

TRUST DEED

of

THE AVELA TRUST

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1 PARTIES

1.1 The Parties to this Trust Deed are –

1.1.1 Carmen Elena Palomo Meza;

1.1.2 Roger Michael Raad; and

1.1.3 Antonio Juan Zaninovic Aldea,

who agree as set out below.

PART ONE – INTRODUCTORY

2 DEFINITIONS AND INTERPRETATION

2.1 In this Trust Deed, unless the context shows a different intention –

2.1.1 "**Capital**" means –

2.1.1.1 the initial donation in clause 4;

2.1.1.2 all other money and other assets (excluding Income) acquired for the Object; and

2.1.1.3 all accrued and undistributed Income;

2.1.2 "**First Trustees**" means, collectively –

2.1.2.1 Carmen Elena Palomo Meza;

2.1.2.2 Roger Michael Raad; and

2.1.2.3 Antonio Juan Zaninovic Aldea;

2.1.3 "**Founder**" means Carmen Elena Palomo Meza;

2.1.4 "**Income**" means, in relation to each financial year of the Trust, the balance of the income of the Trust remaining after payment of all Trust expenses;

2.1.5 "**Income Tax Act**" means the Income Tax Act, No 58 of 1962;

2.1.6 "**Master**" means the Master of the High Court, Western Cape High Court, Cape Town;

- 2.1.7 "Object" means the object of the Trust in clause 6;
- 2.1.8 "Parties" means, collectively, the persons listed in clause 1;
- 2.1.9 "Signature Date" means the date of signature of this Trust Deed by the Party signing last;
- 2.1.10 "South Africa" means the Republic of South Africa;
- 2.1.11 "Trust" means the trust established by this Trust Deed;
- 2.1.12 "Trust Deed" means the agreement in this document (including all schedules (if any) to this document), as amended, novated or supplemented from time to time;
- 2.1.13 "Trustees" means the First Trustees and any other trustees of the Trust from time to time; and
- 2.1.14 different grammatical forms of the same words have the same meaning.
- 2.2 In this Trust Deed, save as stated in this Trust Deed –
- 2.2.1 the heading of the Trust Deed and clause headings are for convenience only and are not used to interpret the Trust Deed;
- 2.2.2 an expression which refers to –
- 2.2.2.1 any gender includes the other genders;
- 2.2.2.2 a natural person includes a juristic person and *vice versa*; and
- 2.2.2.3 the singular includes the plural and *vice versa*;
- 2.2.3 "include" and "including" mean to include without limitation;
- 2.2.4 any substantive terms in the definitions in this clause 2 have effect as if they were substantive terms in the body of the Trust Deed;

3 ESTABLISHMENT OF THE TRUST

The Founder and the First Trustees establish the Trust on the terms of this Trust Deed.

4 DONATION

- 4.1 The Founder donates R100 (one hundred rand) in trust to the First Trustees.
- 4.2 The First Trustees accept that donation.
- 4.3 The Founder shall settle the donation by paying the Master's fee for registering the Trust, on behalf of the First Trustees.

5 NAME OF THE TRUST

- 5.1 The name of the Trust is the Avela Trust.
- 5.2 The Trustees may change the name of the Trust.

6 OBJECT OF THE TRUST

- 6.1 The Founder desires to establish a trust for the benefit of burn victims, in particular previously disadvantaged children [from rural areas and townships] who have suffered burn-related injuries, and to assist with the care, counselling and/or treatment of such children, including health care and reconstructive services, blood transfusion or similar services, as well as the counselling of their families in this regard. To achieve this, the Founder desires to establish a trust to raise funds or assets to assist the Red Cross War Memorial Children's Hospital by funding its identified priority equipment, research and training projects, as well as funding projects beyond the hospital's doors, which impact paediatric healthcare, in particular the burns' unit, or any similar public benefit organisation approved in terms of section 30 of the Income Tax Act ("**Section 30**") carrying on any public benefit activity approved for section 18A of the Income Tax Act ("**Section 18A**") purposes.
- 6.2 The objects ("**Objects**") of the Trust are to raise funds or assets for, and to provide those funds or assets, to –
- 6.2.1 The Children's Hospital Trust located at Ground Floor, The Children's Hospital Trust, Ground Floor, Nurses Home, Corner Milner and Klipfontein Roads, Rondebosch, Cape Town, Western Cape, PBO No 930 004 493, the fundraising trust for the Red Cross War Memorial Children's Hospital; and/or
- 6.2.2 any similar public benefit organisation approved in terms of Section 30 carrying on any of the following public benefit activities approved for Section

18A purposes, namely –

- 6.2.2.1 the provision of health care services to poor and needy persons;
- 6.2.2.2 the care or counselling of terminally ill persons or persons with a severe physical or mental disability, and the counselling of their families in this regard;
- 6.2.2.3 the provision of blood transfusion, organ donation or similar services.

