

CONSTITUTION (AS AMENDED IN 2019)

FOR

**NEIGHBOURHOOD OLD AGE HOMES
(NOAH)**

OF

THE ARCHDIOCESE OF CAPE TOWN

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CONSTITUTION

FOR

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1. PREAMBLE AND ESTABLISHMENT OF NOAH AS A SEPARATE LEGAL ENTITY

- 1.1 The CATHOLIC WELFARE AND DEVELOPMENT (CWD) inaugurated the NOAH program as a subsidiary activity in 1981. By March 2001 NOAH had developed strong and competent leadership able to deal with its own organisational development, financing, funding and human resources. In consequence NOAH was afforded substantial autonomy through a management committee enabling it to largely handle its own affairs. By 2006 NOAH had achieved a level of autonomy sufficient to enable CWD to further entrench it by equipping it with its own governing body without then establishing NOAH as a separate legal entity.
- 1.2 NOAH having in 2010 achieved a level of autonomy sufficient to function independently CWD hereby and in terms of clause 11.3.3 of its Constitution consents to NOAH being established as an independent legal entity under and in terms of the undermentioned Constitution. CWD accordingly hereby cedes, assigns and transfers to NOAH all movable property currently utilised by it in the promotion of its objects and in the exercise of its powers and functions within the territory which without limitation shall include all intellectual property, all rights attaching to the work conducted by NOAH.

2. NAME

The name of the organisation shall be NEIGHBOURHOOD OLD AGE HOMES of the Roman Catholic Archdiocese of Cape Town.
(hereinafter referred to as NOAH.)

3. LEGAL PERSONA

NOAH shall be a juristic person, with power to institute and defend legal proceedings and with the right to own and secure the registration of immovable property in its own name, subject to the jurisdiction of the Archbishop of the Roman Catholic Archdiocese of Cape Town (hereinafter referred to as the Archbishop) and to the code of Canon Law of the Roman Catholic Church. The members of the Board referred to in clause 8 below shall be deemed in law to be the members of this voluntary Association.

4. OBJECTIVES

4.1 The objective of NOAH shall be the care of social pensioners which without limiting the generality thereof shall include the provision of lodgings and board where appropriate and associated services and facilities to ensure the good health, safety, security and happiness of the social pensioners within the Republic of South Africa.

4.2 The ancillary objects are:

4.2.1 To promote the spiritual, social and material well-being of communities in its areas of operation and in doing so aspire to Christian values.

4.2.2 To respond to identified development needs which come from the community by providing training and support to help groups identify community needs, build organization structures and strengthen their capacity to take control of their lives.

4.2.3 To encourage co-ordination and co-operation among organizations and institutions with similar aims.

4.2.4 To perform functions and initiate projects and programs that will achieve the above objectives.

4.2.5 To adopt the fundamental operating philosophy that its activities should be based on shared decision-making and will have regard to the following principles:

- Non-Racialism
- Non-Sexism
- Improvement of the welfare of the beneficiary community

5. AREA OF OPERATION

NOAH, under the patronage of the Archbishop of Cape Town, shall operate as an outreach

support service in accordance with the Pastoral Plan of the South African Catholic Bishops Conference entitled "Communities Serving Humanity" as amended from time to time.

6. FUNDRAISING

- 6.1 All donations will be accepted to further the objectives of NOAH which are not subject to terms and conditions which the Board regards as contrary to the stated objectives.
- 6.2 NOAH is 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 the donation, including any misrepresentation with regard to the tax deductibility thereof in terms of section 18A (provided that a donor 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).

