

The money received by the CATHSSETA may be used only in accordance with section 14(3) of the Act in order to –

- 15.3.1. fund the performance of its functions; and
- 15.3.2. pay for its administration.

### **15.4. Financial records of the CATHSSETA**

- 15.4.1. The Accounting Authority must -
  - 15.4.1.1. prepare annual budgets, Annual Reports and financial statements in accordance with Chapter 6 of the PFMA;
  - 15.4.1.2. furnish the Director-General with copies of all budgets, reports and

- statements contemplated in this Constitution and any other information that the Accounting Authority must submit in terms of the PFMA;
- 15.4.1.3. keep full and proper records of the CATHSSETA's financial affairs
  - 15.4.1.4. prepare financial statements for each financial year in accordance with generally accepted accounting practices and in line with the requirements of the Auditor-General;
  - 15.4.1.5. submit the financial statements referred to in item 13(4)(a)(iv) within two months after the end of the financial year to the Auditor-General for auditing; and
  - 15.4.1.6. within five months of the end of a financial year and after adoption by the Accounting Authority, submit to the Minister the Annual Report on its activities during that financial year, the financial statements for that financial year after the statements have been audited and the Auditor-General's report on those statements.

**15.5. The Annual Report and financial statements referred to in item 13(4)(a)(i) must-**

- 15.5.1. be a fair representation the SETA's state of affairs, its business, its financial results, its performance against predetermined objectives and its financial position as at the end of the financial year in question;
- 15.5.2. include particulars of any-
  - 15.5.2.1. material losses through criminal conduct or irregular, fruitless or wasteful expenditure and must reflect criminal proceeding instituted or disciplinary steps taken as a consequence of such losses;
  - 15.5.2.2. losses recovered or written off;
  - 15.5.2.3. financial assistance received from the State and any commitments made by the State on its behalf; and
  - 15.5.2.4. any other matters that the Accounting Authority deems necessary to include.

## **15.6. Audit of CATHSSETA**

15.6.1. The Auditor-General must-

15.6.1.1. audit the accounts, financial statements and financial management of the CATHSSETA in terms of the PFMA and other relevant legislation; and

15.6.1.2. report on that audit to the Accounting Authority and to the Minister and, in that report express an opinion as to whether the CATHSSETA has complied with the provisions of the PFMA, the Act and this constitution with regard to financial matters.

15.6.2. Paragraph (a) does not prevent the appointment of an independent auditor by the Minister and the Department to do a forensic audit on the accounts and financial statements of the SETA.

## **15.7. Financial responsibility of Executive Committee**

The Executive Committee must ensure that the CATHSSETA complies with the financial requirements of the Act, the PFMA, other applicable legislation and this constitution.

## **15.8. Signatories to accounts**

15.8.1. The Accounting Authority must appoint at least three people, including the Chief Executive Officer, as signatories for each account of the CATHSSETA.

15.8.2. At least two of the three signatories, which must include the Chief Executive Officer, must be required to authorise any payment made by the CATHSSETA.

## **16. CODE OF CONDUCT**

16.1. Members of the Accounting Authority, committees and chambers established by the Accounting Authority are bound by the Code of Conduct set out in Annexure 2.

16.2. The Code of Conduct binds members in the performance and execution of their functions and duties.

16.3. Serious or continuous neglect of duties or any misconduct may result in a member

being removed from office or his or her termination of membership of a committee or chamber of the CATHSSETA.

## **17. DISPUTE RESOLUTION**

Any dispute concerning the interpretation or application of this constitution must be determined in accordance with Annexure 3.

## **18. INDEMNIFICATION**

The CATHSSETA indemnifies members of the Accounting Authority and its committees, and employees of the Accounting Authority, against any claim that may be made against them that may arise during the course and scope of their employment or the performance of their duties as long as such claim did not arise as a result of dishonesty, fraud, breach of trust, willful default or willful breach of duty, or a contravention of the CATHSSETA's Code of Conduct.

## **19. AMALGAMATION AND DISSOLUTION OF SETA**

19.1. The Minister may, after consulting with the NSA and the Accounting Authority, and subject to section 9(2) of the Act, amalgamate the CATHSSETA with one or more other SETAs in accordance with section 9A of the Act.

