

**DEED OF TRUST
&
MEMORANDUM OF AGREEMENT**

**MADE AND ENTERED INTO
BY AND BETWEEN**

.....

ID NO:

(hereinafter referred to as **“the Founder”**)

And

.....

ID NO:

and

.....

ID NO:

and

.....

ID NO:

and

.....

ID NO:

(hereinafter referred to as **“the Trustees”**)

1. RECORDAL:

- 1.1. The Founder is desirous of creating the Trust for the purpose of carrying out the objects hereinafter described;
- 1.2. The Founder has agreed to donate the sum of R_____ to the said Trust subject to the conditions set out hereunder;
- 1.3. The Trustees have agreed to accept their appointment as Trustees.

It is hereby agreed that:

2. THE NAME OF THE TRUST

The Trust created in terms of this Deed shall be known as the TRUST (hereinafter referred to as "the Trust").

3. THE AIMS AND OBJECTS OF THE TRUST

- 3.1. The aims and objects for which the Trust has been constituted are to utilise the capital and income from the assets of the Trust without necessarily the contemplation of any profit as such, for assisting and promoting Islamic:- Religious, Social, Cultural, Spiritual and Educational Advancement of the _____ Muslim Community including any individual Muslim or Group of Muslim persons or any Association, Institute or Organisation of the _____ Muslim Community as the Trustees in their sole and absolute discretion may determine;
- 3.2. To establish and operate Mosques, Jamaat-Khanas, Cemeteries, Social Institutions and/or Educational Institutions for the benefit of the _____ Muslim Community as the Trustees in their sole and absolute discretion may determine;
- 3.3. To fund and maintain existing Mosques, Jamaat-Khanas, Cemeteries, Social Institutions and/or Educational Institutions for the benefit of the _____ Muslim Community as the Trustees in their sole and absolute discretion may determine.

4. BASIC PRINCIPLES:

The following clauses A & B being the basic principles of the Trust will be permanent and entrenched. They can never be changed. Any Trustee who attempts to alter or amend the entrenched clause/s will automatically cease to be a Trustee:

- A. The basis of all operations, functions and administration of this Trust will strictly be the Quraan and the Sunnah of the Prophet Muhammad (sallallahu 'alayhi wasallam) and the Sahabah-e-Kiram (radhiyallahu 'anhum) according to the interpretation and accepted view of the Ahlus Sunnah Wal Jamaah as is expounded by the four recognised Mazahib of Islamic Jurisprudence viz, Hanafi, Shafi'i, Maliki and Hanbali;
- B. Notwithstanding the provisions of this Trust Deed, the Trust shall not engage in, agree to, perform or undertake or of the acts, procedures or matters specified in this paragraph, except with the prior approval of the Jamiatul Ulama South Africa, Johannesburg, or its successors;
 - a. the mortgaging of any property owned by the Trust;
 - b. the receipt of any interest on bank deposits or loans;
 - c. the payment of any interest;
 - d. the lease or rental of premises to any individual or enterprise that is/are involved

in Haraam (not permitted by Islamic Law Activities). The determination of Haraam will vest in the Jamiatul Ulama South Africa, Johannesburg or its successors.

5. DESCRIPTION OF TRUST ASSETS:

The assets of the Trust shall consist of the following:

- 5.1. The amount of R _____;
- 5.2. Such further donations or bequests to or in favour of the Trust as may be made from time to time;
- 5.3. Such further assets or investments as the Trustees may acquire for the Trust including any income not immediately required for the purpose of the trust and which may be capitalised by the Trustees in terms hereof.

6. TRUSTEES:

- 6.1. The Trust shall be administered and managed by a Board of not less than 7 (seven) Trustees who shall be the Trustees who are the parties to this Deed and any additional Trustee/s who may be appointed as such from time to time by the Trustees in office;
- 6.2. It is recorded that the Board of Trustees who are the parties to this Trust Deed have been nominated at a General Meeting of the _____ Muslim Jamaat;
- 6.3. Every Trustee appointed shall hold office for a period of _____ years, unless he earlier vacates such office or his appointment is terminated earlier in terms of the provisions of this Trust Deed. It is agreed and understood that an expiration of such _____ year period, such Trustee may be re-elected as a Trustee.

