

THE PIETERMARITZBURG AND DISTRICT ASSOCIATION FOR THE CARE OF THE AGED

CONSTITUTION

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1. NAME

The name of the Organisation shall be the **PIETERMARITZBURG AND DISTRICT ASSOCIATION FOR THE CARE OF THE AGED** (hereinafter called “**PADCA**”)

2. OBJECTIVES

The objectives of **PADCA** shall be:

- 2.1 To provide a range of services for persons over the age of 60 (SIXTY) years save where specific authority is granted by the COMMITTEE to render services to under aged persons, which may include:
- (i) Provision of accommodation for independent and supported living
 - (ii) Residential care including the provision of frail and psycho-geriatric care
 - (iii) Community support and outreach including seniors clubs and home based care
 - (iv) Alleviation of distress
 - (v) Counselling
 - (vi) Networking and affiliation with individuals, organisations and associations with similar objectives
- 2.2 To acquire movable assets for the use of **PADCA** which are to be managed by **PADCA** for the benefit of **PADCA**
- 2.3 Where any immovable property, buildings or accommodation used or leased by **PADCA** or, where applicable, leased from or used for the above purposes from the **PADCA TRUST**, the residential units or accommodation erected on such immovable property are to be occupied by persons, where more than EIGHTY (80%) per centum of the persons, or their spouses or partners, are over the age of SIXTY (60) years except that this shall not exclude the provision for temporary accommodation for visitors in specifically designated areas. No dependants shall be permanently housed in any accommodation under the control of the organisation except with the written consent of the COMMITTEE

OUR FACILITIES:



Kenwyn



Woodgrove



Riverside
Park Home



Sunnyside
Park Home



MySchool MyVillage MyPlanet
EVERY SMILE COUNTS



65
YEARS
in the prime of our life

In furtherance of such objectives **PADCA** shall be entitled:

- (i) To raise funds and collect contributions
- (ii) To hold and administer money already raised and to be raised
- (iii) To administer and maintain the buildings and grounds leased or under its control
- (iv) Generally give effect to the terms and conditions of the sole objective or principal objectives of the **PADCA TRUST**

3. **CONSTITUTION AND AMENDMENTS**

The provisions herein contained shall be known as the Constitution of the **PIETERMARITZBURG AND DISTRICT ASSOCIATION FOR THE CARE OF THE AGED (PADCA)** which provisions may be altered by a two thirds majority of those Members present and voting at an Annual General or a Special General Meeting of the Members save:

- (i) that the precise terms of any proposed alteration/s shall be set out in a Notice convening the Meeting and
- (ii) While **PADCA** is free to amend its purposes and/or objectives the amendments must be consistent with:
 - (a) the purposes and objectives of the **PADCA TRUST** and
 - (b) a Public Benefit Activity

Should **PADCA** amend its purposes and/or objectives in such a way as to be in conflict with the objectives of the **TRUST** such amendment cannot be adopted without the written consent of the **TRUST**. The **TRUST** may withdraw support for some or all of the purposes and/or objectives of **PADCA** should **PADCA** fail to comply with the provisions of this clause.

4. **DEFINITIONS:**

4.1. **“CHIEF EXECUTIVE OFFICER”**

The person appointed to hold this position by the **PADCA COMMITTEE**

4.2. **“ACCOUNTING OFFICER”**

The Chief Executive Officer of **PADCA** shall be the Accounting Officer

4.3. **“COMMITTEE”**

Means the **COMMITTEE** elected in terms of the provisions hereof

4.4 **“ACT”**
Means the Income Tax Act 1962 (Act 58/1962 as amended)

4.5 **“PADCA TRUST”** or **“TRUST”** – means the **PADCA TRUST** No. IT1464/2001/PMB created in terms of a Deed of Trust dated the 15th and 19th November 2001 and all subsequent amendments effected thereto

5. MEMBERSHIP: SUBSCRIPTIONS, POWERS AND PRIVILEGES

5.1 Membership of **PADCA** shall be open to all and any persons who are interested in the welfare of aged persons and who have been nominated by at least TWO (2) members of the COMMITTEE and have successfully applied to the COMMITTEE for such membership

5.2 The Annual Subscription shall be determined by the COMMITTEE annually

5.3 All members who have paid the Annual Subscription shall be entitled to be present and vote at the Annual General Meeting and any Special General Meeting

5.4 All membership subscriptions shall be paid by no later than the 30th JUNE in each year and in the event of no payment being received by this date, such member, notwithstanding a later payment, shall not be entitled to vote at the Annual General Meeting

