

**THE COMPANIES ACT**  
(CHAPTER 486, LAWS OF KENYA)

**COMPANY LIMITED BY GUARANTEE AND  
NOT HAVING A SHARE CAPITAL**

**MEMORANDUM OF ASSOCIATION  
OF  
THE PRESBYTERIAN FOUNDATION**

1. The name of the company (hereinafter called “The Foundation”) is THE PRESBYTERIAN FOUNDATION.
2. The registered office of the Foundation will be situated in the Republic of Kenya.
3. The objects for which the Foundation is established are, through its proper activities, to assist in the spreading of the Gospel and the extension of Christ’s kingdom and in furtherance of such objects to make a contribution, inspired by the Spirit of Jesus Christ, to the religious, social, economic and cultural life of the people among whom it is established and whom it serves and for these purposes:

a) To act as and permit its name to be used as Trustee, whether alone or jointly with any person or persons, for such bodies or persons, whether corporate or unincorporate, as have aims or objects similar to those set forth in the next paragraph hereof and accordingly to hold, acquire, purchase, take on lease or in exchange, any lands, buildings, investments or other property of any description, whether immovable or movable, real or personal, in any part of the world belonging to any of the said bodies;

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- b) To take any gift of property, whether subject to any special trust or not, for anyone or more objects of the Foundation.
- c) To acquire and hold shares, stocks, debentures, debenture stocks, bonds, obligations and securities issued or guaranteed by any company constituted or carrying on business in the Republics of Kenya, Uganda, Tanzania or any other country in which, according to the laws of the Republic of Kenya, it may be lawful to do so, and also debentures, debenture stock, bonds, obligations and securities issued or guaranteed by any government, sovereign ruler, commissioners, public body, or authority, supreme, municipal, local or otherwise, whether at home or abroad.
- d) To acquire any such shares, stocks, debentures, debenture stocks, bonds, obligations or securities by original subscription, tender, purchase, exchange or otherwise, and subscribe to the same either conditionally or otherwise, and to guarantee the subscription thereof and to exercise and enforce all rights and powers conferred by or incidental to the ownership thereof;
- e) To develop the resources and turn to account the lands, buildings, and rights

for the time being of the Foundation and, in particular, by laying out and preparing land for building purposes, constructing, altering, pulling down, decorating, maintaining, furnishing, fitting up and improving buildings, and by letting on building lease or building agreements, and by advancing money to and entering into contracts and arrangements of all kinds with builders, tenants and others.

f) To take such steps by way of personal or written appeals, public meetings or written appeals, public meetings, or otherwise as may from time to time be thought fit for the purpose of obtaining contributions to the funds of the Foundation by way of donations, annual subscriptions and otherwise; and to promote, assist in the promotion of, or otherwise participate in, fetes, bazaars, concerts and other forms of entertainment, and such other things as have for their objects, the raising of money for the purposes of the Foundation,

g) To apply to any governments or authorities, public bodies, corporations, companies or persons for, and to accept, grants of money and of land, donations, gifts, subscriptions and other assistance with a view to promoting the objects of the Foundation.

h) To borrow or raise or secure the payment of money, in such manner as the Foundation shall think fit, and whether or not on the security of any mortgage or charge of any of the immovable or movable property of the Foundation as shall be thought expedient, and to purchase, redeem or pay off any securities on the property of the Foundation;

i) To provide for its staff conditions and terms of service worthy of a Christian enterprise;

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j) To subscribe to any charities and to grant donations to any charitable, educational or religious purpose and to provide a pension or superannuation fund or funds for the servants of the Foundation, or otherwise to assist such servants, their widows and children;

k) To establish and support or aid in the establishment and support of any trust association or body formed for any or all the objects of the Foundation or calculated to further its objects.

l) To enter into any arrangement with any governments or authorities, supreme, municipal, local or otherwise, that may seem conducive to the Foundation's objects or any of them, and to obtain from any such government authority any rights, privileges and concessions which the Foundation may think desirable to obtain, and to carry out, exercise and comply with any such arrangements, rights, privileges and concessions.

m) To undertake and execute any trust or agency business which may lawfully be undertaken by the Foundation and may seem to be directly or indirectly conducive to its objects.

n) To carry on any work which may seem to the Foundation to be conducive to the attainment of its objects.

