



***DATA PRIVACY & GOVERNANCE SOCIETY***

**THE DATA PRIVACY & GOVERNANCE SOCIETY OF KENYA**

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**CONSTITUTION**

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## 1. NAME

The name of the Society shall be **THE DATA PRIVACY AND GOVERNANCE SOCIETY OF KENYA** (In this constitution referred to as "the Society").

## 2. OBJECTS

The Society is a not-for-profit membership association that provides professional development and support for individuals & organisations who are actively engaged in data privacy and governance within the Republic of Kenya and in Africa. Accordingly, the Society's objects are to:

- a) Build a network of data privacy and governance professionals across Kenya and Africa.
- b) Facilitate continuous professional development and certification.
- c) Set professional and ethical standards for data privacy and governance professionals.
- d) Champion and protect the interests of members.
- e) Collaborate and partner on projects and training.
- f) Engage data privacy and governance regulators.
- g) Collaborate and partner with regional and international associations in data privacy and governance.
- h) Create an engaging community that provides leadership on data privacy and governance related issues in Kenya and across Africa.
- i) Champion policy and legislative reforms in data privacy and governance.
- j) Engage in strategic litigation on data privacy and governance matters.
- k) Provide mentorship and guidance to members.
- l) Facilitate knowledge sharing, lobbying, awareness raising, and networking.

### **3. POWERS OF THE ASSOCIATION**

Subject to this constitution, the Society may do all things necessary or convenient for carrying out its objects or purposes, and in particular, may:

- a) acquire, hold and dispose of real or personal property;
- b) open and operate accounts with financial institutions;
- c) invest its money in any security in which trust monies may lawfully be invested;
- d) raise and borrow money on the terms and in the manner, it considers appropriate;
- e) secure the repayment of money raised or borrowed, or the payment of a debt or liability;
- f) appoint agents to transact business on its behalf; and
- g) enter into any other contract it considers necessary or desirable.

### **4. MEMBERSHIP**

Membership is open to any individual or organisation that supports the objectives of the Society and who subscribes to its Constitution.

#### **4.1 Eligibility**

Any person or individual or organisation may be admitted to membership if that person or organisation meets the criteria set out in this Constitution, has applied for membership in the prescribed Form, and paid the prescribed Fees.

#### **4.2 Classes of Membership**

The Society consists of 3 classes of members:

- i) Student Members

- ii) Professional Members
- iii) Corporate Members

Anyone interested in the aims and objectives of the society is eligible for membership as a professional member. However, the following are the considerations for other categories of membership:

- i) The minimum requirement for acceptance to **student member** status is proof of enrolment in an institution of higher learning and interest in data privacy and governance and subject to payment of an annual membership fee of **KES 2,000**
- ii) The minimum requirement for acceptance to **professional member** status is an individual with the responsibility of developing or managing an organisation's compliance with responsible information standards, monitoring privacy laws and regulations as well as developing processes that encourage or manage compliance with responsible information standards, and subject to payment of an annual membership fee of **KES 4,000**
- iii) The minimum requirement for acceptance **to corporate member** status is an organisation or firm that is actively engaged in issues relating to privacy, data protection and data governance and subject to payment of an annual membership fee of **KES 20,000**. **Corporate membership** covers the membership of four staff of the corporate member.

#### **4.3 Conduct & Withdrawal of Membership**

- a) Membership decisions will not discriminate based on race, colour, national origin, religion, sex, gender identity, pregnancy, disability, medical condition, ancestry, marital status, citizenship, and sexual orientation.
- b) Any member desiring to resign from the Society shall submit his resignation to the secretary, which shall take effect from the date of receipt by the secretary of such notice.
- c) Any member may be expelled from membership if the committee so recommends and

if a general meeting of the Society shall resolve by a two-thirds majority of the members present that such a member should be expelled on the grounds that his conduct has adversely affected the reputation or dignity of the Society, or that he has contravened any of the provisions of the constitution of the Society.

