

THE COMPANIES ACT, NO. 71 OF 2008

(AS AMENDED)

MEMORANDUM OF INCORPORATION

OF

ECSPONENT LIMITED

A PUBLIC COMPANY

REGISTRATION NUMBER: 1998/013215/06

REGISTRATION DATE: 08 JULY 1998

ADOPTION

This Memorandum of Incorporation was adopted
by special resolution of the Shareholders on 27 MAY 2020



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SCHEDULES

SCHEDULE 1: CLASSES OF SHARES

SCHEDULE 2A: PREFERENCES, RIGHTS, LIMITATIONS AND OTHER TERMS ASSOCIATED WITH THE CLASS A, B ,C AND E OF PREFERENCE SHARES

SCHEDULE 2B: PREFERENCES, RIGHTS, LIMITATIONS AND OTHER TERMS ASSOCIATED WITH CLASS D AND G OF PREFERENCE SHARES



1 **INTERPRETATION**

1.1 In this Memorandum of Incorporation, unless the context clearly indicates a contrary intention, the following words and expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings –

1.1.1 "**Act**" means the Companies Act, No. 71 of 2008, as amended, consolidated or re-enacted from time to time, and includes all schedules to, and the regulations published in terms of, such Act;

1.1.2 "**Board**" or "**Directors**" means the board of Directors from time to time of the Company;

1.1.3 "**Certificated Securities**" means Securities issued by the Company that are not Uncertificated Securities;

1.1.4 "**Central Securities Depository**" has the meaning set out in section 1 of the Securities Services Act;

1.1.5 "**Commission**" means the Companies and Intellectual Property Commission established in terms of the Companies Act;

1.1.6 "**Companies Tribunal**" means the Companies Tribunal established by section 193 of the Act;

1.1.7 "**Company**" means the company named on the first page of this document, duly incorporated under the registration number endorsed thereon;

1.1.8 "**Director**" means a member of the Board as contemplated in section 66 of the Act, or an alternate director, and includes any person occupying the position of a director or alternate director, by whatever name designated;

1.1.9 "**Electronic Communication**" has the meaning set out in the Electronic Communications and Transactions Act, No 25 of 2002;



- 1.1.10 **"IFRS"** means the International Financial Reporting Standards, as adopted from time to time by the Board of the International Accounting Standards Board (IASB), or its successor body, and approved for use in South Africa from time to time by the Financial Reporting Standards Council (FRSC) established in terms of the Act;
- 1.1.11 **"JSE"** means the exchange, licensed under the Security Services Act, operated by JSE Limited (Registration number 2005/022939/06), a public company duly incorporated in South Africa;
- 1.1.12 **"JSE Listings Requirements"** means the JSE Listings Requirements as published and applicable from time to time;
- 1.1.13 **"Odd-Lot"** means any total holding by a securities holder of less than 100 (one hundred) securities (or such other number as may be permitted by the JSE), or any total holding by a securities Holder of 100 (one hundred) Securities (or such other number as may be permitted by the JSE) or more, provided that it can be illustrated to the JSE that the cost associated with a securities Holder disposing of such number of Securities is equal to or exceeds the total value of such number of Securities;
- 1.1.14 **"Odd-Lot Holdings"** means holdings by securities holders of Odd-Lots;
- 1.1.15 **"Odd-Lot Offer"** means an offer by the Company to the holders of Odd-Lots
- 1.1.16 **"Office"** means the registered office of the Company;
- 1.1.17 **"Participant"** has the meaning set out in the Securities Services Act;
- 1.1.18 **"Prescribed Officer"** has the meaning attributable thereto in section 1 of the Act;
- 1.1.19 **"Regulations"** means the regulations published in terms of the Act from time to time;

- 1.1.20 **"Securities"** means -
- 1.1.20.1 any shares, notes, bonds, debentures or other instruments, irrespective of their form or title, issued, or authorised to be issued, by the Company; or
- 1.1.20.2 anything falling within the meaning of "securities" as set out in the Securities Services Act; and
- 1.1.20.3 the word "Securities" has the same meaning as the word "Share", as the context requires;
- 1.1.21 **"Securities Register"** means the register of issued Securities of the Company required to be established in terms of the Act;
- 1.1.22 **"Securities Services Act"** means the Securities Services Act, No 36 of 2004, including any amendment, consolidation or re-enactment thereof;
- 1.1.23 **"SENS"** means the Securities Exchange News Service established and operated by the Issuer Regulation Division of the JSE;
- 1.1.24 **"Share"** has the same meaning as "Securities", as the context requires, and means one of the units into which the proprietary interest in the Company is divided, which shall include the ordinary Shares referred to in clause 6 unless specifically otherwise provided;
- 1.1.25 **"Shareholder"** means the holder of a Share who is entered as such in the Securities Register;
- 1.1.26 **"Solvency and Liquidity Test"** has the meaning attributed thereto in terms of the Act;
- 1.1.27 **"South Africa"** means the Republic of South Africa;
- 1.1.28 **"Sub-register"** means the record of Uncertificated Securities administered and maintained by a Participant, which forms part of the Securities Register in terms of the Act;

- 1.1.29 **"Transfer Office"** means in respect of Certificated Securities, the Office and any office maintained for the purpose of receiving for registration transfer of Shares or other Securities;
- 1.1.30 **"Uncertificated Securities"** means any "securities" defined as such in terms of the Act and Securities Services Act; and
- 1.1.31 **"Uncertificated Securities Register"** means the record of uncertificated securities in terms of the Act administered and maintained by a Participant or Central Securities Depository, as determined in accordance with the rules of the Central Securities Depository, and which forms part of the Securities Register.
- 1.2 In this Memorandum of Incorporation, unless the context clearly indicates otherwise –
- 1.2.1 words and expressions defined in the Act and which are not defined herein shall have the meanings given to them in the Act;
- 1.2.2 a reference to the Act shall include reference to the Regulations;
- 1.2.3 a reference to a section by number refers to the corresponding section of the Act notwithstanding the renumbering of such section of the Act after the date on which this Memorandum of Incorporation is adopted by the Company;
- 1.2.4 a reference to a clause by number refers to a corresponding provision of this Memorandum of Incorporation;
- 1.2.5 clause headings are for convenience only and are not to be used in its interpretation;
- 1.2.6 an expression which denotes –
- 1.2.6.1 any gender includes the other genders;
- 1.2.6.2 a natural person includes a juristic person and *vice versa*; and
- 1.2.6.3 the singular includes the plural and *vice versa*;

- 1.2.7 if the due date for performance of any obligation in terms of this Memorandum of Incorporation is a day which is not a business day then (unless otherwise stipulated), the due date for performance of the relevant obligation shall be the immediately succeeding business day;
- 1.2.8 any words or expressions defined in any clause shall, unless the application of any such word or expression is specifically limited to that clause, bear the meaning assigned to such word or expression throughout the whole of this Memorandum of Incorporation;
- 1.2.9 any reference to a notice shall be construed as a reference to a written notice, and shall include a notice which is transmitted electronically in a manner and form permitted in terms of the Act.
- 1.3 Any reference in this Memorandum of Incorporation to –
- 1.3.1 "**days**" shall be construed as calendar days unless qualified by the word "**business**", in which instance a "**business day**" will be any day other than a Saturday, Sunday or public holiday as gazetted by the government of South Africa from time to time;
- 1.3.2 "**month**" shall be construed as months of the Gregorian calendar, unless the context requires otherwise;
- 1.3.3 "**law**" means any law of general application, as amended and re-enacted from time to time, and includes the common law and any statute, constitution, decree, treaty, regulation, directive, ordinance, by-law, JSE Listings Requirements, order or any other enactment of legislative measure of government (including local and provincial government) statutory or regulatory body which has the force of law;
- and
- 1.3.4 "**writing**" means legible writing and includes printing, typewriting, lithography or any other mechanical process, as well as any electronic communication in a manner and a form permitted in terms of the Act.

- 1.4 The words "**include**" and "**including**" mean "include without limitation" and "including without limitation". The use of the words "**include**" and "**including**" followed by a specific example or examples shall not be construed as limiting the meaning of the general wording preceding it.
- 1.5 Unless otherwise provided, defined terms appearing in this Memorandum of Incorporation in title case shall be given their meaning as defined, while the same terms appearing in lower case shall be interpreted in accordance with their plain English meaning.
- 1.6 Unless specifically otherwise provided, any number of days prescribed shall be determined by excluding the first and including the last day or, where the last day falls on a day that is not a business day, the next succeeding business day.
- 1.7 Where figures are referred to in numerals and in words, and there is any conflict between the two, the words shall prevail, unless the context indicates a contrary intention.
- 1.8 Any reference herein to "**this Memorandum of Incorporation**" shall be construed as a reference to this Memorandum of Incorporation as amended from time to time.

2 **JURISTIC PERSONALITY**

- 2.1 The Company is a pre-existing company as defined in the Act and, as such, continues to exist as a public company as if it had been incorporated and registered in terms of the Act, as contemplated in item 2 of the Fifth Schedule to the Act, and this Memorandum of Incorporation replaces and supersedes the Memorandum and Articles of Association of the Company applicable immediately prior to the filing hereof.
- 2.2 The Company is incorporated in accordance with and governed by -
- 2.2.1 the unalterable provisions of the Act and the JSE Listings Requirements;



- 2.2.2 the alterable provisions of the Act and the JSE Listings Requirements, subject to the limitation, extensions, variations or substitutions set out in this Memorandum of Incorporation; and
- 2.2.3 the provisions of this Memorandum of Incorporation.
- 2.3 The ordinary Shares of the Company are, as at the date on which this Memorandum of Incorporation is adopted, listed on the JSE. The Company may seek listings on such further securities exchanges as the Directors may consider appropriate from time to time subject to any necessary compliance requirements of the JSE Listings Requirements.

3 LIMITATION OF LIABILITY

No person shall, solely by reason of being an Incorporator, Shareholder or Director of the Company, be liable for any liabilities or obligations of the Company.

4 POWERS OF THE COMPANY

- 4.1 The Company has all of the legal powers and capacity contemplated in the Act and JSE Listings Requirements, and no provision contained in this Memorandum of Incorporation should be interpreted or construed as negating, limiting, or restricting those powers in any way whatsoever.
- 4.2 Without derogating from the provisions of clauses 4.1 and 4.2, the main business which the Company is to carry on, is that of a holding and investment company, and to carry on the business of an investment holding company.
- 4.3 Subject to any limitations imposed by the Act or JSE Listings Requirements, the management and control of any business of the Company shall be vested in the Directors who in addition to the powers and authorities expressly conferred upon them by this Memorandum of Incorporation, may exercise all such powers and do all such acts and things as may be exercised or done by the Company, and are not

hereby or by law expressly directed or required to be exercised or done by the Company in general meeting, but subject nevertheless to such management and control not being inconsistent with this Memorandum of Incorporation nor with any resolution passed by the Company in general meeting; but so that no such resolution shall invalidate any prior act by the Directors which would have been valid if such resolution had not been passed. The general powers given by this clause 4.4 shall not be limited or restricted by any special authority or power given to the Directors by any other clause of this Memorandum of Incorporation.

- 4.4 The Directors may arrange that any branch of the business carried on by the Company or any other business in which the Company may be interested, shall be carried on by or through one or more subsidiaries of the Company and they may, on behalf of the Company, make such arrangements as they think advisable for taking the profits or bearing the losses of any branch or business so carried on, or for financing, assisting or subsidising any such subsidiary or guaranteeing its contracts, obligations or liabilities.

5 **RESTRICTIVE CONDITIONS**

Other than section 15(3) of the Act, which is prohibited in accordance with the JSE Listings Requirements, this Memorandum of Incorporation does not contain any restrictive conditions applicable to the Company as contemplated in section 15(2)(b) or (c) of the Act.

6 **ISSUE OF SHARES AND VARIATION OF RIGHTS**

- 6.1 The Company is authorised to issue –
- 6.1.1 such number of ordinary Shares, of the same class, as set out in Schedule 1 hereto, each of which ranks *pari passu* in respect of all rights and entitles the holder to –



- 6.1.1.1 vote at any annual general meeting or general meeting, or as contemplated in clause 20.2, in person or by proxy, on any matter to be decided by the Shareholders of the Company and to 1 (one) vote in respect of each ordinary Share in the case of a vote by means of a poll;
- 6.1.1.2 participate proportionally in any distribution made by the Company; and
- 6.1.1.3 receive proportionally the net assets of the Company upon its liquidation;
- 6.1.2 such number of each of such further classes of Shares, if any, as are set out in Schedule 1 hereto subject to the preferences, rights, limitations and other terms associated with each such class set out therein.
- 6.2 The Company may from time to time by special resolution as contemplated in clause 6.3 below –
 - 6.2.1 the creation of any class of shares;
 - 6.2.2 the variation of any preferences, rights, limitations and other terms attaching to any class of shares;
 - 6.2.3 the conversion of one class of share into one or more other classes;
 - 6.2.4 the change of the name of the company;
 - 6.2.5 increase the number of authorised Shares of any class of the Company's Shares;
 - 6.2.6 consolidate and reduce the number of the Company's issued and authorised Shares of any class;
 - 6.2.7 subdivide its Shares of any class by increasing the number of its issued and authorised Shares of that class without an increase of its capital;

and such powers shall only be capable of being exercised by the Shareholders by way of a special resolution of the Shareholders.