o) To grant pensions or gratuities to any employees or ex-employees of the Foundation or its predecessors, or of any body in which the Foundation is in

any way interested, or the relations, connections or dependants of such persons, and to establish or support associations, institutions, clubs, funds and trusts which may be considered likely to benefit any such persons or otherwise to advance the interests of the Foundation or its members, and to make payment towards insurances or to institute or contribute to pension schemes for the benefit of any of such persons as aforesaid;

p) To subscribe or guarantee money for any charitable object or for any purpose which may be considered likely, directly or indirectly, to further the objects of the Foundation.

q) Where the same is desirable in pursuance of the objects of the Foundation to lend money to such persons (whether members of the Foundation or not) or bodies as may seem expedient and to guarantee the performance of the contracts or obligations of any such persons or bodies

r) To draw, make, accept, endorse, discount, execute and issue promissory notes, bills of exchange, bills of lading, warrants, debentures, and other negotiable or transferable instruments;

s) To obtain any provisional Order, or Act of Parliament for enabling the Foundation to carry any of its objects into effect, or for effecting any modification of the Foundation's Constitution or for any other purpose which may seem expedient, and to oppose any proceeding or applications which may seem

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calculated directly or indirectly to prejudice the Foundation's interests;

t) To procure the Foundation to be registered, incorporated or otherwise constituted if necessary or advisable according to the law of any other country;

u) To sell, improve, manage, develop, exchange, lease, mortgage, dispose of, turn to account, or otherwise deal with all or any part of the property and rights of the Foundation;

v) To invest the moneys of the Foundation not immediately required for its purposes in or upon such investments, securities or property as may from time to time be determined;

w) To print and publish any newspapers, periodicals, books or leaflets that the Foundation may think desirable for the promotion of its objects:

x) To establish, organise and run such hospitals, schools and other educational and training establishments which may seem to the Foundation to be appropriate;

y) Subject to the restrictions and limitations aforesaid to do all such other things as are properly incidental or conducive to the attainment of the above

z) Save as is restricted by the first paragraph of this Clause, the objects set forth in any subclause of this clause shall not, except when the context expressly so requires, be in any way limited or restricted by reference to or inference from the terms of any other subclause or by the name of the Foundation. None of such subclauses, or the objects therein specified, are auxiliary merely to the other objects mentioned in this clause, but the Foundation shall have full power to exercise all or any of the powers conferred by any part of any clause in any part of the world and notwithstanding that the business, undertaking, property or

acts proposed to be transacted, acquired, dealt with or performed do not fall within the objects of the first subclause of this clause.

4. The income of the Foundation (as determined by generally accepted accounting principles) shall be applied wholly and exclusively for charitable purposes in accordance with the provisions of the Articles of Association.

No portion of the income of the Foundation shall be paid or transferred, directly or indirectly by way of dividend gift, divisions, bonus or otherwise howsoever by way of profit to the members of the Foundation.

Provided that nothing herein shall prevent the payment, in good faith of reasonable and proper remuneration to any officer or servant of the Foundation or to any member of the Foundation, in return for any services actually rendered to the Foundation; nor prevent the payment of interest at a rate not exceeding

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7% per annum on money lent (\*see footnote), or reasonable and proper rent for premises demised or let by any member to the Foundation; but so that no member of the Board of Directors of the Foundation shall be appointed to any salaried office of the Foundation or any office of the Foundation paid by fees, and that no remuneration or other benefit in money or money's worth shall be given by the Foundation to any member of such Board of Directors except repayment of out-of-pocket expenses and interest at a rate not exceeding seven percent per annum (\*see footnote at the end of this chapter) on money lent, or reasonable and proper rent for premises demised or let to the Foundation.

5. No addition, alteration or amendment shall be made to or in the provisions or regulations contained in the Memorandum or Articles of Association for the time being in force, unless the same have been previously submitted to and approved by the appropriate Government Minister or either the General Assembly or the General Administration Committee of the Presbyterian Church of East Africa.

6. The fourth and fifth paragraphs of this Memorandum contain conditions on which a licence is granted by the Minister to the Foundation in pursuance of Section 21 of the Companies Act (Chapter 486 of the Laws of Kenya).