19.2. The Minister may, after consultation with the NSA and the Accounting Authority, dissolve the SETA if the SETA is unable to continue performing its functions.

19.3. Any assets remaining after all liabilities of the SETA have been met, must be dealt with in terms of section 9A (6) of the Act.

## **20. TAKING OVER ADMINISTRATION OF CATHSETA**

20.1. The Minister may, in terms of section 15 of the Act, after consultation with the NSA and the Accounting Authority, if any, by a notice in the Government Gazette, direct the Director-General to appoint an Administrator to take over the administration of the CATHSSETA or to perform the functions of the CATHSSETA, if –

20.1.1. the CATHSSETA fails to perform its functions;

20.1.2. there is mismanagement of the CATHSETA's finances;

- 20.1.3. the Accounting Authority's membership no longer substantially represents the composition contemplated in section 11 of the Act;
  - 20.1.4. the CATHSSETA has failed to comply with its SLA; or
  - 20.1.5. that the Accounting Authority has failed to comply with an instruction by the Minister in terms of section 14A of the Act.
- 20.2. The Director-General must by notice in the Government Gazette appoint an Administrator and, in that notice, the Director-General—
- 20.2.1. must determine the powers and duties of the Administrator, which may include the Administrator's performance of the Accounting Authority's functions in terms of the PFMA;
  - 20.2.2. may suspend or replace one or more of the members of the Accounting Authority for any reason contemplated in sub-item (1);
  - 20.2.3. may suspend the operation of the SETA's constitution; and
  - 20.2.4. may direct the transfer of all or some of the funds in the SETA's bank accounts to the National Skills Fund.
- 20.3. If a notice is published in the Government Gazette in terms of sub-item (2), the Minister may-
- 20.3.1. amend the constitution in question;
  - 20.3.2. reinstate any of the members of the Accounting Authority; and
  - 20.3.3. withdraw or amend any provision of the notice referred to in sub-item (2) and may impose such conditions as may be appropriate in order to ensure that the SETA resumes the performance of its functions.
- 20.16 The Minister may act in terms of sub-clause (1) without consulting the NSA and the Accounting Authority if there is financial mismanagement of the CATHSSETA and the delay caused by such consultation would be detrimental to the CATHSSETA's capacity to perform its functions.

## **21. AMENDMENT OF CONSTITUTION**

- 21.1. Subject to section 13 of the Act and after consultation with the Accounting Authority, the Minister may approve an amendment of the constitution.
- 21.2. The Chairperson must give notice of any proposed deviation from the standard constitution at least 30 days before any meeting of the Accounting Authority is convened to discuss an amendment to the constitution.
- 21.3. The Accounting Authority may propose an amendment to the constitution by a resolution supported by at least 100 per cent of its members.
- 21.4. If the Accounting Authority has adopted a resolution proposing an amendment to the Constitution, such proposal must be submitted to the Minister for consideration and a decision and must be accompanied by reasons for the proposed amendment.
- 21.5. The CATHSSETA's Chief Executive Officer must ensure that copies of the text of the proposed amendment, notifications of the meeting and the agenda are dispatched to all members of the Accounting Authority at least 30 days before to the meeting at which the amendment to the constitution is to be proposed and considered.
- 21.6. The full procedure for proposing and effecting amendments to this constitution is described in Annexure 6.
- 21.7. For the purposes of this item, any amendment of an Annexure must be regarded as deviation of this Constitution.