- 6.3 The creation, authorisation and classification of Shares, the subdivision or consolidation of Shares, amendments to the numbers of authorised Shares of each class, the conversion of one class of Shares into one or more other classes of Shares, the conversion of Shares from par value to no par value and variations to the preferences, rights, limitations and other terms associated with any class of Shares as set out in this Memorandum of Incorporation may be changed only by an amendment of this Memorandum of Incorporation by special resolution and in accordance with the JSE Listings Requirements.
- 6.4 If a fraction of a Share comes into being as a result of any corporate action such fraction will be subject to compliance with the JSE Listings Requirements' rounding convention.
- 6.5 No Shares may be authorised in respect of which the preferences, rights, limitations or any other terms of any class of Shares may be varied in response to any objectively ascertainable external fact or facts as provided for in sections 37(6) and 37(7) of the Act.
- 6.6 The Board has control over all unissued shares per class and may, subject to clause 6.10, resolve to issue Shares of the Company at any time and, where applicable, list such Shares on the applicable JSE market ("listing") if:
- 6.6.1 the issue is within a class, and to the extent that such Shares have been authorised by or in terms of this Memorandum of Incorporation, but not yet issued; and
- 6.6.2 the issue, and where applicable, listing, is in respect of a corporate action requiring JSE approval of a circular or application letter, only after obtaining such approval; or
- 6.6.3 the issue, and where applicable, listing, is in respect of a corporate action requiring JSE approval of a circular and application letter and shareholder approval of one or more resolutions relating thereto in accordance with the JSE Listings Requirements, only after obtaining all such approvals;

- 6.7 All issues of Shares for cash, including grants / issues of options and/or convertible securities, must be effected in accordance with the JSE Listings Requirements.
- 6.8 All Securities of the Company for which a listing is sought on the JSE must, notwithstanding the provisions of section 40(5), be issued as fully paid up and must be freely transferable.
- 6.9 Subject to any necessary approvals in terms of the Act and/or the JSE Listings Requirements, including relevant shareholder approval where required, and subject to clause 6.10, the Board may only issue unissued Shares to raise cash or to settle outstanding liabilities or expenses if such Shares are issued in terms of a JSE approved **rights offer** to existing shareholders on a pro rata basis or an **issue of shares for cash**. However, the Board may issue Shares, in accordance with the Act and the JSE Listings Requirements, as consideration for the acquisition of assets by the Company without effecting a **rights offer** or **issue of shares for cash**.
- 6.10 Notwithstanding the provisions of clauses 6.2 and 6.9 of this Memorandum, any issue of Shares, Securities convertible into Shares, or rights exercisable for Shares in a transaction, or a series of integrated transactions shall, in accordance with the provisions of section 41(3) of the Act, require the approval of the Shareholders by special resolution if the voting power of the class of Shares that are issued or are issuable as a result of the transaction or series of integrated transactions will be equal to or exceed 30% (thirty percent) of the voting power of all the Shares of that class held by Shareholders immediately before that transaction or series of integrated transactions.
- 6.11 Except to the extent that any such right is specifically included as one of the rights, preferences or other terms upon which any class of Share is issued or as may otherwise be provided in this Memorandum of Incorporation in accordance with the JSE Listings Requirements, no Shareholder shall have any pre-emptive or other similar preferential right to be offered or to subscribe for any additional Shares issued by the Company.

7 CERTIFICATED AND UNCERTIFICATED SECURITIES

- 7.1 Securities of the Company are to be issued in certificated or uncertificated form, as shall be determined by the Board from time to time. Except to the extent otherwise provided in the Act, the rights and obligations of Security holders shall not be different solely on the basis of their Securities being Certificated Securities or Uncertificated Securities and each provision of this Memorandum of Incorporation applies with respect to any Uncertificated Securities in the same manner as it applies to Certificated Securities, unless otherwise stated or indicated by the context.
- 7.2 Any Certificated Securities may cease to be evidenced by certificates and thereafter become Uncertificated Securities, if so determined by the Board.
- 7.3 Any Uncertificated Securities may be withdrawn from the Uncertificated Securities Register, and certificates issued evidencing those Securities at the election of the holder of those Uncertificated Securities. A holder of Uncertificated Securities, who elects to withdraw all or part of the Uncertificated Securities held by it in an Uncertificated Securities Register, and obtain a certificate in respect of those withdrawn Securities, may so notify the relevant Participant or Central Securities Depository as required by the rules of the Central Securities Depository.
- 7.4 After receiving notice from a Participant or Central Securities Depository, as the case may be, that the holder of Uncertificated Securities wishes to withdraw all or part of the Uncertificated Securities held by it in an Uncertificated Securities Register, and obtain a certificate in respect thereof, the Company shall, in accordance with the provisions of the Act
-
- 7.4.1 enter the relevant Security holder's name and details of its holding of Securities in the Securities Register and indicate on the Securities Register that the securities so withdrawn are no longer held in uncertificated form; and
- 7.4.2 within the time periods specified in the Act, prepare and deliver to the

relevant person a certificate in respect of the Securities and notify the Central Securities Depository that the Securities are no longer held in uncertificated form.

- 7.5 The Company may charge a holder of its Securities a reasonable fee to cover the actual cost of issuing any certificate as contemplated in this clause 7.

8 SECURITIES REGISTER

8.1 The Company must establish or cause to be established a Securities Register in the form prescribed by the Act and the Regulations and maintain the Securities Register in accordance with the prescribed standards.

8.2 As soon as practicable after issuing any Securities the Company must enter or cause to be entered in the Securities Register, in respect of every class of Securities it has issued –

8.2.1 the total number of Uncertificated Securities;

8.2.2 with respect to Certificated Securities –

8.2.2.1 the names and addresses of the persons to whom the Certificated Securities were issued;

8.2.2.2 the number of Certificated Securities issued to each of them;

8.2.2.3 in the case of Securities other than Shares as contemplated in section 43 of the Act, the number of those Securities issued and outstanding and the names and addresses of the registered holders of the Securities and any holders of beneficial interests therein; and

8.2.2.4 any other prescribed information.

8.3 If the Company has issued Uncertificated Securities, or has issued Securities that have ceased to be Certificated Securities as contemplated in clause 7.2, a record must be administered and maintained by a Participant or Central Securities Depository, in the prescribed form, as the

Uncertificated Securities Register, which –

- 8.3.1 forms part of the Securities Register; and
- 8.3.2 must contain, with respect to all Uncertificated Securities contemplated in this clause 8, any details referred to in clause 8.2.2, read with the changes required by the context or as determined by the rules of the Central Securities Depository.
- 8.4 The Securities Register or Uncertificated Securities Register maintained in accordance with the Act shall be sufficient proof of the facts recorded in it, in the absence of evidence to the contrary.
- 8.5 Unless all the Shares rank equally for all purposes, the Shares, or each class of Shares, and any other Securities, must be distinguished by an appropriate numbering system.
- 8.6 A certificate evidencing any Certificated Securities of the Company –
 - 8.6.1 must state on its face –
 - 8.6.1.1 the name of the Company;
 - 8.6.1.2 the name of the person to whom the Securities were issued; and
 - 8.6.1.3 the number and class of Shares and designation of the series, if any, evidenced by that certificate;
 - 8.6.2 must be signed by 2 (two) persons authorised by the Board, which signatures may be affixed or placed on the certificate by autographic, mechanical or electronic means; and
 - 8.6.3 is proof that the named Security holder owns the Securities, in the absence of evidence to the contrary.
- 8.7 A certificate remains valid despite the subsequent departure from office of any person who signed it.
- 8.8 If, as contemplated in clause 8.5, all of the Shares rank equally for all purposes, and are therefore not distinguished by a numbering system –
 - 8.8.1.1 each certificate issued in respect of those Shares must be

distinguished by a numbering system; and

- 8.8.1.2 if the Share has been transferred, the certificate must be endorsed with a reference number or similar device that will enable each preceding holder of the Share in succession to be identified,

provided that in terms of Schedule 5 of the Act, the Company is a pre-existing company (as defined in the Act), the failure of any Share certificate to satisfy the provisions of clauses 8.6 to 8.8 is not a contravention of the Act and does not invalidate that certificate.

- 8.9 Every person whose name is entered as a Shareholder in the Securities Register shall be entitled, without payment, to receive within 1 (one) month after allotment or 21 (twenty one) days after lodgement of transfer one certificate for all his Shares of any one class, or several certificates each for 1 (one) or more of his Shares of such class upon payment of such sum not exceeding the amount provided for in the Act for every certificate after the 1st (first) certificate, as the Directors shall from time to time determine. Every certificate of Shares shall specify the number of Shares in respect of which it is issued. Any Shareholder who has transferred a part of his holding of Shares of any class shall be entitled to receive a certificate free of charge for the balance of his holding, provided that, notwithstanding anything contained in this Memorandum of Incorporation or implied to the contrary, where Shares are registered in the names of two or more persons they shall be treated as one Shareholder for the purposes of this clause 8.9.

- 8.10 If a Share certificate is defaced, lost or destroyed, it may be replaced on such terms (if any) as to evidence, indemnity and payment of the out-of-pocket expenses of the Company of investigating such evidence and, in the case of loss or destruction, of advertising the same, as the Directors may think fit and, in the case of defacement, on delivery of the old certificate to the Company.
- 8.11 The certificate for Shares registered in the names of 2 or more persons shall be delivered to the person 1st (first) named in the Securities Register in respect thereof, or to his authorised agent, and in case of the death of any one or more of the joint registered holders of any Shares, the survivor then 1st (first) named in the Securities Register shall be the only person recognised by the Company as being entitled to such certificate, or any new certificate which may be issued in place thereof, provided always that the Company shall not be bound to register more than 4 (four) persons as the holders of any Share.

9 TRANSFER OF SECURITIES

- 9.1 The instrument of transfer of any Certificated Securities which are not listed on the JSE shall be signed by both the transferor and the transferee and the transferor shall be deemed to remain the holder of such Certificated Securities until the name of the transferee is entered in the Securities Register. The Directors may, however, in their discretion in such cases as they deem fit, dispense with requiring the signature of the transferee on the instrument of transfer.
- 9.2 Subject to such restrictions as may be applicable, (whether by virtue of the preferences, rights, limitations or other terms associated with the Securities in question), any Shareholder or holder of other Securities may transfer all or any of its Certificated Securities by instrument in writing in any usual or common form or any other form which the Directors may approve.

- 9.3 Every instrument of transfer shall be delivered to the principal place of business of the Company, accompanied by –
- 9.3.1 the certificate issued in respect of the Certificated Securities to be transferred; and/or
- 9.3.2 such other evidence as the Company may require to prove the title of the transferor, or his or her right to transfer the Certificated Securities.
- 9.4 All authorities to sign transfer deeds or other instruments of transfer granted by holders of Securities for the purpose of transferring Certificated Securities which may be lodged, produced or exhibited with or to the Company at its registered office or at its transfer office shall, as between the Company and the grantor of such authorities, be taken and deemed to continue and remain in full force and effect, and the Company may allow the same to be acted upon until such time as express notice in writing of the revocation of the same shall have been given and lodged at the Company's registered office or transfer office at which the authority was first lodged, produced or exhibited. Even after the giving and lodging of such notice, the Company shall be entitled to give effect to any instruments signed under the authority to sign and certified by any officer of the Company as being in order before the giving and lodging of such notice.
- 9.5 All instruments of transfer, when registered, shall either be retained by the Company or disposed of in such manner as the Directors shall from time to time decide.
- 9.6 The transfer of Uncertificated Securities may be effected only –
- 9.6.1 by a Participant or Central Securities Depository;
- 9.6.2 on receipt of an instruction to transfer sent and properly authenticated in terms of the rules of a Central Securities Depository or an order of a Court; and
- 9.6.3 in accordance with section 53 of the Act and the rules of the Central Securities Depository.

- 9.7 Transfer of ownership in any Uncertificated Securities must be effected by debiting the account in the Uncertificated Securities Register from which the transfer is effected and crediting the account in the Uncertificated Securities Register to which the transfer is effected, in accordance with the rules of the Central Securities Depository.
- 9.8 Securities transfer tax and other legal costs payable in respect of any transfer of Securities pursuant to this Memorandum of Incorporation will be paid by the Company to the extent that the Company is liable therefor in law, but shall, to that extent, be recoverable from the person acquiring such Securities.

10 **NO LIEN**

It is recorded for the avoidance of doubt that fully paid Securities shall not be subject to any lien in favour of the Company and shall be freely transferable.

11 **TRANSMISSION OF SECURITIES**

The executor of the estate of a deceased sole holder of a Security or the liquidator of an insolvent estate or the business rescue practitioner in respect of a business plan ("appointed person") shall be the only person recognised by the Company as having any title to such Security. In the case of a Security registered in the names of 2 (two) or more holders, the survivor or survivors, or the appointed person, as determined by the Board, shall be the only person recognised by the Company as having any title to the Security. Any appointed person who submits proof of his appointment shall be entered in the Securities Register *nomine officij*, and shall thereafter, for all purposes, be deemed to be a Securities Holder.

12 **SHARE OPTIONS**

Subject to the provisions of the Act and the JSE Listings Requirements, the Directors may issue Share options on such terms as they deem fit from time to time.

13 **DEBT INSTRUMENTS**

The Board may authorise the Company to issue secured or unsecured debt instruments as set out in section 43(2) of the Act, but no special privileges associated with any such debt instruments as contemplated in section 43(3) of the Act may be granted, and the authority of the Board in such regard is limited by this Memorandum of Incorporation.