7. CONDITIONAL APPOINTMENT OF TRUSTEES:

The Trustees are hereby appointed subject to the following terms and conditions:

- 7.1. unless agreed to otherwise by majority of the Trustees, no remuneration whatsoever, other than necessary out of pocket expenses shall be payable to the Trustees for their services in terms hereof. The services shall be regarded as charitable services on the part of the Trustees;
- 7.2. in the event of the death or resignation of any Trustee, the remaining Trustees shall be responsible for the nomination of a suitable replacement;
- 7.3. the Board of Trustees shall, in its discretion, be entitled to dismiss any Trustee for

such reason as it may deem valid under the circumstances, in which event, such Trustee shall no longer be regarded as a member of the Board. No Appeal shall lie from the decision of the Board in this regard, which decision must be a decision of the majority of the Trustees.

8. TRUSTEES POWERS:

8.1. The Board of Trustees shall have general control of the Trust assets and shall strive to attain the aims and objects for which the Trust is established;

8.2. The Trustees shall have all such powers as may be necessary to enable them to administer the Trust and, without limiting the general powers in anyway, subject to what is set out in paragraph 4 above, they shall have the following powers:

8.2.1. to invest the capital amount and also such income from the Trust which may not be immediately required for the purpose of the Trust, in such a manner as they may think fit and to realise, vary and transpose any securities, assets, investments and property from time to time and on such terms as they, in their sole discretion shall determine or consider to be in the best interest of the Trust;

8.2.2. to purchase, sell, donate, exchange, take on lease, hire or otherwise acquire or dispose of movable and/or immovable property or any right therein and improve and/or develop any property or assets of the Trust in such manner as they think fit;

8.2.3. to expend the Trust funds on maintenance, construction, improvement, alterations, payment of rates, taxes and other charges in and pertaining to any immovable property;

8.2.4. to borrow money, in order to provide security for such body, to mortgage/or pledge the Trust assets and to arrange the manner of repayment of such loan, subject to prior approval referred to in clause 4 above;

8.2.5. to allow any person/s to occupy any buildings belonging to the Trust, free of charge;

8.2.6. to pay all expenses incurred in connection with the administration of the Trust;

8.2.7. to employ any person, to manage or assist in management of any aims and objects of the Trust and to remunerate such employee from funds obtained by the Trust, including travelling and other expenses which may necessarily be incurred by such employee;

- 8.2.8. to appoint an Agent or Agents to represent them for any specific purpose, including the power to employ accountants, attorneys, advocates and other professional persons for any specific purpose and to remunerate such persons at the usual professional or business rates;
- 8.2.9. to take action in a court of law for the recovery of any amounts due to the Trust or to compel the fulfilment of obligations in its favour and to defend any proceedings that may be instituted against the Trust;
- 8.2.10. to allow time for payment of debts due to the Trust and to compromise claims by the Trust in their discretion;
- 8.2.11. to accept further donations and bequests from the Founder or other persons in favour of the Trust and to administer same, subject to the terms hereof and also subject to such conditions as may be imposed by the Founder or other persons, provided such conditions are not inconsistent with the aims, object and basic principles of the Trust;
- 8.2.12. to purchase or otherwise acquire any equipment that may be necessary for the promotion of the aims and objects of the Trust;
- 8.2.13. to open and control a bank account and to draw, accept or give promissory notes, bills of exchange and other negotiable instruments;
- 8.2.14. to exercise or cause to be exercised such further power as they in their sole discretion may consider necessary to carry out the aims and objects of the Trust;
- 8.2.15. to provide, endow, furnish and fit out with all necessary furniture, instruments and other equipment and maintain either wholly or in part Mosques, Jamaat-Khanas, Social Institutions, Educational Institutions, Hospitals, Orphanages or any of them;
- 8.2.16. to construct, acquire, provide and maintain Mosques, Jamaat-Khanas, Social Institutions, Educational Institutions, Hospitals, Cemeteries, Nursing and Maternity Homes, Hostels, libraries, Orphanages, Social Centres and other Welfare Institutions for the benefit of the _____ Muslim Community;
- 8.2.17. to contribute towards any Islamic - Charitable/Educational/Social Institution and/or Religious aims and objects or any fund having Islamic - Charitable, Educational, Social and/or Religious aims and objects;
- 8.2.18. to grant financial aid or other assistance for the relief of the poor in the

Middelburg Muslim Community and to meet urgent cases of distress which may from time to time arise within the _____ Muslim Community;

8.2.19. generally to do all such other things as may be expedient;

8.2.20. to further the interest of the Trust, which are incidental or conducive to the attainment of the aims and objects of the Trust.