## ANNEXURE 1

### SCOPE OF AUTHORITY

#### 1. SCOPE OF COVERAGE

The scope of coverage of the CATHSSETA as determined by the Minister is indicated in the table below:

<b>SIC Code</b>	<b>Scope of Coverage / Description</b>
<b>Hospitality Services</b>	
64101	Hotels, motels, boatels and inns registered with the SA Tourism
64102	Caravan Parks and Camping Sites
64103	Guest Houses and Guest Farms
64104	Hotels, motels, boatels and inns not registered with the SA Tourism
64105	Bed and Breakfast
64106	Management and operation of game lodges
64201	Restaurants or tearooms with liquor license
64202	Restaurants or tearooms without liquor license
64203	Take-Away Counters
64204	Caterers
64205	Take-Away Restaurants
64206	Fast Food Establishments
64207	Other Catering Services not elsewhere classified including Pubs, Taverns, Night Clubs
64209	Other Catering Services not elsewhere classified
84111	Timesharing

<b>SIC Code</b>	<b>Scope of Coverage / Description</b>
<b>Gaming &amp; Entertainment</b>	
96419	Operation and management of Horse Racing Events and Clubs and Academies
96494	Gambling, licensed Casinos & the National Lottery incl but not limited to Bookmakers, Totalisators, Casinos, Bingo Operators
96142	Activities of Theatre and entertainment technicians
96190	Other entertainment activities not elsewhere classified
<b>Tourism, Travel &amp; Event Management</b>	
71214	Tour operators (Inbound and Outbound Tour Operators)
71222	Safaris and Sight Seeing Bus Tours
71223	Safaris and Sightseeing Trip Operators
73002	Inbound International Flights
74140	Travel agency and related activities
85110	Renting of Land Transport Equipment
85111	Renting of Land Transport Equipment including Car Rentals
8899A	Event and Conference Management
96195	Operation and Management of Convention Centres
96336	Tourist Info Centres
99028	Car Hire
99048	Tourism Authorities incl. but not limited to Tourism Marketing, Tourist Information Centres, Publicity Associations
<b>Sport, Recreation &amp; Fitness</b>	
93195	Operation and management of Health and Well-Being Centres including but not limited to Hydros, Spas, Fitness Centres etc.
96002	Recreational, leisure and outdoor adventure activities incl. management and operation of facilities, Government departments



<b>SIC Code</b>	<b>Scope of Coverage / Description</b>
96196	Amusement Parks
96410	Sporting activities
96411	Operation and management of sporting facilities and clubs
96412	Operation and management of sport academies (and games schools)
96413	Promotion and management of sporting events and activities
96415	Management and operation of non-motorized sporting activities
96417	Sporting activities incl. but not limited to Sport Federations etc.
96418	Management and operation of motorized sporting activities
96491	The Operation and Management of recreation parks & beaches, fairs and shows of a recreational nature and recreational transport activities
<b>Conservation</b>	
11520	Hunting and Trapping including related services
99049	Guides including tourist river, mountain, etc
96333	Game parks, reserves incl. but not limited to wildlife, parks, zoological or animal parks and botanical gardens
96334	Activities of conservation bodies
96335	Wildlife conservation incl. wildlife, game, parks, game reserves, zoological establishments, botanical gardens etc
<b>Creative Industries</b>	
88994	Bioscope cafes
96000	Recreational, cultural and sporting activities
96320	Museum activities and preservation of historical sites and buildings
96322	Provision for management and operation of monuments' historical sites and buildings
96323	Management and operation of museum, cultural and heritage activities

<b>SIC Code</b>	<b>Scope of Coverage / Description</b>
9003	Production of craft art
9004	Production of traditional art
9005	Production of designer goods
9006	Production of functional wares
9007	Production of souvenirs
8899B	Duplicating/photocopying in copy shops
96140	Dramatic arts, music and other arts activities
96141	Activities of artists and entertainers
96143	Production of 'live' theatrical and artistic events
96144	Activities of arts councils and other related institutions
96492	The activities of casting for motion pictures, television and theatre productions

## ANNEXURE 2

### CODE OF CONDUCT

#### 1. INTRODUCTION

This document outlines the CATHSSETA's Code of Conduct ("the Code").

#### 2. APPLICATION OF CODE

2.1. All Members of the Accounting Authority, the chambers and any committee established by the Accounting Authority are subject to this Code of Conduct and are required to comply with both the letter and the spirit of the Code.