14 **CAPITALISATION SHARES**

14.1 Subject to the provisions of Section 47 of the Act, clauses 6.9 and 6.10 of this Memorandum and compliance with the JSE Listings Requirements, to the extent applicable, the Board shall have the power and authority to –

14.1.1 approve the issuing of any authorised Shares as capitalisation Shares;

14.1.2 to issue Shares of one class as capitalisation Shares in respect of Shares of another class; and/or

14.1.3 subject to the provisions of clause 14.2, to resolve to permit Shareholders to elect to receive a cash payment in lieu of a capitalisation Share (“scrip dividend”).

14.2 The Board may not resolve to offer a cash payment in lieu of awarding a capitalisation share, as contemplated in clause 14.1.3, unless the Board –

14.2.1 has considered the Solvency and Liquidity Test as required by section 46 of the Act, on the assumption that every such Shareholder would elect to receive cash;

- 14.2.2 ensures that the relevant shareholders have the right of election to receive cash or shares;
- 14.2.3 is satisfied that the Company would satisfy the Solvency and Liquidity Test immediately upon the completion of the distribution.

15 **BENEFICIAL INTERESTS IN SECURITIES**

The Company's issued Securities may be held by, and registered in the name of, one person for the beneficial interest of another person as set out in section 56(1) of the Act.

16 **FINANCIAL ASSISTANCE**

Provided that any applicable provisions of the Companies Act and JSE Listings Requirements are complied with –

- 16.1 the Board may authorise the Company to provide financial assistance by way of loan, guarantee, the provision of security or otherwise to any person for the purpose of, or in connection with, the subscription of any option, or any Securities, issued or to be issued by the Company or a related or inter-related company, or for the purchase of any such securities of the Company or a related or inter-related company; and
- 16.2 the Board may authorise the Company to provide direct or indirect financial assistance to a Director or prescribed officer of the Company or of a related or inter-related company, or to a related or inter-related company or corporation, or to a member of a related or inter-related corporation, or to a person related to any such company, corporation, director, prescribed officer or member,

and the authority of the Board in this regard is not limited or restricted by this Memorandum of Incorporation.

17 **ACQUISITION BY THE COMPANY OF ITS OWN SHARES**

- 17.1 Subject to the JSE Listings Requirements and the provisions of the Act –
 - 17.1.1 the Board may determine that the Company acquire a number of its own Shares; and
 - 17.1.2 the board of any subsidiary of the Company may determine that such subsidiary acquire Shares of the Company, but –
 - 17.1.2.1 not more than 10% (ten percent), in aggregate, of the number of issued Shares of any class may be held by, or for the benefit of, all of the subsidiaries of the Company, taken together; and
 - 17.1.2.2 no voting rights attached to those Shares may be exercised while the Shares are held by that subsidiary and it remains a subsidiary of the Company.

18 **ODD-LOT OFFERS**

- 18.1 Subject to compliance with the JSE Listings Requirements and the provisions of the Act, the Board may affect any Odd-Lot offer as defined in the JSE Listings Requirements.
- 18.2 If, upon the implementation of any Odd-Lot Offer made by the Company, or pursuant to or following any Odd-Lot Offer made by the Company which is unconditional, and provided that the specific Odd-Lot Offer has been approved by ordinary shareholders in a general meeting, in accordance with the Listings Requirements of the JSE, and at a meeting of the holders of the class of securities which will be the subject matter of the Odd-Lot Offer, there are securities Holders with Odd-Lot Holdings, then, unless such securities Holders have elected to retain their Odd-Lot Holdings the Directors shall be entitled to cause the Odd-Lot Holdings to be repurchased on such basis as the Directors may determine and the Company shall account to such securities Holders for the proceeds attributable to them pursuant to the sale of such Odd-Lot Holdings.

- 18.3 All unclaimed proceeds (of such sales) may be invested or otherwise made use of by the Directors for the benefit of the Company until claimed, provided that such proceeds unclaimed for a period of 3 (three) years from the date on which the Directors caused the Odd-Lots to be sold may be declared forfeited by the Directors for the benefit of the Company.

19 **RECORD DATE FOR EXERCISE OF SHAREHOLDER RIGHTS**

The record date for the purpose of determining which Shareholders are entitled to –

- 19.1 receive notice of a Shareholders' meeting;
- 19.2 which shareholders are entitled to lodge proxies for a Shareholders' meeting;
- 19.3 participate in and vote at a Shareholders' meeting;
- 19.4 decide any matter by written consent or by Electronic Communication;
- 19.5 receive a distribution;
- 19.6 be allotted or exercise other rights; or
- 19.7 participate in and/or effect any entitlement any other corporate action,

shall be determined by the Board in compliance with the JSE Listings Requirements.

20 **SHAREHOLDERS' MEETINGS**

20.1 **Calling of Shareholders' meetings**

- 20.1.1 The Board, or any Prescribed Officer of the Company authorised by the Board, is entitled to call a Shareholders' meeting at any time.

- 20.1.2 The Company shall hold a Shareholders' meeting at any time that the Board is required by the Act, the JSE Listings Requirements or this Memorandum of Incorporation to refer a matter to Shareholders for decision;
- 20.1.3 All Shareholders' meetings called in terms of a corporate action contained in the JSE Listings Requirements must be held in person, unless a written resolution is permissible in terms of the JSE Listings Requirements, as amended from time to time;
- 20.1.4 Any Shareholders' resolution requiring relevant shareholder approval in terms of a corporate action not contained in the JSE Listings Requirements may be held in person or may be effected by way of section 60 of the Act;
- 20.1.5 The Board shall call a meeting of Shareholders if 1 (one) or more written and signed demands by Shareholders calling for such a meeting are delivered to the Company and –
- 20.1.5.1 each such demand describes the specific purpose for which the meeting is proposed; and
- 20.1.5.2 in aggregate, demands for substantially the same purpose are made and signed by the holders, as of the earliest time specified in any of those demands, of at least 10% (ten percent) of the voting rights entitled to be exercised in relation to the matter proposed to be considered at the meeting.
- 20.1.6 The proposal of any resolution to Shareholders in terms of Sections 20(2) and 20(6) of the Act are prohibited in the event that such a resolution would lead to the ratification of an Act that is contrary to the JSE Listings Requirements; unless otherwise agreed with the JSE.

20.2 **General meetings and Annual general meetings**

- 20.2.1 In accordance with the Act and the JSE Listings Requirements, in addition to other meetings of the Company that may be convened from time to time, the Company shall convene an annual general meeting of its Shareholders once in each calendar year, but no more than 15 (fifteen) months after the date of the previous annual general meeting.
- 20.2.2 The Company shall deliver notices of meetings, in accordance with any delivery mechanism contained in the Act, including section 6(9)(b), to each "certificated" Shareholder entitled to vote at such meeting and to each "uncertificated" Shareholder who has elected to receive such documents in accordance with the JSE Listings Requirements.
- 20.2.3 Subject to the provisions of the JSE Listings Requirements, and for as long as required in terms of the provisions of the Act, any such annual general meeting –
- 20.2.3.1 shall be capable of being held by Electronic Communication in accordance with the further provisions of this Memorandum of Incorporation; and
- 20.2.3.2 shall not be capable of being held in accordance with the provisions of clause 20.1.4.
- 20.2.4 Each annual general meeting of the Company contemplated in clause 20.2 shall provide for at least the following business to be transacted –
- 20.2.4.1 the presentation of the directors' report, audited financial statements for the immediately preceding financial year of the Company and an audit committee report;
- 20.2.4.2 the election of Directors, to the extent required by the Act and by the JSE Listings Requirements;
- 20.2.4.3 the appointment of an external auditor and an audit committee for the following financial year; and

- 20.2.4.4 when the Directors choose not to declare a dividend and instead recommend a dividend, the sanctioning of any such recommended dividend; and
- 20.2.4.5 any matters raised by Shareholders, with or without advance notice to the Company.
- 20.2.5 Save as otherwise provided herein, the Company is not required to hold any other Shareholders' meetings other than those specifically required by the Act and the JSE Listings Requirements.

20.3 **Location of and notices of meetings**

- 20.3.1 The Board may determine the location of any Shareholders' meeting, and the Company may hold any such meeting in South Africa or in any foreign country, and the authority of the Board and the Company in this regard is not limited or restricted by this Memorandum of Incorporation.
- 20.3.2 Every Shareholder's meeting shall be reasonably accessible within South Africa for electronic participation by Shareholders, irrespective of whether the meeting is held in South Africa or elsewhere.
- 20.3.3 All meetings (whether called for the passing of special or ordinary resolutions) shall be called on not less than 15 (fifteen) business days' notice.

20.4 **Quorum and adjournment of meetings**

20.4.1 The quorum for a Shareholders' meeting to begin or for a matter to be considered, shall be at least 3 (three) Shareholders entitled to attend and vote and present at the meeting. In addition –

20.4.1.1 a Shareholders' meeting may not begin until sufficient persons are present at the meeting to exercise, in aggregate, at least 25% (twenty-five percent) of the voting rights that are entitled to be exercised in respect of at least one matter to be decided at the meeting; and

20.4.1.2 a matter to be decided at a Shareholders' meeting may not begin to be considered unless sufficient persons are present at the meeting to exercise, in aggregate, at least 25% (twenty-five percent) of all of the voting rights that are entitled to be exercised in respect of that matter at the time the matter is called on the agenda.

20.4.2 The time periods specified in sections 64(4) and (5) of the Act apply to the Company without variation and, accordingly, if within 1 (one) hour after the appointed time for a meeting to begin, the requirements of clause 20.4.1 –

20.4.2.1 for that meeting to begin have not been satisfied, the meeting shall be postponed, without any motion, vote or further notice, for 1 (one) week;

20.4.2.2 for consideration of a particular matter to begin have not been satisfied –

20.4.2.2.1 if there is other business on the agenda of the meeting, consideration of that matter may be postponed to a later time in the meeting without any motion or vote; or

20.4.2.2.2 if there is no other business on the agenda of the meeting, the meeting shall be adjourned, without any motion or vote, for 1 (one) week,

provided that the person intended to chair a meeting that cannot begin due to the operation of clause 20.4.1 may extend the 1 (one) hour limit allowed in clause 20.4.2 for a reasonable period on the grounds that –

20.4.2.3 exceptional circumstances affecting weather, transportation or Electronic Communication have generally impeded or are generally impeding the ability of Shareholders to be present at the meeting; or

20.4.2.4 one or more particular Shareholders, having been delayed, have communicated an intention to attend the meeting, and those Shareholders, together with others in attendance, would satisfy the requirements of clause 20.4.1

20.4.3 The accidental omission to give notice of any meeting to any particular Shareholder or Shareholders shall not invalidate any resolution passed at any such meeting.

20.4.4 The Company shall not be required to give further notice of a meeting that has been postponed or adjourned in terms of clause 20.4.2.1 or 20.4.2.2 unless the location for the meeting is different from –

20.4.4.1 the location of the postponed or adjourned meeting; or

20.4.4.2 the location announced at the time of adjournment, in the case of an adjourned meeting.

20.4.5 Notwithstanding the provisions of clause 20.4.4, for so long as the Company's Securities are listed on the JSE, the Company shall release notice of any shareholders meeting on SENS in respect of any convened, postponed or adjourned meeting (whether postponed or adjourned in terms of clause 20.4.2.1 or otherwise).

- 20.4.6 If at the time appointed in terms of clause 20.4.2.1 for a postponed meeting to begin, or for an adjourned meeting to resume, the requirements of clause 20.4.1 have not been satisfied, the Shareholders present in person or by proxy will be deemed to constitute a quorum.
- 20.4.7 After a quorum has been established for a meeting, or for a matter to be considered at a meeting, all the Shareholders forming part of the quorum must be present at the meeting for the matter to be considered at the meeting.
- 20.4.8 The chairperson of a meeting may with the consent of a meeting at which a quorum is present (and must if the meeting resolves thus) adjourn the meeting from time to time and from place to place, but an adjourned meeting may only deal with matters which could legally be dealt with at the meeting on which the adjournment took place.
- 20.4.9 The maximum period allowable for an adjournment of a Shareholders' meeting is as set out in section 64(12) of the Act, without variation.

20.5 **Conduct of meetings**

- 20.5.1 The chairperson, or in his or her absence, the deputy chairperson, if any, of the Board shall preside as chairperson at every Shareholder's meeting.
- 20.5.2 If there is no such chairperson or deputy chairperson, or if at any meeting he or she is not present within 15 (fifteen) minutes after the time appointed for holding the meeting or is unwilling to act as chairperson, the Directors present shall choose 1 (one) of their number to be chairperson. If no Director is willing to act as chairperson or if no Director is present within 15 (fifteen) minutes after the time appointed for commencement of the meeting, the Shareholders present shall choose one of their number to be chairperson of the meeting.

- 20.5.3 The chairperson of a Shareholders' meeting may –
- 20.5.3.1 appoint any firm or persons to act as scrutineers for the purpose of checking any powers of attorney received and for counting the votes at the meeting;
- 20.5.3.2 act on a certificate given by any such scrutineers without requiring production at the meeting of the forms of proxy or himself counting the votes.
- 20.5.4 If any votes were counted which ought not to have been counted or if any votes were not counted which ought to have been counted, the error shall not vitiate the resolution, unless –
- 20.5.4.1 it is brought to the attention of the chairperson at the meeting; and
- 20.5.4.2 in the opinion of the chairperson of the meeting, it is of sufficient magnitude to vitiate the resolution.
- 20.5.5 Any objection to the admissibility of any vote (whether on a show of hands or on a poll) shall be raised –
- 20.5.5.1 at the meeting or adjourned meeting at which the vote objected to was recorded; or
- 20.5.5.2 at the meeting or adjourned meeting at which the result of the poll was announced,
- and every vote not then disallowed shall be valid for all purposes. Any objection made timeously shall be referred to the chairperson of the meeting, whose decision shall be final and conclusive.
- 20.5.6 Even if he is not a Shareholder –
- 20.5.6.1 any Director; or
- 20.5.6.2 the company's attorney (or where the company's attorneys are a firm, any partner or director thereof),
- may attend and speak at any Shareholders' meeting, but may not vote, unless he is a Shareholder or the proxy or representative of a Shareholder.

