

MANYANA MHLALI DEVELOPMENT NPC (MMD)

CONSTITUTION

29 OCTOMBER 2024 Business Address:
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1. PREAMBLE

Our vision is to ensure a socially cohesive community that strives to deal with its own traditional, social, health and economic challenges. A community that is characterised societal values of respect, solidarity, sharing and caring for each other. A community that strongly believes that it takes a village to raise a child.

This Constitution reflects our commitment to upholding the Constitution of the Republic of South Africa, 1996, in particular Chapter 2 (Bill of Rights) that specifically refers to the right to be free from violence, the right to equality, the right to human dignity, the right to freedom and security and children's rights.

1.1 NAME OF THE ASSOCIATION

The name of the Non Profit Company (NPC) is MANYANA MHLALI DEVELOPMENT, hereafter referred to as "the Organisation's the shortened name is: MMD.

2. MISSION

To be a social enterprise that strives live the values, principles and practices of good governance and human rights in respect of the following programmes:

2.1 Gender-Based Violence (GBV) Programme:

- Increase public accountability for violence prevention through consistent monitoring of international commitments and national programme performance and expenditures within the public and local governments sector;
- Strengthen social accountability mechanisms through an advisory role reporting on identified accountability failures within the public and locate government sector;
- Eliminate violence by addressing risk factors through evidence-based primary prevention strategies;
- Implement evidence-based advocacy initiatives to facilitate social justice change;
- Strengthen multi-sector engagement through partnership, networking and alliance-building across all sectors of society;
- Ensure that the experience, perspectives, voices and inspirations of survivors of violence, (in particular interpersonal violence prevention).

2.2 Mental Health Programme: Mental Health Awareness and prevention strategies

2.3 Male Circumcision Support Programmes: Conduct programmes for safe male circumcision

2.4 Sustainable Livelihoods Programme: Implement poverty relief in the community by creating sustainable employment and encouraging self-: employment through developing entrepreneurial skills.

3. OBJECTIVES

The Organisation is an association of persons established as a non-profit Company to operate as a social enterprise for the following public benefit objectives:

Main Objectives

- 3.1 To eliminate violence including gender-based violence;
- 3.2 To enhance the quality of life for women, children and vulnerable groups through application of mental health programmes;
- 3.3 To strengthen the rite of passage through safe initiation processes; and
- 3.4 To address the **economic factors through sustainable livelihood programme**

4. LEGAL STATUS

The Organisation is a social enterprise with its own legal identity which is separate from its office-bearers and members. The Organisation will continue to exist even if the members change.

5. INCOME AND PROPERTY OF THE ASSOCIATION

5.1 Members and office-bearers have no rights in the property or other assets of the Organisation solely by virtue of their being members or office-bearers.

5.2 The income and property of the Organisation shall be used solemnly for the promotion of its stated objectives and shall not be paid or distributed directly or indirectly to any person, or to any member of the Organisation or office bearers, except as reasonable compensation for services actually rendered to the Organisation or reimbursement of actual costs or expenses reasonably incurred on behalf of the Organisation.

6. TAXATION OF ASSOCIATION

The Organisation may apply to the Commissioner for the South African Revenue Service (SARS) for approval as a Public Benefit Organisation in terms of section 30 of the income Tax Act. The Organisation may also apply to the Commissioner for the South African Revenue Service (SAPS) in terms of Section 18A of the Income Tax Act. Upon approval the provisions set out in Schedule B shall bind the Organisation,

7. POWERS OF ASSOCIATION

The Organisation shall have the same powers as that of company under the Companies Act, as amended. Such powers include:

- 7.1 To institute or defend any legal or other proceedings and to settle any claims;
- 7.2 To prudently invest funds of the Organisation;
- 7.3 To buy, attain, maintain, manage, lease, sell, or in any way deal with property and assets of the Organisation;
- 7.4 To donate and transfer the property and assets of the Organisation to public benefit organisations with similar objectives;
- 7.5 To borrow and to use the property or assets of the Organisation as security for borrowing;
- 7.6 To execute any act or deed in any deeds registry, mining titles or other public Office;
- 7.7 To exercise all the management and executive powers ordinarily vested in the Board of Directors of a Company, and

7.8 To carry out all the powers and authority of the Organisation in South Africa and in any other part of the world,

8. THE GOVERNING BOARD

8.1 Powers:

The Governing Board shall manage the affairs of the Organisation in accordance with the resolutions of members in a General Meeting.

