

CONSTITUTION

(AS AMENDED)

of

BADISA

a voluntary association of persons with legal personality
registered as a Nonprofit Organisation (registration number 011-891-NPO)
and approved as a Public Benefit Organisation (PBO 930006348)

THIS CONSTITUTION
AS AMENDED

- which was adopted by the members of Badisa at a special meeting of members held on 4 September 2024
- replaces the current, existing constitution of Badisa that was signed on 18 May 2021, and supersedes that constitution in its entirety.



TABLE OF CONTENTS

PREAMBLE.....	3
1 INTERPRETATION	3
2 NAME OF THE ORGANISATION AND SERVICE AREA.....	6
3 FOUNDATION	6
4 NATURE OF ORGANISATION AND LEGAL PERSONALITY	6
5 NONPROFIT AND TAX STATUS OF THE ORGANISATION	7
6 OBJECTS OF THE ORGANISATION	8
7 ASSETS AND INCOME, AND PBO COMPLIANCE	12
8 POWERS OF THE ORGANISATION.....	16
9 SERVICE CYCLES	17
10 MEMBERSHIP	18
11 MEMBERS MEETINGS.....	20
12 MANAGEMENT OF THE ORGANISATION	25
13 MANAGEMENT BOARD MEETINGS.....	27
14 ACTIVITIES OF THE ORGANISATION : THE BADISA PROGRAMMES	30
15 PAYMENTS TO MANAGEMENT BOARD MEMBERS.....	31
16 FINANCIAL ASSISTANCE TO MANAGEMENT BOARD MEMBERS AND TO MEMBERS OF THE ORGANISATION	31
17 LIMITATION OF LIABILITY	32
18 FINANCIAL RECORDS AND RELATED MATTERS.....	32
19 AMENDMENT OF CONSTITUTION	34
20 DISSOLUTION	34

PREAMBLE

On 1 April 2003, by and on behalf of the Synodical Commission for the Ministry of Compassion of the Dutch Reformed Church in South Africa, Western Cape and Southern Cape (hereafter called "the SCMC"), duly authorised thereto, and the Synodical Commission for Diaconal Services of the Uniting Reformed Church in Southern Africa, Cape Regional Synod (hereafter call "the SCDS"), duly authorised thereto, an organisation with legal personality was established with the name **BADISA**.

1 INTERPRETATION

In this Constitution article headings are used for convenience only and shall not be used in its interpretation and, unless the context clearly indicates a contrary intention:

- 1.1 an expression that denotes -
 - 1.1.1 any gender, includes the other genders;
 - 1.1.2 a natural person, includes an artificial or juristic person and vice versa;
 - 1.1.3 the singular, includes the plural and vice versa;
- 1.2 the following expressions shall bear the meanings assigned to them below and cognate expressions shall bear corresponding meanings:
 - 1.2.1 "**Badisa**" - an association of persons with legal personality, established on 01 April 2003, which is registered as a Nonprofit organisation and has been approved as a Public Benefit Organisation, as more fully set out in articles 4 and 5 below.
 - 1.2.2 "**Badisa Programmes**" - the sustained initiatives or projects of Badisa more fully described in article 14 below;
 - 1.2.3 "**Board**" – the Management Board of Badisa as defined in 1.2.12;

- 1.2.4 **"Commissioner"** – the Commissioner: South Africa Revenue Services;

- 1.2.5 **"Constitution"** - the constitution of the Organisation, being this document (and including any Schedules hereto), as amended or replaced from time to time;

- 1.2.6 **"Diaconate"** - the actions and activities of the Founders in the prevention and combating of the suffering and social distress of individuals, groups and communities as well as the promotion of just relations within society;

- 1.2.7 **"Diaconia"** - the joint ministry of the Dutch Reformed Church (Western Cape) and the Uniting Reformed Church (Cape Region), acting as a unit to promote diaconate;

- 1.2.8 **"DRC"** – the Dutch Reformed Church in South Africa (Western Cape);

- 1.2.9 **"Electronic Communication"** - will have the same meaning as defined by Section 1 of the Electronic Communications Act 25 of 2002 and will refer to communication by way of data messages. Data messages will be interpreted in accordance with Section 1 of Act 25 of 2002 and will refer to all electronic data that is electronically generated, sent or received, inclusive of but not limited to telephone communication, video conferencing, faxes and emails on condition that such documents or a copy of such documents are signed by all the directors;

- 1.2.10 **"Founders"** – the DRC and the URCSA;

- 1.2.11 **"Income Tax Act"** or **"IT Act"** - the Income Tax Act, No. 58 of 1962 (as amended);

- 1.2.12 **"Management Board"** – the management board of the Organisation as constituted from time to time in accordance with the provisions of this Constitution;

- 1.2.13 **"Management Programme"** - the regulating and co-ordinating body of the Organisation, dealt with in article 12;



- 1.2.14 the "**Ninth Schedule**" – the Ninth Schedule to the Income Tax Act, No. 58 of 1962;
- 1.2.15 "**NPO Act**" – the Non-Profit Organisations Act, 71 of 1997, as amended or re-enacted and for the time being in force, including any regulations promulgated thereunder and for the time being in force;
- 1.2.16 "**the Organisation**" – Badisa;
- 1.2.17 "**Person** " – a includes a juristic person;
- 1.2.18 "**Programme**" – a Badisa Programme as defined in 1.2.2;
- 1.2.19 "**public benefit activity**" – has the meaning ascribed thereto in section 30 of the Income Tax Act;
- 1.2.20 "**Public Benefit Organisation**" or "**PBO**" – a public benefit organisation as defined in section 30(1) of the Income Tax Act which has been approved as such by SARS;
- 1.2.21 "**Republic**" - the Republic of South Africa;
- 1.2.22 "**SARS**" – the South African Revenue Service;
- 1.2.23 "**Schedule 9**" – Schedule 9 of the Income Tax Act;
- 1.2.24 "**SCMC**" – the Synodical Commission for the Ministry of Compassion of the Dutch Reformed Church in South Africa (Western Cape);
- 1.2.25 "**SCDS**" - the Synodical Commission for Diaconal Services of the Uniting Reformed Church in Southern Africa (Cape Regional Synod);
- 1.2.26 "**URCSA**" – the Uniting Reformed Church in Southern Africa (Cape Regional Synod);
- 1.3 if any provision in a definition is a substantive provision conferring a right or imposing an obligation on any person, then, notwithstanding that it is only in a



definition, effect shall be given to that provision as if it were a substantive provision in the body of this MOI;

- 1.4 the use of the word "**including**", "**includes**" and "**include**", followed by a specific example/s, shall not be construed as limiting the meaning of the general wording preceding it and the eiusdem generis rule shall not be applied in the interpretation of that general wording or those specific example/s;
- 1.5 where any term is defined within a particular article other than this article 1, that term shall bear the meaning ascribed to it in that article wherever it is used in this Constitution.

