



REFUGEE SOCIAL SERVICES

Constitution

Refugee Social Services

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**RICHARD
ROSENTHAL
ATTORNEYS**
In association with



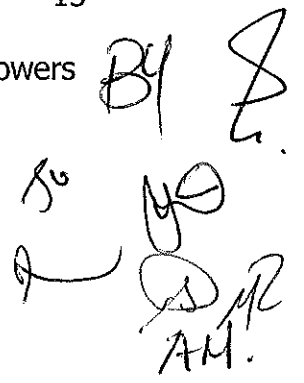
**HARRIS
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I N D E X

Clause	Heading	Page
	BACKGROUND	1
1	CONTINUATION OF ASSOCIATION	1
2	DEFINITIONS AND INTERPRETATION	2
3	SOLE OR PRINCIPAL OBJECT	4
4	MEMBERS	4
5	THE EXECUTIVE COMMITTEE	5
6	EXECUTIVE MEMBER VACATING OFFICE	6
7	PROCEDURE AT EXECUTIVE COMMITTEE	7
8	GENERAL MEETINGS	8
9	NOTICES	10
10	ANNUAL FINANCIAL YEAR, BOOKS OF ACCOUNT, AND ANNUAL FINANCIAL STATEMENTS	10
11	BANKING ACCOUNT AND SIGNATURES	10
12	AMENDMENTS TO CONSTITUTION AND DISSOLUTION	11
13	INDEMNITY	12
14	EXECUTIVE COMMITTEE DISCRETION	12
15	POWERS AND LIMITATION OF POWERS	13
16	AREAS OF OPERATIONS	14
17	FURTHER MEETING FORMALITIES	14
18	CONFLICT OF INTEREST	15
	ATTACHMENT "A" – General Investment and Administrative Powers	
	ATTACHMENT "B" – Prescribed Fiscal Conditions	
	ATTACHMENT "C" – Prescribed NPO Provisions	

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BACKGROUND

- i) Refugee Social Services ("RSS") is a Non-Profit Voluntary Association, originally established in terms of a Constitution adopted by its founding members at an inaugural meeting held at Durban on the 8th May 2008.
- ii) In terms of clause 10 of the existing Constitution the terms of the Constitution may be amended by Resolution supported by no less than sixty-six percent (66%) of the members of the Association present at a General Meeting.
- iii) The presently-serving Members of the Association are of the unanimous opinion that it is appropriate that certain provisions of the existing Constitution be amended as hereinafter contemplated, including the need to incorporate the Prescribed Fiscal Conditions that have been enacted in terms of Section 30 of the Income Tax Act, and insofar as it may be, or will become applicable, for the purposes of Section 18A of that Act.

NOW THEREFORE IT IS HEREBY RESOLVED AND AGREED AS FOLLOWS :

1.

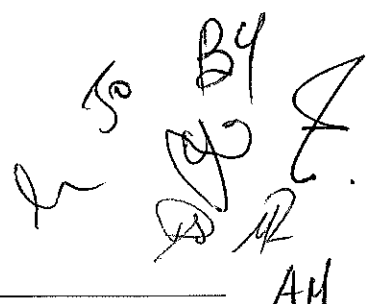
CONTINUATION OF THE ASSOCIATION

1.1 The Organisation described as

REFUGEE SOCIAL SERVICES **[Abbreviated Name : "RSS"]**

shall be and remain a Voluntary Association, which shall henceforth be governed in terms of the provisions of this Constitution.

1.2 The Association is a juristic person, separate and distinct from its members and officers, and shall continue to exist notwithstanding periodic changes that may occur in the composition of its members and the identity of its employees and officers.

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2.

DEFINITIONS AND INTERPRETATION

In this Constitution, unless the context clearly otherwise indicates:

- 2.1 "The Association" means the Voluntary Association established in terms of this Constitution, to be known as Refugee Social Services ("RSS"), which is to be henceforth governed in terms of this Constitution.
- 2.2 "Accounting Officer" means a person qualified to be appointed as an accounting officer of a close corporation in terms of section 60(1), (2) and (4) of the Close Corporations Act, 1984 (Act 69 of 1984)
- 2.3 "The Board/Executive Committee" means the body vested with executive responsibility for the conduct of the affairs of the Association, and the exercise of its powers and duties.
- 2.4 "Business Day" means any day other than a Saturday, Sunday or official public holiday in South Africa;
- 2.5 "The Commissioner" means the Commissioner for The South African Revenue Service ("SARS").
- 2.6 "Income Tax Act" means The Income Tax Act No. 58 of 1962, as amended.
- 2.7 "The Members" means those persons who have subscribed to this Constitution in that capacity; but shall include such other persons as may be admitted to membership in terms of this Constitution.
- 2.8 "Minister" means The Minister of Finance.
- 2.9 "Ninth Schedule" means the Ninth Schedule to the Income Tax Act, in terms of which "Public Benefit Activities" are listed and defined for purposes of section 30 (Part I), and for purposes of section 18A (Part II) of the Act; subject in each instance, to such amendments or additions thereto as may from time to time be

