

# CONSTITUTION

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BOSMONT MASJID ISLAMIC CENTRE

1/7/2014

## CONSTITUTION

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## 1. DEFINITIONS

- 1.1. **"assets"** shall mean any assets of whatsoever nature held from time to time by the ORGANISATION;
- 1.2. **"beneficiary"** means any class of person whatsoever natural or juristic who fall within the principal objective of the ORGANISATION;
- 1.3. **"capital"** shall mean the ORGANISATION assets excluding any nett income;
- 1.4. **"Commissioner of South African Revenue Services"** means the Commissioner for South African Revenue Services as defined in the Income Tax Act No58 of 1962;
- 1.5. **"Constitution"** means this document;
- 1.6. **"Mutawallee"** means a Trustee as contemplated in the Trust Control Property Act and as such refers to the signatories to this Constitution as Mutawallees and any other person appointed to that office in terms of this document from time to time, for so long as they hold office as such;
- 1.7. **"Musallee"** means a person that perform regular Salaah daily in the Bosmont Masjid;
- 1.8. **"organization"** means the BOSMONT MASJID ISLAMIC CENTRE
- 1.9. **"property"** means movable, immovable, property and money as well as any real personal or contingent right in or to acquire such property or money;
- 1.10. **"PBUH"** means Peace be Upon Him, referring to the Prophet Muhammed (PBUH);
- 1.11. **"Republic"** means the Republic of South Africa as Constituted in terms of the Republic of South Africa Constitution Act 1966;
- 1.12. **"the Organisations Assets"** means the assets of the Bosmont Masjid Islamic Centre;
- 1.13. **"PBO"** means Public Benefit Organisation as defined in the Income Tax Act No58 of 1962;
- 1.14. **"PBA"** means Public Benefit Activity as defined in the Income Tax Act No58 of 1962;
- 1.15. **'nett income'** shall mean the gross income received by or accrued to the ORGANISATION less all cost and expenses lawfully incurred by the Mutawallees in connection with administration of the Constitution;
- 1.16. **"discretion"** shall mean the sole, absolute unfettered discretion of the Mutawallees given

In interpreting this Constitution, unless the context indicates otherwise, the masculine will include the feminine, the singular will include the plural, and terms referring to persons will include juristic persons, whether incorporated or not, and Trust and visa versa in each instance

## 1. NAME

The name of the organization shall be known as BOSMONT MASJID ISLAMIC CENTRE. Also referred to as the BMIC.

## 2. HEADQUARTERS

The headquarters of the ORGANISATION shall be situated in:  
68 LANGERBERG AVENUE  
BOSMONT  
JOHANNESBURG.

## 3. AIMS AND OBJECTS

- 3.1. To found, build, maintain and own Masjid, social centers, schools, Madressas, halls, libraries, orphanages and such other charitable Institutions for the use and upliftment of Muslims and other disadvantage communities and **religious groupings**.
- 3.2. To promote the cause of Muslims and other disadvantage communities both males and females generally; to improve their conditions and status socially, religiously, educationally, spiritually and culturally; to guard against any encroachment upon their existing rights and privileges; to work for and foster peace, goodwill, brotherhood and co-operation between themselves and other communities; to encourage advancement and upliftment of Muslims and other disadvantage communities and all spheres of life.
- 3.3. To acquire any rights and privileges which the ORGANISATION may regard as necessary or convenient for its purpose and generally to perform all such acts as are incidental to the aforesaid aims and objects and to do such other work as may appear to be in the best interest of the ORGANISATION.

## 4. MEETINGS

- 4.1. The Annual General Meeting to be held every three (3) years.
- 4.2. The Annual General Meeting to be held by the end of September.
- 4.3. The period of notice of Annual General Meetings shall be fifteen (15) days.
- 4.4. At the Annual General Meeting the Board of Mutawallees shall present:
  - 4.4.1. Annual Report.
  - 4.4.2. Independent Review Financial Statements.

- 4.4.3. Election of Mutawallees for new Term of Office every three (3) years.
- 4.5. The Board of Mutawallees is authorised to call a General Meeting.
- 4.6. The period of notice of general meetings shall be fifteen (15) days.
- 4.7. The Musallees of the ORGANIZATION can requisition for a General Meeting.
  - 4.7.1. At least fifty per cent (50%) of the total Musallees of requisition must be present at the General Meeting.
  - 4.7.2. Specific notice for the agenda for the General Meeting to be given.

