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Department:  
Justice and Constitutional Development  
REPUBLIC OF SOUTH AFRICA

MASTER OF THE NORTH GAUTENG HIGH COURT: PRETORIA

# MAGTIGINGSBRIEF LETTERS OF AUTHORITY

Ingevolge artikel 6(1) van die Wet op Beheer oor Trustgoed, 1988 (Wet 57 van 1988)  
In terms of section 6(1) of the Trust Property Control Act, 1988 (Act 57 of 1988)

No: IT10446/04

Hiermee word gesertifiseer dat  
This is to certify that

**CATHERINE MOKGATLE-MAKWAKWA, ID NO: 440111 0462 08 8**

**JUSTUS VAN DER BERG, ID NO: 540929 5124 08 3**

**RAPHAEL ABEL KASONGA, ID NO: 540902 5183 08 6**

**ROBERT ANTHONY BOTHA, ID NO: 641003 5041 08 1**

**ROBERT HUNTER URRY, ID NO: 621025 5089 08 7**

**SERVAAS DANIËL DE KOCK, ID NO: 450821 5078 08 8**

gemagtig word om op te tree as trustee(s) van die  
is/are hereby authorized to act as trustee(s) of the

**JAMES 1 : 27**

Trust.

GEGEE onder my hand te  
GIVEN under my hand at

op hede die  
this day of

dag van

**ASST. MEESTER VAN DIE NOORD GAUTENG HOOGGEREGSHOF  
ASST. MASTER OF THE NORTH GAUTENG HIGH COURT  
J246**

2011-07-14



## **TRUST DEED FOR THE JAMES 1:27 TRUST**



### **BORCHARDT & HANSEN INC**

**Prokureurs, Transportbesorgers en Notarisse  
Attorneys, Conveyancers and Notaries**

Charlesstraat 97 / 97 Charles Street,  
H/v Charles & Fehrsenstrate, Brooklyn / C/o Charles & Fehrsen Streets, Brooklyn  
PO Box / Posbus 2725 Pretoria 0001

Telephone National: (012) 460-8047 / 49 / 53 / 59  
Telefoon Nasionaal:

International code: (27 12)  
Internasionale kode:

Fax: (012) 346-7197  
Faks:

# TRUST DEED FOR THE JAMES 1:27 TRUST

MEMORANDUM OF AGREEMENT IN RESPECT OF A DONATION IN TRUST  
MADE AND ENTERED INTO BY AND BETWEEN:

ROBERT ANTHONY BOTHA  
(Identity Number 6410035041081)

(hereinafter referred to as the "Founder")

AND

MAPULE RACHEL KHANYE  
(IDENTITY NUMBER 5105110566082)

AND

JUSTUS VAN DER BERG  
(IDENTITY NUMBER 5409295124083)

AND

RAPHAEL ABEL KASONGA  
(IDENTITY NUMBER 5409025183185)

AND

JAMES PETER WILSON  
(IDENTITY NUMBER 4106265021080)

AND

ROBERT A. BOTHA  
(IDENTITY NUMBER 6410035041081)

(hereinafter referred to as "the Trustees")

FOR AND ON BEHALF OF THE BENEFICIARIES HEREINAFTER DEFINED.

WHEREAS

1. The Founder wishes to establish a Trust from which all communities in South Africa may benefit in terms of care or counselling of abandoned, abused, neglected, orphaned or homeless children and:

Handwritten signatures of the parties involved in the trust deed, including the Founder and the Trustees, located at the bottom right of the page.

- 2. The Founder believes that this will best be achieved through the medium of a separate Trust, administered by a specific body of Trustees who are qualified and able to do this work;

**NOW THEREFOR IT IS AGREED AND ESTABLISHED AS FOLLOWS:**

**1. DEFINITIONS**

"ACT" refers to the Income Tax act, 58 of 1962.

"BENEFICIARIES" Any approved Public Benefit Organization, and/or any association carrying on, one or more Public Benefit Activities in the Republic and/or the children and their households identified in this Trust's object, clause 2.2;

"PERSONS" refers to legal or natural persons.

"PUBLIC BENEFIT ORGANIZATION" refers to an Organization as defined in Section 30(1) of the Income Tax Act 58 of 1962; and

"PUBLIC BENEFIT ACTIVITY" refers to the activities as defined in Sections 1(a), 1(b) and 2(a) of Section 30 of the Income Tax Act, 58 of 1962, read together with the Minister's determination in terms thereof.

"REPUBLIC" refers to the Republic of South Africa as presently constituted.

"TRUSTEESHIP" refers to the office held by the Trustees of the Trust.

