

# **CONSTITUTION FOR THE KRONENDAL MUSIC** **ACADEMY OF HOUT BAY**

## **1. PREAMBLE**

- 1.1. The Kronendal Music Academy Projects are multifaceted programmes of human enrichment for children, youth and adults living within communities in the Western Cape.
- 1.2. These projects support the education, training, and preservation of musical culture within the communities.
- 1.3. This commitment, enshrined in this Constitution, reflects the involvement of concerned Capetonians and educators who have forged together a community that is open, dedicated and deeply concerned with education in, and the preservation of, musical culture.
- 1.4. The Kronendal Music Academy organisation is a Non-profit Organisation as defined in the Non-profit Organisations Act 71 of 1997.
- 1.5. Kronendal Music Academy is also registered as a Public Benefit Organisation and as such hereby declares:
  - 1.5.1. The sole object of the Kronendal Music Academy is to carry on one or more public benefit activity as defined in section 30(1) of the Act, in a non-profit manner and with an altruistic or philanthropic intent.
  - 1.5.2. No activity will directly or indirectly promote the economic self-interest of any fiduciary or employee of Kronendal Music Academy otherwise than by way of reasonable remuneration.
  - 1.5.3. The funds of Kronendal Music Academy will be used solely for the objects for which it was established, or in securities listed on a stock exchange as defined in the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985).
  - 1.5.4. No remuneration will be paid to any employee, office bearer, member or other person which is excessive, having regard to what is generally 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.
  - 1.5.5. No donation will be accepted 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 (other than a donor which an approved public benefit organisation or an institution, board or body which is exempt from tax in terms of section 10(1)(cA)(i), which has as its sole or principle object the carrying on of any public benefit activity) may not impose any conditions which could enable such donor or any connected person in relation to such donor to derive some direct or indirect from the application of such donation.

- 1.5.6. Kronendal Music Academy will submit the required returns for income tax together with the relevant supporting documents.
- 1.5.7. In the case of any public benefit organisation which provides funds or assets to any association of persons contemplated in paragraph (b)(iii) of the definition of "public benefit activity", reasonable steps will be taken to ensure that the funds are utilised for the purpose for which it has been provided.
- 1.5.8. 75% of the funds received by Kronendal Music Academy by way of donations which qualify for a deduction, will be distributed (or an obligation will be incurred to so distribute) within twelve months from the financial year end during which such donations were received

## 2. DEFINITIONS

The following words and phrases shall, unless the context otherwise requires or the contrary intention shall clearly appear, have the meanings assigned to them hereunder:

<b>Organisation</b>	means the Kronendal Music Academy residing at 153 Empire Avenue, Hout Bay.
<b>Founding Members</b>	shall mean those members who by agreement form the Organisation;
<b>Executive Board</b>	shall mean the Governing Body of the Organisation;
<b>Founder</b>	Miss Dwynne Griesel
<b>Executive Director</b>	shall mean Chief Executive Officer
<b>Teachers</b>	shall mean persons whether employed by the Organisation or not who provide music lessons to the learners;
<b>Staff</b>	shall mean personnel employed by the Organisation who shall work in organisational capacity;
<b>Pupils</b>	learners at the Organisation who shall be required to pay the determined lesson fees to the teachers of the Organisation, or be funded by the Organisation;

## 3. TITLE, DOMICILE, AND ESTABLISHMENT

- 3.1. The organisation shall be called The Kronendal Music Academy;
- 3.2. The Organisation's shortened name will be **KMA**;
- 3.3. The Organisation will be formed by the Founding Members;
- 3.4. The Organisation shall:
- 3.4.1. Exist in its own right, separately from its office-bearers and members;

- 3.4.2. Continue to exist notwithstanding changes to the composition of its membership or office bearers;
- 3.4.3. Be able to own property, including immovable property and other possessions;
- 3.4.4. Be able to sue and be sued in its own name.

#### **4. AIMS AND OBJECTIVES**

- 4.1. The Organisation's main objectives are to:
  - 4.1.1. Advance the education and preservation of musical culture
  - 4.1.2. Promote and ensure INTEGRATED YOUTH and INTEGRATED COMMUNITY musical activities – bands, ensembles groups and so forth;
- 4.2. The Organisation's secondary objectives will be to:
  - 4.2.1. Unite the different cultures through music;
  - 4.2.2. To enrich the lives of communities, especially the young people, through music education, performance and collaboration;
  - 4.2.3. To contribute to a sense of pride to communities, through the sharing and enjoyment of musical activities;
- 4.3. Further objectives are:
  - 4.3.1. To establish and maintain educational and vocational training facilities for youth and adults
  - 4.3.2. To create an ethos conducive to the facilitation and development and preservation of musical skills;
  - 4.3.3. To provide a nurturing environment both on the premises and in the community, in which the education in, and preservation of, musical culture can grow;
  - 4.3.4. To raise funds and conduct any business necessary for these purposes;
  - 4.3.5. To encourage co-ordination and co-operation among organisations and institutions with similar aims.