2.2. The Members of the Accounting Authority, the chambers and any committee established by the Accounting Authority-

2.2.1. stand in a fiduciary relationship to the CATHSSETA;

2.2.2. must comply with all the applicable laws and regulations that regulate the activities they are engaged in for and on behalf of the CATHSSETA;

2.2.3. must perform their functions fairly, honestly and in good faith, giving full effect to the obligations and spirit of the Act and this Constitution;

2.2.4. must protect and promote the reputation of the CATHSSETA and promote goodwill towards it;

2.2.5. must perform their duties conscientiously and in the best interest of the CATHSSETA; and

2.2.6. conduct themselves ethically and in accordance with the principles of good governance.

2.3. In order to ensure the proper execution of its mandate and effective compliance with the applicable legislative and policy framework, the Accounting Authority must ensure that the staff of the CATHSSETA and members of all committees and chambers, adhere to the following principles of governance:

2.3.1 Effectiveness and efficiency in the execution of their specified mandates, which require clearly formulated purpose statements, objectives, roles and responsibilities;

2.3.2 Accountability for meeting their specified mandates, which requires effective

accountability mechanisms, proper management, control and the safeguarding of finances and resources, as well as regular and accurate performance reviews, assessments and reporting;

- 2.3.3 Integrity and honesty in the management of finances and resources, which require observing and promoting high standards of ethical conduct, proper execution of fiduciary duties, independence from vested interests and avoiding undue influence and a conflict of interest;
- 2.3.4 Transparency and openness, which require fair, transparent and accessible rules, processes and procedures, the consistent application of these rules, processes and procedures; transparent and motivated decision-making; and timely and accurate provision of information to a higher authority, stakeholders and the public;
- 2.3.5 Participation in the development and implementation of public policies, where appropriate, which requires the active involvement of beneficiaries, stakeholders and other affected groups in the formulation of policies and programmes; promoting ownership of policies and programmes; stakeholder commitment to their success; and consultation with, and representation on institutional structures; and
- 2.3.6 The capacity and resources to execute their mandate, which require appropriate selection and capacity-building, in order to ensure that Members and staff have the necessary skills, knowledge and experience.

### **3. CONFLICT OF INTERESTS**

- 3.1. A person may not be appointed on the Accounting Authority, unless the necessary disclosure has been made that-
  - 3.1.1. such person, directly or indirectly, whether personally or through his or her spouse, partner or associate, has a direct or indirect financial interest in the CATHSSETAs; and
  - 3.1.2. such person or his or her spouse, partner or associate, holds an office in or is employed by any CATHSSETA, organisation or other body, whether corporate or incorporate, which has a direct or indirect financial interest of the nature contemplated in paragraph (a).

- 3.2. If at any stage during the course of any proceedings before the Accounting Authority it appears that any member of the Accounting Authority has or may have an interest which may cause such conflict of interest to arise on his or her part-
  - 3.2.1. such member must forthwith fully disclose the nature of his or her interest and leave the meeting so as to enable the remaining members to discuss the matter and determine whether such member is precluded from participating in such meeting by reason of a conflict of interest; and
  - 3.2.2. such disclosure and the decision taken by the remaining members regarding such determination must be recorded in the minutes of the meeting in question.
- 3.3. If any member fails to disclose any interest required by subsection (2) or, subject to the provisions of that subsection, if he or she is present at the venue where a meeting of the Accounting Authority is held or in any manner whatsoever participates in the proceedings of the Accounting, the relevant proceedings of the Accounting Authority is be null and void.

#### **4. GIFTS AND BENEFITS**

- 4.1. Gifts, hospitality and entrainment may only be offered to a third party if they are consistent with accepted practice, modest in value, not in contravention to the Public Financial Management Act and where public disclosure thereof would not embarrass the CATHSSETA.
- 4.2. Members should not accept gifts, hospitality or other favours from suppliers of goods or services.
- 4.3. Members may not accept personal favours or other preferential treatment that might place the recipient under any obligation.
- 4.4. The Accounting Authority must, within six months of taking office, develop or review policy guidelines for inclusion in this Code of Conduct which are in line with the deviation processes of the constitution.

