

Republic of South
Africa Companies Act,
2008

**MEMORANDUM OF INCORPORATION FOR A
PUBLIC COMPANY**

Name of company: Oceana Group Limited
Registration No.: 1939/001730/06

This MOI was adopted by a special resolution of the shareholders of the Company passed on 24 March 2021 in substitution for the existing memorandum of incorporation of the Company.

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1. INTERPRETATION

In this MOI, -

- 1.1 words that are defined in the Companies Act (which are contained in **Schedule 1** for easy reference but which do not form part of this MOI for purposes of interpretation) but not defined in this MOI will bear the same meaning in this MOI as in the Companies Act. For ease of reading, the first letters of such terms have been capitalised in this MOI;
- 1.2 unless the context otherwise requires -
- 1.2.1 "**Board**" means the board of directors of the Company;
- 1.2.2 "**Charter**" means any charter or terms of reference approved by the Board, as amended by the Board from time to time, relating to the powers, duties, functions and/or operations of any committee of the Board and/or any statutory committee of the Company. For the sake of clarity, it is recorded that a Charter shall not constitute Rules;
- 1.2.3 "**Companies Act**" means the Companies Act 71 of 2008, as amended from time to time;
- 1.2.4 "**Company**" means Oceana Group Limited (Registration No. 1939/001730/06);
- 1.2.5 "**Deliver**" means deliver in the manner in which the Company is entitled to give notice or deliver documents in accordance with clause 33 and the Companies Act;
- 1.2.6 "**Electronic Address**" means in regard to Electronic Communication, any email address furnished to the Company by the Holder;
- 1.2.7 "**Holder**" means a registered holder of Securities;
- 1.2.8 "**Ineligible or Disqualified**" means ineligible or disqualified as contemplated in sections 69(7) and (8), respectively, (excerpts of which are contained in **Schedule 2** for easy reference but which do not form part of this MOI for purposes of interpretation);
- 1.2.9 "**JSE**" means the securities exchange operated by JSE Limited (Registration No. 2005/022939/06) or its successor body;
- 1.2.10 "**Legal Representative**" means any Person who has submitted the necessary proof of his or her appointment as:
- 1.2.10.1 an executor or administrator of the estate of a deceased Holder or the trustee, curator or guardian of a Holder whose estate has been sequestrated or who is otherwise under a legal disability;
- 1.2.10.2 the liquidator or business rescue practitioner of any Holder which is a body corporate in the course of being wound up or under business rescue proceedings;
- 1.2.10.3 the judicial manager of any Holder which is a company under judicial management; or

- 1.2.10.4 any person duly appointed by a competent authority to represent or act for any Holder;
- 1.2.11 "**Listings Requirements**" means the listings requirements of the JSE, as amended from time to time;
- 1.2.12 "**MOI**" means this Memorandum of Incorporation;
- 1.2.13 "**Odd-lot**" means a total holding by a single Holder of less than 100 (one hundred) Securities, or subject to the Listings Requirements, such greater or lesser number of Securities determined by the Directors at the relevant time;
- 1.2.14 "**Odd-lot Offer**" means an offer to Holders in terms of which those Holders holding Odd-lots may elect to:
- 1.2.14.1 sell their Odd-lot; or
- 1.2.14.2 retain their Odd-lot;
- 1.2.15 "**Ordinary Shareholders**" means registered holders of Ordinary Shares;
- 1.2.16 "**Ordinary Shares**" means the ordinary no par value shares of the Company, which are listed on the JSE;
- 1.2.17 "**Participant**" shall have the meaning ascribed thereto in section 1;
- 1.2.18 "**Present**" or "**Present at a Meeting**" shall have the meaning ascribed to "present at a meeting" in section 1 of the Companies Act;
- 1.2.19 "**Regulations**" means regulations published pursuant to the Companies Act from time to time;
- 1.2.20 "**Securities**" means the securities, as such term is defined in section 1, of the Company;
- 1.2.21 "**Shareholders**" means registered holders of Shares;
- 1.2.22 "**Shares**" means Ordinary Shares and any other shares issued by the Company from time to time;
- 1.2.23 "**Uncertificated Securities**" means the uncertificated securities, as such term is defined in section 1, of the Company;
- 1.2.24 "**Writing**" or "**Written**" includes electronic communication but as regards any Holder entitled to vote, only to the extent that such Holder has notified the Company of an Electronic Address;
- 1.3 references to Holders represented by proxy shall include Holders entitled to vote represented by an agent appointed under a general or special power of attorney;
- 1.4 references to any statute or regulation shall be references to that statute or regulation as modified, amended or substituted from time to time;

- 1.5 references to Holders entitled to vote Present at a Meeting or acting in person shall include Juristic Persons represented by duly authorised representative or acting in the manner prescribed in the Companies Act;
- 1.6 all references to section/s in this MOI refer to the sections of the Companies Act unless the context indicates otherwise;
- 1.7 the headings are for reference purposes only and shall not affect the interpretation of this MOI;
- 1.8 words in the singular shall include the plural, and words in the plural shall include the singular, words importing the masculine gender shall include the female gender, and words importing persons shall include created entities (corporate or not);
- 1.9 if any term is defined within the context of any particular clause in the MOI, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the meaning ascribed to it for all purposes in terms of this MOI, notwithstanding that that term has not been defined in this interpretation provision;
- 1.10 if the provisions of this MOI are in any way inconsistent with the provisions of the Companies Act, the provisions of the Companies Act shall prevail, and this MOI shall be read in all respects subject to the Companies Act; and
- 1.11 the rule of construction that a contract shall be interpreted against the party responsible for the drafting or preparation of the contract, shall not apply to this MOI.

2. CALCULATION OF BUSINESS DAYS

When a particular number of Business Days is provided for between the happening of one event and another, the number of days must be calculated by -

- 2.1 excluding the day on which the first such event occurs;
- 2.2 including the day on or by which the second event is to occur; and
- 2.3 excluding any public holiday, Saturday or Sunday that falls on or between the days contemplated in clauses 2.1 and 2.2 respectively.

3. PUBLIC COMPANY

The Company is a Public Company.

4. POWERS AND CAPACITY OF THE COMPANY

- 4.1 In terms of section 19(1)(b), the Company has all the powers and capacity of an Individual, except to the extent that:
- 4.1.1 a juristic person is incapable of exercising any such power, or having any such capacity; or
- 4.1.2 this MOI provides otherwise.

- 4.2 No resolution in terms of section 20(2) and 20(6) may be put to Holders if such a resolution would lead to the ratification of any action by the Company or the Directors that is contrary to the Listings Requirements unless otherwise agreed with the JSE.
- 4.3 Notwithstanding the omission from this MOI of any provision to that effect, the Company may do anything which the Companies Act empowers a company to do if so authorised by its MOI, subject to the Listings Requirements.
- 4.4 The following corporate actions shall be undertaken in accordance with the Listings Requirements -
- 4.4.1 issues of Securities for cash and options and convertible Securities granted/issued for cash;
 - 4.4.2 repurchases of Securities; and
 - 4.4.3 alterations of Share capital, authorised Shares and rights attaching to a class/es of Shares.

5. AMENDMENTS TO THE MOI

- 5.1 While the Ordinary Shares remain listed on the JSE, the Board must, prior to proposing any amendment for approval by the Holders, submit any such proposed amendment to the MOI to the JSE for approval in accordance with the Listings Requirements, before such amendments are submitted to Holders for approval.
- 5.2 Save for correcting errors substantiated as such from objective evidence or which are self-evident errors (including, but without limitation *eiusdem generis*, spelling, punctuation, reference, grammar or similar defects) in the MOI, which the Board is empowered to do in terms of section 17(1), all other amendments of the MOI shall be effected in accordance with section 16(1). The Board shall publish a copy of any such correction effected by the Board on the Company's website.
- 5.3 Any amendment to the MOI must be approved by a Special Resolution of Ordinary Shareholders, save where such an amendment is ordered by a court in terms of sections 16(1)(a) and 16(4) and subject to clause 18.30. Amendment, for the avoidance of doubt, shall include, without limitation:
- 5.3.1 the creation of any class of Shares;
 - 5.3.2 the variation of any preferences, rights, limitations and other terms attaching to any class of Shares;
 - 5.3.3 the conversion of one class of Shares into one or more other classes;
 - 5.3.4 an increase in the number of Securities of a class;
 - 5.3.5 a consolidation of Securities;
 - 5.3.6 a sub-division of Securities; and/or
 - 5.3.7 the change of the name of the Company.

- 5.4 If any proposed amendment to the MOI relates to the variation of any preferences, rights, limitations and other terms attaching to any other class of Shares already in issue, that amendment may not be implemented without a Special Resolution of the holders of the Shares in that class at a separate meeting.
- 5.5 In such instances, the holders of such Shares may be allowed to vote at the meeting of Ordinary Shareholders subject to clause 18.30. No resolution of the Shareholders shall be proposed or passed (to amend the MOI which relates to the variation of any preferences, rights, limitations and other terms attaching to that class of Shares), unless a special resolution of the holders of the Shares in that class has approved the amendment.
- 5.6 Preferences, rights, limitations or other terms of any class of Shares must not be varied and no resolution may be proposed to Holders for rights to include such variation in response to any objectively ascertainable external fact or facts, as provided for in sections 37(6) and (7).

6. THE MAKING OF RULES

The Board shall not make, amend or repeal Rules as contemplated in Section 15(3), for so long as the Listings Requirements prohibit as much.

7. AUTHORISED SECURITIES AND ALLOTMENT AND ISSUE

- 7.1 The Company is authorised to issue the following numbers and classes of Securities (which includes Securities already issued at any time), namely 300,000,000 (three hundred million) Ordinary Shares, each of which ranks *pari passu* in all respects and entitles the Holder to:
- 7.1.1 the right to be entered in the securities register of the Company as the registered Holder of an Ordinary Share;
- 7.1.2 one vote in respect of each Ordinary Share held by the Holder and the right in person or by proxy to attend, speak at and vote on any matter to be considered at, any meeting of Ordinary Shareholders;
- 7.1.3 the right to receive any distribution by the Company, if and when declared on the Ordinary Shares, to be made in proportion to the number of Ordinary Shares held by each Holder;
- 7.1.4 the right to receive a portion of the total net assets of the Company remaining upon its liquidation; and
- 7.1.5 any other rights attaching to the Ordinary Shares in terms of the Companies Act or any other law.
- 7.2 A statement that "*securities in each class rank pari passu*" shall be understood to have the meaning attributed thereto in paragraph 3.29 of the Listings Requirements.
- 7.3 The Board shall not have the power to amend the authorisation (including increasing or decreasing the number) and classification of Shares (including determining rights and preferences) as contemplated in section 36(2)(b) or 36(3).

- 7.4 Notwithstanding any implication in this MOI to the contrary, the Board may not authorise any financial assistance by the Company in connection with the subscription for or purchase of its Securities or those of a related or inter-related company without complying with section 44(3).

8. AUTHORITY TO ISSUE SECURITIES

- 8.1 Notwithstanding section 38, or anything contained in this MOI to the contrary, Holders in general meeting may by Ordinary Resolution authorise the Directors to issue unissued Securities and/or grant options to subscribe for unissued Securities, as the Directors in their discretion may deem fit, provided that such corporate action(s) has/have been approved by the JSE (if necessary) and comply with the Listings Requirements and the Companies Act..

- 8.2 The Board shall have the authority, as contemplated in section 47, to:

- 8.2.1 approve the issuing of any authorised Shares as capitalisation Shares on a *pro rata* basis to the Shareholders of one or more classes of Shares;

- 8.2.2 issue Shares of one class as capitalisation Shares in respect of Shares of another class;

- 8.2.3 resolve to permit Shareholders to elect to receive a cash payment *in lieu* of a capitalisation Share, provided that the Board may not resolve to do so unless it: (i) has considered the solvency and liquidity test, as required by section 46, on the assumption that every such Shareholder would elect to receive cash; and (ii) is satisfied that the Company would satisfy the solvency and liquidity test immediately upon the completion of the Distribution.