#### **5. MEMBERSHIP**

- 5.1. Membership of the Organisation shall consist of but not be limited to:
  - 5.1.1. The pupils;

- 5.1.2. Alumni, being those pupils who have left the Organisation, having been members for a minimum of 3 (three) years;
- 5.1.3. Teachers;
- 5.1.4. Individuals and/or organisations, who shall be invited by the Executive Board to join the Organisation as members, provided they are able to offer the Organisation a service in return for such membership;
- 5.1.5. Any other category of members as unanimously agreed to by the Executive Board.

5.2. Every member shall be bound by this Constitution.

## **6. GENERAL MEETINGS**

- 6.1. The Organisation shall, on or before the 30<sup>th</sup> day of November, in each year, hold a general meeting known as its annual general meeting ("AGM"), in addition to any other general meetings during that year.
- 6.2. All general meetings of the Organisation shall be held, subject to the provisions of sub-clause 6.1 of this clause, at such time as the Executive Board shall decide from time to time and at such venue as the Executive Board shall decide from time to time.
- 6.3. The Executive Board may, whenever they think fit, convene a general meeting of the Organisation and shall be obliged to convene a general meeting of the Organisation if called upon to do so by not less than 10 members of the Organisation.
- 6.4. All general meetings of the Organisation shall be called by 21 (twenty one) days notice in writing. In each case, the notice shall specify the place, the day and the hour of the meeting and, in the case of special business, the general nature of that business and in the case of a Special Resolution, the terms and effect of the resolution and the reasons for it to all members.
- 6.5. Notice of meetings shall be given to all members by mail, fax, or email. The accidental omission to give notice of any meeting or any resolution, or to give any other notification, or present any document required to be given or sent in terms of this Constitution, or the non-receipt of any such notice, notification or document by any member, shall not invalidate the proceedings at, or any resolution passed at, any meeting.

## **7. QUORUM**

- 7.1. No business shall be transacted at any meeting of the members of the Organisation unless a quorum of not less than 10% of the members are present when the meeting proceeds to business.

7.2. If within half an hour from the time appointed for the holding of a meeting of members, a quorum is not present, the meeting shall be adjourned to the same day in the following week at the same place and time, or such other place as the Chairman shall appoint, and if at such adjourned meeting a quorum is not present within half an hour of the time appointed for holding the meeting, the members present shall be the quorum.

## **8. AGENDA**

In addition to any other matters to be dealt with at an annual general meeting, the following matters shall be dealt with at every annual general meeting:

8.1. The consideration of the Chairperson's report;

8.2. The election of the Executive Board;

8.3. The consideration of any other matters raised at the meeting including any resolution proposed for adoption by such meeting, and the voting upon any such resolutions;

8.4. The consideration of the report of the Auditors of the Organisation.

## **9. PROCEDURE AT GENERAL MEETINGS**

9.1. The Chairperson shall preside at all general meetings, provided that should he not be present within 5 (five) minutes after the time appointed for the holding thereof, then the Vice-Chairperson shall act as Chairperson at such meeting.

9.2. All general meetings shall be conducted in accordance with generally accepted practice.

## **10. MANDATE TO VOTE**

Members shall be entitled to vote by proxy. The provisions relating to proxies, as contained in the Companies Act No. 61 of 1973 (as amended) shall apply

## **11. VOTING**

11.1. Subject to the provisions of this Constitution, every member with the exclusion of 5.1.1 and 5.1.2 shall be entitled to be present or to vote at any general meeting of the Organisation.

11.2. Every member shall be entitled to have 1 (one) vote.

11.3. At any general meeting, a resolution put to the vote of the meeting shall be decided by a show of hands, unless prior to or on the declaration by the Chairperson of the result of the show of hands, a poll is demanded by any person entitled to vote at such meeting.

11.4. Every resolution and every amendment of a resolution proposed for adoption by a general meeting shall be seconded at the meeting and, if not seconded, shall be deemed not to have been proposed.

11.5. A resolution shall be carried on a simple majority of all the votes cast thereon. In the case of an equality of votes, whether on a show of hands or on a poll, the Chairperson of the general meeting shall be entitled to a casting vote in addition to his deliberative vote (if any), bearing in mind that the Chairperson should at all times maintain a neutral stance.

11.6. Minutes and attendance registers of general meetings shall be kept.

## **12. THE MANAGEMENT OF THE ORGANISATION**

12.1. The control and management of the Organisation shall vest in the following bodies:

12.1.1. The Executive Board;

12.1.2. The Executive Director;

## **13. THE EXECUTIVE BOARD**

13.1. The affairs of the Organisation shall be managed and controlled by a Executive Board ("The Board").

13.2. The Board shall consist of not less than five (5) and not more than eight (8) voting members

13.3. The Board shall, at the first Board meeting amongst themselves, appoint a Chairperson, Vice Chairperson, a Secretary and a Treasurer.