#### **4. CATHSSETA RESOURCES**

- 4.1. Members may not abuse the financial and other resources of the CATHSSETA.
- 4.2. Members must at all times ensure that the CATHSSETA's financial and other resources are used for legitimate business purposes only.
- 4.3. When funds are to be spent, it is the responsibility of members to use sound judgement and to ensure that appropriate value is received by the CATHSSETA for such expenditure.
- 4.4. Members, who become aware that the CATHSSETA's funds or property have been used, are being used or may be used in a fraudulent or improper manner, must immediately and in confidence advise the Chairperson.

#### **5. ACCOUNTING STANDARDS**

- 5.1. The CATHSSETA's financial books and records must reflect all transactions in an accurate and a timely manner and in conformity with generally accepted accounting principles.
- 5.2. Non-disclosure of revenue, expenses, assets or liabilities is not permitted.
- 5.3. Members responsible for accounting and record-keeping functions are expected to be diligent in enforcing proper accounting practices.

#### **7. SECURITY OF INFORMATION AND INTELLECTUAL PROPERTY RIGHTS**

- 7.1. Only information necessary for CATHSSETA business may be collected, used and retained.
  - 7.1.1. Personal information of members should be obtained directly from the person or organisation in question.
  - 7.1.2. Only reputable and reliable source should be used to supplement information contemplated in this sub-item.
- 7.2. No privileged or confidential information may be disclosed by any member without prior authorisation by the Executive Committee or the Chairperson, including but not limited to information regarding products, plans, transactions, personal information and salaries.

- 7.3. Such information may only be disclosed if it must be disclosed in terms of the Act, the SDLA, any other applicable law or by an order of the court.
- 7.4. Members of the CATHSSETA may not copy or reproduce, by any means, confidential or privileged information acquired during the performance of their functions for use other than for the execution of their functions in terms of the Act, the SDA, any other relevant legislation or this Constitution.
- 7.5. Upon termination of their term of office members must hand over all documents, drawings, plans, electronic records, samples, models and other information to the Chairperson, as well as equipment and accessories in their possession or under their control, which may contain confidential or privileged information, or relate to or are in any way connected to the business and affairs of the CATHSSETA.
- 7.6. Members are required, free of any consideration, to forthwith disclose to the CATHSSETA all discoveries, processes and inventions relating to, or that are useful to any business conducted by the CATHSSETA, that were made or conceived by them in the course and within the scope of their involvement in any of the affairs of the CATHSSETA, whether individually or in conjunction with others.

## **8. CONTRAVENTION OF CODE**

- 8.1. Any contravention of the Code is a serious offence and, depending on the circumstances, may result in criminal charges being laid.
- 8.2. Any member who believes that he or she may have contravened the Code must advise the Chairperson immediately.
- 8.3. In the event that the Chairperson believes that the member has contravened the Code the Chairperson must immediately advise the Minister and other members of the Accounting Authority in writing of the alleged contravention.
- 8.4. Any member who believes that a contravention of the Code by another member has taken place must report this, in writing, to the Chairperson, who must maintain confidentiality and must ensure that the matter is investigated impartially.
- 8.5. Any member who believes that a contravention of the Code by the Chairperson has taken place must report this, preferably in writing, to the Minister.
- 8.6. A contravention of the Code may result in disciplinary action being taken, which could result in a member being removed from office or termination of employment or membership of a committee or chamber of the CATHSSETA.





## **ANNEXURE 3**

### **1. DISPUTE RESOLUTION**

- 1.1. Any party to a dispute concerning the interpretation or application of this Constitution must refer the dispute to the Chief Executive Officer for forwarding to the Executive Committee.
- 1.2. The referral must-
  - 1.2.1. be in writing;
  - 1.2.2. adequately describe the dispute; and
  - 1.2.3. be delivered to every other party to the dispute by the party referring the dispute.
- 1.3. The Chief Executive Officer must, as soon as is reasonably practicable, refer the dispute to the Executive Committee, which must endeavour to resolve the dispute by conciliation as soon as possible, but nevertheless within 30 days of the referral.
- 1.4. If the Executive Committee fails to resolve the dispute within 30 days of its referral, any party to the dispute may refer it for arbitration by an arbitrator appointed by the Director-General of the Department in terms of the Arbitration Act, 1965 (Act No. 42 of 1965).
- 1.5. Within 14 days of the conclusion of the arbitration proceedings –
  - 1.5.1. the arbitrator must issue a signed arbitration award with reasons; and
  - 1.5.2. the Chief Executive Officer must provide a copy of the award to every party to the dispute.
- 1.6. The costs of the arbitration must be borne equally by the parties to the dispute, but the arbitrator may make a different and appropriate awarding of costs, if –
  - 1.6.1. a party to the dispute, without reasonable cause, refuses or fails to attend the arbitration proceedings, or unduly delays arbitration proceedings; or
  - 1.6.2. the arbitrator finds that a party pursuing or resisting the dispute did so vexatiously or frivolously, or had no reasonable prospect of succeeding.