8.2 Number and Portfolios:

A minimum of three members shall seat on the Governing Board bearing the following portfolios: the Chairperson, the Secretary, the Treasurer, Expert Advisors and Founding Members.

8.3 Election:

All members of the Governing Board shall be members of the Organisation, The Governing Board shall be elected by the members of the Organisation at an Annual General Meeting or a special meeting called for that purpose.

8.4 Term of office:

Governing Board members shall serve for five (5) years and they are eligible for reflection and another term in office. The founding members will remain members of the Governing Board for as long as they are available

to render their services. The retirement of members serving their term of office shall be decided by a majority of votes of the members of the Organisation.

8.5 Vacancies:

The Governing Board must, as soon as reasonable possible, appoint someone to fill any vacancy that reduced the number of board members to less than seven. The next General Meeting must confirm the office of any board member appointed, otherwise it will lapse.

8.6 Co-option: The Governing Board may co-opt additional non-voting members assist may consider appropriate,

8.7 Resignation, Disqualification and Removal:

A Governing Board member may resign from office in writing. A Governing Board member shall be disqualified from office upon termination of membership to the Organisation and becoming incapable by reason of mental illness. A member can be removed from office through a two-thirds resolution of the remaining Governing Board members, consisting of not less than four,

8.8 Delegation of Powers:

The Governing Board may delegate any of its powers or functions to a committee or member(s) of the Organisation provided that:

- such delegation and conditions are reflected in the minutes for that meeting, at least one Board member serve on the committee, the Board in advance approves all expenditure incurred by the committee or member, and the Governing Board may revoke the delegation or amend the conditions.

8.9 Procedures at Meetings:

The Governing Board may regulate meetings and proceedings as it finds fit, subject to the following:

- (a) The Chairperson shall chair all meetings of the Governing Board.
- (b) Meetings of the Governing Board may be conducted face-to-face or electronically which would allow Governing Board members to be present and participate through electronic means.
- (c) If the Chairperson is not present within fifteen minutes of the appointed time of the meeting, the Board members present shall elect a chairperson for that meeting.
- (d) The Chairperson shall convene a meeting of the Governing Board at least quarterly and at the written request of any two members of the Governing Board.
- (e) The quorum for a meeting of the Governing Board shall be two-thirds of the serving Governing Board members.
- (f) If no quorum is present, the Governing Board may make no decision, except to preserve the assets of the Organisation and to call a meeting of the general members.
- (g) Each Governing Board member present or represented through written proxy shall have one (1) vote. The founding members of the Organisation shall hold non-voting rights,
- (h) Questions arising shall be decided by a majority of votes. Should there be an equality of votes the Chairperson shall have a casting or second vote.
- (i) Proper minutes and attendance records must be kept of all meetings of the Governing Board. The chairperson for the meeting shall sign the minutes which shall be available at all times for inspection or copying by any member of the Organisation on two days' notice to the Secretary-
- (j) A resolution signed by all members of the Governing Board shall be as validated if passed at a duly convened meeting of the Governing Board. (k) The Governing Board may appoint employees upon such lawful terms and conditions as it may deem necessary,

8.10 Conflicting Interests:

Any actual, potential or perceived conflict of interest on the part of any member of

the Governing Board, on a matter pertaining in writing to the Governing Board which shall minutes of the Board meeting. Such member may be requested by the Governing Board to state his/her position in the matter or to respond to pertinent questions, but shall not vote or use his/her influence on the matter and shall not be counted for purposes of determining a quorum for the meeting where the voting takes place.

8.11 Confidentiality:

All matters pertaining to litigation, security measure contractual negotiations, employment matters and any other matters deemed confidential by the Governing Board, must be treated as confidential and only the actual decisions may be disclosed to the general public.

9. MEMBERSHIP

9.1 First and Subsequent Members:

The first members of the Organisation shall sign Schedule A of this Constitution. The Governing Board may admit natural persons over eighteen [and legal persons] as members to the Organisation.

9.2 Conditions and Criteria:

The Governing Board may determine the conditions and criteria for membership. Applications for the membership that do not comply with such conditions and criteria may be refused by the Governing Board.