7. The liability of the members is limited.

8. Every member of the Foundation undertakes to contribute to the assets of the Foundation in the event of its being wound up while he is a member, or within one year from his ceasing to be a member, for payment of the debts and liabilities of the Foundation contracted before he ceases to be a member, and the costs, charges and expenses of such winding up and for the adjustment of the rights of the contributories among themselves, such sum as may be required not exceeding the Sum of twenty shillings (\*see the footnote).

9. If upon the winding up or dissolution of the Foundation, there remains after the satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the members of the Foundation but shall be given or transferred to some other institution having objects similar to the objects of the Foundation and which shall prohibit the distribution of its

or their income and property amongst its or their members to an extent at least as great as imposed on the Foundation under or by virtue of Clause Four hereof, such institution or institutions to be determined by the members of the Foundation at or before the time of dissolution, and if and so far as effect cannot be given to the aforesaid provisions then to some charitable body or bodies to be determined by the members.

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10. True accounts shall be kept of the sums of money received and expended by the Foundation, and the matters in respect of which such receipt and expenditure take place, of all sales and purchases of goods by the Foundation and of the property, credits and liabilities of the Foundation; and subject to any reasonable restrictions as to time and manner of inspecting the same that may be imposed in accordance with the regulations of the Foundation for the time being in force, shall be open to the inspection of members. Once at least in every year, the accounts of the Foundation shall be examined, and the correctness of the same and the Balance Sheet ascertained and certified by one or more properly qualified auditor or auditors.

We, the several persons whose names, and addresses and descriptions are subscribed, are desirous of being formed into a company, in pursuance of this Memorandum of Association.

DATED THE 11<sup>th</sup> DAY OF SEPTEMBER, 1973

WITNESS to the above Signatures

ALUN LLOYD HUGHES

PO BOX 48268

NAIROBI

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**THE COMPANIES ACT**

**(Chapter 486, LAWS OF KENYA)**

**COMPANY LIMITED BY GUARANTEE AND**

**NOT HAVING A SHARE CAPITAL**

**ARTICLES OF ASSOCIATION**

**OF**

**THE PRESBYTERIAN FOUNDATION**

**Exclusion of Table ‘C’**

1. The regulations contained in Table “C” in the First Schedule to the Companies Act (Chapter 486 of the Laws of Kenya) shall not apply to the Association.
2. In these Articles, unless there be in the context anything inconsistent therewith: “The Act” shall mean the Companies Act (Chapter 486 of the Laws of Kenya) and every other statute incorporated therewith, or any statute or statutes substituted therefor, and in case of any such substitution, the references in these presents to, the provisions of the Act, shall be read as references to the provisions substituted therefor in the new statute or statutes.  
“The Board” shall mean the Board of Directors of the Foundation provided for by Articles 32 and 33 hereof.  
“The Business Committee” shall mean the Standing Committee of that name established by the General Assembly.  
“The Church Property Development Committee” shall mean the Standing Committee of that name established by the General Assembly.  
“The Foundation” shall mean the Presbyterian Foundation.  
“The General Assembly” shall mean the General Assembly of the Presbyterian Church of East Africa.  
“The General Administration Committee” shall mean the committee of that name elected by the General Assembly.

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- “The Hospitals Board” (renamed “the Health Services Board”) shall mean the Standing Committee of that name established by the General Assembly.  
“Month” shall mean calendar month.  
“The Office” shall mean the registered office of the Foundation. “The PCEA” shall mean the Presbyterian Church of East Africa.  
“The Secretary” shall mean any person appointed to perform the duties of the Secretary of the Foundation.

Words and expressions defined in the Act shall have the meanings thereby assigned to them. Words indicating the singular number shall include the plural and vice versa. Words indicating the masculine gender shall include the feminine. Words indicating persons shall include bodies corporate.

**Purposes, Constitution and Income**

3. The Foundation is established for the purposes expressed in the Memorandum of Association.

The income of the Foundation shall be applied in accordance with Paragraph 4 of the Memorandum of Association, wholly and exclusively for charitable purposes.

The income of the Foundation shall be applied wholly and exclusively for charitable purposes of the Church in the Republics of Kenya, Uganda and Tanzania.

### **Membership**

4. The number of members is declared to be thirty-five, but the Board may register an increase of members. The number of members has been increased to sixty (60).