- 8.3 For so long as the Listings Requirements so require, Shares of a class which is listed may not be issued other than as fully paid and, unless otherwise required by statute or at the discretion of the JSE, must be freely transferable.

- 8.4 The Board may issue debt instruments in accordance with section 43. No special privileges may be granted to holders of secured and unsecured debt instruments as contemplated in section 43(3).

9. PRE-EMPTION ON ISSUE OF EQUITY SECURITIES

- 9.1 Equity Securities in the Company which are authorised but unissued and which are intended to be issued for cash, shall be offered to the existing Holders of those equity Securities by way of a rights offer *pro rata* to their shareholdings, unless-

- 9.1.1 equity Securities are issued for cash pursuant to a general or specific approval given by the Shareholders in general meeting; or

- 9.1.2 a capitalisation issue in terms of section 47, an issue for an acquisition of assets (including another company) or for services rendered or an issue for the purposes of an Amalgamation or Merger, is to be undertaken; or

- 9.1.3 the equity Securities are to be issued in terms of option or Conversion rights, which option or Conversion rights have been approved by Shareholders; or

- 9.1.4 the equity Securities are to be issued to a share option scheme or share incentive scheme which complies with the provisions of schedule 14 of the Listings Requirements and the Companies Act; or
- 9.1.5 otherwise approved by the JSE,

provided that if any fraction of an equity Security will have to be issued, that fraction may be sold for the benefit of the Holder in question in such manner as the Directors may determine. After the expiration of the time within which an offer may be accepted, or on the receipt of an intimation from the Person to whom the offer is made that he/she/it declines to accept the equity Securities offered, the Directors may, subject to the foregoing provisions, issue such equity Securities in such manner as they think most beneficial to the Company.

- 9.2 Notwithstanding anything to the contrary contained in this MOI, the Company may exclude from any rights offer any Holder or category of Holders:
- 9.2.1 in accordance with section 99(7) and with the approval of the JSE (to the extent necessary); or
- 9.2.2 if the Company is precluded by any law or regulatory requirement (including but not limited to anti-money laundering legislation) from extending such rights offer to such Holder or category of Holders.

10. **CERTIFICATES EVIDENCING ISSUED SECURITIES, UNCERTIFICATED SECURITIES AND SECURITIES REGISTER**

- 10.1 The Securities issued by the Company may either be certificated (that is evidenced by a certificate) or uncertificated in which case the Company must not issue certificates evidencing or purporting to evidence title to those uncertificated Securities. When any new Securities are to be issued by the Company, the subscriber shall, subject to the Companies Act, be entitled to elect whether all or part of the Securities offered to him/her/it shall be in certificated or uncertificated form. Each original certificate issued to a Holder in certificated form shall be issued without charge, but for every subsequent certificate issued in respect of the same Securities to the same Holder, the Directors shall be entitled, as they may deem fit, to require a charge in settlement of the reasonable costs included in such issue.
- 10.2 As soon as practicable after-
- 10.2.1 issuing any Securities, the Company must enter or cause to be entered in its Securities Register, in respect of every class of Securities evidenced by certificates that it has issued -
- 10.2.1.1 the total number of those securities that are held in uncertificated form; and
- 10.2.1.2 with respect to certificated Securities:
- 10.2.1.2.1 the names and addresses and identity numbers of the Persons to whom the Securities were issued;
- 10.2.1.2.2 those Persons' Electronic Addresses who have furnished them;

- 10.2.1.2.3 the number and class of Securities issued to each of them, the date of issue, distinguishing numbers and the Consideration;
- 10.2.1.2.4 the total number of Securities of a class held by any Person;
- 10.2.1.2.5 the date on which any such Securities were transferred by the Holder or by operation of law to another Person or re-acquired by or surrendered to the Company;
- 10.2.1.2.6 the number of, and prescribed circumstances relating to, any Securities -
- 10.2.1.2.6.1 that have been placed in trust as contemplated in section (40)(6)(d) by reason of not having been fully paid for; or
- 10.2.1.2.6.2 whose transfer has been restricted;
- 10.2.1.2.7 as regards debt instruments as contemplated in section 43-
- 10.2.1.2.7.1 the number of those Securities still in issue;
- 10.2.1.2.7.2 the names and addresses of the Holders of the Securities and any holders of a Beneficial Interest in the Securities;
- 10.2.2 the re-acquisition or surrender of any Securities, the Company must enter or cause to be entered in its Securities Register, in respect of Securities re- acquired or surrendered -
- 10.2.2.1 the date on which the Securities were re-acquired or surrendered to the Company;
- 10.2.2.2 the distinguishing number or numbers of any certificated Securities re-acquired or surrendered to the Company;
- 10.2.2.3 the Consideration for which the Securities were re-acquired by, or surrendered to the Company; and
- 10.2.2.4 the name of the Person from or by whom the Securities were re- acquired or surrendered, as the case may be;
- 10.2.3 transferring any Securities, the Company must enter or cause to be entered in its Securities Register, in respect of Securities evidenced by certificates that It has transferred -
- 10.2.3.1 the name and address of the transferee;
- 10.2.3.2 the description of the Securities, or interest transferred;
- 10.2.3.3 the date of the transfer; and
- 10.2.3.4 the value of any Consideration still to be received by the Company on each Security or interest, in the case of a transfer of Securities the subscription price for which has not been fully paid;

- 10.2.3.5 any other information contemplated in clause 10.2.1, any reference to issue being read as a reference to transfer,
- provided that such entry may only be made if the transfer -
- 10.2.3.6 is evidenced by a proper instrument of transfer that has been delivered to the Company;
or
- 10.2.3.7 was effected by operation of law;
- 10.2.4 any disclosures to the Company of any Beneficial Interests in respect of Securities evidenced by certificates, the Company must enter or cause to be entered in its Securities Register, a record of all such disclosures, including the following information for any Securities in respect of which a disclosure was made-
- 10.2.4.1 the name and unique Identifying number of the Holder of the Securities;
- 10.2.4.2 the number, class and the distinguishing numbers of the Securities; and
- 10.2.4.3 for each Person who holds a Beneficial Interest in the Securities, the extent of the Person's Interest in the Securities, together with that Person's -
- 10.2.4.3.1 name and unique identity number;
- 10.2.4.3.2 business, residential or postal address;
- 10.2.4.3.3 Electronic Address if available,
- and any other information prescribed in terms of the Companies Act from time to time. If the Company has uncertificated Securities at any time it shall comply with the provisions of sections 52 and 53 and in particular shall enter or cause to be entered in its Securities Register the total number of such uncertificated Securities from time to time.
- 10.3 Securities certificates shall be issued in such manner and form as the Directors shall from time to time prescribe save that they must-
- 10.3.1 state on the face-
- 10.3.1.1 the name of the Company;
- 10.3.1.2 the name of the Person to whom the Securities were issued;
- 10.3.1.3 the number and class of Shares and the designation of the series, if any, evidenced by that certificate; and
- 10.3.1.4 any restriction on the transfer of the Securities (which are not listed on the JSE) evidenced by that certificate;
- 10.3.2 be signed by 2 (two) Persons authorised by the Board from time to time.

- 10.4 Each class of Shares, and any other Securities, must be distinguished by an appropriate numbering system.
- 10.5 Each Holder shall be entitled to 1 (one) certificate for all the Securities of a particular class registered in his/her/its name, or to several certificates, each for a part of such Securities.
- 10.6 A certificate for Securities registered in the names of 2 (two) or more Persons shall be Delivered to the Person first named in the Securities Register and Delivery of a certificate for Securities to that Person shall be a sufficient Delivery to all joint Holders, and such first named Person shall, save as is provided in this MOI, be the only Person recognised by the Company as having title to such Security and to the related certificate of title, subject to the provisions of the Companies Act.
- 10.7 Upon the death, insolvency or placing under curatorship by reason of insanity or prodigality of any joint Holder of any Security, the sole remaining Holder or the first named of two or more remaining joint Holders, as the case may be, shall be the only person recognised by the Company as having any title to such Security, subject to the provisions of the Companies Act.
- 10.8 Except as ordered by a court of competent jurisdiction or as required by the Companies Act and/or any other law, the Company shall be entitled to treat the registered Holder of any Share as the absolute owner thereof, so that no person shall be recognised by the Company as holding any Share upon any trust, and the Company shall not be bound by or be compelled in any way to recognise (even when having notice thereof), any equitable, contingent, future or partial interest in any Share (except only as by this MOI or by law otherwise provided) or any other right in respect of any Share except an absolute right to the entirety thereof in the registered Holder.
- 10.9 If a certificate for Securities is defaced, lost or destroyed, it may be renewed, on such terms, as to evidence and indemnity and payment of such fee as the Directors think fit, and (in case of defacement) on delivery of the old certificate to the Company.
- 10.10 A Person-
- 10.10.1 acquires the rights associated with any particular Securities when that Person's name is entered in the Company's Securities Register (in the case of uncertificated Securities, the uncertificated Securities Register in accordance with the rules of the Central Securities Depository) as a Person to whom those Securities have been issued or transferred; and
- 10.10.2 ceases to have the rights associated with any particular Securities when the transfer to another Person, re-acquisition by the Company, or surrender to the Company of those Securities has been entered in the Company's Securities Register (in the case of uncertificated Securities, the uncertificated Securities Register in accordance with the rules of the Central Securities Depository).
- 10.11 After receiving a notice from a Central Securities Depository or Participant that a Holder wishes to withdraw all or part of the uncertificated Securities held by that Person in an uncertificated Securities Register, and obtain a certificate in respect of those withdrawn Securities, the Company must -

- 10.11.1 immediately enter the relevant Person's name and details of that Person's 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;
- 10.11.2 within 10 (ten) Business Days, or 20 (twenty) Business Days in the case of a Holder who is not resident within South Africa -
- 10.11.2.1 prepare and Deliver to the relevant Person a certificate in respect of the Securities; and
- 10.11.2.2 notify the Central Securities Depository that the Securities are no longer held in uncertificated form,
- and may charge the Holder a reasonable fee to cover the actual costs of issuing a certificate.
- 10.12 If the Company issues Securities which are not listed on the JSE, the share certificates for those Securities must be stamped "unlisted securities" and may only be released by the Company with the written permission of the JSE.

11. **BENEFICIAL INTERESTS AND LIENS OVER SECURITIES**

- 11.1 The Company shall permit Securities to be held by one Person for the Beneficial Interest of another. Unless clause 18.15 applies, the Company shall not permit Securities to be voted upon by the holder of a Beneficial Interest who does not hold a proxy form from the Holder notwithstanding any agreement, between the Holder and the holder of the Beneficial Interest, permitting the holder of the Beneficial Interest to vote the Securities to the exclusion of the Holder.
- 11.2 The Company shall not be entitled to take any lien over any Securities issued by it.

12. **LISTINGS ON OTHER STOCK EXCHANGES**

- 12.1 The Company may seek listings on such stock exchanges as the Directors may consider appropriate from time to time.
- 12.2 For so long as the Securities of the Company are listed on any stock exchange in addition to the JSE, if the listing on the JSE is the primary listing and if the Company is obliged to obtain the approval of the JSE in regard to any matter, it shall be obliged also to obtain the consent at the same time of any other stock exchanges on which it is listed.

13. **COMMISSION**

The Company may pay commission not exceeding 10% (ten per cent) of the subscription price at which Securities of the Company are issued to any Person, in consideration of him/her/it subscribing or agreeing to subscribe, whether absolutely or conditionally, for any Securities or of him/her/it procuring or agreeing to procure subscriptions, whether absolute or conditional, for any Securities.

14. **TRANSFER OF SECURITIES**

- 14.1 There is no restriction on the transfer of Securities, unless otherwise required by statute.