7 DURATION OF THE TRUST

The Trust starts on the Signature Date and endures until it is ended in terms of clause 23.

PART TWO – TRUSTEES

8 FIRST TRUSTEES

The First Trustees accept their appointment as Trustees.

9 NUMBER AND APPOINTMENT OF TRUSTEES

- 9.1 There must always be at least 3 (three) Trustees and not more than 5 (five) Trustees.
- 9.2 If a Trustee stops being a Trustee, the remaining Trustees must appoint a new Trustee.
- 9.3 Despite clause 9.1, if there are less than the minimum number of Trustees in clause 9.1, every act and decision of the remaining Trustees is valid, provided that –
 - 9.3.1 their actions and decisions are unanimous; and
 - 9.3.2 they promptly take the necessary steps to appoint the minimum number of Trustees.

10 DISQUALIFICATION OF TRUSTEES

A Trustee stops being a Trustee if he –

- 10.1 resigns on prior written notice to the remaining Trustees;

- 10.2 becomes insolvent;
- 10.3 becomes disqualified to act as a director of a company incorporated under the company laws of South Africa;
- 10.4 is removed from office by the Trustees;
- 10.5 is placed under curatorship or is declared by a court to be incapable of managing his own affairs;
- 10.6 stops being able in law to hold the office of trustee;
- 10.7 has been removed from an office of trust due to misconduct or dishonesty; or
- 10.8 dies.

11 DUTIES OF TRUSTEES

The Trustees must –

- 11.1 keep proper accounting and other records of all transactions concluded by them;
- 11.2 give the Master information about the affairs of the Trust as they require;
- 11.3 instruct any accountants and auditors of the Trust to give the Master and information about the affairs of the Trust as he may require;
- 11.4 keep proper minutes of all their meetings and decisions;
- 11.5 deposit all monies not invested by them in a bank account to be opened in the name of the Trust;
- 11.6 identify all assets of the Trust as the property of the Trust;
- 11.7 keep all assets of the Trust separate from their assets;
- 11.8 appoint enough qualified and experienced staff to perform the business of the Trust; and
- 11.9 perform the duties imposed on them in other places in this Trust Deed.

12 POWERS OF TRUSTEES

The Trustees have all the powers to achieve the Object including the powers, as

they see fit –

- 12.1 to receive contributions, donations and inheritances;
- 12.2 to open and operate accounts with banks in the name of the Trust;
- 12.3 to draw and issue negotiable instruments and similar financial instruments;
- 12.4 to invest in, and acquire by way of purchase, lease, exchange, donation or otherwise property of any nature;
- 12.5 to let or hire assets of any nature;
- 12.6 to invest the Capital;
- 12.7 to borrow money;
- 12.8 to mortgage, pledge, cede in security, hypothecate or otherwise encumber any assets of the Trust;
- 12.9 to lend money;
- 12.10 to sell, exchange, donate or otherwise alienate any of the assets of the Trust;
- 12.11 to improve, alter, maintain and repair any assets of the Trust;
- 12.12 to pay any expenses in connection with the Trust from the Capital or Income;
- 12.13 to enter into indemnities, guarantees and suretyships;
- 12.14 to perform any act and execute any documents required by a public office;
- 12.15 to institute and defend legal proceedings;
- 12.16 to attend all meetings of creditors of any person indebted to the Trust;
- 12.17 to exercise the voting and other rights attaching to asset of the Trust;
- 12.18 to exercise, take up and/or realise any rights of conversion or subscription attaching, accruing or appertaining to any asset of the Trust;
- 12.19 to engage the services of professionals and employees;
- 12.20 to execute insurance policies;

- 12.21 to apply the Income or Capital for the Object;
- 12.22 to determine whether any money or assets of the Trust are of a capital or income nature; and
- 12.23 to exercise all the powers of a natural person of full legal capacity for the purposes of giving effect to this Trust Deed, excluding only such powers which, by their nature, can be exercised by a natural person only.