- enacted or prescribed.
- 2.10 "Nonprofit Organisations Act" means The Nonprofit Organisations Act, No. 71 of 1997.
- 2.11 "Prescribed Fiscal Conditions" means the provisions prescribed from time to time in terms of sections 30 and 18A of the Income Tax Act, as being applicable to Public Benefit Organisations approved by the Commissioner for purposes of exemption from income tax in terms of Section 10(1)(cN), and for purposes of the tax deductibility of grants and donations in terms of section 18A. Such provisions as are applicable as at the date of adoption of this Constitution, being set forth in Attachment "B" hereto; but remain subject to any amendments or additions thereto as may from time to time be enacted or prescribed.
- 2.12 "Public Benefit the Activities" means the activities designated as such in terms of Ninth Schedule to the Income Tax Act and/or pursuant to a determination by the Minister in terms of section 30(1) of the Act.
- 2.13 "Public Benefit the Organisation" means an Organisation duly approved as such by Commissioner in terms of section 30 of the Income Tax Act.
- 2.14 "The Republic" means the Republic of South Africa.
- 2.15 The masculine shall include the feminine; the singular shall include the plural; and terms referring to persons shall include juristic persons; and *vice versa* in each instance.
- 2.16 Any reference to the Income Tax Act; or the Nonprofit Organisations Act; any other statute mentioned or referred to hereunder, including the Schedules and Regulations applicable thereto, shall be deemed to denote such Statutes, Schedules, and Regulations, as they may be amended from time to time, including any legislation constituting a re-enactment or substitution thereof.

3.

SOLE OR PRINCIPAL OBJECT

- 3.1 As an approved Public Benefit Organisation, the Association is committed to a Sole or Principal Object which is to be carried into effect through the provision of holistic quality social services to refugees and asylum seekers.
- 3.2 In furtherance of the aforesaid Sole or Principal Object, the Association shall engage in such activities as may from time to time be considered appropriate and conducive to the achievement of its mission, which may include (but without limitation thereto) the following:-
- 3.2.1 Advocating for the protection of the rights of refugees and asylum seekers within the host community.
- 3.2.2 Facilitating a process of integration of refugees into local communities and providing information and access, if appropriate, to other durable solutions such as voluntary repatriation and resettlement;
- 3.2.3 Providing vulnerable refugees and asylum seekers with basic, time limited, material assistance;
- 3.2.4 Networking and collaborating with other organisations and groups who promote refugee rights;
- 3.2.5 Facilitating access to training and capacity building programmes for refugees and asylum seekers, which improve opportunities for integration and promote self-reliance;
- 3.2.6 Providing psychological support and counselling to refugees and asylum seekers.

4.

MEMBERS

- 4.1 The membership of the Association shall comprise those persons who have subscribed to this Constitution in that capacity.
- 4.2 Further Members may be admitted from time to time at the discretion of the Executive Committee, but subject to compliance with any such eligibility criteria and conditions of membership as may be prescribed from time to time.

- 4.3 For the avoidance of doubt, it is confirmed that the Executive Committee shall have a complete and unfettered discretion with regard to the acceptance or rejection of applications for membership, or the suspension or termination of such membership as it may deem to be in the best interests of the Association. Neither the Association nor its Executive Committee shall be under any obligation, express or implied, to provide reasons with respect to any such decisions affecting membership of the Association.

5.

THE EXECUTIVE COMMITTEE

- 5.1 The administrative responsibility for the exercise of the powers of the Association shall vest in a body to be known as the Executive Committee.
- 5.2 The Executive Committee shall comprise a minimum of three (3) persons, and a maximum of ten (10) persons, of whom at least three (3) persons shall not be "Connected Persons", as defined by the Income Tax Act. The Executive Committee shall appoint one of its members as Chairperson, and may appoint such other office bearers as it may deem necessary from time to time, including;
- 5.2.1 a Vice-Chairperson; and/or
- 5.2.2 a Secretary; and/or
- 5.2.3 a Treasurer.
- 5.3 The initial Members of the Executive Committee shall be those persons whose names and signatures appear on the applicable Schedule to this Constitution. Such Members shall hold office as Members of the Executive Committee until the first-occurring Annual General Meeting, whereupon the sequential retirement and appointment provisions contemplated by clause 5.4 shall come into effect.
- 5.4 Accordingly, save for the limited initial period of tenure which is specified in respect of the initial Members of the Executive Committee, the Members of the Executive Committee who are elected from year to year at the Annual General Meeting shall serve for three (3) year terms, provided that, save for the first Annual General Meeting occurring after the adoption of this Constitution, if at any subsequent Annual General Meeting more than one-half of its Members are due for retirement, no more than one-half of such Members shall be required to retire – being such of their number as may be mutually agreed between them; or failing agreement, as may be determined

- by the drawing of lots between them.
- 5.5 Subject to the maximum number of Members stated in clause 5.2 above, the Executive Committee may at its discretion from time to time, by a majority decision, co-opt other persons to serve as additional Members of the Executive Committee, and any such co-opted persons shall likewise hold office in accordance with the sequential and appointment provisions contemplated by clause 5.4.
- 5.6 Members of the Executive Committee who are deemed to retire in terms of the foregoing provisions shall be eligible for re-election or re-co-option, as the case may be.
- 5.7 Notwithstanding anything to the contrary set out above, the Executive Committee, by resolution adopted by no less than two-thirds ($\frac{2}{3}$) of its members at the relevant time (excluding the person concerned), shall be entitled to remove or suspend from office any member of the Board, whether elected or co-opted, as aforesaid should it deem this appropriate and in the best interests of the Association. In such event, the Executive Committee shall be under no obligation to furnish reasons for, or to justify, its decision/s with respect to any such removal or suspension.