- d) The committee has powers to suspend a member from their membership until the next general meeting of the Society following such suspension but notwithstanding such suspension a member whose expulsion is proposed has the right to address the general meeting at which his expulsions to be considered.
- e) Any person who resigns or is removed from membership is not entitled to a refund of his subscription or any part thereof or any money contributed by them at any time.
- f) Any member who falls into arrears with their annual subscription for more than two consecutive years automatically ceases to be a member of the Society and their name shall be struck off the register of members. The committee may, however, at its discretion, reinstate such member on payment of the total amount of subscription outstanding.

#### **4.4 Members Rights**

Professional and Corporate members shall have the same rights and privileges including voting, holding office, nominating other members for office, and serving in the Associations Committee.

Student Members shall have rights limited to nomination, voting, holding office and serving in the association's committees, with respect to positions exclusively allocated for such membership.

#### **4.5 Other Membership Classes**

The Committee may, in its sole discretion, from time to time, create new classes of membership categories.

#### **4.4 Good Standing**

A member of good standing is one who:

- a) Has fully paid up their membership fees, and
- b) Has not been sanctioned by the Society for violating this Constitution.

#### **5. OFFICE BEARERS**

- a) The office bearers of the Society are:
  - i) The Chairperson
  - ii) The Vice-chairperson
  - iii) The Secretary
  - iv) The Assistant Secretary/Organizing Secretary
  - v) The Treasurer
  - vi) The Assistant Treasurer
  - vii) Immediate Past Chairperson as an Ex-Officio

all of whom shall be fully paid-up members of the Society and shall be elected every two years at an annual general meeting.

- b) All office bearers shall hold office for a renewable term of two years subject to the conditions contained in sub-paragraphs (c) and (d) of this Clause but shall be eligible for re-election.
- c) Any office bearer who ceases to be a member of the Society shall automatically cease to be an office bearer thereof.
- d) Office bearers may be removed from office in the same way as is laid down for the expulsion of members in Clause 4(c) and vacancies thus created shall be filled by persons elected at the general meeting resolving the expulsion. In the interim, the Committee shall nominate another Committee member to hold office of the expelled Committee member until the next general meeting.

## 6. DUTIES OF OFFICE BEARERS

- a. **Chairperson** - the Chairperson shall, unless prevented by illness or other sufficient cause, preside over all meetings of the committee and at all general meetings.
- b. **Vice-Chairperson** - the Vice-person shall perform any duties of the Chairperson in their absence.
- c. **Secretary** - the Secretary shall deal with all the correspondence of the Society under the general supervision of the committee. In cases of urgent matters where the committee cannot be consulted, they shall consult the chairperson or if they are not available, the Vice-Chairperson. The decisions reached shall be subject to ratification or otherwise at the next committee meeting. The Secretary shall issue notices convening all meetings of the committee and all general meetings of the Society and shall be responsible for keeping minutes of all such meetings and for the preservation of all records of proceedings of the Society and of the committee.
- d. **Assistant Secretary/Organizing Secretary** - in the absence of the Secretary, the Assistant Secretary shall perform all the duties of the Secretary and such other duties as shall be assigned to them by the Secretary or committee whether the Secretary is present or not.
- e. **Treasurer** - the Treasurer shall receive and shall also disburse, under the directions of the committee, all moneys belonging to the Society and shall issue receipts for all moneys received by them and preserve vouchers for all moneys paid by them. The Treasurer is responsible to the committee and to the members that proper books of account of all monies received and paid by the Society are written up, preserved and available for inspection.
- f. **Assistant Treasurer** - the Assistant Treasurer shall perform such duties as may be specifically assigned to them by the Treasurer or by the committee and in the absence of the Treasurer shall perform the duties of the Treasurer.
- g. **Immediate Past Chairperson as an Ex-Officio** - the immediate Past Chairperson as an Ex-Officio shall offer institutional memory and guidance to the other elected officials.