2 **NAME OF THE ORGANISATION AND SERVICE AREA**

- 2.1 The name of the organisation is **Badisa**.
- 2.2 The Organisation renders its services and performs its activities within the Republic of South Africa.

3 **FOUNDATION**

The Organisation performs its task in accordance with the *Framework for the Diaconate* of its two Founders, the DRC and URCSA.

4 **NATURE OF ORGANISATION AND LEGAL PERSONALITY**

- 4.1 The Organisation is a voluntary association of persons with legal personality which was established, exists and is governed by and in accordance with its constitution.
- 4.2 As a legal entity it:
 - 4.2.1 has its own identity, exists autonomously distinct from its members and office bearers, and continues to exist notwithstanding any changes in its membership or office-bearers;
 - 4.2.2 acquires its own rights and assumes its own liabilities, manages the disposition of its assets itself, and enters into agreements in its own name;

- 4.2.3 operates independently in legal proceedings, acting as a plaintiff, defendant, applicant, or respondent in its own right and name.
- 4.3 All assets, whether movable or immovable, procured on behalf of or by the Organisation, are unequivocally the Organisation's property. No individual member or office bearer of the Organisation has any entitlement to such assets or any portion thereof.
- 4.4 Immovable property is officially registered in the Organisation's name without any reference to individuals, and mortgages on such property are exclusively attributed to the Organisation.

5 **NONPROFIT AND TAX STATUS OF THE ORGANISATION**

- 5.1 The Organisation was registered as a nonprofit organisation with the Directorate of Nonprofit Organisations in terms of the Nonprofit Organisations Act, 71 of 1997 on 29 January 2001 – (registration number: 011-891-NPO).
- 5.2 The Organisation was approved as a public benefit organisation by SARS in terms of section 30 of the Income Tax Act (reference: PBO 930006348 – approved on 31 January 2005 and confirmed on 25 November 2009: Group registration), with the following concomitant tax exemptions:
- 5.2.1 exemption from Income Tax in terms of section 10(1)(cN) of the Income Tax Act;
- 5.2.2 exemption from Donations Tax in terms of section 56(1)(h) of the Income Tax Act; and
- 5.2.3 exemption from the payment of Estate Duty in terms of section 4(h) of the Estate Duty Act, 45 of 1955

and has in addition been approved for purposes of section 18A(1)(a) of the Income Tax Act as well.



6 OBJECT OF THE ORGANISATION

6.1 The main object of Badisa is actively to participate in and advance the comprehensive social development of the people of South Africa, improving the lives of individuals, families, groups and communities in need.

6.2 It accomplishes that through:

6.2.1 conducting public benefit activities itself, as contemplated in section 30 of the Income Tax Act, including certain activities listed in Part I of the Ninth Schedule to the Income Tax Act (as set out in 6.3 below) and certain activities listed in Part II of the Ninth Schedule (as set out in 6.4 below) – (for which it has already been approved by SARS for purposes of section 18A(1)(a) of the Income Tax Act); and

6.2.2 the intended extension of its activities by undertaking, in addition, the provision of funding for other registered qualifying entities that undertake public benefit activities listed in Part II of the Ninth Schedule, for which purpose application is being made to SARS to obtain approval for purposes of section 18A(1)(b) of the Income Tax Act as well.

6.3 The activities listed in Part I of the Ninth Schedule which the Organisation conducts and engages in itself, are:

6.3.1 Certain activities listed under the heading **Land and Housing** in paragraph 3 under Part I of the Ninth Schedule, being:

- (c) The provision of residential care for retired persons, where-
 - (i) more than 90 per cent of the persons to whom the residential care is provided are over the age of 60 and nursing services are provided by the organisation carrying on such activity; and
 - (ii) residential care for retired persons who are poor and needy is actively provided by that organisation without full recovery of cost.

6.3.2 Certain activities listed under the heading **Providing of funds, assets or other resources** in paragraph 10 of Part I of the Ninth Schedule, being:

the provision of-

(a) funds, assets, services or other resources by way of donation;

(c) funds by way of loan at no charge

to any

(i) public benefit organisation which has been approved in terms of section 30; or

(iii) association of persons carrying on one or more public benefit activity contemplated in this part (other than this paragraph), in the Republic.

6.3.3 Certain activities listed under the heading **General** in paragraph 11 of Part I of the Ninth Schedule, being:

(a) The provision of support services to, or promotion of the common interests of public benefit organisations contemplated in section 30 or institutions, boards or bodies contemplated in section 10 (1) (cA) (i), which conduct one or more public benefit activities contemplated in this part.

6.4 The activities listed in Part II of the Ninth Schedule which the Organisation conducts and engages in itself [i.e. as a "doer"], are the following:

6.4.1 Certain activities listed under the heading **Welfare and Humanitarian** in paragraph 1 of Part II of the Ninth Schedule, being:-

(a) The care or counseling of, or the provision of education programmes relating to, abandoned, abused, neglected, orphaned or homeless children.

(b) The care or counseling of poor and needy persons where more than 90 per cent of those persons to whom the care or counseling are provided are over the age of 60.

(d) The provision of disaster relief.

(f) The provision of poverty relief.

(h) The rehabilitation, care or counseling of persons addicted to a dependence-forming substance or the provision of preventative and education programmes regarding addiction to dependence-forming substances.

(l) The promotion or protection of family stability.

(n) The provision of facilities for the protection and care of children under school-going age of poor and needy parents.

