

This is the Memorandum of Incorporation adopted by way of a Special Resolution in accordance with section 16(1)(c) of the Companies Act No 71 of 2008 on [●] and has been initialled by the Chairperson for purposes of identification.

Chairperson

COMPANIES AND INTELLECTUAL PROPERTY COMMISSION

REPUBLIC OF SOUTH AFRICA

MEMORANDUM OF INCORPORATION

of

BLU LABEL UNLIMITED GROUP LIMITED

(Registration Number 2006/022679/06)

being a profit company which is classified as a public company

("Company")

The Company has adopted this unique form of Memorandum of Incorporation and, accordingly, the prescribed standard form of Memorandum of Incorporation for profit companies which is contained in the Companies Regulations shall not apply to the Company.

This Memorandum of Incorporation replaces the Memorandum of Incorporation of the Company that was in existence at the time of adoption of this Memorandum of Incorporation.

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SCHEDULES

SCHEDULE 1 – SHARES

PART A – THE MOI AND RULES

1 INTERPRETATION

In this MOI, article headings are used for convenience only and shall not be used in its interpretation and, unless the context clearly indicates a contrary intention, -

1.1 an expression that denotes -

1.1.1 any gender, includes the other genders;

1.1.2 a natural person, includes an artificial or juristic person and *vice versa*;

1.1.3 the singular, includes the plural and *vice versa*;

1.2 the following expressions shall bear the meanings assigned to them below and cognate expressions shall bear corresponding meanings, -

1.2.1 "**Business Day**" - any calendar day which is not a Saturday, a Sunday or an official public holiday in South Africa;

1.2.2 "**Certificated Securities**" - Securities evidenced by a certificate and "**Certificated Company Securities**" shall be construed accordingly;

1.2.3 "**Companies Act**" - the Companies Act No 71 of 2008 and all Regulations;

1.2.4 "**Company**" - the company defined as such on the front page of this MOI;

1.2.5 "**Company Security**" - a Security issued or authorised to be issued by the Company, which shall include a Share;

1.2.6 "**Financial Markets Act**" – the Financial Markets Act No 19 of 2012;

1.2.7 "**JSE**" – JSE Limited (registration number 2005/022939/06), a public company duly incorporated in accordance with the laws of South Africa, and the licensed exchange operated by it in accordance with the Financial Markets Act;

- 1.2.8 **"Legal Representative"** - any Person who has submitted proof (which is satisfactory to the Board) of his appointment (and, to the extent required by the Board, the continuation of that appointment) as -
- 1.2.8.1 an executor of the estate of a deceased Shareholder, or a curator, guardian or trustee of a Shareholder whose estate has been sequestrated or who is otherwise under any disability;
- 1.2.8.2 the liquidator of any Shareholder that is a body corporate in the course of being wound-up; or
- 1.2.8.3 the business rescue practitioner of any Shareholder which is a company undergoing business rescue proceedings;
- 1.2.9 **"Listings Requirements"** or **"JSE LR"** - the Listings Requirements of the JSE and including -
- 1.2.9.1 all other applicable rules, regulations and requirements of the JSE from time to time which are binding on issuers listed on the JSE; and
- 1.2.9.2 rulings of the JSE from time to time, to the extent applicable to the Company;
- 1.2.10 **"MOI"** - the memorandum of incorporation of the Company, being this document (and including any schedules hereto), as amended or replaced from time to time;
- 1.2.11 **"Ordinary Share"** - an ordinary share of the Company, having the preferences, rights, limitations and other terms contemplated in article 10;
- 1.2.12 **"Ordinary Shareholder"** - a holder of an Ordinary Share who is entered as such in the Securities Register of the Company;
- 1.2.13 **"Person"** or **"Entity"** - includes any natural or juristic person, association, business, close corporation, company, concern, enterprise, firm, partnership,

joint venture, trust, undertaking, voluntary association, body corporate, and any similar entity, in any jurisdiction;

1.2.14 **"Proxy Instrument"**- shall have the meaning ascribed thereto in article 24.1;

1.2.15 **"Regulations"** - the Companies Regulations of 2011, and any other regulations made in terms of the Companies Act for so long as they remain of force and effect;

1.2.16 **"Revocation Instrument"**- shall have the meaning ascribed thereto in article 24.9.1;

1.2.17 **"Securities"** - collectively -

1.2.17.1 shares, debentures, notes, bonds, units or other instruments, irrespective of their form or title (including any options thereon and rights thereto); and

1.2.17.2 anything falling within the meaning of "securities", as defined in section 1 of the Financial Markets Act,

and **"Security"** shall be construed accordingly;

1.2.18 **"Security Holder"** - the holder of a Company Security who is entered as such in the Securities Register of the Company;

1.2.19 **"Share"** - a Share (as defined in the Companies Act) of the Company, which shall include an Ordinary Share;

1.2.20 **"Shareholder"** - a holder of a Share who is entered as such in the Securities Register of the Company;

1.2.21 **"South Africa"** - the Republic of South Africa;

1.2.22 **"Transfer Form"** - a duly executed and completed unconditional and irrevocable written confirmation of any transfer of Certificated Company

Securities in such form as may have been determined by the Board for this purpose or, failing such determination, in such form as may be customary and in compliance with any applicable law;

- 1.3 any reference to any statute, regulation or other legislation shall be a reference to that statute, regulation or other legislation as at the date of adoption of this MOI by way of a Special Resolution, and as amended or substituted from time to time;
- 1.4 if any provision in a definition is a substantive provision conferring a right or imposing an obligation on any Person, then, notwithstanding that it is only in a definition, effect shall be given to that provision as if it were a substantive provision in the body of this MOI;
- 1.5 where any term is defined within a particular article other than this article 1, that term shall bear the meaning ascribed to it in that article wherever it is used in this MOI;
- 1.6 where any number of days is to be calculated from a particular day, such number shall be calculated as excluding such particular day and commencing on the next day. If the last day of such number so calculated falls on a day which is not a Business Day, the last day shall be deemed to be the next succeeding day which is a Business Day;
- 1.7 any reference to days (other than a reference to Business Days), months or years shall be a reference to calendar days, calendar months or calendar years respectively;
- 1.8 the use of the word "**including**", "**includes**" or "**include**", followed by a specific example/s, shall not be construed as limiting the meaning of the general wording preceding it and the *eiusdem generis* rule shall not be applied in the interpretation of that general wording or those specific example/s;
- 1.9 any capitalised word or expression that is not otherwise defined in this MOI shall be construed in accordance with the Companies Act. For the avoidance of doubt, it is recorded that any reference to "**Present at such Meeting**" or "**Present at the**

Meeting" shall be construed in accordance with the definition of "Present at a Meeting" in the Companies Act;

1.10 a reference to a "**section**" refers to the corresponding section of the Companies Act and a reference to a "**regulation**" refers to the corresponding Regulation;

1.11 a reference -

1.11.1 in the left-hand margin to -

1.11.1.1 a section of the Companies Act designated by the letter "S" and the number of the section referred to; and

1.11.1.2 a Regulation designated by the letter "R" and the number of the Regulation referred to; and

1.11.2 at the end of an article to the Listings Requirements by the use of square brackets and the abbreviation "JSE LR",

is for information purposes only and shall not be used in the interpretation of this MOI;

1.12 this MOI shall be deemed to authorise the Company to do anything which the Companies Act empowers a company to do if so authorised by its memorandum of incorporation, unless that authority is expressly excluded or limited by this MOI; and

1.13 the headings of articles in this MOI are for information purposes only and shall not be used in the interpretation of this MOI.

2 **CONFLICTS WITH THE MOI**

S15

In accordance with the Companies Act, in any instance where there is a conflict between a provision (be it express or tacit) of this MOI and -

- 2.1 an Alterable Provision or elective provision of the Companies Act, the provision of this MOI shall prevail to the extent of the conflict, and to the extent that the Companies Act allows for the Company to adopt the conflicting provision;
- 2.2 an Unalterable Provision or non-elective provision of the Companies Act, the Unalterable Provision or non-elective provision of the Companies Act shall prevail to the extent of the conflict.