## **7. THE COMMITTEE (EXECUTIVE COUNCIL)**

- a) The committee consists of all the office bearers of the Society and **9** other members elected at an annual general meeting who shall not be office bearers.
- b) Committee members shall hold office for a single term of two years and may be eligible for re-election.
- c) A Committee member shall not hold the same position for more than two terms.
- d) The committee shall meet at such times and places as it shall resolve but shall meet not less than once in any three months and not more than eight times in a financial year.
- e) The **9** other members shall each represent the following interests:
  - i) Civil Society**
  - ii) Public Service**
  - iii) Private Practitioners (legal sector)**
  - iv) Private Practitioners (technology sector)**
  - v) Private practitioners (other)**
  - vi) Young professionals (less than five years in the profession)**
  - vii) Students**
  - viii) Academia**
  - ix) In-House Data Protection Officers**

## **8. DUTIES OF THE COMMITTEE**

- a) The committee is responsible for the management of the Society and for that purpose may give directions to the office bearers as to the manner in which, within the law, they shall perform their duties.
- b) The committee has powers to appoint such sub-committees as it may deem desirable to make reports to the committee upon which such action shall be taken as seems to the committee desirable.
- c) All monies disbursed on behalf of the Society shall be authorised by the committee

except as specified in Clause 14 (d).

- d) The quorum for meetings of the committee shall be at least half the number of members.
- e) All committee members shall be bound by the decisions of the committee and the Society's general meetings.

## **9. GENERAL MEETINGS**

- a) There are two classes of general meetings: annual general meetings and special general meetings.
- b) The annual general meeting shall be held not later than three (3) months from the close of each Financial year. Notice in writing of such annual general meetings, accompanied by the annual statement of account (see Clause 13 (b)) and the agenda for the meeting shall be sent to all members not less than 21 days before the date of the meetings and, where practicable, by Press advertisement not less than 14 days before the date of the meetings.
- c) The agenda for any annual general meeting shall consist of the following:
  - i) Confirmation of the minutes of the previous annual general meeting.
  - ii) Consideration of the accounts.
  - iii) Election of office bearers and the committee members (and trustees where necessary in accordance with Clause 11 (c)).
  - iv) Appointment of auditors in accordance with Clause 12 (a).
  - v) Such other matters as the committee may decide or as to which notice shall have been given in writing by a member or members to the secretary at least four weeks before the date of the meeting.
  - vi) Any other business with the approval of the Chairperson.
- d) A special general meeting may be called for any specific purpose by the committee. Notice in writing of such meeting shall be sent to all members not less than 7 days

before the date thereof and where practicable by Press advertisement not less than 7 days before the date of such meeting.

- e) A special general meeting may also be requisitioned for a specific purpose by order in writing to the secretary of not less than one third of the members and such meetings shall be held within 21 days of the date of the requisition. The notice for such meeting shall be as shown in Clause 9 (c) and no matter shall be discussed other than that stated in the requisition.
- f) Quorum for general meetings shall be not less than one third of the registered members of the Society having fully paid up their annual membership fees and being in good standing.

## **10. PROCEDURE AT MEETINGS**

- a) At all meetings of the Society the Chairperson, or in their absence, the Vice-Chairperson, or in the absence of both these officers, a Committee member selected by the meeting shall take the chair.
- b) In keeping with best practices for modern governance, the committee shall from time to time decide on whether to hold meetings or conduct a vote either electronically or physically, depending on the prevailing circumstances.
- c) The Chairperson shall ensure that meetings of the Society are orderly and effective.
- d) Resolutions shall be decided by simple voting either electronically in instances of virtual meetings or by a show of hands in instances of physical meetings or both, in instances of a hybrid meeting. In the case of equality of votes, the Chairperson shall have a second or casting vote.

## **11. ELECTIONS**

### **11.1 General Provisions**

- a) Elections shall be held at the Annual General Meeting every two years starting in the

year 2025 following the end of the term of the Founding Committee.

- b) A register of voters shall be released a month before the elections and members shall have the right to inspect the register.
- c) Only fully paid-up members shall be eligible to vote or to vie for any position.
- d) The Society shall manage the elections to a minimum democratic standard which ensures fairness and transparency.
- e) An Elections Committee from the membership shall be established three months before the voting day to oversee the elections and a returning officer shall be chosen from amongst the members of this committee. In the alternative, the Society may onboard an independent third party to manage elections, this can be agreed upon by the members at an Annual General Meeting or a Special General Meeting. The appointed Elections Committee members shall not be eligible to run in the election or openly support or campaign for a named candidate.
- f) Incumbent Committee members may be eligible for another role within the Committee once their term comes to an end.
- g) The Elections Committee shall advertise upcoming elections at least two months ahead of the election day.
- h) Candidates may appoint agents to oversee the voting process.
- i) The winners shall be those who attain a simple majority of the vote for each position.

