

**CONSTITUTION
OF THE
ENGLISH LUTHERAN FELLOWSHIP
(LUTHERAN CONFESSION)**

**Congregation
RANDBURG**

FOUNDED 1990



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1 **Name of the Congregation**
The name of the congregation is:
English Lutheran Fellowship (Lutheran Confession),
Congregation” (who is hereinafter referred to as the
Congregation).

2 **Principles**

2.1 **Doctrine and Confessions**

2.1.1 Because the Holy Scriptures in their entirety are the inspired
Word Of God which shows us the way to the Triune God
and to eternal life, we intend to adhere steadfastly to God's
Word as the sole source and guide of our faith and doctrine.

2.1.2 Accordingly, no doctrines shall be valid in our Church other
than the Word Of God as it is revealed by the Holy Spirit
through the Prophets as well as through Christ and His
Apostles and as expounded and witnessed in the creeds
and confession of faith by the Evangelical Lutheran Church,
namely, The Apostolic, the Nicene and the Athanasian
Creeds, Dr Martin Luther's Large and Small Catechisms, the
Unaltered Augsburg Confession, together with its Apology,
the Smalcald Articles and the Formula of Concord.

2.2 **Duty and Commission of the Congregation**

2.2.1 The Congregation shall regard Worship, Edification,
Evangelisation and Charity as essential duties in Christian
Life and Work. Its purpose is to make use of the Means of
Grace in public teaching and worship; to exhort all members
to cultivate family worship and private study of the Word of
God; to be Christian witnesses in word and deed, and to
seek opportunities for mutual edification, both spiritually and
materially. Thus we shall try to win the unsaved for Christ

our Lord, to keep the believer in Christ and to recall the backslider to Christ.

2.3 **Association of the Congregation with Synod**

The Congregation is an independent member congregation of the Free Evangelical-Lutheran Synod in South Africa (FELSISA) and acknowledges and subordinates itself to its ecclesiastical doctrines and regulations.

3 **Congregational Membership**

3.1 **Membership within the Congregation**

All who have been baptised in the name of the triune God and affirm the principles of the Congregation can acquire membership.

3.2 **Admission**

All persons wishing to be admitted as members, are required to be handed a copy of 1. The Synodical Constitution, 2. The Constitution of ELF, and 3. A short guideline to the Church Life and Responsibilities of a member of the congregation. Whereafter each new member is to sign such an agreement as to bind themselves to the Constitutions of the FELSISA, ELF and the Guidelines to Church Life.

This paragraph does not disallow any member, after having joined the congregation and through the proper channels, to bring to the attention of the Pastor, the Church Council and thereby, the Congregation, and if deemed necessary and passed by Constitutional vote requirements, to implement/or cause to be put in place any change in the Constitutions that they deem contrary to Scripture.

3.2.1 The admission of members from other congregations of the FELSISA or from other Evangelical Lutheran Churches in fellowship with the FELSISA is done according to a

prescribed procedure of transfer of membership. The admission of membership is announced during a public church service.

3.2.2 Members of other churches, as well as persons, who do not belong to a Christian church, are upon request of membership, if necessary instructed in the doctrines of the Evangelical Lutheran Church. Their intention to join the Congregation is announced in a church service. Membership follows by their participation in Holy Communion.

3.2.3 **Obligations and privileges**

- a) By virtue of their membership members of the Congregation are obliged to regularly participate in the church services and Holy Communion;
- b) to participate in the mission directive of the church of Jesus Christ;
- c) to regular participation of the children in the Christian instruction offered by the Congregation;
- d) to regular offerings and gifts for the Congregation, synod and mission; to participation and co-operation in the activities of the Congregation;
- e) to affirm and endorse the constitution of the Congregation.

3.2.4 The rights and privileges of a member of the Congregation may be partly or wholly suspended if a reason for the imposition of fraternal discipline is submitted. The corresponding discipline regulations of the FELSISA govern the maintenance of discipline in the Congregation.