- (p) Community development for poor and needy persons and anti-poverty initiatives, including-
 - (i) the promotion of community-based projects relating to self-help, empowerment, capacity;
 - (ii) building, skills development or anti-poverty;
 - (iii) provision of training, support or assistance to community-based projects contemplated in item (i);

6.4.2 Certain activities listed under the heading **Health Care** in paragraph 2 of Part II of the Ninth Schedule, being:-

- (a) The provision of health care services to poor and needy persons.
- (b) The care or counseling of terminally ill persons or persons with a severe physical or mental disability, and the counseling of their families in this regard.
- (c) The prevention of HIV infection, the provision of preventative and education programmes relating to HIV/AIDS.
- (d) The care, counseling or treatment of persons afflicted with HIV/AIDS, including the care or counseling of their families and dependants in this regard.

6.4.3 Certain activities listed under the heading **Education and Development** in paragraph 3 under Part II of the Ninth Schedule, being:

- (c) "Adult education and training", as defined in the Adult Education and Training Act, 2000 (Act No. 52 of 2000), including literacy and numeracy education.
- (e) Training for unemployed persons with the purpose of enabling them to obtain employment.
- (h) The provision of educare or early childhood development services for pre-school children.

6.4.4 Certain activities listed under the heading **Land and Housing** in paragraph 5 under Part II of the Ninth Schedule, being:

- (a) The development, construction, upgrading, conversion or procurement of housing units for the benefit of persons whose monthly household income is equal to or less than R15 000 or any greater amount determined by the Minister of Finance by notice in the Gazette after consultation with the Minister of Housing.
- (b) The development, servicing, upgrading or procurement of stands, or the provision of building materials, for purposes of the activities



contemplated in subparagraph (a).

(d) Building and equipping of-

(i) clinics or crèches; or

(ii) community centres, sport facilities or other facilities of a similar nature,

for the benefit of the poor and needy.

6.5 In the execution of its main object, the Organisation:

6.5.1 implements the **Management Programme** referred to and dealt with in article 12 below;

6.5.2 develops, implements and manages applicable **Programmes** as set out in article 14 below;

6.5.3 co-ordinates service delivery to ensure utmost efficiency and cost-effectiveness;

6.5.4 promotes liaison with other welfare organisations and networks;

6.5.5 undertakes necessary research on development in the area of social service delivery, government policy and social legislation.

6.6 It remains the aim and object of the Organisation to ensure compliance at all times with:

6.6.1 the conditions to which the approval of the Organisation as a public benefit organisation by the Commissioner is subject, as set out in section 30(3) of the Income Tax Act and in article 7 of this Constitution below; and

6.6.2 the conditions imposed by SARS when approving the Organisation for purposes of section 18A(1)(a), and also the conditions expected to be imposed in the event that approval for purposes of section 18A(1)(b) is granted by SARS as well.

6.7 In pursuance of its main object the Company shall: *[s30(3)(1)(b) of IT Act]*

- 6.7.1 carry on all its activities in a non-profit manner and with an altruistic or philanthropic intent;
- 6.7.2 ensure that such activities do not 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;
- 6.7.3 carry on such activities for the benefit of or make it widely accessible to the general public at large, including any sector thereof (other than small and exclusive groups).

7 **ASSETS AND INCOME, AND PBO COMPLIANCE**

7.1 The Organisation shall, in order to maintain its approval as a public benefit organisation with the concomitant tax exempt status granted by SARS, at all times comply with the provisions of section 30 of the Income Tax Act, for which purpose the provisions of 7.2 to 7.7 below shall apply to the Organisation. References to the currently applicable provisions of sections 30 of the Income Tax Act are provided alongside the articles in this Constitution on which they have a bearing. Should any of these provisions be amended or replaced, the replacement statutory provisions shall apply.

7.2 The Organisation shall:

7.2.1 submit a copy of any amendment of this Constitution to the Commissioner;
[s30(3)(b)(vi) of IT Act]

7.2.2 have at least three persons, who are not connected persons in relation to each other, to accept the fiduciary responsibility of the Organisation vis-à-vis SARS, and no single person shall directly or indirectly control the decision making powers relating to the Organisation.

[sect30(3)(b)(i) of IT Act]

7.3 The Organisation:

7.3.1 shall apply all of its assets and income and utilise its funds, however derived, solely to advance its stated objects as set out in this Constitution,

and comply with the conditions, if any, prescribed by the Minister by regulation to ensure that the activities and resources of the Organisation are applied in the furtherance of the main object of the Organisation;

7.3.2 shall, when any funds are invested, comply with all such prescriptions as may be issued by the Commissioner of SARS from time to time with regard to the investment of funds by public benefit organisations, provided that the provisions of this sub-article shall not prohibit the Organisation from retaining any investment (other than any investment in the form of a business undertaking or trading activity or asset which is used in such business undertaking or trading activity) in the form that it was acquired by way of donation, bequest or inheritance;

7.3.3 may, subject to 7.3.1:

7.3.3.1 acquire and hold securities issued by a profit company; and

7.3.3.2 directly or indirectly, alone or with any other person, carry on any business, trade or undertaking consistent with or ancillary to its stated objects.

7.4 The income and property of the Organisation are not distributable, directly or indirectly, otherwise than in the course of undertaking any public benefit activity. The Organisation shall not distribute any portion of its income or transfer any of its assets, regardless how the income or asset was derived, directly or indirectly to any of its Founders, nor to any member of the Organisation nor to a member of its Management Board, except-

[sect 30(3)(b)(ii) of IT Act]

7.4.1 as reasonable-

7.4.1.1 remuneration for goods delivered or services rendered to, or at the direction of, the Organisation; or

7.4.1.2 payment of, or reimbursement for, expenses incurred to advance a stated object of the Organisation;

