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## **CONSTITUTION OF THE LUTHERAN DEVELOPMENT SERVICES ZIMBABWE**

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## 1. INTERPRETATION OF TERMS

In this constitution, unless clearly intended otherwise:

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- 1.1. **Functions** include powers and duties.
- 1.2. **Funding Partners** include any organization or person who provides financial donations to the LDS for enabling the LDS to carry out its objectives in terms of this constitution.
- 1.3. **LDS** means Lutheran Development Services.
- 1.4. **LDS Board** means the LDS Board of Directors appointed in terms of section 8.2 of this constitution.
- 1.5. **ELCZ or the Church** means Evangelical Lutheran Church in Zimbabwe.
- 1.6. **Church Assembly** shall mean Church Assembly of the ELCZ.
- 1.7. **Church Council** means the Church Council of the ELCZ.
- 1.8. **Person** includes corporate entities.
- 1.9. **Headings** are inserted for convenience of reference only and shall not be used in the interpretation of any section.
- 1.10. Words importing the masculine gender includes females and vice versa.
- 1.11. Words in a singular include plural and vice versa.
- 1.12. Wherever this constitution confers a power, or a right to imposes a duty, on the holder of an office as such, then the power or the duty or right may be exercised or performed, from time to time, by the holder for the time being of the office or the person acting in the capacity of the holder of the office.

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**1.13. Power to appoint a person to an office shall confer power to remove the person from the office and power to reinstate or to appoint another person in his/her stead or to act in his/her stead.**

**1.14. Law shall mean laws of Zimbabwe**

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## 2. NAME

The name of the organization shall be Lutheran Development Services ("LDS")

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## 3. HEADQUARTERS AND ADDRESS

The head office of LDS shall be at Number 70 Harare Drive, Mount Pleasant, Harare or at such other place in Zimbabwe as the LDS Board of Directors may determine.

## 4. LEGAL STATUS

- 4.1. The LDS shall be a body corporate capable of suing and being sued in its own name. It shall be a non-profit making Non-Governmental Organization registered as a welfare organization under the Private Voluntary Organizations Act.
- 4.2. Legal process issued against LDS shall be validly served if served at the head office of LDS.
- 4.3. Legal process issued by the LDS shall be under power of attorney signed by such an official or officials of the LDS as may be authorized by the LDS Board of Directors from time to time.
- 4.4. The LDS shall be a development arm of the Church to which it shall, at all times remain affiliated.
- 4.5. The LDS shall be capable of owning all forms of property both movable and immovable.

## 5. AREA OF OPERATIONS

The LDS shall operate anywhere in Zimbabwe or in such other places or countries as the law may allow, as determined by the LDS Board of Directors.

## 6. EFFECTIVE DATE

The effective date of this constitution shall be the date this constitution is approved by the ELCZ Church Council or such other date as the ELCZ church council may fix.

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## 7. OBJECTIVES

The objectives of the LDS shall be:

- 7.1. To alleviate human suffering through Christian services and the discharge of Christian social responsibility.
- 7.2. To contribute to humankind's spiritual and material needs.
- 7.3. To promote self-reliance among the communities in which LDS operates.
- 7.4. To improve humankind's social welfare and development through the promotion and implementation of sustainable development programmes aimed at alleviating the suffering of the poor and building capacity of communities including relief in times of disasters, rehabilitation and assistance to refugees.
- 7.5. To mobilize required financial and other resources from any lawful source to enable the LDS to fulfil its objectives.
- 7.6. To undertake rural development programmes including the supply of clean water and supporting income-generating programmes.
- 7.7. To promote and advance the development of institutions that alleviate human suffering.
- 7.8. To promote, protect and advocate for human rights through both immediate, short and long-term actions.
- 7.9. To promote sustainable development, peace and justice.

## 8. MANAGEMENT OF LDS

The affairs of the LDS shall be managed in the manner provided below.

### 8.1. Policy issues

The general policies of the LDS shall be determined by the Church through the Church Council on the recommendation of the LDS Board.

