

PUBLIC BENEFIT ORGANIZATIONS PROTOTYPE CONSTITUTION

**(AS PER SECTION 8(2)(a),8(4),8(5),8(6) OF THE PUBLIC
BENEFIT ORGANIZATIONS ACT, CAP 134)**

CONSTITUTION OF [INSERT NAME OF PUBLIC BENEFIT ORGANIZATION]

1. DEFINITIONS

“The Act” means the Public Benefit Organizations (PBO) Act, 2013

“The Regulations” means the Public Benefit Organizations Regulations, 2026

“The Constitution” means this constitution

“The Authority” means Public Benefit Organizations Regulatory Authority (PBORA)

2. NAME AND REGISTERED OFFICE

2.1 The name of the Organization is [INSERT NAME] (hereinafter referred to as “the Organization”).

2.2 The Registered office of the Organization shall be situated in [insert physical address, County, City/Town] and its postal address shall be [insert address].

3. NATURE AND STATUS

3.1 The Organization is a (membership/non-membership) Public Benefit Organization registered under the PBO Act.

3.2 The Organization is a voluntary, autonomous, non-partisan, and non-profit-making body corporate with perpetual succession by operation of section 10(3) of the Act.

4. PURPOSE AND OBJECTIVES

4.1 **Main Objective:** The primary purpose of the Organization is to [Define the primary public benefit activity within sectors in the Sixth Schedule of the Act e.g. Advancement of education, health, environmental conservation, human rights, etc.].

4.2 **Specific Objectives:** [List specific strategy-based activities aligned with the Sixth Schedule sectors.

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- 4.3. **Public Benefit Test:** The Organization shall operate for the public benefit of identifiable and intended sections of the public [List target beneficiaries of the Organization]

5. MEMBERSHIP

- 5.1. Participation and membership shall be entirely voluntary.
- 5.2. Membership of the Organization shall consist not be less than 5 members at any time and will be defined in the following optional categories:
- **Ordinary Members:** Individuals that subscribe to the Organization objects, hold full voting rights and are eligible for appointment to the Governing Body.
 - **Founder Members:** Ordinary members that founded the Organization.
 - **Corporate Members:** Institutions/bodies corporate that subscribe to the Organization's values. Have single voting right.
 - **Honorary Members:** Individuals/bodies corporate recognized for exceptional service, may attend meetings but hold no voting rights.
- 5.3. Membership admission is subject to application, nomination by members, approval by the Governing Body and payment of applicable subscription fee. Employees of the Organization or any subsidiary of the Organization will not be eligible for nomination as Members.
- 5.4. Termination of membership shall be upon death, resignation, removal for willful disregard of this Constitution, bankruptcy, becoming of unsound mind, a conviction of a criminal offence or de-registration or dissolution of a body corporate member.
- 5.5. Procedures for the removal of a member shall accord the right to a fair hearing before the Governing Body or a General Meeting [Define the "procedure for removal of a member].
- 5.6. A register of membership shall be kept at the Organization registered office.

6. GOVERNANCE AND MANAGEMENT STRUCTURE

6.1. The General Meeting

- 6.1.1. The General Meeting of members shall consist of all duly registered members of the Organization

6.1.2. Functions of the General Meeting:

- Electing and removing the Governing Body.
- Appointing the external auditor.
- Amending the Constitution.
- Dissolving or winding-up the Organization
- (Specify any other function)

6.2. The Governing Body

6.2.1. The Governing Body shall consist of at least five (5) members, including the Chairperson, Secretary and Treasurer.

6.2.2. Three (3) of the members shall not be related to each other.

6.2.3. At least one-third of the members shall be Kenyan citizens resident in Kenya.

6.2.4. The Chief Executive Officer may be an Ex-Officio of the Governing Body

6.2.5. Functions of Membership Organization Governing Body:

- Accounting to the General Meeting
- Setting the strategic direction and policy framework and providing oversight of the Organization.
- Fiduciary oversight and approval of annual budgets and audited accounts.
- Appointing, supervising or removing the CEO.
- Ensuring compliance with the Act and other Kenyan laws.
- Reviewing the Organization's asset base, liabilities, income, expenditures, and programs for the previous year and budget and program implementation for the upcoming year.
- Reviewing and recommending amendments to the Organization's constituting documents.
- (Specify any other function)