GOVERNANCE BY THE BOARD

7. APPOINTMENT OF BOARD OF MANAGEMENT

- 7.1 The Board shall consist of not less than five and not more than eleven (11) members. Only persons of 18 years and older and who are committed to upholding Christian values in accordance with the social teachings of the Roman Catholic Church shall be eligible for nomination to the Board. Any nomination of a person to the Board shall be subject to the written approval of the Archbishop. A spiritual co-ordinator shall be appointed to the Board by the Archbishop. Such co-ordinator shall be responsible for fostering and maintaining the Catholic Ethos and spirituality of NOAH in accordance with the social teachings of the Roman Catholic Church. It is recommended that at least one member of the Board be a Priest and/or Religious.
- 7.2 All nominations to the Board shall be made in writing by such person/s who is/are 18 years or older and shall be accompanied by the written consent of the person nominated. Upon receipt of written approval from the Archbishop referred to in 7.1 nominations shall be delivered to the Board for election at the Annual General Meeting.
- 7.3 The Board shall make every effort to ensure that its members represent all areas of NOAH'S operation.
- 7.4 Board members shall receive written confirmation by the Board of their appointment to the Board.
- 7.5 Terms of office shall generally begin at the Annual General Meeting.

- 7.6 Towards procuring an ongoing strong, competent, energetic and committed Board, the Board shall establish the criteria for service of members and the functioning of the Board as a whole, which shall be in written form inter alia setting out the terms of the roles and functions of Board Members as defined by the Board from time to time.
- 7.7 Any actual, potential or perceived conflict of interest on the part of any member of the Board, on a matter pertaining to NOAH, must be disclosed in writing by the member to the Board which shall record such conflict of interest in the relevant Minutes of the Board meeting. The member may be requested by the Board to state his/her position in the matter or to respond to pertinent questions, but shall not vote or use his/her influence on the matter and shall not be counted for purposes of determining a quorum for the meeting where the voting takes place. No member of the Board may have any direct or indirect interest in or benefit from any contract which the Board may conclude with any third party.
- 7.8 Paid officials of NOAH may serve on the Board in an advisory capacity, but will have no voting rights.
- 7.9 No member of the Board may have any direct or indirect interest in or benefit from any contract which the Board may conclude with any third party.
- 7.10 With the written approval of the Archbishop the Board may fill any vacancies occurring between the Annual meetings, to be ratified at the next Annual General Meeting.

8. TERM OF OFFICE

- 8.1 Board members normally shall be appointed for a maximum three (3) year term of office, with the possibility of one further term. Maximum service as a Board member may not exceed six (6) years unless the Board agrees to extend the term of such member on a year by year basis.
- 8.2 The Chairperson shall not hold office for more than five (5) consecutive years which term may be extended each year by the Board for further periods of one year each.

9. TERMINATION OF APPOINTMENT

- 9.1 A Board member may resign at any time by notice in writing to the Chairperson.
- 9.2 Membership of the Board shall cease automatically under the following circumstances:
- 9.2.1 If s/he is declared incapable of managing his/her own affairs

- 9.2.2 If s/he is convicted of any serious crime or any crime involving dishonesty
- 9.2.3 If the Members of the Board unanimously, save for the Member whose membership is being terminated, so resolve;
- 9.2.4 If a Member of the Board fails to attend three (3) consecutive meetings of the Board without furnishing written reasons acceptable to the Board.

10. MEETINGS

- 10.1 The Annual General Meeting shall be held not later than 30 September each year at such time and place as the Board shall determine. Two weeks' written notice shall be given of the Annual General Meeting. Such notice for the Annual General Meeting shall be given to all Board members and to the Archbishop. The notice shall state the agenda of the meeting and the names and terms of office of current and prospective Board members.
 - 10.1.1. The agenda shall include a report from the Board Chairperson; reports from various programmes conducted by NOAH; the treasurer's report on the annual accounts; appointment of an auditor/accountant/accounting officer for the coming year; and such other business as may properly come before the meeting.
- 10.2 Special meetings of the Board shall be called upon the written application of three (3) or more of the then current Board members. Fourteen (14) days' notice shall be given to members and to the Archbishop of any such meeting. The notice shall include the agenda and information on items to be discussed.
- 10.3 Ordinary Meetings of the Board shall occur not less frequently than five (5) times in any financial year. Notice of the date at the close of the meeting and in the minutes shall constitute notice of the next Board meeting save that the Secretary shall endeavour to circulate the Agenda for the next meeting at least three (3) days before such meeting.
 - 10.3.1 The Board shall keep proper minutes of all their meetings or cause such minutes to be kept. Originals of the minutes shall be signed by the Chairperson upon their approval at the next meeting. Originals shall be maintained in a proper binder and be available to all Board members, and to other interested persons with the prior written approval of the Board.
 - 10.3.2 Minutes of the previous meeting shall be mailed to Board members prior to the next Board Meeting.
- 10.4 A quorum shall be not less than sixty percent (60%) members of the then Board members. If no quorum is present, the meeting shall be adjourned and reconvened within seven (7) days in order to establish a quorum.