3 AMENDMENT OF THE MOI

- 3.1 Every provision of this MOI is capable of amendment in accordance with sections 16(1)(a), 16(1)(c), 17 and 152(6)(b), and, accordingly, there is no provision of this MOI which may not be amended as contemplated in section 15(2)(b) or 15(2)(c).
- 3.2 This MOI may only be altered or amended -
 - 3.2.1 in compliance with a court order on the basis set out in sections 16(1)(a) and 16(4) and any other applicable provisions of the Companies Act; or
 - 3.2.2 by way of a Special Resolution of the Shareholders, as contemplated in section 16(1)(c); or
 - 3.2.3 as contemplated in sections 17 and 152(6)(b).
- 3.3 Save as specifically provided for in article 3.2, this MOI is not capable of amendment by any other method. Accordingly, the provisions of section 16(1)(b) shall not apply, nor shall any other Alterable Provision of the Companies Act that allows for a method for the alteration or amendment of the MOI other than those methods contemplated in article 3.2 apply.
- 3.4 The name of the Company may be changed by an amendment to this MOI in terms of article 3.2.2.

- 3.5 The Company must publish a notice of any alteration made to this MOI in order to correct this MOI in accordance with section 17(1) by delivering notice thereof to the Shareholders in accordance with article 43.

4 RULES

- S15(3) The Board is prohibited from making any Rules and the authority of the Board in this regard is hereby excluded. **[JSE LR schedule 2 item 1.4]**

PART B – STATUS AND POWERS OF THE COMPANY

5 STATUS AS PUBLIC COMPANY

- 5.1 The Securities issued by the Company are freely transferable, subject to compliance with the procedural requirements for transfer contained in article 15.
- 5.2 The Company is entitled to offer its Securities to the public, subject to compliance with this MOI, the Companies Act and, to the extent applicable, the Listings Requirements.
- 5.3 The Company is, accordingly, classified as a public company in terms of section 8(2).

6 POWERS OF THE COMPANY

- 6.1 The Company is governed by -
- 6.1.1 the Unalterable Provisions of the Companies Act;
- 6.1.2 the Alterable Provisions of the Companies Act, subject to the extensions, limitations, substitutions or variations set out in this MOI; and
- 6.1.3 the other provisions of this MOI.
- 6.2 The Company has, subject to section 19(1)(b)(i), all of the legal powers and capacity of an Individual, and the legal powers and capacity of the Company are

not subject to any restrictions, limitations or qualifications contemplated in section 19(1)(b)(ii).

6.3 There is no provision of this MOI which constitutes a restrictive condition as contemplated in section 15(2)(b).

6.4 For so long as the Listings Requirements are applicable to the Company, no Special Resolution of the Shareholders contemplated in section 20(2) to ratify any action which is contrary to the Listings Requirements shall be proposed to the Shareholders unless otherwise agreed by the JSE. **[JSE LR schedule 2 item 1.3]**

7 LISTINGS REQUIREMENTS

Notwithstanding anything to the contrary contained in this MOI, any provisions of this MOI which require compliance with the Listings Requirements shall only apply for as long as any Company Securities are listed on the JSE.

8 LIMITATION OF LIABILITY

S19(2) No Person shall, solely by reason of being an Incorporator of the Company, Shareholder or Director, be liable for any liabilities or obligations of the Company.

PART C – SECURITIES OF THE COMPANY

9 SHARES

S36(1)(a) The numbers and classes of Shares which the Company is authorised to issue are set out in Schedule 1 to this MOI.

10 RIGHTS OF THE ORDINARY SHARES

S36(1)(b) Each Ordinary Share ranks *pari passu* with, and is identical in all respects to, every other Ordinary Share in respect of all rights, and entitles its holder to - **[JSE LR schedule 2 item 1.5(a)]**

10.1 the right to be entered into the Securities Register as the registered holder of an Ordinary Share;

- 10.2 exercise one vote on any matter to be decided by Shareholders (other than matters which are, in terms of this MOI or the Companies Act, to be decided solely by the holders of any other class/es of Share/s); and **[JSE LR schedule 2 item 1.5(b)]**
- 10.3 participate equally with every other Ordinary Share in any Distribution (excluding any payment in lieu of a capitalisation share and any consideration payable by the Company for any of its own Shares or for any shares of another company within the same Group of Companies as contemplated in paragraphs (a)(ii) and (a)(iii) of the definition of Distribution in the Companies Act) to Ordinary Shareholders, whether during the existence of the Company or upon its dissolution.

11 VARIATION OF SHARES AND OTHER SECURITIES

- 11.1 Notwithstanding the provisions of section 36(3), the Board shall not have the power to -
- 11.1.1 increase or decrease the number of authorised Shares of any class of the Shares;
- 11.1.2 reclassify any classified Shares that have been authorised but not issued;
- 11.1.3 classify any unclassified Shares that have been authorised but not issued; or
- 11.1.4 determine the preferences, rights, limitations or other terms of any Shares,

which powers shall only be capable of being exercised by the Shareholders, as contemplated in article 11.3. **[JSE LR schedule 2 general heading]**

- S37(3)(a) 11.2 Each Share issued by the Company shall entitle its holder to vote on any proposal to amend the preferences, rights, limitations or other terms associated with that Share.

- S36(2) 11.3 The Shareholders may, by amendment to this MOI by way of a Special Resolution of the Shareholders - **[JSE LR schedule 2 general heading and item 1.9(c)]**
- 11.3.1 increase or decrease the number of authorised Shares of any class;
- 11.3.2 reclassify any classified Shares that have been authorised but not issued;
- 11.3.3 classify any unclassified Shares that have been authorised but not issued;
- 11.3.4 determine or vary the preferences, rights, limitations or other terms of any Shares which have been authorised but not yet issued;
- 11.3.5 create any class of Company Securities;
- 11.3.6 convert one class of Company Securities into one or more other classes of Company Securities;
- 11.3.7 consolidate any number of Company Securities of the same class into a lesser number of Company Securities of the same class;
- 11.3.8 subdivide any Company Securities of the same class into a greater number of Company Securities of the same class; and
- 11.3.9 vary any preferences, rights, limitations or other terms of any class of Company Securities already in issue, but no such variation shall be implemented unless it has also been approved -
- 11.3.9.1 by a Special Resolution of the holders of Ordinary Shares who are entitled to vote on such resolution, passed in accordance with the Companies Act and the provisions of this MOI;
- 11.3.9.2 where the preferences, rights, limitations or other terms which are proposed to be varied are of any class of Company Securities other than Ordinary Shares, by a Special Resolution of the holders of that class of Company Securities, passed in accordance with the Companies Act and the provisions of this MOI; and **[JSE LR schedule 2 item 1.6(b)]**

11.3.9.3 in such other manner as may be provided for in the rights of that class of Company Securities.

11.4 The preferences, rights, limitations or any other terms of any class of Shares must not be varied in response to any objectively ascertainable external fact or facts as provided for in sections 37(6) and 37(7) and the powers of the Board are limited accordingly. **[JSE LR schedule 2 item 1.6(c)]**

12 ISSUE OF SECURITIES

S38
S8(2) 12.1 The Company may only issue Securities that are fully paid-up, freely transferable and within the classes and to the extent that those Securities have been authorised by or in terms of this MOI. **[JSE LR schedule 2 item 1.2(a)]**

12.2 Fully paid Company Securities shall not be subject to any lien in favour of the Company and shall be freely transferable. **[JSE LR schedule 2 item 1.13]**

12.3 The Board may only authorise the issue of any Company Securities to any Person/s -

12.3.1 in accordance with the Companies Act and, in particular, with the approval by way of a Special Resolution of the Shareholders, if such approval is required by section 41;

12.3.2 in accordance with the Listings Requirements (to the extent applicable), in particular for any issue of Shares for cash, options or convertible Company Securities; **[JSE LR schedule 2 item 1.9(a)]**

12.3.3 in accordance with this MOI and, in particular, any rights specifically conferred on any class of issued Company Securities;

12.3.4 if such Company Securities, being Shares, have first been offered to all existing holders of Shares of that class of Shares (or, if there are no Shares of that class in issue, to the Ordinary Shareholders) in the same proportions as their existing holdings of those Shares (or, if there are no Shares of that

class in issue, of Ordinary Shares) at a subscription price which (ignoring any commission referred to in article 13 or any discount which may be granted instead of such commission in terms of the Listings Requirements) is not higher than the subscription price at which they will be issued to that Person/s; provided that the pre-emptive right stipulated in this article 12.3.4 shall not apply to -

- 12.3.4.1 any issue of Shares in Consideration for the acquisition by the Company of any assets, including any Securities of another company; or
- 12.3.4.2 any other issue of Shares in respect of which the Listings Requirements do not require such pre-emptive right to apply (including any issue of Shares pursuant to an approved share based incentive scheme for executive directors or employees of the Company or its Subsidiaries).

