

# CONSTITUTION of the DON MATTERA LEGACY FOUNDATION

## 1. INTERPRETATION

In this Constitution:

- 1.1 Clause and paragraph headings are for purposes of reference only and shall not be used in interpretation.
- 1.2 Unless the context clearly indicates a contrary intention, a word connoting:
  - 1.2.1 Any gender shall include the other gender.
  - 1.2.2 The singular includes the plural and vice-versa.
  - 1.2.3 Natural persons include artificial persons and vice-versa.
- 1.3 Any reference to a statute in the Republic of South Africa shall be deemed to include a reference to any statute which replaces the statute referred to and to the corresponding statute in any territory which formerly formed part of it and any statutory amendment or substitution thereof.
- 1.4 The following expressions shall bear the meanings assigned to them below and cognate expressions shall bear corresponding meanings:
  - 1.4.1 "The Board" means the member of the Board appointed or nominated under the provisions of clause 7.
  - 1.4.2 "Funds" means the capital together with money or assets donated (movable or immovable), securities and further capital and revenue as may from time to time become vested in the Board, for the purposes of this Board, whether by reason of donation, bequest, accrual or otherwise howsoever.
  - 1.4.3 "SARS" means the South African Revenue Service
  - 1.4.4 "Property" means movable, immovable, corporeal or incorporeal property and money, as well as any real, personal, or contingent right in or to acquire such property of money.



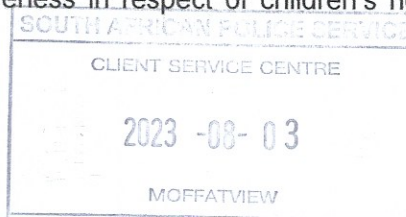
from any contract entered into by the DMLF and third Parties, except for the provisions made in Par 12.1, 12.2 and 12.3.

- 3.8 At least three persons who accept fiduciary responsibility for the public benefit organization will not be connected persons in relation to each other, and no single person directly or indirectly controls the decision-making powers relating to such organization.
- 3.9 Representation on any of the governance structures of the DMLF does not give the members any right, title of claim to any interest in any of the Property or assets of the DMLF, nor do such members incur any liability in respect of any claim or action brought against the DMLF, unless such liability was incurred through gross negligence, breach of responsibility or Foundation of which a member or members may be found guilty in relation to the DMLF.

#### 4. AIMS AND OBJECTIVES OF THE FOUNDATION

The objectives of the DMLF are to:

- 4.1 Bequeath Dr Don Mattera's history and legacy to our youth and our communities, as an empowerment manuscript.
- 4.2 Celebrate and showcase the enormity of Dr Don Mattera as an activist, journalist, poet, author and humanitarian and an Icon to all South Africans and the world.
- 4.3 Ensure that his legacy as a liberation struggle stalwart and his literary works as a poet and author are preserved, celebrated, and consumed in perpetuity.
- 4.4 Build a sustainable legacy based on COMPASSION of his contribution to a free democratic South Africa.
- 4.5 Spread awareness and an understanding of Dr Mattera and his history.
- 4.6 Create a platform for young poets, writers, and wordsmiths to hone their skills and provide support in their respective fields in the arts.
- 4.7 Contribute to the promotion of improved quality of life of the youth, women, and children through various Skills development initiatives in partnership with relevant organisations and community-based projects relating to self-help, empowerment, and capacity building.
- 4.8 Work in partnership with specialised Professional Service Providers to ensure the highest quality of care for children in identified disadvantaged/marginalised communities.
- 4.9 Provide information and public awareness in respect of children's rights to the broader society.





- 6.4 An Executive Committee comprising the Chairperson, Deputy Chairperson, Secretary, and the Treasurer is appointed by the Board at its first meeting after the AGM.
- 6.5 Sub Committees and Task specific Ad Hoc Committees are appointed as required.
- 6.6 Sub Committees and Task Specific Committees may co-opt persons with specialised skills subject to the approval by the Board.

## **7. THE BOARD**

The Board is responsible for the control of the DMLF's activities and has the power and authority to further the objectives of the DMLF in any way it deems fit in the best interest of the DMLF.

### **7.1 The Board will consist of elected and co-opted members as follows:**

- a) ELECTED MEMBERS: not fewer than 9 and not more than 13 ordinary members, members with specialist skills including no more than 3 family members.
- b) BOARD MEMBERS will be nominated by one member in good standing, 14 working days before the annual general meeting.
- c) The nomination must be submitted to the ex-officio manager once the nominee has accepted the nomination in writing.