5. 1. The following persons shall, with their consent, be ex officio members of the Foundation:

- a) The Moderator of the General Assembly;
- b) The Moderators of each of the Presbyteries of the PCEA;
- c) The Secretary General of the PCEA;
- d) The Honorary Treasurer of the PCEA;
- e) The Administrator of the Foundation;
- f) The Finance Officer of the PCEA;
- g) The Deputy Principal Clerk of the General Assembly as the Secretary of the Hospitals Board;
- h) The elected members of the Board.

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2. The following persons shall, with their consent, be elected members of the Foundation: One layman elected by each of the Presbyteries of the PCEA.

3. The Foundation may, in addition to the members referred to in paragraph (2) of this Article, elect as member any person, corporation or body who or which shall signify in writing his or its consent to become a member, provided that in no case shall the number of members exceed the number authorised by these presents. If any person should at anyone time hold two or more of the offices listed in paragraph (1) above, or if for any other reason any person is a member of the Foundation in two or more capacities, he shall continue nevertheless to have only the voting powers and rights of a single member of the Foundation.

### **Retirement and Removal of Elected Members**

6. A member elected under paragraphs (2) and (3) of Article 5 above shall cease to be a member of the Foundation:

- (a) on his retirement signified in writing;
- (b) on his death;
- (c) on the passing of a Special Resolution by a General Meeting of the Foundation that he cease to be a member;
- (d) on the expiry of two years as a member of the Foundation.

### **General Meetings**

7. The first General Meeting of the Foundation shall be held at such time, not

being less than fourteen days nor more than three months from the date of incorporation of the Foundation, and at such place as the Board shall determine.

8. A General Meeting shall be held once in every calendar year at such time and place as shall be determined by the Board, provided that every General Meeting except the first shall be held not more than fifteen months after the holding of the last preceding meeting.

9. The above-mentioned General Meetings shall be called Ordinary Meetings. All other General Meetings shall be called Extraordinary Meetings.

10. The Board may, whenever they think fit, convene an Extraordinary Meeting, and they shall, on the requisition of Members of the Foundation representing not less than one-tenth of that: total voting rights of all the members having, at the date of the requisition, a right to vote at General Meetings of the Foundation, forthwith proceed to convene an Extraordinary Meeting of the Foundation, and in the case of such requisition the provisions of Section 132 of the Act shall apply. If at any time there are not, within the Republic of

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Kenya, sufficient members of the Board capable of acting to form a quorum, any member of the Board, or any two members of the Foundation, may convene an Extraordinary General Meeting in the same manner, as nearly as possible, as that in which meetings may be convened by the Board.

### **Notice of General Meetings**

11. Every meeting shall be called by twenty-one days' notice in writing, at the least. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given, and shall specify the place, the day and the hour of meeting and, in the case of special business, the general nature of that business shall be given in manner hereinafter mentioned or in such other manner, if any, as may be prescribed by the Foundation in General Meeting, to the members of the Foundation and to the Auditors. Provided that a meeting of the Foundation shall, notwithstanding that it is called by shorter notice than that specified in this Article, be deemed to have been duly called if it is so agreed by all the members entitled to attend and vote thereat.

12. The accidental omission to give notice of a meeting to, or the non-receipt of a notice by, any person entitled to receive notice thereof shall not invalidate the proceedings at any meeting.

### **Proceedings at General Meetings**

13. All business shall be deemed special if transacted at the first General Meeting and at an Extraordinary Meeting, and also that is transacted at an Ordinary Meeting, with the exception of the consideration of the income and expenditure account, balance sheets and the ordinary reports of the Board and Auditors, the election of the Elected Members of the Board in the place of those retiring, and the fixing of the remuneration of the Auditors.

14. No business shall be transacted at any General Meeting unless a quorum of members is present at the time when the meeting proceeds to business, save as herein otherwise provided. Twenty members personally present shall be a



quorum.

15. If, within half an hour from the time appointed for the meeting, a quorum is not present, the meeting, if convened upon the requisition of the members, shall be dissolved: in any other case it shall stand adjourned to the same day in the next week at the same time and place, or to such other day, time and place as the Board may, by notice to the members, appoint. If at such adjourned meeting a quorum is not present within fifteen minutes from the time appointed for the meeting, any member or members present, whether one or more, shall be a quorum.