Save as provided for in this article 12.3.4 or specifically included as one of the rights, preferences or other terms upon which any class of Shares is issued, no Shareholder shall have any pre-emptive or other similar preferential right to be offered or to subscribe for any additional Securities issued by the Company. **[JSE LR schedule 2 item 1.1]**

- 12.4 Subject to the provisions of article 12.3, the Shareholders may by Ordinary Resolution authorise the Board to issue Company Securities at any time and/or grant options to subscribe for unissued Company Securities as the Directors in their discretion think fit; provided that such transaction complies with the Listings Requirements (to the extent that the Listings Requirements are applicable). **[JSE LR schedule 2 item 1.1]**

13 LIMIT ON COMMISSION

The Company shall not pay commission exceeding 10% to any Person as consideration for their subscribing or agreeing to subscribe, whether unconditionally or not, for any Company Securities. **[JSE LR schedule 2 item 1.15]**

14 SECURITIES REGISTER AND CERTIFICATES

- S49(2) 14.1 Company Securities shall be issued in uncertificated form or, subject to section 33 of the Financial Markets Act, certificated form.
- S50 14.2 The Company shall establish or cause to be established, and shall maintain (or cause to be maintained), a Securities Register in accordance with the Companies Act, the Regulations and the Listings Requirements (if applicable) and, to the extent that the form of and the manner of maintaining the Securities Register is not prescribed, the Board shall determine the form and manner thereof, it being recorded that any Uncertificated Securities Register referred to in article 14.3 shall form part of the Company's Securities Register.
- 14.3 If the Company has issued Uncertificated Company Securities, or has issued Company Securities that have ceased to be Certificated Company Securities, the Company shall procure that an Uncertificated Securities Register be administered and maintained by a Participant or Central Securities Depository in accordance with the Companies Act, the Regulations and the Financial Markets Act.
- S51(5)
S51(6) 14.4 The Company shall enter into its Securities Register the transfer of any Certificated Company Securities which is effected in accordance with article 15 and shall include in such entry the information required by section 51(5).
- 14.5 Every certificate evidencing any Certificated Company Securities shall comply with the requirements set out in section 51(1) and shall otherwise be in such form as may be determined by the Board.
- 14.6 If any certificate is defaced, lost or destroyed, it may be replaced on payment of such fee, if any, and on such terms as the Board may determine.

S51 15 TRANSFER OF COMPANY SECURITIES

- 15.1 Save in the case of a transfer which is effected by operation of law and overrides the requirements of this MOI, no Person may transfer any Company Securities to any other Person without first complying with the requirements for transfer as set out in this MOI.

15.2 **Transfer of Certificated Company Securities**

15.2.1 The Company shall not enter into its Securities Register the transfer of any Certificated Company Securities, unless -

15.2.1.1 the transfer is evidenced by a Transfer Form, which has been delivered to the Company at its Registered Office together with -

15.2.1.1.1 such proof as the Board may require of the authority of the signatory/ies to that Transfer Form; and

15.2.1.1.2 the certificate in respect of the Company Securities being transferred; or

15.2.1.2 the transfer was effected by operation of law.

15.2.2 Subject to the provisions of this MOI, every Transfer Form and accompanying documents received by the Company referred to in article 15.2.1.1 shall be deemed to remain in full force, and the Company may allow the same to be acted upon, until written notice of revocation thereof is lodged at the Registered Office. Even after the lodging of such notice of revocation, the Company may give effect to any duly signed instrument of transfer which was accepted by any officer of the Company as being in order before the lodging of such notice of revocation. **[JSE LR schedule 2 item 1.2(b)]**

15.3 **Transfer of Uncertificated Company Securities**

15.3.1 The transfer of Uncertificated Company Securities may be effected only –

15.3.1.1 by a Participant or Central Securities Depository;

15.3.1.2 on receipt of an instruction to transfer sent and properly authenticated in terms of the rules of the relevant Central Securities Depository or an order of a Court; and

15.3.1.3 in accordance with section 53 and the rules of the Central Securities Depository.

15.3.2 Transfer of ownership in any Uncertificated Company 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.

16 CAPITALISATION SHARES

The authority of the Board to issue capitalisation Shares in accordance with section 47(1) is not limited or restricted by this MOI.

17 ACQUISITION OF SHARES ISSUED BY THE COMPANY

S48 The Company may acquire any issued Shares, subject to the provisions of the Companies Act and, to the extent applicable, the Listings Requirements. The authority of the Board to determine that the Company will acquire a number of its own Shares is accordingly not limited or restricted by this MOI. **[JSE LR schedule 2 item 1.9(b)]**

18 FRACTIONS OF SECURITIES

18.1 Subject to 18.2 if, pursuant to any corporate action or event, including any capitalisation issue or rights issue, Security Holders would, but for the provisions of this article 18, become entitled to fractions of Company Securities ("**Fractional Entitlements**"), such Fractional Entitlements shall be dealt with in accordance with the Listings Requirements.

18.2 If no Company Securities are listed on the JSE at the time a Fractional Entitlement arises (and, accordingly, the Listings Requirements have ceased to apply to the Company), the Board shall, subject to any contrary provisions in any resolution of the Shareholders which may be required to authorise the corporate action or event in question, be entitled to –

18.2.1 round off the number of Company Securities to be received by a Security Holder to the nearest whole number; or

- 18.2.2 sell the Company Securities resulting from the aggregation of those fractions, on such terms and conditions as the Board deems fit, for the benefit of the relevant Security Holders,

and any Director shall be empowered to sign any instrument of transfer or other instrument necessary to give effect to the provisions of this article 18.2.

- 18.3 Subject to the Listings Requirements, the provisions of article 42 shall apply, *mutatis mutandis* to any amounts that become payable to Security Holders in terms of this article 18.

19 **ODD-LOT OFFERS**

- 19.1 The Company shall be entitled to implement an odd-lot offer in accordance with the provisions of this article 19 and subject to the restrictions and procedures imposed by the Listings Requirements.

- 19.2 If, upon implementation of any odd-lot offer made by the Company, there are Shareholders ("**Odd-Lot Holders**") holding in aggregate less than 100 Shares, or such other number of Shares as determined by the JSE as amounting to an odd-lot ("**Odd-Lots**"), then the Company shall, save in respect of Odd-Lot Holders who have expressly elected to retain their Odd-Lots –

- 19.2.1 cause the Odd-Lots to be sold in such manner as the Directors in their discretion may direct; and

- 19.2.2 procure that the proceeds of such sales are paid to such Odd-Lot Holders in accordance with article 42.

S43(2) 20 **DEBT INSTRUMENTS**
S43(3)

- 20.1 Except as set out in article 20.2, the authority of the Board to authorise the Company to issue secured or unsecured debt instruments, as set out in section 43(2) is not limited or restricted by this MOI.

20.2 The Board shall not be entitled to grant special privileges to holders of debt instruments including with regard to - **[JSE LR schedule 2 item 1.10]**

20.2.1.1 attending and voting at Shareholders Meetings and the appointment of Directors; or

20.2.1.2 allotment of Securities, redemption by the Company, or substitution of the debt instrument for Shares of the Company and, for the avoidance of doubt, no debt instruments shall carry voting rights which affect the control position of the Ordinary Shares.

21 BENEFICIAL INTERESTS

S56(1) 21.1 Company Securities may be held by, and registered in the name of, one Person for the Beneficial Interest of another Person, but no Person other than the registered holder of a Company Security shall (save to the extent expressly provided for in the Companies Act or this MOI) be entitled to exercise any of the rights associated with that Company Security and the Company shall not recognise any Person other than the registered holder of a Company Security as the holder (whether beneficial or otherwise) of that Company Security. The holding of Company Securities by a registered holder for the Beneficial Interest of another Person is accordingly limited and restricted by this MOI.