- 7.4.2 as a payment of an amount due and payable by the Organisation in terms of a *bona fide* agreement between the Organisation and that Person or another;
- 7.4.3 as a payment in respect of any rights of that Person, to the extent that such rights are administered by the Organisation in order to advance a stated object of the Organisation; or
- 7.4.4 in respect of any legal obligation binding on the Organisation.
- 7.5 The Organisation shall:
- 7.5.1 not accept any donation which is recoverable 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 of the Act: - 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) of the Act and 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;
[sect 30(3)(b)(v) of IT Act]
- 7.5.2 not consciously be a party to, and may not consciously allow itself to be used as part of, a transaction, action or scheme the sole or main purpose of which is the decrease, postponement or avoidance of liability for any tax, right or duty which, in the absence of the transaction, action or scheme in question would have been or become payable by a person in terms of the Income Tax Act or any other Act administered by the Commissioner;
[sect 30(3)(c) of IT Act]
- 7.5.3 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 will not

economically benefit any person in a manner which is not consistent with its objects;
[sect 30(3)(d) of IT Act]

7.5.4 comply with the reporting requirements determined by the Commissioner;
[sect 30(3)(e) of IT Act]

7.5.5 not use its resources directly or indirectly to support, advance or oppose any political party.
[sect 30(3)(h) of IT Act]

7.6 The Organisation shall not carry on any business undertaking or trading activity, otherwise than in compliance with the provisions of section 10(1)(cN) of the Income Tax Act, i.e. no business undertaking or trading activity shall be carried on save to the extent that:

[sect 10(1)(cN) of IT Act]

10(1)(cN)(ii)

(aa) the undertaking or activity —

- (A) is integral and directly related to the main object of the Company; and
- (B) is carried out or conducted on a basis substantially the whole of which is directed towards the recovery of cost; and
- (C) does not result in unfair competition in relation to taxable entities;

or:

(bb) the undertaking or activity is of an occasional nature and undertaken substantially with assistance on a voluntary basis without compensation;

or:

(cc) the undertaking or activity has been approved by the Minister in the Gazette in terms of section 10(1)(cN)(cc);

or:

(dd) other than an undertaking or activity in respect of which item (aa), (bb) or (cc) applies, the receipt and accruals from the undertaking or the activity do not exceed the limits set out in section 10(1)(cN)(dd), being (at the date of adoption of this substituting MOI), the greater of:

- (i) 5% (five percent) of the total receipts of the Company during the relevant year of assessment, or R200 000.00 (two hundred thousand rand)

or such amended limits as may be prescribed from time to time.

- 7.7 Notwithstanding any provision in any law or agreement to the contrary, upon the winding-up or dissolution of the Organisation its assets must be transferred and dealt with in accordance with the provisions of article 20 below.

[sect 30(3)(b)(iii) of IT Act]

8 POWERS OF THE ORGANISATION

- 8.1 The Organisation has the same customary standard unrestricted legal powers and capacity as is accorded to private companies, except to the extent necessarily implied by the objectives set out in article 6 above. It accordingly has unrestricted legal powers to implement the objectives of the Organisation set out in this Constitution.

- 8.2 Without limiting the generality of 8.1 above, the Organisation has the powers to, *inter alia*:

- 8.2.1 raise funds, receive donations and subsidies and apply such funding in accordance with the objectives of the Organisations;

- 8.2.2 invest, open deposit accounts and administer all financial assets accrued to and obtained by the Organisation:

- 8.2.2.1 with registered financial institutions as defined in Section (1) of the Financial Services Board Act, 1990;

8.2.2.2 in shares listed on a registered stock exchange as defined in 'The Securities Services Act, No 36 of 2004, or

8.2.2.3 in other prudent investments approved by the Organisation's Investment Committee

regard being had at all times to any prescriptions that may be issued by the Commisioner of SARS from time to time with regard to the investment of funds by public benefit organisations, as stipulated in 7.3.2. above;

8.2.3 determine its own financial policy and procedures;

8.2.4 conclude contracts in its own name, which are binding on the Organisation only if signed by either the Chief Executive Officer of the Organisation, duly authorised thereto, or by another duly authorised office-bearer to whom signing power for the specific contract has been duly delegated;

8.2.5 decide on applications from third party entities requesting affiliation with the Organisation and to determine the conditions for affiliation.

9 **SERVICE CYCLES**

9.1 The terms of office ("service cycles") of all persons who are current members of the Organisation and/or members of the Organisation's Management Board at the date when Diaconia approves this new Constitution in terms of article 19.1.3. below, shall terminate on the date when this new Constitution acquires legal force and effect, as determined by Diaconia in terms of article 19.1.3 ("the Effective Date"), regardless of when the respective service cycles of these current members of the Organisation and of its Management Board had commenced.

9.2 The service cycle of all persons appointed as the first members of the Organisation (in terms of article 10) and/or as the first members of the Organisation's Management Board (in terms of article 12.1) in accordance with the provisions of this new Constitution, shall commence on the aforementioned Effective Date and shall terminate at the Annual Members Meeting of the Organisation to be held at the end of 2027 when

fresh appointments in the various positions will be made for the ensuing 3 (three) year service cycle.

- 9.3 The service cycle of all persons appointed as members of the Organisation and/or as members of its Management Board at the Annual Members Meeting of the Organisation to be held at the end of 2027, shall be a period of 3 (three) years, terminating at the Annual Members Meeting of the Organisation to be held at the end of 2030, and subsequent appointments thereafter shall be made afresh with 3 (three) year intervals at subsequent Annual Members Meetings of the Organisation.

10 MEMBERSHIP

- 10.1 The Organisation shall have a membership of 23 (twenty-three), constituted and appointed as follows:

- 10.1.1 6 (six) members appointed by the SCDS from the ranks of SCDS members, one of whom must be the person currently serving as appointed Minister in Synodical Service (MSS) of the SCDS. The SCDS will be entitled to replace these appointed members from time to time, at its discretion, with other persons from the ranks of SCDS members;
- 10.1.2 6 (six) members appointed by the SCMC from the ranks of SCMC Members, one of whom must be the person currently serving as the appointed Minister in Synodical Service (MSS) of the SCMC. The SCMC will be entitled to replace these appointed members from time to time, at its discretion, with other persons from the ranks of SCMC members;
- 10.1.3 5 (five) additional "service cluster" members, being 1 (one) person for each of the following service clusters:
- 10.1.3.1 Elderly Care;
 - 10.1.3.2 Disability Care;
 - 10.1.3.3 Child Protection;
 - 10.1.3.4 Early Childhood Development (ECD);
 - 10.1.3.5 Substance abuse

on the basis that the person who is to represent a particular service cluster shall be nominated from the ranks of persons who are involved in the

governance or management of one or other of the Programmes that form part of the service cluster in question, by way of a process determined by the outgoing Management Board and managed by the CEO (referred to in 10.1.5) for appointment by the members meeting;