16. The Chairman of the Board (or in his absence the Deputy Chairman) shall take the Chair at every General Meeting of the Foundation, and if neither the  
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Chairman nor the Deputy Chairman be present at a General Meeting, the members of the Foundation present shall choose one of their number to be Chairman of the Meeting.

17. The Chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting from time to time or from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

18. At all General Meetings, a resolution put to the vote shall be decided by a show of hands, unless before or upon the declaration of the result of the show of hands, a poll or ballot vote be demanded by the Chairman or by at least three members present in person or by proxy and entitled to vote and unless a poll or ballot vote be so demanded a declaration by the Chairman of the meeting that a resolution has been carried, or has been carried unanimously, or by a particular majority, or lost, or not carried by a particular majority, shall be conclusive, and an entry to that effect in the Minutes Books of the Foundation shall be conclusive evidence thereof, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

19. If a poll or ballot vote be demanded in manner aforesaid, it shall be taken forthwith and the result of the poll or ballot vote shall be deemed to be the resolution of the meeting at which the poll or ballot vote was demanded.

20. In the case of an equality of votes, either on a show of hands, a poll, or a ballot vote, the Chairman of the meeting shall be entitled to a second or casting vote.

21. The demand of a poll or ballot vote may, with the consent of the Chairman, be withdrawn and in any event shall not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll or ballot vote has been demanded.

22. The ruling of the Chairman of the meeting as to whether any resolution or amendment proposed is in order or not, and as to whether any vote tendered shall be accepted and counted, shall be conclusive.

23. Subject to the provisions of the Act, a resolution in writing signed by all the members for the time being entitled to receive notice of and to attend and vote at General Meetings (or duly authorised” representatives of corporations) shall be as valid and effective as if the same had been passed at a General Meeting of the Foundation duly convened and held.

**Votes of Members**

24. Every member shall have only one vote and no more. Votes on a show of *Church Property*

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hands shall not be given otherwise than personally. On a poll, votes may be given either personally or by proxy.

25. The instrument appointing a proxy shall be in writing under the hand of the appointer or of his attorney, duly authorised in writing, or, if the appointer is a corporation or body, either under seal or under the hand of an officer or attorney duly authorised. A proxy need not be a member of the Foundation.

26. The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed, or a notarially certified copy of that power or authority shall be deposited at the office or at such other place within East Africa as is specified for that purpose in the notice convening the meeting, not less than forty-eight hours before the time for holding the meeting or adjourned meeting at which the person named in the instrument proposes to vote, or, in the case of a poll, not less than twenty-four hours before the time appointed for the taking of the poll, and in default the instrument of proxy shall not be treated as valid.

27. An instrument appointing a proxy shall be in the following form or a form as near thereto as circumstances admit:

**THE PRESBYTERIAN FOUNDATION**

I..... of.....being a member of the Presbyterian Foundation, hereby appoint.....of .....or failing him .....of ..... as my proxy to vote on my behalf at the ordinary/ extraordinary meeting of the Presbyterian Foundation to be held on .....day of .....and at any adjournment thereof.

Signed this .....day of.....(year) .

This form is to be used in favour of/against\* the resolution.

\* Strike out whichever is not desired.

28. Where it is desired to afford members an opportunity of voting for or against a resolution, the instrument appointing a proxy shall be in the following form or any form as near thereto circumstances admit.

**THE PRESBYTERIAN FOUNDATION**

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I ..... of .....being a member of the Presbyterian Foundation, hereby appoint ..... of..... or failing him, .....of ..... as my proxy to vote on my behalf at the ordinary

extraordinary meeting of the Presbyterian Foundation to be held on the ..... day of and at any adjournment thereof.

Signed this .....day of (year) .....

This form may be used in favour or against the resolution.

29. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.

30. A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed, provided that no intimation in writing of such death, insanity or revocation as aforesaid shall have been received by the Foundation at the office before the commencement of the meeting or adjourned meeting at which the proxy is used.

### **Corporation Acting by Representatives at Meetings**

31. Any corporation or body which is a member of the Foundation may, by resolution of its Directors or other governing body, authorise such person as it thinks fit to act as its representative at any meeting of the Foundation and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation or body which he represents as that corporation or body could exercise if it were an individual member of the Foundation.