6.2.6. Functions of Non-Membership Organization Governing Body:

- Selecting, appointing and removing its members.
- Appointing the external auditor
- Amending the Constitution
- Dissolving or winding-up the Organization
- (Specify any other function)

6.2.7. Responsibilities of the Chairperson

- Leading the Governing Body on organizational and financial aspects to ensure legal compliance.
- Planning the annual cycle of Governing Body meetings.
- Chairing AGM and SGM
- Overseeing /chairing Governing Body and Executive committee meetings.
- Working in partnership with the Chief Executive Officer (CEO) to make sure Governing Body's resolutions are carried out.
- Calling special meetings as necessary.
- Assisting the CEO in preparing the agenda for the Governing Body's meetings.
- Subject to the terms of this Constitution dealing with adjournment of meetings, the ruling of the chairperson on all matters relating to the order of business, procedure and conduct of the General Meeting is final.
- The Chairperson, in his discretion, may expel any Member or Director from a General Meeting if the Chairperson reasonably considers that the Member or Director's conduct is inappropriate behaviour.

6.2.8. Responsibilities of the Secretary

- Keeping minutes of the meetings of the Governing Body Special General Meetings and General Meetings.
- Carrying out all correspondence on behalf of the Organization.
- Arranging for meetings of the organization on instructions of the Directors of the Governing Body or in special circumstances on the instructions of General Meetings.
- Ensuring that all necessary documents are lodged with the appropriate legal or regulatory authority within the prescribed timeframe.

6.2.9. Responsibilities of the Treasurer

- Provide oversight and guidance on the financial management of the Organization and ensure that proper financial systems and controls are in place.
- Oversee the Organization's bank accounts and ensure that all payments, withdrawals, and financial transactions are properly approved in accordance with the Organization's policies and procedures.
- Present financial updates, budgets, and audited financial statements to the Governing Body and the General Meeting for review and accountability.

6.2.10. Tenure of Office and Elections: Members of the Governing Body including but not limited to the Chairperson, Secretary and Treasurer shall serve for a term of [insert tenure period and renewal terms]. Elections shall be conducted at a General Meeting after every [insert number] years of the previous election.

6.3. The Management Body

- 6.3.1. The Management shall be headed by the Chief Executive Officer (CEO) appointed by the Governing Body.
- 6.3.2. The Management is responsible for implementing resolutions of the General Meetings or Governing Body and managing the day-to-day affairs of the Organization.
- 6.3.3. The CEO may serve as the Secretary/ex-officio member of the Governing Body with no voting rights.
- 6.3.4. The Management may exercise such powers as required by the constitution to achieve the objectives of the Organization.
- 6.4. **Separation of Power:** The Governing Body shall be distinct from the day-to-day Management. No member of the Management shall be a voting member of the Governing Body. No Member of the Governing Body shall be an employee/hold a salaried staff position within the Organization.
- 6.5. The supreme, fiduciary and strategic authority shall vest in the Governing Body or General Meetings.

7. MEETINGS

7.1. General Meetings

- 7.1.1. The Organization shall hold periodic General Meetings and may convene Special General Meetings when necessary.
- 7.1.2. The quorum for General Meetings shall be [insert number] and where quorum is not met, meetings may be adjourned subject to [define adjournment process].
- 7.1.3. Members shall receive adequate notice of meetings, including details of the agenda, venue, time and mode of participation may include in person and/or virtual attendance.
- 7.1.4. Decisions at General Meetings shall be made by a majority vote, with the Chairperson having a casting vote in the event of a tie.

7.2. Governance Body Meetings

- 7.2.1. All General Meetings of the Governing Body shall be convened by the Secretary in consultation with the Chairperson, by giving [insert notice period] notice, accompanied by the proposed agenda.
- 7.2.2. The Governing Body will have a minimum of [insert frequency] meetings in a year.
- 7.2.3. Any member of the Governing Body may request for a meeting subject to which the Secretary shall call for a meeting of the Governing Body, by giving a [insert notice period] notice and indication of the proposed agenda.
- 7.2.4. Where the secretary is absent, unavailable or is the subject of the meeting, any member shall petition the chairperson to convene the meeting of the Governing Body within [insert number] days from the date of such petition.