## **ANNEXURE 4**

### **REPRESENTATION ON ACCOUNTING AUTHORITY**

#### **1. CONSTITUENCY INSECTOR**

- 1.1. The labour organisations, employer organisations and category of role players contemplated in section 11(3) (c) of the Act in the Sector are as follows:
  - 1.1.1. Labour organisations;
  - 1.1.2. Employer organisations; and
  - 1.1.3. The following categories of role players:
    - 1.1.3.1. Government departments that have an interest in the Sector but that are not an organised employer contemplated in sub-item (2);
    - 1.1.3.2. Interested professional bodies;
    - 1.1.3.3. Bargaining councils with jurisdiction in the Sector; and
    - 1.1.3.4. Organisations of communities that have an identifiable interest in skills development in the Sector:

#### **2. MEMBERS OF ACCOUNTING AUTHORITY**

- 2.1. The Accounting Authority consist of-
  - 2.1.1. a chairperson;
  - 2.1.2. not more than 14 members comprising-
    - 2.1.2.1. three members representing organised labour within the scope of the CATHSSETA;
    - 2.1.2.2. three members representing organised business within the scope of the CATHSSETA;
    - 2.1.2.3. two ministerial appointees;
    - 2.1.2.4. five representatives of government departments of which two are representative of provincial government; and

2.1.2.5. one member representing the Bargaining Council.

2.1.2.6. The chairperson is appointed by the Minister.

2.2. Notwithstanding sub-item (1) (b), the Minister may approve a deviation to the member of members subject to section 13 of the Act.

2.3. The Accounting Authority consists of the following-

2.3.1. organised employers:

2.3.2. organised labour:

2.4. category of role-players contemplated in section 11(2)(c) of the Act:

### **3. ELIGIBILITY CRITERIA FOR ACCOUNTING AUTHORITY MEMBERS**

3.1. Minimum requirements for Members of the Accounting Authority

3.2. Members of the Accounting Authority must be able to participate in the decision-making processes, understand the consequences of such decisions, and share in the accountability as Members of the Accounting Authority.

3.3. Members nominated for the Accounting Authority should comply with the following minimum requirements:

3.3.1. They must represent the interest identified in the NSDS;

3.3.2. If taken as a whole, they must achieve-

3.3.2.1. gender representation;

3.3.2.2. demographic representation;

3.3.2.3. representation of disadvantaged persons or communities that have been prejudiced by past racial and gender discrimination in relation to skills development programs; and

3.3.2.4. a blend of knowledge, skills and experience required for the effective functioning of the CATHSSETA.

3.4. They must be drawn from the ranks of senior officials in the organisation.

3.5. They should have an appropriate blend of knowledge, skills and experience required for the functioning of the CATHSSETA.