## **5. MUTAWALLEES**

- 5.1. The ORGANISATION shall be governed by at least a Board of five (5) Mutawallees.
- 5.2. The Board of Mutawallees shall be elected at the Annual General Meeting.
- 5.3. A Mutawallee must be from Bosmont and adjoining suburbs.
- 5.4. A Mutawallee must be a person with qualification, experience and good standing in the community.
- 5.5. The Board of Mutawallees from amongst their members shall elect a Chairman.
- 5.6. The office of a Mutawallees shall be vacated by resignation or if certified to be of unsound mind or in the event of his failing to attend three (3) consecutive meetings of the Mutawallees without tendering an apology.
- 5.7. Any vacancy of the Board of Mutawallees shall be filled by the remaining Mutawallees co-opting a suitable person.
  - 5.7.1. The Mutawallee so appointed shall cease to hold office at the termination of the first Annual General Meeting to be held after the appointment of such individual as Mutawallee as appointed in 5.6.

## **6. NOMINATIONS AND VOTING FOR MUTAWALLEES**

The following procedures for the nomination and election of the Board of Directors shall apply:

- 6.1. The community has seven (7) days prior to the Annual General Meeting to nominate a Mutawallee or Mutawallees.
- 6.2. A maximum of five (5) Mutawallees will be elected at the Annual General Meeting.
- 6.3. Nominations for the Board of Mutawallees are to be submitted to the Secretary of the Management Committee.

## **7. OFFICIALS AND MUTAWALLEES**

- 7.1. The Board of Mutawallees shall meet whenever considered necessary and shall meet at least four times a year. At all meetings of the Board of Mutawallees a quorum shall consist of half plus one of the members.
- 7.2. The Chairman shall have both a deliberate and casting vote at such meetings.
- 7.3. In the absence of a Chairman the members present may elect a Chairman to preside over the meeting of the Board of Mutawallees and perform such functions normally performed by the Chairman.
- 7.4. Three (3) days' notice shall be deemed sufficient for such meetings, except that for the annual general meeting, fifteen (15) days' notice shall be given.
- 7.5. The Board of Mutawallees shall appoint:
  - 7.5.1. Management Committee consisting of Operations Manager, Secretary and Treasurer
  - 7.5.2. Finance Committee consisting of the Treasurer and two additional Members

## **8. POWERS OF MUTAWALLEES**

- 8.1. To make and from time to time alter or revoke rules, regulations and bye-laws providing for the decorous and proper conduct of meetings and other matters.
- 8.2. To appoint a Management Committee from amongst the residents of Bosmont and adjoining suburbs and to carry out any resolutions of the Board of Mutawallees.
- 8.3. To take such steps by personal or written appeals, general meetings or otherwise as may from time to time deemed expedient for the purpose of procuring contributions, charities, subscriptions or otherwise and collect and canvass for and to accept donations, bequests, endowments and other benefits for the ORGANISATION from any person, firm or corporation or from any source whatever and accept trusts with or without conditions.
- 8.4. To subscribe to any Muslim charity, local or otherwise and to grant donations for any public purposes.
- 8.5. To purchase, take on lease or in exchange, hire, or otherwise acquire any movable or immovable property and to construct, maintain, alter any houses, buildings or works necessary or convenient for the purpose of the ORGANISATION, in accordance with the objects of the ORGANISATION.