### **The Board of Directors**

32 a) There shall be a Board of Directors of the Foundation which shall consist of ex officio members and elected members.

b) The first Directors of the Foundation shall be the subscribers to the Memorandum and Articles of Association of the Foundation.

c) Notwithstanding anything to the contrary contained herein, the first Directors of the Foundation shall all (except for any who may be ex officio members of the Board in accordance with Article 33 (1) hereof) retire at the first Ordinary Meeting of the Foundation held in accordance with Article 7 hereof.

33. 1. The following persons shall, with their consent, be ex officio

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Members of the Board:

a) The Moderator of the General Assembly.

b) The secretary General of the PCEA.

c) The Honorary Treasurer of the PCEA.

d) The Administrator of the Foundation.

2. The Elected Members of the Board shall be nine persons who shall be elected by the Members of the Foundation and of whom:

a) Seven shall be selected for their business and professional ability and experience;

b) One shall be a Pastor serving in the Republic of Kenya;

c) One shall be a representative from the Hospitals' Board (Health Service Board)

3. No person may be eligible for election to the Board under Articles 33 (2) 40 or

45 hereof unless his name has already been approved by:

- a) The General Assembly, or
- b) The General Administration Committee, or
- c) The Business Committee.

34. The office of a Member of the Board shall ipso facto be vacated in any of the following events namely:

- a) If a receiving order be made against him or he make any arrangement or composition with his creditors;
- b) If he be found of unsound mind or become permanently incapable of performing his duties;
- c) If he absent himself from three consecutive meetings of the Board without special leave of absence 'from' other members of the Board, and they pass a resolution that he has by reason of such absence vacated' his office.
- d) If by notice in writing given to the Foundation, he resign his office;
- e) If being a member of the Foundation he cease to be a member thereof;
- f) If he shall be requested to vacate his office by a notice in writing signed by all the other members of the board.

### **Remuneration of Members of the Board**

35. Members of the board shall not be entitled to receive any remuneration whatsoever.

### **Rotation of the Members of the Board**

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36. At the annual Ordinary Meeting, four of the elected Members of the Board shall retire from office.

37. The Elected Members of the Board to retire in each year shall be the four Members who have been longest in office. As between two or more who have been in office an equal length of time, the Member(s) to retire shall, in default of arrangement between them, be determined by lot. The length of time an Elected Member has been in office shall be computed from his last election or appointment when he previously vacated office. A retiring Member shall be eligible for re-election and shall act as a member of the Board throughout the meeting at which he retires.

88. Articles 36 and 37 hereof shall not operate and shall have no effect until after the third Ordinary Meeting of the Foundation has been held. Thereafter, four Elected Members of the Board shall in accordance with Articles 37 hereof retire at each Ordinary Meeting of the Foundation held in accordance with these Articles.

39. The members of the Foundation shall, at the meeting at which any Elected Member shall retire in the manner aforesaid, or so soon thereafter as shall be practicable, elect a new Elected Member of the Board.

40. The Foundation may, by an Extraordinary Resolution, remove any Elected Member of the Board before the expiration of his period of office and appoint another person in his place, but any person so appointed shall retain office only so long as the person in whose place he is appointed would have held the same

if he had not been removed. He shall then be eligible for election by the members of the Foundation.

### **Chairman**

41. The Board shall elect from amongst the Elected Members thereof persons to be the Chairman and the Deputy Chairman of the Board. The Chairman and the Deputy Chairman shall cease to hold these offices:

- a) In the case of the Chairman at the end of the life of each General Assembly, and in the case of the Deputy Chairman exactly two years after the date of his election to such office, or
- b) before the expiry of that year for both of them, if the Board should so determine, or
- c) when they cease to be Elected Members of the Board.

For so long as the holders of the offices of Chairman and Deputy Chairman of the Board shall remain Elected Members of the Board, there shall be no restriction on the number of occasions on which they can be re-elected to either of such offices.

42. The Chairman (or in his absence the Deputy Chairman) shall if present take the

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Chair at every meeting of the Board. In the absence of both the Chairman and the Deputy Chairman at any such meeting, the Directors present may choose anyone of their number to be Chairman of the meeting.