- 14.2 The transfer of any Securities which are certificated shall be implemented in accordance with a proper instrument of transfer. Every instrument of transfer shall be left at the transfer office of the Company at which it is presented for registration, accompanied by the certificate of the Securities to be transferred, and or such other evidence as the Company may require to prove the title of the transferor or his/her/its rights to transfer the Securities.
- 14.3 All authorities to sign transfer deeds granted by Holders for the purpose of transferring Securities that may be lodged, produced or exhibited with or to the Company at any of its transfer offices shall as between the Company and the granter 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 transfer offices at which the authority was lodged, produced or exhibited. Even after the giving and lodging of such notices 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.
- 14.4 A Legal Representative shall, subject to the provisions of clause 10.6, be the only Person recognised by the Company as a Holder or having any title to a Security registered in the name of the Holder whom he or she represents, but nothing herein shall release the estate of a deceased joint Securities Holder from any liability in respect of any Security jointly held by him or her,

15. TRANSMISSION OF SECURITIES BY OPERATION OF LAW

The following provisions relating to the transmission of Securities apply:

- 15.1 subject to section 51(6)(b) and any laws for the time being in force relating to taxation or duty upon the estates of deceased persons, any Legal Representative recognised by the Company in terms of article 13.5 as having any title to Securities (and also the legal guardian of any Holder who is a minor and any person who obtains title to any Securities by operation of law in any other manner) may, upon producing such evidence as the secretary of the Company deems sufficient as to the capacity in which he or she claims to act under this clause or as to his or her title to any Securities, and subject to the transfer provisions in this MOI, transfer such Securities to himself or herself or to any other person; and
- 15.2 a Person who submits proof of his or her appointment as the executor, administrator, trustee, curator or guardian in respect of the estate of a registered Holder of Securities who is deceased or the estate of a Holder of Securities whose estate has been sequestrated or who is otherwise under a disability or of his or her appointment as the liquidator of any body corporate which is a Holder of Securities, shall be entered in the Securities Register *nominee officij*, and shall thereafter, for all purposes, be deemed to be a Holder of Securities; and
- 15.3 fully paid Securities shall be fully transferable, provided that the Directors may decline to register any proposed transfer of Securities if the transfer is to a minor or to a person of unsound mind.

16. ACCOUNTING RECORDS AND FINANCIAL STATEMENTS

- 16.1 The Company shall maintain the necessary Accounting Records which shall be accessible from its Registered Office.
- 16.2 The Company shall prepare its Financial Statements in accordance with the International Financial Reporting Standards and shall have its annual Financial Statements audited. In addition the annual Financial Statements shall reflect the -
- 16.2.1 Beneficial Interests of the Directors and major Shareholders (as such term is defined in the Listings Requirements);
- 16.2.2 status of any Securities issued by the Company which are not listed on the JSE.
- 16.3 The Directors shall from time to time determine at what times and places (save in the case of Accounting Records which shall be accessible from the Registered Office) and under what conditions, subject to the requirements of the Regulations, the Holders and holders of Beneficial Interests are entitled to inspect and take copies of-
- 16.3.1 the MOI;
- 16.3.2 amendments to the MOI;
- 16.3.3 records in respect of Directors;
- 16.3.4 Accounting Records required to be maintained by the Company;
- 16.3.5 reports to Annual General Meetings;
- 16.3.6 annual Financial Statements;
- 16.3.7 notices and minutes of Shareholders Meetings;
- 16.3.8 communications generally to Holders;
- 16.3.9 the Securities Register.
- 16.4 Apart from the Holders, and holders of Beneficial Interests, no other Person shall be entitled to inspect any of the documents of the Company (other than the Securities Register and the register of Directors) unless expressly authorised by the Directors or in accordance with the Promotion of Access to Information Act, No. 2 of 2000 as amended from time to time, the Protection of Personal Information Act, No. 4 of 2013, as amended from time to time or any other law in South Africa.
- 16.5 The Company shall notify the Holders and the holders of Beneficial Interests of the publication of any annual Financial Statements of the Company, setting out the steps required to obtain a copy of those Financial Statements. If a Holder or holder of Beneficial Interests demands a copy of the annual Financial Statements, the Company shall make same available to such Holder/ holder of Beneficial Interests free of charge.

- 16.6 To the extent permitted by the Companies Act and the Listings Requirements, where the Company is required to provide a Person with the annual Financial Statements of the Company, it shall be sufficient to provide a summarised version of such annual Financial Statements, provided that the notification also includes instructions as to how the Person may obtain the complete version of such annual Financial Statements.

17. AUDIT COMMITTEE AND AUDITOR

- 17.1 At each Annual General Meeting, the Company must elect an Audit committee comprising at least 3 (three) members, unless -

- 17.1.1 the Company is a subsidiary of another company that has an Audit committee; and
- 17.1.2 the audit committee of that other company will perform the functions required in terms of the Companies Act on behalf of the Company.

Nothing precludes the election by the Company at its Annual General Meeting of an Auditor other than one nominated by the Audit committee, but if such an Auditor is elected, the appointment is valid only if the Audit committee is satisfied that the proposed auditor is independent of the Company.

- 17.2 Each member of the Audit committee must -

- 17.2.1 be an independent, non-executive Director, who satisfies any applicable requirements prescribed by the Minister and any applicable requirements set out in the Charter of the Audit committee;

- 17.2.2 not be-

- 17.2.2.1 involved in the day-to-day management of the Company's business or have been so involved at any time during the previous financial year;

- 17.2.2.2 a Prescribed Officer, or full-time employee, of the Company or another Related or Inter-related company, or have been such an Officer or employee at any time during the previous 3 (three) financial years; or

- 17.2.2.3 a material supplier or customer of the Company, such that a reasonable and informed third party would conclude in the circumstances that the integrity, impartiality or objectivity of that Director is compromised by that relationship; and

nor be related to any Person who falls within the criteria in clauses 17.2.2.1 to 17.2.2.3. In addition at least one third of the members of the Audit committee at any particular time must have academic qualifications, or experience, in economics law, corporate governance, finance, accounting, commerce, industry, public affairs or human resource management.

- 17.3 The Board must appoint a Person to fill any vacancy on the Audit committee within 40 (forty) Business Days after the vacancy arises.

- 17.4 The Audit committee has the following duties -

- 17.4.1 to comply with the requirements of the Board (as set out in the Charter of the Audit committee);
- 17.4.2 to nominate, for appointment as Auditor, a Registered Auditor who, in the opinion of the Audit committee, is independent of the Company;
- 17.4.3 to determine the fees to be paid to the Auditor and the Auditor's terms of engagement;
- 17.4.4 to ensure that the appointment of the Auditor complies with the provisions of the Companies Act and any other legislation relating to the appointment of auditors;
- 17.4.5 to determine the nature and extent of any non-audit services that the Auditor may provide to the Company subject to compliance with the Companies Act, or that the Auditor must not provide to the Company, or a Related company;
- 17.4.6 to pre-approve any proposed agreement with the Auditor for the provision of non-audit services to the Company;
- 17.4.7 to prepare a report, to be included in the annual Financial Statements for that financial year -
 - 17.4.7.1 describing how the Audit committee carried out its functions;
 - 17.4.7.2 stating whether the Audit committee is satisfied that the Auditor was independent of the Company; and
 - 17.4.7.3 commenting in any way the Audit committee considers appropriate on the Financial Statements, the accounting practices and the internal financial control of the Company;
- 17.4.8 to receive and deal appropriately with any concerns or complaints, whether from within or outside the Company, or on its own initiative, relating to -
 - 17.4.8.1 the accounting practices and internal audit of the Company;
 - 17.4.8.2 the content or auditing of the Company's Financial Statements;
 - 17.4.8.3 the internal financial controls of the Company; or
 - 17.4.8.4 any related matter;
- 17.4.9 to make submissions to the Board on any matter concerning the Company's accounting policies, financial control, records and reporting; and
- 17.4.10 to perform other oversight functions as may be determined by the Board.

In considering whether, for the purposes of this clause 17, a Registered Auditor is independent of the Company, the Audit committee must -

- 17.4.11 ascertain that the auditor does not receive any direct or indirect remuneration or other benefit from the Company, except -

- 17.4.11.1 as Auditor; or
- 17.4.11.2 for rendering other services to the company, to the extent permitted in terms of the Companies Act;
- 17.4.12 consider whether the auditor's independence may have been prejudiced-
- 17.4.12.1 as a result of any previous appointment as Auditor; or
- 17.4.12.2 having regard to the extent of any consultancy, advisory or other work undertaken by the auditor for the Company; and
- 17.4.13 consider compliance with other criteria relating to independence or conflict of interest as prescribed by the Independent Regulatory Board for Auditors established by the Auditing Profession Act,
- in relation to the Company, and if the Company is a member of a Group of Companies, any other company within that Group.
- 17.5 The Company must pay all expenses reasonably incurred by its Audit committee, including, if the Audit committee considers it appropriate, the fees of any consultant or specialist engaged by the Audit committee to assist it in the performance of its functions.
- 17.6 No Person shall be elected as a member of the Audit committee, if he/she is Ineligible or Disqualified and any such election shall be a nullity. A Person who is Ineligible or Disqualified must not consent to be elected as a member of the Audit committee nor act as a member of the Audit committee. A Person placed under probation by a court must not serve as a member of the Audit committee unless the order of court so permits.
- 17.7 A member of the Audit committee shall cease to hold office as such immediately he/she becomes Ineligible or Disqualified in terms of the Companies Act.
- 17.8 There are no general qualifications prescribed by the Company for a Person to serve as a member of the Audit committee in addition to the requirements of the Companies Act.
- 17.9 The Company shall appoint an Auditor at its Annual General Meeting provided that if an Annual General Meeting does not appoint or reappoint an Auditor, the Directors must fill the vacancy in the office in terms of the procedure contemplated in section 91 within 40 (forty) Business Days after the date of the Annual General Meeting. A retiring Auditor may be automatically re-appointed at an Annual General Meeting without any resolution being passed, unless -
- 17.9.1 the retiring Auditor is -
- 17.9.1.1 no longer qualified for appointment;
- 17.9.1.2 no longer willing to accept the appointment, and has so notified the company; or
- 17.9.1.3 required to cease serving as auditor, in terms of section 92;

- 17.9.2 the Audit committee objects to the re-appointment; or
- 17.9.3 the Company has notice of an intended resolution to appoint some other Person or Persons in place of the retiring Auditor.
- 17.10 Any firm of auditors appointed by the Company as the Auditor shall ensure that the Individual responsible for performing the Audit must comply with the requirements of section 90(2), provided that -
- 17.10.1 the same Individual may not serve as the Auditor or designated Auditor for more than 5 (five) consecutive financial years;
- 17.10.2 if an Individual has served as the Auditor or designated auditor for 2 (two) or more consecutive financial years and then ceases to be the Auditor or designated auditor, the Individual may not be appointed again as the Auditor or designated auditor until after the expiry of at least 2 (two) further financial years.
- 17.11 The Auditor-
- 17.11.1 has the right of access at all times to the accounting records and all books and documents of the Company, and is entitled to require from the Directors or Prescribed Officers any information and explanations necessary for the performance of the Auditor's duties;
- 17.11.2 for so long as the Company is a Holding Company, has the right of access to all current and former financial statements of any Subsidiary and is entitled to require from the Directors or Prescribed Officers of the Company or Subsidiary any information and explanations in connection with any such statements and in connection with the Accounting Records, books and documents of the Subsidiary as necessary for the performance of the Auditor's duties; and
- 17.11.3 is entitled to-
- 17.11.3.1 attend any Shareholders Meeting;
- 17.11.3.2 receive all notices of and other communications relating to any Shareholders Meeting; and
- 17.11.3.3 be heard at any Shareholders Meeting on any part of the business of the meeting that concerns the Auditor's duties or functions.
- 17.11.4 may not perform any services for the Company -
- 17.11.4.1 that would place the Auditor in a conflict of interest as prescribed or determined by the Independent Regulatory Board for Auditors in terms of section 44(6) of the Auditing Profession Act; or
- 17.11.4.2 as may be prescribed by the Audit committee.
- 17.12 If a vacancy arises in the office of Auditor, the Board-

- 17.12.1 must appoint a new Auditor within 40 (forty) Business Days, if there was only 1 (one) incumbent Auditor; and
- 17.12.2 may appoint a new Auditor at any time, if there was more than 1 (one) incumbent, but while any such vacancy continues, the surviving or continuing Auditor may act as auditor of the Company.