21 **SHAREHOLDERS' MEETINGS BY ELECTRONIC COMMUNICATION**

21.1 Subject to the provisions of the JSE Listings Requirements, the Company may conduct a Shareholders' meeting entirely by Electronic Communication or provide for participation in a meeting by Electronic Communication, as set out in section 63 of the Act, and the power of the Company to do so is not limited or restricted by this Memorandum of Incorporation. Accordingly –

21.1.1 any Shareholders' meeting may be conducted entirely by Electronic Communication, subject to voting be effected only in terms of lodged proxies; or

21.1.2 one or more Shareholders, or proxies for Shareholders, may participate, but not be able to vote, by Electronic Communication in all or part of any Shareholders' meeting that is being held in person,

so long as the Electronic Communication employed ordinarily enables all persons participating in that meeting to communicate concurrently with each other and without an intermediary, and to participate reasonably effectively in the meeting.

21.2 Any notice of any meeting of Shareholders at which it will be possible for Shareholders to participate by way of Electronic Communication shall inform Shareholders of the ability to so participate and shall provide any necessary information to enable Shareholders or their proxies to access the available medium or means of Electronic Communication, provided that such access shall be at the expense of the Shareholder or proxy concerned.

22 **VOTES OF SHAREHOLDERS**

22.1 Subject to any special rights or restrictions as to voting attached to any Shares by or in accordance with this Memorandum of Incorporation and the JSE Listings Requirements, at a Shareholders' meeting of the Company –

- 22.1.1 every person present and entitled to exercise voting rights shall be entitled to 1 (one) vote on a show of hands, irrespective of the number of voting rights that person would otherwise be entitled to exercise;
 - 22.1.2 on a poll any person who is present at the meeting, whether as a Shareholder or as proxy for a Shareholder, has the number of votes determined in accordance with the voting rights associated with the Securities held by that Shareholder; and
 - 22.1.3 the holders of Securities other than ordinary Shares, such as preference shares or other similar shares, but specifically excluding any shares specifically issued in respect of any black economic empowerment corporate action in compliance with the JSE Listings Requirements ("BEE Shares"), shall not be entitled to vote on any resolution at a meeting of Shareholders, except in accordance with the specific provisions contained in Clauses 10.5(c), (e), (f) and (h) of Schedule 10 of the JSE Listings Requirements, as varied, amended or renumbered from time to time.
- 22.2 Voting shall be conducted by means of a polled vote in respect of any matter to be voted on at a meeting of Shareholders if a demand is made for such a vote by –
- 22.2.1 at least 5 (five) persons having the right to vote on that matter, either as Shareholders or as proxies representing Shareholders; or
 - 22.2.2 a Shareholder who is, or Shareholders who together are, entitled, as Shareholders or proxies representing Shareholders, to exercise at least 10% (ten percent) of the voting rights entitled to be voted on that matter; or
 - 22.2.3 the chairperson of the meeting.
- 22.3 At any meeting of the Company a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded in accordance with the provisions of clause 22.2 of this Memorandum and unless a poll is so demanded, a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously or by a particular

majority or defeated, and an entry to that effect in the book containing the minutes of the proceedings of the Company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution. The demand for a poll may be withdrawn.

- 22.4 If a poll is duly demanded, it shall be taken in such manner as the chairperson directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. In computing the majority on the poll, regard shall be had to the number of votes to which each Shareholder is entitled.
- 22.5 In the case of an equality of votes, whether on a show of hands or on a poll, the chairperson of the meeting at which the show of hands takes place, or at which the poll is demanded, shall not be entitled to a second or casting vote.
- 22.6 A poll demanded on the election of a chairperson (as contemplated in clause 20.5.2) or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairperson of the meeting directs. The demand for a poll shall not prevent the continuation of a meeting for the transaction of any business other than the question upon which the poll has been demanded.
- 22.7 A person who is entitled to more than 1 (one) vote, does not have to exercise all his or her votes and does not have to exercise all his or her votes in the same manner.
- 22.8 Where there are joint registered holders of any Share, any 1 (one) of such persons may exercise all of the voting rights attached to that Share at any meeting, either personally or by proxy, as if he or she were solely entitled thereto. If more than 1 (one) of such joint holders is present at any meeting, personally or by proxy, the person so present whose name stands first in the Securities Register in respect of such Share shall alone be entitled to vote in respect thereof.
- 22.9 The board of any company or the controlling body of any other entity or person that holds any Securities of the Company may authorise any person to act as its representative at any meeting of Shareholders of the

Company, in which event the following provisions will apply –

- 22.9.1 the person so authorised may exercise the same powers of the authorising company, entity or person as it could have exercised if it were an individual holder of Shares; and
- 22.9.2 the authorising company, entity or person shall lodge a resolution of the directors of such company or controlling body of such other entity or person confirming the granting of such authority, and certified under the hand of the chairperson or secretary thereof, with the Company before the commencement of any Shareholders' meeting at which such person intends to exercise any rights of such Shareholder, unless excused from doing so by the chairperson of such meeting.

23 PROXIES AND REPRESENTATIVES

- 23.1 Any Shareholder may at any time appoint any natural person (or two or more natural persons concurrently), including a natural person who is not a Shareholder, as a proxy to –
 - 23.1.1 participate in, and speak and vote at, a Shareholders' meeting on behalf of that Shareholder; or
 - 23.1.2 give or withhold written consent on behalf of that Shareholder to a decision contemplated in section 60 of the Act,

provided that a Shareholder may appoint more than 1 (one) proxy to exercise voting rights attached to different Securities held by the Shareholder.

- 23.2 A proxy appointment –
 - 23.2.1 must be in writing, dated and signed by the Shareholder; and
 - 23.2.2 remains valid for –
 - 23.2.2.1 1 (one) year after the date on which it was signed; or
 - 23.2.2.2 any longer or shorter period expressly set out in the appointment,



unless it is revoked in a manner contemplated in the Act or expires earlier as contemplated in the Act.

- 23.3 The holder of a power of attorney or other written authority from a Shareholder may, if so authorised thereby, represent such Shareholder at any meeting of the Company and such holder shall deliver the power of attorney or other written authority (if any), or a copy thereof, to the Company before such holder exercises any rights of the Shareholder at a Shareholders' meeting. A Shareholder so represented at a meeting of the Company shall be deemed for purposes of this Memorandum of Incorporation to be a Shareholder who is present at the meeting.
- 23.4 All of the remaining provisions of the Act relating to the appointment and revocation of proxies and the rights of proxies generally shall apply and, in particular –
- 23.4.1 a Shareholder has the right to appoint 2 (two) or more persons concurrently as proxies as set out in section 58(3)(a) of the Act;
- 23.4.2 a Shareholder's proxy may delegate the proxy's powers to another person as set out in section 58(3)(b) of the Act;
- 23.4.3 a Shareholder or his proxy must deliver to the Company a copy of the instrument appointing a proxy not later than 48 (forty-eight) hours before the commencement of the meeting at which the proxy intends to exercise that Shareholder's rights, provided that the chairperson of the meeting may, in his discretion, accept proxies that have been delivered after the expiry of the aforementioned period up until the time of commencement of the meeting; and
- 23.4.4 unless the instrument appointing a proxy provides otherwise, a Shareholder's proxy may decide, without direction from the Shareholder, whether to exercise or abstain from exercising any voting right of the Shareholder, as set out in section 58(7) of the Act,

and none of such rights or powers are limited, restricted or varied by this Memorandum of Incorporation.

23.5 Every instrument of proxy shall, as far as circumstances permit, be substantially in the following form, or in such other form as the Directors may approve from time to time –

"I/We _____ being a shareholder of _____ Limited do hereby appoint _____ or failing him/her _____ or failing him/her, the chairperson of the meeting as my/our proxy to vote in favour of all resolutions on my/our behalf at the meeting of the Company to be held at _____ on _____ and at any adjournment thereof as follows: -

	<i>In favour of</i>	<i>Against</i>	<i>Abstain</i>
Special Resolution 1
Ordinary Resolution 1

(Indicate instruction to proxy by way of a cross in space provided above). Except as instructed above or if no instructions are inserted above, my/our proxy may vote as he/she thinks fit. Any proxy exercised by the chairman must be voted in favour of all resolutions.

SIGNED this ____ day of _____ in the year of _____.

SHAREHOLDER'S SIGNATURE

(Note: A shareholder entitled to attend, speak and vote is entitled to appoint a proxy to attend, speak and vote in his/her stead and such proxy need not be a shareholder of the Company)."

24 SHAREHOLDERS' RESOLUTIONS

24.1 For an ordinary resolution to be approved it must be supported by more than 50% (fifty percent) of the voting rights of Shareholders exercised on the resolution, as provided in section 65(7) of the Act.

24.2 For a special resolution to be approved it must be supported by the holders of at least 75% (seventy-five percent) of the voting rights exercised on the resolution, as provided in section 65(9) of the Act.



- 24.3 No matters require a special resolution adopted at a Shareholders' meeting of the Company, other than –
- 24.3.1 those matters set out in section 65(11) of the Act; or
 - 24.3.2 any other matter required by the Act to be resolved by means of a special resolution; or
 - 24.3.3 for so long as the Company's Securities are listed on the JSE, any other matter required by the JSE Listings Requirements to be resolved by means of a special resolution.
- 24.4 In the event that any Shareholder abstains from voting in respect of any resolution, such Shareholder will, for the purposes of determining the number of votes exercised in respect of that resolution, be deemed not to have exercised a vote in respect thereof.

25 **SHAREHOLDERS ACTING OTHER THAN AT A MEETING**

- 25.1 In accordance with the provisions of section 60 of the Act, but subject to clause 20.1, a resolution that could be voted on at a Shareholders' meeting (other than in respect of the election of Directors) may instead be –
- 25.1.1 submitted by the Board for consideration to the Shareholders entitled to exercise the voting rights in relation to the resolution; and
 - 25.1.2 voted on in writing by such Shareholders within a period of 20 (twenty) business days after the resolution was submitted to them.
- 25.2 A resolution contemplated in clause 25.1 –
- 25.2.1 will have been adopted if it is supported by persons entitled to exercise sufficient voting rights for it to have been adopted as an ordinary or special resolution, as the case may be, at a properly constituted Shareholders' meeting; and
 - 25.2.2 if adopted, will have the same effect as if it had been approved by voting at a meeting.

- 25.3 Within the period prescribed by the Act after adopting a resolution in accordance with the procedures provided in this clause 25, the Company shall deliver a statement describing the results of the vote, consent process, or election to every Shareholder who was entitled to vote on or consent to the resolution.
- 25.4 The provisions of this clause 25 shall not apply to any Shareholder meetings that are called for in terms of the Listings Requirements or the passing of any resolution in terms of clause 26.1.1 or to any annual general meeting of the Company.
- 25.5 While abstentions from voting shall not be counted for the purposes of determining the number of votes in favour or against the adoption of a resolution, Shareholders who abstain from voting on a resolution shall still be counted for the purposes of quorum in accordance with clause 20.4.

26 **COMPOSITION AND POWERS OF THE BOARD OF DIRECTORS**

26.1 **Number of Directors**

- 26.1.1 In addition to the minimum number of Directors, if any, that the Company must have to satisfy any requirement in terms of the Act to appoint an audit committee and a social and ethics committee, the Board must comprise at least 4 (four) Directors and the Shareholders shall be entitled, by ordinary resolution, to determine such maximum number of Directors as they from time to time shall consider appropriate.
- 26.1.2 All Directors appointed to fill a casual vacancy or if proposed directly to Shareholders shall be elected by an ordinary resolution of the Shareholders at a general or annual general meeting of the Company and no appointment of a Director in accordance with a resolution passed in terms of section 60 of the Act shall be competent.
- 26.1.3 Every person holding office as a Director, Prescribed Officer, company secretary or auditor of the Company immediately before the effective date of the Act will, as contemplated in item 7(1) of Schedule 5 to the Act, continue to hold that office.

26.2 **Appointment and nomination of Directors**

26.2.1 In any election of Directors –

26.2.1.1 the election is to be conducted as a series of votes, each of which is on the candidacy of a single individual to fill a single vacancy, with the series of votes continuing until all vacancies on the Board have been filled; and

26.2.1.2 in each vote to fill a vacancy –

26.2.1.2.1 each vote entitled to be exercised may be exercised once; and

26.2.1.2.2 the vacancy is filled only if a majority of the votes exercised support the candidate.

26.2.2 Subject to the provisions of clauses 26.4.1.1 and 29, the Company shall only have elected Directors and there shall be no *ex officio* Directors appointed or any person named in this Memorandum of Incorporation able to nominate any person for appointment as a Director.

26.3 **Eligibility, resignation and retirement of Directors**

26.3.1 Apart from satisfying the qualification and eligibility requirements set out in section 69 of the Act, a person need not satisfy any eligibility requirements or qualifications to become or remain a Director or a Prescribed Officer of the Company.