3.3 **Termination of Membership**

3.3.1 Membership is terminated

- a) by transfer of membership to another congregation affiliated to the FELSISA or a Lutheran Church in fellowship with the FELSISA.
- b) when a member wishes to relinquish his/her membership.
- c) by self-expulsion. Self-expulsion may apply when over a period of two years a person neither attends a church service nor participates in Holy Communion.
- d) by expulsion. Expulsion may apply to matters of Fraternal Discipline(3.2.4) or when a person, by word and/or deed: publically causes dissension or discord within the congregation; despises or insults the Christian faith; publically, continually and consciously trespasses against God's Commandments; or defames God's glory.

3.3.1 In the case of intended termination of membership, the pastor should be informed personally. The termination is ratified by a written confirmation from the Congregation.

3.3.2 With the cessation of membership all rights and obligations of membership to the Congregation cease. Rights and obligations concerning legal transactions remain intact.

4 Structures of the Congregation

4.1 The structures of the Congregation are the church council and the congregational meeting

4.2 The Congregation is managed by the Church Council. Its members are the office bearers of the Congregation.

4.3 The Congregation determines the powers and functions of the Church Council.

5 The Church Council

Members of the church council are:

- a) The pastor who has been called to minister to the congregation:
- b) The church council members elected by the congregational meeting.

5.1 The Pastor

5.1.1 With the calling of the pastor the Congregation acts in accordance with the applicable regulations of the FELSISA.

5.1.2 The pastor, as the bearer of the spiritual authority, is obliged in accordance with this calling to administer the Word and Sacrament and thereby assume the spiritual leadership of the Congregation.

5.1.3 The conditions of service for the pastor are stipulated by the service regulations of the FELSISA.

5.2 The Church Councillors

5.2.1 Election of Church Councillors

5.2.1.1 Eligible to be elected as church councillors are those members who have the right to vote in the Congregation; who are over the age of 21 years, have proved themselves with their mode of life to be faithful Christians and are willing and able to represent the ecclesiastical standpoint of the FELSISA.

5.2.1.2 The election of church councillors takes place during the annual general meeting. Every second year one half of the councillors are elected for a term of four years. Councillors whose term have expired are eligible for re-election.

5.2.1.3 Church councillors are to be nominated in writing by not later than one week before the annual general meeting. They are informed of their nomination. If for whatever reason they cannot accept their nomination, they need to inform the pastor personally *before* the annual general meeting.

5.2.1.4 The election takes place by secret ballot.

5.2.1.5 The (three) nominees receiving the highest number of votes are eligible for the second ballot. The (two) persons receiving the highest number of votes are elected as councillors.

5.2.2 **Number, Installation and Duration of Office of the Church Councillors**

5.2.2.1 The Congregation elects and / or the church council co-opts church councillors as needed. Councillors are inducted in their office during a church service.

5.2.2.2 The term of office of a church councillor ends with the induction of his successor.

5.2.2.3 The office of the church councillor is an honorary office.

5.2.3 **Duties and Responsibilities of Church Councillors**

5.2.3.1 As assistant to the pastor the church councillor has the responsibility to ensure that the pure and unadulterated Gospel is proclaimed to the Congregation, that the Congregation conducts its affairs in a God-fearing way and that Christian and church customs are maintained in the Congregation.

5.2.3.2 The church councillor has to minister to and care for the afflicted and imperilled, the poor and the sick, the widows and orphans with word and deed in humility and sincerity. The church councillor co-advises in all matters concerning the church.

5.2.3.3 The church councillor must regard as private and confidential all those matters and concerns made known to him in his capacity as councillor which, by their very nature, require this, or where this is applicable even after his term of office has expired.

5.3 **Duties of the Church Council**

5.3.1 The Church Councils duty is to achieve the objectives referred to in paragraph 2.2 of this constitution. Its activities must be in accordance with the law.