### **Proceedings of the Board**

43. The Board may meet together for the despatch of business, adjourn and otherwise regulate its meetings as it may think fit and determine the quorum necessary for the transaction of business. Unless otherwise determined, three members of the Board shall be a quorum. Questions arising at any meeting shall be decided by a majority of votes. In the case of an equality of votes, the Chairman shall have a second or casting vote.

44. A Member of the Board may, and on the request of a Member of the Board the Secretary shall, at any time summon a meeting of the Board. It shall not be necessary to give notice of a meeting of the Board to any members thereof who are absent from the Republics of Kenya, Uganda or Tanzania.

45. The continuing Members of the Board may act notwithstanding that there may be a vacancy among the Members of the Board. It shall be the duty of the Board, in the event of there being a vacancy among the Elected Members, to fill such vacancy as soon as practicable. For this purpose, the Board shall have power at any time to elect a person to fill any casual vacancy in the Elected Members. Such person shall fall within the same category specified in paragraphs (a) to (d) of Article 33 (2) as the person who has vacated office. Any Elected Member so elected shall hold office only until the next Ordinary Meeting, and shall then be eligible for re-election. If and for so long as the number of Members of the Board is below the number fixed by or pursuant to these Articles as the necessary quorum of Directors, the continuing Directors or Director may act for the purpose of increasing the number of Directors to that number (in accordance with the powers given above) or of summoning a

General Meeting of the Foundation, but for no other purpose.

46. The Board may delegate any of their powers (save those conferred by Article 50 hereof) to committees consisting of such persons whether they be members of the Foundation or not as they think and may nominate the Chairman of any such committee. Any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations that may be imposed upon it by the Board.

47. All acts bona fide done by any meeting of the Board, or of a committee appointed by the Board, or of a committee appointed by the Board, or by any person acting as a member of such Board or committee, shall, notwithstanding it be afterwards discovered that there was some defect in the appointment of any Member of such Board or committee or person acting as aforesaid, or that they or any of them were disqualified or had vacated office, be as valid as if every

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such person had been duly appointed and was qualified and had continued to be a member of such Board or Committee

### **Powers and Duties of the Board**

48. The business of the Foundation shall be managed by the Board, which may exercise all such powers of the Foundation as are not by the Act or any statutory modification thereof for the time being in force, or by these presents required to be exercised by the Foundation in General Meeting, subject nevertheless to any regulations of these presents, to the provisions of the Act and to such regulations, being not inconsistent with the aforesaid regulations or provisions as may be prescribed by the Foundation in a General Meeting, but no regulations made by the Foundation in General Meeting shall invalidate any prior act of the Board which would have been valid if such regulations had not been made.

The general powers given by this Article shall not be limited or restricted by any special authority or power given to the Board by any other Article.

49 1. The Board may appoint, or join in appointing, the Directors of any subsidiary body or corporation in which the Foundation has an interest.

2. Without restricting the powers of the Board in any respect, the Board is hereby expressly empowered to invite and permit such person or persons as it may from time to time deem necessary to attend in an advisory capacity one or more meetings of the Board, provided always that such persons shall have no voting rights at such meetings

50. The Board may exercise all powers of the Foundation to borrow or raise money and to mortgage or charge its undertaking and property and to issue debentures, debenture stock and other securities and to vary any of the investments of the Foundation and to invest any moneys of the Foundation, provided that no moneys of the Foundation shall be invested in any security other than those for the time being authorised by law for the investment of Trust Funds, save with the consent of two-thirds of the members of the Board obtained after taking advice from the Auditors for the time being of the foundation.

51. No member of the Board shall be disqualified by his office from contracting with the Foundation, nor shall any such contract or contracts entered into by or

on behalf of the Foundation in which any member of the board is in any way interested, be avoided, nor shall any member of the Board so contracting or being so interested be liable to account to the Foundation for any profit realised by any such contract by reason only of such member holding that office or of the fiduciary relations thereby established, but it is declared that the nature of his interest must be disclosed by him at the meeting of the Board at which such contract is determined on if his interest then exists, or in any other case, at the first meeting of the Board after the acquisition of his interest. No member of the Board shall vote in respect of any contract or arrangement in which he is so

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interested as aforesaid, and if he does vote, his vote shall not be counted.

52. The Board shall cause minutes to be made in books provided for the purpose:

- a) of the names of the Members of the Board present at each meeting of the Board and of any Committee appointed by the Board;
- b) of all resolutions and proceedings at all meetings of the Foundation and of the Board and of any Committee appointed by the board.