### **11.2 Eligibility for Election**

- a) A member eligible for election as an office bearer is one who has been a paid-up member of the Society for a minimum of two consecutive years.
- b) A member eligible to vie for representative member positions is one who has served in their respective representative practice areas and have been a paid-up member of the society for a minimum of two years.
- c) A member wishing to vie for the Chairperson, Secretary, and Treasurer positions should have served at least one term as a Committee Member.

### **11.3 Nomination**

A member who has met the respective membership time limits for role eligibility shall be nominated by any member who is fully-paid up and of good standing or may nominate themselves to vie for a Committee position.

### **11.4 Elections**

- a) Subject to availability of resources, voting may be conducted both virtually or physically or both.
- b) Each paid up member shall have only one vote and the vote shall be conducted by secret ballot.
- c) Voting by proxy shall not be allowed.

### **11.5 Conduct during elections**

- a) Candidates should be given the opportunity to provide a written statement of intent outlining their reasons for running and previous experience, which must be made freely available to the members of the society.
- b) Society funds shall not be used to publicise a candidate.
- c) Candidates and voters shall be expected to conduct themselves with utmost decorum during the election process.

### **11.6 Schedule of voting**

Voting shall be the last agenda of the respective Annual General Meeting.

### **11.7 Balloting**

- a) Physical votes shall be counted immediately after the closure of the polling station.
- b) The results of electronic votes shall be released at the close of the voting period.

### **11.8 Vote counting**

- a) The results from the electronic voting shall be tallied with the physical votes to determine the results of each candidate.
- b) Ballot boxes shall be opened and counted in the presence of candidates or their agents in an open and transparent manner.
- c) The Elections Committee appointed or the independent third party shall tabulate the results.
- d) In the case of a tie in the first position of any of the positions a fresh voting exercise shall be undertaken for the position.

### **11.9 Results and Certification**

- a) Results of each position shall be announced at the end of the tallying of the votes for the respective positions and a winner shall be declared.
- b) The results shall be recorded in the following forms by the returning officer and signed by each candidate or their agent:
  - i. The Chairperson-form 1,
  - ii. The Vice-Chairperson-form 2,
  - iii. The Secretary-form 3,
  - iv. The Assistant Secretary /Organising Secretary-form 4,
  - v. The Treasurer-form 5,
  - vi. The Assistant Treasurer -form 6,
  - vii. Civil Society-form 7,
  - viii. Public Service-form 8,
  - ix. Private Practitioners (legal sector)-form 9,
  - x. Private Practitioners (technology sector)-form 10,
  - xi. Private practitioners (other)-form 11,
  - xii. Academia-form 12,
  - xiii. In-House Data Protection Officers-form 13.

- xiv. Young professionals (less than five years in the profession)-form 14, and
  - xv. Students-form 15.
- c) A certificate shall be issued to the winner and certified copies of the results shall be given to each candidate.
  - d) Any candidate may challenge the election results.

## **12. TRUSTEES**

- a) All land, buildings and other immovable property and all investments and securities which shall be acquired by the Society shall be vested in the names of not less than five trustees who shall be members of the Society and shall be appointed at an annual general meeting for a period of three years.
- b) On retirement such trustees shall be eligible for re-election. A general meeting shall have the power to remove any of the trustees and all vacancies occurring by removal, resignation, or death, shall be filled at the same or next general meeting.
- c) The trustees shall pay all income received from property vested in the trustees to the Treasurer. Any expenditure in respect of such property which in the opinion of the trustees is necessary or desirable shall be reported by the trustees to the committee which shall **authorise** expenditure of such monies as it thinks fit.
- d) The committee shall have powers to set out and amend from time to time the criteria for appointment as a trustee, including qualifications and experience of such office holders.