21.2 The Company shall maintain a register of disclosures of Beneficial Interests in Company Securities in terms of section 56(7)(a), maintain a register of the persons who hold Beneficial Interests equal to or in excess of 5% of the total number of Company Securities in terms of section 56(7)(aA) and shall publish in its annual Financial Statements such information as is required in terms of section 56(7)(b). The Board may, in its discretion, record (or cause to be recorded) in the Securities Register of the Company that any Company Security is held in trust or by a nominee and for whom that Company Security is so held.

22 JOINT HOLDERS OF SECURITIES

Where two or more Persons are registered as the holders of any Company Security, they shall be deemed to hold that Company Security jointly, and -

- 22.1 notwithstanding anything to the contrary contained anywhere else in this MOI, on the death, sequestration, liquidation or legal disability of any one of those joint holders who is not represented by a Legal Representative as referred to in article 23, the remaining joint holders may be recognised, at the discretion of the Board, as the only Persons having title to that Company Security;
- 22.2 any one of those joint holders may give effective receipts for any Distributions or other payments or accruals payable to those joint holders;
- 22.3 only the joint holder whose name stands first in the Securities Register of the Company shall be entitled to delivery of the certificate (if any) relating to that Company Security, or to receive notices or payments from the Company (and any notice or payment given to that joint holder shall be deemed to be notice or payment, as the case may be to all of the joint holders);
- 22.4 any one of the joint holders of any Company Security conferring a right to vote on any matter may vote either personally or by proxy at any meeting in respect of that Company Security as if he were solely entitled to exercise that vote, and, if more than one of those joint holders is Present at such Meeting, the joint holder who tenders a vote (including an abstention) and whose name stands in the Securities Register before the other joint holders who are Present at such Meeting, shall be the joint holder who is entitled to vote in respect of that Company Security;
- 22.5 the Company shall be entitled to refuse to register more than five Persons as the joint holders of a Company Security.

23 LEGAL REPRESENTATIVES

- 23.1 The Legal Representative of a Security Holder shall –
 - 23.1.1 be the only Person recognised by the Company as having any rights in respect of or title to a Company Security registered in the name of the Security Holder whom he represents ("**Specified Security**"); provided that if a Security Holder or his Legal Representative is a joint holder of the Specified Security, then this

article 23.1.1 shall not detract from article 22 and this article 23.1.1 shall be read together with article 22; and

- 23.1.2 if so required by that Legal Representative or by the Board, be entered into the Securities Register of the Company *nomine officio* in the place and on behalf of that Security Holder,

provided that if the Legal Representative so entered into the Securities Register ceases to be the Legal Representative of that Security Holder, the Board shall, pending transfer of the Specified Security to that Security Holder or another Legal Representative of that Security Holder or any other Person who is entitled to become the holder of the Specified Security, be entitled to suspend the rights of the holder of the Specified Security to vote and shall be entitled to withhold (and retain until such transfer has occurred) all Distributions payable to the holder of the Specified Security.

- 23.2 A Security Holder shall not, merely by virtue of the appointment, or entry into the Securities Register of the Legal Representative, be released from any obligation arising out of or in connection with the holding of a Specified Security.

- 23.3 Securities registered in the name of a deceased or insolvent holder shall not be forfeited merely because the executor failed to register them in his own name or in the name of the heir(s) or legatees, when called upon by the Directors to do so.
[JSE LR schedule 2 item 1.14]

PART D – SHAREHOLDERS' RIGHTS AND PROCEEDINGS

24 PROXY REPRESENTATION

- S58(1) 24.1 A Shareholder may, at any time by written proxy appointment ("**Proxy Instrument**") which complies with this MOI and the Companies Act, appoint any Individual, including an Individual who is not a Shareholder, as a proxy to -

- 24.1.1 participate in, and speak and vote at, a Shareholders Meeting on behalf of the Shareholder; or

24.1.2 give or withhold written consent on behalf of the Shareholder to a decision contemplated in article 31,

and any such proxy appointment (and any invitation by the Company to appoint a proxy and any form supplied by the Company for use as a Proxy Instrument) shall be governed by section 58 and this article 24.

24.2 A Proxy Instrument must be dated and signed by the Shareholder appointing the proxy and a copy thereof must be delivered to the Company, or to any other Person authorised by the Company to accept the Proxy Instrument on its behalf, before the proxy exercises any rights of the Shareholder.

24.3 The Board may determine a standard form of Proxy Instrument and make it available to Shareholders on request.

24.4 Subject to the provisions of the Companies Act, a Proxy Instrument may be an instrument created or transmitted by electronic or other means, including electronic mail or facsimile.

24.5 Unless the contrary is stated therein, a Proxy Instrument which complies with the Companies Act and this MOI shall, if any meeting to which it relates is adjourned or postponed, be valid at that meeting when it resumes after such adjournment or commences after such postponement.

S58(3)(a) 24.6 A Shareholder may not appoint two or more Persons concurrently as proxies, and may not appoint more than one proxy to exercise Voting Rights attached to different Company Securities held by the Shareholder.

S58(3)(b) 24.7 A proxy may not delegate the proxy's authority to act on behalf of the Shareholder to another Person, unless the right to delegate is specifically contained in the Proxy Instrument and the delegation occurs by way of a further Proxy Instrument which itself complies with the requirements of the Companies Act and this MOI.

24.8 A proxy shall, as contemplated in section 58(7), be entitled, in the proxy's own discretion, to exercise, or abstain from exercising, any Voting Right of the

Shareholder; provided that if the Proxy Instrument specifically provides otherwise then the specific provisions of the Proxy Instrument shall prevail.

24.9 If a proxy appointment is revocable, the revocation of such appointment in accordance with the Companies Act constitutes a complete and final cancellation of the proxy's authority to act on behalf of the Shareholder as of the later of -

24.9.1 the date stated in the instrument revoking the appointment ("**Revocation Instrument**"), if any; and

24.9.2 the date on which the Revocation Instrument was delivered as required by the Companies Act.

24.10 Each Proxy Instrument and Revocation Instrument shall be accompanied by such proof of the identity and authority of the signatory as may reasonably be required by the Board or the chairperson of any meeting at which the proxy wishes to exercise any rights of the Shareholder.

25 SHAREHOLDERS MEETINGS

S61(2) 25.1 The Company shall not be required to hold any meetings of Shareholders other than those required by the Companies Act or, to the extent applicable, the Listings Requirements.

S61(1)
S61(3) 25.2 The Board or any Prescribed Officer of the Company authorised by the Board is entitled to call a Shareholders Meeting at any time and must call a meeting in the circumstances envisaged in section 61(3).

26 NOTICE OF SHAREHOLDERS MEETINGS

S62(1) 26.1 The Company shall deliver notice of each Shareholders Meeting to all Shareholders as of the Record Date for receiving notice of that Shareholders Meeting

26.1.1 at least 15 Business Days before that Shareholders Meeting is to begin.

26.2 Any notice of a Shareholders Meeting shall, for so long as the Listings Requirements are applicable, include a proxy form. **[JSE LR 6.67]**

27 CONDUCT OF SHAREHOLDERS MEETINGS

27.1 The Company -

S63(2)(a) 27.1.1 may provide for a Shareholders Meeting to be conducted in whole or in part by Electronic Communication; and

S63(2)(b) 27.1.2 must always make provision for any Shareholder, or proxy for a Shareholder, to participate by Electronic Communication in every Shareholders Meeting that is being held in person, irrespective of whether such meeting is held in South Africa or elsewhere,

and any Electronic Communication facility so employed must ordinarily enable all Persons participating in the meeting to at least speak and hear each other at approximately the same time and to participate reasonably effectively in the meeting. The authority of the Company in this regard is not limited or restricted by this MOI.

S63(3)(b) 27.2 Subject to article 27.1, the responsibility for, and any expense of, gaining access to the medium or means of Electronic Communication employed for any Shareholders Meeting shall be borne by the Shareholder or proxy. If provision has been made for a Shareholders Meeting to be conducted by Electronic Communication or for participation in a Shareholders Meeting by Electronic Communication and the medium or means of such Electronic Communication is available, functioning and reasonably accessible, then the Shareholders Meeting shall be entitled to proceed even if a Shareholder or proxy is not able to gain access to the medium or means of Electronic Communication so employed.

27.3 A resolution passed at any meeting that employs Electronic Communication shall, notwithstanding that the Shareholders are not present together in one place at the time of the meeting, be deemed to have been passed at a meeting duly called and constituted on the day on which, and at the time at which, the meeting was so held.