52. Any member of the Board may, by writing, appoint any person, who has been approved by the majority of the Directors, to be his Alternate to act in his place at any meeting of the Directors at which he is unable to attend and to vote thereat as a member of the Board when the person appointing him is not personally present and, where he is himself a Director, to have a separate vote on behalf of the Director he is representing in addition to his own vote. A Director may at any time, in writing, revoke the appointment of an Alternate appointed by him. Every such Alternate shall be an officer of the Company and shall not be deemed to be the agent of the Director appointing him. An Alternate shall not by reason only of having been appointed an alternate be a Member of the Foundation. An Alternate Director shall ipso facto vacate office if the Board should remove him from office by passing an Ordinary Resolution to that effect or when the Director whom he represents vacates his office.

53. A resolution in writing, signed by all the Members of the Board for the time being entitled to receive notice of a meeting of the Board, shall be as valid and effective as if it had been passed at a meeting of the Board duly convened and held.

**Secretary**

55. The Secretary shall be appointed by the Board for such term, at such remuneration and upon such conditions as it may think fit, and any Secretary so appointed may be removed by it. The Secretary shall be responsible for keeping the Minutes and for fulfilment of such other duties as may be determined by the Board.

56. A provision of the Act or these Articles requiring or authorising a thing to be done by or to a Director and the Secretary shall not be satisfied by its being done by or to the same person acting both as Director and as, or in the place of the Secretary.

**The Seal**

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57. The Seal of the Foundation shall not be affixed to any instrument except by the authority of a resolution of the Board, and in the presence of a Member of such Board and the Secretary or such other person as the Members of such Board may appoint for the purpose. That Member of the Board and the Secretary or other person, as aforesaid, shall sign every instrument to which the Seal of the Foundation is so affixed in their presence. The Board shall provide for the safe custody of the Seal.

**Accounts**

58. It shall be the duty of the Board to cause proper accounts to be kept and audited in the manner required by Clause 10 of the Memorandum.

59. The books of account shall be kept at the Office and, subject to any reasonable restrictions as to the time and manner of inspecting the same that may be imposed by the Foundation in General Meeting, shall be open to the inspection of any Member at all reasonable times during usual business hours.

60. The Board shall from time to time, in accordance with the provisions of the Act, cause to be prepared and to be laid before the Foundation in a General Meeting such income and expenditure accounts, balance sheets and reports as are referred to in the act. A copy of every balance sheet which is to be laid before the Foundation in the General Meeting together with copies of the income and expenditure account and other reports shall, not less than twenty-one clear days before the date of the meeting, be sent to all persons entitled to receive notices of General Meetings of the Foundation.

**Audit**

61. Auditors shall be appointed and their duties regulated in accordance with the Act.

**Notices**

62. A notice may be given by the Foundation to any member either personally or by sending it by post at his last known address within the Republics of Kenya, Uganda and Tanzania.

Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, prepaying and posting a letter containing the notice and, unless the contrary is proved, to have been effected at the time at which the letter would be delivered to the addressee in the ordinary course of post.

63. Notice of every General Meeting shall be given, in one of the manners herein authorised, to every Member of the Foundation Who is within the Republics of Kenya, Uganda and Tanzania at the time the notices are sent out. No other persons shall be entitled to receive notices of General Meetings.

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**Winding Up**

64. In the event of the Foundation being wound up or dissolved, the provision of Clause 9 of the Memorandum of Association shall have effect, and be observed as if the same were repeated in these Articles.

**Indemnity**



65. Every Director, Agent, Auditor, Secretary and other officer of the Foundation shall be entitled to be indemnified out of the assets of the Foundation against all losses and liabilities which he may sustain or incur in or about the execution of the duties of his office or otherwise in relation thereto, including any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgement is given in his favour or in which he is acquitted, or in connection with any application under Section 402 of the Act in which relief is granted to him by the court, and no Director or other officer shall be liable for any loss, damage or misfortune which may happen to or be incurred by the Foundation in the execution of the duties of his office or in relation thereto, but this Article shall only have effect in so far as its provisions are not avoided by Section 206 of the Act.

*\* Please call the Secretary of the Presbyterian Foundation for current information.  
Ed.*