- 8.6. To invest any monies of the ORGANISATION. Funds available for investment shall only be invested with Shariah compliant products with registered financial institutions as defined in Section 1 of the Financial Institutions (Investment of Funds) Act, 1984.
- 8.7. To raise or borrow monies for the use of the ORGANISATION on the security of the ORGANISATION'S property or any part or parts thereof and for that purpose mortgage, bond, pledge or hypothecate the whole or any part or parts of the ORGANISATION'S property, movable or immovable.
- 8.8. To operate a banking account to be operated by the Chairman of the Board of Mutawallees and any two (2) of the Management Committee as agreed upon by the Board of Mutawallees.
- 8.9. No benefits may be allocated by the ORGINAZATION and the Board of Mutawallees for any purpose other than contemplating in the objectives of the ORGINAZATION to a Mutawallee or Mutawallees and office bearer.
- 8.10. To engage and dismiss employees, tutors and fix their remuneration, duties and conditions of employment.
- 8.11. To consider, originate and promote reforms and improvements in the social and economic structure of the ORGANISATION in consonant with the fundamental principles of Islam.
- 8.12. To undertake and promote social and economic welfare work of every description for the ORGANISATION and especially for the poor and needy.
- 8.13. To undertake the proper organization of teaching in Muslim schools, especially of religious instructions on modern and scientific basis and to attain this and to build, maintain, support, conduct and carry on religious cum secular schools and Madressas, reform or prepare new curriculums and syllabuses, appoint and remove teachers and inspectors and generally do such things as they are necessary or incidental to the attainment of this particular object.
- 8.14. To institute or defend legal proceedings on behalf of the ORGANISATION and for that purpose choose domicilium citandi executandi.
- 8.15. The Mutawallees shall have the right to overrule any resolutions, decisions or actions of the Management Committee if they deem it necessary in the interest of the ORGANISATION.
- 8.16. The ORGANISATION shall not have the power to carry on any business, including, inter alia, ordinary trading operations in the commercial sense, speculative transactions, divided stripping activities as well as the letting of property on a systematic or regular basis. The ORGANISATION may however continue letting the property presently owned,

but may not utilize its funds to acquire further immovable property for purposes of deriving rental income therefrom.

- 8.17. The activities of the ORGANISATION shall be confined to the Republic of South Africa (including territories which formerly formed part of the Republic) and the funds of the ORGANISATION shall be applied within its Area.

## **9. MANAGEMENT COMMITTEE**

- 9.1. The Management Committee shall consist of three (3) persons appointed by the Board of Mutawallees at the annual general meeting, with powers to co-opt up to five (5) additional members as and when necessary with the same privileges and powers. Decisions of the Management Committee must be submitted to the Board of Mutawallees for approval.
- 9.2. The Management Committee together with the Board of Mutawallees shall elect Chairman for the Management Committee.
- 9.3. The office of a committee member shall be vacated by resignation, or if he is certified to be of unsound mind or in the event of his departure from Bosmont and adjoining suburbs for a period of six (6) months or in the event of his failing to attend three (3) consecutive meetings of the Committee without tendering an apology.
- 9.4. Any vacancy shall be filled by the Committee and the member so appointed shall hold office for the remainder of the period for which his predecessor was appointed.
- 9.5. The Management Committee shall meet at least once (1) a month. three (3) members shall form a quorum.
- 9.6. Notice of all meetings of the Management Committee shall be served by post, personally or electronically by the Secretary. Three (3) days' notice shall be deemed sufficient for such meetings.
- 9.7. The Management Committee shall present a report of its activities at every meeting of the Board of Mutawallees.
- 9.8. The Secretary of the Management Committee shall keep proper records of minutes of all proceedings of the ORGANISATION in a book called the minute book and shall at every meeting have these minutes read and confirmed.
- 9.9. The Secretary of the Management Committee shall conduct all necessary correspondence with the Approval of the Mutawallees, prepare all necessary documents pertaining to the ORGANISATION, send or post all necessary documents, notices, etc., and perform all other services incidental to their office.

- 9.10. The Secretary of the Management Committee shall during their term of office be custodians of all books, documents, papers, vouchers and other securities belonging to or filed with the ORGANISATION and at the termination of their office term, hand them to their successor or successors.

## **10. FINANCE COMMITTEE**

- 10.1. The Board of Mutawallees will appoint a Finance Committee.
- 10.2. The Board of Mutawallees will appoint three (3) members, including the Treasurer for the Finance Committee.
- 10.3. The Finance Committee shall meet at least once (1) a month. Two (2) members shall form a quorum.
- 10.4. The Treasurer shall act as chairman of the Finance Committee.
- 10.5. The Finance Committee shall keep proper books of accounts reflecting the financial transactions of the ORGANISATION.
- 10.5.1. Shall at every meeting furnish a statement of account of the financial affairs of the ORGANISATION.
- 10.5.2. Shall present at every Annual General Meeting Audited Financial Statements of the ORGANISATION.
- 10.6. The Finance Committee may retain a sum not exceeding R 3 000.00 for petty cash expenses, all accounts exceeding R 3 000.00 shall be paid by Electronic Fund Transfer or cheque and passed at a duly constituted meeting.