### **7.2 Board Responsibilities**

- a) At the first Meeting of each year the Board will confirm the DMLF's office bearers, namely, the Chairperson, the Deputy Chairperson, Secretary and Treasurer. In addition, the Board confirms additional members in terms of specific portfolios in accordance with the business of the DMLF.
- b) At this meeting the Board also confirms the Auditors and any other specialised professional service providers.
- c) The Chairperson, Vice Chairperson, Secretary and Treasurer will serve for a 3-year term and a maximum of 4 terms, followed by the appointment of new office bearers.

### **7.3 Board Meetings and additional Board Responsibilities:**

- a) Board meetings will be held at least once per month. Additional Board Meetings may be convened if required.

- n) When required by urgency, a resolution in writing signed by **50% +1** of the Board Members shall be as valid and effective as if it had been passed at a meeting of the Board duly convened and held and may consist of one or more documents so signed. However, the Chairperson or the Deputy Chairperson must be signatory to the resolution. Such resolution shall be ratified at the next meeting of the Board.
- o) Should there be no quorum within a reasonable time after the commencement time of the meeting, then the meeting shall be postponed for 7(seven) days. Those present at the postponed meeting shall form the quorum subject to the condition that there shall be at least five members present. Voting will take place by show of hands unless the majority decide otherwise.
- p) For the sake of convenience, the Chairperson or Deputy Chairperson is authorised to sign all documentation relating to the Foundation on behalf of the Foundation.
- q) Subject to them giving effect to the terms and conditions of this Constitution, the Board Members shall, in administering the Foundation, adopt such procedures and take such administrative or other steps as they shall from time to time deem necessary or desirable.

## 8. EXECUTIVE COMMITTEE

The Executive Committee is elected by the Board and will consist of the Chairperson, Deputy Chairperson, Secretary and Treasurer.

- 8.1 The Executive Committee may meet every two months or as deemed necessary, alternating with the meetings of the full Board, as described above.
- 8.2 It will keep proper minutes of all its meetings and present these minutes to the Board at the first Board Meeting following its meeting.
- 8.3 It will consult with the Board where necessary and refer to the Board for the implementation of decisions.





the date of his/her election, when he/she must retire, but he/she shall be eligible for re-election in the same manner.

- 9.5.8 If the office of Chairperson or Deputy Chairperson falls vacant or if the holder is unable to act, the remaining Board Members shall be entitled to appoint an Acting Chairperson or Deputy Chairperson to act for the period of the vacancy or for the period for which the holder is unable to act.

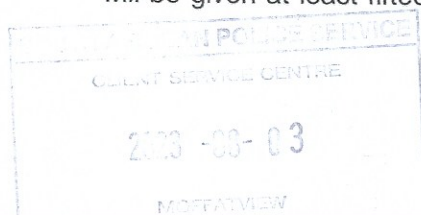
## 10. GENERAL MEETINGS

### 10.1 Annual General Meetings

- a) Every member in good standing is entitled to receive notice of and to attend every annual general meeting of members.
- b) The Annual General Meeting of the DMLF will be convened after at least 30 calendar days' written notice to all members of the DMLF; and after at least 14 calendar days' written "reminder" notification to all members of the DMLF. Written notice may be given in hardcopy or electronically.
- c) The meeting will be held within six months of the end of the Financial Year according to the Non-Profit Directorate Act (1997), being between 1 APRIL and 30 SEPTEMBER of each given year.
- d) The business and purpose of the Annual General Meeting is as follows:
  - i. Confirmation of the minutes of the previous meeting.
  - ii. Presentation of the Annual Report including the Audited Financial Statements.
  - iii. Election of the Board, prospective Board members, being members in good standing accepted their nomination in writing.
  - iv. Any other business.

### 10.2 Special General Meetings

Special General Meetings of the DMLF will be called by notice as instructed by the Board. The notice will state the purpose of the meeting to be addressed and will be given at least fifteen (15) calendar days written notice to all members of



- v. The treasurer will ensure that the audited financial statements are presented at the Annual General Meeting.
- vi. The DMLF will keep financial records in accordance with generally accepted accounting practices.
- vii. Finances will be managed, and records kept in accordance with the Financial Policies and Procedures as adopted by the Board.
- viii. Upon registration of the DMLF as a registered Public Benefit Organisation in terms of section 30(3) of the Income Tax Act No 58 of 1962 (The Act), the foundation will be eligible to provide tax benefit to donors in terms of section 18A(1)(a).
- ix. No funds will be distributed to any person (other than while undertaking any public benefit activity).
- x. The DMLF must submit to the Commissioner of the South African Revenue Services (SARS) a copy of all amendments to its Constitution.
- xi. The DMLF must fully comply with all regulations as prescribed by the Minister of Finance and/or all regulations prescribed by any other Legal Institution which determines its public benefit activities as a non-profit.
- xii. The DMLF must comply with all regulations as prescribed by the South African legal requirements and international regulations if or when it receives International Funding.
- xiii. The public benefit organisation will not be a party to, or does not knowingly permit, or has not knowingly permitted, itself to be used as part of any transaction, operation or scheme of which the sole or main purpose is 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 this Act or any other Act administered by the Commissioner.
- xiv. No resources will be used, directly or indirectly, to support, advance or oppose any political party.
- xv. The Foundation shall not permit or condone the rent-free occupation of any land or buildings owned by it from time to time by any person or organisation, save insofar as such persons or organization may be engaged in activities that promote the objects of the Foundation.