- 3.6. Selection criteria for members of Accounting Authority
- 3.7. Constituencies must use the criteria listed in paragraph (b) as guidelines when nominating their representatives in order to ensure that those representatives have the competence to make constructive contributions to the Accounting Authority.
- 3.8. Representatives should have knowledge, skills and expertise in the following:
  - 3.8.1. The functioning of the Accounting Authority in terms of the requirements relating to corporate governance and ethics;
  - 3.8.2. skills development legislation and the NSDS;
  - 3.8.3. the CATHSSETA's responsibility in respect of service delivery;
  - 3.8.4. the PFMA and financial management;
  - 3.8.5. the Sector and the constituency represented by the member;
  - 3.8.6. the strategic leadership role of the Accounting Authority;
  - 3.8.7. education, training, skills development and human resources development;
  - 3.8.8. quality assurance of learning provision;
  - 3.8.9. general management and business skills;
  - 3.8.10. communication and marketing role of an entity in relation its stakeholders; and
  - 3.8.11. any other areas of expertise relevant to the Sector.
- 3.9. Disqualifying criteria
 

A person is disqualified from serving as a Member if such person-

  - 3.9.1. is not a citizen and is not a permanent resident in the Republic;
  - 3.9.2. is subject to an order of a competent court declaring such person to be mentally ill or disorder;
  - 3.9.3. is convicted whether in the Republic or elsewhere, for any offence for which such person is sentenced to imprisonment without the option of a fine;
  - 3.9.4. at any time prior to the date of commencement of the Skills Development Amendment Act, 2011, was convicted or, at any time after such commencement, is convicted –
    - 3.9.4.1. in the Republic, of theft, fraud, forgery and uttering a forged

document, perjury, or an offence in terms of the Prevention of Corruption Act, 1958 (Act No. 6 of 1958), the Corruption Act, 1992 (Act No. 94 of 1992, Part 1 to 4, or section 17, 20, or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004);

3.9.4.2. elsewhere, of any offence corresponding materially with any offence referred to in subparagraph (i); and

3.9.4.3. whether in the Republic or elsewhere, of any other offence involving dishonesty.

3.9.4.4. Has been convicted of an offence under the Act.

#### **4. ENSURING CONTINUITY IN ACCOUNTING AUTHORITY**

In nominating members for the Accounting Authority, constituencies must pay due consideration to the need for continuity and renewal in the membership of such Accounting Authority.

#### **5. FORMULA FOR PROPORTIONAL ALLOCATION OF MEMBERS**

5.1. If organisation within a particular constituency cannot reach agreement on the allocation of seats per organisation, then the principle of proportionality must be applied on the basis of the formula provided in sub-item (2).

5.2. The final number is subject to the maximum number of 15 members on the Accounting Authority contemplated in tem 8(4) (a).

5.3. The formula is:

5.3.1. A represents either-

5.3.1.1. The number of employees employed by the members of an employer's organization listed in item 1; or

5.3.1.2. The number of members of a trade union listed in item 1.

5.4. B represents either-

5.4.1. The total number of employees employed by all the employers who are member of the employers organisation listed in item 1; or

5.4.2. The total membership of the trade unions listed in item 1.

5.5. C represents 10.

5.6. D represents either-

5.6.1. The number of members whom an employer organization may nominate for the Accounting Authority; or

5.6.2. The number of members that a trade union may nominate for the Accounting Authority.

5.7. For example, if there are only two trade unions, one with 600 member and the other with 1000 members, they would be proportionally represented on the Accounting Authority as follows:

$$\begin{array}{r} 600 \\ 1,600 \end{array} \times \frac{10}{1,600} = 3.75 \qquad \begin{array}{r} 1,000 \\ 1,600 \end{array} \times \frac{10}{1,600} = 6.25$$