10.1.4 5 (five) additional members appointed as external experts, who should be persons with specific knowledge and expertise in relevant disciplines, as needed, given that the Organisation functions in a very complex environment where high levels of corporate governance and accountability are required; the external experts shall be nominated by the outgoing Management Board for appointment by the members meeting;

10.1.5 a Chief Executive Officer (CEO), being an employee of the Organisation appointed in terms of a contract of employment (the role and function of whom is set out in article 12.2.1 below) and who is an *ex officio* member of the Organisation for the duration of his employment; should the position of CEO become vacant, a new CEO is appointed by the members referred to in articles 10.1.1, 10.1.2, 10.1.3 and 10.1.4.

10.2 The membership of every member appointed in terms of 10.1.1 to 10.1.4 above shall endure and remain operative until expiry of the 3 (three) years service cycle for which he/she was appointed, unless his/her membership terminates earlier in terms of the provisions of 10.3 below.

10.3 A member's membership will terminate prior to normal expiry of his/her 3 (three) years service cycle in any of the following circumstances:

10.3.1 at any time when a member resigns voluntarily

and will terminate automatically if:

10.3.2 a member should pass away;

10.3.3 in the case of a member who is appointed in terms of 10.1.1 or 10.1.2 by the SCDS or the SDMC, the member's membership of the SCDS or the SDMC, as the case may be, should expire for whatever reason;

10.3.4 a member is absent from three consecutive meetings without notice;

- 10.3.5 a member becomes mentally incapacitated;
- 10.3.6 the estate of a member is sequestrated or turned over to the benefit of his/her creditors;
- 10.3.7 a member is found guilty, whether in the RSA or elsewhere:
 - 10.3.7.1 of theft, fraud, forgery or any crime involving dishonesty; or
 - 10.3.7.2 of any crime of whatever nature and is sentenced to imprisonment without the option of a fine on any charge;
- 10.3.8 a member is dismissed from a position of trust by a competent court as a result of misconduct.
- 10.4 Any vacancy that arises in the membership of members appointed in terms of 10.1.1 to 10.1.4 shall be filled by the same entity or grouping who has the right to appoint the member in question in terms of 10.1.1 to 10.1.4. The membership of any member who has been appointed to fill the vacancy of the member whose membership has terminated early shall endure and remain operative for only the remainder of the current 3 year service cycle of the member whose position has been vacated.
- 10.5 Notwithstanding 10.2 above the 3 (three) year service cycle period stipulated in 10.2 can in special circumstances be extended by a decision of the majority of the members of the Organisation, for such extended period as they may decide.

11 MEMBERS MEETINGS

- 11.1 At the first members meeting of a new 3 (three) year service cycle:
 - 11.1.1 the members newly appointed for the ensuing 3 year service cycle in terms of 10.1.1 shall nominate one person for appointment as either Chairperson or Deputy Chairperson of the members meetings to be held in that ensuing 3 year service cycle; and

- 11.1.2 the members newly appointed for the ensuing 3 year service cycle in terms of 10.1.2 shall likewise nominate one person for appointment as either Chairperson or Deputy Chairperson of the members meetings to be held in that ensuing 3 year service cycle;
- 11.1.3 the 23 persons who shall serve as members of the Organisation for the ensuing 3 year service cycle shall then elect, from the two persons nominated in terms of 11.1.1 and 11.1.2 above, one of the nominees to serve as Chairperson and the other as Deputy Chairperson of the members meetings in the ensuing 3 year cycle; the same two persons will during the ensuing 3 year service cycle act as Chairperson and Deputy Chairperson of the Management Board as well.
- 11.2 The Chief Executive Officer will officiate as Secretary.
- 11.3 Annual Members Meeting
 - 11.3.1 An annual members meeting must be held within six (6) months after 31 March on a date determined by the Management Board.
 - 11.3.2 The audited financial statements of the Organisation, as approved by the Management Board, must be tabled for the information of members at the Annual Members Meeting.
 - 11.3.3 The Annual Members Meeting appoints the auditors and determines the broader policy objectives of the Organisation.
- 11.4 Special Members meetings
 - 11.4.1 A special meeting of the members can be convened by the Management Board should they deem it necessary, or by the CEO, acting as Secretary, when five (5) members request such a meeting by way of a written submission to the CEO regarding the matter for discussion.
 - 11.4.2 Only the matters for which the special meeting has been convened, will be considered at a special members meeting.
- 11.5 Notice and Agenda



- 11.5.1 Written notice of a members' meeting must reach all the members at least 5 (five) working days prior to the meeting. An agenda of the meeting must be included in the notice.
- 11.5.2 Only matters appearing on the agenda may be considered at a members meeting, unless the meeting agrees, by a majority vote, that other matters may be introduced, subject to the following:
 - 11.5.2.1 this provision will not apply in the case of a special meeting convened to consider a proposal for amendment of the Organisation's Constitution (regulated in article 19) or for the dissolution of the Organisation (regulated in article 20);
 - 11.5.2.2 accordingly, no proposal concerning either of these two matters may be tabled and considered at a members meeting unless the requisite notice of the meeting, which must have been duly and timeously given, was accompanied by an agenda setting out the proposed motion in full and providing a comprehensive motivation for the motion.
- 11.6 The proceedings at meetings of members shall be conducted in accordance with commonly accepted meeting procedures as determined by the Chairperson.
- 11.7 The CEO, in consultation with the Chairperson of the Members Meeting:
 - 11.7.1 may provide for a meeting of members to be conducted in whole or in part by Electronic Communication; and
 - 11.7.2 may make provision for any Member to participate by Electronic Communication in a members meeting that is held in person at a place where such member is unable to attend

provided that any Electronic Communication facility so employed must ordinarily enable all Persons participating in that meeting to at least speak and hear each other at approximately the same time, and to participate reasonably effectively in the meeting, with or without an intermediary.