26.3.2 No Director shall be appointed for life or for an indefinite period and the Directors shall rotate in accordance with the following provisions of this clause 26.3.2:-

26.3.2.1 at each annual general meeting referred to in clause 20.2, 1/3 (one third) of the Non-Executive Directors for the time being, or if their number is not 3 (three) or a multiple of 3 (three), the number nearest to 1/3 (one third), but not less than 1/3 (one third), shall

retire from office, provided that if a Director is appointed as an executive Director or as an employee of the Company in any other capacity, he or she shall not, while he or she continues to hold that position or office, be subject to retirement by rotation and he or she shall not, in such case, be taken into account in determining the rotation or retirement of Directors;

26.3.2.2 the Directors to retire in every year shall be those who have been longest in office since their last election, but as between persons who were elected as Directors on the same day, those to retire shall, unless they otherwise agree among themselves, be determined by lot;

26.3.2.3 a retiring Director shall be eligible for re-election;

26.3.3 The Board shall provide the Shareholders with a recommendation in the notice of the meeting at which the re-election of a retiring Director is proposed, as to which retiring Directors are eligible for re-election, taking into account that Director's past performance and contribution.

26.4 **Powers of the Directors**

26.4.1 The Board has the power to –

26.4.1.1 appoint or co-opt any person as Director, whether to fill any vacancy on the Board on a temporary basis, as set out in section 68(3) of the Act, or as an additional Director provided that such appointment must be confirmed by the Shareholders, in accordance with clause 26.1.1, at the next annual general meeting of the Company, as required in terms of section 70(3)(b)(i) of the Act; and

- 26.4.1.2 exercise all of the powers and perform any of the functions of the Company, as set out in section 66(1) of the Act,
- and the powers of the Board in this regard are only limited and restricted as contemplated in this clause 26.
- 26.4.2 The Directors may at any time and from time to time by power of attorney appoint any person or persons to be the attorney or attorneys and agent(s) of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors in terms of this Memorandum of Incorporation) and for such period and subject to such conditions as the Directors may from time to time think fit. Any such appointment may, if the Directors think fit, be made in favour of any company, the shareholders, directors, nominees or managers of any company or firm, or otherwise in favour of any fluctuating body of persons, whether nominated directly or indirectly by the Directors. Any such power of attorney may contain such provisions for the protection or convenience of persons dealing with such attorneys and agents as the Directors think fit. Any such attorneys or agents as aforesaid may be authorised by the Directors to sub-delegate all or any of the powers, authorities and discretions for the time being vested in them.
- 26.4.3 Save as otherwise expressly provided herein, all cheques, promissory notes, bills of exchange and other negotiable or transferable instruments, and all documents to be executed by the Company, shall be signed, drawn, accepted, endorsed or executed, as the case may be, in such manner as the Directors shall from time to time determine.
- 26.4.4 All acts performed by the Directors or by a committee of Directors or by any person acting as a Director or a member of a committee shall, notwithstanding that it shall afterwards be discovered that there was some defect in the appointment of the Directors or persons acting as aforesaid, or that any of them were disqualified from or had vacated office, be as valid as if every such person had been duly appointed and was qualified and had continued to be a Director or member of such committee.

26.4.5 If the number of Directors falls below the minimum number fixed in accordance with this Memorandum of Incorporation, the remaining Directors must as soon as possible and in any event not later than 3 (three) months from the date that the number falls below such minimum, fill the vacancy/ies in accordance with this clause 26.4.1.1 or convene a general meeting for the purpose of filling the vacancies, and the failure by the Company to have the minimum number of Directors during the said 3 (three) month period does not limit or negate the authority of the Board or invalidate anything done by the Board while their number is below the minimum number fixed in accordance with this Memorandum of Incorporation.

26.4.6 The Directors in office may act notwithstanding any vacancy in their body, but if after the expiry of the 3 (three) month period contemplated in clause 26.4.5 their number remains below the minimum number fixed in accordance with this Memorandum of Incorporation, they may, for as long as their number is reduced below such minimum, act only for the purpose of filling vacancies in their body in terms of section 68(3) of the Act or of summoning general meetings of the Company, but not for any other purpose.

26.5 **Directors' interests**

26.5.1 A Director may hold any other office or place of profit under the Company (except that of auditor) or any subsidiary of the Company in conjunction with the office of Director, for such period and on such terms as to remuneration and expenses (in addition to the remuneration or fees to which he may be entitled as a Director) and otherwise as a disinterested quorum of the Directors may determine.

26.5.2 A Director of the Company may be or become a director or other officer of, or otherwise interested in, any company promoted by the Company or in which the Company may be interested as shareholder or otherwise, provided that the appointment and remuneration and expenses in respect of such other office must be determined by a disinterested quorum of Directors.

- 26.5.3 Each Director and each alternate Director, Prescribed Officer and member of any committee of the Board (whether or not such latter persons are also members of the Board) shall, subject to the exemptions contained in section 75(2) and the qualifications contained in section 75(3), comply with all of the provisions of section 75 of the Act in the event that they (or any person who is a related person to them) has a personal financial interest in any matter to be considered by the Board.
- 26.5.4 The Directors shall not, for as long as the Securities of the Company is listed on the JSE, have the power to propose any resolution to Shareholders to ratify an act of the Directors that is inconsistent with any limit imposed by the Act or this Memorandum of Incorporation on the authority of the Directors to perform such an act on behalf of the Company in the event that such a resolution would lead to ratification of an act that is contrary to the JSE Listings Requirements, unless the Directors have obtained the prior approval of the JSE to propose such a resolution to Shareholders.

27 **DIRECTORS' MEETINGS**

- 27.1 Save as may be provided otherwise herein, the Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit.
- 27.2 The Directors may elect a chairperson and a deputy chairperson and determine the period for which each is to hold office. The chairperson, or in his absence the deputy chairperson, shall be entitled to preside over all meetings of Directors. If no chairperson or deputy chairperson is elected, or if at any meeting neither is present or willing to act as chairperson thereof within 10 (ten) minutes of the time appointed for holding the meeting, the Directors present shall choose 1 (one) of their number to be chairperson of such meeting.
- 27.3 In addition to the provisions of section 73(1) of the Act, any Director shall at any time be entitled to call a meeting of the Directors.

- 27.4 The Board has the power –
- 27.4.1 as contemplated in section 74 of the Act, to consider any matter and/or adopt any resolution other than at a meeting and, accordingly, any decision that could be voted on at a meeting of the Board may instead be adopted by the written consent of a majority of the Directors, given in person or by Electronic Communication, provided that each Director has received notice of the matter to be decided;
- 27.4.2 to conduct a meeting entirely by Electronic Communication, or to provide for participation in a meeting by Electronic Communication, as set out in section 73(3) of the Act, provided that, as required by such section, the Electronic Communication facility employed ordinarily enables all persons participating in the meeting to communicate concurrently with each other without an intermediary and to participate reasonably effectively in the meeting;
- 27.4.3 to determine the manner and form of providing notice of its meetings contemplated in section 73(4) of the Act, provided that –
- 27.4.3.1 the notice period for the convening of any meeting of the Board will be at least 7 (seven) days unless the decision of the Directors is required within a shorter period of notice, in which event the meeting may be called on shorter notice. The decision of the chairperson of the Board, or failing the chairperson for any reason, the decision of the majority of the Directors as to whether a shorter period of notice may be given, shall be final and binding on the directors. To the extent that a Director votes or indicates that he will abstain from voting on any matter in respect of which such shorter notice period has been given, such Director will be regarded, at the same time, as having approved the shorter notice period unless such Director expressly states that he is voting against the shorter notice period;
- 27.4.3.2 an agenda of the matters to be discussed at the meeting shall be given to each Director, together with the notice referred to in clause 27.4.3; and

27.4.4 to proceed with a meeting despite a failure or defect in giving notice of the meeting, as provided in section 73(5) of the Act,

and the powers of the Board in respect of the above matters are not limited or restricted by this Memorandum of Incorporation.

27.5 The quorum requirement for a Directors' meeting (including an adjourned meeting) to begin, the voting rights at such a meeting, and the requirements for approval of a resolution at such a meeting are as set out in section 73(5) of the Act and accordingly –

27.5.1 if all of the Directors of the Company –

27.5.1.1 acknowledge actual receipt of the notice convening a meeting; or

27.5.1.2 are present at a meeting; or

27.5.1.3 waive notice of a meeting,

the meeting may proceed even if the Company failed to give the required notice of that meeting or there was a defect in the giving of the notice;

27.5.2 a majority of the Directors must be present at a meeting before a vote may be called at any meeting of the Directors;

27.5.3 each Director has 1 (one) vote on a matter before the Board;

27.5.4 a majority of the votes cast in favour of a resolution is sufficient to approve that resolution;

27.5.5 in the case of a tied vote –

27.5.5.1 the chairperson may not cast a deciding vote in addition to any deliberative vote; and

27.5.5.2 the matter being voted on fails.

27.6 Resolutions adopted by the Board –

27.6.1 must be dated and sequentially numbered; and

27.6.2 are effective as of the date of the resolution, unless any resolution states otherwise.

27.7 Any minutes of a meeting, or a resolution, signed by the chairperson of the meeting, or by the chairperson of the next meeting of the Board or by the Company secretary, are evidence of the proceedings of that meeting, or the adoption of that resolution, as the case may be.

28 **DIRECTORS' COMPENSATION AND FINANCIAL ASSISTANCE**

28.1 The Company may pay fees to the Directors for their services as Directors in accordance with a special resolution approved by the Shareholders within the previous 2 (two) years, as set out in section 66(8) and (9) of the Act, and the power of the Company in this regard is not limited or restricted by this Memorandum of Incorporation.

28.2 Any Director who -

28.2.1 serves on any executive or other committee; or

28.2.2 devotes special attention to the business of the Company; or

28.2.3 goes or resides outside South Africa for the purpose of the Company;
or

28.2.4 otherwise performs or binds himself to perform services which, in the opinion of the Directors, are outside the scope of the ordinary duties of a Director,

may be paid such extra remuneration or allowances in addition to or in substitution of the remuneration to which he may be entitled as a Director, as a disinterested quorum of the Directors may from time to time determine.

28.3 The Directors may also be paid all their travelling and other expenses necessarily incurred by them in connection with -

28.3.1 the business of the Company; and

28.3.2 attending meetings of the Directors or of committees of the Directors of the Company.

28.4 The Board may, as contemplated in and subject to the requirements of section 45 of the Act, authorise the Company to provide financial assistance to a Director, Prescribed Officer or other person referred to in section 45(2), and the power of the Board in this regard is not limited or restricted by this Memorandum of Incorporation.

29 **EXECUTIVE DIRECTORS**

29.1 The Directors may from time to time appoint 1 (one) or more executive Directors for such term and at such remuneration as they may think fit, and may revoke such appointment subject to the terms of any agreement entered into in any particular case. A Director so appointed shall not be subject to retirement in the same manner as the other Directors, but his or her appointment shall terminate if he or she ceases for any reason to be a Director.

29.2 Subject to the provisions of any contract between himself or herself and the Company, an executive Director shall be subject to the same provisions as to disqualification and removal as the other Directors of the Company.

29.3 The Directors may from time to time entrust to and confer upon an executive Director for the time being such of the powers exercisable in terms of this Memorandum of Incorporation by the Directors as they may think fit, and may confer such powers for such time and to be exercised for such objects and purposes, and upon such terms and conditions, and with such restrictions, as they think expedient; and they may confer such powers either collaterally with or to the exclusion of and in substitution for all or any of the powers of the Directors in that behalf, and may from time to time revoke, withdraw, alter or vary all or any of such powers.

30 **INDEMNIFICATION OF DIRECTORS**

30.1 The Company shall –

30.1.1 advance expenses to a Director or directly or indirectly indemnify a Director in respect of the defence of legal proceedings, as set out in section 78(4) of the Act;

30.1.2 indemnify a Director in respect of liability as set out in section 78(5) of the Act; and/or

30.1.3 purchase insurance to protect the Company or a Director as set out in section 78(7) of the Act,

and the power of the Company in this regard is not limited, restricted or extended by this Memorandum of Incorporation.

30.2 The provisions of clause 30.1 shall apply *mutatis mutandis* in respect of any Prescribed Officer or member of any committee of the Board, including the audit committee, or any former Director, former Prescribed Officer or former member of any committee of the Board.

31 **BORROWING POWERS**

31.1 Subject to the provisions of clause 31.2 and the other provisions of this Memorandum of Incorporation, the Directors may from time to time –

31.1.1 borrow for the purposes of the Company such sums as they think fit; and

31.1.2 secure the payment or repayment of any such sums, or any other sum, as they think fit, whether by the creation and issue of Securities, mortgage or charge upon all or any of the property or assets of the Company.

31.2 The Directors shall procure (but as regards subsidiaries of the Company only insofar as by the exercise of voting and other rights or powers of control exercisable by the Company they can so procure) that the aggregate principal amount at any one time outstanding in respect of moneys so borrowed or raised by –

31.2.1 the Company; and

31.2.2 all the subsidiaries for the time being of the Company (excluding moneys borrowed or raised by any of such companies from any other of such companies but including the principal amount secured by any outstanding guarantees or surety ships given by the Company or any of its subsidiaries for the time being for the indebtedness of any other company or companies whatsoever and not already included in the aggregate amount of the moneys so borrowed or raised),

shall not exceed, to the extent applicable, the aggregate amount at that time authorised by the Board to be borrowed or secured by the Company or the subsidiaries for the time being of the Company (as the case may be).

32 COMMITTEES OF THE BOARD

32.1 The Board may –

32.1.1 appoint committees of Directors and delegate to any such committee any of the authority of the Board as contemplated in section 72(1) of the Act; and/or

32.1.2 include in any such committee persons who are not Directors, as contemplated in section 72(2)(a) of the Act,

and the power of the Board in this regard is not limited or restricted by this Memorandum of Incorporation.