5.3.2 In addition to the previously mentioned duties of the pastor (5.1.2) and the church councillors (5.2.3) the council must above all:

- a) Ensure that the resolutions taken at the congregational meetings are implemented;
- b) Support the work and activities of the various committees and organisations of the Congregation, with particular emphasis on the activities of the youth and the service of the church choirs;
- c) Ensure that quarrels and discord in the Congregation are resolved promptly and in a fraternal fashion;
- d) Within the framework of the regulations of the Congregation determine the use of the church buildings;
- e) Manage the congregational assets;
- f) Represent the Congregation in public.

5.3.3 From time to time the church council will nominate and appoint one or more of its members to act as trustees of the Congregation.

5.3.4 The church council may delegate individual church councillors or members of the Congregation to perform specific duties.

5.4 **Meetings of the Church Council**

5.4.1 **Chairmanship**

The chairman is elected by the church council. In the event of an unavoidable absence, another chairman is elected by those present at the meeting.

5.4.2 **Convening of meetings**

The chairman as a rule convenes a church council meeting once a month or as often as is deemed necessary.

5.4.3 **Attendance of meetings**

5.4.3.1 Church council meetings are closed meetings.

5.4.3.2 The church council may second to its meeting without vote the following:

- a) Co-workers of the church in matters relating to their specific fields or tasks,
- b) Persons whose participation is relevant and appropriate.

5.4.4 **Professional Confidentiality**

Persons invited to participate in the deliberations of the church council must maintain the same professional confidentiality as is applicable to the church council unless another arrangement has been made.

5.4.5 **Quorum and Competence to pass Resolutions**

5.4.5.1 The church council constitutes a quorum when all members were notified of the meeting and a minimum of three members are present.

5.4.5.2 Resolutions are taken by a simple majority, should the votes be tied, the motion is considered to be rejected.

5.4.5 **Minutes**

Minutes of the Church Council meeting must be recorded, accepted as a true record of proceedings and be signed by the chairman and the secretary.

6 **Congregational Meetings**

6.1 **Chair**

The pastor is the chairman of the congregational meeting. In the event of an unavoidable absence the church council elects a chairman.

6.2 **Participation**

6.2.1 All confirmed members of the Congregation may attend and are invited to speak at congregational meetings.

6.2.2 The church council may invite guests to attend the congregational meetings. They are entitled to participate in the discussions but have no vote.

6.3 **Entitlement to Vote**

Members of the Congregation who have turned 18 years of age and have been admitted to the Holy Sacrament of the Altar have full voting rights.

6.4 **Notice of Meetings**

- 6.4.1 A congregational meeting is convened once a year as the Annual General Meeting (AGM). Further meetings may be called according to need.
- 6.4.2 A congregational meeting may be convened at any time by the chairman. It must also be convened if the church council deems it necessary or if a written motion in this regard is submitted by at least ten members with voting rights.
- 6.4.3 Notice of all congregational meetings must be given by the chairman by an announcement during a public church service on two consecutive Sundays.

6.5 **Motions**

- 6.5.1 Motions for congregational meetings must be submitted in writing with a motivation to the church council prior to the deadline pre-determined by the date of the notice.
- 6.5.2 All motions must at the latest be made known on the Sunday preceding the meeting.
- 6.5.3 Motions, which are submitted after the date, may be included on the agenda under General as miscellaneous motions, provided they were tabled at the commencement of the meeting. If accepted they come into force 14 days after the meeting if neither the church council nor 5 members of the Congregation with voting rights have lodged an objection.
- 6.5.4 The church council must ensure that motions are relevant and pertinent. Should motions be irrelevant, the church council must confer with the person submitting the motion so that the motion can either be amended or withdrawn.

- 6.5.5 Motions serving as complaints against individuals are not accepted.

6.6 **Control**

If a member conducts himself in an unbecoming manner at a congregational meeting he must be called to order. If he does not comply, he must leave the meeting and forfeit his voting rights for that specific meeting.

6.7 **Decision Competence and Decision Taking**

- 6.7.1 The congregational meeting is competent to take decisions if it is constituted according to the regulations.
- 6.7.2 The congregational meeting takes decisions with a simple majority unless otherwise decreed by the regulations. In the event of a tie the motion is rejected.