11.8 Quorum

11.8.1 The presence of more than half of the members listed in 10.1 shall be required to constitute a quorum, both for meetings held in person and meetings held by way of Electronic Communication;

11.8.2 If, within half an hour after the appointed time for a meeting to begin, the quorum requirements for that meeting to begin have not been satisfied, the meeting shall be automatically postponed for one week without considering any business or item of the agenda. The quorum requirements at the adjourned meeting shall be the same as those for the initial meeting. If at the adjourned meeting a quorum is still not present, the meeting cannot proceed and the normal prescribed notice must be given afresh for any subsequent meeting to be convened for a later date.

11.8.3 The SCDS may designate, from the ranks of SCDS members, secundi for any member/s appointed in terms of 10.1.1 who is/are unable to attend a particular members meeting, to deputise temporarily for such member/s and attend that particular meeting in the stead of the member/s in question. No secundus may, however, be appointed for a member who is serving as appointed Minister in Synodical Service (MSS) of the SCDS. The designated secundi will have the same powers as the members for whom they deputise.

11.8.4 The SCMC may likewise designate, from the ranks of SCMC members, secundi for any member/s appointed in terms of 10.1.1 who is/are unable to attend a particular members meeting, to deputise temporarily for such member/s and attend that particular meeting in the stead of the member/s in question. No secundus may, however, be appointed for a member who is serving as appointed Minister in Synodical Service (MSS) of the SCMC. The designated secundi will have the same powers as the members for whom they deputise.

11.8.5 Written notice of secundi designated in terms of 11.8.3 and 11.8.4 must reach the Chairman 48 hours prior to the meeting.

11.9 Decisions at a members meeting may be taken by consensus or by voting.

11.10 Requirements for adoption of resolutions by voting at a members meeting:

11.10.1 For adoption of:

11.10.1.1 an ordinary resolution by voting at a members meeting, it must be supported by more than 50% of the voting members present;

11.10.1.2 a special resolution by voting at a members meeting, it must be supported by at least 75% of the voting members present.

11.10.2 If the required majority voting could not be achieved, the matter must be regarded as undecided, but could be resubmitted to a members meeting at a future date.

11.11 The members may consider a matter otherwise than at a meeting, and adopt a decision by written consent of the members, provided that:

11.11.1 there is proof that each member has received notice of the matter to be decided upon ;

11.11.2 the members who have responded must constitute a quorum; and

11.11.3 the decision must be adopted unanimously.

11.12 The resolution may consist of one or more counterpart documents, each signed by one or more members.

11.13 Unless the contrary is stated in the resolution, any such resolution shall be deemed to have been passed on the date on which it was signed by or on behalf of the member who signed it last.

11.14 Any written resolution adopted in accordance with the provisions of this article above, shall be as valid and effective as if it had been adopted by a duly convened and constituted meeting of members.

11.15 Minutes must be kept of all Members meetings.

12 MANAGEMENT OF THE ORGANISATION

- 12.1 The management of the Organisation is the responsibility of its Members, who for this purpose will appoint a **Management Board** consisting of 12 (twelve) members.
- 12.2 The mandate and authority of the Management Board is determined by the Members, who may amend such mandate and authority as and when considered necessary.
- 12.3 The Management Board of 12 (twelve) members is constituted as follows at the beginning of every 3 (three) year service cycle:
- 12.3.1 3 (three) members representing the SCDS, one of whom must be the person currently serving as appointed Minister in Synodical Service (MSS) of the SCDS;
 - 12.3.2 3 (three) members representing the SCMC, one of whom must be the person currently serving as appointed Minister in Synodical Service (MSS) of the SCMC;
 - 12.3.3 the 5 (five) external experts who have been appointed in terms of 10.1.4;
 - 12.3.4 the Chief Executive Officer referred to in 10.1.5 above, who will act as Secretary.
- 12.4 The circumstances listed in 10.3 that would disqualify a person from membership of the Organisation shall apply equally to disqualify a person from serving as a member of the Management Board.
- 12.5 The Management Board may delegate to:
- 12.5.1 the **Chief Executive Officer**, who is entrusted with performing the executive functions of the Organisation, all necessary powers and authorities that he/she may require to be able to undertake the day to day management functions of the Organisation in accordance with the terms and conditions of such delegation, *inter alia* including the authority to sign contracts on behalf of the Organisation; and

- 12.5.2 any **Management Board Committee** such powers and authorities as the Management Board considers advisable, as set out in 12.8.3 below.
- 12.6 The **Management Programme** which is established to regulate and co-ordinate the Organisation, subject to the supervision of the Management Board, appoints the required staff at the head office who are managed in accordance with the approved human resources policy of the Organisation.
- 12.7 The Management Board:
- 12.7.1 determines the policy and procedures for the various service **Programmes** of the Organisation (set out and dealt with in article 14 below) in accordance with the objectives set out in this Constitution;
- 12.7.2 approves the appointment of members to the Governing Boards of the various service Programmes;
- 12.7.3 empowers the Governing Boards and managers of the Programmes by delegating to them the authority to manage the respective Programmes, in order to enable them to deliver an efficient, relevant and cost-effective service to persons and communities in need. The Management Board may amend the terms of the delegated authority as and when considered necessary.
- 12.8 The Management Board may -
- 12.8.1 appoint any number of **Management Board committees**;
- 12.8.2 include any Person who is not a Management Board member in such committees, provided that such person must not be ineligible to be a Management Board on one of the disqualification grounds for members set out in 10.3;
- 12.8.3 delegate to any committee any of the authority of the Management Board (including the authority to sub-delegate).
- 12.9 A Management Board Committee:



- 12.9.1 will have the full authority of the Management Board in respect of a matter referred to it;
- 12.9.2 may consult with or receive advice from any person.
- 12.10 It is recorded that at the time of adoption of this Constitution the following Management Board committees have been established and are operative, each with a specific mandate approved by the Management Board:
 - 12.10.1 Audit and Risk Committee;
 - 12.10.2 Finance Committee;
 - 12.10.3 Investment Committee;
 - 12.10.4 Remuneration Committee;
 - 12.10.5 Committee for Organisational and Legal Structures;
 - 12.10.6 Marketing Committee; and
 - 12.10.7 Fundraising Committee.