"TRUSTEES" refer to the incumbents of the office of Trustee and in the first place includes the persons mentioned on page one and paragraph 5.2 hereof and any subsequent Trustees who will act in this capacity.

Handwritten signatures and initials are present at the bottom right of the page, including a large signature that appears to be 'GM', and several other initials and scribbles.

**"TRUST FUND"**

refers to the Trust property or capital vested in the Trustees, or in respect of which they have a claim, namely the original donation and any additions thereto, irrespective of the source from which such additions are derived.

**"TRUST DEED OR TRUST DOCUMENT"**

refers to this document as whole.

**"TERMINATION DATE"**

The date as referred to in clause 12.1.

**2. CREATION, NAME, AND OBJECT OF THE TRUST**

2.1 By way of the donation to the Trustees on behalf of the beneficiaries, a Trust is hereby created which shall be known as the JAMES 1:27 TRUST.

2.2 The sole object of the Trust is the care and/or counselling of abandoned, abused, neglected orphaned and vulnerable children specifically in response to the HIV and AIDS epidemic, acting through community based and faith based organizations and ensuring the secure transfer of resources to these children, thereby creating an environment to allow such children to develop into their full potential.

**3. DONATION**

The Founder hereby donates to the Trustee as an irrevocable donation an amount of R100,00 (ONE HUNDRED RAND), which donation is made and accepted by the Trustees for the purposes of the Trust, and which donation shall be the initial Trust fund of the Trust. Any subsequent additions to the Trust fund, irrespective of the source from which such additions are derived, shall, if they are accepted by the Trustees, form part of the Trust fund and be held and administered by the Trustees subject to the terms contained in this Trust document.

**4. VESTING OF RIGHTS TO TRUST PROPERTY**

On acceptance by the Trustees of their Trusteeship in terms of this Trust Deed and the abovementioned donation, the Trustees immediately have a claim against the Founder for the delivery of the donation and have the right and are bound to ensure that the donation

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is received by them. While the Trust is in operation the Trustees are hereby obligated to take possession of all the Trust assets including title deeds and other documents and to ensure their preservation and safekeeping for the duration of the Trust.

5. PROVISIONS CONCERNING THE NUMBER OF TRUSTEES, TERMINATION OF OFFICE AND SUCCEEDING TRUSTEES

5.1 There shall at all times be not less than 4 (FOUR) Trustees in office for the purpose of the valid exercise of the powers and discharge of the duties of the Trustees in terms of this deed. They shall not be connected persons as defined in the Act. Not less than 50% of the Trustees shall constitute a quorum at all meetings of Trustees convened for purposes of the business of the Trust to be transacted at such a meeting.

5.2 The first Trustees of the Trust are:

<u>FULL NAMES</u>	<u>ADDRESS</u>
5.2.1 MR R.A. BOTHA	421 TREVOR GETHING STREET GARSFONTEIN PRETORIA 0042
5.2.2 MS M. KHANYE	40 CRESCENT BRAMLEYVIEW 2090
5.2.3 MR J. VAN DER BERG	6 DOREEN STREET COLBYN 0082
5.2.4 MR R. A KASONGA	E93 MOUNT ROUGE BLOCK E 283 ALBERTUS STREET LA MONTAGE 0184
5.2.5 REV P. WILSON	34 GROVENOR CRESCENT PHALABORWA 1391

5.3 Subject to clause 5.6 the Trustees are empowered to appoint additional Trustees to fill vacancies and to discharge Trustees in terms of clause 5.5.

Handwritten signatures of the trustees, including a large signature on the right side of the page and several smaller ones at the bottom.

5.4 On the written acceptance of his appointment as Trustee, a succeeding Trustee or additional Trustee shall be vested with all the powers and be subject to all the duties of a Trustee as if he had been one of the original Trustees of this Trust.

5.5 A Trustee shall cease or be discharged to act as a Trustee:

5.5.1 if he resigns;

5.5.2 if he is found to be of unsound mind or a lunatic;

5.5.3 if he shall be unfit and/or incapable of acting as a Trustee;

5.5.4 if he becomes insolvent or assigns his estate for the benefit of or compounds with his creditors;

5.5.5 if he shall become disqualified in terms of the Companies Act in force from time to time in the Republic of South Africa to act as a director of a Company;

5.5.6 If not less than 75% of the Trustees decide that a Trustee is not a fit and proper person to act as Trustee for purposes of this Trust.

5.6 Notwithstanding the above, the first Trustees and any subsequent Trustee is appointed for a period of two years where after his appointment will automatically lapse, unless the Founder re-appoints such a Trustee.