6.

EXECUTIVE MEMBER VACATING OFFICE

The office of member of the Executive Committee shall be vacated if a member:

- 6.1 dies or tenders her/his resignation in writing; or
- 6.2 completes the term of office for which she/he is appointed, without subsequent re-election or co-option; or
- 6.3 becomes of unsound mind; or otherwise unfit or incapable of acting in this capacity;
- 6.4 becomes disqualified in terms of any legislation from acting as a Trustee, Director, or in any other fiduciary capacity; or
- 6.5 is removed from office, in terms of a Resolution duly passed in accordance with the provisions of 5.7 above.

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7.

PROCEDURE AT EXECUTIVE COMMITTEE MEETINGS

The Executive Committee shall conduct its meetings and regulate its proceedings as it may find convenient, provided that:

- 7.1 The Chairperson, or in her/his absence, the Vice-Chairperson, if any, shall chair all meetings of the Executive Committee. In the absence of the Chairperson and the Vice-Chairperson, if any, the remaining members of the Executive Committee shall elect a Chairperson from their number.
- 7.2 The Chairperson may at any time convene a meeting of the Executive Committee, but shall be obliged to do so, if so requested in writing by any two (2) of its Members.
- 7.3 The quorum necessary for the transaction of any business by the Executive Committee shall at least fifty (50) percent plus one (1) of all the Executive Committee Members.
- 7.4 At meetings of the Executive Committee each of its Members shall have one (1) vote.
- 7.5 Questions arising shall be decided by a majority of votes, provided that in the event of an equality of votes, the Chairperson shall have a second or casting vote.
- 7.6 Proper minutes shall be kept of the proceedings of the Executive Committee, and a record of all persons present at each meeting. The minutes shall be signed by the Chairperson or other Member who chairs the meeting, and shall be available at all times for inspection or copying by any Member of the Executive Committee, and on two (2) Business Days' notice to the secretary or his or her deputy, by any other Member of the Association.
- 7.7 The Executive Committee shall be entitled to delegate any of its powers and prerogatives to one or more of its Members, or to a Special Purpose

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Committee (which may include persons who are not Members of the Board), or to an employee or agent for the Association, as it deems appropriate. The person/s to whom any such delegation is made shall, in the exercise of their delegated powers and prerogatives, conform to any directions or procedures that may be stipulated by the Executive Committee with regard thereto.

8.

GENERAL MEETINGS

8.1 Annual General Meeting

8.1.1 An Annual General Meeting of the Association shall be held within a period of fifteen (15) months after the adoption of this Constitution; and subsequent Annual General Meetings shall be held as soon as possible, but in any event within three (3) months, after the end of each financial year; subject to the condition that no less than seven (7) Business Days prior written notice of such meeting shall be given to all Members entitled to attend.

8.1.2 The Annual General Meeting shall be convened by the Chairperson.

8.1.3 The business of an Annual General Meeting shall include, *inter alia*:

8.1.3.1 the presentation and adoption of the Annual Report;

8.1.3.2 the consideration of the Annual Financial Statements;

8.1.3.3 the election of Members to serve on the Executive Committee, and of the Chairperson and other officers, if any, for the following year;

8.1.3.4 the appointment of an Accounting Officer or Chartered Accountant;

8.1.3.5 such other matters as may be considered appropriate.

8.2 Other General Meetings

Other General Meetings of the Association may be convened from time to time as may be considered necessary at the request of:

8.2.1 the Executive Committee;

8.2.2 the Chairperson; or

8.2.3 any two (2) Members of the Association.

8.3 Any General Meeting other than the Annual General Meeting shall be convened on not less than Fourteen (14) Business Days written notice to all Members entitled to attend General Meetings, and such notice shall state in

broad terms the business to be transacted at the Meeting: provided that should the Chairperson, having been requested to give such notice, fails to do so within seven (7) Business Days of written request, the persons requesting the Meeting shall themselves be entitled to give notice of and to convene the Meeting.

8.4 Resolutions and Voting

8.4.1 At all General Meetings, a resolution put to the vote shall be decided either a show of hands or by a poll - if the Chairperson shall so determine. A poll shall be taken as directed by the Chairperson, and the result of the poll shall be the resolution of the Meeting.

8.4.2 Each Member present or represented at a General Meeting shall be entitled to one (1) vote; and all matters arising shall be determined by majority vote, provided that the Chairperson shall be entitled to a second or casting vote, in the event of an equality of votes.

8.5 Quorum

Subject to the terms of clause 8.6, a quorum in respect of any General Meeting of the Association shall be at least fifty (50) percent plus one (1) of all the Members of the Association at the relevant time.

8.6 Adjournment

In the event of any General Meeting having been duly convened but no quorum being present, such Meeting shall stand adjourned to another date, which shall be not less than five (5) Business Days thereafter, as may be determined by the Executive Committee, and written notice reflecting such adjournment shall be given to all persons entitled to notice of General Meetings. At such reconvened General Meeting, the Members then present or represented shall be deemed to constitute a quorum.