13 **MANAGEMENT BOARD MEETINGS**

- 13.1 The Management Board may:
 - 13.1.1 meet, adjourn and otherwise regulate its meetings as it thinks fit, provided that it must meet at least 3 (three) times in a calendar year;
 - 13.1.2 determine the form and time of the notice that shall be given of its meetings and the means of giving that notice, provided that no meeting may be convened without notice to all of the Management Board Members.
- 13.2 If all of the Management Board Members -
 - 13.2.1 acknowledge actual receipt of the notice and agree that the meeting should proceed; and
 - 13.2.2 are present at a meeting; or
 - 13.2.3 waive notice of the meeting,

the meeting may proceed even if there was a failure to give the required notice of that meeting, or if there was a defect in the notice that was given.

13.3 The Chairperson and Deputy Chairperson of Management Board meetings shall be elected at the first members meeting of a new 3 (three) year service cycle, as stipulated in article 11.1.3.

13.4 The proceedings at Management Board meeting shall be conducted in accordance with commonly accepted meeting procedures as determined by the Chairperson.

13.5 The Management Board:

13.5.1 may provide for a meeting of the Board to be conducted in whole or in part by Electronic Communication;

13.5.2 may make provision for any Management Board Member to participate by Electronic Communication in a Management Board meeting that is held in person at a place where such Management Board Member is unable to attend

provided that any Electronic Communication facility so employed must ordinarily enable all Persons participating in that meeting to at least speak and hear each other at approximately the same time, and to participate reasonably effectively in the meeting, with or without an intermediary.

13.6 Quorum

13.6.1 The presence of more than half of the Management Board Members listed in 12.1 shall be required to constitute a quorum, both for meetings held in person and meetings held by way of Electronic Communication.

13.6.2 If within half an hour after the appointed time for a meeting to begin, the quorum requirements for that meeting to begin have not been satisfied, the meeting shall be automatically postponed for one week without considering any business or item of the agenda. At the adjourned meeting the Management Board Members present will constitute a quorum.

13.7 At any quorate meeting of the Management Board:

- 13.7.1 each Management Board Member has one vote on every matter to be decided by the Management Board;
- 13.7.2 a resolution of the Management Board shall be passed by a majority of the votes cast at the meeting; and
- 13.7.3 the chairperson of the meeting shall not have a second or casting vote in addition to his deliberative vote, so that in the case of a tied vote on a resolution, that resolution is not adopted.
- 13.8 The Management Board shall keep minutes of the meetings of the Board, and any of its committees, and include in those minutes -
 - 13.8.1 any declaration of interest that a Management Board Member may have made in relation to a matter to be considered by the Managing Board;
 - 13.8.2 every resolution adopted by the Board.
- 13.9 Resolutions adopted by the Board -
 - 13.9.1 must be dated and sequentially numbered; and
 - 13.9.2 are effective as of the date of the resolution, unless the resolution states otherwise.
- 13.10 Any minutes of a meeting, or a resolution, signed by the chairperson of the meeting, or by the chairperson of the next meeting of the Board, is evidence of the proceedings of that meeting, or adoption of that resolution, as the case may be.
- 13.11 The Management Board may consider a matter otherwise than at a meeting, and adopt a decision by written consent of the Management Board Members, provided that:
 - 13.11.1 there is proof that each Management Board Member has received notice of the matter to be decided upon;

- 13.11.2 the Management Board Members who have responded must constitute a quorum; and
- 13.11.3 the decision must be adopted unanimously.
- 13.12 The resolution may consist of one or more counterpart documents, each signed by one or more Management Board Members.
- 13.13 Unless the contrary is stated in the resolution, any such resolution shall be deemed to have been passed on the date on which it was signed by or on behalf of the Management Board Member who signed it last.
- 13.14 Any written resolution adopted in accordance with the provisions of this article above, shall be as valid and effective as if it had been adopted by a duly convened and constituted meeting of the Management Board.

14 **ACTIVITIES OF THE ORGANISATION : THE BADISA PROGRAMMES**

- 14.1 The Programmes are sustained initiatives or projects undertaken by the Organisation which are designed to achieve the specific objectives outlined in article 6 of this constitution. Every Programme targets a particular demographic or community group.
- 14.2 The Programme may either be an activity conducted by the Organisation itself as part and parcel of its own activities as a legal entity, or an activity which, although initially conducted as one of the Organisation's own activities, may in due course be established as an independent legal entity by the Organisation.
- 14.3 Every Programme operates with dedicated management and staff, adhering to the overarching policies and guidelines of the Organisation and operating within the governance structures established for the Programme in question.
- 14.4 The Organisation currently has some 130 service **Programmes** that serve the various service areas in which the Organisation is engaged. The service areas currently served by Programmes are grouped in clusters respectively focusing on:
 - 14.4.1 Elderly Care;
 - 14.4.2 Disability Care;

- 14.4.3 Child Protection;
 - 14.4.4 Early Childhood Development (ECD); and
 - 14.4.5 Substance abuse
- 14.5 The Management Board may from time terminate or establish more Programmes or re-organise the service clusters within which the Programmes are grouped.
- 14.6 The composition and powers of the Governing Boards of the various **Programmes** are contained in the **Governing and Management Rules** that are approved by the Organisation for each respective Programme. This delegated authority will include *inter alia* the authority to sign contracts which are necessary for the management of the **Programme** in question in accordance with the Organisation's objectives set out in this Constitution.

15 **PAYMENTS TO MANAGEMENT BOARD MEMBERS**

- 15.1 The Organisation may not pay remuneration to Management Board Members for their services rendered to the Organisation in such capacity. This provision will, however, not apply to remuneration paid to the CEO as an employee of the Organisation, which is governed by the terms of his/her employment contract.
- 15.2 Management Board Members shall, however, be entitled to be paid or reimbursed for all travelling, subsistence and other expenses necessarily and properly incurred by him/her in the execution of his/her duties as a Management Board Member, provided that the occurring of the expenses was authorised in advance or subsequently ratified by the Managing Board.

