

**MEMORANDUM OF UNDERSTANDING**

entered into between

**THE PARTIES SPECIFIED IN ANNEXURE "A" TO THIS MOU AS WELL AS ANY ACCEDING PARTY  
(AS DEFINED)**

## WHEREBY IT IS AGREED AS FOLLOWS:

### 1. RECORDAL

- 1.1. The Parties to this MOU are Masjids located in the Eastern Cape.
- 1.2. The Parties are desirous of cooperating with each other with a view to establishing a mouthpiece for the affairs of Muslims, a united voice for the Muslims of the Eastern Cape and to jointly represent issues of concern on behalf of the Muslims of South Africa.
- 1.3. The Parties, while seeking to remain autonomous, however wish to bind themselves to the terms of Cooperation set forth in this MOU.

### 2. INTERPRETATION AND DEFINITIONS

- 2.1. In this MOU –
  - 2.1.1. clause headings are for convenience only and are not to be used in its interpretation;
  - 2.1.2. an expression which denotes –
    - 2.1.2.1. any gender includes the other gender;
    - 2.1.2.2. a natural person includes a juristic persona and *vice versa*; and
  - 2.1.3. the singular includes the plural and *vice versa*
- 2.2. In this MOU, unless the context indicates a contrary intention, the following words and expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings –
  - 2.2.1. “**Acceding Party**” means a (i) Masjid (ii) that satisfies the requirements set forth in clause 4 and (iii) who completes and signs a Deed of Accession;
  - 2.2.2. “**Commencement Date**” means the Signature Date;
  - 2.2.3. “**Cooperate**” and “**Cooperation**” means the obligations placed on each Party in terms of this MOU to cooperate, assist and to work in coordination with each other as contemplated in this MOU;
  - 2.2.4. “**Coordinating Person(s)**” means an individual or persons appointed by the Parties from time to time designated to coordinate the Cooperation activities of the Parties;

- 2.2.5. **"Deed of Accession"** means a document to be completed by any Masjid desirous of binding itself to the terms of this MOU, the *pro forma* of which is contained in Annexure **"B"** hereto;
- 2.2.6. **"Masjid"** means a Muslim place of worship as recognised by the wider body of Muslims as being a place of prayer and which meets the requirements under *Sunni* Muslim law for qualification as a masjid. Special exceptions could be made to include Musallas (prayer halls) which are recognised by the larger *Sunni* Muslim community and Ulema fraternity by consensus.
- 2.2.7. **"MOU"** means this memorandum of understanding, as may be amended from time to time;
- 2.2.8. **"Parties"** means the parties to this MOU as specified in Annexure **"A"** hereto, together with any Acceding Party; and
- 2.2.9. **"Signature Date"** means the date of signature of this MOU by the two Parties who first sign this MOU or sign a Deed of Accession.
- 2.3. Any substantive provision, conferring rights or imposing obligations on a Party and appearing in any of the definitions in this clause 1 or elsewhere in this MOU, shall be given effect to as if it were a substantive provision in the body of the MOU.
- 2.4. Words and expressions defined in any clause shall, unless the application of any such word or expression is specifically limited to that clause, bear the meaning assigned to such word or expression throughout this MOU.
- 2.5. Subject to clause 2.8, defined terms appearing in this MOU in title case shall be given their meaning as defined, while the same terms appearing in lower case shall be interpreted in accordance with their plain English meaning.
- 2.6. Arabic terms shall be interpreted in accordance with their generally accepted definitions, unless the contrary appears from the context.
- 2.7. A reference to any statutory enactment shall be construed as a reference to that enactment as at the Signature Date and as amended or substituted from time to time.
- 2.8. Reference to "days" shall be construed as calendar days unless qualified by the word "business", in which instance a "business day" will be any day other than a Saturday, Sunday or public holiday as gazetted by the government of the Republic of South Africa from time to time.