9.

NOTICES

9.1 Notice of all meetings provided for in this Constitution, shall be delivered personally, or sent by post, or in such other manner (including fax or electronic transmission) as the Executive Committee believes expedient, directed to the last address notified by each person concerned to the Association.

9.2 The inadvertent omission to address notice/s to any person shall not invalidate the proceedings of any meeting.

9.3 If posted, notices shall be deemed to have been received seven (7) Business Days after posting.

10.

ANNUAL FINANCIAL YEAR, BOOKS OF ACCOUNT, AND ANNUAL FINANCIAL STATEMENTS

10.1 The Annual Financial Year of the Association shall be as from 1 January to the 31 December in each year.

10.2 The Executive Committee shall ensure that the Association keeps proper books of account. Financial Statements (including Capital and Revenue accounts) shall be prepared at least once in each financial year, in accordance with generally accepted accounting practice, and shall clearly reflect the affairs of the Association. The books of account and Financial Statements shall be reviewed or audited and certified by either an independent practising Accounting Officer, an independent practising Chartered Accountant, or in such other manner as may be deemed appropriate by the Executive Committee.

10.3 A copy of the Annual Financial Statements shall be made available to each of the Members as soon as possible after the close of the financial year.

11.

BANKING ACCOUNT AND SIGNATURES

11.1 The Association's financial affairs shall be conducted by means of a banking account.

11.2 All cheques, promissory notes, and other documents requiring signature on behalf of the Association shall be signed as the Executive Committee may resolve from time to time.

12.

AMENDMENTS TO CONSTITUTION AND DISSOLUTION

12.1 By decision of the Members in General Meeting :

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- 12.1.1 the terms of this Constitution may be amended;
- 12.1.2 the name of the Association may be changed; and
- 12.1.3 the Association may be dissolved;

provided that written notice of the proposed resolution is given not less than seven(7) Business Days prior to the date of the Meeting; and provided that such notice states the nature of the resolution to be proposed.

Any such resolution shall be deemed to have been duly adopted if it is supported by no less than two-thirds ($\frac{2}{3}$) of the Members present at the Meeting, being not less than the minimum necessary to constitute a quorum.

- 12.2 For the avoidance of doubt, and notwithstanding anything to the contrary contained in this Constitution, it is confirmed that a resolution signed by all Members of the Association, shall be valid as if passed at a duly convened General Meeting of the Association.
- 12.3 A copy of the amending Deed, or Resolution, as the case may be, shall be submitted forthwith upon its adoption to the Commissioner, and to the Director appointed in terms of the Non-profit Organisations Act.
- 12.4 In the event of the dissolution of the Association, any net residue of the funds of the Association remaining after dissolution of grants and awards, and after provision for liabilities and expenses, shall be given or transferred to one or more Approved Public Benefit Organisations, or other eligible institutions, having the same or similar objects as those of the Association, as may be determined by the Executive Committee at its discretion; provided that any such portion of the net residue as may arise in consequence of donations made by taxpayers to whom receipts have been issued in terms of section 18A of the Income Tax Act, must be given or transferred only to some other such eligible beneficiary for purposes of section 18A; and provided further that each such disposition upon dissolution of the Association, is subject to approval by the Commissioner, as required in terms of the Income Tax Act.

13.

INDEMNITY

- 13.1 Subject to the provisions of any relevant statute, each member of the Executive Committee and all office bearers shall be indemnified by the Association for the consequences of acts done in good faith on the Association's behalf; and it shall be the duty of the Association to pay all costs

and expenses which any such person incurs, or becomes liable for, as a result of contracts entered into, or acts or deeds done in her/his capacity, and with the authority of the Executive Committee of the Association.

- 13.2 Subject to the provisions of any relevant statute, no member of the Executive Committee or other office bearer of the Association shall be liable for the acts, receipts, neglects or defaults of any other member or office bearer, or for having joined in any receipt or other act for conformity, or for any loss or expense suffered by the Association through the insufficiency or deficiency of title to any property acquired by the Association; or for the insufficiency or deficiency of any security in or on which the monies of the Association may be invested; or for any loss or damage arising from the bankruptcy, insolvency or delictual act of any person with whom any monies, securities or effects are deposited or for any loss or damage caused in any other way, which occurs in the execution of the duties of her or his office or in relation thereto, unless it arises in consequence of her or his dishonesty, or failure to exercise the degree of care, diligence and skill required by law.

14.

EXECUTIVE COMMITTEE DISCRETION

Where discretions are vested in the Executive Committee and/or the members of the Association in terms of this Constitution, such discretions, except where expressly limited, shall be complete and absolute, and no person affected by any such decision shall be entitled to challenge the decision.

15.

POWERS AND LIMITATION OF POWERS

- 15.1 Subject to the over-riding authority of a General Meeting of Members, the Executive Committee shall have plenary powers to govern and administer the affairs of the Association, which shall include the General Management, Investment and Administrative Powers set out in Attachment "A", which shall be limited and qualified only insofar as may be necessary to ensure due compliance with the relevant statutory provisions, including:-

- 15.1.1 The Prescribed Fiscal Conditions, insofar as they may be or become applicable to the Association, as contemplated by Attachment "B" hereto;

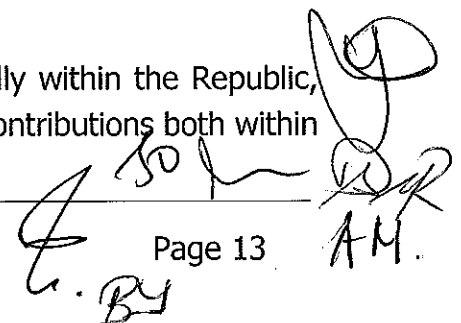
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- 15.1.2 The Prescribed NPO Provisions, insofar as they may be or become applicable to the Association pursuant to its registration in terms of the Non-Profit Organisations Act, as contemplated by Attachment "C" hereto.
- 15.1.3 Any such further statutory provisions as may be or become applicable to the Association at any time in terms of relevant legislation.
- 15.2 Without derogating from the generality of the foregoing, the Executive Committee shall have power to select and initiate the activities and projects of the Association; and to determine the manner in which its funds and resources shall be invested and appropriated from time to time; including the power to determine how surplus funds should be invested, with the intent and purpose that all such funds shall be held, invested, and appropriated by the Executive Committee, as it may deem appropriate at its sole discretion; provided that the income and property of the Association whencesoever derived must be applied solely towards the promotion of its Sole or Principal Object stated in clause 3; and no portion thereof may be distributed, directly or indirectly, to Members or Employees of the Association; provided that nothing herein contained shall prevent the Association from giving financial assistance to other approved tax-exempt organisations having the same or similar purposes; nor shall the foregoing prevent the payment in good faith by the Association of reasonable remuneration (commensurate with services actually rendered) to any person, including a Member or Employee, in return for services actually rendered.
- 15.3 In the event of the dissolution and winding up of the Association, any assets remaining after the satisfaction of its liabilities shall be given or transferred to one or more other non-profit organisations having the same or similar objects to those of the Association, which have been approved by the Commissioner as tax-exempt in terms of Section 30 of the Income Tax Act, as may be selected by the members in a General Meeting in accordance with the provisions of clause 12, subject to the approval of the Commissioner, and subject further to compliance with all Prescribed Statutory Provisions as may then be applicable.

16.

AREA OF OPERATIONS

The activities of the Association shall be conducted substantially within the Republic, although the Association shall be entitled to solicit and accept contributions both within

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the Republic and elsewhere; and it shall be entitled to conduct its activities beyond the borders of the Republic, to such extent as may be permitted in terms of the relevant provisions of the Income Tax Act and other applicable legislation.

17.

FURTHER MEETING FORMALITIES

- 17.1 A "round robin" resolution – that is a resolution in writing, supported and signed unanimously by all persons eligible to vote thereon – shall be as valid as if passed at a duly convened meeting; and, unless stated to the contrary, shall be deemed to have been passed as at the date of the last signature thereto. Any such "round robin" Resolution may be recorded in a single document, or in several documents, as may be found convenient.
- 17.2 For the avoidance of doubt, it is further stipulated that General Meetings of members or meetings of the Executive Committee may be held at any time or times, and at any place or places, subject to due notice having been given thereof; and such meetings may be held simultaneously in more than one place, provided that all persons involved are linked to each other by telephone, video, teleconference or other facilities, whereby they may communicate and participate in the business of the meeting, as if actually present together at the same time and place.

18.

CONFLICTS OF INTEREST

No transaction involving the Association shall be void or voidable merely by reason of the existence of a conflict of interest between the Association and one or more of the Members, provided that:

- 18.1 Any Member having a conflict of interest declares his interest in the transaction;
- 18.2 Such Member makes full disclosure, in good faith, of all the relevant facts and circumstances affecting his interest in the transaction;
- 18.3 Such Member thereafter recuses himself from, and takes no further part in, any discussion or decision affecting the transaction;
- 18.4 The transaction is duly approved by a seventy-five percentum majority of

the Members other than the Member/s having such conflict of interest; and

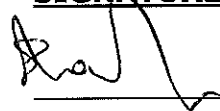
- 18.5 All relevant and material details of the transaction, and the discussions leading up to the vote of the Members, are duly minuted and recorded.

**DULY ADOPTED BY THE MEMBERS OF THE ASSOCIATION ON THIS THE
31ST DAY OF AUGUST 2017.**

FULL NAMES OF MEMBER

SIGNATURE

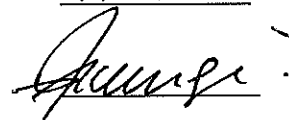
Evashnee Naidu



Ashlatha Moodley

A. Moodley

Eric Prange



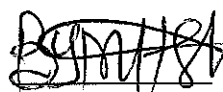
Sharita Devi Ragunan



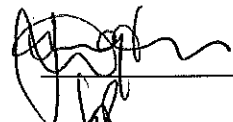
Sherylle Dass

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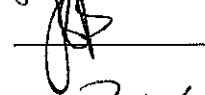
Bongiwe Mlatsha



Laura Washington



Johnny Baruti



Yasmin Rajah



PERSONS SERVING AS THE INITIAL MEMBERS OF THE EXECUTIVE COMMITTEE

(Vide Clause 5.3)