For the avoidance of doubt, it is recorded that all of the provisions of articles 24 and 28 to 30 (both inclusive) shall apply to these meetings.

- S63(4)
S63(7)
- 27.4 At a Shareholders Meeting a resolution put to the vote shall be decided by a show of hands unless a poll is demanded (on or before the declaration of the result of a show of hands) by -
- 27.4.1 the chairperson of the meeting; or
- 27.4.2 not less than five Security Holders Present at the Meeting having the right to vote on that resolution; or
- 27.4.3 a Security Holder or Holders Present at the Meeting having the right to exercise at least 10% of the total Voting Rights of all Security Holders having the right to vote on that resolution.
- 27.5 If a poll is demanded, it shall be conducted in such manner as the chairperson of the meeting directs.

28 SHAREHOLDERS MEETING QUORUM AND ADJOURNMENT

- S64(2)
- 28.1 The quorum requirements for a Shareholders Meeting shall, subject to section 64(3) (if applicable) and article 28.5, be that -
- 28.1.1 such a meeting shall not begin unless sufficient Persons are Present at such Meeting who are entitled to exercise, in aggregate, at least 25% of the Voting Rights that are entitled to be exercised in respect of at least one matter to be decided at the meeting; and
- 28.1.2 the consideration of a matter to be decided at the meeting shall not begin or continue at any time unless sufficient Persons are Present at such Meeting who are entitled at that time to exercise, in aggregate, at least 25% of the Voting Rights that are entitled to be exercised on that matter. **[JSE LR schedule 2 item 1.11]**

- S64(4)
S64(6)
- 28.2 Notwithstanding the provisions of section 64(4), if, within 30 minutes after the appointed time for a Shareholders Meeting, -
- 28.2.1 the quorum requirements for the meeting to begin have not been satisfied, the meeting shall automatically be postponed without motion or vote to the same day in the following week (or if that day is not a Business Day, the next Business Day);
- 28.2.2 or at such later time during the meeting that a particular matter is to be considered, the quorum requirements for consideration of that matter to begin or continue have not been satisfied, then, -
- 28.2.2.1 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 motion or vote; or
- 28.2.2.2 if there is no other business on the agenda of the meeting, the meeting is adjourned, without motion or vote, to the same day in the following week (or if that day is not a Business Day, the next Business Day).
- 28.3 The adjourned or postponed meeting may only deal with the matters that were on the agenda of the meeting that was adjourned or postponed.
- 28.4 The chairperson of the meeting shall be entitled to extend the 30 minute limit referred to in article 28.2 in the circumstances contemplated in section 64(5).
- S64(8)
- 28.5 If, at the time appointed in terms of this article 28 for an adjourned meeting to resume, or for a postponed meeting to begin, the quorum requirements have not been satisfied, the Shareholders Present at such Meeting will be deemed to constitute a quorum.
- 28.6 A Shareholders Meeting, or the consideration of any matter being debated at a Shareholders Meeting, may, subject to article 28.8, be adjourned as contemplated in sections 64(10), 64(11) and 64(12), it being recorded that the periods of adjournment set out in section 64(12) shall apply without variation.

28.7 The Board may, at any time after notice of a Shareholders Meeting (other than a Shareholders Meeting that is required to be called in terms of section 61(3)) has been given but prior to the commencement of that meeting, postpone that meeting to such later date as may be determined by the Board at the time of determining to postpone the meeting, or may be postponed to an unspecified date to be decided by the Board at a later stage; provided that the Board may not so postpone the date of any such meeting beyond the date (if any) by which that meeting is required by the Companies Act or this MOI to be held.

S64(7)(a) 28.8 If a Shareholders Meeting is postponed or adjourned, whether in terms of
S64(7)(b) article 28.2, article 28.6, article 28.7 or otherwise, the Company must, within 48 hours thereafter, send notice of the postponement or adjournment to all Shareholders who were entitled to receive notice of the meeting. Such notice must contain the time and date of, and the location for, the continuation or resumption of the meeting, the business to be dealt with thereat and any other information which the Board may decide to include therein, provided that if the meeting is to be postponed to an unspecified date to be decided by the Board, the notice shall contain a statement to that effect and a further notice containing the time, date and location of such meeting shall be sent forthwith upon being decided by the Board. If written notice is not so given, the postponed or adjourned meeting may not be held or resumed and the business that would have been dealt with thereat may be dealt with at a new meeting of which fresh notice has been given in accordance with this MOI.

28.9 Even if he is not a Shareholder –

28.9.1 any Director; or

28.9.2 any other person admitted and permitted to speak by the chairperson of the meeting,

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.

29 CHAIRPERSON OF SHAREHOLDERS MEETINGS

- 29.1 The chairperson of the Board or, failing him, the deputy chairperson of the Board (or if more than one of them is present and willing to act, the most senior of them) shall preside as the chairperson of each Shareholders Meeting; provided that, if no chairperson or deputy chairperson is present and willing to act, the Shareholders present shall elect one of the Directors or, if no Director is present and willing to act, a Shareholder or a representative or proxy of a Shareholder, to be the chairperson of that Shareholders Meeting.
- 29.2 The chairperson of a Shareholders Meeting shall, subject to the Companies Act and this MOI, determine the procedure to be followed at that meeting but shall not have a second or casting vote at any Shareholders Meeting.

30 SHAREHOLDER RESOLUTIONS

- S63(6) 30.1 At any Shareholders Meeting, any Person who is Present at the Meeting, whether as a Shareholder or as a proxy for a Shareholder, shall be entitled -
- 30.1.1 on a show of hands, to one vote, irrespective of the number of Voting Rights that such Shareholder would otherwise be entitled to exercise; and
- 30.1.2 on a poll, to exercise the number of Voting Rights associated with the Shares held by such Shareholder, which Voting Rights shall be determined in accordance with the preferences, rights, limitations and other terms of the Shares, as set out in this MOI.
- 30.2 In order for -
- S65(7) 30.2.1 an Ordinary Resolution to be approved, it must be supported by more than 50% of the Voting Rights exercised on the resolution, as contemplated in section 65(7); or

- S65(9) 30.2.2 a Special Resolution to be approved, it must be supported by at least 75% of the Voting Rights exercised on the resolution, as contemplated in section 65(9), **[JSE LR schedule 2 general heading]**
- at a quorate Shareholders Meeting which is quorate in relation to that resolution; provided that this article 30.2 shall not detract from the Shareholders' ability to adopt resolutions by written vote as referred to in article 31.
- 30.3 Except for those matters which require the approval or authority of a Special Resolution in terms of section 65(11), any other section of the Companies Act, any provision of the Regulations or any provision of the Listings Requirements (to the extent applicable) or the approval or authority of a Special Resolution of the Shareholders in terms of this MOI, no other matters which the Company may undertake require the approval or authority of a Special Resolution of the Shareholders.
- 30.4 If any Shareholder is Present at a Meeting but abstains from exercising any Voting Rights attaching to Shares held by it in respect of any resolution, those Voting Rights shall -
- 30.4.1 be taken into account in order to determine whether the requirements for a quorum have been met;
- 30.4.2 not be taken into account when determining whether the number of votes exercised in respect of that resolution were sufficient to adopt that resolution.
- 30.5 The chairperson of the Shareholders Meeting may -
- 30.5.1 appoint any firm or persons to act as scrutineers for the purpose of checking any powers of attorney, delegations of authority, Proxy Instruments or Revocation Instruments ("**Meeting Documents**") received and for counting the votes at the Shareholders Meeting;
- 30.5.2 act on a certificate given by any such scrutineers without requiring production at the Shareholders Meeting of the Meeting Documents, reviewing the Meeting Documents himself or counting the votes himself.