6.8 **Voting and Election Procedures**

- 6.8.1 Voting usually takes place by a public show of hands. It will however be by secret ballot if the regulations prescribe it, the church council recommends it and the meeting decides that this procedure should be followed.
- 6.8.2 As a rule elections are decided by secret ballot. They may however take place by public show of hands only if (a) the required number of candidates has been nominated, (b) the candidates are absent during the election, or (c) when the meeting unanimously decide to do so.

6.9 **Representation at Synod**

- 6.9.1 The congregational meeting elects a congregational delegate and an English-Afrikaans District delegate for two synodical periods (four years). Re-election is possible. The

congregational delegate represents the Congregation at the Synodical Convention and the English-Afrikaans District delegate represents the Congregation at the English-Afrikaans District meetings.

6.10 **Committees and Boards**

6.10.1 The congregational meeting may appoint committees for special tasks or functions and appoint members to these offices. The meeting may also authorise the church council to establish these.

6.10.2 All committees and members of these committees are accountable to the Congregation. At the annual general meeting (AGM) they report on their activities.

6.11 **Minutes of congregational meetings**

6.11.1 The annual general meeting elects a secretary who will be responsible for taking the minutes for that year.

6.11.2 All minutes of congregational meetings must be recorded, accepted as a true record of proceedings and be signed by the chairman and the secretary.

7 **Legal Competence and Status**

7.1 The Congregation is a legal entity, independent of changes in its membership or office bearers and entitled to acquire rights, enter into commitments and liabilities and sue or to be sued in a court of law under its own name.

7.2 Without in any way limiting the legal competence by the enumeration of the following powers, the Congregation can in the performance of its duties:

- a) Purchase, rent, loan, acquire and own movable and immovable assets, as well as sell, dispose, encumber or otherwise alienate, furnish as security for its own purpose, rent, lease and loan the above, subject to 9.3.8 below.
- b) Accept movable and immovable assets, which are bestowed by donations or legacy, acquire or accept other benefits in kind and cash, subject to 9.3.9 below.
- c) Conduct all other forms of legal transactions or business.

7.3 The seat and domicile of the Congregation is 367 West Ave, Ferndale, 2160.

7.4 The liability of members of the Congregation for the obligations of the Congregation is limited to the fulfilment of the commitment or contracts into which the Congregation has entered.

7.5 The Congregation shall only exercise its competence to acquire rights and benefits and enter into obligations as has become necessary for the implementation of its task.

7.6 The Congregation acts through the trustees who will also represent the Congregation in a court of law where they must act in accordance with the directives adopted at a congregational meeting.

7.7 Oral statements delivered before court, competent authorities or on other occasions are only legally binding if such statements are given by the chairman and one other member of the church council subject to prior consent having been given by the church council.

8 **Asset Management**

- 8.1 The Congregation shall keep a record of its assets.
- 8.2 The Congregation may not donate its assets, investments or property of whatever kind to its members or its office bearers. A member or office bearer may however be remunerated for services rendered to the Congregation provided however that payment must be reasonable and commensurable with the services that were rendered, subject to 9.3.12 below
- 8.3 A member of the Congregation shall only be refunded the expenses he or she has incurred on behalf of the Congregation.
- 8.4 The members or office bearers of the Congregation have no rights of ownership to the assets or property of the Congregation
- 8.5 All assets, movable and immovable, must be registered in the name of the Congregation and all documents required for the registration of property and the relevant proceedings must be signed by the trustees.
- 8.6 Enactments of whatever nature concerning movable and immovable property are legal if they are signed by the trustees in accordance with a congregational resolution.

9 **Financial Administration**

9.1 **Financial Income**

- 9.1.1 The Congregation derives its income from the voluntary offering taken every Sunday, from tithing, donations and

bequests from its members or other parties or from income derived from congregational property.