5.5 The COMMITTEE shall at its discretion be entitled to create different classes of Membership and such additional classes of membership may or may not be entitled to vote at the Annual or Special General Meetings

5.6 Honorary members shall not be entitled to vote

6. COMMITTEE

6.1 The Administration of **PADCA** shall be vested in the COMMITTEE, consisting of:

(i) The CHIEF EXECUTIVE OFFICER of the Association, who shall be a voting member, and not more than TEN (10) and not fewer than EIGHT (8) members who shall have been elected at the Annual General Meeting

(ii) All elected Members of the COMMITTEE will remain in Office for a period of TWO (2) years following their election and shall remain in office until after the conclusion of the

second Annual General Meeting following their election. Any co-opted member shall resign at the conclusion of the following Annual General Meeting after co-option. Such co-opted member shall be eligible for election at such meeting provided that they have been nominated in terms of clause 6.1(iv)

- (iii) Members as may be co-opted from time to time by the COMMITTEE shall not have a vote unless such member replaces an elected Member
- (iv) Nominations for the COMMITTEE shall be proposed and seconded by TWO (2) members of good standing. The nominations shall, subject to the provisions below, be given to the CHIEF EXECUTIVE OFFICER by 12 noon SEVEN (7) days prior to the date of the Annual General Meeting. The notice of the Annual General Meeting shall call for nominations, which notice shall specify those members retiring. Such nominations shall, if received timeously, be circulated before the Annual General Meeting and failure to circulate such nominations prior to the meeting shall not invalidate such nominations. Nominations may be accepted up to and including the time of the Annual General Meeting or from the floor at the Annual General Meeting if no or insufficient nominations have been received to fill vacancies on the COMMITTEE
- (v) Every member of good standing present at the Annual General Meeting shall have a vote to elect such COMMITTEE and shall vote for the number of vacancies to be filled at such Annual General Meeting. Voting shall be by show of hands unless a ballot has been called for. A voting paper shall contain the names of candidates for the vacancies to be filled. In the event of more votes than the number of vacancies to be filled appearing thereon, such voting paper shall be rejected. A voting paper may contain less than the number of votes required to fill the vacancies of the COMMITTEE. The Chairperson shall appoint an appropriate person to be the scrutineer to check the validity and count the votes recorded on the voting papers
 - (vi) The result of the voting shall be announced by the Chairperson after a show of hands or if applicable, after the counting of the ballot is complete
 - (vii) The above rules shall also apply if a Special General Meeting is called in terms of this Constitution

6.2 A quorum shall be one person more than half the COMMITTEE. The Chairperson shall not have a casting vote in the event of a tied vote

- 6.3 At its first meeting of each and every year, the COMMITTEE shall from its number elect a Chairperson and Deputy Chairperson
- 6.4 Any retiring members of the COMMITTEE shall be eligible for re-election provided they are nominated in terms of the provisions of clause 6.1(iv) above
- 6.5 Any elected member of the COMMITTEE who fails to attend THREE (3) consecutive meetings shall immediately be disqualified as a member of the COMMITTEE and shall not qualify for re-appointment or re-election in the succeeding year. Notwithstanding the foregoing, any member of the COMMITTEE who has leave of absence or for any valid or justifiable cause cannot attend the meetings and informs the COMMITTEE of such valid or justifiable cause for non-attendance of the meetings shall be exempt from the provisions of this clause. Any leave of absence shall be approved by the COMMITTEE for such waiver to be valid

7. POWERS OF COMMITTEE

The COMMITTEE of **PADCA** shall have full power and authority to:

- 7.1 Undertake all activities which in its sole and absolute discretion it considers necessary to attain the objectives of **PADCA**
- 7.2 Sell, purchase, alienate, lease or dispose of the movable assets of **PADCA**, provided that such alienation shall not hamper the objectives of **PADCA** in which event the consent of members duly authorising such alienation at an Annual or Special General Meeting shall be required
- 7.3 Appoint SUB-COMMITTEES for any purpose whatsoever and nominate, for service thereon, such persons as it may decide
- 7.4 Make rules/regulations governing the admission or removal of residents, visitors, guests, the running and the management of any of the homes, buildings or the properties leased from the **PADCA TRUST** or any other properties which are utilized by **PADCA** including qualifications for admission, conduct of visitors or guests, house rules, conduct rules and all rules and regulations imposed in terms of any law or statutory regulation
- 7.5 Make such appointments and engage such professional staff as may be necessary to achieve the objectives of **PADCA**
- 7.6 Open bank accounts as it may deem necessary and provide for the operation thereof, subject only to the condition that at least TWO (2) signatures of persons authorised from time to time by the COMMITTEE shall be required for the proper and binding execution of any cheques, Electronic Fund Transfers and the like