31 WRITTEN RESOLUTIONS BY SHAREHOLDERS

- S60(5) 31.1 Subject to article 31.3, a resolution that could be voted on at a Shareholders Meeting (other than a resolution in respect of business that is required to be conducted at an Annual General Meeting of the Company) may instead be adopted by written vote, as contemplated in section 60, if it is -
- 31.1.1 submitted to the Shareholders entitled to exercise Voting Rights in relation to the resolution; and
- 31.1.2 supported by Persons entitled to exercise sufficient Voting Rights for it to have been adopted, in terms of the Companies Act and this MOI, as an Ordinary or Special Resolution, as the case may be, at a properly constituted Shareholders Meeting.
- 31.2 Unless the contrary is stated in the resolution, any such resolution shall be deemed to have been adopted on the date on which the Company received the written vote of the Shareholder or the proxy of the Shareholder whose vote resulted in the resolution being supported by sufficient votes for its adoption irrespective of any votes received thereafter, provided that such date falls within the 20 Business Day period referred to in section 60(1)(b).
- 31.3 Notwithstanding article 31.1, for so long as the Listings Requirements are applicable to the Company, no resolution shall be adopted by the Shareholders in the manner contemplated in this article 31.1 if the Listings Requirements require such resolution to be adopted at a Shareholders Meeting. **[JSE LR schedule 2 items 1.12 and 1.16(a)]**

PART E – DIRECTORS' POWERS AND PROCEEDINGS

32 AUTHORITY OF THE BOARD OF DIRECTORS

- S66(1) 32.1 The business and affairs of the Company shall be managed by or under the direction of the Board, which shall have the authority to exercise all of the powers and perform all of the functions of the Company, except to the extent that the

Companies Act, this MOI or, to the extent applicable, the Listings Requirements provides otherwise.

- 32.2 The Board may delegate to any one or more Persons any of its powers, authority and functions (including the power to sub-delegate).

33 APPOINTMENT OF DIRECTORS

- S68(2)
- S66(2) 33.1 The Board shall comprise at least three Directors, in addition to the minimum number of Directors that the Company must have to satisfy any requirement, whether in terms of the Companies Act or this MOI, to appoint an audit committee or a social and ethics committee.
- S66(4)(a)(iii)
S66(4)(b)
- 33.2 Subject to article 33.4, all of the Directors and Alternate Directors shall be elected by an Ordinary Resolution of the Shareholders at a Shareholders Meeting. The provisions of section 68(2) shall apply to the election of Directors, provided that a Director may not be elected by a written vote in accordance with article 31. **[JSE LR schedule 2 item 1.16(a)]**
- 33.3 There shall be no *ex officio* directors, as contemplated in section 66(4)(a)(ii), and no Person shall have the right to effect the direct appointment of one or more Directors as contemplated in section 66(4)(a)(i). **[JSE LR schedule 2 item 1.16(a)]**
- S68(3) 33.4 The Board may appoint a Person who satisfies the requirements for election as a Director to -
- 33.4.1 fill any vacancy and serve as a Director on a temporary basis until the earlier of the date of the next Annual General Meeting of the Company and the date on which the vacancy has been filled by election in terms of article 33.1; or
- 33.4.2 act as an additional director until the earlier of the date of the next Annual General Meeting of the Company and the date on which the additional director is removed by the Board.

During that period any Person so appointed has all of the powers, functions and duties, and is subject to all of the liabilities, of any other Director. The authority of the Board in this regard is not limited or restricted by this MOI. **[JSE LR 5.4]**

33.5 The Directors shall retire from office as follows -

33.5.1 at each Annual General Meeting Directors comprising one-third of the aggregate number of Directors (excluding any executive Director referred to in article 39 and any Director referred to in article 33.4) or, if their number is not three or a multiple thereof, then the number nearest to but not less than one third of the aggregate number of Directors (excluding any executive Director referred to in article 39 and any Director referred to in article 33.4) shall retire from office and accordingly life directorships and directorships for an indefinite period are not permissible; **[JSE LR 5.5 and JSE LR schedule 2 item 1.16(f)]**

33.5.2 the Directors to retire in terms of article 33.5.1 shall be those who have been longest in office since their last election, provided that if more than one of them were elected Directors on the same day, those to retire shall be determined by lot unless those Directors agree otherwise between themselves;

33.5.3 any Director appointed as such by the Directors in terms of article 33.4 after the conclusion of the Company's preceding Annual General Meeting shall, if he is still in office at the Annual General Meeting held immediately after his appointment, retire from office at the conclusion of that Annual General Meeting, in addition to the Directors retiring in terms of article 33.5.2;

33.5.4 a retiring Director may, if eligible, be re-elected and, if re-elected, shall be deemed for all purposes other than article 33.5.3, not to have vacated his office;

33.5.5 no Person other than a retiring Director shall be eligible for election as a Director at any Annual General Meeting unless –

33.5.5.1 the Directors recommend such other Person for election; or

33.5.5.2 that Person has been nominated in accordance with article 33.7;

33.5.6 a retiring Director shall continue to act as Director throughout the Annual General Meeting at which he retires and his retirement shall become effective only at the end of such meeting.

33.6 The Board may in the notice of the meeting at which the re-election of a retiring Director is proposed, provide the Shareholders with a recommendation as to which retiring Directors should be re-elected, taking into account that Director's past performance and contribution.

33.7 Any Shareholder shall be entitled to nominate any Individual for election as a Director by providing a written nomination (which includes a brief CV of the Individual being nominated), together with the consent of that Individual to be elected as a Director ("**Nomination Documents**"), to the Company. The Company shall, subject to the fit and proper assessment to be carried out by the Board in terms of the Listings Requirements, table the nomination of the Individual at the next Annual General Meeting; provided that if the Nomination Documents are received less than five Business Days prior to the date of the notice of an Annual General Meeting, the nomination of that Individual shall only be tabled at the Annual General Meeting following the one to which that notice relates. [**JSE LR schedule 2 item 1.16(a)**]

S69(6)(a) 33.8 In addition to the grounds of ineligibility and disqualification of Directors as contained in section 69, a Director shall cease to be eligible to continue to act as a Director of the Company if -

33.8.1 he becomes insolvent, or assigns his estate for the benefit of his creditors, or files a petition for the liquidation of his affairs, or compounds generally with his creditors; or

33.8.2 he becomes of unsound mind; or

33.8.3 his employment relationship with the Company is terminated for whatsoever reason, including but not limited to, resignation, retirement, misconduct or otherwise; or

33.8.4 he is removed by resolution of the Board approved by at least 2/3 (two thirds) of the votes cast on the relevant resolution, for -

33.8.4.1 being negligent or derelict in performing the functions of a director; or

33.8.4.2 failing to remain, in the discretion of the Board, independent from any competitor of the Company;

33.8.5 he absents himself from all meetings of the Board occurring within a period of six consecutive months without the leave of the Board, and the Board resolves that his office shall be vacated; provided that this article 33.8 shall not apply to a Director who is represented by an Alternate Director who does not so absent himself.

S69(6)(b) 33.9 This MOI does not impose any minimum shareholding or other qualifications to be met by the Directors in addition to the ineligibility and disqualification provisions of the Companies Act and article 33.8.

33.10 All acts performed by the Board or by a committee of the Board or by any person acting as a director or a member of a committee, 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 one 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.

S70(3)(b)(ii) 33.11 If the number of Directors falls below the minimum number specified in article 33.1, the remaining Directors shall, as soon as possible, but in any event within three months after the date on which the number of Directors fell below such minimum, fill the vacancy/ies by -

33.11.1 making an appointment/s in accordance with article 33.4; or

33.11.2 conducting an election in accordance with article 33.1,

S70(4) provided that, if there is no Director able and willing to act, then any Shareholder may convene a Shareholders Meeting for the purposes of conducting such an election.

33.12 A failure by the Company to have the minimum number of Directors during the three-month period referred to in article 33.11 does not limit or negate the authority of the Board or invalidate anything done by the board or the Company. After the expiry of such three-month period, the remaining Directors shall only be permitted to act for the purpose of filling vacancies or calling general meetings of Shareholders. **[JSE LR schedule 2 item 1.16(b)]**

34 **ALTERNATE DIRECTORS**

34.1 The appointment of an Alternate Director shall terminate -

34.1.1 when the Director to whom he is an Alternate Director ceases to be a Director;
or

34.1.2 upon the removal of that Alternate Director from his office as such.

34.2 An Alternate Director shall, subject to this MOI -

34.2.1 in the place and stead of the Director to whom he is an Alternate Director, act as a Director and generally exercise all the rights of a Director, but only -

34.2.1.1 at any meeting of the Board during the absence of that Director from such meeting; or

34.2.1.2 otherwise than at a meeting of the Board, during the incapacity of that Director or to the extent authorised by that Director in writing,

and if more than one Alternate Director to a Director is present at a meeting or able to act in the place of that Director and that Director has not indicated in writing who should act in his place, then those Alternate Directors may agree as to which of them should act in the place of that Director and in the absence

of such agreement between them, the most senior of them in age shall act in the place of that Director; and

- 34.2.2 in all respects be subject to the terms and conditions existing with reference to the appointment, rights and duties and the holding of office of the Director to whom he is an Alternate Director, but shall not have any claim of any nature whatsoever against the Company for any remuneration of any nature whatsoever.