- 9.1.2 All income of the Congregation shall be deposited into the bank account of the Congregation.

9.2 **Budget and Audit**

- 9.2.1 The annual budget is prepared by the treasurer in consultation with the church council and presented to the Congregation (AGM) for approval.

- 9.2.2 The treasurer is elected by the church council. The treasurer should, if possible, be a member of the council.

- 9.2.3 The treasurer administers the congregational fund and keeps book of all income and expenditure. When unforeseen unbudgeted expenditure becomes necessary, the approval of the congregational meeting must be obtained. The approval of the church council suffices if the expenditure does not exceed 7.5% of the annual budget.

- 9.2.4 All bank accounts conducted by the Congregation must be audited on an annual basis by an auditor elected by the congregational meeting. The financial year extends from 1 March to the 28th of February.

- 9.2.5 The CONGREGATION'S financial statements shall be submitted to the Director of Nonprofit Organisations within six months after the end of each financial year.

- 9.2.6 All assets of the Congregation shall be invested with a registered financial institution. The Congregation may invest in securities listed in a licensed stock exchange as set out in the Stock Exchange Control Act, 1985, subject to 9.3.6 below.

9.3 **Application of the Provisions of Section 30(1) of the Income Tax Act 1962**

The following provisions contained in section 30(1) of the Act shall at all times apply and be adhered to while this congregation is in operation:

- 9.3.1 The sole object of the Congregation is to carry on a public benefit activity, which qualifies for purposes of the Act as defined in section 30(1) of the Act, in a non-profit manner and with an altruistic or philanthropic intent;
- 9.3.2 No activity will directly or indirectly promote the economic self-interest of any fiduciary or employee of the Congregation, otherwise than by way of reasonable remuneration payable to that fiduciary or employee;
- 9.3.3 At least 85 per cent of such activities, measured as either the cost related to the activities or the time expended in respect thereof, are carried out for the benefit of persons in the Republic, unless the Minister, having regard to the circumstances of the case, directs otherwise;
- 9.3.4 Where each activity carried on by the Congregation is for the benefit of, or is widely accessible to, the general public at large, including any sector thereof (other than small and exclusive groups); or each such activity carried on by the Congregation is for the benefit of, or is readily accessible to, the poor and needy; or the Congregation is at least 85 per cent funded by donations, grants from any organ of state or any grants from foreign governments or international organisations;
- 9.3.5 There shall at all times be at least 3 members who will accept fiduciary responsibilities and also shall not be connected persons to each other; and no single person

directly or indirectly controls the decision making powers relating to the Congregation;

- 9.3.6 No funds will be distributed to any person (other than in the course of undertaking any public benefit activity) and the funds of the Congregation will be utilised solely for the object for which it has been established, or to invest such funds
 - (a) with a financial institution as defined in section 1 of the Financial Services Board Act, 1990 (Act No.97 of 1990);
 - (b) in securities listed on a stock exchange as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985); or
 - (c) in such other prudent investments in financial instruments and assets as the Commissioner may determine after consultation with the Executive Officer of the Financial Services Board and the Director of Non-Profit Organisation:

Provided that the provisions of this paragraph shall not prohibit any such Congregation from retaining any investments (other than any investments in the form of a business undertaking or trading activity or asset which is used in such business undertaking or trading activity) in the form that it was acquired by way of donation, bequest or inheritance;

- 9.3.7 The Congregation shall on dissolution transfer its assets to similar public benefit organisation (having the same or similar objects), which has been approved in terms of section 30 of the Act; or any institution, board or body which is exempt from the payment of income tax in terms of section 10(1)(cA)(i) of the Act, which has as its sole or principal object the carrying on of any public benefit activity; or any department of state or administration in the national or provincial or local sphere of government of the Republic,

contemplated in section 10(1)(a) or (b) of the Income Tax Act.