## **11. SHARIAH COMMITTEE**

- 11.1. The Board of Mutawallees and Management Committee will appoint a Shariah Committee. The Shariah Committee to provide expert advice and policy guidance to enable the fulfillment of the objectives of the ORGANISATION with an Islamic Ethos.
- 11.2. The Shariah Committee shall comprise of not less than three (3) and not more than five (5) members.
- 11.3. The Shariah Committee shall be appointed in terms of qualification, experience, good standing in the community, knowledge of the Quraan, Sunnah and the Shariah.
- 11.4. The Board of Mutawallees will determine the procedure for and terms and conditions in accordance with which the advice and policy guidance may be obtained from the Shariah Committee.

- 11.5. The Board of Mutawallees may on good cause remove any person appointed to the Shariah Committee.

## **12. ASSETS AND PROPERTIES**

- 12.1. All movable and immovable properties of the ORGANISATION shall be registered in the name of the ORGANISATION.
- 12.2. The Board of Mutawallees, any office bearer or employee of the ORGINAZATION has no rights on the assets of the ORGANAZITION.

## **13. AMENDMENTS TO CONSTITUTION**

Any amendments, alterations, addition or deletions can only be made at a special general meeting called for the purpose and must be passed by at least four (4) Trustees present. A copy of all amendments shall be submitted to the Commissioner for Inland Revenue and the Director of Fund Raising.

## **14. DISSOLUTION**

- 14.1. The ORGANISATION may be dissolved if at least two-thirds of the members present and voting at a general meeting of the members convened for the purpose of considering such matter are in favour of dissolution. Not less than twenty one (21) days' notice shall be given of such meeting and the notice convening the meeting shall clearly state that the question of dissolution of the ORGANISATION and disposal of its assets will be considered. If there is no quorum at such a general meeting, the meeting shall stand adjourned for not less than one week and the members attending such meeting shall constitute a quorum.
- 14.2. If upon dissolution of the ORGANISATION there remain any assets whatsoever after the satisfaction of all its debts and liabilities, such assets shall not be paid to or distributed among its members, but shall be given to such organization(s) preferably having similar objects and which is/are authorized in terms of the Fund-raising Act, 1978 and which are themselves exempted from income tax in terms of Section 10(1)(f) of the Income Tax Act, to collect contributions as may be decided either by the members at the general meeting at which it was decided to dissolve the ORGANISATION, or in default of such decision as may be decided by the Director of Fund-raising.

## **15. DECLARATION OF INTEREST**

- 15.1. No member of the Board of Mutawallees shall have a direct or indirect interest in or benefit from any contract which the Board of Mutawallees may conclude with any company.
- 15.2. The ORGANISATION shall keep a register which all members declaration of interest shall be kept.
- 15.3. Where a Member is a member of another Firm being a company of association, partners, any other body corporate or Trust) with which the ORGANISATION has regular dealings, he may give written notice to the ORGANISATION effect that he is a member of the company or firm and should be regarded as having an interest in any contracts entered into with the ORGANISATION.
- 15.4. In applying the provisions of clause 15.1 to 15.3, the parties undertake to be guided by the principles of Shariah, transparency and good faith.

## **16. REMUNARATION OF OFFICIALS**

Paid officials of the ORGANISATION may not serve on the Board of Mutawallees or Management Committee but can serve in an advisory capacity but will have no voting rights.

## **17. FINANCIAL YEAR END**

The financial year of the ORGANISATION will end on the last day of June in each year.

## **18. MISCELLANEOUS**

- 18.1. Anything not provided for herein shall be dealt with by the Board of Mutawallees.
- 18.2. No competition, contest, game, scheme, arrangement or system in connection with which any prize may be won shall be conducted or caused to be conducted by the ORGANISATION unless an authority in terms of any other act has been obtained beforehand.