- 2.9. Unless specifically otherwise provided, any number of days prescribed shall be determined by excluding the first and including the last day or, where the last day falls on a day that is not a business day, the next succeeding business day.
- 2.10. Where figures are referred to in numerals and in words, and there is any conflict between the two, the words shall prevail, unless the context indicates a contrary intention.
- 2.11. No provision herein shall be construed against or interpreted to the disadvantage of a Party by reason of such Party having or being deemed to have structured, drafted or introduced such provision.
- 2.12. The expiration or termination of this MOU shall not affect such of the provisions of this MOU as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.
- 2.13. The words "include" and "including" mean "include without limitation" and "including without limitation". The use of the words "include" and "including" followed by a specific example or examples shall not be construed as limiting the meaning of the general wording preceding it.

### 3. **TERM AND TERMINATION**

- 3.1. This MOU shall commence on the Commencement Date and shall endure indefinitely or until such time as there is only one remaining Party to this MOU.
- 3.2. A Party who signs a Deed of Accession shall be bound from the date of signature of such Deed of Accession.
- 3.3. Any Party may exit from being bound to the terms of this MOU on immediate written notice to the Coordinating Person.

### 4. **QUALIFICATION AS A PARTY AND DEED OF ADHERENCE**

- 4.1. In addition to any requirements set forth elsewhere in this MOU, a body or entity or trust or *waqf* or person shall be entitled to become a party to this MOU if the following requirements are met:
- 4.1.1. it satisfies the qualifications and definitions for being a "Masjid" as set out in clause 2.2.6;
- 4.1.2. such Masjid follows the *Sharia* as practised by the *Noble Sahabah Radiallahu Anhum* and codified by the *Ahlias Sunnah Wal-Jamaah*;

- 4.1.3. such Masjid adheres to the *Fiqh* of one or more of the four *Mathaahib viz* Imam Abu Hanifa an-Nu'man, Imam Malik ibn Anas, Imam Muhammad ibn Idris ash-Shafi'i, Imam Ahmad ibn Hanbal (may peace and blessings be upon them); and
- 4.1.4. its authorised representative completes and signs a Deed of Accession and delivers same to the Coordinating Person or its authorised representative is a signatory to this MOU.
- 4.1.5. Musallas (prayer halls) may be incorporated, if recognised by the larger *Sunni* Muslim community or recognised Ulema bodies.

## 5. CO-OPERATION

- 5.1. Each Party hereby agrees to Co-operate with the other Parties in all matters of mutual interest including *inter alia*, in the following areas and/or based on the following principles:
  - 5.1.1. to serve as a unified voice;
  - 5.1.2. to engage important matters on behalf of the Muslim community;
  - 5.1.3. to engage Provincial or Local Government on issues which require legal status or represent Muslims to any concern which requires a united call of unity and would represent the broader Muslim community;
  - 5.1.4. to promote the prayerful search for forgiveness and reconciliation in a spirit of mutual accountability, of deeper relationships through theological dialogue, and the sharing of human, spiritual and one another as shown by the Sunnah;
  - 5.1.5. to support each other in their work and Dawah;
  - 5.1.6. to express their commitment to *Khidmah Makhlooq* in serving human need, breaking down barriers between people, promoting one human family in justice and peace, and upholding the integrity of creation, so that all may experience the fullness of Islamic Life;
  - 5.1.7. to nurture the growth of an *Imaani* consciousness through processes of education and a vision of life rooted in the Quran and Sunnah;
  - 5.1.8. to assist each other in their relationships to and with people of other faith communities; and
  - 5.1.9. to foster renewal and growth in unity, worship, mission and service.
- 5.2. A Party may opt to Cooperate with the other Parties on a discretionary, per matter or per initiative basis as it deems fit or on all matters and initiatives of common interest.

5.3. In the course of Cooperation, each Party shall:

- 5.3.1. act with utmost good faith toward all other Parties;
- 5.3.2. comply with the Sharia;
- 5.3.3. engage with other Party's in a cooperative, respectful and transparent manner;
- 5.3.4. openly exchange information in matters and initiatives of mutual interest in a cooperative manner;
- 5.3.5. provide reasonable access to resources, information, data and documentation as may be agreed upon from time to time;
- 5.3.6. participate in meetings, workshops etc. as reasonably required from time to time;
- 5.3.7. resolve disagreements and disputes in a mature, respectful and cooperative manner; and
- 5.3.8. generally, undertake at all times to do all such things, perform all such actions and take all such steps and to procure the doing of all such things, the performance of such actions and the taking of all such steps as may be open to them and necessary for or incidental to the putting into effect or maintenance of the terms, conditions and / or import of this MOU.