5.7 The two-year term does not apply to the Founder and on the death of the Founder the authority to re-appoint a Trustee as envisaged in clause 5. rests with the Chairperson of the Trust.

## 6. SECURITY DISPENSED WITH

No Trustee, whether appointed in terms of this Trust deed or as a successor pursuant thereto, shall be required by the Master of the Supreme Court or any other competent authority to furnish any security of any nature nor shall any security be required for the due performance of any duty under the Trust Property Control Act, 57 of 1988, or under any other statutory provision which may now be or may hereafter become of force or effect; the intent and purpose being that no Trustee hereunder shall be required to give any security in respect of or in connection with or arising out of such appointment.

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## 7. ABSENCE OF A TRUSTEE

A Trustee, who is temporarily absent, shall have the right to nominate a co-Trustee by means of a written proxy to act on his behalf. If all the serving Trustees are to be absent in this way, they shall have the right by way of a joint proxy to nominate a person or persons to act as Trustees for the duration of their absence.

## 8. RESOLUTIONS BY TRUSTEES

- 8.1 Whenever reference is made in this Trust deed to the discretion of the Trustees, such discretion shall be sole and absolute;
- 8.2 Subject to the Trustees giving effect to the terms and conditions of this Trust deed, they shall, in administering the Trust and its affairs generally, adopt such procedures and take such administrative steps, as they shall from time to time deem necessary and advisable. They shall meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit. Any Trustee shall at any time be entitled to summon a meeting of the Trustees.
- 8.3 Subject to the other clauses of this Trust Deed questions arising at any meeting of Trustees shall be decided by a majority of votes. In the event of an equality of votes, the Chairman shall have a second or casting vote.
- 8.4 A resolution in writing signed by all the Trustees shall be as valid and effective as if it had been passed at a meeting of the Trustees duly called and constituted.
- 8.5 Any dispute concerning any matter surrounding the Trust and its activities which cannot be resolved by the Trustees shall be referred to a Senior Counsel of the Pretoria Bar appointed by the Trustees and, if a decision to the appointment cannot be reached in this regard, it shall be referred to a Senior Counsel of the Pretoria Bar, appointed by the Bar Counsel concerned. The decision of the Counsel to whom the dispute has been submitted shall be final and binding on the Trustees.

## 9. POWERS OF TRUSTEES

- 9.1 The powers of the Trustees defined in this Trust deed are powers, which relate to that of the office of Trustee, to enable them to administer the Trust fund on behalf of the beneficiaries and not for their personal benefit. The extent of the powers vested in Trustees must be interpreted subject to the main objectives of the Trust, namely to achieve the charitable objectives for which it was created.



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- 9.2 The powers of the Trustees are subject to the following provisions and limitations with respect to Trusts of this nature, and the Trust is:
- 9.2.1 Prohibited from distributing any of its funds to any person (otherwise than in the course of undertaking any public benefit activity) and is required to utilize its funds solely for the object for which it has been established, or to invest such funds in accordance with Section 30(3)(ii)(aa), (bb) or (cc) of the Act.
- 9.2.2 Prohibited from carrying on any business undertaking or trading activity, otherwise than to the extent that it is permitted in terms of Section 30(3)(b)(iv) of the Act.
- 9.2.3 Prohibited from accepting any donation 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 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.
- 9.2.4 The activities of the Trust shall substantially be carried out in the Republic of South Africa.
- 9.2.5 The Trustees or any employee or office bearer shall not derive any benefits from the Trust save as to reasonable remuneration for services rendered, bearing in mind the sector and the service so rendered.
- 9.3 Subject to the provisions of 9.2 which are binding on the Trustees, they shall at all times be vested with such powers to deal with the Trust assets which they in their absolute discretion deem necessary to best control the Trust fund to achieve its objectives. Without restricting the general powers of the Trustees, the Trustees shall have powers to:
- 9.3.1 open a bank account for the Trust, draw cheques on such account or deposit moneys in it, to issue bills and guarantees in favour of third parties against the account and to hand to the bank, bills of collection in favour of the Trust. For the purposes of this sub-paragraph the

signature of any two of the Trustees shall be a proper authority for any transaction from the bank account, provided that the authority was given to such Trustee by a proper resolution passed by the Board of Trustees;