### 8.2. Appointment of the LDS Board of Directors

- 8.2.1. There shall be a Board of Directors tasked to run the affairs of the LDS collectively called the LDS Board. The LDS board shall also be responsible for the governance of the organisation.
- 8.2.2. The Chairperson of the Board shall be elected by the Church Assembly of the Church for a four-year term; such process must consider regional, ethnic, and gender balance and Diocesan rotation.
- 8.2.3. In addition to the chairperson, there shall be other members of the LDS Board to be nominated by the ELCZ Dioceses and appointed by the ELCZ Church Council. The composition of the LDS Board shall be as follows:
  - (i) The LDS Board Chairperson appointed in terms of clause 8.2.2 above.
  - (ii) Six other Board Members to be nominated by the ELCZ Dioceses and appointed by the Church Council of which one shall be a pastor, two shall be professionals experienced in community development work and three other persons. An equal representation of women and men shall be observed by all Dioceses.
  - (iii) There shall be one member seconded from the ELCZ Finance Board to ensure finance expertise and advice is provided to the LDS Board.
  - (iv) There shall be one member with legal training seconded from the ELCZ Disciplinary Board to ensure that legal expertise and advice is provided to the LDS Board.
  - (v) The Church Council shall elect two additional members, at large, for the purpose of ensuring youth and the participation of special interest

groups namely People with Disabilities, People living with HIV, and communities served.

(vi) There shall also be an Executive Director of LDS who shall be appointed by the Church Council from a shortlist of candidates prepared by the LDS Board. The Executive Director shall be an ex-officio member of the board as long as he/she remains in office as Executive Director, but he/she shall have no voting rights.

### 8.3. Powers and Duties of the LDS Board



The LDS board shall have the following powers and duties: - Elaboration/greater detail of these powers and duties is contained in the LDS Board Charter.

- 8.3.1. The primary function of the LDS board shall be to provide oversight to the organization and ensure that the organization is meeting or working towards achieving its goals and objectives.
- 8.3.2. To recommend community development policies to the ELCZ Church Council.
- 8.3.3. To put in place and implement strategies for achievement of the objectives of the LDS as contained in this constitution.
- 8.3.4. To review the LDS project proposals and to receive reports from the Executive Director on all projects carried out or being carried out including the details of financial commitments made and financial expenditure incurred.
- 8.3.5. To review and approve proposals for procurement of large financial commitments for contractors and or consultants. Such process must be in accordance with the LDS Procurement and Finance policies.
- 8.3.6. To make staff appointments in accordance with terms and conditions set by the Church Council.

8.3.7. 2/3 of the LDS staff, including the Director, shall be Lutheran. Any deviations from this requirement shall first be authorized by the Church Council.

8.3.8. The LDS Board shall submit a report to the Church Council on the activities of LDS at each and every church council. Such report shall lay out in detail the projects being carried out by the LDS, the financial commitments made, the levels of staffing of the LDS including Labour turnover and any other important issues, which the LDS Board may deem necessary to inform the Church Council.

8.3.9. The LDS Board shall submit annual budget to the Church Council for information. The budget shall among other things, clearly show:

- (i) Projection of detailed cash flows
- (ii) Detailed proposed capital expenditure.
- (iii) Any proposed new staff positions

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8.3.10. Generally, to be custodians of all LDS assets, policies and values as determined by the ELCZ Church Council.

8.3.11. The LDS Board shall exercise all borrowing powers of the LDS provided that the LDS Board shall not have the right to mortgage or in any way encumber or dispose any LDS immovable property without prior written resolution of the ELCZ Church Council authorizing such mortgage, encumbrance, or disposal.

#### 8.4. Tenure of Office of the LDS Board

8.4.1. The LDS Board shall hold office for a period of 4 years.

8.4.2. At the expiration of the said period of four years, half of the Board members or if the total number of board members is an odd number, the next whole number nearest to half, shall retire from office by rotation and the remainder shall continue for the next four years. The ELCZ Church Council shall appoint new board members to fill the vacancies of the board

members retiring. All board members appointed in terms of articles 8.2.3 (iii) 8.2.3 (iv) and 8.2.3 (v) shall serve for a single term with exception of those who are re-appointed in terms of articles 8.2.3 (i) and 8.2.3 (ii).

**8.4.3.** A board member shall cease to hold office and any person shall be disqualified from holding the office of the board member in any of the following circumstances:

- 8.4.3.1.** If he/she is convicted in any court of law for any offence involving dishonesty or breach of trust.
- 8.4.3.2.** If he/she resigns his/her office in writing to the LDS.
- 8.4.3.3.** If he/she is absent from two consecutive meetings of the LDS Board held over a period of more than 30 days without leave of the chairperson of the LDS Board or an explanation to the satisfaction of the LDS Board.
- 8.4.3.4.** If the ELCZ Church Council, by notice in writing, requires the member to resign his/her position as a board member of the LDS.
- 8.4.3.5.** If he/she becomes of unsound mind
- 8.4.3.6.** If requested to do so in writing by all co-board members.