## 6. **DISPUTES**

6.1. In the event of any dispute, the parties concerned should resolve without slander, name – calling or court actions. They have the right to abstain from that particular issue which is the cause of disunity.

## 7. **APPLICABLE LAW**

This MOU shall be governed and construed in accordance with the laws of the Republic of South Africa. However, the parties shall at all times strive to incorporate Sharia based principles in their dealings with each other.

## 8. **ASSIGNMENT**

This MOU shall be binding on the Parties hereto. No Party shall be entitled to assign, cede, delegate or otherwise transfer the benefit or burden of all or any part of this MOU.

## 9. DOMICILIUM CITANDI ET EXECUTANDI

- 9.1. For the purposes of the giving of notices and the serving of legal process in terms of this MOU, the Parties chooses a domicilium citandi et executandi (“Domicilium”) as set forth in Annexure “A” hereto or in a Deed of Accession, as the case may be.
- 9.2. Any Party may at any time, by notice in writing to the Coordinating Person, change its Domicilium to any other address, which is not a post office box or post restante in South Africa.
- 9.3. Any notice given in connection with this MOU shall, save where a particular form of notice is stipulated, be:
- 9.3.1. delivered by hand; or
  - 9.3.2. sent by prepaid registered post; or
  - 9.3.3. sent by courier;
- to the *Domicilium* chosen by the Party concerned.
- 9.4. A notice given as set out above shall be deemed to have been duly given (unless the contrary is proved):
- 9.4.1. if delivered by hand, on the date of delivery; or
  - 9.4.2. if sent by prepaid registered post, on the 14th (fourteenth) Business Day after posting; or
  - 9.4.3. if sent by courier, on the date of delivery by the courier service concerned.
- 9.5. It is recorded that nothing in this clause shall operate so as to invalidate the giving or receipt of any written notice which is actually received by the addressee other than by a method referred to in this clause.

## 10. GENERAL

- 10.1. This MOU constitutes the whole agreement between the Parties relating to the subject matter hereof and supersedes any other discussions, agreements and/or understandings regarding the subject matter hereof.
- 10.2. No amendment or consensual cancellation of this MOU or any provision or term hereof (including this clause 10.2) or of any agreement or other document issued or executed pursuant to or in terms of this MOU and no settlement of any disputes arising under this MOU and no extension of time, waiver or relaxation or suspension of or agreement not to

enforce or to suspend or postpone the enforcement of any of the provisions or terms of this MOU or of any agreement, other document issued pursuant to or in terms of this MOU shall be binding unless recorded in a written document signed by the Parties (or in the case of an extension of time, waiver or relaxation or suspension, signed by the Party or Parties granting such extension, waiver or relaxation). Any such extension, waiver or relaxation or suspension which is so given or made shall be strictly construed as relating strictly to the matter in respect whereof it was made or given.

- 10.3. No oral *pactum de non petendo* shall be of any force or effect.
- 10.4. No extension of time or waiver or relaxation of any of the provisions or terms of this MOU or any agreement, bill of exchange or other document issued or executed pursuant to or in terms of this MOU, shall operate as an estoppel against any party in respect of its rights under this agreement, nor shall it operate so as to preclude such thereafter from exercising its rights strictly in accordance with this agreement.
- 10.5. Any provision in this MOU which is or may become illegal, invalid or unenforceable in any jurisdiction affected by this agreement shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be treated *pro non scripto* and severed from the balance of this MOU, without invalidating the remaining provisions of this agreement or affecting the legality, validity or enforceability of such provision in any other jurisdiction.
- 10.6. The Parties warrant and acknowledge that the relationship between them is not in the nature of a partnership and that no Party is in any manner entitled to make or enter into binding agreements of any nature on behalf of the any other Party.

**ANNEXURE "A" – THE PARTIES**

Organisation Name:

Domicilium:

Authorised Signatory:

Signature:

Date: