

PREAMBLE

WHEREAS sovereignty over the entire universe belongs to Almighty Allah alone.

Wherein the Muslims shall “govern their affairs by mutual consultation”.

Wherein the Muslims shall “in the example of the Prophet Muhammad (PBUH) find the most beautiful pattern of conduct”.

And

WHEREAS we the members of the Muslim Lawyers Association (MLA) being aware of our role in building a community that is free from racial, ethnic, religious and economic discrimination.

And committed towards creating a community free of injustices as expounded by the Holy Quraan and the practice (Sunnah) of the Prophet Muhammad (PBUH).

AND WHEREAS the MLA shall be a professional, apolitical and a non-profit making body;

This Constitution shall come into effect on the date of its adoption by the founding members.

NAME

The Association shall be called the Muslim Lawyers Association, the Arabic equivalent being Jaamiah Al Muhaamineen Al Muslimeen, hereinafter referred to as the MLA.

ENTRENCHED CLAUSE

The MLA shall be bound by the injunctions of the Holy Quraan, the practices of the Prophet (Sunnah), the Hadith (Prophetic traditions) and the practices of the Sahabah-e-Kiram (RA) (The companions of the Holy Prophet Muhammad (PBUH)).

DEFINITIONS

Any word utilized in this Constitution shall be given its usual literal meaning, save for the instances in which they are so specifically defined to have an extraordinary or another meaning.

LEGAL ENTITY

The MLA shall be a juristic person having perpetual succession, capable of suing and being sued in its own name, having the power to hold property and assets distinct from its members who have no rights to the property and assets of the MLA by reason of their membership and who are not liable for the debts of the MLA.

HEAD OFFICE

The head office of the MLA shall be situate in Johannesburg, Gauteng, South Africa.

AIMS AND OBJECTIVES

The aims and objectives of the MLA shall be: -

1.
 1. To render legal services and advice to Muslims, locally, nationally and internationally on issues affecting such Muslim persons and/or Muslim organizations locally, nationally and internationally.

1.

1. To render legal services to the local, national and international community in regard to any injustices perpetrated which are in conflict with the Holy Quraan and the Sunnah of the Prophet of Muhammad (PBUH), and the Shariah (Islamic Law and Jurisprudence)

1.

1. To foster, protect and uphold the rights and interest of its members.

1.

1. To train and educate members in respect of Islamic jurisprudence and the application thereof.

1.

1. To offer support and counselling to members of the legal profession.

1.

1. To mediate between members and adjudicate and settle differences between them, whenever called upon to do so by any member.

1.

1. To express its views on matters of common concern to its members and to make representations on behalf of its members to any and all bodies and/or organizations and/or governments.

1.

1. To be the local, national and international voice of its members.

1.

1. To promote the Islamic faith amongst the legal profession.

1.

1. To influence Lawyers and the law in accommodating Islamic values.

1.

1. To promote Islamic values by any and all lawful and proper process through the courts, through the media, by way of bringing to bear influence on parliament, or in any other way that the MLA deems appropriate.

1.

1. To fight and challenge all discriminatory practices which are in conflict with the Quraan and Sunnah.

1.

1. To interact and co-operate with all organizations which have similar aims and/or

objectives as those of the MLA.

1.

1. To receive donations, subscriptions, gifts, monies, legacies and property of any kind for any of the purposes, aims and objectives of the MLA, and to pay out or disburse the same for any of the aims and objectives of the MLA.

1.

1. To do any and all such other things as are incidental or conducive to the attainment of the abovementioned aims and objectives.

MEMBERSHIP

1.

1. There shall be 5 (five) categories of membership: -

1.

1.

1. Full membership - open to judges, magistrates, prosecutors, advocates, attorneys,

salaries employed in the public and private sectors, legal advisors and academic lawyers.

1.

1.

1. Candidate attorneys and pupil advocates.

1.

1.

1. Law students - those at university or college engaged in undergraduate and/or postgraduate studies.

1.

1.

1. Associate members - any person, body or organization deemed by the Board to be eligible, and who subscribe to the constitution of the MLA may apply for admission as an associate member, and the Board's decision as to the application shall be final.

1.

1.

1. Honourary members – any person who has rendered, or is rendering some special service to the MLA, may in the discretion of the Board be invited to be an honourary member regardless of whether such a person is a member of the legal profession or not.

1.

1. Every member, except honourary members, candidate attorneys, pupil advocates and law students, shall pay an annual subscription as determined by the Board.

1.

1. Only full members shall be entitled to vote at annual and special general meetings of the MLA.

1.

1. A person shall not be eligible for membership in any of the aforesaid categories unless he/she, subscribes to the entrenched clause as setout above, and who supports the aims and objectives of the MLA.

SUBSCRIPTIONS

1.

1. An annual subscription, the amount of which shall be determined by the Board, with due consideration to the requirements of the MLA, and of which notice shall be given to members at the Annual General Meeting, shall be paid by each member except those who are exempted.

1.

1. The financial year of the MLA shall commence on the 1st day of July of each year.

STRUCTURE

1.

1. The management of the MLA shall be vested in the Board which shall be established within 90 (ninety) days from date of adoption of this constitution or such extended period as the Interim Board may deem necessary.

1.

1. The Board may appoint an executive committee who shall be responsible for the day to day running of the affairs of the MLA.

THE BOARD

1.

1. Members who hold office as Board Members shall subscribe to and abide by the Entrenched Clause and shall be fully paid up members in respect of their subscriptions or other contributions to the MLA.

1.

1. The Board shall consist of 5 members holding full membership, all of whom shall be elected by a simple majority at an Annual General Meeting or at a Special Meeting convened for such specific purpose. The Board shall have a chairman and other office bearers as the Board may deem necessary.

1.

1. Save for the establishment of the first Board, nominations for Board members duly signed by the proposer and the nominee must be received by the MLA not later than 7 (seven) days before the Annual General Meeting or Special Meeting convened for such specific purpose. The onus shall be on the proposer to ensure that the nomination has been received timeously by the MLA.

1.

1. Three (3) members of the Board shall constitute a quorum.

1.

1. All decisions shall be taken by Shura, (i.e. mutual consultation in the spirit of the Shariah)

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1. Matters may be referred to the Board either by hand or email or telefax.

1.

1. The Board may co-opt individuals and/or appoint advisory committees to assist in its deliberations and/or projects. Any such advisors must be members of the MLA.

1.

1. The Board may employ persons to assist with the administration of the MLA or to further any of its aims and objectives.

1.

1. A member of the MLA shall not make any statement on behalf of the MLA without the written consent of the Board.

INTERIM BOARD

Upon the adoption of this constitution, an Interim Board consisting of 5 (five) full members shall be established by the founding members present at the adoption of this constitution and which Interim Board shall function *mutatis mutandis* as the Board referred to in clause 10 above until dissolved as per clause 23 herein under.

MEETINGS

1.

1. An Annual General Meeting of the MLA shall be held within an 18 (eighteen) month cycle. Notice thereof shall be published on the MLA's website not less than 30 (thirty) days prior to the meeting, or given to each member either by email or telefax or post or by hand or by docex or mobile phone SMS, not less than 30 (thirty) days before the meeting. The quorum for such a meeting shall be 15 (fifteen) full members who hold fully paid up membership. Decisions shall be taken by a simple majority except where this Constitution provides otherwise. The chairperson shall submit a report of the activities of the MLA during the past year and the most recent financial statement to the meeting.

1.

1. A special general meeting or extraordinary meeting may be convened by the Board at the request of not less than 10 (ten) full members who hold fully paid up membership made in writing to the chairperson. Such meeting shall be held not later than 30 (thirty) days after the request is received. The provisions for notice to full members shall be by the same means for an Annual General Meeting except that the period for notice shall be shortened to 10 (ten) days notice. In the event of the special general meeting or an extraordinary meeting being called as urgent, such meeting may be convened entirely at the discretion of the Board and on such abridged notice period as deemed requisite and necessary by the Board in its discretion.

1.

1. If notice of any meeting is not posted on the MLA website, the validity of any such meeting shall not be open to challenge on the grounds that one or more members did not receive proper notification, in due time, or at all, provided that the secretary acted in good faith in seeking to ensure that proper notice was given to all full members.

1.

1. If a quorum is not attained within 30 (thirty) minutes of the scheduled time of the meeting, the meeting will stand adjourned for 10 (ten) days and such meeting shall proceed on the adjourned date notwithstanding no quorum having been attained on the adjourned date. Notice of the adjourned date will be published on the MLA website not less than 72 (seventy two) hours prior to the adjourned meeting and sent to all full members either by e-mail or telefax or post or by hand or docex or by mobile phone sms.

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EXPULSION OF MEMBERS

1.

1. If in the opinion of the Board, the conduct of any member is injurious to the aims and objectives of the MLA, or to its character or reputation, the Board may expel such member by a majority vote of not less than 75% (seventy five percent) of those Board members present, provided that all Board Members had been given 30 (thirty) days notice of such meeting, and further provided that the accused member had been given 30 (thirty) days written notice of such meeting either by hand or post or docex or telefax or email or by mobile phone sms.

1.

1. The accused member shall have the opportunity to plead his/her case personally, and/or to be represented by a co-member/s, and shall be entitled to call witnesses. If the accused member fails to attend the meeting, the Board may proceed in the accused member's absence, provided that proof is tabled that the accused member received such notice of the meeting, and was informed of his/her rights under this clause.

AMENDMENT OF THE CONSTITUTION

No amendment of this Constitution shall be made except by a 75% (seventy five percent) majority of full members present at a duly and properly convened annual general meeting or special meeting convened for such purpose. Notice of any such meeting shall include in the notice to full members extensive details of the proposed changes to the constitution. This clause shall not apply to the Entrenched Clause which shall not be subject to any amendments.

POWERS AND DUTIES OF THE BOARD

The Board shall conduct all the affairs of the MLA and shall be entitled to attend to all matters and things not specifically required to be done at a general meeting or special meeting or not expressly requiring to be otherwise performed. Without limiting its rights of management, the Board shall have the following powers: -

1.

1. To convene meetings;

1.

1. To appoint, remove and determine the duties, salaries and remuneration of its employees;

1.

1. To hold, invest and have the custody and control of the funds and other property and assets of the MLA;

1.

1. To open banking accounts which shall be operated by the signatures of at least 2 (two) Board members;

1.

1. To appoint sub-committees and delegate any of its powers to such sub-committees;

1.

1. Subject to the constitution, for the time being in force, to do all other things that it may consider conducive to the interests or good management or the promotion of the aims and objectives of the MLA;

1.

1. To review the annual subscription payable by members from time to time, the Board being empowered at its discretion to increase or decrease the subscription as it deems fit, due regard being given to the requirements of the MLA.

DISPUTE RESOLUTION

1.

1. In the event of any dispute or difference arising between a member and/or members and/or any other parties in relation to the or with the MLA, or arising out of this Constitution, including the implementation, execution, interpretation, rectification, termination or cancellation, such disputing parties shall immediately meet to attempt to settle such dispute or difference, and failing such settlement within a period of 14 (fourteen) days, the dispute or difference shall be submitted to the Muslim Mediation and Arbitration Council (MMAC), or to any other muslim arbitrator as agreed to in accordance with the provisions of the Arbitration Act 42 of 1965. The Arbitration shall be conducted in accordance with the standard terms of reference and rules of the Muslim Mediation and Arbitration Council (MMAC).

1.

1. The provisions of this clause shall continue to be binding notwithstanding any termination and/or suspension of the MLA.

DEFAULTERS

Any member whose subscription shall be in arrears for a period of 6 (six) months and who shall not thereafter pay such subscription within 14 (fourteen) days of notification to him/her of a written request for payment, either by hand or post or telefax or docex or e-mail may then be removed from the list of members of the MLA.

VOTING

Every full member of the MLA present at a meeting and not in arrear with his/her subscription shall have 1 (one) vote. No voting by proxy shall be permitted. In the event of an equality of votes, the chairperson shall have a casting vote.