If, by comparison with the membership of a firm at the time of its latest appointment, less than ½ (one half) of the members remain after a change in the composition of the members, that change constitutes the resignation of the firm as Auditor of the company, giving rise to a vacancy.

- 17.13 Before making an appointment in terms of clause 17.12, the Board-
- 17.13.1 must propose to the Audit committee, within 15 (fifteen) Business Days after the vacancy occurs, the name of at least one Registered Auditor to be considered for appointment as the new Auditor; and
- 17.13.2 may proceed to make an appointment of a Person proposed in terms of clause 17.13.1 if, within 5 (five) Business Days after delivering the proposal, the Audit committee does not give notice in Writing to the Board rejecting the proposed auditor.
- 17.14 The Auditor may resign from office by giving the Company 1 (one) month's Written notice or less than that with the prior Written approval of the Board.
- 17.15 If the Auditor is removed from office by the Board, the Auditor may, by giving Written notice to that effect to the Company by not later than the end of the financial year in which the removal took place, require the Company to include a statement in its annual Financial Statements relating to that financial year, not exceeding a reasonable length, setting out the Auditor's contention as to the circumstances that resulted in the removal. The Company must include this statement in the Directors' report in its annual Financial Statements.

18. SHAREHOLDERS MEETINGS

- 18.1 The Company shall convene an Annual General Meeting once in every calendar year, but no more than 15 (fifteen) months after the date of the previous Annual General Meeting, or within an extended time allowed by the Companies Tribunal, on good cause shown, which must, at a minimum, provide for the following business to be transacted -
- 18.1.1 presentation of -
- 18.1.1.1 the Directors' report;
- 18.1.1.2 Audited Financial Statements for the immediately preceding financial year;
- 18.1.1.3 an Audit committee report;
- 18.1.2 election of Directors, to the extent required by the Companies Act or the MOI;

- 18.1.3 appointment of -
- 18.1.3.1 an Auditor for the ensuing year (subject to clause 17.9);
- 18.1.3.2 an Audit committee;
- 18.1.4 any matters raised by Holders, with or without advance notice to the Company.
- 18.2 The Company shall, as may be determined by the Board from time to time, hold a Shareholders Meeting in order to consider one or more resolutions and, for so long as it is (and in the circumstances in which it is) prohibited by the Listings Requirements, shall not permit resolution/s that could be voted on at a Shareholders Meeting to be dealt with by round robin resolutions of those Persons entitled to vote, subject to clause 18.6.
- 18.3 A Company must hold a Shareholders Meeting -
- 18.3.1 at any time that the Board is required by the Companies Act or the MOI to refer a matter to Holders entitled to vote for decision;
- 18.3.2 whenever required to fill a vacancy on the Board, other than a vacancy filled by the Board In accordance with clause 20.12.
- 18.4 Each resolution shall be expressed with sufficient clarity and specificity and accompanied by sufficient information / explanatory material to enable a Person who is entitled to vote on the resolution to determine whether to participate in the Shareholders Meeting, if applicable, and to seek to influence the outcome of the vote on the resolution. Once a resolution has been approved, it may not be challenged or impugned on the ground that it did not comply with the foregoing.
- 18.5 In addition to the provisions of clause 20.14, the Board may, whenever it thinks fit, convene a Shareholders Meeting. There shall be no prohibition or restriction on the Board from convening a Shareholders Meeting for the purposes of adhering to the Listings Requirements. A Shareholders Meeting must be convened if one or more Written and signed demands for such a Shareholders Meeting is/are delivered to the Company, and -
- 18.5.1 each such demand describes the specific purpose for which the Shareholders Meeting is proposed; and
- 18.5.2 in aggregate, demands for substantially the same purpose are made and signed by the Holders at 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 Shareholders Meeting.
- 18.6 All Shareholders Meetings convened in terms of the Listings Requirements must be held "*in person*" and may not be held by means of a written resolution as is contemplated in section 60; provided, however, that the following resolutions may be proposed as written resolutions in accordance with section 60:
- 18.6.1 change of name of the Company;

- 18.6.2 Odd-lot Offers by the Company;
- 18.6.3 increase in authorised share capital of the Company; and
- 18.6.4 amendments to the MOI.
- 18.7 Every Shareholders Meeting shall be held where the Board determines from time to time. The authority of the Company to conduct a Shareholders Meeting entirely by Electronic Communication or to provide for participation in a Shareholders Meeting by Electronic Communication so long as the Electronic Communication employed ordinarily enables all Persons participating in that Shareholders Meeting to communicate concurrently with each other without an intermediary, and to participate reasonably effectively in the Shareholders Meeting, as set out in section 63(2), is not limited or restricted.
- 18.8 The Holder of any Securities, which are in certificated form and thus not subject to the rules of State as the Central Securities Depository, in which any Person has a Beneficial Interest, must deliver to each such Person -
- 18.8.1 a notice of any Shareholders Meeting of the Company at which those Securities may be voted within 2 (two) Business Days after receiving such a notice from the Company; and
- 18.8.2 a proxy appointment to the extent of that Person's Beneficial Interest, if the Person so demands in compliance with section 56(11).
- 18.9 A Shareholders Meeting shall be called by at least 15 (fifteen) Business Days' notice Delivered by the Company to all Holders entitled to vote or otherwise entitled to receive notice, and who have elected to receive such notice, and to the JSE. An announcement of such notice shall also be made on SENS.
- 18.10 A Holder entitled to vote, who is Present at a Shareholders Meeting -
- 18.10.1 is regarded as having received or waived notice of the Shareholders Meeting if at least the required minimum notice was given;
- 18.10.2 has a right to -
- 18.10.2.1 allege a Material defect in the form of notice for a particular item on the agenda for the Shareholders Meeting; and
- 18.10.2.2 participate in the determination whether to waive the requirements for notice, if less than the required minimum notice was given, or to ratify a defective notice; and
- 18.10.3 except to the extent set out in clause 18.10.2, is regarded to have waived any right based on an actual or alleged Material defect in the notice of the Shareholders Meeting.
- 18.11 A notice of a Shareholders Meeting must be in Writing, in plain language and must include-
- 18.11.1 the date, time and place for the Shareholders Meeting, and the Record Date for the Shareholders Meeting;

- 18.11.2 the general purpose of the Shareholders Meeting, and any specific purpose contemplated in clause 18.5.1, if applicable;
- 18.11.3 in the case of the Annual General Meeting, a copy of the complete annual Financial Statements for the preceding financial year unless the Company has elected to furnish a summarised form thereof in which case it must also furnish directions for obtaining a copy of the complete annual Financial Statements;
- 18.11.4 a copy of any proposed resolution of which the Company has received notice, and which is to be considered at the Shareholders Meeting, and a notice of the percentage of Voting Rights that will be required for that resolution to be adopted;
- 18.11.5 a reasonably prominent statement that -
- 18.11.5.1 a Holder entitled to attend and vote at the Shareholders Meeting shall be entitled to appoint up to 2 (two) proxies to attend, participate in, speak and vote at the Shareholders Meeting in the place of the Holder;
- 18.11.5.2 a proxy need not be a Holder;
- 18.11.5.3 the proxy may delegate the authority granted to him/her/it as proxy, subject to any restriction in the proxy itself;
- 18.11.5.4 participants in a Shareholders Meeting are required to furnish satisfactory identification in terms of section 63(1) in order to reasonably satisfy the Person presiding at the Shareholders Meeting;
- 18.11.5.5 participation in the Shareholders Meeting by Electronic Communication is available, and provide any necessary information to enable Holders entitled to vote or their proxies to access the available medium or means of Electronic Communication and advise that access to the medium or means of Electronic Communication is at the expense of the Holder entitled to vote or proxy, except to the extent that the Company determines otherwise.
- 18.12 A Shareholders Meeting may proceed notwithstanding a Material defect in the giving of the notice, subject to clause 18.13, only if every Person who is entitled to Exercise Voting Rights in respect of each item on the agenda of the Shareholders Meeting is Present at the Shareholders Meeting and votes to approve the ratification of the defective notice.
- 18.13 If a Material defect in the form or manner of giving notice of a Shareholders Meeting relates only to one or more particular matters on the agenda for the Shareholders Meeting -
- 18.13.1 any such matter may be severed from the agenda, and the notice remains valid with respect to any remaining matters on the agenda; and
- 18.13.2 the Shareholders Meeting may proceed to consider a severed matter, if the defective notice in respect of that matter has been ratified in terms of clause 18.12.

- 18.14 An immaterial defect in the form or manner of Delivering notice of a Shareholders Meeting, or an accidental or inadvertent failure in the Delivery of the notice to any particular Holder to whom it was addressed if the Company elects to do so, does not invalidate any action taken at the Shareholders Meeting.
- 18.15 A Person who holds a Beneficial Interest in any Securities may vote in respect of those Securities in a matter at a Shareholders Meeting, without a proxy only to the extent that -
- 18.15.1 the Beneficial Interest includes the right to vote on the matter; and
- 18.15.2 the Person's name is on the Company's register of disclosures as the holder of such Beneficial Interest in respect of those Securities.
- 18.16 Business may be transacted at any Shareholders Meeting only while a quorum is Present.
- 18.17 The quorum necessary for the commencement of a Shareholders Meeting shall be sufficient Persons Present at the Shareholders 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 at least one matter to be decided at the Shareholders Meeting but -
- 18.17.1 the Shareholders Meeting may not begin unless in addition at least 3 (three) Persons entitled to attend and vote at the meeting are Present;
- 18.17.2 if the Company is at that time a subsidiary of a company, those constituting the quorum must include its holding company present in person.
- 18.18 A matter to be decided at the Shareholders Meeting may not begin to be considered unless those who fulfilled the quorum requirements of clause 18.17 continue to be Present. If a resolution is proposed to meet the Listings Requirements, notwithstanding that the Holders of Securities not listed on the JSE shall be entitled to be counted in the quorum as a matter of law, they shall not be taken into account for the purposes of determining whether or not the quorum requirements of the JSE have been attained and accordingly whether or not a quorum is Present.
- 18.19 If within 30 (thirty) minutes from the time appointed for the Shareholders Meeting to commence, a quorum is not Present or if the quorum requirements in clause 18.17 cannot be achieved for any one or more matters, the Shareholders Meeting shall be postponed, without motion, vote or further notice, subject to clause 18.22, for 1 (one) week to the same time on the same day in the next week or, if that day be a public holiday, to the next succeeding day which is not a public holiday, and if at such adjourned Shareholders Meeting a quorum is not Present within 30 (thirty) minutes from the time appointed for the Shareholders Meeting then, the Person/s entitled to vote Present shall be deemed to be the requisite quorum.
- 18.20 A Shareholders Meeting, or the consideration of any matter being debated at the Shareholders Meeting, may be adjourned from time to time without further notice on a motion supported by Persons entitled to Exercise, in aggregate, a majority of the Voting Rights -
- 18.20.1 held by all of the Persons who are Present at the Shareholders Meeting at the time; and