32.2 The authority of a committee appointed by the Board as contemplated in section 72(2)(b) and (c) of the Act is not limited or restricted by this Memorandum of Incorporation.

32.3 The Board shall further appoint such committees as it is obliged to do in terms of the Act and, for as long as the Company's Securities are listed on the JSE, such committees as are required by the JSE Listings Requirements, having such functions and powers as are prescribed by the Act and/or the JSE Listings Requirements, as the case may be.

33 **ANNUAL FINANCIAL STATEMENTS**

33.1 The Company shall keep all such accurate and complete accounting records as are necessary to enable the Company to satisfy its obligations in terms of –

33.1.1 the Act;

33.1.2 any other law with respect to the preparation of financial statements to which the Company may be subject; and

33.1.3 this Memorandum of Incorporation.

33.2 The Company shall each year, after the end of its financial year, prepare annual financial statements within the period prescribed by the Act, or such shorter period as may be appropriate to provide the required notice of an annual general meeting in terms of section 61(7) of the Act.

33.3 The Company shall appoint an auditor each year at its annual general meeting. If the Company appoints a firm as its auditor, any change in the composition of the members of that firm shall not by itself create a vacancy in the office of auditor.

33.4 The annual financial statements of the Company must be prepared and audited in accordance with the provisions of section 30 of the Act.

33.5 Annual financial statements or abridged annual financial statements (in compliance with IAS 34), in compliance with the Act and the JSE Listings Requirements, must be delivered to Shareholders at least 15 (fifteen) business days before the date of the annual general meeting of the Company at which such annual financial statements will be considered.

- 33.6 The annual financial statements shall be prepared on a basis that is not inconsistent with any unalterable provision of the Act or the JSE Listings Requirements and shall –
- 33.6.1 satisfy, as to form and content, the financial reporting standards of IFRS and the JSE Listings Requirements; and
- 33.6.2 subject to and in accordance with IFRS –
- 33.6.2.1 present fairly the state of affairs and business of the Company and explain the transactions and financial position of the business of the Company;
- 33.6.2.2 show the Company's assets, liabilities and equity, as well as its income and expenses;
- 33.6.2.3 set out the date on which the statements were produced and the accounting period to which they apply; and
- 33.6.2.4 bear on the first page thereof a prominent notice indicating that the annual financial statements have been audited and the name and professional designation of the person who prepared them.

34 **COMPANY SECRETARY**

- 34.1 The Company must appoint a company secretary.
- 34.2 The company secretary must have the requisite knowledge of, or experience with, relevant laws and be a permanent resident of South Africa.
- 34.3 The Board must fill any vacancy in the office of company secretary within the period prescribed by the Act after such vacancy arises by a person whom the Directors consider to have the requisite knowledge and experience.

35 **AUTHENTICATION OF DOCUMENTS**

Any Director or the company secretary or any person appointed by the Board for that purpose shall have the power to authenticate –

- 35.1 this Memorandum of Incorporation;
- 35.2 any resolution taken by the Company in general meeting or the Board;
and
- 35.3 any book, charter, certificate, document or account with regard to the matters of the Company,

and to certify copies thereof as true copies and excerpts.

36 **DISTRIBUTIONS**

36.1 Subject to the provisions of the Act and particularly section 46 thereof, the JSE Listings Requirements applicable to dividends and payments to shareholders and this Memorandum of Incorporation, the Company may make any proposed distribution, being dividends or capital payments, as defined and contemplated in the Act and the JSE Listings Requirements, if such distribution –

- 36.1.1 is pursuant to an existing legal obligation of the Company, or a court order; or
- 36.1.2 is authorised by resolution of the Board, in compliance with the JSE Listings Requirements, including the declaration and payment of dividends.

36.2 No distribution shall bear interest against the Company, except as otherwise provided under the conditions of issue of the Shares in respect of which such distribution is payable.

36.3 Distributions may be declared either free of or subject to the deduction of income tax and any other tax or duty in respect of which the Company may be chargeable.



- 36.4 The Directors may from time to time declare and pay to the Shareholders such interim distributions as the Directors consider to be appropriate.
- 36.5 No larger recommended distribution shall be approved by the Company in general meeting than is recommended by the Directors, but the Company in general meeting may approve a smaller distribution.
- 36.6 All unclaimed dividends may be invested by the Company in trust for the benefit of the Company until claimed, and dividends that remain unclaimed for a period of 3 (three) years from the date on which they were declared may be declared by the Directors to be forfeited for the benefit of the Company. The Directors may at any time annul such forfeiture upon such conditions (if any) as they think fit. Subject to the provisions of clause 18.2, all unclaimed monies that are due to Shareholder/s shall be held by the Company in trust for an indefinite period until lawfully claimed by such Shareholder/s, subject to the laws of prescription.
- 36.7 Any distribution, interest or other sum payable in cash to the holder of a Share may be paid by cheque or warrant sent by post and addressed to -
- 36.7.1 the holder at his registered address; or
- 36.7.2 in the case of joint holders, the holder whose name appears first in the Securities Register in respect of the share, at his registered address; or
- 36.7.3 such person and at such address as the holder or joint holders may in writing direct.
- 36.8 Every such cheque or warrant shall -
- 36.8.1 be made payable to the order of the person to whom it is addressed; and
- 36.8.2 be sent at the risk of the holder or joint holders.
- 36.9 The Company shall not be responsible for the loss in transmission of any cheque or warrant or of any document (whether similar to a cheque or warrant or not) sent by post as aforesaid.

- 36.10 A holder or any one of two or more joint holders, or his or their agent duly appointed in writing, may give valid receipts for any distributions or other moneys paid in respect of a Share held by such holder or joint holders.
- 36.11 When such cheque or warrant is paid, it shall discharge the Company of any further liability in respect of the amount concerned.
- 36.12 A distribution may also be paid in any other way determined by the Directors, and if the directives of the Directors in that regard are complied with, the Company shall not be liable for any loss or damage which a Shareholder may suffer as a result thereof.
- 36.13 Without detracting from the ability of the Company to issue capitalisation Shares, any distribution may be paid wholly or in part -
- 36.13.1 by the distribution of specific assets; or
- 36.13.2 by the issue of Shares, debentures or securities of the Company or of any other company; or
- 36.13.3 in cash; or
- 36.13.4 in any other way which the Directors or the Company in general meeting may at the time of declaring the distribution determine.
- 36.14 Where any difficulty arises in regard to such distribution, the Directors may settle that difficulty as they think expedient, and in particular may fix the value which shall be placed on such specific assets on distribution.
- 36.15 The Directors may -
- 36.15.1 determine that cash payments shall be made to any Shareholder on the basis of the value so fixed in order to secure equality of distribution; and
- 36.15.2 vest any such assets in trustees upon such trusts for the benefit of the persons entitled to the distribution as the Directors deem expedient.

- 36.16 Any distribution must be made payable to Shareholders registered as at the record date as defined in the JSE Listings Requirements or, in the event that the Company is unlisted, a date subsequent to the date of declaration thereof or the date of confirmation thereof, whichever is the later date.
- 36.17 Without limiting the provisions of clause 36.1.2 above, all payments made to holders of Securities listed on the JSE ("**Listed Securities**") must be in accordance with the JSE Listings Requirements and capital payments to holders of Listed Securities may not be made on the basis that it can be called up again.

37 **RESERVES**

- 37.1 The Board may, before recommending any preference or other dividend or other distribution, set aside such amounts from the profits of the Company as reserves as it deems fit.
- 37.2 Such reserves may in the discretion of the Board be used for any admissible purpose and pending such use, the Board may in its discretion –
- 37.2.1 use them for the business of the Company without them being separated from the other assets of the Company; or
- 37.2.2 invest it.
- 37.3 The Board may in its discretion transfer any profits which should not be distributed in its opinion, without putting them to reserve.
- 37.4 The Board may –
- 37.4.1 distribute any such reserve funds as it deems fit;
- 37.4.2 consolidate such funds or any part thereof in one fund.

38 **ACCESS TO COMPANY RECORDS**

- 38.1 Each person who holds or has a beneficial interest in any Securities issued by the Company is entitled to inspect and copy, without any charge for any such inspection or upon payment of no more than the prescribed maximum charge for any such copy, the information contained in the records of the Company referred to in section 26(1) of the Act, being –
- 38.1.1 this Memorandum of Incorporation, and any amendments or alterations thereof;
- 38.1.2 a record of the Directors, including the details of any person who has served as a Director, for the period as prescribed by the Act after that person has ceased to serve as a Director, and any information relating to such persons referred to in section 24(5) of the Act;
- 38.1.3 all –
- 38.1.3.1 reports presented at an annual general meeting of the Company for the period as prescribed by the Act after the date of any such meeting; and
- 38.1.3.2 annual financial statements required by the Act for the period as prescribed by the Act after the date on which each such particular statements were issued;
- 38.1.4 notice and minutes of all Shareholders' meetings, including –
- 38.1.4.1 all resolutions adopted by them, for the period as prescribed by the Act after the date each such resolution was adopted; and
- 38.1.4.2 any document that was made available by the Company to the holders of Securities in relation to each such resolution;
- 38.1.5 any written communications sent generally by the Company to all holders of any class of the Company's Securities, for the period as prescribed by the Act after the date on which each of such communications was issued; and

- 38.1.6 the Securities Register.
- 38.2 A person not contemplated in clause 38.1 has a right to inspect the Securities Register and the register of Directors of the Company upon payment of an amount not exceeding the prescribed maximum fee for any such inspection.
- 38.3 A person who wishes to inspect the Uncertificated Securities Register may do so only through the Company in terms of section 26 of the Act, and in accordance with the rules of the Central Securities Depository. Within the period as prescribed by the Act after the date of a request for inspection, the Company must produce a record of the Uncertificated Securities Register, which record must reflect at least the details referred to in section 50(3)(b) of the Act at the close of business on the day on which the request for inspection was made.

39 **PAYMENT OF COMMISSION**

- 39.1 The Company may pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any Securities of the Company or for procuring or agreeing to procure, whether absolutely or conditionally, subscriptions for any Securities of the Company, provided that for as long as the Securities of the Company is listed on the JSE, such commission may not exceed a rate of 10% (ten percent) of the issue price of the relevant Security.
- 39.2 Commission may be paid out of capital or profits, whether current or accumulated, or partly out of the one and partly out of the other.
- 39.3 Such commission may be paid in cash or, if authorised by the Shareholders by ordinary resolution, by the allotment of fully or partly paid-up Securities, or partly in one way and partly in the other.
- 39.4 The Company may, on any issue of Securities, pay such brokerage as may be lawful.

40 NOTICES

- 40.1 All notices shall be delivered by the Company to each certificated Shareholder of the Company and to each uncertificated Shareholder who has elected to receive such notices and simultaneously to the Issuer Regulation Division (or its successor) of the JSE, and shall be delivered in any manner authorised by the JSE Listings Requirements and/or the Act, as may be applicable. All notices shall, in addition to the above, be released through SENS provided that, in the event that the Shares or other Securities of the Company are not listed on the JSE, all the provisions of this Memorandum of Incorporation relating to the publication of notices via SENS shall no longer apply and such notices shall thereafter only be delivered in accordance with the provisions of the Act.
- 40.2 Each Shareholder of the Company –
- 40.2.1 shall notify in writing to the Company an address, which address shall be his registered address for the purposes of receiving written notices from the Company by post and if he has not provided such an address he shall be deemed to have waived his right to be so served with notices; and
- 40.2.2 may notify in writing to the Company an email address and/or facsimile number, which address shall be his address for the purposes of receiving notices by way of Electronic Communication,
- provided that a Shareholder who fails to notify the Company of an address as set out in this clause 40.2 above, will be deemed to have elected not to receive notices and documents, from the Company.
- 40.3 Any Shareholder whose address in the Securities Register is an address not within South Africa, shall be entitled to have notices served upon him at such address.
- 40.4 In the case of joint holders of a Share, all notices shall, unless such holders otherwise in writing request and the Directors agree, be given to that Shareholder whose name appears first in the Securities Register and a notice so given shall be deemed sufficient notice to all the joint holders.

- 40.5 Every person who by operation of law, transfer or other means whatsoever becomes entitled to any Share, shall be bound by every notice in respect of that Share which, previously to his name and address being entered in the Securities Register, was given to the person from whom he derives his title to such Share.
- 40.6 Any notice or document delivered or sent by post to or left at the registered address of any Shareholder in pursuance of this Memorandum of Incorporation shall, notwithstanding that such Shareholder was then deceased, and whether or not the Company has notice of his death, be deemed to have been duly served in respect of any Shares, whether held solely or jointly with other persons by such Shareholder, until some other person be registered in his stead as the sole or joint holder thereof, and such service shall for all purposes of this Memorandum of Incorporation be deemed a sufficient service of such notice or document on his heirs, executors or administrators, and all persons (if any) jointly interested with him in any such Shares.

41 **WINDING-UP**

- 41.1 If the Company is wound-up the liquidator may, with the sanction of a special resolution of the Shareholders, divide among the Shareholders *in specie* or kind the whole or any part of the assets of the Company and may for such purpose -
- 41.1.1 set a value which he deems fair upon any asset; and
- 41.1.2 determine how the division shall be carried out as between the Shareholders or holders of different classes of Shares.
- 41.2 The liquidator may, with the sanction of a special resolution of the Shareholders, vest the whole or any part of the assets in trustees upon trusts for the benefit of the Shareholders or any of them.