- 9.3.2 provided the terms and conditions referred to in 9.2 are adhered to, the Trustees are empowered to enter into lease agreements as Lessor or lessees subject to such terms as the Trustees shall determine;
- 9.3.3 invest moneys which form part of the Trust fund in such securities and on such terms and conditions as the Trustees may determine;
- 9.3.4 retain existing investments or investments made by the Trustees in that form or to re-invest in any other form;
- 9.3.5 negotiate loans in favour of the Trust, with or without security, and on such terms and conditions as are agreed with the lender;
- 9.3.6 mortgage, hypothecate or grant a lien on any asset of the Trust provided it benefits the Trust;
- 9.3.7 institute or defend legal actions;
- 9.3.8 attend meetings of creditors of a private individual, company, close corporation or body who is a debtor of the Trust irrespective of whether the meeting is in connection with insolvency, liquidation or judicial management; to vote on any matter submitted to the meeting and generally, to exercise all the rights a creditor would have had in similar circumstances;
- 9.3.9 issue receipts, discharges or indemnities in respect of any repayment or discharge of obligations;
- 9.3.10 make use of the services of professional advisers and tradesmen for the affairs of the Trust and to pay for such services out of the Trust fund;
- 9.3.11 pay any costs incurred in connection with the administration of the Trust out of the Trust fund;
- 9.3.12 accept donations or bequests on behalf of the Trust from anybody subject to the terms and conditions of the Trust deed and subject to the terms and conditions attached to such donation and/or bequest, provided that such donations and bequests are irrevocable;



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- 9.3.13 where investments are made in a company, whose Articles of Association or regulations prohibit the registration of such investments in the name of the Trust, then in that event, the investments may be held by the Trustees in their personal names on behalf of the Trust;
- 9.3.14 on receipt of a liquidation dividend by the Trust, to decide whether it shall form part of the income or capital of the Trust;
- 9.3.15 apply to the authorities to do fund raising for the benefit of the Trust and for a fund raising number for the Trust, if deemed necessary.
- 9.3.16 in the implementation of any of the aforesaid powers the Trustees are authorized to sign all documents and take such steps as are deemed necessary for the proper disposal of any matter falling within the ambit of the Trust administration
- 9.3.17 Take reasonable steps to ensure that the funds are utilized for the purpose for which it has been provided.
- 9.3.18 When the Trust has been approved in terms of Section 18A of the Income Tax Act, 75% of the funds received or accrued, and which qualify for a deduction, will be distributed within 12 months from the financial year ending, during which such donations were received.

## 10. CONTRACTS WITH TRUSTEES, BOOKS OF ACCOUNT, REMUNERATION AND EXPENSES

- 10.1 A Trustee shall be entitled to contract with the Trustees and/or with any company or close corporation in which the Trustees may be interested, directly or indirectly and as a Trustee he may vote on any such contract and on any other matter in which he shall be interested, directly or indirectly, provided that before doing so he shall disclose the nature and extent of his interest to his co-Trustees.
- 10.2 The Trustees shall keep proper records and books of account of their administration of the Trust in such manner and form as is necessary in order that the records and books shall at all times reflect a fair position of the Trust. There shall be recorded in such books and records, inter alia, any change in the assets of the Trust from time to time. Income and all outgoings applicable to the Trust shall be audited by such auditors as shall be

appointed from time to time by the Trustees, who shall be entitled to terminate any such appointment and appoint other auditors. The required Income Tax Returns together with the relevant supporting documents will be submitted.

- 10.3 The Trustees shall from time to time be entitled to re-imburse themselves and pay and discharge out of the income of the Trust all expenses incurred in and about the execution of the Trust and the carrying out of the powers conferred upon them by this Trust deed.
- 10.4 Notwithstanding any of the provisions of this Trust deed, a Trustee shall be entitled to act in his professional capacity and perform professional services for the Trust and to charge his reasonable fee therefore.
- 10.5 Subject to the provisions of the sections 9(1) and 9(2) of the Trust Property Control Act, No. 57 of 1988, none of the Trustees shall be answerable for or liable to make good any loss occasioned to or sustained by the Trust from any cause whatever save for any loss as shall arise from a wilful act of dishonesty of the Trustees involved. No Trustee shall be liable for any act of dishonesty or negligent act committed by any Trustee unless he was a party thereto. The Trustees shall at all times be deemed to have been indemnified out of the assets of the Trust against all claims and demands of whatever nature arising out of the exercise or purported exercise by them of any powers conferred under this Trust deed, unless sections 9(1) and 9(2) of Act 57 of 1988 are held to be applicable.

## 11. INTERPRETATION AND CONSTRUCTION

- 11.1 Headings of clauses are for reference purposes only and shall not be used in the interpretation of this Trust deed;
- 11.2 Should any question arise as to the interpretation of this Trust deed or any of the provisions hereof or as to the true construction thereof or as to the administration of the Trust or otherwise howsoever, the Trustees shall have the power to decide such question either acting on their own judgment or upon the advice of counsel and any such decision shall be final and binding on all parties.
- 11.3 In this Trust deed, unless the context clearly otherwise indicates
- 11.3.1 words importing any gender shall include the other genders; and

11.3.2 the word "Trustees" shall mean the Trustees for the time being of the Trust hereby constituted; and

11.3.3 the singular shall include the plural and vice versa.