- 18.20.2 that are entitled to be Exercised on at least one matter remaining on the agenda of the Shareholders Meeting, or on the matter under debate, as the case may be.
- Such adjournment may be either to a fixed time and place or until further notice (in which latter case a further notice shall be delivered to Holders), as determined at the Shareholders Meeting.
- 18.21 A Shareholders Meeting may not be adjourned beyond the earlier of -
- 18.21.1 the date that is 120 (one hundred and twenty) Business Days after the Record Date; or
- 18.21.2 the date that is 60 (sixty) Business Days after the date on which the adjournment occurred.
- 18.22 No further notice is required to be Delivered by the Company of a Shareholders Meeting that is postponed or adjourned as contemplated in clause 18.19, unless the location or time for the Shareholders Meeting is different from -
- 18.22.1 the location or time of the postponed or adjourned Shareholders Meeting; or
- 18.22.2 a location or time announced at the time of adjournment, in the case of an adjourned Shareholders Meeting.
- 18.23 The chairperson, if any, of the Board shall preside as chairperson at every Shareholders Meeting, unless the chairperson delegates that function to another Director. If there is no such chairperson, or if at any Shareholders Meeting he/she is not present within 15 (fifteen) minutes after the time appointed for holding the Shareholders Meeting or is unwilling to act as chairperson, the Persons entitled to vote which are Present shall select a Director present at the Shareholders Meeting, or if no Director be present at the Shareholders Meeting, or if all the Directors present decline to take the chair, the Persons entitled to vote shall select one of their number which is Present to be chairperson of the Shareholders Meeting.
- 18.24 At any Shareholders Meeting a resolution put to the vote shall be decided on a show of hands, unless before or on the declaration of the result of the show of hands a poll shall be demanded by -
- 18.24.1 not less than 5 (five) Persons having the right to vote on that matter, either as a Shareholder or a proxy representing a Shareholder; or
- 18.24.2 a Person/s entitled, as a Shareholder or a proxy representing a Shareholder, to Exercise not less than 1/10th (one tenth) of the total Voting Rights entitled to vote on that matter; or
- 18.24.3 the chairperson,

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 lost, and an entry to that effect in the minute book 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. No objection shall be raised as to the admissibility of any vote except at the Shareholders Meeting or adjourned Shareholders Meeting at which the vote objected to is or may be given or tendered and every vote not

disallowed at such Shareholders Meeting shall be valid for all purposes. Any such objection shall be referred to the chairperson of the Shareholders Meeting, whose decision shall be final and conclusive.

- 18.25 If a poll is duly demanded, it shall be taken in such manner as the chairperson directs save that it shall be taken forthwith, and the result of the poll shall be deemed to be the resolution of the Shareholders Meeting at which the poll was demanded. Scrutineers may be appointed by the chairperson to declare the result of the poll, and if appointed their decision, which shall be given by the chairperson of the Shareholders Meeting, shall be deemed to be the resolution of the Shareholders Meeting at which the poll is demanded. The demand for a poll shall not prevent the continuation of a Shareholders Meeting for the transaction of any business other than the question upon which the poll has been demanded. The demand for a poll may be withdrawn.
- 18.26 In the case of an equality of votes, whether on a show of hands or on a poll, the chairperson of the Shareholders 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.
- 18.27 Any Person entitled to a Share in terms of clause 15 may vote at any Shareholders Meeting, provided that the Directors shall have received adequate proof from the relevant Person of his/her right to the Share at least 24 (twenty four) hours before the time of holding the Shareholders Meeting at which he/she/it proposes to vote.
- 18.28 Every resolution of Shareholders is either an Ordinary Resolution or a Special Resolution. An Ordinary Resolution, save to the extent expressly provided in respect of a particular matter contemplated in this MOI or as required by the Listings Requirements, shall be adopted only with the support of more than 50% (fifty per cent) of the votes cast by all Holders of equity Securities present in person, or represented by proxy, at the general meeting/annual general meeting convened to approve such resolution, and is subject to a minimum notice period of 15 (fifteen) Business Days. A Special Resolution shall be adopted only with the support of at least 75% (seventy five per cent) of the votes cast by all holders of equity Securities present in person, or represented by proxy, at the general meeting/annual general meeting convened to approve such resolution, and is subject to a minimum notice period of 15 (fifteen) Business Days. For so long as the Company is listed on the JSE, if any of the Listings Requirements require an Ordinary Resolution to be passed with a 75% (seventy five per cent) majority, the resolution shall instead be required to be passed by a Special Resolution.
- 18.29 Subject to any restrictions attaching to any class or classes of Securities which are not ordinary Shares (as no voting restrictions shall be permitted as regards ordinary Shares and no special rights or privileges shall attach to other Securities), on a show of hands a Person entitled to vote Present at the Shareholders Meeting shall have only 1 (one) vote, irrespective of the number of Voting Rights that Person would otherwise be entitled to Exercise. A proxy shall irrespective of the number of holders of Securities entitled to vote he/she/it represents have only 1 (one) vote on a show of hands. On a poll every Person entitled to vote who is present at the Shareholders Meeting shall have the number of votes determined in accordance with the Voting Rights associated with the Securities in question.
- 18.30 The Holders of Securities, other than Ordinary Shares and any special Shares created for purposes of black economic empowerment in terms of the Broad-Based Black Economic Empowerment Act, No.

52 of 2003, as amended, and the Codes of Good Practice promulgated in terms thereof, shall not be entitled to vote on any resolution taken by the Company; provided, however, that if an amendment or alteration of the MOI relates to the variation of any preferences, rights, limitations and/or any other terms attaching to any class of Securities already in issue, a special resolution is required to be passed by the Holders of the Securities in that class at a separate meeting of such Holders, approving the amendment or alteration, prior to the Special Resolution for the amendment or alteration being proposed to and voted by Ordinary Shareholders. In such circumstances, the Holders of the relevant Securities shall in addition be allowed to vote at the Shareholders Meeting of the Ordinary Shareholders at which the amendment or alteration is proposed, provided that the votes of the Holders of the relevant Securities shall not carry any special rights or privileges and the Holders shall be entitled to one vote for each Security they hold, and their total voting right at such meeting may under no circumstances exceed 24.99% (twenty-four point nine nine per cent) of the aggregate Voting Rights of all Shareholders at such meeting.

- 18.31 No form appointing a proxy shall be valid after the expiration of 1 (one) year from the date when it was signed unless the proxy itself provides for a longer or shorter duration but it may be revoked at any time. The appointment is revocable unless the proxy appointment expressly states otherwise, and may be revoked by cancelling it in Writing, or making a later inconsistent appointment of a proxy, and delivering a copy of the revocation instrument to the proxy, and to the Company. The appointment is suspended at any time and to the extent that the Holder entitled to vote chooses to act directly and in person in the Exercise of any rights as a Holder entitled to vote.
- 18.32 The form appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of such power or authority shall be delivered to the Company or any Person which it has identified in the notice of meeting as being a Person to whom proxies may be delivered on behalf of the Company, prior to the Shareholders Meeting, before the proxy Exercises any rights of the Holder entitled to vote at a Shareholders Meeting.
- 18.33 A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the death or incapacity of the principal or revocation of the proxy or of the authority under which the proxy was executed, or the transfer of the Securities in respect of which the proxy is given, provided that no intimation in Writing of such death, incapacity, revocation or transfer as aforesaid shall have been received by the Company at its Registered Office before the commencement of the Shareholders Meeting or adjourned Shareholders Meeting at which the proxy is used.
- 18.34 Subject to the provisions of the Companies Act, a form appointing a proxy may be in any usual or common form provided that it is in Writing. The Company shall supply a generally standard form of proxy upon request by a Holder entitled to vote.
- 18.35 If a proxy is received duly signed but with no indication as to how the Person named therein should vote on any issue, the proxy may vote or abstain from voting as he/she/it sees fit unless the proxy indicates otherwise.
- 18.36 In the event that any Shareholder abstains from voting in respect of any resolution, such Shareholder will -

- 18.36.1 be regarded as being Present for the purpose of determining whether sufficient Shareholders are Present to constitute a quorum; and
- 18.36.2 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.
- 18.37 Any minutes of a meeting, or a resolution, signed by the Chairperson of the Shareholders Meeting, or by the Chairperson of the next Shareholders Meeting, are/is evidence of the proceedings of that meeting, or adoption of that resolution, as the case may be.
- 18.38 Any extract from such minutes or extract from any resolution in writing, if signed by the Chairman of the meeting or by the company secretary, or by any duly authorised Person acting in the place of the company secretary, shall be receivable as evidence of the matters stated in such minutes or resolution.

19. RECORD DATE

- 19.1 The Board shall determine the Record Date in accordance with the applicable rules of the Central Securities Depository and the Listings Requirements.
- 19.2 If, at any time, the Board fails to determine a Record Date, the Record Date for the relevant matter is-
- 19.2.1 in the case of a Shareholders Meeting, the latest date by which the Company is required to Deliver to Holders entitled to vote, notice of that Shareholders Meeting;
- 19.2.2 in the case of dividends, a date subsequent to the declaration date;
- 19.2.3 the date of the action or event, in any other case.
- 19.3 If the Listings Requirements or rules of the Central Securities Depository do not provide a manner for determining the record date in any specific instance, or should the Ordinary Shares no longer be listed on the JSE, the Board may in terms of section 59(1) set a record date for the purpose of determining Shareholder rights.
- 19.4 Except as contemplated in clause 19.1 concerning uncertificated Securities, the Company must publish a notice of a Record Date for any matter by -
- 19.4.1 delivering a copy to each Holder; and
- 19.4.2 posting a conspicuous copy of the notice -
- 19.4.2.1 at its Registered Office;
- 19.4.2.2 on its website; and
- 19.4.2.3 on any automated system of disseminating information maintained by the JSE, including SENS.

20. ELECTION OF DIRECTORS AND ALTERNATE DIRECTORS AND VACANCIES

- 20.1 The minimum number of Directors shall be 4 (four), subject to clause 20.13. At any given time, a majority of Directors shall be non-executive Directors, most of whom should be independent.
- 20.2 Directors shall be either executive Directors, non-executive Directors or independent Directors, as defined in paragraph 3.84(e) of the Listings Requirements.
- 20.3 Any Shareholder has the right to nominate an individual for election as a Director.
- 20.4 At the Annual General Meeting held each year, 1/3rd (one third) of the non-executive Directors, or if their number is not a multiple of 3 (three), then the number nearest to, but not less than 1/3rd (one third) shall retire from office. The non-executive Directors to so retire shall be those who have been longest in office since their last election. A retiring non-executive Director shall act as a Director throughout the Meeting at which he/she retires. The length of time a non-executive Director has been in office shall be computed from the date of his/her last election. Retiring non-executive Directors may be re-elected, provided they are eligible for re-election, and the Board, through the remuneration and nominations committee, should recommend eligibility, taking into account past performance and contribution made, provided that the re-election of any such non-executive Director may not be conducted in terms of section 60. No Person other than a non-executive Director retiring at the Meeting shall, unless recommended by the Directors for election, be eligible for election to the office of Director at any Annual General Meeting unless, not less than 7 (seven) days nor more than 14 (fourteen) days before the day appointed for the Meeting, there shall have been given to the secretary notice in Writing by some Holder duly qualified to be Present and vote at the Meeting for which such notice is given of the intention of such Holder to propose such Person for election and also notice in Writing signed by the Person to be proposed of his/her willingness to be elected.
- 20.5 Each of the Directors and the Alternate Directors, other than a Director contemplated in clause 20.12 or clause 24.3, shall be elected (which in the case of a Person appointed as Director by the Board pursuant to a vacancy arising or as an *ex officio* Director, shall take place at the next Annual General Meeting) at a Shareholders Meeting, in accordance with clause 20.9. At least 50% of the Directors, and 50% of the Alternate Directors, must be elected by Shareholders.
- 20.6 For so long as the Company's securities are listed on the JSE, life directorships and directorships for an indefinite period are not permissible.
- 20.7 An Alternate Director shall serve in the place of an executive Director named in the resolution electing him/her during the Director's absence or inability to act as Director. Subject to clause 20.5, the Board shall be entitled to appoint an Alternate Director; provided that such proposed appointee was not previously considered and rejected by Shareholders for appointment as either a Director or Alternate Director.
- 20.8 There are no general qualifications prescribed by the Company for a Person to serve as a Director or an Alternate Director in addition to the requirements of the Companies Act. The Board, with the assistance of the remuneration and nominations committee, must make

recommendations to the Holders regarding the eligibility of Persons nominated for election as Directors, taking into account their past performance and contribution, if applicable. A brief *curriculum vita* of each Person standing for election or re-election as a Director at a Shareholders Meeting or the Annual General Meeting, must accompany the notice of the Shareholders Meeting.