- 41.3 Any such resolution may provide for and sanction a distribution of specific assets amongst the holders of different classes of Shares contrary to their existing rights, but each Shareholder shall in that event have a right of dissent and other ancillary rights in the same manner as if such resolution were a special resolution passed pursuant to the provisions of the Act.

42 **AMENDMENT OF MEMORANDUM OF INCORPORATION**

- 42.1 This Memorandum of Incorporation may only be altered or amended by way of a special resolution of the ordinary Shareholders in accordance with section 16(1)(c) of the Act, except if such amendment is in compliance with a Court order as contemplated in section 16(1)(a).

- 42.2 An amendment of this Memorandum of Incorporation will take effect from the later of –

- 42.2.1 the date on, and time at, which the Commission accepts the filing of the notice of amendment contemplated in section 16(7) of the Act; and

- 42.2.2 the date, if any, set out in the said notice of amendment,

save in the case of an amendment that changes the name of the Company, which will take effect from the date set out in the amended registration certificate issued by the Commission.

43 **COMPANY RULES**

The Board is prohibited from making any Rules as contemplated in section 15(3) of the Act and the Board's capacity to make such Rules is hereby excluded.

SCHEDULE "1"

CLASSES OF SHARES

- 1 The Company is authorised to issue 1 000 000 000 000 (one trillion) Ordinary Shares of no par value as contemplated in clause 6.1.1 of the Memorandum of Incorporation to which this schedule is Schedule 1.
- 2 In addition to the Ordinary Shares contemplated in paragraph 1 above, the Company is authorised to issue no more than the following further Shares –
 - 2.1 1 000 000 000 (one billion) class A, five-year, fixed-rate, redeemable, convertible, cumulative, non-participating Preference Shares of no par value in the share capital of the Company at a redemption price equal to 100% of the Initial Issue Price per Preference Share, subject to the preferences, rights, limitations and other terms associated with such class set out in Schedule 2A ("**Class "A" Preference Shares**");
 - 2.2 1 000 000 000 (one billion) class B, five-year, zero-rate, redeemable, convertible, non-participating Preference Shares of no par in the share capital of the Company at a redemption price equal to 170% of the Initial Issue Price per Preference Share, subject to the preferences, rights, limitations and other terms associated with such class set out in Schedule 2A ("**Class "B" Preference Shares**");
 - 2.3 1 000 000 000 (one billion) class C, five-year, variable-rate, redeemable, convertible, cumulative, non-participating Preference Shares of no par value in the share capital of the Company at a redemption price equal to 100% of the Initial Issue Price per Preference Share, subject to the preferences, rights, limitations and other terms associated with such class set out in Schedule 2A ("**Class "C" Preference Shares**").
 - 2.4 1 000 000 000 (one billion) class D, Preference Shares of no par value in the share capital of the Company, subject to the preferences, rights, limitations and other terms associated with such class set out in Schedule 2B ("**Class "D" Preference Shares**");
 - 2.5 1 000 000 000 (one billion) class E, five-year, fixed-rate, redeemable, convertible, cumulative, non-participating Preference Shares of no par value in the share capital of the Company at a redemption price equal to 100% of the Initial Issue Price per Preference Share, subject to the preferences,



rights, limitations and other terms associated with such class set out in Schedule 2A ("**Class "E" Preference Shares**");

- 2.6 1 000 000 000 (one billion) class G, Preference Shares of no par value in the share capital of the Company, subject to the preferences, rights, limitations and other terms associated with such class set out in Schedule 2B ("**Class "G" Preference Shares**").



SCHEDULE "2A"

PREFERENCES, RIGHTS, LIMITATIONS AND OTHER TERMS ASSOCIATED WITH DIFFERENT CLASSES OF PREFERENCE SHARES

1. Subject to the provisions of the Memorandum of Incorporation of the Company and in compliance with the JSE Listings Requirements, to the extent applicable, the Board shall have the power and authority to attach any of these rights, limitations and other terms associated to each class or classes of Class A, B, C or E Preference Shares.
2. For purposes of this Schedule 2A, unless clearly inconsistent with or otherwise indicated by the context –

"Base Valuation Price" means the market price of each class of Preference Share immediately preceding the Issue Date of a particular tranche of Preference Shares, except in the case of the first tranche of each class of Preference Shares issued at the initial issue price at the issue date;

"Conversion Date" means the first business day following a default event triggering a conversion of Preference Shares into ordinary shares as described in paragraph 5;

"Conversion Price" means the market price for an Ordinary Share in the share capital of the Company at the Conversion Date;

"Holder" means the holder of a Preference Share having the special rights and privileges as set out in this Schedule 2A;

"Initial Issue Price" shall be the price at which a Series of Preference Shares is first offered to the public and which will be determined by the board prior to issue;

"Initial Issue Date" shall be the date at which a particular Series of Preference Shares is first issued by the Company;

"Issue Price" shall be the price paid for a Preference Share in a particular Tranche of Preference Shares issued, which price may be a discount or premium to the Initial Issue Price.

"Issue Date" means the date of issue of a particular tranche of each class of Preference Shares;



"**JIBAR**" means the prevailing Johannesburg Interbank Agreed Rate from time to time published and expressed as a percentage;

"**Maturity Date**" means the redemption date as pre-determined for each class of Preference Share;

"**Market Price**" of a Share means the respective weighted average closing price on the JSE for an Ordinary Share or Preference Share in the share capital of the Company during the preceding twenty business days;

"**Monthly Dividend Payment Dates**" in relation to Class A, C, and E Preference Shares shall be the date in each month on which the Company pays dividends on each such class of Preference Shares as announced on SENS from time to time, determined in accordance with the timeline requirements of the JSE;

"**Prime Rate**" the publicly quoted basic rate of interest levied by First National Bank Limited ("**FNB**") from time to time on overdraft, calculated on a 365-day year, irrespective of whether the applicable year is a leap year, and proved, prima facie, in the event of a dispute and in the absence of manifest error, by a certificate under the hand of any director or manager of FNB, whose appointment and authority need not be proved;

"**Redemption Date**" means the Maturity Date, or, if the Maturity Date is not a business day, the first business day following the Maturity Date occurring for each class of Preference Shares;

"**Redemption Price**" means the price paid by the Company for each class of Preference Share to which redemption rights are applicable at the Redemption Date, as set out in Schedule 1;

"**Series**" means a particular series of Preference Shares in a particular class issued to the market, each series of which will have its own allocated ISIN number and which will run a full dividend and/or redemption term from the Initial Issue Date, as applicable; and

"**Tranche**" means a particular issuance of Preference Shares issued to the market in a particular Series.

"**VAT**" means Value-Added Tax.



3 **FEES**

- 3.1 The Company shall be entitled to an administration fee in respect of the Class D and Class E Preference Shares, up to a maximum of 1% per annum on the Initial Issue Price, payable monthly in arrears on the Monthly Dividend Payment Dates.
- 3.2 The administration fee is subject to the Value-Added Tax Act of 1991. The Company has the right to recover the monthly administration fee, from the monthly Preference Share dividend (plus the applicable VAT thereon).

4 **DIVIDENDS**

- 4.1 The Preference Shareholders may be entitled to receive a preferential cash dividend ("**Preferential Dividend**"), which shall accrue on a daily basis but shall not be compounded and which shall be determined for each relevant class of Preference Share. Such Preference Dividend will rank in priority to any dividends which after the Issue Date may be declared in respect of any other class of Preference Shares not ranking in priority to or *pari passu* with any or all of the classes of shares in the Company.
- 4.2 The Preference Shareholders of Class A fixed rate Preference Shares shall be entitled to receive a cumulative Preferential Dividend, at a rate of 10% per annum on the Initial Issue Price, payable monthly in arrears on the Monthly Dividend Payment Dates.
- 4.3 The Preference Shareholders of Class B zero rate preference shares shall not be a dividend out of the profits of the Company. The company will accrue a deferred premium payable on behalf of the Class B Preference Shareholder, equal to 70% of the Initial Issue Price calculated over the term of the investment.
- 4.4 The preference Shareholders of Class C variable rate preference shares shall be entitled to receive a cumulative Preferential Dividend, at a variable rate, calculated at the Prime Rate plus 4% per annum on the Initial Issue Price, payable monthly in arrears at the Monthly Dividend Payment Dates.
- 4.6 The Preference Shareholders of Class E fixed rate Preference Shares shall be entitled to a cumulative Preferential Dividend, at a rate of 11.25% per annum on the Initial Issue Price, payable monthly in arrears on the Monthly Dividend Payment Dates.



5 **CONVERSION**

5.1 Conversion of classes A, B, C and E Preference Shares respectively, into ordinary shares is obligatory if the Company fails to rectify a default event in respect of that class of Preference Shares, in terms of sub-clause 5.1.1 or 5.1.2 below within 3 (three) months after:

5.1.1 default by the Company on repayment of the Redemption Price on the Redemption Date; or

5.1.2 non-payment of 3 (three) consecutive dividends on class A, C and E Preference Shares of the Company.

5.2 Upon date of conversion all outstanding Preference Shares, stated capital, premium and any dividends still outstanding to the Preference Shareholders shall convert into ordinary Shares.

5.3 The conversion rate into ordinary Shares shall be calculated at the fair and reasonable price of the ordinary Shares as determined by the weighted average closing price of the Company, calculated over the last twenty days of trading on the JSE prior to the first day of default.

5.4 In the event that the calculation set out in this clause 5 gives rise to a fraction of an ordinary Share becoming due to a shareholder, the number of ordinary Shares arising shall be rounded up or down to the nearest whole number in compliance with the JSE's rounding convention.

6 **REDEMPTION**

6.1 Subject to the provisions of the Act, the JSE Listings Requirements and the conditions of issue of any Preference Shares, the Company may, with the separate sanction of a special resolution of Ordinary Shareholders and of Preference Shareholders concerned vary the terms of redemption of any class of Preference share.

6.2 Unless Directors determine otherwise, the Preference Shares shall be redeemed at the Maturity Date and the Company shall, subject to the provisions of the Act and the JSE Listings Requirements, redeem such number of Preference Shares in full for an amount equal to the redemption price and any arrear dividends unpaid, if any, as attached to each Preference



Share.

- 6.3 The Company will conclude the redemption of issued Preference Shares, within 2 (two) months after the Maturity Date.
- 6.4 Any premium may be paid out of stated capital or reserves.
- 6.5 Preference Shares that have been redeemed shall revert to being authorised but unissued shares and shall be available for re-issue by the Directors of the Company.

6A **VOLUNTARY REDEMPTION**

6A.1 Notwithstanding anything in Schedule 1 and Schedule 2A of this Memorandum of Incorporation to the contrary, the Company shall be entitled (but not obliged) to redeem, at any time prior to the Maturity Date of any Class E Preference Share, , all or any class or classes of such shares, or any pro rata portion of all or any classes of such shares, at the Redemption Price and provided that, such redemption takes place on a Monthly Dividend Payment Date, and on that date all dividends payable will be paid in respect of that Preference Share.

6A.2 Should the Company elect to redeem any Preference Shares voluntarily in terms of clause 6A.1 –

6A.2.1 the Company shall publish a written notice (a "**Voluntary Redemption Notice**") on SENS and such notice shall set out (i) the number of the Preference Shares which the Company wishes to redeem (the "**Voluntary Redemption Shares**"), (ii) the date on which the Company intends to redeem the Voluntary Redemption Shares (the "**Voluntary Redemption Date**"), such date to be no later than 10 (ten) business days after the date on which the Company publishes its Voluntary Redemption Notice, and (iii) the amount of any Preference Dividends which the Company will become obliged to pay on the Voluntary Redemption Date;

6A.2.2 a Voluntary Redemption Notice shall be revocable and after the publication thereof the Company shall be entitled but not obliged to redeem the applicable Voluntary Redemption Shares on the applicable Voluntary Redemption Date; and

6A.2.3 if the Company publishes a Voluntary Redemption Notice and elects not to redeem the applicable Voluntary Redemption Shares on the applicable



Voluntary Redemption Date, the Company shall not thereafter redeem the applicable Voluntary Redemption Shares without again publishing a Voluntary Redemption Notice to the Preference Shareholders in accordance with clause 6A.2.1

6B. VOLUNTARY REDEMPTION

6B.1 Notwithstanding anything in Schedule 1 and Schedule 2A of this Memorandum of Incorporation to the contrary, the Company shall be entitled (but not obliged) to redeem, at any time prior to the Maturity Date of any Class A, Class B or Class C Preference Share, all or any class or classes of such Shares, or any pro-rata portion of all or any classes of such Shares:

6B.1.1. in the case of the Class A and Class C Preferences Shares, at the Redemption Price and provided that, such redemption takes place on a Monthly Dividend Payment Date, and on that date all dividends payable will be paid in respect of that Preference Share; and

6B.1.2. in the case of the Class B Preference Shares, at the Redemption Price, equal to the Initial Issue Price, plus any premium accrued from Initial Issue Date (inclusive) up to the date of voluntary redemption (exclusive), calculated at 10.66%, nominal annual compound monthly, on the Initial Issue Price.