- 7.7 Frame rules governing the convening and procedures at meetings of the COMMITTEE and the functions and duties of the COMMITTEE, the terms of any lease agreements in respect of the property belonging to the **PADCA TRUST** and to rescind, add to or alter such rules from time to time
- 7.8 Register the Organisation in terms of the provisions of the ACT to qualify as a Public Benefit Organisation to carry out the Public Benefit Activities more fully set out herein and in terms of the Deed of Trust in relation to the **PADCA TRUST**
- 7.9 In addition to the above, to fulfil any of the powers as contained in the **PADCA** Deed of Trust as if incorporated herein, except the power of acquisition and mortgage of immovable property and in the case of conflict, the provisions of this constitution shall apply

8. DUTIES OF THE COMMITTEE

The COMMITTEE shall:

- 8.1 Meet as regularly as considered necessary
- 8.2 Ensure that proper records of the meetings are maintained by way of attendance registers, minutes and the like
- 8.3 Ensure that proper and accurate receipts and vouchers for all monies received and disbursed are maintained
- 8.4 Ensure that the **ACCOUNTING OFFICER** shall be responsible for the practical control of this obligation, and shall report to the COMMITTEE at all its meetings
- 8.5 Give notice to all members of the COMMITTEE not later than seven (7) days prior to any of its meetings including an Agenda setting out the business of such meeting
- 8.6 Comply with all provisions of the Older Persons Act No 13 of 2006 and the Regulations published hereunder and to form or appoint committees in terms of such regulations where necessary
- 8.7 Attend to the preparation for presentation to all members at the Annual General Meeting, of an annual report, audited financial statements and the auditor's report. Such documents shall be approved by the COMMITTEE who shall designate such Members of the COMMITTEE to sign the abovementioned documents on behalf of the COMMITTEE. Such approved report, audited financial statements and auditor's report shall be displayed on the notice board of **PADCA** head office for scrutiny by members of **PADCA**

9. APPOINTMENT OF SUB-COMMITTEES

9.1. In addition to the Powers set out in clause 8 above, the COMMITTEE shall be entitled to create SUB-COMMITTEES in respect of each entity under its control to assist with the effective management of that entity

9.2 The composition of each SUB –COMMITTEE shall comply with the provisions of the Older Persons Act No 13 of 2006 and the terms of reference set out by the COMMITTEE

9.3 Such SUB-COMMITTEES may assist with the running of more than one (1) entity under the control of the COMMITTEE

9.4 The COMMITTEE shall, in appointing SUB-COMMITTEES, determine the terms of reference and duties of such SUB-COMMITTEE in addition to the undermentioned duties and obligations

9.5 Such SUB-COMMITTEES shall report and provide minutes of their meetings to the COMMITTEE in respect of the following functions to which they have been appointed:

9.5.1 To act as a co-ordinating body in respect of meeting the objectives of PADCA

9.5.2 To report to the COMMITTEE any complaints and suggestions which would assist the COMMITTEE in the smooth running of the entity

9.6 Such SUB-COMMITTEES shall meet monthly or as decided by them and the recommendations made by them shall be made available to the residents and to the COMMITTEE

9.7. Such SUB-COMMITTEE shall act within the constraints and budgets laid down by the COMMITTEE. No resolution passed by such SUB-COMMITTEE shall be binding unless subsequently approved by the COMMITTEE

10. ANNUAL AND SPECIAL GENERAL MEETINGS

10.1 **PADCA'S** Financial Year shall extend from 1st April to 31st March in the following year

10.2 The Annual General Meeting shall be held by no later than 31st August in each year. Notice of the Annual General Meeting and the Agenda, which shall include the approval of the Annual Report and the Financial Statements, the election of Auditor, the election of COMMITTEE Members and any resolutions to be considered shall be emailed or posted to the members not less than FOURTEEN (14) days prior to such meeting