FULL NAMES OF MEMBER

DESIGNATION

Evashnee Naidu

Chairperson

Ashlatha Moodley

Secretary

Eric Prange

Treasurer

Sharita Devi Ragunan

Member

Sherylle Dass

Member

Bongiwe Mlatsha

Member

Laura Washington

Member

Johnny Baruti

Member

Yasmin Rajah

Member

ATTACHMENT "A"

GENERAL INVESTMENT AND ADMINISTRATIVE POWERS

Subject to the limitations set forth in the **Prescribed Fiscal Conditions** (Attachment "B"), The Board shall have the following **General Investment and Administrative Powers**, in addition to those special powers and discretions as are set forth in the Constitution to which this Schedule is annexed, viz:

1. To invest and reinvest the funds of the Association in a manner permitted by law, as they may deem appropriate, in their sole and absolute discretion; which may include, if deemed appropriate, the transfer and investment of funds off-shore.
2. To retain, or take over assets and investments constituting the subject matter of donations made to the Association, and to retain them in the form in which they are received, or realise and re-invest the proceeds thereof.
3. To realise or vary any investments from time to time forming part of the funds of the Association, and re-invest the proceeds thereof in any authorised investments.
4. To allow investments forming part of the funds of the Association to remain uninvested, or in their original state of investment upon acquisition by the Association.
5. Lend money to the Association, with or without security, and with or without provision for interest, as may be deemed appropriate.
6. To borrow on such terms and conditions as The Board may consider fit for any of the purposes of the Association; including the payment of liabilities of the Association; the payment of capital to any other permitted beneficiary; the making of any loan in furtherance of the Sole Object of the Association; the preserving or acquiring of any assets or investments; the subscription of any shares with powers from time to time to consent to any alteration or variation in the terms applicable thereto; and as security for any moneys so borrowed, The Board shall be entitled to mortgage, pledge, either generally or specifically, or otherwise encumber, all or any portion of the funds of the Association, in such manner and upon such terms and conditions as it may

deem fit, with the right also to replace such borrowings or security.

7. To guarantee (either gratuitously or for a consideration) the performance of contracts or obligations of any third party in order to promote the sole object of the Association, upon such conditions, and with or without security, as The Board in its sole and absolute discretion may deem fit; provided that such transaction is entered into for the benefit of the Association.
8. To exercise the voting power attached to any shares forming part of the funds of the Association, as The Board may consider appropriate in the best interests of the Association; and to enter into arrangements as it may consider necessary for the purpose of causing the liquidation, reconstruction, or amalgamation of any company of whose capital the shares shall form portion.
9. To deal with, and turn to account, any of the assets forming part of the funds of the Association, by way of exchange, sale, lease or otherwise and in exercising any powers of sale, The Board shall be entitled to cause such sale to be effected by public auction, tender, or private treaty as it may consider appropriate.
10. To purchase or acquire both movable and immovable property for use by the Association itself in the conduct of its affairs, and in furtherance of the Specified Activities.
11. In respect of any immovable property donated to, or forming part of the funds of the Association, at any time:
 - 11.1 to develop, maintain, exchange, sell, lease or otherwise deal with any such immovable property or any portion thereof, and to grant rights or options in respect thereof; to register mortgage bonds; and to procure the maintenance, repair, improvement, demolition or reconstruction of any buildings situated thereon;
 - 11.2 to execute any act or deed relating to alienation, partition, exchange, transfer, mortgage, hypothecation, or otherwise, in any Deeds Registry, Mining Titles or other public office; to deal with servitudes, usufructs, limited interests or otherwise; and to make any applications, grant any consents and agree to any amendments, variations, cancellations, cessions, releases, reductions, substitutions or otherwise generally relating to any deed, bond or document and to obtain copies of deeds, bonds or

documents for any purposes and generally to do or cause to be done any act whatsoever in any such Registry or office.

12. To transfer shares or other assets into the name of any nominee/s for the Association, or into the name/s of any one or more of The Board.
13. To cause any Company to be incorporated, or any Trust, Foundation, or Association not for Gain, to be established, which is owned or controlled, directly or indirectly by the Association; for the purpose of holding specific assets or undertaking specified activities which serve to promote the Sole Object of this Association, in the Republic or elsewhere, in accordance with the provisions of this Constitution.
14. To sue for, recover and receive all debts or sums of money, goods, effects and other things whatsoever, which may become due, owing, payable or vested in the Association, and bring sequestration, liquidation or judicial management proceedings against any person.
15. To defend, oppose, adjust, settle, compromise or submit to arbitration all accounts, debts, claims, demands, disputes, legal proceedings and matters which may subsist or arise between the Association and any person and, for the purposes aforesaid, to do and execute all necessary acts or documents.
16. To attend meetings of creditors of any person indebted to the Association whether in insolvency, liquidation, judicial management or otherwise, and vote for the election of a Trustee, liquidator or judicial manager, and also vote on all questions submitted to any such meeting of creditors and generally exercise all rights of a creditor.
17. To exercise the voting power attaching to any share, stock, debenture or unit, in such manner as The Board may deem fit, for the purpose of amalgamation, merger or compromise, in any Company or Trust in which any such share, stock, debenture or unit is held.
18. To exercise and take up or sell and realise any rights of conversion or subscription attaching, accruing or appertaining to any share, debenture or unit forming part of the assets of the Association.
19. To engage employees in a part-time or full-time capacity; determine their remuneration; and terms of employment, and delegate to them such duties as The Board may determine; and to dismiss them.