- 20.9 In any election of Directors and Alternate Directors, the election is to be conducted as follows-
- 20.9.1 a series of votes of those entitled to Exercise votes regarding such election, 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 at that time have been filled; and
- 20.9.2 in each vote to fill a vacancy-
- 20.9.2.1 each Voting Right entitled to be Exercised may be Exercised once; and
- 20.9.2.2 the vacancy is filled only if a majority of the Voting Rights Exercised support the candidate.
- 20.10 No Person shall be elected as a Director or Alternate Director, if he/she is Ineligible or Disqualified and any such election shall be a nullity. A Person who is Ineligible or Disqualified must not consent to be elected as a Director or Alternate Director nor act as a Director or Alternate Director. A Person placed under probation by a court must not serve as a Director or an Alternate Director unless the order of court so permits.
- 20.11 No election of a Director shall take effect until he/she has delivered to the Company a Written consent to serve.
- 20.12 Any vacancy occurring on the Board may be filled by the Board, but so that the total number of the Directors shall not at any time exceed the maximum number fixed, if any, but the Individual so appointed shall cease to hold office at the termination of the first Shareholders Meeting to be held after the appointment of such Individual as a Director unless he/she is elected at such Shareholders Meeting.
- 20.13 If the number of Directors falls below the minimum number fixed in clause 20.1 of this MOI, the continuing Directors (or sole continuing Director) must, as soon as possible and, in any event, not later than 3 (three) months from the date that the number of Directors falls below the minimum, fill the vacancies or call a Shareholders' Meeting for the purpose of filling the vacancies. The failure by the Company to have the minimum number of Directors prescribed in clause 20.1 during the aforesaid 3 (three) month period does not limit or negate the authority of the Board, or invalidate anything done by the Board or the Company. After the expiry of the aforesaid 3 (three) month period, the continuing Directors or Director may act only for the purpose of summoning a Shareholders' Meeting or filling vacancies.
- 20.14 If there is no Director able and willing to act, then any Holder entitled to Exercise Voting Rights in the election of a Director may convene a Shareholders Meeting for the purpose of electing Directors.

20.15 All acts done by the Board or any Board committee, or by any Person acting as a Director shall, notwithstanding that it shall afterwards be discovered that there was some defect in the appointment of any of the Director/s or Person acting as aforesaid, or that they or any of them were disqualified or had vacated office or were not qualified to vote, be as valid as if every such Director/Person had been duly appointed and was qualified to be and to act and vote as a Director.

21. CESSATION OF OFFICE AS DIRECTOR OR ALTERNATE DIRECTOR

A Director or Alternate Director shall cease to hold office as such -

- 21.1 provided the Company has more than 2 (two) Directors in office, the Board resolves to remove him/her on the basis that he/she has become Ineligible or Disqualified, and in the latter case the Director/Alternate Director has not within the permitted period filed an application for review or has filed such an application but the court has not yet confirmed the removal (during which period he/she shall be suspended);
- 21.2 when his/her term of office contemplated in clauses 20.4 and 20.5 expires;
- 21.3 when he/she dies;
- 21.4 when he/she resigns by Written notice to the Company;
- 21.5 provided the Company has more than 2 (two) Directors in office, if the Board determines that he/she has become incapacitated to the extent that the person is unable to perform the functions of a director, and is unlikely to regain that capacity within a reasonable time, and the Director / Alternate Director has not within the permitted period filed an application for review or has filed such an application but the court has not yet confirmed the removal (during which period he/she shall be suspended);
- 21.6 for as long as the Securities of the Company are listed on the JSE Exchange, if he becomes ineligible in terms of the Listings Requirements or is declared ineligible by the JSE;
- 21.7 if he/she is declared delinquent by a court, or placed on probation under conditions that are inconsistent with continuing to be a director of the Company;
- 21.8 if he/she is removed by Ordinary Resolution, subject to section 71(1);
- 21.9 if he/she is removed by order of the court in terms of section 71(5) or (6);
- 21.10 in the case of an *ex officio* Director, he/she ceases to hold the office, title, designation or similar status that entitled the Person to be an *ex officio* Director;
- 21.11 provided the Company has more than 2 (two) Directors in office, if he/she is removed by resolution of the Board for being negligent or derelict in performing the functions of a Director, and the Director / Alternate Director has not within the permitted period filed an application for review or has filed such an application but the court has not yet confirmed the removal (during which period he/she shall be suspended);

- 21.12 he/she files a petition for the surrender of his/her estate or an application for an administration order, or if he/she commits an act of insolvency as defined in the insolvency law for the time being in force, or if he/she makes any arrangement or composition with his/her creditors generally; or
- 21.13 he/she is otherwise removed in accordance with any provisions of this MOI.

22. REMUNERATION OF DIRECTORS AND ALTERNATE DIRECTORS AND MEMBERS OF BOARD COMMITTEES

- 22.1 The Directors or Alternate Directors or members of Board committees shall be entitled to such remuneration for their services as Directors or Alternate Directors or members of Board committees as may have been determined from time to time by Special Resolution within the previous 2 (two) years. In addition, the Directors and Alternate Directors shall be entitled to all their travelling (including, without limitation, for hotel accommodation) and other expenses, properly and necessarily incurred by them in and about the business of the Company, and in attending meetings of the Board or of any committees thereof, and, if any Director is required to perform extra services, to reside abroad or be specifically occupied about the Company's business, he/she may be entitled to receive such remuneration as is determined by a disinterested quorum of Directors, which may be either in addition to or in substitution for any other remuneration payable. The Company may pay or grant any type of remuneration contemplated in sections 30(6)(b) to (g) to any executive Directors.
- 22.2 An executive Director may be employed in any other capacity in the Company or as a director or employee of a company controlled by, or itself a major subsidiary of, the Company and in that event, his/her appointment and remuneration in respect of such other office must be determined by a disinterested quorum of Directors. A non-executive Director may be appointed as a director of any of the Company's subsidiaries or as a trustee of any trust of which the Company is founder, but may not be employed in any other capacity by the Company or any of its subsidiaries.

23. FINANCIAL ASSISTANCE FOR DIRECTORS AND PRESCRIBED OFFICERS AND THEIR RELATED AND INTER-RELATED PARTIES

- 23.1 The Board's powers to provide direct or indirect financial assistance as contemplated in section 45(2) are not limited in any manner.
- 23.2 If the Board adopts a resolution as contemplated in section 45(2) regarding financial assistance to the Directors/Prescribed Officers and others contemplated in that section, the Company shall Deliver to all Shareholders, notice in Writing of that resolution unless every Shareholder is also a Director, and to any trade union representing its employees -
- 23.2.1 within 10 (ten) Business Days after the Board adopts the resolution, if the total value of all loans, debts, obligations or assistance contemplated in that resolution, together with any previous such resolution during the financial year, exceeds 1/10th (one tenth) of 1% (one percent) of the Company's net worth at the time of the resolution; or
- 23.2.2 within 30 (thirty) Business Days after the end of the financial year, in any other case.

24. GENERAL POWERS AND DUTIES OF DIRECTORS

24.1 The business and affairs of the Company must be managed by or under the direction of its Board, which has the authority to exercise all the powers and perform any of the functions of the Company.

24.2 Subject to compliance with the requirements of the Companies Act, the Listings Requirements and any other law, the Directors may-

24.2.1 establish and maintain any non-contributory or contributory pension, superannuation, provident and benefit funds, through financial institutions authorised for such purpose in terms of the applicable financial services legislation in South Africa, for the benefit of; and

24.2.2 give pensions, gratuities, bonuses and allowances to and make payments for or towards the insurance of,

any persons who are employees or ex-employees (including Directors or ex-Directors) of the Company, or of any company which is or was a subsidiary of the Company or is or was in any way allied to or associated with it or any such subsidiary, and the immediately family (including, without limitation, spouses, widows/widowers, children and other family members and dependants) of such persons. The Directors may from time to time without any further sanction and consent of the Company in a Shareholders Meeting (but subject to the Companies Act, the Listings Requirements and any other law) grant pensions, gratuities, bonuses or other allowances to any person or to the immediately family of any deceased person in respect of services rendered by that person to the Company as chief executive officer, executive Director, or in any office or employment under the Company, notwithstanding that he or she may continue to be or be elected a Director or may have been a Director of the Company, of such amounts, for such period, whether for life or for an indefinite period or for a period terminable on the happening of any contingent event, and generally upon such terms and conditions as the Directors in their sole discretion may from time to time think fit. In terms of paragraph 3.84(e)(i) of the Listings Requirements, "executive directors" are directors that are involved in the management of the company and/or in full-time salaried employment of the company and/or any of its subsidiaries.

24.3 The Directors must appoint a chief executive officer and a chief financial officer (executive financial Director), both of whom shall be *ex officio* Directors in accordance with section 66(4)(a)(ii) of the Companies Act; provided, however, that each such Director shall still be required to be elected by Shareholders at the first Annual General Meeting following from his/her appointment, as contemplated in clause 20.5.

25. APPOINTMENT OF THE CHAIRPERSON OF THE BOARD AND LEAD INDEPENDENT NON-EXECUTIVE DIRECTOR

25.1 The Directors shall be entitled to elect a chairperson, deputy chairperson and/or any vice chairperson and to determine the period for which they, respectively, shall hold office.

25.2 In the event that the chairperson (who shall not be the same person as the chief executive officer) of the Board is not an independent non-executive Director, the Board shall identify and appoint an independent non-executive Director as the lead independent non-executive Director.

26. BOARD COMMITTEES

26.1 The Directors may appoint any number of Board committees and delegate to such committees any authority of the Board in accordance with the applicable Charter.

26.2 The Directors must appoint:

26.2.1 a remuneration and nominations committee, which shall have as its members only non-executive Directors, the majority of whom must be independent (as defined in Listings Requirement 3.84(e)(iii));

26.2.2 a risk committee, which shall have as its members executive and non-executive Directors, the majority of whom must be independent (as defined in Listings Requirement 3.84(e)(iii));

26.2.3 a social and ethics committee, which shall have as its members not less than three executive and non-executive Directors (or Prescribed Officers), the majority of whom must be non-executive Directors. In terms of the Regulations, at least one of the members must be a Director who is not involved in the day-to-day management of the Company's business, and must not have been so involved within the previous three financial years.

26.3 A Director may be appointed to more than one Board committee.

26.4 No Person shall be appointed as a member of a Board committee if he/she is Ineligible or Disqualified and any such appointment shall be a nullity. A Person who Is Ineligible or Disqualified must not consent to be appointed as a member of a Board committee nor act as such a member. A Person placed under probation by a court must not serve as a member of a Board committee unless the order of court so permits.

26.5 There are no general qualifications prescribed by the Company for a Person to serve as a member of a Board committee in addition to the requirements of the Companies Act and the Listings Requirements, provided that a Person shall comply with such qualifications or requirements as may be stipulated in the relevant Charter in order to serve as a member of a Board committee.

26.6 A member of a Board committee shall cease to hold office as such immediately he/she becomes Ineligible or Disqualified in terms of the Companies Act.

26.7 Subject to the provisions of its Charter, any committee of the Board may consult with or receive advice from any Person.

26.8 Meetings and other proceedings of a committee of the Board consisting of more than 1 (one) member shall be governed by the provisions of this MOI regulating the meetings and proceedings of Directors.