13 MEETINGS OF TRUSTEES

- 13.1 The Trustees must meet at least once in each year.
- 13.2 The Trustees may regulate their meetings as they see fit.
- 13.3 All matters are decided unanimously.
- 13.4 Each Trustee has one vote.
- 13.5 All Trustees constitute a quorum.
- 13.6 A Trustee may be represented at a meeting by another Trustee by written proxy.
- 13.7 A Trustee may, on reasonable prior written notice to the other Trustees, call a meeting.
- 13.8 A resolution in writing signed by all the Trustees shall be as effective as if it had been passed at a meeting of the Trustees duly called and constituted, even if the resolution is contained in different documents.
- 13.9 The Trustees may attend meetings by electronic equipment.

14 NO SECURITY

A Trustee must not give security in connection with his appointment to the Master or any other public officer.

15 LIABILITY OF TRUSTEES

- 15.1 To the extent allowed at law, no Trustee is liable to the Trust for any loss or cost arising from –
 - 15.1.1 any act or omission (which is not fraudulent or dishonest) of any Trustee in

good faith; or

15.1.2 any fraudulent or dishonest act or omission of any other Trustee unless he was privy to that act or omission.

15.2 To the extent allowed at law, the Trust indemnifies the Trustees from the Capital against any claim or loss arising from any exercise of any of the powers of the Trustees under this Trust Deed.

16 REMUNERATION OF TRUSTEES

16.1 Any Trustee in a profession or business may render professional services to the Trust and may charge for services rendered to the Trust at his usual rates.

16.2 The Trustees may determine and pay the Trustees a reasonable remuneration in accordance with industry standards.

17 DELEGATION OF POWERS

The Trustees may employ and pay an agent to do business of whatsoever nature required or permitted to be done in pursuance of this Trust Deed and they shall be entitled to be allowed and paid all charges and expenses so incurred and shall not be responsible for the default or negligence of any such attorney or agent or for any other loss occasioned by reason of his employment.

PART THREE – ACCOUNTING, INCOME AND CAPITAL

18 FINANCIAL YEAR

The financial year of the Trust ends on the last day of February each year.

19 ACCOUNTS

19.1 The Trustees must –

19.1.1 keep accounting records of the Trust's income, expenditure, assets and liabilities; and

19.1.2 in 6 (six) months after the end of the Trust's financial year, draw up in accordance with the standards of generally accepted accounting practice, and approve financial statements, which must include at least, in respect of that year –

- 19.1.2.1 a statement of income and expenditure; and
- 19.1.2.2 a balance sheet.
- 19.2 The Trustees must keep the Trust's books of account, supporting vouchers, income and expenditure statements, balance sheets and reports, in an original or electronic form, for a period of 5 (five) years.
- 19.3 The books of the Trust need not be audited. The Trustees may appoint an auditor to audit the books of the Trust.

20 APPLICATION OF INCOME AND CAPITAL

The Capital and Income must be applied only towards the Object.

PART FOUR – SPECIAL TAX PROVISIONS

21 SPECIAL PROVISIONS RELATING TO TAX EXEMPTION

- 21.1 It is envisaged that the Trustees shall apply for exemption from income tax in terms of section 10(1)(cN) of the Income Tax Act and classification in terms of Section 18A and such other tax exemptions as the Commissioner for the South African Revenue Service ("**Commissioner**") may allow. In order to qualify for tax exemption the Trustees shall at all times comply with the provisions of clauses 21.2 to 21.13 below, despite any provision to the contrary in the Trust Deed.
- 21.2 The Income and Capital of the Trust howsoever derived shall be applied solely towards the promotion of the Object or be invested and no portion thereof shall be paid or transferred, directly or indirectly, to any person other than in the course of the promotion of the Object; provided that nothing herein contained shall prevent the payment in good faith of reasonable remuneration to any officer or servant of the Trust in return for any services actually rendered to the Trust.
- 21.3 Upon its dissolution the assets of the Trust remaining after the satisfaction of all its liabilities, shall be given or transferred to some other association or institution or associations or institutions having objects similar to the Object, which has been approved by the Commissioner as a public benefit organisation in terms of Section 30.
- 21.4 There shall at all times be a minimum of 3 (three) Trustees, who are not connected persons in relation to each other, to accept the fiduciary responsibility

of the Trust and no single person shall directly or indirectly control the decision making powers relating to the Trust. For purposes of this Trust Deed "connected person" has the meaning ascribed to that term in the Income Tax Act.

