

SPECIAL RESOLUTION 2: CONSTITUTIONAL AMENDMENT TO ENABLE GUILD-UNION PARTNERSHIP

Having regard to the objects of SAGA in clause 3 of its Constitution, including the promotion and protection of members' interests, the regulation of relations between actors and producers, the organisation and representation of members for the purposes of collective bargaining, and the power to cooperate with or join other organisations where this is in SAGA's interests; and

having regard further to:

- clause 6.1, which sets out the general powers of SAGA;
- clause 14.6.1, which provides that the Constitution may be amended by special resolution; and
- clause 20, which confirms that the Annual General Meeting is the supreme governing body of SAGA,

and recognising that:

- the extension of labour-law protection to performers and other creative-industry workers, through reforms to the Labour Relations Act and related legislation, creates a need for appropriate organisational structures to promote and protect their rights;
- a registered trade union is the appropriate vehicle under the Labour Relations Act, 1995, for the exercise of organisational and collective bargaining rights, while SAGA remains a voluntary association and professional guild;
- it is desirable to create a clear constitutional framework through which SAGA can establish and/or support an autonomous actors' trade union and cooperate with such union in a manner that is consistent with the Labour Relations Act and with SAGA's existing objects;

IT IS RESOLVED, BY SPECIAL RESOLUTION, THAT THE CONSTITUTION BE AMENDED AS FOLLOWS:

1. Insertion of new object clause 3.12

A new clause 3.12 is inserted after existing clause 3.11, to read:

“3.12. Without derogating from the generality of the foregoing objects, to establish, support, recognise or become a founding or affiliated member of a trade union or trade unions registered, or intended to be registered, in terms of the Labour Relations Act,

1995, or any successor legislation, which trade union(s) will organise and represent eligible performers and related workers in the sector for the purposes of collective bargaining, the exercise of organisational rights and the protection and promotion of labour rights, in a manner consistent with the objects of SAGA and this Constitution.”

2. Insertion of new clause 19A: Relationship with trade union structure

A new clause 19A is inserted after existing clause 19 (or at such appropriate point as the Executive Committee may determine in renumbering the Constitution), to read:

“19A. RELATIONSHIP WITH TRADE UNION STRUCTURE

19A.1 SAGA as professional guild

19A.1.1 SAGA remains and shall continue to function as a voluntary association and professional guild for actors, with the objects set out in clause 3, including advocacy, professional development, contractual support, industry regulation, and the promotion and protection of members’ interests.

19A.1.2 Nothing in this clause shall be construed as converting SAGA into a trade union as contemplated in the Labour Relations Act, 1995, or as limiting SAGA’s existing powers or objects.

19A.2 Establishment and recognition of trade union structure

19A.2.1 In order to give full effect to its objects in relation to collective bargaining and labour rights, SAGA is authorised to establish, support, recognise or become a founding or affiliated member of a trade union or trade unions that are, or are intended to be, registered in terms of the Labour Relations Act, 1995, or any successor legislation, for the purposes of organising and representing performers and related workers in the sector.

19A.2.2 Any such trade union shall be constituted as an autonomous juristic person in terms of its own constitution, which shall provide for democratic, member-based control and independence as required by law.

19A.2.3 SAGA shall not be entitled, whether by this Constitution, by agreement or otherwise, to exercise control over the internal governance, finances, elections, disciplinary processes or collective bargaining mandates of any such trade union, save to the extent that SAGA may

participate in such structures in the same manner as any other member or affiliate in terms of the union's constitution.

19A.3 Membership interface between SAGA and the trade union

19A.3.1 Membership of SAGA shall not of itself constitute membership of any trade union.

19A.3.2 SAGA members who meet the eligibility requirements of the trade union shall be entitled, and are strongly encouraged, to apply for membership of that trade union for the purposes of collective bargaining and the protection and promotion of their labour rights.

19A.3.3 SAGA may, in cooperation with the trade union, adopt streamlined or combined application processes in terms of which eligible persons may simultaneously or sequentially apply for membership of SAGA and the trade union, provided that in all cases the individual's voluntary consent to union membership and, where applicable, to the payment or deduction of union subscriptions or levies, is obtained in accordance with applicable law.

19A.3.4 SAGA and the trade union may, subject to their respective constitutions and to applicable law, agree that SAGA members in good standing shall be admitted to union membership on preferred or simplified terms, in order to promote alignment between professional guild membership and union membership, while fully respecting each individual's freedom of association and choice.

19A.3.5 SAGA shall take reasonable steps to inform its members of the existence and role of the trade union, of the benefits and risks associated with union membership, and of the fact that union membership remains voluntary and is governed by the union's constitution.

19A.4 Reciprocal recognition and cooperation

19A.4.1 SAGA shall seek to operate, and may conclude agreements, in a framework of reciprocal recognition and cooperation with the trade union, including in relation to: (a) aligning industry advocacy positions where appropriate; (b) supporting sectoral bargaining initiatives; (c) coordinating consultation and communication with employers, employer organisations, industry bodies and regulators; and (d) exchanging information and expertise, subject to confidentiality obligations.

19A.4.2 SAGA shall respect the trade union's autonomy in relation to the exercise of statutory organisational and collective bargaining rights, while the trade union shall respect SAGA's autonomy in relation to its professional, contractual and educational activities.

19A.4.3 Where appropriate and lawful, SAGA and the trade union may adopt joint or coordinated strategies to advance the interests of performers, provided that any collective bargaining, industrial action, or enforcement of organisational rights is conducted under and in accordance with the trade union's constitution and the Labour Relations Act, 1995.

19A.5 Ancillary benefits and support structures

19A.5.1 In furtherance of its objects in clause 3.11 and 3.12, SAGA may establish, support or cooperate with foundations, trusts or other ancillary benefit structures aimed at providing educational, social, welfare or financial support, including but not limited to training programmes, hardship assistance, and facilitation of access to pension, provident or medical aid arrangements for eligible performers.

19A.5.2 Such ancillary structures may, subject to their own constitutions and rules, make benefits available to members of SAGA and/or to members of the trade union, provided that the independence and financial integrity of the trade union, and any legal requirements relating to union funds, are respected.

19A.5.3 Any financial or in-kind support provided by SAGA to the trade union or to ancillary structures shall be structured in a manner that does not undermine the trade union's independence or re-characterise SAGA as an employer-dominated or otherwise non-independent trade union within the meaning of the Labour Relations Act, 1995.

19A.6 No limitation of existing powers

19A.6.1 This clause 19A is intended to supplement, and not to limit, the existing objects and powers of SAGA in clauses 3 and 6, and to clarify the framework for cooperation between SAGA as a professional guild and any trade union structures established or supported in terms of this Constitution.

19A.6.2 In the event of any inconsistency between this Constitution and the constitution of a trade union with which SAGA is associated, each

organisation shall interpret and apply its own constitution in accordance with applicable law and its own governance structures, and may revise any cooperation arrangements as may be necessary to maintain compliance with the Labour Relations Act, 1995, and other applicable legislation.”