26.9 The composition of such committees, a brief description of their mandates, the number of meetings held and other relevant information must be disclosed annually in the integrated report of the Company.

27. PERSONAL FINANCIAL INTERESTS OF DIRECTORS AND PRESCRIBED OFFICERS AND MEMBERS OF BOARD COMMITTEES

27.1 For the purposes of this clause 27, -

27.1.1 "Director" includes an Alternate Director, a Prescribed Officer, and 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; and

27.1.2 "Related Person" includes, in addition to what is contemplated in section 2, any other company of which the Director or a Related Person is a director, or a close corporation of which the Director or a Related Person is a member.

27.2 This clause 27 shall not apply to a Director in respect of a decision that may generally affect -

27.2.1 all of the Directors in their capacity as Directors,; or

27.2.2 a class of Persons, despite the fact that the Director is one member of that class of Persons, unless the only members of the class are the Director or Persons Related or inter-related to the Director.

27.3 If despite the Listings Requirements, there is only 1 (one) Director in office at any time, and since the Company is listed and that Director cannot as a result hold all of the Beneficial Interests of all of the issued Securities of the Company, that Director may not-

27.3.1 approve or enter into any agreement in which the Director or a Related Person has a Personal Financial Interest; or

27.3.2 as a Director, determine any other matter in which the Director or a Related Person has a Personal Financial Interest,

unless the agreement or determination is approved by an Ordinary Resolution after the Director has disclosed the nature and extent of that Personal Financial Interest to the Holders.

27.4 At any time, a Director may disclose any Personal Financial Interest in advance, by delivering to the Board, or Holders (if the circumstances contemplated in clause 27.3 prevail), a notice in Writing setting out the nature and extent of that Personal Financial Interest, to be used generally by the Company for purposes of this clause 27 until changed or withdrawn by further Written notice from that Director.

27.5 If, in the reasonable view of the other non-conflicted Directors, a Director or the Related Person in respect of such Director acts In competition with the Company relating to the matter to be considered at the meeting of the Board, the Director shall only be entitled to such information concerning the matter to be considered at the meeting of the Board as shall be necessary to enable the Director to Identify that such Personal Financial Interest exists or continues to exist.

- 27.6 If a Director (whilst the circumstances contemplated in clause 27.3 are not applicable), has a Personal Financial Interest in respect of a matter to be considered at a meeting of the Board, or Knows that a Related Person has a Personal Financial Interest in the matter, the Director
- 27.6.1 must disclose the Personal Financial Interest and its general nature before the matter is considered at the meeting;
- 27.6.2 must disclose to the meeting any Material information relating to the matter, and Known to the Director;
- 27.6.3 may disclose any observations or pertinent insights relating to the matter if requested to do so by the other Directors;
- 27.6.4 if Present at the meeting, must leave the meeting immediately after making any disclosure contemplated in clauses 27.6.2 and 27.6.3;
- 27.6.5 must not take part in the consideration of the matter, except to the extent contemplated in clauses 27.6.2 and 27.6.3;
- 27.6.6 while absent from the meeting in terms of this clause 27.6 -
- 27.6.6.1 is to be regarded as being Present at the meeting for the purpose of determining whether sufficient Directors are Present to constitute a quorum; and
- 27.6.6.2 is not to be regarded as being Present at the meeting for the purpose of determining whether a resolution has sufficient support to be adopted; and
- 27.6.7 must not execute any document on behalf of the Company in relation to the matter unless specifically requested or directed to do so by the Board.
- 27.7 If a Director acquires a Personal Financial Interest in an agreement or other matter in which the Company has a Material interest, or Knows that a Related Person has acquired a Personal Financial Interest in the matter, after the agreement or other matter has been approved by the Company, the Director must promptly disclose to the Board, or to the Holders entitled to vote (if the circumstances contemplated in clause 27.3 prevail), the nature and extent of that Personal Financial Interest, and the material circumstances relating to the Director or Related Person's acquisition of that Personal Financial Interest.
- 27.8 A decision by the Board, or a transaction or agreement approved by the Board, or by the Holders (if the circumstances contemplated in clause 27.3 prevail), is valid despite any Personal Financial Interest of a Director or Person Related to the Director, only if -
- 27.8.1 it was approved following the disclosure of the Personal Financial Interest in the manner contemplated in this clause 27; or
- 27.8.2 despite having been approved without disclosure of that Personal Financial Interest, it has subsequently been ratified by an Ordinary Resolution following disclosure of that Personal Financial Interest or has been declared to be valid by a court in terms of section 75(8).

28. PROCEEDINGS OF DIRECTORS

28.1 A Director authorised by the Board -

28.1.1 may, at any time, summon a meeting of the Directors; and

28.1.2 must call a meeting of the Directors if required to do so by at least 25% of the Directors, in the case of a Board that has at least 12 Directors, or 2 (two) Directors, in any other case.

28.2 The Directors may determine what period of notice shall be given of meetings of Directors and may determine the means of giving such notice which may include Electronic Communication. It shall be necessary to give notice of a meeting of Directors to all Directors even those for the time being absent from South Africa.

28.3 If all of the Directors -

28.3.1 acknowledge actual receipt of the notice;

28.3.2 are Present at a Meeting of the Directors; or

28.3.3 waive notice of the 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.

28.4 The Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit.

28.5 Unless otherwise resolved by the Directors, all their meetings shall be held in the city or town where the Company's Registered Office is for the time being situated. A meeting of Directors may be conducted by Electronic Communication and/or one or more Directors may participate in a meeting of Directors by Electronic Communication so long as the Electronic Communication facility employed ordinarily enables all persons participating in that meeting to communicate concurrently with each other without an intermediary, and to participate effectively in the meeting.

28.6 The quorum for a Directors' meeting is 40% (forty per cent) of the number of Directors (not counting Alternate Directors) in office at that time.

28.7 The Directors may elect a chairperson of their meetings and determine the period for which he/she is to hold office; but if no such chairperson is elected, or if at any meeting the chairperson is not Present within 15 (fifteen) minutes after the time appointed for holding it, the Directors Present may choose one of their number to be chairperson of the meeting.

28.8 Each Director has 1 (one) vote on a matter before the Board and a majority of the votes cast on a resolution is sufficient to approve that resolution.

28.9 In the case of a tied vote, the chairperson shall not be entitled to a second or casting vote.

- 28.10 The Company must keep minutes of the meetings of the Board, and any of its committees, and include in the minutes -
- 28.10.1 any declaration given by notice or made by a director as required by clause 27;
- 28.10.2 every resolution adopted by the Board.
- 28.11 Resolutions adopted by the Board -
- 28.11.1 must be dated and sequentially numbered; and
- 28.11.2 are effective as of the date of the resolution, unless the resolution states otherwise.
- 28.12 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, are/is evidence of the proceedings of that meeting, or adoption of that resolution, as the case may be, without the necessity for further proof of the facts stated.
- 28.13 A decision that could be voted on at a meeting of the Board may instead be adopted by 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. Such resolution, inserted in the minute book, shall be as valid and effective as if it had been passed at a meeting of Directors. Any such resolution may consist of several documents and shall be deemed to have been passed on the date on which it was signed by the last Director who signed it (unless a statement to the contrary is made in that resolution), provided that the signature by a majority of the Directors shall have taken place within 20 (twenty) Business after the resolution was submitted to the Directors.

29. **PRESCRIBED OFFICERS**

- 29.1 No Person shall hold office as a Prescribed Officer, if he/she is Ineligible or Disqualified. A Person who is Ineligible or Disqualified must not consent to be appointed to an office or undertake any functions which would result in him/her being a Prescribed Officer nor act in such office nor undertake any such functions. A Person placed under probation by a court must not consent to be appointed to an office or undertake any functions which would result in him/her being a Prescribed Officer nor act in such office nor undertake any such functions unless the order of court so permits.
- 29.2 A Prescribed Officer shall cease to hold office as such immediately he/she becomes Ineligible or Disqualified in terms of the Companies Act.

30. **APPOINTMENT OF SECRETARY**

- 30.1 The Directors must appoint the secretary from time to time, who -
- 30.1.1 shall be a permanent resident of South Africa and remain so while serving as secretary; and
- 30.1.2 shall have the requisite knowledge of, or experience in, relevant laws; and
- 30.1.3 may be a Juristic Person subject to the following -

- 30.1.3.1 every employee of that Juristic Person who provides company secretary services, or partner and employee of that partnership, as the case may be, is not Ineligible or Disqualified;
- 30.1.3.2 at least 1 (one) employee of that Juristic Person, or one partner or employee of that partnership, as the case may be, satisfies the requirements in clauses 30.1.1 and 30.1.2;
- 30.2 Within 60 (sixty) Business Days after a vacancy arises in the office of company secretary, the Board must fill the vacancy by appointing a Person whom the Directors consider to have the requisite knowledge and experience. A change in the membership of a Juristic Person or partnership that holds office as company secretary does not constitute a vacancy in the office of company secretary, if the Juristic Person or partnership continues to satisfy the requirements of clause 30.1.3.
- 30.3 If at any time a Juristic Person or partnership holds office as company secretary of the Company-
- 30.3.1 the Juristic Person or partnership must immediately notify the Directors if the Juristic Person or partnership no longer satisfies the requirements of clause 30.1.3, and is regarded to have resigned as company secretary upon giving that notice to the Company;
- 30.3.2 the Company is entitled to assume that the Juristic Person or partnership satisfies the requirements of clause 30.1.3, until the Company has received a notice contemplated in clause 30.3.1; and
- 30.3.3 any action taken by the Juristic Person or partnership in performance of its functions as company secretary is not invalidated merely because the Juristic Person or partnership had ceased to satisfy the requirements of clause 30.1.3 at the time of that action.
- 30.4 The company secretary may resign from office by giving the Company 1 (one) month's Written notice or less than that with the prior Written approval of the Board.
- 30.5 If the company secretary is removed from office by the Board, the company secretary may, by giving Written notice to that effect to the Company by not later than the end of the financial year in which the removal took place, require the Company to include a statement in its annual Financial Statements relating to that financial year, not exceeding a reasonable length, setting out the company secretary's contention as to the circumstances that resulted in the removal. The Company must Include this statement in the Directors' report in its annual Financial Statements.

31. DISTRIBUTIONS

- 31.1 Payments to Holders must be provided for in accordance with the Listings Requirements.
- 31.2 The Company-
- 31.2.1 may make Distributions from time to time, provided that -
- 31.2.1.1 any such Distribution -
- 31.2.1.1.1 is pursuant to an existing legal obligation of the Company, or a court order; or

- 31.2.1.1.2 has been declared, having been authorised by the Board in accordance with the Act, by resolution of the Board (except a distribution which results in Shareholders holding Shares in an unlisted entity, which shall require the prior sanction of an Ordinary Resolution);
- 31.2.1.2 it reasonably appears that the Company will satisfy the Solvency and Liquidity Test immediately after completing the proposed Distribution;
- 31.2.1.3 the Board, by resolution, has acknowledged that it has applied the Solvency and Liquidity Test and reasonably concluded that the Company will satisfy the Solvency and Liquidity Test immediately after completing the proposed Distribution;and
- 31.2.1.4 no obligation is imposed, if it is a distribution of capital, that the Company is entitled to require it to be subscribed again;
- 31.2.2 must before incurring any debt or other obligation for the benefit of any Holders, comply with the requirements in clause 31.2.1,

and must complete any such Distribution fully within 120 (one hundred and twenty) Business Days after the acknowledgement referred to in clause 31.2.1.3, failing which it must again comply with the foregoing. Dividends shall be paid to Holders registered as at a date subsequent to the date of declaration or date of confirmation of the dividend, whichever is the later. Any dividend or other Distribution shall be paid by electronic funds transfer (or as otherwise specified in the resolution declaring the Distribution) to the Holder entitled thereto, or (in the case of joint Holders) to that Holder whose name stands first on the register in respect of the joint holding. In respect of Distributions to Holders of Securities listed on the JSE, payments to such Holders must be provided for in accordance with the Listings Requirements to the extent applicable and must not provide that capital shall be repaid on the basis that it may be called up again.