## **8.5. Filling of Vacancies**

Any vacancies existing in the LDS Board shall be filled by the ELCZ Church Council provided that if the ELCZ Church Council does not fill the vacancy within 90 days of the occurring, the remaining board members may appoint a person to act as board member. Such person shall continue acting as board member until the ELCZ Church Council fill the vacancy.

## **8.6. Reimbursement of Expenses**

The ELCZ Church Council shall determine the manner and the amount of, any expense incurred in the course of carrying out any work for the LDS, to be reimbursed to the LDS Board members.

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## **8.7. Meeting the LDS Board**

- 8.7.1. The board may meet for the dispatch of the LDS business, adjourn or otherwise regulate its meetings as it deems fit provided that it shall meet at least three times a year.**
- 8.7.2. The quorum necessary to hold a valid meeting shall be 4 board members personally present at the beginning of every meeting.**
- 8.7.3. In the absence of the chairperson, the Board may elect one of their members to act as chair for the meeting.**
- 8.7.4. The LDS Board may appoint its own secretary.**
- 8.7.5. The questions arising at any meeting shall in the first instance, be resolved by consensus, and failing consensus, by a majority of votes.**

## **8.8. Delegation**

The board may delegate any of their functions to the Executive Director or a sub-committee of the board appointed by the board provided that such delegation shall not relieve the board of its accountability.

## **9. DUTIES AND POWERS OF THE EXECUTIVE DIRECTOR**

- 9.1. In all his/her functions, the Executive Director shall report and be accountable to the LDS Board.**
- 9.2. The Director shall be responsible for:**
  - 9.2.1. The day-to-day running of the affairs of LDS.**
  - 9.2.2. The supervision of all staff and projects**
  - 9.2.3. Preparing all budgets and submitting them to the LDS Board for approval.**
  - 9.2.4. Subject clause 8.3.4 recommending all senior staff appointments for LDS.**



- 9.2.5. Ensuring that the operations of the LDS fall within the policies laid down by the ELCZ Church Council and the LDS Board.
- 9.2.6. To prepare project proposals for funding partners. In addition, he/she shall prepare annual project plans for approval by the board.
- 9.2.7. To ensure compliance with any agreements entered with any funding partner.
- 9.2.8. Preparing and submitting implementation reports as required or requested by funding partners.
- 9.2.9. To ensure effective and efficient communication and consultation with any funding partners.
- 9.2.10. In consultation with the LDS Board, to mobilize funds from local sources and external sources to enable the LDS to meet its objectives.
- 9.2.11. To account for the utilization of all funds mobilized.
- 9.2.12. Generally, to do or cause to be done all such things as will ensure that the LDS implements its objectives within the laid down policies in a professional and ethical manner while always maintaining sound business practices.
- 9.2.13. To liaise regularly with the office of the Presiding Bishop.

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## 10. MANAGEMENT COMMITTEE

- 10.1. The organization will set up a management committee with not less than two but not more than three members of the Senior management staff.
- 10.2. The management committee will be made up of senior staff holding positions of finance and of programs. Membership to the management committee will be proposed by the Executive Director and approved by the LDS Board.
- 10.3. The primary role of the management committee is to assist the Executive Director with the day-to-day running of the organization.
- 10.4. The management committee shall meet at least once a month to receive, review and discuss reports on the progress of the organization, review projected activities, income and expenditure for the ensuing months as well as discuss on the operating context faced by the organization. All meetings of the management committee shall be chaired by the Executive Director or persons delegated with such authority by the Executive Director.

10.5. A report from such meeting shall be included in the Executive Director's quarterly report to the Board of Directors.

## 11. ANNUAL GENERAL MEETINGS

11.1. The LDS shall hold its Annual General Meeting within six (6) months of its year end.

11.2. The business of the Annual General Meeting shall be:

11.2.1. To receive, consider, and approve the audited financial statements.

11.2.2. To receive the reports of the LDS Board on the operations of the LDS.

11.2.3. To approve the appointment of auditors of the LDS.

11.2.4. To consider any other business of which notice will have been given and which is not, in terms of this constitution, required to be done by the LDS Board

## 12. FINANCIAL MATTERS

12.1. The Financial year end of the LDS shall be 31 December.

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12.2. At or before the beginning of each financial year, the Director shall prepare a detailed budget for submission to the LDS Board. The budget shall contain the detailed information contained in 8.3.6 above.