16 **FINANCIAL ASSISTANCE TO MANAGEMENT BOARD MEMBERS AND TO MEMBERS OF THE ORGANISATION**

- 16.1 The Management Board may not authorise the Organisation to provide any direct or indirect financial assistance, whether by granting a loan to or securing a debt or obligation of, or howsoever otherwise rendering financial assistance to, a Management Board Member or a member of the Organisation, or to a Person related to such Management Board Member or member.

- 16.2 The provisions of 16.1 shall, however, not prohibit a transaction if it constitutes an accountable advance to meet legal expenses in relation to a matter concerning the Organisation, or anticipated expenses to be incurred by the person on behalf of the Organisation.

17 **LIMITATION OF LIABILITY**

No Person shall, solely by reason of being a Founder or a member of the Organisation or a Management Board Member or other office-bearer of the Organisation or a member of the Organisation, be liable for any liabilities or obligations of the Organisation.

18 **FINANCIAL RECORDS AND RELATED MATTERS**

Accounting Records

- 18.1 The Management Board shall cause accurate and complete financial records to be kept in accordance with commonly accepted accounting practice.

Banking

- 18.2 The financial transactions of the Organisation shall be administered via one or more bank accounts held with a reputable financial institution, which shall be opened in the name of the Organisation.
- 18.3 The Management Board shall from time to time designate and authorise persons with signing power to operate bank accounts on behalf of the Organisation, and to administer and manage the Organisations investments; one of these persons will be the Chief Executive Officer.

Financial year

- 18.4 The financial year of the Organisation commences on 1 April and terminates on 31 March of every year.

Annual Financial Statements

- 18.5 The Management Board shall cause to be prepared and annual financial statements which shall:



- 18.5.1 be prepared within 6 (six) months of the end of each financial year;
- 18.5.2 be audited annually;
- 18.5.3 include an auditor's report;
- 18.5.4 include a report by the Management Board as to the activities and financial position of the Organisation;
- 18.5.5 comply with the accounting standards and policies as determined by the Audit Committee and in the manner required by the NPO Act;
- 18.6 The annual financial statements, thus approved, must be tabled for the information of members at the Annual Members Meeting and provided to the Directorate of Non-Profit Organisations, as defined in Act 71 of 1997, within six months of the end of the financial year of the Organisation.

Funding

- 18.7 Funding received by the Organisation from any funder who has stipulated a specific purpose for application of the funding, must be applied in accordance with the funder's instructions. All other funding for the application of which a funder has not stipulated a specific purpose, may be applied by the Organisation for any of its authorised objects set out in article 6.

Reporting and accountability

- 18.8 The Organisation must annually report to:
 - 18.8.1 its Founders and Diaconia on its activities and financial position, including those of the **Programmes** implemented in terms of its objectives; and
 - 18.8.2 the relevant authorities as statutorily required, *inter alia* to comply with the conditions of the Organisation's approval as a PBO by SARS and as an NPO by the Directorate of Non-profit Organisations.

Preservation of records



- 18.9 Any books of account, records or other documents relating to the Organisation shall, whether kept in book form or otherwise, be retained and carefully preserved by the person or persons within the Organisation who is/are responsible for maintaining the records in question, for the required periods applicable to the documents in question.

19 **AMENDMENT OF CONSTITUTION**

- 19.1 For amendment of the Constitution of the Organisation the following is required:

19.1.1 a recommendation to Diaconia that the Constitution be amended must be adopted by special resolution at a special members meeting duly convened and conducted in accordance with the provisions of article 11.4; with regard to the notice of the meeting and the requirements with which the agenda should comply, the provisions of article 11.5.2 must be strictly complied with;

19.1.2 the subsequent approval of that recommendation by Diaconia whereby the Constitution will acquire legal force;

19.1.3 determination by Diaconia, at the same time, of the date upon which the new Constitution will take effect ("the Effective Date").

19.2 All amendments to the Constitution of the Organization from time to time must be submitted to the Commissioner: South African Revenue Services, as provided for in article 7.2.1 above, as well as to the NPO Directorate;

[s30(3)(b)(vi) of IT Act]

20 **DISSOLUTION**

[s10(1)(cN) of IT Act]

20.1 The Organisation can be voluntarily wound up or dissolved only in the following manner:

20.1.1 a special resolution for the dissolution of the Organisation has to be adopted at a special members meeting duly convened and conducted in accordance with the provisions of article 11.4; with regard to the notice of

the meeting and the requirements with which the agenda should comply, the provisions of article 11.5.2 must be strictly complied with;

20.1.2 after its adoption the resolution has to be approved by Diaconia.

20.2 Notwithstanding any provision in any law or agreement to the contrary, upon the winding-up or dissolution of the Organisation:

20.2.1 no Founder nor past or present member of the Organisation nor any past or present member of the Organisation's Management Board, nor any person or entity having the right to appoint any of the aforementioned members, is entitled to any part of the net value of the Organisation after its obligations and liabilities have been satisfied;

20.2.2 the entire net value of the Organisation must be transferred and distributed to: *[sect 30(3)(b)(iii) of IT Act]*

20.2.2.1 one or more non-profit companies, registered external non-profit companies carrying on activities within the Republic, voluntary associations or non-profit trusts that have been approved in terms of section 30 of the Income Tax Act and which have objects similar to the Organisation's main object; or

20.2.2.2 any institution, board or body which is exempt from payment of income tax in terms of section 10(1)(cA)(i) of the Income Tax Act, which has as its sole or principal object the carrying on of any public benefit activity

as determined-

20.2.2.2.1 in terms of the Organisation's then applicable Constitution; or

20.2.2.2.2 by way of a special resolution taken by the Organisation's members at a special members meeting at or immediately before the time of its dissolution.

provided that, with regard to any remaining funds of Badisa that funders have provided with a stipulation that it should be utilised for a specific

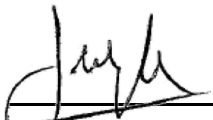
purpose, the funds in question should as far as possible be transferred to a suitable registered qualifying entity or entities that can continue to adhere to the funder's instructions.

SIGNED AT **BELLVILLE**

ON THIS **24th** **DAY OF** **JUNE** **2025**



REV C VAN RENSBURG
CHAIRPERSON OF THE MEMBERS' MEETING



MR J VAN WYK
CHIEF EXECUTIVE OFFICER OF BADISA