## **13. AUDITOR**

- a) An auditor shall be appointed for the following year by the annual general meeting.
- b) The auditor shall be a qualified and registered with the relevant professional body.
- c) All the Society's accounts, records and documents shall be opened to the inspection

of the auditor at any time.

- d) The Treasurer shall produce an account of their receipts and payments and a statement of assets and liabilities made up to a date which shall not be less than six weeks and not more than three months before the date of the annual general meeting.
- e) The auditor shall examine such annual accounts and statements and either clarify that they are correct, duly vouched and in accordance with the law or report to the Society in what respect they are found to be incorrect, unvouched or not in accordance with the law.
- f) A copy of the auditor's report on the accounts and statements together with such accounts and statements shall be furnished to all members at the same time as the notice convening the annual general meeting is sent out.
- g) An auditor may be paid such honorarium for his duties as may be resolved by the annual general meeting appointing them.
- h) No auditor shall be an office bearer or a member of the committee of the Society.

#### **14. FUNDS**

- a) The funds of the Society may only be used for the following purposes:
  - i. For running the Society's Secretariat
  - ii. Implementing and furthering the objects of the Society.
  - iii. For paying travel and subsistence allowances to members attending the National Committee, which shall mean and include sub-committee meetings.
  - iv. For such other purposes as may be decided at the general or committee meetings.
- b) All money and funds shall be received by and paid to the Treasurer and shall be deposited by them in the name of the Society in any bank or banks approved by the committee.
- c) No payments shall be made out of the bank account without a resolution of the committee authorising such payment and all cheques on such bank account shall be



signed by the Treasurer or the Assistant Treasurer and two other office bearers of the Society who shall be appointed by the committee.

- d) A sum not exceeding KES 10,000 may be kept by the Treasurer for petty disbursements of which proper account shall be kept.
- e) The committee may suspend any office bearer who it has reasonable cause to believe is not properly accounting for any of the funds or property of the Society and shall have power to appoint another person in his place. Such suspension shall be reported to a general meeting to be convened on a date not later than two months from the date of such suspension and the general meeting shall have full power to decide what further action should be taken in the matter.
- f) The financial year of the Society shall be from 1st May to 30th April.

## **15. BRANCHES**

Branches of the Society may be formed with the approval of the committee and the Registrar of Societies, and they will adopt the same constitution as that of the headquarters with the following exceptions:

- a) The aims and objects will not include the formation of branches.
- b) Amendments to the constitution can only be made by the headquarters of the Society in accordance with the provisions of Clause 16.
- c) The provisions of Clause 17 shall apply to branches but, in addition, branches will not be dissolved without consultation with their headquarters.

## **16. AMENDMENTS TO THE CONSTITUTION**

Amendments to the constitution of the Society must be approved by at least a two-thirds majority of members at a general meeting of the Society. They cannot, however, be implemented without the prior consent in writing of the Registrar, obtained upon

application to them made in writing and signed by three of the office bearers.

## **17. DISSOLUTION**

- a) The Society shall not be dissolved except by a resolution passed at a general meeting of members by a vote of two-thirds of the members present. The quorum at the meeting shall be as shown in Clause 9 (e). If no quorum is obtained, the proposal to dissolve the Society shall be submitted to a further general meeting which shall be held one month later. Notice of this meeting shall be given to all members of the Society at least 14 days before the date of the meeting. The quorum for this second meeting shall be the number of members present.
- b) Provided, however, that no dissolution shall be effected without prior permission in writing of the Registrar, obtained upon application to him made in writing and signed by three of the office bearers.
- c) When the dissolution of the Society has been approved by the Registrar, no further action shall be taken by the committee or any office bearer of the Society in connection with the aims of the Society other than to get in and liquidate for cash all the assets of the Society. Subject to the payment of all the debts of the Society, the balance thereof shall be distributed in such other manner as may be resolved by the meeting at which the resolution for dissolution is passed provided that the distribution shall not profit any individual member of the Society.

## **18. INSPECTION OF ACCOUNTS AND LIST OF MEMBERS**

The books of account and all documents relating thereto and a list of members of the Society shall be available for inspection at the registered office of the Society by any officer or member of the Society on giving not less than seven days' notice in writing to the Society.

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**END**

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