- 9.3.8 The Congregation will not carry on any business undertaking or trading activities other than to the extent that:
- (a) The gross income derived from such business undertaking or trading activity does not exceed the greater of R25 000 or 15 per cent of the gross receipts of the Congregation;
 - (b) the undertaking or activity is
 - (i) integral and directly related to the sole object of Congregation; and
 - (ii) carried out or conducted on a basis substantially the whole of which is directed towards the recovery of cost; and
 - (iii) which would not result in unfair competition in relation to taxable entities;
 - (c) the undertaking or activity, if not integral and directly related to the sole object of the Congregation, is of an occasional nature and undertaken substantially with assistance on a voluntary basis without compensation; or;
 - (d) the undertaking or activity is approved by the Minister by notice in the Gazette, having regard to-
 - (i) the scope and benevolent nature of the undertaking or activity;
 - (ii) the direct connection and interrelationship of the undertaking or activity with the sole purpose of the Congregation;
 - (iii) The profitability of the undertaking or activity; and
 - (iv) The level of economic distortion that may be caused by the tax-exempt status of the Congregation carrying out the undertaking or activity.

- 9.3.9 No donations will be accepted which is revocable at the instance of the donor for reasons other than 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), 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.
- 9.3.10 A copy of any amendments to the Constitution shall be submitted to the Commissioner for the South African Revenue Service.
- 9.3.11 The Congregation will not knowingly 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 become payable by any person under the Income Tax Act or any other Act administered by the Commissioner.
- 9.3.12 No remuneration as defined in the Fourth Schedule of the Income Tax Act, will be paid to any employee, office bearer, member 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 has not and will not economically benefit any person in a manner which is not consistent with its objects;
- 9.3.13 The Congregation will comply with such reporting requirements as may determined by the Commissioner.

- 9.3.14 In the case of the Congregation providing funds to any association of persons contemplated in paragraph 10 (iii) of Part 1 of the Ninth Schedule, of the Income Tax Act, reasonable steps will be taken to ensure that the funds are utilized for the purposes for which it has been provided.
- 9.3.15 The Congregation will, within such period as the Commissioner may determine, register in terms of section 13(5) of the Nonprofit Organisations Act, 1997 (Act No. 71 of 1997), and comply with any other requirements imposed in terms of that Act, unless the Commissioner in consultation with the Director of Nonprofit Organisations designated in terms of section 8 of the Nonprofit Organisations Act, 1997, on good cause shown, otherwise directs.
- 9.3.16 The Congregation will not use its resources directly or indirectly to support, advance or oppose any political party.

10 **Disbandment**

- 10.1 The Congregation can only be disbanded by an extraordinary congregational meeting, specifically constituted for this purpose. The resolution is only binding if at least two-thirds of the members with voting rights are present and two-thirds of these cast their vote in favour of the disbandment of the Congregation.
- 10.2 If the decision has been taken to disband the Congregation a committee must be appointed to implement the dissolution according to 9.3.7 above.
- 10.3 If the Congregation is disbanded, or leaving or ceasing to be a member of the Free Evangelical Lutheran Synod in South Africa (FELSISA), the immovable property registered in the name of the Congregation, Erf 000201/001, Randburg, shall revert and be transferred to and registered in the name of the FELSISA, which also enjoys income tax exemption.

- 10.4 Assets remaining after the liquidation must be transferred to a congregation or church with the same confessional belief as that of the Evangelical Church (Lutheran Confession), The English Lutheran Fellowship Congregation, which also enjoys income tax exemption.

11 **Final Stipulations**

- 11.1 The doctrinal basis and the confessional subscription as contained in Article 2.1 the objectives of the Congregation as contained in Article 2.2 may not be altered.
- 11.2 On condition that the congregation is notified during a public church service on two consecutive Sundays, the congregational meeting has the right to add to, amend, cancel or renew any paragraph of the existing constitution by a two-thirds majority vote of members present.
- 11.3 An affirmative majority of two-third of the members present, including the votes submitted in writing, is necessary.
- 11.4 This constitution was amended to provide for changed circumstances and it was agreed and accepted by the congregational meeting at Randburg on 17th April 2005.