8. FINANCIAL ACCOUNTABILITY

- 8.1. **Non-Distribution Clause:** Income and property are not distributable to any person, except as reimbursement for reasonable expenses or fair compensation for professional services rendered, and shall be applied solely toward the promotion of the Organization's objects.

8.2. Assets Safeguarding

- 8.2.1. Members or the Governing Body or Management shall have no personal ownership or claim over the assets of the Organization by virtue of their position or membership rights.
- 8.2.2. All assets shall be used solely for the Organization's public benefit purposes.

8.3. Audits

- 8.3.1. The Organization shall prepare audited accounts annually and submit to the Authority within 6 months of their financial year-end.
- 8.3.2. An auditor shall be appointed during the Annual General Meeting. Members of the Governing Body or Management cannot serve as an auditor.
- 8.3.3. The auditor shall have full access to the Organization's financial records, books, and information necessary to perform the audit. After reviewing the accounts, the auditor shall prepare a report for Members confirming whether the financial statements give a true and fair view of the Organization's financial position.

- 8.3.4. The statement of financial position must be signed by two members of the Governing body, including the nominee of the Principal Member, and the auditor's report shall be presented at the Annual General Meeting and made available for inspection by Members.
- 8.3.5. The Organization shall make available the books of account, related documents, and register of members for inspection by an authorized officer of the Authority, subject to not less than seven (7) days' written notice.
- 8.4. **Financial Year:** The financial year of the Organisation shall begin [insert the applicable first day of the financial year] and end on the last day [insert last day of the financial year] as the Governing Body or General Meeting may determine e.g. calendar year (**January to December**).
- 8.5. **Income and Economic Activity**
- 8.5.1. The Organization may engage in income-generating activities in accordance with Section 65 of the Act, provided that all proceeds are ploughed back into advancing its public benefit purposes.
- 8.5.2. The Organization shall strictly apply all funds to its public benefit purposes and clearly reflect accordingly in its audited accounts.
- 8.6. The organization's financial transactions shall be conducted by means of a banking account.

9. AMMENDMENTS

- 9.1. **Amendments to this Constitution:** The Organization may by Special Resolution passed at a General Meeting of members or Governing Body, alter, amend, modify or repeal this Constitution or adopt a new Constitution or change the name of the Organization, provided that no such alteration, amendment or modification shall impair or prejudice the effectiveness of the prohibition against distribution of organizations income, property and assets to the Members.
- 9.2. **By-Laws (section 8(6))**
- 9.2.1. The Governing Body may make by-laws, rules and regulations and may amend or rescind from time to time any such by-laws, rules or regulations provided they are not inconsistent with this Constitution.

- 9.2.2. Any such by-laws, rules and regulations made, must be in the opinion of the Governing Body, necessary or desirable for the proper control, administration and management of the Organization's operations, finances, affairs, interests, effects and property and the duties, obligations and responsibilities of the Members.

10. DISSOLUTION OR WINDING UP

- 10.1. The Organization shall not be dissolved or wound up except by a Special Resolution passed at a General Meeting of the members.
- 10.1.1. The quorum at the meeting shall be fifty percent (50%) of all Members of the Organization. If no quorum is obtained, the proposal to dissolve or wind up the Organization shall be submitted to a further General Meeting which shall be held one month after.
- 10.1.2. Notice of this meeting shall be given to all Members of the Organization at least fourteen (14) days before the date of the meeting. The quorum for this second meeting shall be the number of Members present provided however that no dissolution or winding up shall be effected without the prior consent in writing of the Authority.
- 10.2. Upon dissolution or winding up or deregistration of the Organisation, its remaining assets shall be distributed/transferred to another PBO having similar objectives
- 10.2.1. Where dissolution is voluntary, the Organization shall submit to the Authority a resolution of the Governing Body identifying the nominated PBO with similar objectives to receive assets upon deregistration or dissolution, otherwise the Authority shall make this decision.
- 10.2.2. Upon deregistration, a PBO shall not dispose its assets without the written approval of the Authority.

WE, the undersigned hereby subscribe to and adopt this Constitution.

Name, Designation and Postal Address	Signature
Chairperson	
Secretary	
Treasurer	
Member	
Member	