- 10.5. Decisions shall be made by a simple majority of those present assuming that there is a quorum. The Board will strive for consensus in making decisions.
- 10.6. The Chairperson shall not have a casting vote.
- 10.7. At its first meeting of the financial year, the Board shall elect a Chairperson, Vice-Chairperson, Secretary and Honorary Treasurer. Office Bearers may be reappointed for up to three (3) years if they are still Board members in good standing. Should any Office Bearer cease to hold office during any financial year the Board shall be entitled to elect an interim incumbent until the following Annual General Meeting.
- 10.8. The Board shall be entitled to conduct any meeting entirely by electronic communication and one or more members shall be entitled to participate via electronic communication in all or part of the meeting that is being held in person as long as the electronic communication employed ordinarily enables all persons participating to communicate concurrently with each other without an intermediary and to participate reasonably effectively at the meeting
- 10.9. If the Board implements a provision for participation in a meeting by electronic communication, as contemplated in sub-section 10.8 the Board shall ensure the members are informed of the availability of that form of participation, and provide any necessary information to enable members to access the available medium or means of electronic communication. Access to the available medium or means of electronic communication is at the expense of the member except to the extent that the Board determines otherwise.

11. POWERS AND DUTIES OF THE BOARD

- 11.1. The Board shall be entitled to administer and manage the affairs of NOAH. Such affairs shall include the investment and reinvestment of funds; the borrowing of moneys with or without security; operating bank accounts; the entering into of contracts and partnerships, the acquisition and disposal of property both movable and immovable; and the carrying on of legitimate business save that in the case of the acquisition and/or disposal of immovable property this shall only be done with the written consent of the Archbishop. In doing so, the Board members shall have full and plenary powers not less than any person *sui juris* would have in acting for and on behalf of his or her self. Subject to the foregoing consent of the Archbishop being required in relation to the acquisition and/or disposal of immovable property the Board members shall have total discretion in exercising these powers. Board members must use the care, diligence and skill which can reasonably be expected of a person who manages the affairs of another.
- 11.2. All property belonging to NOAH shall be vested and registered in the name of the Association. When duly authorized in writing by the Board and the Archbishop when dealing in immovable property, the Association may acquire movable and immovable property by purchase, loan or otherwise and may mortgage, sell, or let or otherwise deal with

or dispose of such property. The Board shall also have the power, again with the written consent of the Archbishop, to register an Inter Vivos Trust for the purpose of acquiring and holding immovable and movable property for NOAH's use in fulfillment of the objects of the Association.

For the purpose of this section the signature of any two of the three office-bearers mentioned, or any other Board member duly designated, shall suffice.

11.2.1. Any property or income of NOAH shall be used solely in furthering its objectives.

11.3. The Board shall also be entitled to:

11.3.1 Receive and accept donations to NOAH and deposit such donations and other income in an accredited banking institution.

11.3.2 Initiate and carry on fundraising activities both within and without the Republic of South Africa.

11.3.3 Generally carry out all such things as may further the objectives and purposes of NOAH.

11.3.4 Engage and dismiss all staff of NOAH and determine their conditions of service.

11.3.5 Create such sub-committees, both standing and ad hoc, as are deemed necessary to effect the objectives of NOAH.

11.3.6 Retain any investment in the form that it was acquired by way of donation, bequest or inheritance.

11.4 The Board is prohibited from distributing any of its funds or assets to any person, otherwise than in the course of undertaking any public benefit activity.