9. MINUTES AND ACCOUNTS

9.1. The Board of Trustees shall keep minutes of all its meetings and shall also keep a proper set of accounts in respect of its transactions, which accounts will not be required to be audited but shall be in accordance with the general accepted principles of Accounting, by the Accountant appointed for this purpose. Such appointment may in the discretion of the Trustees be varied from time to time;

9.2. The Accountant shall at all times have access to such minutes and/or to all vouchers and/or records and/or to the property of the Trust. Annual Balance Sheets and Statements of Revenue and Expenditure shall be prepared and certified as correct by the Trustees and the Accountant. Such Balance Sheets and Statements shall be tabled at the Annual General Meeting of the Board.

10. ANNUAL ORDINARY AND SPECIAL MEETINGS

10.1. The Board of Trustees shall be required to hold an Annual General Meeting and so many ordinary and/or Special meetings during the course of the year as may be considered necessary to transact the purpose of Trust;

10.2. The Annual Ordinary Meeting of the Board of the Trustees shall be held annually during the month of _____ for the purpose of appointment of one of its members to be Chairman for the ensuing year, for the appointment of a Secretary and Treasurer, to consider the Balance Sheet and Financial Statement of affairs of the Trust, to elect an Accountant and to determine the quorum for all meetings of the Board;

10.3. Ordinary meetings shall be held as often as may be considered necessary to transact the business of the Trust in accordance with the aims and objects for which the Trust has been established. A majority decision of the Trustees shall be final and binding on the Trustees. The chairman for the time being shall be entitled to a deliberative as well as a casting vote at any meeting of the Board;

10.4. In the event of the unavoidable absence of any Trustee from a meeting of the Board, he shall be entitled to appoint a proxy from any of the other members of the Board, and such proxy shall be entitled to vote on behalf of the absent

Trustee in accordance to such Trustee's wishes.

11. DURATION OF TRUST

The Trust shall endure for an indefinite period.

12. THE DISSOLUTION OF TRUST

- 12.1. The Trust may be dissolved by resolution of 2/3 (Two Third) majority of the Board of Trustees at a Special Meeting of the Board of Trustees convened for the purpose of considering such a matter in favour of dissolution. Not less than 21 (twenty one) days written notice shall be given of such meeting and the notice convening the meeting shall clearly state that the question of dissolution of the Trust and disposal of its assets will be considered. If there is no quorum at such a special meeting, then the meeting shall stand adjourned for not less than 1 (one) week and should no quorum be attained on the adjourned date, the meeting shall be finally adjourned for not less than 1 (week) and the Trustees attending such final adjourned meeting shall then constitute a quorum;
- 12.2. If upon dissolution of the Trust there remains any assets whatsoever after satisfaction of all its debts and liabilities, such assets shall not be paid or distributed amongst the Trustees, but shall be given to such organisations and/or institutions as determined by resolution of 2/3 (Two Third) majority, failing a 2/3 (Two Third) majority by the Jamiatul Ulama South Africa, Johannesburg or its successor.

13. DISPUTE RESOLUTION

- 13.1. In the event of any dispute or difference arising between the Founder and the Trustees or between Co-Trustees relating to or arising out of this Trust Deed, including the implementation, execution, interpretation, rectification, termination or cancellation of this Trust Deed, such disputing party 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 in accordance with the provisions of the Arbitration act 42 of 1965;
- 13.2. The Arbitration shall be conducted in accordance with the standard terms of reference and rules of the Muslim Mediation and Arbitration Council;
- 13.3. The provisions of this clause shall continue to be binding on the parties notwithstanding any termination or cancellation of this Trust Deed.

Signed by the FOUNDER at _____ on the
_____ day of _____ in the year
_____.

FOUNDER

AS WITNESSES:

1. _____

2. _____

Signed by the TRUSTEES at _____ on the
_____ day of _____ in the year
_____.

TRUSTEE

TRUSTEE

TRUSTEE

TRUSTEE

TRUSTEE

TRUSTEE

AS WITNESSES:

1. _____

2. _____