considered reasonable in the sector and in relation to the service rendered and has not and will not economically benefit any person in a manner which is not consistent with its objects.

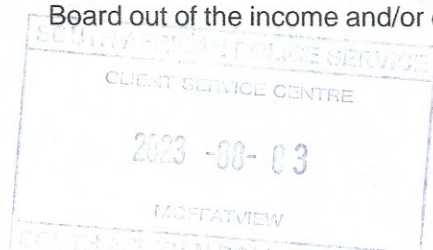
- xxiii. Reimbursement of actual costs, expenses and commitments incurred on behalf of the Foundation shall be paid with the Board's authority, and provided further that no donor, Board Member, or relative of a donor or Board Member shall receive any benefit from the Foundation's Funds, except to the extent and circumstances envisaged in this and the above clause xviii.
- xxiv. If upon the winding up or dissolution of the Foundation there remains after the satisfaction of its debts and commitments, any property whatsoever, the same shall not be paid or distributed amongst the Board members but shall be transferred as specified in paragraph 22 under "Dissolution of Assets".
- xxv. It shall be incumbent upon the Foundation to lodge with the Commissioner: SARS a copy of all amendments to this Constitution, upon its adoption.

## 12.2 Professional Fees and Brokerage

A member of the Board being an Attorney or Accountant or other person engaged in any profession or business shall be entitled to charge and be paid all professional or other charges made by him (other than in his/her capacity as Board Member) or his/her firm for services rendered by him/her or his/her firm in relation to the execution of the objects of this Constitution, whether or not in the ordinary course of his/her profession or business or the profession or business of his/her firm in relation to the execution of the objects of this Constitution, whether or not such business requires the employment of a person engaged in any such profession or business, including commission and/or brokerage, at the usual and normal rates applicable thereto.

## 12.3 Reimbursement of Expenses

All costs and expenses (including travelling and subsistence expenses) incurred by the Board Members in connection with the administration of the Foundation or the exercise of the powers conferred upon them in terms hereof (including the Board's remuneration and any income or other taxes paid by the Foundation in respect of the income of deemed income or capital thereof) shall be paid by the Board out of the income and/or capital of the Foundation, as decided by the Board.



**16. RIGHT OF BOARD MEMBERS TO CONTRACT WITH THE FOUNDATION**

No Board Member shall be disqualified by his/her office from contracting with the Foundation nor shall any contract entered into by the Foundation in which any Board Member may be interested be invalidated or voided by reason of such interest nor shall any Board Member so contracting or being so interested or acquiring any benefit under any contract entered into with the Foundation, be liable to account to the Foundation for any profits or benefits realized by or under such Contract by reason only of his/her holding that office, provided that he/she shall have disclosed to the remaining Board Members the nature of his/her interest before the making of the Contract.

**17. INDEMNITY OF BOARD MEMBERS**

A Board Member shall be indemnified out of the Foundation's assets against all claims and demands of whatsoever nature that may be upon him/her arising out of the exercise or purported exercise of any of the powers hereby conferred upon him/her, unless the loss in question is caused by his/her gross negligence, dishonesty, or breach of trust.

**18. PROPERTY**

The property of the DMLF will be vested in the name of THE DON MATTERA LEGACY FOUNDATION (DMLF) NPC.

The Board has the authority to execute any decisions regarding the property on behalf of the DMLF.

**19. LIMITATION OF RIGHTS AND LIABILITIES OF MEMBERS**

Membership of the DMLF does not and will not give any member proprietary right, title or claim to, or any interest in, any of the property or assets of the DMLF, nor does a member by such membership incur any personal financial liability in respect of any claim or action brought against the DMLF.

**20. CANCELLATION OF MEMBERSHIP**

The Board may cancel the membership of a person if it has sound reason. It will give notice to such member in writing and afford the member the opportunity to appear before it personally. Failing the latter, the Board may approve the membership as cancelled.

**21. LEGAL ACTION**

The DMLF may sue in the name of THE DON MATTERA LEGACY FOUNDATION (DMLF). Powers to sue or defend will be signed by the Chairperson as endorsed by the Board.