10.3 Special General Meetings of **PADCA** may be called by the COMMITTEE on giving the same notice as aforesaid

- 10.4 FIFTEEN (15) members of good standing and who are entitled to vote shall form a quorum. In the event of there not being a Quorum, the Chairperson shall announce at the meeting that a further Annual or Special General Meeting shall be held at the same venue and time, SEVEN (7) days hence. The further meeting, if held without a quorum, will nevertheless constitute a correct and proper meeting
- 10.5 Voting at Annual or Special General Meetings shall be by way of show of hands unless TWO THIRDS (2/3) of the members present call for a ballot. The Chairman shall not have a casting vote in the event of a tied vote
- 10.6 Notwithstanding anything to the contrary contained above, Notice of the Annual General Meeting or a Special General Meeting may be advertised at the discretion of the COMMITTEE in a Newspaper circulating in the Province of KwaZulu-Natal and such notice shall be valid and effective notification to the members of such meeting provided such notice is published not less than FOURTEEN (14) days before such meeting
- 10.7 All resolutions for consideration at the Annual General Meeting or at a Special General Meeting shall be passed by a majority of the Members present voting in favour of such resolution

11. **ASSETS**

- 11.1 The Committee shall transfer all capital assets including immovable property and investments but excluding operating assets to the **PADCA TRUST** as soon as is practicable after registration of the **TRUST** as a Public Benefit Organisation
- 11.2 Any future bequests or donations to **PADCA** shall be held and vest in the Trustees of the **PADCA TRUST**

12. **NO REMUNERATION OF EMPLOYEES, MEMBERS OR OFFICE BEARERS AND CONFLICT OF INTEREST**

- 12.1 No remuneration will be paid to any Employee or any other person which is excessive, having regard to what is generally considered reasonable in the sector for services rendered and which is consistent with the objectives of **PADCA**
- 12.2 No Employee, Office Bearer or Member may have a direct or indirect interest in or benefit from any contract which the COMMITTEE may conclude except with the prior written consent of the COMMITTEE
- 12.3 No Committee Member whether elected or appointed shall be remunerated for services as a Committee Member

13. **DISSOLUTION**

On dissolution of **PADCA**, which shall only be effected by approval by the Members at an Annual General Meeting or Special General Meeting and with the consent of the Trustees of the **PADCA TRUST** and after discharge of all the debts of **PADCA**, the remaining assets shall be transferred to:

- (i) The **PADCA TRUST** provided that the **TRUST** is still registered as a Public Benefit Organization and it still complies with the other provisions of the ACT regarding Public Benefit Activities

failing which
- (ii) Any similar Public Benefit Organisation, which has been approved in terms of Section 30 of the ACT
or
- (iii) Any institution, board or body which is exempt from the payment of income tax in terms of section 10(1)(cA)(i) of the ACT, which has as its sole or principal objectives the carrying on of providing residential care, accommodation, counselling and the provisions of frail care for persons over the age of SIXTY (60) years

14. **SOUTH AFRICAN REVENUE SERVICE AND AMENDMENTS TO CONSTITUTION**

- 14.1 The activities of **PADCA** shall be carried out in a non-profit manner and with an altruistic or philanthropic intent
- 14.2 No activity will directly or indirectly promote the economic self-interest of any fiduciary or employee of **PADCA** otherwise than by way of reasonable remuneration
- 14.3 At least three (3) persons who accept fiduciary responsibility for the public benefit organization, will not be connected persons in relation to each other, and no single person directly or indirectly controls the decision making powers relating to **PADCA**
- 14.4 No funds will be distributed to any person (other than in the course of undertaking any public benefit activity)
- 14.5 The funds of **PADCA** will be used solely for the objectives for which it was established
- 14.6 No donation will be accepted 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 such donation, including any misrepresentation with regard to the tax deductibility thereof in terms of Section 18A: 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, which has as its sole or principal objective the carrying on of the Public Benefit Activity may not impose any 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

14.7 A copy of all amendments of the Constitution will be submitted to the Commissioner for the South African Revenue Service

15. **LIABILITY OF MEMBERS**

No member of the COMMITTEE or member shall be liable for any loss incurred by **PADCA** unless the loss arose from a dishonest or grossly negligent act of such person.

16. **INCOME AND PROFIT**

The income and profits of **PADCA** shall be applied solely and exclusively for the objectives of **PADCA** and no portion thereof shall be paid or transferred by way of dividend, bonus or otherwise to any member of **PADCA**.

This constitution was adopted at a SPECIAL GENERAL Meeting held at PIETERMARITZBURG on the 12th day of November 2014.

CHAIRPERSON

12 November 2014