13.4. The Patron of the organisation, upon appointment, and other major donors may, by invitation of the Chairperson, attend Board meetings as observers but shall not have voting rights.

## **14. TERM OF OFFICE**

14.1. A Board member nominated and appointed shall hold office for a period of one year, renewable for such further one year period as the Board may determine.

14.2. The Chairperson shall not hold office for more than two consecutive one year terms unless the Board adopts a special resolution extending the term of office of the Chairperson. Such a resolution shall be in writing and shall be signed by all the members of the Board.

14.3. A Board member may resign at any time by notice in writing to the Chairperson.

14.4. Membership of the Board shall cease automatically under the following circumstances:

14.4.1. If s/he is declared incapable of managing his/her own affairs;

14.4.2. If s/he is convicted of any serious crime or any crime involving dishonesty.

14.4.3. If s/he fails to attend 3 (three) consecutive meetings of the Board without an apology and reasons acceptable to the Board.

14.5. Any vacancies to the Board are to be filled by the Executive Board.

14.6. The Founder, Ms Dwyne Giesel, is the Executive Director of the organisation and shall remain a permanent member of the Executive Board.

## **15. MEETINGS OF THE BOARD**

15.1. The Board shall meet on at least 14 (fourteen) days written notice of the meeting being given to each Board member not less than 4 (four) times during the financial year of the Organisation.

15.2. Extraordinary meetings of the Board shall be held whenever the Chairperson deems such a course necessary and shall, through the Secretary on 7 (seven) days notice, advise all Directors of the date, place and agenda of such extraordinary meetings.

15.3. Decisions of the Board shall be taken wherever possible by consensus. If consensus cannot be reached, decisions shall be taken by simple majority of those present with the chairperson having a casting vote in the event of a tied vote.

15.4. Notice referred to in sub-clauses 15.1 and 15.2 above be in the form of a letter, telefax, or email setting out the business to be transacted at such meeting.

## **16. QUORUM OF THE BOARD**

A quorum shall be fifty (50) percent of the current Board. If no quorum is present, the meeting shall be adjourned and reconvened within 7 (seven) days in order to establish a quorum, and if at such adjourned meeting a quorum is not present, the Directors present shall be the quorum.

## **17. POWERS AND DUTIES OF THE BOARD**

The Board shall have all the necessary powers to fulfil its aims and objectives, with special attention being given to the following:

17.1. to fulfil the legal requirements of the Director of Non-profit Organisations and the Receiver of Revenue;

17.2. to promote, assist, evaluate, and review the organisation

17.3. to maintain records of everything owned by the organisation;

17.4. to acquire ownership of immovable property and to mortgage such immovable property;

17.5. to enter into lease agreements in respect of movable and immovable property;

- 17.6. receive and accept donations to the organisation and deposit such donations and other income in an accredited banking institution;
- 17.7. initiate and carry on fundraising activities both within and without the Republic of South Africa;
- 17.8. generally carry out all such things as may further the objectives and purposes of the organisation. These shall include, but not be limited to:
- 17.9. create such sub-committees, both standing and *ad hoc*, as are deemed necessary to effect the objectives of the organisation
- 17.10. to bring and defend legal proceedings on behalf of the organisation and for that purpose to appoint any one or more Board members to sign and execute any necessary Power of Attorney; and
- 17.11. to deal with the property and funds of the organisation in conformity with its objects; provided however that the Board Members shall not be entitled to exercise any of the powers herein conferred on them unless so authorised by Resolution of a General Meeting of Members or by the Board and the members shall be bound to perform or give effect to any directions given to them by Resolution of a General Meeting of Members or of the Board.

## **18. MINUTES**

The Board shall keep proper minutes of all their meetings or cause such minutes to be kept. An original of the minutes shall be signed by the Chairperson and the Secretary upon their approval at the next meeting. Originals shall be maintained in a proper binder and be available to all Board members, and to other interested persons with the prior approval of the Board.

## **19. FINANCIAL YEAR END**

The Financial year of the organisation starts on the 1<sup>st</sup> of January and ends on the 31<sup>st</sup> of December of the same year.

## **20. ACCOUNTS**

- 20.1. The Board shall ensure that proper books of account are kept in which all transactions of the Organisation are duly recorded.
- 20.2. The annual financial statements of the Organisation shall at all times be open for inspection by the Board and donors of the Organisation and by any representative or the Auditor/s of the Organisation.
- 20.3. The annual financial statements of the Organisation shall, if so required by the Board, be audited as soon as possible after the end of the financial year of the Organisation by the Auditor appointed by the Board, who shall be a public accountant and auditor, and who shall not be a member of the Board.
- 20.4. The Treasurer and Chairperson and Executive Director shall receive and sign the audited annual financial statements.



- 20.5. The Organisation's financial transactions shall be conducted by means of a banking account. Funds available for investment may only be invested with a registered financial service provider as defined in the Financial Advisory and Intermediary Services Act 37 of 2002
- 20.6. The annual audit must be ready and handed to the Director of Non-profit Organisations within six months after the end of the financial year.
- 20.7. The organisation's income and property are not distributable to its members or office-bearers, except as reasonable compensation for services rendered. Members or office-bearers shall have no rights to the property or other assets of the organisation solely by virtue of their being members or office bearers.
- 20.8. A member of the organisation shall only be reimbursed money from the organisation for expenses that she or he has paid for on behalf of the organisation and for which receipts acceptable to the auditors have been presented prior to reimbursement.

## **21. AMENDMENTS TO THE CONSTITUTION**

21.1. Provisions of this Constitution may be amended and altered by a three quarters majority of current Board members provided that such amendments, alterations and additions in no way subvert the aims and objectives of the organisation as stated herein.

21.2. Not less than 14 (fourteen) days notice shall be given to each Board member of any meeting at which any amendment, alteration or addition is to be considered. The full text of any such proposed change must accompany the notice.

21.3. A copy of all amendments to the constitution, trust deed, memorandum and articles of association, or other written instrument under which the public benefit organisation was established, will be submitted to the Commissioner for the South African Revenue Service.

## **22. NON LIABILITY OF BOARD MEMBERS**

No Board members, co-opted member, patron or employee of the organisation shall incur any personal liability in respect of acts or omissions done or omitted in good faith by or on behalf of the said organisation.

## **23. DISSOLUTION**

23.1. The organisation may be dissolved if three quarters of the current Board members decide that the aims and objectives are not being satisfactorily achieved, or have become unachievable. Not less than 21 (twenty-one) days notice shall be given of a meeting called to consider dissolution and the notice shall state clearly that dissolution and the disposal of assets shall be the business of the meeting.

23.2. Upon dissolution, any assets whatsoever remaining after all debts and liabilities have been satisfied must be transferred to another like Non-profit Organisation having similar objectives.

- 23.3. On dissolution of the public benefit organisation, the remaining assets must be transferred to:
- 23.3.1. Any similar public benefit organisation, which has been approved in terms of section 30 of the Act.
  - 23.3.2. Any institution, board or body which is exempt from the payment of income tax in terms of section 10(1)(cA)(i) of the Act, which has as its sole or principal object the carrying on of any public benefit activity; or
  - 23.3.3. Any department of state or administration in the national or provincial or local sphere of government of the Republic, contemplated in section 10(1)(a) or (b) of the Act.

## **24. SCHOLARSHIPS, BURSARIES AND AWARDS**

- 24.1. All scholarships, bursaries or awards granted by the organisation will be *bona fide* and be granted to an individual on grounds of objective merit or need.
- 24.2. No scholarship, bursary or award granted will be:
- 24.2.1. revocable, otherwise than for reasons of a material failure to conform to the designated purposes and conditions of the scholarship, bursary or award;
  - 24.2.2. subject to conditions which would enable the donor of the funds of the scholarship, bursary or award or any connected person in relation to the donor, to derive some direct benefit from the application of the scholarship, bursary or award; or
  - 24.2.3. granted to any person who is or will become an employee of the donor of the funds of the scholarship, bursary or award or the organisation (or any associated institution in relation to the donor or organisation) or any relative of the person, unless circumstances indicate that the scholarship, bursary or award would have been granted to the person or his or her relative, even if that person had not been an employee of the donor, organisation or associated institution.
- 24.3. All decisions regarding the granting of scholarships, bursaries and awards will be made by a duly constituted committee consisting of at least three persons who are not connected persons in relation to the donors or the person to whom the scholarship, bursary or award is granted.
- 24.4. All scholarships, bursaries and awards granted in respect of overseas study, research or teaching will be subject to an undertaking by the person to whom the scholarship, bursary or award is granted:
- 24.4.1. to apply the knowledge obtained from the study, research or teaching immediately after completion thereof, in the Republic for a period of at least the period that the study, research or training was funded by the organisation; or

24.4.2. to refund the full amount of the scholarship, bursary or award should he or she decide not to apply the knowledge as contemplated in subparagraph (24.5.1) above.

**25. EFFECTIVE DATE**

This amended Constitution was approved by the committee members of the Kronendal Music Academy at a special meeting held on 30 April 2021

Signed

  
Chairperson

  
Vice Chairperson

  
Member

  
Director

  
Secretary