12.3. Any unbudgeted expenses for capital expenditure may be incurred only on the authority of the LDS Board at a meeting called specifically to consider such expenditure. In the event that a meeting to consider the unbudgeted capital expenditure cannot be called or would take more than two weeks to call, the Director may seek board approval through a resolution circulated to all LDS Board members specifically the expenditure to be incurred. Board approval shall be

deemed to have been granted if 51% of the board members approve in the writing.

- 12.4. The Director shall prepare or cause to be prepared detailed quarterly management accounts for the circulation to the LDS Board within 20 days of the end of each quarter.
- 12.5. The Director shall prepare or cause to be prepared detailed year-end financial statements at the end of each year. The financial statements shall be audited as provided for in this constitution.

## 13. AUDITORS

- 13.1. The LDS Board shall recommend to the AGM the appointment of auditors each year.
- 13.2. The LDS Board shall fix the remuneration of the auditors.
- 13.3. The auditors shall have the power to examine any document of the LDS, require staff of the LDS to provide any information and report on the financial affairs, control systems, and such other issues as they deem fit. The auditors shall, soon after the completion of their audit, submit audited financial statements to the LDS Board.
- 13.4. The LDS Board shall submit the audited financial statements of the LDS to the ELCZ through the Office of the General Secretary by not later than 30 days after the accounts are presented to the LDS Board and in any event, not later than 31 March of each year.
- 13.5. In addition to annual audits, the LDS Board may request special audits to be carried out on any projects or affairs or issues of the LDS.

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## 14. FUNDING PARTNERS

14.1. The LDS shall work closely with and pay close regard to the interest of its funding partners in carrying out its duties and objectives.

14.2. The LDS shall, through the Executive Director, prepare project proposal, project implementation and annual project plans whenever required to do so by the funding partners.

14.3. The LDS shall ensure through the Executive Director, effective and efficient communication, and consultation with any funding partner. In particular, but without limitation of the foregoing, the LDS shall provide financial reports to the funding partners as and when required to do so by the funding partner to properly account for any funds received from the funding partner, justification of any budgets or requests for funding and such other reports as the funding partner may from time-to-time reasonably request.

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## 15. GENERAL

15.1. Every officer, Board member or employee of the LDS shall be, and is hereby indemnified out of and from the funds of the LDS from and against all losses, charges, cost, damages, and all expenses he may lawfully incur on or about the execution of his duties.

15.2. No officer, board member, or employees shall be held accountable for, or deemed to be in any way surety of, any other officer, board member, or employees as the case may be.

15.3. Any contract or other document binding the LDS or any document authorizing the performance of any act on behalf of the LDS shall be signed by such person or persons as the LDS Board may, by resolution, allow from time to time.

15.4. In the event of any dispute likely to give rise to litigation, the LDS Executive Director shall, immediately upon knowing of the dispute, notify all LDS Board members in writing. The LDS Board shall convene a meeting as soon as practicable to hear the details of the dispute or potential dispute. The chairperson of the LDS Board shall immediately notify the chair of the ELCZ

Church Council who shall give directions on how to handle the dispute. The Board shall have the right to appoint lawyers to handle the dispute on behalf of the LDS pending receipt of the directions from the Chair of the ELCZ Church Council.

## 16. AMENDMENT OF CONSTITUTION

This constitution may be amended from time to time by the majority vote of 2/3 of the LDS Board members provided that such amendment shall be of no force or effect until approved by a simple majority of the ELCZ Church Council.

## 17. CONSTITUTION

This constitution shall be binding upon all board members, officers and employees of the LDS as if each and every one of the terms of the constitution has been incorporated into the terms of appointment or employment of the individual board members, officers or employees of the LDS.

## 18. WINDING UP

The LDS may be wound up only by operation of law or by a resolution passed by 2/3 majority of the ELCZ Church Council. In the event that the ELCZ Church Council decides to wind up the LDS, then:

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18.1. The LDS shall cease to implement any new projects.

18.2. Subject to availability of funds, the LDS shall complete the implementation of any projects already commenced.

18.3. The LDS shall scale down the staff so that only such staff as required to complete outstanding projects shall remain employed.

18.4. The LDS shall pay out of any of its resources all of its debts.

**18.5. All assets remaining shall be deemed to be assets of the ELCZ and the LDS Board shall do or cause to be done all things necessary to ensure that whenever applicable, all such assets shall be transferred to the ELCZ provided the funding partner may direct that any amount outstanding from the funds provided by him/her be put to any lawful use.**

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