5.7.1. The trade union with 600 members would nominate 40 percent of the five members representing organised labour.

5.7.2. The trade union with 1000 members would nominate 60 percent of the five members representing organised labour.

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## ANNEXURE 5

### COMMITTEES OF CATHSSETA

#### 1. GENERAL GUIDELINES FOR ALL CATHSSETA COMMITTEES

- 1.1. The Accounting Authority in consultation and with the approval of the Minister shall have the power to constitute and dissolve any of its committees.
- 1.2. The Accounting Authority has the power to determine, amend or revoke the terms of reference and organizational structures of any of its committees.
- 1.3. The Accounting Authority must ensure that all members of committees appointed by it act in accordance with the Code of Conduct in Annexure 2.
- 1.4. The membership of a committee-
  - 14.1.1. may comprise an equal number of members representing organised labour and organised employers; and
  - 14.1.2. is not restricted to members of the Accounting Authority only.
- 1.5. Except for the Audit Committee, the chairperson of a committee must be a member of the Accounting Authority.
- 1.6. Members of committees must have knowledge of, and experience in, matters relevant to the functions of the committees on which they serve.
- 1.7. The Accounting Authority may co-opt additional members, including persons who are not members of the Accounting Authority, who have expertise, knowledge and experience pertaining to matters relevant to the functions of the committee in question.
- 1.8. Meetings of any committee, established in terms of this Constitution, must comply with the procedures contemplated in item 11(5).
- 1.9. All committees must meet as frequently as is reasonably required.
- 1.10. Committees established by the Accounting Authority must perform the functions identified in their terms of reference.

## **2. COMMITTEES TO BE ESTABLISHED BY CATHSSETA**

- 2.1. The Accounting Authority must establish the following committees:
  - 2.1.1. An Executive Committee, established in terms of item 9;
  - 2.1.2. An Audit Committee, established in terms of section 77 of the PFMA, read with Chapter 9 of the Treasury Regulations made in terms of the PFMA;
  - 2.1.3. A Finance and Remuneration Committee; and
  - 2.1.4. A Governance and Strategy Committee.
- 2.2. The Accounting Authority may in consultation with the Minister and with the Minister's approval, in addition to such committees as may be required by law:
- 2.3. establish such committees as it considers necessary to assist it in the performance of its functions; and
- 2.4. appoint as members of any such committee such persons, including members of the Accounting Authority, staff of the CATHSSETA, an industry association or any member of association, organised labour as the Accounting Authority considers appropriate.



## **ANNEXURE 6**

### **CHAMBERS OF CATHSSETA**

#### **1. ESTABLISHMENT OF CHAMBERS**

- (1) The Accounting Authority, with the approval of the Minister, established the following chambers:

#### **2. CHAIRPERSON OF CHAMBER**

The chairperson of a chamber must be a member of the Accounting Authority.

#### **3. FUNCTIONS OF THE CHAMBER**

- (1) The chambers must perform those functions of the CATHSSETA delegated to them by the Accounting Authority in terms of item 8 (3).
- (2) The general guidelines for committees of the CATHSSETA contained in item 1 of Annexure 4 also apply to chambers, relevant chamber managers on all significant issues discussed and recommended at formal chamber meetings.

## **ANNEXURE 7**

### **PROCEDURE FOR AMENDING CONSTITUTION**

#### **1. ACCOUNTING AUTHORITY INITIATES AMENDMENT**

- 1.1. If the Accounting Authority intends or wished to amend this Constitution, it may do so:
  - 1.1.1. by adopting unanimous resolution;
  - 1.1.2. in writing, submit in duplicate:
    - 1.1.2.1. The text of the proposed amendment to the Constitution;
    - 1.1.2.2. a certified copy of its resolution approving the proposed amendments; and
    - 1.1.2.3. a memorandum explaining the rationale for such amendments.
- 1.2. After considering the submission, in consultation with the Accounting Authority and subject to section 13 of the Act, the Minister may reject, wholly or in part, the amendments proposed by the Accounting Authority.

#### **2. THE MINISTER INITIATES AMENDMENT**

- 2.1. If the Minister wishes to amend the CATHSSETA's constitution, the Minister must submit the following to the Accounting Authority:
  - 2.1.1. The text of the proposed amendment; and
  - 2.1.2. a memorandum explaining the rationale for such amendment.
- 2.2. The Minister must allow the Accounting Authority 30 days to make written representations concerning any amendment proposed by the Minister.
- 2.3. After considering any representation made by the and subject to section 13 of the Act, the Minister may, wholly or in part, effect the Minister's proposed amendment.

SIGNED FOR AND ON BEHALF OF THE ACCOUNTING AUTHORITY BY:

1. ORGANISED LABOUR : \_\_\_\_\_

2. ORGANISED EMPLOYERS : \_\_\_\_\_

3. OTHER RELEVANT STAKEHOLDERS :  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signed at \_\_\_\_ on this \_\_\_\_\_ day of April 2013.

Full Names: \_\_  
CHAIRPERSON