35 BOARD COMMITTEES

- S72(1)(b) The authority and power of any committee established by the Board, whether pursuant
S72(2)(c) to the Companies Act or the Listings Requirements, is not limited or restricted by this MOI, but may, subject to the requirements of the Companies Act and Listings Requirements (if applicable), be restricted by the Board when establishing such committee or by subsequent resolution.

36 CHAIRPERSON OF THE BOARD

- 36.1 The Board shall be entitled, from time to time, to appoint -

- 36.1.1 a Director to act as the chairperson of the Board; and

- 36.1.2 to appoint one or more Directors to act as deputy chairperson/s of the Board,

for such period as may be determined by the Board and, even though that period has not yet expired, to remove that chairperson or deputy chairperson from his post, with or without nominating a replacement. **[JSE LR schedule 2 item 1.16(e)]**

- 36.2 The chairperson of the Board or, failing him, the deputy chairperson of the Board (or if more than one of them is present and willing to act, the most senior of them) shall preside as the chairperson of each meeting of the Board; provided that, if no chairperson or deputy chairperson is present and willing to act, the Board present shall elect one of the Directors to be the chairperson of that meeting of the Board.

36.3 The chairperson of a meeting of the Board referred to in article 36.2 shall, subject to the Companies Act and this MOI and any decision of the Board, determine the procedure to be followed at that meeting.

36.4 Notwithstanding the provisions of section 73(5)(e), the chairperson of the Board or any meeting of the Board shall not have a second or casting vote in addition to his deliberative vote on any matter referred to the Board.

37 DIRECTORS' MEETINGS

37.1 The Board may -

S73(1)(b)
S73(2) 37.1.1 meet, adjourn and otherwise regulate its meetings as it thinks fit; provided that, in accordance with section 73(2), any Director shall be entitled to convene or direct the Person so authorised by the Board to convene a meeting of the Board;

37.1.2 from time to time determine the form and time of the notice that shall be given of its meetings and the means of giving that notice, as contemplated in section 73(4); provided that, subject to section 73(5)(a), no meeting may be convened without notice to all of the Directors. The authority of the Board in this regard is not limited or restricted by this MOI.

37.2 The Board must call a meeting if required to do so by at least –

37.2.1 25% of the directors, in the case of a Board that has at least 12 (twelve) members; or

37.2.2 two directors, where the Board has less than 12 (twelve) directors.

S73(3) 37.3 The Board -

37.3.1 may provide for a meeting of the Board to be conducted in whole or in part by Electronic Communication; and

37.3.2 must always make provision for any Director to participate by Electronic Communication in every Board Meeting that is held in person,

and any Electronic Communication facility so employed must ordinarily enable all Persons participating in that meeting to at least speak and hear each other at approximately the same time, and to participate reasonably effectively in the meeting. The authority of the Board shall be limited and restricted accordingly.

S73(5)(b) 37.4 The quorum for meetings of the Board shall be a majority in number of the Directors (or their Alternate Directors) then in office; provided that, unless the Board decides otherwise -

37.4.1 if a quorum is not present within 30 minutes after the time appointed for the commencement of any meeting of the Board, that meeting shall automatically be postponed without motion or vote to the same day in the following week (or if that day is not a Business Day, the next Business Day), at the same time and place. The postponed meeting may only deal with the matters that were on the agenda of the meeting that was postponed;

37.4.2 if at any such postponed meeting a quorum is not present within 30 minutes after the time appointed for the commencement of that meeting, then, notwithstanding the provisions of section 73(5)(b), the Directors present shall be deemed to constitute a quorum and shall be sufficient to vote on any resolution which is tabled at that meeting.

37.5 If a meeting of the Board is postponed or adjourned, whether in terms of article 37.4 or otherwise, the Company must, within 48 hours thereafter, send notice of the postponement or adjournment to all Directors (excluding those of the Directors who have agreed not to receive such notice of postponement or adjournment or agreed that the meeting may proceed without them) and that notice must contain the time and date of, and the location for, the continuation or resumption of the meeting and the business to be dealt with thereat. If written notice is not so given, the postponed or adjourned meeting may not be held or resumed and the business that would have been dealt with thereat may be dealt with at a new meeting of which fresh notice has been given in accordance with this MOI.

- S73(5) 37.6 At any meeting of the Board, -
- 37.6.1 an Alternate Director shall only be entitled to attend, speak or vote in accordance with article 34.2;
- 37.6.2 each Director shall have one vote on every matter to be decided by the Board; and
- 37.6.3 a resolution of the Board shall be passed by a majority of the votes cast in the manner set out in article 37.6.2 at a quorate meeting of the Board and there is no casting vote, so in the case of a tied vote on a resolution, that resolution is not adopted. This article 37.6.3 shall not detract from the Board's ability to adopt resolutions as set out in article 38.

S74 **38 WRITTEN RESOLUTIONS BY DIRECTORS**

- 38.1 A decision that could be voted on at a meeting of the Board may instead be adopted by a written resolution that has been submitted to all of the Directors and signed by at least a majority of the Directors (or their Alternate Directors).
- 38.2 Any such resolution shall be as valid and effective as if it had been adopted by a duly convened and constituted meeting of Directors and shall be inserted in the Company's minute book for meetings and resolutions of Directors.
- 38.3 Unless the contrary is stated in the resolution, any such resolution shall be deemed to have been passed on the date on which it was signed by or on behalf of the Director (or Alternate Director) whose vote resulted in that resolution being supported by sufficient votes for that resolution to be adopted in accordance with article 38.1, irrespective of any votes received thereafter.
- 38.4 The resolution may consist of one or more counterpart documents, each signed by one or more Directors (or their Alternate Directors).
- 38.5 An Alternate Director shall only be entitled to sign such a written resolution if permitted to do so in terms of article 34.2.1.2.

39 EXECUTIVE DIRECTORS

The Board may appoint, from time to time, one or more of the Directors as executive Directors, who shall be employees of the Company and/or any Subsidiary of the Company, on such terms and conditions of employment as to term of appointment, remuneration and otherwise as a disinterested quorum of the Board may from time to time determine. **[JSE LR schedule 2 item 1.16(c)]**

S66(8)
S66(9)

40 PAYMENTS TO DIRECTORS

40.1 The Company may pay remuneration to its Directors for their services as Directors, provided that such remuneration has been approved by a Special Resolution of the Shareholders passed within the two previous years and the authority of the Board in this regard is not restricted or limited by this MOI. For the avoidance of doubt it is recorded that this article does not apply to remuneration paid to executive Directors for their services as employees of the Company which is governed by article 39.

40.2 Each Director shall be paid all travelling, subsistence and other expenses properly incurred by him in the execution of his duties as a Director (including attending meetings of the Board or of the Board committees); provided that such expenses shall first have been authorised or ratified by the Board. **[JSE LR schedule 2 item 1.16(d)]**

40.3 Any Director who is required to –

40.3.1 devote special attention to the business of the Company;

40.3.2 travel or reside outside South Africa for the purpose of the Company; or

40.3.3 otherwise 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 (either in addition to or in substitution for any other remuneration to which he may be entitled as a Director),

as a disinterested quorum of the Board may from time to time determine. **[JSE LR schedule 2 item 1.16(d)]**

41 INDEMNIFICATION AND INSURANCE FOR DIRECTORS

- S78(1) 41.1 For the purposes of this article 41, a Director includes -
- 41.1.1 a former Director and an Alternate Director;
 - 41.1.2 a Prescribed Officer; and
 - 41.1.3 a Person who is a member of a committee of the Board,
- irrespective of whether or not the Person is also a member of the Board.
- 41.2 The Board may, on behalf of the Company, as contemplated in sections 78(4), 78(5) and 78(7), -
- 41.2.1 advance expenses to a Director to defend litigation in any proceedings arising out of the Director's service to the Company; and
 - 41.2.2 directly or indirectly indemnify a Director for expenses contemplated in article 41.2.1, irrespective of whether or not it has advanced those expenses, if the proceedings -
 - 41.2.2.1 are abandoned or exculpate that Director; or
 - 41.2.2.2 arise in respect of any liability for which the Company may indemnify the Director, in terms of article 41.2.3;
 - 41.2.3 indemnify a Director (on terms and conditions which are the same as, or different from, the terms and conditions of the indemnity contained in article 41.3) against any liability arising from the conduct of that Director, other than a liability or fine contemplated in section 78(6);