20. To give receipts, releases or other effectual discharges for any sums of money or things recovered.
21. To treat as income any periodic receipts although received from wasting assets; and to make provision for the amortisation thereof, if deemed necessary and appropriate.
22. To determine in such manner as The Board may consider fit what shall be treated as income and what shall be treated as capital, in respect of any liquidation dividend, or return of capital, or capitalisation of profits, in the case of companies whose shares are being held as portion of the assets of the Association; and generally to decide any question which may arise as to what constitutes capital and what constitutes income, by effecting an apportionment in such manner as The Board may consider fit.
23. To employ accountants, attorneys, agents, brokers, or other professional advisers to transact any business of whatever nature required to be done pursuant to this Constitution, and to pay all such charges and expenses so incurred as a first charge, and not to be responsible for the default of any such appointees, or for any loss occasioned by their employment.
24. To exercise all such management and executive powers as are normally vested in the Board of Directors of a Company with regard to the affairs of the Association.
25. To exercise any of such powers and authorities not only in the Republic, but also in any other part of the world.
26. Generally, to deal with assets or investments forming part of the funds of the Association, in such manner as The Board may deem advisable; and to this end it shall be vested with any such additional powers and authorities as it may require to enable it to do so.

ATTACHMENT "B"

PRESCRIBED FISCAL CONDITIONS

[In terms of Sections 18A and 30 of the Income Tax Act No. 58 of 1962, as amended] ("The Act")

Pursuant to the Association (hereinafter referred to in this Attachment as "the Organisation") having been approved by the Commissioner as a "Public Benefit Organisation" in terms of Section 30, and also for purposes of Section 18A of the Act, the Executive Committee shall be bound by, and shall at all times conform to, the conditions prescribed from time to time in terms of the relevant legislation, including any amendments thereto which may from time to time be enacted or prescribed. Such Conditions as are presently applicable to the Association at the date of adoption of this Constitution are repeated hereunder for information purposes, but remain subject to any amendment or additions thereto, which may at any time be enacted or prescribed.

1. As the Organisation has been approved by the Commissioner for purposes of Section 18(A)(1) of the Act, the Organisation shall:-

- 1.1 Ensure that any eligible donations actually paid or transferred to the Organisation, are applied solely to undertake, or to enable other Eligible Beneficiaries to undertake Public Benefit Activities as listed from time to time in Part II of the Ninth Schedule; including the provision of funds or assets to assist other Eligible Beneficiaries to conduct such Activities, including such as may be determined by the Minister from time to time for purposes of section 18A of the Act. The term "Eligible Beneficiaries" shall include any agency referred to in section 18A(1)(bA) of the Income Tax Act; and any department of government of the Republic in the national, provincial or local sphere, as contemplated in section 10(1)(a) of the Act.
- 1.2 Ensure that within 12 months of the end of any year of assessment during which a qualifying donation is received, the Organisation distributes or incurs the obligation to distribute at least Fifty Percent (50%) of the funds so received in respect of which a tax receipt was issued by the Organisation, enabling a deduction thereof to be effected by a taxpaying donor in terms of

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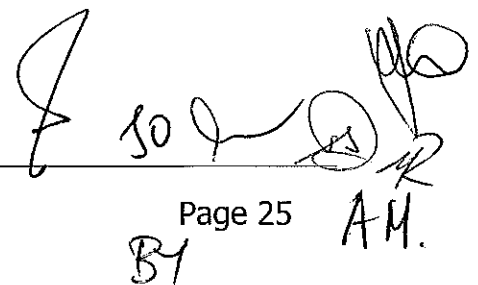
section 18A of the Income Tax Act; unless the Commissioner upon good cause shown agrees to waive, defer or reduce such obligation to distribute, as contemplated by the proviso to section 18A(2A)(b)(i) of the Act, and in that event, subject to any such conditions as the Commissioner may determine.

- 1.3 Comply with, and have regard to, any such additional requirements as may be prescribed by the Minister from time to time in terms of section 18A(1), or as may be otherwise imposed by the Commissioner in terms of the Act, including any additional requirements prescribed by the Minister as binding upon Eligible Beneficiaries carrying on any specified activity before donations shall be allowed as a deduction for purposes of section 18A.
- 1.4 Ensure that an audit certificate is obtained and retained by the Organisation, confirming that all donations received or accrued by the Organisation in that year, in respect of which section 18A receipts were issued by the Organisation, were utilised in the manner contemplated in subsection 2(A) of the Act.
2. **As the Organisation has been approved by the Commissioner as a "Public Benefit Organisation" in terms of Section 30 of the Act, the Organisation shall:-**
 - 2.1 Carry on the public benefit activities of the Organisation in a non-profit manner, and with an altruistic or philanthropic intent.
 - 2.2 Ensure that no such activity is intended to directly or indirectly promote the economic self-interest of any fiduciary or employee of the Organisation, otherwise than by way of reasonable remuneration payable to that fiduciary or employee.
 - 2.3 Ensure that each such activity is carried on by the Organisation for the benefit of, or is widely accessible to, the general public at large, including any sector thereof (other than small and exclusive groups).
 - 2.4 Comply with such conditions as the Minister may prescribe by way of regulation to ensure that the activities and resources of the organisation are directed in the furtherance of its object.
 - 2.5 Submit to the Commissioner a copy of the document, under which it is established and constituted.