- 21.5 The Trust is 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 (other than a donor which is an approved public benefit organisation or an institution, board or body which is exempt from tax in terms of section 10(1)(cA)(i) of the Income Tax Act which has as its sole or principal object the carrying on of any public benefit activity) 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.
- 21.6 The Trustees shall submit copies of any amendments to the Trust Deed to the Commissioner and to the Director: Non-profit Organisations.
- 21.7 The Trust shall not knowingly be a party to or permit itself to be used as part of any transaction, operation or scheme of which the sole or main purpose is or was the reduction, postponement or avoidance of liability for any tax, duty or levy which, but for such transaction, operation or scheme, would have been or would have become payable by any person under the Income Tax Act or any other act administered by the Commissioner.
- 21.8 The Trustees will not pay any remuneration, as defined in the Fourth Schedule of the Income Tax Act, to any employee, office bearer, Trustee or other person which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered and will not economically benefit any person in a manner which is not consistent with the Object.
- 21.9 The Trust shall comply with such reporting requirements as may be determined by the Commissioner.
- 21.10 The Trust shall register in terms of section 13(5) of the Non-profit Organisations Act, No 71 of 1991 and comply with any other requirements imposed in terms of that act.
- 21.11 The Trustees will not use the Trust's resources directly or indirectly to support,

advance or oppose any political party.

21.12 All financial transactions of the Trust shall be conducted by means of a banking account.

21.13 Any books of account, records or other documents relating to the Trust must, regardless of whether such documents are kept in book form or not, be retained and carefully preserved by the Trustees for a period of 5 (five) years after the date of the last entry in any book or document.

PART FIVE – CHANGE AND END

22 CHANGING THE TRUST DEED

The Trustees may change the Trust Deed but may not materially change the Object.

23 END OF TRUST

The Trustees may end the Trust at any time.

PART SIX – GENERAL

24 WHOLE TRUST DEED

This Trust Deed is the whole of the agreement between the Parties relating to the matters dealt with in this Trust Deed.

25 VARIATIONS TO BE IN WRITING

25.1 Any addition to, variation, deletion, or agreed termination of all or any provisions of this Trust Deed (including this clause 25) only operates if it is in writing.

25.2 All provisions of this Trust Deed are severable from each other, despite the way in which they have been grouped together or linked grammatically.

25.3 If any provision of this Trust Deed is or becomes unenforceable, whether due to voidness, invalidity, unlawfulness or for any other reason, then –

25.3.1 that provision must, only to the extent that it is so unenforceable, be treated as not having been written; and

25.3.2 the remaining provisions of this Trust Deed shall continue to operate.

25.4 It is the Parties' intention that this Trust Deed would be executed without the unenforceable provision if they were aware of the unenforceability at the Signature Date.

26 SIGNATURE

26.1 This Trust Deed may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same Trust Deed.

26.2 This Trust Deed is effective despite the fact that a Party has not initialled the pages of this Trust Deed and/or has not had its signature of this Trust Deed verified by a witness.

SIGNED at *Cape town* on *9 December* 2014



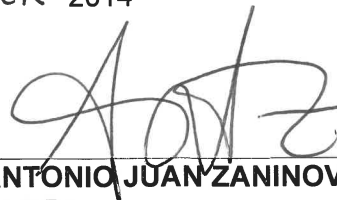
**CARMEN ELENA PALOMO MEZA
TRUSTEE AND FOUNDER**

SIGNED at *CAPE TOWN* on *9 DECEMBER* 2014



**ROGER MICHAEL RAAD
TRUSTEE**

SIGNED at *CAPE TOWN* on *09 DECEMBER* 2014



**ANTONIO JUAN ZANINOVIC
ALDEA
TRUSTEE**