RESIGNATION

Any member desiring to resign from the MLA may do so on giving notice in writing to the secretary, but such person shall remain liable for any subscription/s which fell due prior to the date of such resignation.

RIGHTS AND OBLIGATIONS OF MEMBERS

- 1.
1. Every member of the MLA shall have the right to: -

- 1.
- 1.
1. Take part in the formulation and discussion of the policy of the MLA.

- 1.
- 1.
1. Be elected to any committee, commission or delegation of the MLA as determined by the Board in its discretion.

- 1.
- 1.
1. Submit proposals on any matter that affects the MLA.

- 1.

1.

1. To be protected against any harassment, victimization and/or discrimination based on race, ethnicity, religion and/or economic orientation.

1.

1.

1. Every member of the MLA shall: -

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1.

1. Be loyal to the MLA.

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1.

1.

1. Carry out decisions, duties and directives with due care and diligence.

ELECTIONS

- 1.
1. Voting shall be by secret ballot.

- 1.
1. Elections at the Annual General Meeting and/or Special Meeting shall be conducted by a person appointed as the Electoral Officer by the Board.

- 1.
1. Full members in good standing shall be eligible to vote and to be voted into any office of the MLA.

ASSETS

- 1.
1. The income and assets of the MLA shall be used solely for the promotion of its aims and objectives and it is recorded that the MLA has been formed not for profit.

1.

1. The income and assets of the MLA, from whatsoever source derived, shall be applied solely towards the promotion of the aims and objectives of the MLA, and no portion thereof shall be paid or transferred directly or indirectly by way of dividend, bonus or profit or otherwise howsoever, to members of the MLA. Nothing herein contained shall prevent the payment in good faith to any member of the MLA for : -

1.

1.

1. The remuneration as officer/servant/employee of the MLA for any services actually rendered to the MLA.

1.

1.

1. The reasonable rent for premises.

1.

1.

1. Any other expenses deemed necessary by the Board.

IMMOVABLE PROPERTY

1.
 1. Immovable property or mortgages shall be registered in the name of the MLA.

1.
 1. In the event of the acquisition or disposal of immovable property, all documents necessary for the acquisition or disposal of such immovable property or mortgage shall be signed by a Board member duly authorized in terms of a resolution past by the Board for such purpose.

TERM OF OFFICE

The elected members of the Board shall take office immediately after the result of the election has been announced and remain in that office for a period of 3 (three) years. The elected members of the Board shall convene a board meeting within 14 (fourteen) days of their election to appoint office bearers for the functioning of the MLA and upon which date the interim board referred to in Clause 10A shall *ipso facto* be dissolved, after the establishment of the first Board.

VACATION OF OFFICE

A member of the Board shall vacate his/her office if he/she: -

- 1.
- 1.
1. Resigns by giving notice in writing to the secretary.

- 1.
- 1.
1. Ceases to subscribe to and abide by the Entrenched Clause contained herein.

- 1.
- 1.
1. Is removed from office by the Board.

- 1.
- 1.
1. Surrenders his/her estate or is sequestrated.

- 1.
- 1.
1. Becomes mentally incapacitated.

- 1.
- 1.
1. Is absent without leave, or other reason acceptable to the Board, from meetings of the Board on 3 (three) consecutive occasions.

FINANCES

The MLA shall cause proper books of accounts of all income and expenditure and of all assets and liabilities to be maintained, which shall be open for inspection by any member, on 30 (thirty) days written notice to the secretary.

The Board, via the treasurer, shall ensure that proper annual financial statements are prepared and presented by the chairperson at the Annual General Meeting of the MLA.

DISSOLUTION OF THE MLA

The MLA may be dissolved by resolution passed by a 75% (seventy five percent) majority, of full members who are not in arrear with subscriptions, present at a duly and properly convened annual or special meeting convened for such purpose. Notice of such meeting shall include in the notice to all full members extensive details of the reasons for proposing such a resolution and proposals for dealing with the assets of the MLA. All assets remaining at the date of dissolution of the MLA shall be transferred to a Muslim organization in South Africa, as decided at such meeting by a vote of a show of hands of a simple majority of the full members present.