9.3 Transfer of Membership:

Membership is not transferrable.

9.4 Register of Members:

The Governing Board must keep a register with the names and addresses of all the members,

9.5 Automatic Termination of Membership:

Membership automatically terminates upon the receipt by the Organisation of a notification of the death of a natural member or dissolution of an organisational member, and written resignation.

9.6 Termination by Governing Board:

Membership terminates if a member is removed by a resolution of the Governing Board. Provided that the member has been given the opportunity to make written or verbal representations at a meeting of the Governing Board pertaining to the proposed termination,

and the Board's decision to terminate membership was confirmed by resolution of two-thirds of the members present at the next General Meeting, otherwise it will lapse.

10. MEETINGS OF MEMBERSHIP

10.1 Annual General Meetings:

All Annual General Meetings (AGMs) must be held within six months of the Association's financial year-end. At least twenty-one days' written notice must be given to all members stating the date, time, place and business of the AGM which business must include:

- (a) The Chairperson's report;
- (b) The presentation of the Association's Annual Financial Statements;
- (c) The election of Governing Board members; (d) The appointment of Auditors, and (e) Other appropriate matters.

10.2 Special General Meetings:

The Governing Board or not less than one-third of the members may call a Special General Meeting of the Organisation. At least fourteen (14) days' written notice must be given to all members stating the date, time, place and business of the Special General Meeting. If the Board fails to give notice within seven days of the request of one-quarter of the members, such members shall be entitled themselves to give notice of and to convene the meeting.

10.3 Powers of the General Meetings:

The members in a properly convened General Meeting of the Organisation are the highest decision-making structure of the Organisation as set out in this Constitution. The members in General Meeting may review, approve or amend any decision taken by the Governing Board but no such resolution of the Organisation shall nullify any earlier resolution taken by the Governing Board in accordance with the provisions of this Constitution.

10.4 Procedures at General Meetings:

The Members may regulate their meetings and proceedings as it finds fit, subject to the following:

- (a) The Chairperson shall chair all General Meetings;
- (b) General Meetings of the Organisation may be conducted face-to-face or electronically which would allow members to be present and participate through electronic means;
- (c) If the Chairperson is not present within fifteen minutes of the appointed time of the meeting, the members present shall elect a chairperson for that meeting.
- (d) The quorum for General Meetings of the Organisation shall be one-quarter of the members of the Organisation.

(e) If a quorum is not present within fifteen minutes of the appointed time of the meeting, the meeting must be adjourned to another date, within fourteen days thereafter. Notice, as provided for under the constitution, must be given to all members of the Organisation of such adjournment,

(f) If no quorum is present at the reconvened meeting within fifteen minutes of the appointed time, the members present, or represented by proxy, shall deem to constitute a quorum for that meeting.

(g) A resolution put to the vote shall be decided by means of a show of hands or by ballot. A vote by ballot can be demanded

Members present, or represented by proxy.

- (h) Each member present or represented by proxy shall be entitled to one (L) vote.
- (i) Except where this constitution requires a higher threshold, questions arising shall be decided by a majority of votes. Should there be an equality of votes the Chairperson shall have a casting or second vote
- (j) Proper minutes and attendance records must be kept of all General Meetings. The chairperson must sign the minutes which shall be available at all times for inspection or copying by any member of the Association on two days' notice to the Secretary.

11 NOTICES OF MEETINGS

11.1 All notices in terms of this constitution must be given to members in writing (personally, post or electronic communication) to the address provided by the members.

11.2 The accidental omission to address notices to any member shall not nullify the proceedings of any meeting.

11.3 A member present in person at any meeting shall be deemed to have received notice of such meeting.

11.4 If posted, notices shall be deemed to have been received seven days after posting.

12 FINANCES AND REPORTS

12.1 Bank Account:

The Governing Board must open a bank account in the name of the Organisation with a registered Bank. The Governing Board may open two separate bank accounts for the activities of the social enterprise, namely one bank account for the Organisation that is linked to the Violence Prevention Portfolio and one bank account for the Organisation that is linked to the Business Portfolio (a limited trading option to support the sustainability of the Organisation to achieve its mission and objectives).

12.2 Signing:

Cheques and other documents requiring signature on behalf of the Organisation shall be signed by at least two persons authorised by the Governing Board.