## 12. TERMINATION OF THE TRUST

12.1 It is the wish of the Founder that the Trust shall endure in perpetuity. If circumstances should arise at some future date which make it impossible or no longer worthwhile to continue with the Trust (circumstances which the Founder cannot foresee at this stage), then 75% (SEVENTY FIVE PERCENT) of the Trustees may, with the approval of the Master of the Supreme Court of South Africa, Pretoria, set a date on which the Trust hereby constituted shall terminate. Upon dissolution of the Trust, the remaining assets of the Trust will be transferred to a Public Benefit Organization determined by the Trustees, within the Republic of SA, which has been approved in terms of Section 30 of the Act.

12.2 Notwithstanding anything to the contrary contained in this Trust deed, the Trustees shall be entitled at any time and from time to time to make payments of capital and or income to the beneficiaries.

12.3 In making payment at any time to the Founder of any portion of the assets of the Trust or the income pursuant to the provisions of the Trust deed, the Trustees shall be entitled to make any such payment either in cash or in specie or partly in cash and partly in specie. The Trustees' valuation of any asset distributed by them in specie in terms hereof shall be final and binding on all interested parties. For the purpose of this clause the word "specie" shall be deemed to include any capital asset at that time held as portion of the assets of the Trust, which is in a form other than cash money.

## 13. VARIATION

A copy of all amendments to the Trust deed shall be submitted to the Commissioner for the South African Revenue Service to verify that the Trust still continues to be a Public Benefit Organization.

## 14. GENERAL

14.1 The trustees shall be entitled to treat as income any periodic receipts although received from wasting assets and shall not be required to make provision for the amortization of the same.

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They shall also be entitled to determine in such manner as they may consider fit what shall be treated as income and what shall be treated as capital in respect of any liquidation dividend or return of capital or capitalization of profits in the case of companies whose shares are being held as portion of the assets of the Trust by the Trustees and generally to decide, by apportioning in such manner as they may consider fit, any dividend which may arise as to how much constitutes capital and how much constitutes income.

- 14.2 The Trustees shall be entitled from time to time to employ accountants, attorneys, agents or brokers to transact all or any business of whatever nature required to be done pursuant to this Trust deed and shall be entitled to pay all such charges and expenses to incurred as a first charge and shall not be responsible for the default of any such accountants, attorneys, agents or brokers or for any loss occasioned by such employment.
- 14.3 The Trustees shall be entitled from time to time to employ employees to assist in the work of the Trust and to pay them a reasonable remuneration for services rendered.
- 14.4 The Trustees may establish a "Board of Reference" in terms of which persons are invited to participate in the activities of the Trust. The Chairperson of such a "Board of Reference" and/or other designees may be invited to attend the meetings of the Trustees.
- 14.5 The Trustees may establish a "Management Committee" consisting of partner organisations involved in the project management of the work of the Trust. The Chairperson of the "Management Committee" and/or other designees may also be invited to attend meetings of the Trustees.
- 14.6 All taxes which may be lawfully levied by any government or other competent authority on the Trustees in their capacities as such or on the assets of the Trust shall be paid out of the Trust assets or the income there from. All taxes which may be levied on the donor or on any donee or other beneficiary in respect of any portion of the income which will be derived from the investment of the assets of the Trust may, in the discretion of the Trustees, be paid out of the assets of the Trust or the income there from.

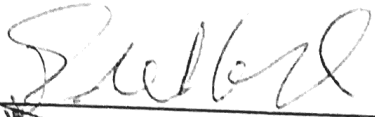


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THUS DONE AND SIGNED at PRETORIA this the 11th day of OCTOBER 2004 in the presence of the undersigned witnesses.

AS WITNESSES:

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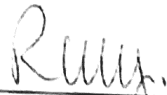
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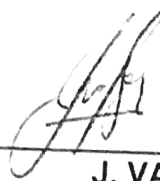
\_\_\_\_\_  
R. A. BOTHA  
(FOUNDER)



\_\_\_\_\_  
R.A. BOTHA  
(TRUSTEE)



\_\_\_\_\_  
R.A KHANYE  
(TRUSTEE)



\_\_\_\_\_  
J. VAN DER BERG  
(TRUSTEE)



\_\_\_\_\_  
R. A. KASONGA  
(TRUSTEE)



\_\_\_\_\_  
J. P. WILSON  
(TRUSTEE)