6B.2 Should the Company elect to redeem any Preference Shares voluntarily in terms of clause 6B.1 –

6B.2.1 the Company shall publish a written notice (a “Voluntary Redemption Notice”) on SENS and such notice shall set out (i) the number of the Preference Shares which the Company wishes to redeem (the “Voluntary Redemption Shares”), (ii) the date on which the Company intends to redeem the Voluntary Redemption Shares (the “Voluntary Redemption Date”), such date to be no later than 10 (ten) business days after the date on which the Company publishes its Voluntary Redemption Notice, and (iii) the amount of any Preference Dividends which the Company will become obliged to pay on Voluntary Redemption Date;

6B.2.2 a Voluntary Redemption Notice shall be revocable and after the publication thereof the Company shall be entitled but not obliged to



redeem the applicable Voluntary Redemption Shares on the applicable Voluntary Redemption Date; and

- 6B.2.3 if the Company publishes a Voluntary Redemption Notice and elects not to redeem the applicable Voluntary Redemption Shares on the applicable Voluntary Redemption Date, the Company shall not thereafter redeem the applicable Voluntary Redemption Shares without again publishing a Voluntary Redemption Notice to the Preference Shareholders in accordance with clause 6B.2.1

7 **CUMULATIVE**

The dividends attached to classes A, C and E Preference Shares are cumulative, with the Company's obligation being to pay any unpaid dividends on such preference shares before paying or declaring any new dividends

8 **VOTING RIGHTS**

- 8.1 The registered Holders of Preference Shares shall not be entitled to vote, either in person or by proxy, at any meeting of the Company, by virtue of or in respect of the Preference Shares, unless one or more of the following circumstances prevail at the date of the meeting:

8.1.1 the Preferential Dividends or any part thereof, whether declared or not, remain in arrear and unpaid after 3 (three) months from the due date thereof; or

8.1.2 any redemption payment remains in arrear and unpaid after 3 (three) months from due date thereof; or

8.1.3 a resolution of the Company is proposed which directly affects the rights attached to any class of Preference Shares, including a resolution for the winding-up of the Company or for the reduction of its share capital or share premium account.

- 8.2 The Company shall be obliged to give the classes of Preference Shareholders notice, in terms of Act and the JSE Listings Requirements, of any meeting of a class or classes of Preference Shareholders. At every meeting of the Holders of each class of Preference Shares, the provisions of the Company's Memorandum of Incorporation relating to general meetings of Holders of ordinary Shares shall apply *mutatis mutandis*, except that a quorum at any such class meeting of Preference Shareholders shall be any person or



persons holding or representing by proxy at least $\frac{1}{4}$ (one quarter) of the issued Preference Shares, provided that if at any adjournment of such meeting a quorum is not so present, the provisions of the said Memorandum of Incorporation relating to adjourned general meetings shall, *mutatis mutandis*, apply.

9 **RIGHTS ON WINDING UP**

The Preference Shareholders shall have the right, on the winding-up of the Company, in priority to any payment in respect of the Ordinary Shares in the capital of the Company, to receive the return of paid up capital and Share premium, if any, on the Preference Shares. In the event of their being any surplus on a winding-up or liquidation, the Preference Shares shall not share *pari passu* in such surplus with the ordinary Shares in the share capital of the Company.

10 **NON-PARTICIPATING**

Except for the payment of dividends and redemption at Maturity Date, Preference Shareholders shall not have the right to participate in any surplus profits of the company.

11 **RANKING**

11.1 All classes of Preference Shares with the exception of Class D, E, and G Preference Shares, will rank concurrently with regards to dividend and capital repayments, but in priority to Class D, E, and G Preference Shares and ordinary shares issued by the Company (excluding arrear amounts).

11.2 Class D, E, and G Preference Shares will rank in priority to ordinary shares issued by the Company with regards to dividend and capital repayments (excluding arrear amounts).

12 **OTHER**

12.1 At every general meeting or adjourned general meeting of the Company at which Holders of Ordinary Shares and the Holders of Preference Shares are present and entitled to vote, upon a poll, a Holder of Preference Shares shall be entitled to that proportion of the total votes in the Company which the aggregate amount of the stated capital of the Preference Shares held bears to the aggregate amount of the stated capital of all shares issued by the Company at the relevant time, provided that the maximum total number of



votes that the combined classes of Preference Shareholders may vote at any general meeting will be limited to 24.99% of the total number of all votes of all Shareholders present in person or by proxy at such general meeting.

- 12.2 Notwithstanding any provisions to the contrary contained herein, the terms of each class of Preference Share may not be modified, altered, varied, added to or abrogated without the passing of respective special resolutions by the Ordinary Shareholders and the relevant class of Preference Shareholders.
- 12.3 If there is an amendment or amendments to the Income Tax Act, No 58 of 1962 ("**Income Tax Act**") that results in the Preferential Dividends being taxable in the hands of the Holders and which results in payment of the Preferential Dividends becoming a deductible expense for the Company, provided such amendment is uniformly applicable to all corporate taxpayers and not only because of the particular circumstance of the Company or any Holder, the Preferential Dividend percentage rate will be increased by the Company. Such increase will be limited to the extent that the Company incurs less cost in servicing the Preference Shares, which cost savings it would not have obtained but for such amendments to the Income Tax Act. If such amendments to the Income Tax Act do not result in the Company incurring lesser costs in servicing the Preference Shares, then, notwithstanding that such amendment may result in a decrease in the after-tax returns of any Holder on its holding of Preference Shares, no change shall be made to the Preferential Dividend percentage rate. The Company shall be entitled to require its auditors to verify its obligation to increase the percentage of the Preferential Dividend rate in accordance with this clause.
- 12.4 The auditor's decision shall be final and binding on the Company and all Holders.
- 12.5 Payment in respect of Preferential Dividends on the Monthly Dividend Payment Dates shall be made by electronic transfer for credit to an account nominated in writing by such Holder.



SCHEDULE 2B

PREFERENCES, RIGHTS, LIMITATIONS AND OTHER TERMS ASSOCIATED WITH THE CLASS D and G PREFERENCE SHARES

Subject to the provisions of the Memorandum of Incorporation of the Company and in compliance with the JSE Listings Requirements, to the extent applicable, the Board shall have the power and authority to attach any of these rights, limitations and other terms associated to each class or classes of Class D and G Preference Shares.

For purposes of this Schedule 2B, unless clearly inconsistent with or otherwise indicated by the context -

- **"Discretionary Dividend"** means a preferential dividend to be paid to Preference Shareholders, at the discretion of the Board, and which dividend will not exceed 20% of any dividend declared by the Board to all Security Holders in relation to any particular financial year;
- **"Holder"** means the holder of a Preference Share having the rights and privileges as set out in the MOI;
- **"Initial Issue Date"** shall be the date at which a particular Series of Preference Shares was first issued by the Company;
- **"Initial Issue Price"** shall be the price at which a Series of Preference Shares is first offered to the public;
- **"Issue Date"** means the date of issue of a particular tranche of each class of Preference Shares;
- **"Preference Shares"** means Class D Preference Shares and Class G Preference Shares.
- **"Redemption Amount"** means, per Preference Share, the amounts set out in article 1.5 of this Schedule 2;
- **"Securities"** means Ordinary Shares and Preference Shares; and
- **"Security Holders"** means, collectively, holders of Ordinary Shares and Preference Shares;
- **"Series"** means a particular series of Preference Shares in a particular class issued to the market, each series of which will have its own allocated ISIN number and which will run a full dividend and/or redemption term from the Initial Issue Date, as applicable;
- **"Tranche"** means a particular issuance of Preference Shares issued to the market in a particular Series;
- **"Trigger Event"** means any exit by the company of an investment or asset, by way of a sale for cash;

1. REDEMPTION



- 1.1 Preference Shares will have no fixed redemption date.
- 1.2 Notwithstanding paragraph 1.1 above, the Company shall be entitled to redeem, at any time, all or any class or classes of Preference Shares, or any *pro rata* portion of all or any classes of Preference Shares, at the sole discretion of the Directors on a resolution by the Directors, having regard to funding that is available to the Company. The Board will be obliged to consider the funding available to the Company for potential redemptions on the occurrence of a Trigger Event.
- 1.3 Notwithstanding paragraph 1.2 above, the Company shall be entitled to voluntarily redeem a portion or all of the Preference Shares, irrespective of the occurrence of a Trigger Event, but having regard to funding that is available to the Company.
- 1.4 The Company will conclude any redemption of issued Preference Shares, within 2 (two) months after a resolution made by the Directors to give effect to a full or partial redemption, subject to the timeline requirements of the JSE Listings Requirements.
- 1.5 Preference Shares will be entitled to the following Redemption Amounts:
 - 1.5.1 for Holders of Class D Preference Shares: An amount of R100.94 per Class D Preference Share; and
 - 1.5.2 for Holders of Class G Preference Shareholder: An amount of R100.75 per Class G Preference Share.
- 1.6 Any premium may be paid out of stated capital or reserves.
- 1.7 Preference Shares that have been redeemed shall revert to being authorised but unissued shares and shall be available for re-issue by the Directors of the Company.
- 1.8 In the event of a voluntary redemption under paragraph 1.2 above, the Company will publish a written notice on SENS and such notice shall set out (i) the number of the Preference Shares which the Company will redeem, (ii) the date on which the Company intends to redeem the applicable Preference Shares ("**Redemption Notice**"). Such Redemption Notice is capable of retraction, provided that the Company complies with the timeline requirements set out in the JSE Listings Requirements.

2. FEES

- 2.1 The Company shall not be entitled to an administration fee in respect of the Preference Shares.

3. DIVIDENDS AND PARTICIPATION

- 3.1 Except for the payment of the Discretionary Dividend, if so declared in the absolute discretion of the Board, the Preference Shareholders shall not have the right to participate in any surplus profits of the Company, nor in the net asset value of the Company.



- 3.2 Each Preference Shares will be entitled to such a portion of any Discretionary Dividend, if so declared by the Board, as its Redemption Amount bears to the total Redemption Amounts of all Preference Shares, on a pro-rata basis.
- 3.3 Any Discretionary Dividend attached to Preference Shares are cumulative, with the Company's obligation being to pay any unpaid dividends on such Preference Shares before paying or declaring any new dividends.

4. VOTING RIGHTS

- 4.1 The registered Holders of Preference Shares shall not be entitled to vote, either in person or by proxy, at any meeting of the Company, by virtue of or in respect of the Preference Shares, unless one or more of the following circumstances prevail at the date of the meeting:

4.1.1 a resolution of the Company is proposed which directly affects the rights attached to any class of Preference Shares, including a resolution for the winding-up of the Company or for the reduction of its share capital or share premium account.

- 4.2 In the event that the any changes are proposed that affect the terms and conditions of a particular class of Preference Shares, other than changes which are of a formal, minor or technical nature or are made to correct a manifest error or to comply with mandatory provisions of the law of South Africa, such changes can only be implemented if Holders of that particular class of Preferences Shares holding not less than 66.67% of the value of that particular class of Preferences Shares has voted in favour of such changes.

- 4.3 The Company shall be obliged to give the classes of Preference Shareholders notice, in terms of Act and the JSE Listings Requirements, of any meeting of a class or classes of Preference Shareholders. At every meeting of the Holders of each class of Preference Shares, the provisions of the Company's Memorandum of Incorporation relating to general meetings of Holders of ordinary Shares shall apply mutatis mutandis, except that a quorum at any such class meeting of Preference Shareholders shall be any person or persons holding or representing by proxy at least $\frac{1}{4}$ (one quarter) of the issued Preference Shares, provided that if at any adjournment of such meeting a quorum is not so present, the provisions of the said Memorandum of Incorporation relating to adjourned general meetings shall, mutatis mutandis, apply.

5. RIGHTS ON WINDING UP

- 5.1 The Preference Shareholders shall have the right, on the winding-up of the Company, in priority to any payment in respect of the Ordinary Shares in the capital of the Company, to receive the return of paid up capital and Share premium, if any, on the Preference Shares, up to the Redemption Amount per Preference Share.
- 5.2 In the event of their being any surplus on a winding-up or liquidation, the Preference Shares shall not share *pari passu* in such surplus with the Ordinary Shares in the share capital of the Company.

6. RANKING

- 6.1 All classes of Preference Shares will rank *pari passu*, but in priority to ordinary shares issued by the Company with regards to dividend and capital repayments (excluding arrear amounts).



7. OTHER

- 7.1 Subject to any necessary approvals in terms of the Act and/or the JSE Listings Requirements, the Board may only issue unissued Preference Shares to raise cash or to settle outstanding liabilities or expenses if:
- 7.1.1 such Preference Shares are issued pursuant to a special or general authority to issue shares for cash granted by Ordinary Shareholders, in accordance with the JSE Listings Requirements; and
 - 7.1.2 such Preference Shares are issued pro-rata to the existing Preference Shareholders or pursuant to a special or general authority to issue shares for cash, granted by Preference Shareholders in accordance with the JSE Listings Requirements.
- 7.2 At every general meeting or adjourned general meeting of the Company at which Holders of Ordinary Shares and the Holders of Preference Shares are present and entitled to vote, upon a poll, a Holder of Preference Shares shall be entitled to that proportion of the total votes in the Company which the aggregate amount of the stated capital of the Preference Shares held bears to the aggregate amount of the stated capital of all shares issued by the Company at the relevant time, provided that the maximum total number of votes that the combined classes of Preference Shareholders may vote at any general meeting will be limited to 24.99% of the total number of all votes of all Shareholders present in person or by proxy at such general meeting.
- 7.3 Notwithstanding any provisions to the contrary contained herein, the terms of each class of Preference Share may not be modified, altered, varied, added to or abrogated without the passing of respective special resolutions by the Ordinary Shareholders and the relevant class of Preference Shareholders.
- 7.4 Nothing in the terms of the Preference Shares will prohibit the Board from making a general offer to the Holders of the Preference Shares for a conversion into Ordinary Shares, in accordance with the Companies Act and the JSE Listings Requirements at the time, or for the repurchase of specific Amended Preference Shares in accordance with the Act and the JSE Listings Requirements.