12.3 Financial year-end:

The financial year-end of the Organisation shall be end of March,

12.4 Financial Report: The Governing Board must ensure that proper records and books of account which fairly reflect the affairs of the Organisation are kept and within six months of its financial year a report is compiled by an independent practicing auditor registered in terms

of the Auditing Profession Act stating whether or not the financial statements of the Organisation are consistent with its accounting records, the accounting policies are appropriate and have been appropriately applied within preparing the financial statements and the Organisation has complied with the financial provisions of this constitution.

13 AMENDMENTS AND DISSOLUTION;

13.1 This Constitution may be amended, the name of the Organisation may be changed and the Organisation may be dissolved by resolution of two-thirds of the members present at a General Meeting.

13.2 At least twenty-one days' notice of the Meeting stating the nature of the resolution to be proposed must be given to all the members of the Organisational

13.3 Upon the dissolution of the Organisation, after all debts and commitments have been paid, any remaining assets shall not be paid to or distributed amongst members, but shall be transferred by donation to some other non-profit organisation which the Governing Board (and failing which the members in General Meeting) considers appropriate and which has objectives the same or similar to the objectives of the Organisation, and should the Organisation be exempt from the payment of any taxes and duties;

- (i) Any similar public benefit organization which has been approved in terms of section 30 of the Income Tax Act;
- (II) Any institution, board or body which is exempt from tax under the provisions of section 10(1)(cA)(i) of the Income Tax Act, which has Its sole or principal object the carrying on of any public benefit activity;
- (iii) Any department of state or administration in the national or provincial or focal sphere of government of the Republic,

14. INDEMNITY

14.1 Subject to the provisions of any relevant law, members, office-bearers or appointed delegates of the Organisation shall be indemnified by the Organisation for all acts done by them in good faith on its behalf.

14.2 Subject to the provisions of any relevant law, no member of the Association or appointed delegates shall be liable for the acts, receipts, neglects or defaults of any other member or office bearer, or for any loss, damage or expense suffered by the Association, which occurs in the execution of the duties of his or her office, unless it arises as a result of his or her dishonesty, or failure to exercise the degree of care, diligence and 'skill required by law.

SCHEDULE A

SCHEDULE OF FIRST MEMBERS

Nr	Name	Address	Date	Signature
1.	Sakhumzi Norolela	Mdlankomo Loc Libode		
2.	Tshangana Nomafu	Mbuqe Mthatha		
3.	Sontundu Xatyiswa	Chrishani Mthatha		

SCHEDULE B

REQUIREMENTS FOR APPROVAL AS PUBLIC BENEFIT ORGANISATIONS

As provided for in Clause 7 of this Constitution, The Organisation intends to apply to the Commissioner for SARS for approval as a Public Benefit Organisation in terms of Section 30 of the Income Tax Act and Section 18A [Approval for tax deductible donations]. Upon approval the Association shall:

1. Be required to have at least three persons, who are not connected persons in relation to each other, to accept the fiduciary responsibility of the Organisation,
2. Ensure that no single person directly or indirectly controls the decision making powers relating to the Organisation.
3. Is prohibited from distributing any of its funds to any person (otherwise than in the course of undertaking any public benefit activity) and Is required to utilise its funds solely for the object for which it has been established.
4. Be prohibited from accepting any donation which is revocable at the instance of the donor for reasons other than a material failure to conform to the designated purposes and conditions of such donation, including any misrepresentation with regard to the tax deductibility thereof in terms of section 18A; provided that a donor may not impose conditions which could enable such donor or any connected person in relation to such donor to derive some direct or indirect benefit from the application of such donation,
5. Ensure that it is not knowingly a party to, and does not knowingly permit itself to be used as part of any transaction, operation or scheme of which the sole or main purpose is or was the reduction, postponement or avoidance of liability for any tax, duty or levy, which, but for such transaction, operation or scheme, would have been or would have become payable by any person under the Act or any other Act administered by the Commissioner
6. Submit to the Commissioner a copy of any amendment to this constitution.
7. Not pay any remuneration to any employee, office bearer, member or of the person which • is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered.

8. Comply with such reporting requirements as may be determined by the Commissioner.

9. Has not and will not use its resources directly or indirectly to support, advance or oppose any political party.