- 2.6 Be required in terms of such constituting document, to have at least three persons, who are not "connected persons" in relation to each other, to accept the fiduciary responsibility of the organisation; and that no single person directly or indirectly controls the decision-making powers of the organisation.
- 2.7 Be prohibited from directly or indirectly distributing any of its funds to any person (otherwise than in the course of undertaking any public benefit activity), and be required to utilise its funds solely for the object for which it has been established.
- 2.8 Be required on dissolution to transfer its assets to :
- 2.8.1 any public benefit organisation which has been approved in terms of the relevant provision of the Income Tax Act; or
- 2.8.2 any institution, board or body which is exempt from tax under the provisions of section 10(1)(cA)(i) of that Act, which has as its sole or principal object the carrying on of any public benefit activity; or
- 2.8.3 the government of the Republic in the national, provincial or local sphere, contemplated in section 10(1)(a) of the Act, which is required to use those assets solely for purposes of carrying on one or more public benefit activities.
- 2.9 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 (other than a donor which is 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 principal object the carrying on of any public benefit activity) 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.
- 2.10 Be required to submit to the Commissioner a copy of any amendment to the documentation under which it is established and constituted.
- 2.11 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.

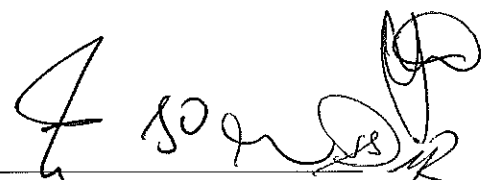
- 2.12 Not pay any remuneration, as defined in the Fourth Schedule to the Income Tax Act, to any employee, office bearer, member or other person which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered; and has not and will not economically benefit any person in a manner which is not consistent with its objects.
- 2.13 Comply with such reporting requirements as may be determined by the Commissioner.
- 2.14 Take reasonable steps to ensure that any funds, which it may provide to an association of persons as contemplated in paragraph 10 (iii) of Part 1 of the Ninth Schedule, have been utilised for the purpose for which they have been provided.
- 2.15 Not use its resources directly or indirectly to support, advance, or oppose any political party.
- 2.16 Ensure that any books of account, records or other documents relating to its affairs are :
 - 2.16.1 where kept in book form, retained and carefully preserved by any person in control of the organisation, for a period of four years after the date of the last entry in any such book; or
 - 2.16.2 where not kept in book form, are retained and carefully preserved by any person in control of the organisation, for a period of four years after the completion of the transactions, acts or operations to which they relate.

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**PRESCRIBED NPO PROVISIONS
CONCERNING REGISTERED NON-PROFIT ORGANISATIONS (NPO'S)
REGISTERED IN TERMS OF THE NON-PROFIT ORGANISATIONS ACT,
NO. 71 OF 1997, AS AMENDED.**

By reason of the Association being registered in terms of the Nonprofit Organisations Act, No 71 of 1997, as amended, this Constitution makes due provision for the eligibility requirements prescribed in terms of Section 12(2) of that Act, as follows:-

1. The Organisation's name is stated in clause 1 of this Constitution.
2. The Organisation's main and ancillary objectives are stated in clause 3 of this Constitution.
3. The Organisation's income and property shall not be distributable to its members, or to its Directors or other office-bearers, except as reasonable compensation for services rendered, as stated in clause 15.2 of this Constitution.
4. The Organisation is a body corporate, and shall have an identity and existence distinct from its Members, Directors, and other office-bearers, as stated in clause 1.2 of this Constitution.
5. The Organisation shall continue to exist notwithstanding periodic changes that may occur in the composition of its membership and office-bearers, as stated in clause 1.2 of this Constitution.
6. The members of the Organisation and its office-bearers shall have no rights in the property or other assets of the Organisation by virtue of their being members, or other office-bearers, as stated in clause 15.2 of this Constitution.
7. The powers of the Organisation are referred to in clause 15, as read with Attachment "A" to this Constitution.
8. The structures and mechanisms for governance of the Association are set forth in clauses 4 and 5 *et seq* of this Constitution.


BY  AM.

9. The rules for convening and conducting meetings, including quorums required for, and the minutes to be kept at those meetings, shall be as stated in clauses 7 and 8 of this Constitution.
10. The manner in which decisions are to be made shall be as stated in clauses 7 and 8 of this Constitution.
11. The Organisation's financial transactions must be conducted by means of a banking account, as stated in clause 11 of this Constitution.
12. The date for the end of the Organisation's financial year shall be as stated in clause 10.1 of this Constitution.
13. The procedure for changing the provisions of this Constitution shall be as stated in clause 12 of this Constitution.
14. The procedure by which the Organisation may be wound up or dissolved shall be as stated in clause 12 of this Constitution.
15. If the Organisation is wound up or dissolved, any asset remaining after all liabilities have been met, must be transferred to another eligible non-profit Organisation, as stated in clauses 12.4 and 2.8 of Attachment "B" of this Constitution.