41.2.4 purchase or pay for insurance to protect -

41.2.4.1 a Director against any liability or expense for which the Company is permitted to indemnify the Director in accordance with article 41.2.3;

41.2.4.2 the Company against any contingency, including -

41.2.4.2.1 any expenses -

41.2.4.2.1.1 that the Company is permitted to advance in accordance with article 41.2.1; or

41.2.4.2.1.2 for which the Company is permitted to indemnify a Director in accordance with article 41.2.2; or

41.2.4.2.2 any liability for which the Company is permitted to indemnify a Director in accordance with article 41.2.3,

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

41.3 The Company shall and is hereby obliged to indemnify each Director against (and pay to each Director, on demand by that Director, the amount of) any loss, liability, damage, cost (including all legal costs reasonably incurred by the Director in dealing with or defending any claim) or expense ("**Loss**") which that Director may suffer as a result of any act or omission of that Director in his capacity as a Director; provided that -

41.3.1 this indemnity shall not extend to any Loss –

41.3.1.1 against which the Company is not permitted to indemnify a Director by section 78(6); or

41.3.1.2 arising from any gross negligence or recklessness on the part of that Director, or

41.3.1.3 arising from any loss of or damage to reputation; or

41.3.1.4 in the event and to the extent that the Director has recovered or is entitled and able to recover the amount of that Loss in terms of any insurance policy (whether taken out or paid for by the Company or otherwise);

and Directors shall not, in terms of this indemnity, be entitled to recover the Losses referred to in this article 41.3.1 from the Company. All Losses other than those referred to in this 41.3.1 are referred to herein as "**Indemnified Losses**";

41.3.2 each Director's right to be indemnified by the Company in terms of this article 41.3 shall exist automatically upon his/her becoming a Director and shall endure even after he/she ceases to be a Director until he/she can no longer suffer or incur any Indemnified Loss;

41.3.3 if any claim is made against a Director in respect of any Indemnified Loss, then –

41.3.3.1 the Director shall not admit any liability in respect thereof and the Director shall notify the Company of any such claim within a reasonable time after the Director becomes aware of such claim, in order to enable the Company to contest such claim. Notwithstanding the foregoing provisions of this article 41.3.3, the Company's liability in terms of this indemnity shall not be affected by any failure of the Director to comply with this article 41.3.3, save in the event and to the extent that the Company proves that such failure has resulted in the Indemnified Loss being greater than it would have been had the Director complied with this article 41.3.3;

41.3.3.2 the Company shall, at its own expense and with the assistance of its own legal advisers, be entitled to contest any such claim in the name of the Director until finally determined by the highest court to which appeal may be made (or which may review any decision or judgment made or given in relation thereto) or to settle any such claim and shall be entitled to control the proceedings in regard thereto; provided that -

- 41.3.3.2.1 the Director shall (at the expense of the Company and, if the Director so requires, with the involvement of the Director's own legal advisers) render to the Company such assistance as the Company may reasonably require of the Director in order to contest such claim;
- 41.3.3.2.2 the Company shall regularly, and in any event on demand by the Director, inform the Director fully of the status of the contested claim and furnish the Director with all documents and information relating thereto which may reasonably be requested by the Director;
- 41.3.3.2.3 the Company shall consult with the Director prior to taking any major steps in relation to or settling such contested claim and, in particular, before making or agreeing to any announcement or other publicity in relation to such claim;
- 41.3.3.2.4 the Company shall not make any admission of wrongdoing on behalf of the Director without the Directors' express consent therefor;
- 41.3.4 to the extent that any Indemnified Loss consists of or arises from a claim or potential claim that the Company might otherwise have had against the Director, then the effect of this indemnity shall be to prevent the Company from making such claim against the Director, who shall be immune to such claim, and such claim shall therefore be deemed not to arise;
- 41.3.5 if this article 41 is amended at any time, no such amendment shall detract from the rights of the Directors in terms of this article in respect of any period prior to the date on which the resolution effecting such amendment is adopted by the Shareholders;
- 41.3.6 all provisions of this article 41.3 are, notwithstanding the manner in which they have been grouped together or linked grammatically, severable from each other. Any provision of this article 41.3 which is or becomes unenforceable, whether due to voidness, invalidity, illegality, unlawfulness or for any other reason whatever, shall, only to the extent that it is so unenforceable, be treated

as *pro non scripto* and the remaining provisions of this MOI shall remain of full force and effect;

- 41.3.7 this indemnity shall not detract from any separate indemnity that the Company may sign in favour of the Director.

PART F – GENERAL PROVISIONS

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42 DISTRIBUTIONS AND OTHER PAYMENTS

- 42.1 The Board may from time to time declare Distributions in respect of any one or more classes of Shares in accordance with the requirements of the Companies Act and the corporate action timetables set out in the Listings Requirements (if applicable). **[JSE LR schedule 2 item 1.17(a)]**

- 42.2 The Company may transmit any Distribution or other money payable in respect of a Company Security -

- 42.2.1 by electronic bank transfer to such bank account as the holder of such Company Security may have notified to the Company in writing for this purpose; or

- 42.2.2 if the Security Holder referred to in article 42.2.1 has not notified the Company of a bank account in terms of article 42.2.1, by ordinary post to the postal address of such Security Holder (or, where two or more Persons are registered as the joint holders of a Company Security, to the address of the joint holder whose name stands first in the Securities Register) recorded in the Securities Register or such other address as such Security Holder may previously have notified to the Company in writing for this purpose,

and the Company shall not be responsible for any loss in transmission.

- 42.3 Any Distribution or other money payable in respect of a Company Security, -

- 42.3.1 which is unclaimed, may be retained by the Company and held in trust indefinitely and may while so retained be invested as the Board may deem fit

until claimed by the holder thereof or until such Security Holder's claim therefor prescribes in terms of article 42.3.2;

42.3.2 may only be claimed for a period of three years (or such other period as may be applicable to such Security Holder's claim therefor in terms of the laws of prescription) from the date on which it accrued to such Security Holder, after which period such Security Holder's claim therefor shall prescribe and that Distribution or other money shall, unless the Board decides otherwise, be forfeited for the benefit of the Company; and

42.3.3 shall not bear interest against the Company,

and the Board shall, for the purpose of facilitating the winding-up or deregistration of the Company before the date of any such prescription, be entitled to delegate to any bank, registered as such in accordance with the laws of South Africa, the liability for payment of any such Distribution or other money, the claim for which has not been prescribed in terms of the foregoing. **[JSE LR schedule 2 item 1.17(c)]**

42.4 Distributions (in the form of a dividend or otherwise) shall be paid to Shareholders registered as at a Record Date subsequent to the date of declaration or, if applicable, date of confirmation of the Distribution, whichever is the later date. **[JSE LR schedule 2 item 1.17(b)]**

42.5 The terms of any payment to Security Holders may not provide that capital will be repaid on the basis that it may be called up again. **[JSE LR schedule 2 item 1.8]**

43 **NOTICES**

43.1 Any notice to the Company, Shareholders or Directors may be given in any manner prescribed in the Table CR3 to the Regulations and any notice so given shall be deemed to have been delivered as provided for in the Regulations as a result of the relevant method of delivery.

43.2 Each Shareholder and Director shall -

43.2.1 notify the Company in writing of a postal address in South Africa or another country, which address shall be his registered address for the purposes of receiving written notices from the Company by post; and **[JSE LR schedule 2 item 1.18]**

43.2.2 unless otherwise agreed with the Company, notify the Company in writing of an email address, which address shall be his address for the purposes of receiving notices by way of email, respectively,

and, if he has not notified the Company of any such postal address and email address, then he shall not be entitled to receive notices from the Company until a postal address or email address is provided.

S36(1)(a) **SCHEDULE 1 – SHARES**

The number and class of Shares which the Company is authorised to issue are 2,000,000,000 ordinary shares of no par value having the rights and limitations set out in this MOI.