12. REMUNERATION OF BOARD MEMBERS

12.1 No Board member shall be paid for fulfilling his or her duties. However, members may be refunded out-of-pocket expenses for attending meetings which they would otherwise be unable to attend. Such refunds need minuted approval. In the case of seminars, workshops and conferences, such expenses shall be limited to the actual costs of travel, accommodation and subsistence and must be approved prior to the event.

12.2 No loans may be made to Board members from the funds of NOAH.

13. FINANCE

13.1 The financial year of NOAH shall run from 1 March to 28th February the following year.

13.2 The Board shall at all times maintain proper accounting records of all capital, income, expenditure and transactions according to “International Financial Reporting Standards” as adopted by the International Accounting Standards Board for budgeting, bookkeeping and reporting.

13.3 The Board shall keep all financial records (books of account, vouchers, donation records and disbursements) for at least five (5) years from the date thereon.

13.4 NOAH is required to utilize its funds solely for the object for which it has been established, or to invest the funds prudently:

13.5 The Board shall from time to time designate signatories of cheques. All cheques shall require a minimum of two authorised signatures.

13.6 The Board shall prepare annually, and not less than twenty-one (21) days before its Annual General Meeting, financial statements duly audited by a qualified auditor.

13.7 In terms of certain of the provisions contained in Section 30 of the Income Tax Act NOAH, as a public benefit organization shall also:

13.7.1 Have at least three Board Members, who are not connected persons in relation to each other, who accept the fiduciary responsibility of NOAH.

13.7.2 Ensure that no single person directly or indirectly controls the decision making powers relating to NOAH

13.7.3 Be prohibited from distributing any of its funds to any person otherwise than in the course of undertaking any public benefit activity and is required to utilize its funds solely for the object for which it has been established.

13.7.4 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 Act administered by the Commissioner for the South African Revenue Service.

- 13.7.5 Not pay any remuneration 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.
- 13.7.6 Comply with such reporting requirements as may be determined by the Commission for the South African Revenue Service.

14. NON-LIABILITY OF BOARD MEMBERS

No Board member, co-opted member, trustee or employee of NOAH shall incur any personal liability in respect of acts done in good faith by or on behalf of NOAH.

15. AMENDMENT TO THE CONSTITUTION

- 15.1. Provisions of this Constitution may be amended and altered by a three quarters majority of current Board members provided that such amendments, alterations or additions in no way subvert the objectives of NOAH as stated herein and are acceptable to the Local Ordinary.
- 15.2. Not less than fourteen (14) days' notice shall be given to each Board member of any meeting at which any amendment, alteration or addition is to be considered. The full text of any such proposed change must accompany the notice.
- 15.3. The Constitution and any Amendments to the Constitution must be submitted to the Commissioner for the South African Revenue Services.

16. DISSOLUTION OF NOAH

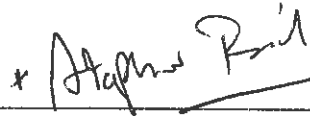
- 16.1. Subject to the approval of the Archbishop which shall not unreasonably be withheld, NOAH may be dissolved if three quarters of the current Board members decide that the objectives are not being satisfactorily achieved, or have become unachievable. Not less than twenty-one (21) days' notice shall be given of a meeting called to consider dissolution and the notice shall state clearly that dissolution and the disposal of assets shall be the business of the meeting.
- 16.2. Upon dissolution, any assets whatsoever remaining after all debts and liabilities have been satisfied, shall fall under the jurisdiction of the Archbishop and must be transferred to the Roman Catholic Archdiocese of Cape Town or on the said Archdiocese declining to accept such transfer then to any public benefit organization similar to that of NOAH which has been approved in terms of Section 30 of the Income Tax Act.

17. APPROVALS

This Constitution was originally approved on 26th June 2012 by the duly and properly constituted Board of Catholic Welfare and Development and the Archbishop of Cape Town and came into effect on that date and has been further amended as per this amended Constitution by resolution of the Board with the consent of His Grace Archbishop of Cape Town on the 21st day of August in Two Thousand and Nineteen



For and on behalf of
NEIGHBOURHOOD OLD AGE HOME
Chairperson of the Board of Members



HIS GRACE STEPHEN BRISLIN
ARCHBISHOP OF CAPE TOWN