- 31.3 The Company shall not be responsible for the loss or misdirection of any electronic funds transfer.
- 31.4 Subject to clause 31.5, all unclaimed dividends or other Distributions as contemplated in this clause shall, firstly, not bear interest against the Company, and secondly, be held in trust by the Company until lawfully claimed, provided that any dividend or other Distribution remaining unclaimed for a period of not less than 5 (five) years from the date on which it became payable may be forfeited by resolution of the Directors for the benefit of the Company. If a resolution is duly passed providing for the Company to be wound up voluntarily, such resolution may provide that any dividends or other Distributions unclaimed for a period of not less than 3 (three) years from the date on which such amounts became payable and not previously forfeited, may be forfeited by resolution of the Directors for the benefit of the Company.
- 31.5 The Company shall be entitled at any time to delegate its obligations in respect of unclaimed dividends or other unclaimed Distributions, to any one of the Company's bankers from time to time.
- 31.6 Dividends and other Distributions which are not *in specie* shall be declared in the currency of the Republic of South Africa. The declaration of any dividend or other Distribution may, however, provide

that all or any Holders whose registered addresses are outside the Republic of South Africa or who have given Written instructions requesting payment at addresses outside the Republic of South Africa shall be paid in such other currency or currencies as may be stipulated in the declaration. The declaration may also stipulate the date (hereinafter referred to as the "**currency conversion date**") upon which, and a provisional rate of exchange at which the currency of the Republic of South Africa shall be converted into such other currency or currencies, provided that the currency conversion date shall be a date not earlier than the date of the declaration of the dividend or other Distribution and not later than the date of its payment. If, in the opinion of the Directors, there is no material difference between the rate/s of exchange ruling on the currency conversion date and the provisional rate/s of exchange stipulated in the declaration then the currency of the Republic of South Africa shall be converted at such provisional rate/s. If, in the opinion of the Directors, there is a material difference, then the currency of the Republic of South Africa shall be converted into such other currency or currencies at the rate/s of exchange ruling on the currency conversion date, or at rate/s of exchange which, in the opinion of the Directors, is/are not Materially different. Any subsequent rise or fall of rate/s of exchange determined as above shall be disregarded for purposes of payment of the dividend or other Distribution in question.

- 31.7 Where any difficulty arises in respect of any Distribution *in specie*, the Directors may settle the same as they think expedient (but they may not issue fractional certificates and fractions which would otherwise have been Distributed shall be consolidated and sold for the benefit of the Holders who would have been entitled to the fractions), fix the value for Distribution of any fully paid Securities, make cash payments to any Holders on the footing of the value so fixed in order to adjust rights, and vest any Securities or assets in trustees upon such trusts for the Persons entitled in the appropriation or Distribution as may seem just and expedient to the Directors.

32. **LOSS OF DOCUMENTS**

The Company shall not be responsible for the loss in transmission of any document sent through the post either to the registered address of any Holder or to any other address requested by the Holder.

33. **NOTICES AND ELECTRONIC COMMUNICATION**

- 33.1 The Company may give notices, documents, records or statements by personal delivery to Holders (or holders of Beneficial Interests) or by sending them prepaid through the post or by transmitting them by telegram, telex or fax or by Electronic Communication to such Person's last known address. The Company must give notice of -

- 33.1.1 any Meeting in the aforesaid manner to each Person entitled to vote at such Meeting, other than proxies and Persons entitled to vote at such Meeting who have elected not to receive such notice;

- 33.1.2 availability of a document, record or statement to the Holder or holder of Beneficial Interests either to his/her/its last known delivery address or last known Electronic Address.

- 33.2 Any Holder or holder of Beneficial Interests who/which has furnished an Electronic Address to the Company, by doing so -

- 33.2.1 authorises the Company to use Electronic Communication to give notices, documents, records or statements or notices of availability of the foregoing to him/her/it; and
- 33.2.2 confirms that same can conveniently be printed by the Holder / holder of the Beneficial Interests within a reasonable time and at a reasonable cost.
- 33.3 A Holder or Person entitled to Securities (or his/her executor) shall be bound by every notice in respect of the Securities Delivered to the Person who was, at the date on which that notice was Delivered, shown in the Securities Register or established to the satisfaction of the Directors (as the case may be) as the Holder of or Person entitled to the Securities, notwithstanding that the Holder or Person entitled to Securities may then have been dead or may subsequently have died or have been or become otherwise incapable of acting in respect of the Securities, and notwithstanding any transfer of the Securities was not registered at that date. The Company shall not be bound to enter any Person in the Securities Register as entitled to any Securities until that Person gives the Company an address for entry on the Securities Register.
- 33.4 If joint Holders are registered in respect of any Securities or if more than 1 (one) Person is entitled to Securities, all notices shall be given to the Person named first in the Securities Register in respect of the Securities, and notice so Delivered shall be sufficient notice to all the Holders of or Persons entitled to or otherwise interested in the Securities.
- 33.5 The Company shall not be bound to use any method of giving notice, documents, records or statements or notices of availability of the foregoing, contemplated in the Regulations in respect of which provision is made for deemed delivery, but if the Company does use such a method, the notice, document, record or statement or notice of availability of the foregoing shall be deemed to be delivered on the day determined in accordance with the Regulations (which is included as **Schedule 3** for easy reference but which does not form part of this MOI for purposes of interpretation). In any other case, when a given number of days' notice or notice extending over any period is required to be given (which are not Business Days which shall be calculated in accordance with clause 2), the provisions of clause 2 shall also be applied.
- 33.6 At the same time that the annual Financial Statements are sent to Holders in terms of this MOI:
- 33.6.1 if required by the JSE, so many copies of the said documents as are required shall be forwarded to the JSE; and
- 33.6.2 if required by the Namibian Stock Exchange, so many copies of the said documents as are required shall be forwarded to the Namibian Stock Exchange.

34. INDEMNITY

- 34.1 For the purposes of this clause 34, "Director" includes a former Director, an Alternate Director, a Prescribed Officer, a person who is a member of a committee of the Board or of the Audit committee, irrespective of whether or not the person is also a member of the Board.
- 34.2 The Company may-

- 34.2.1 not directly or indirectly pay any fine that may be imposed on a Director, or on a Director of a Related company, as a consequence of that Director having been convicted of an offence in terms of any national legislation unless the conviction was based on strict liability;
- 34.2.2 advance expenses to a Director to defend litigation in any proceedings arising out of the Director's service to the Company; and
- 34.2.3 directly or indirectly indemnify a Director for -
- 34.2.3.1 any liability, other than in respect of -
- 34.2.3.1.1 any liability arising in terms of section 77(3)(a), (b) or (c) or from wilful misconduct or wilful breach of trust on the part of the Director; or
- 34.2.3.1.2 any fine contemplated in clause 34.2.1;
- 34.2.3.2 any expenses contemplated in clause 34.2.2, irrespective of whether it has advanced those expenses, if the proceedings -
- 34.2.3.2.1 are abandoned or exculpate the Director; or
- 34.2.3.2.2 arise in respect of any other liability for which the Company may indemnify the Director in terms of clause 34.2.3.1.
- 34.3 The Company may purchase insurance to protect -
- 34.3.1 a Director against any liability or expenses for which the Company is permitted to indemnify a Director in accordance with section 78(5); or
- 34.3.2 the Company against any contingency including but not limited to -
- 34.3.2.1 any expenses -
- 34.3.2.1.1 that the Company is permitted to advance in accordance with clause 34.2.2; or
- 34.3.2.1.2 for which the Company is permitted to indemnify a Director in accordance with clause 34.2.3.2; or
- 34.3.2.2 any liability for which the Company is permitted to indemnify a Director in accordance with clause 34.2.3.1.
- 34.4 The Company is entitled to claim restitution from a Director or of a Related company for any money paid directly or indirectly by the Company to or on behalf of that Director in any manner inconsistent with section 78.

35. REPURCHASES OF SECURITIES

The Company is authorised to repurchase its Securities subject to compliance with the Companies Act and the Listings Requirements.

36. REGISTER OF DISCLOSURES AND NOTIFICATION

The Company must -

- 36.1 establish and maintain a register of the disclosures made in terms of section 56(7);
- 36.2 publish in its annual Financial Statements a list of the Persons who hold Beneficial Interests equal to or in excess of 5% (five per cent) of the total number of Securities of that class issued by the Company, together with the extent of those Beneficial Interests;
- 36.3 file a copy of a notification in respect of the acquisition of any Beneficial Interest constituting 5% (five per cent) or a multiple thereof of the issued Securities of that class or disposal so that the Person no longer holds a multiple of 5% (five per cent) of the issued Securities of that class, with the Takeover Regulation Panel;
- 36.4 report the information to the Holders of the relevant class of Securities in respect of which the Company has received a notification of the type referred to in clause 36.3 unless it relates to the disposal of any Beneficial Interest of less than 1% (one per cent) of the class; and
- 36.5 within 48 (forty eight) hours after receiving a notification in respect of the acquisition of any Beneficial Interest, publish the information on SENS. No such announcement shall be required in respect of notices received which relate to a disposal of less than 1% (one per cent) of the relevant class.

37. SOCIAL AND ETHICS COMMITTEE

- 37.1 The Board shall appoint a social and ethics committee unless at the time it is a Subsidiary of another company that has a social and ethics committee, and the social and ethics committee of that other company will perform the functions required on behalf of the Company, or the Company has been exempted in terms of the Companies Act from having to have a social and ethics committee.
- 37.2 The social and ethics committee shall have the functions set out in Regulation 43(5) and shall be entitled to exercise the rights set out in section 72(8), subject to the requirements of and stipulations contained in the applicable Charter.
- 37.3 The Company must pay all the expenses reasonably incurred by its social and ethics committee, including, if the social and ethics committee considers it appropriate, the costs or the fees of any consultant or specialist engaged by the social and ethics committee in the performance of its functions.

38. BRANCH REGISTER

The Company, or the Directors on behalf of the Company, may cause to be kept in any foreign country a branch register or registers of Holders resident in such foreign country and the Directors may, subject to the provisions of the Companies Act, make and vary such regulations as they may think fit respecting the keeping of any such register.

39. ODD-LOT OFFERS

- 39.1 The Company may make Odd-lot Offers to the Securities Holders holding Odd-lots, provided that the Company complies with clause 35 and, to the extent which may be relevant to such Odd-lot Offer, clause 8.
- 39.2 Any Odd-lot Offer may provide that if the Holders holding any Odd-lot do not make an alternative election, then such Holder will by default be deemed to have elected to sell his Odd-lot holding to the Company and the Securities shall be acquired by the Company in accordance with the Odd-lot Offer, provided that the specific Odd-lot Offer has been approved by Shareholders in general meeting.

Schedule 1 - Definitions in the Companies Act

"accounting records" means information in written or electronic form concerning the financial affairs of a company as required in terms of this Act including, but not limited to, purchase and sales records, general and subsidiary ledgers and other documents and books used in the preparation of financial statements;¹

"alternate director" means a person elected or appointed to serve, as the occasion requires, as a member of the board of a company in substitution for a particular elected or appointed director of that company;

"amalgamation or merger" means a transaction, or series of transactions, pursuant to an agreement between two or more companies, resulting in-

- (a) the formation of one or more new companies, which together hold all of the assets and liabilities that were held by any of the amalgamating or merging companies immediately before the implementation of the agreement, and the dissolution of each of the amalgamation or merging companies; or
- (b) the survival of at least one of the amalgamating or merging companies, with or without the formation of one or more new companies, and the vesting in the surviving company or companies, together with such new company or companies, of all of the assets and liabilities that were held by any of the amalgamating or merging companies immediately before the implementation of the agreement;

"annual general meeting" means the meeting of a public company required by section 61(7);

"audit" has the meaning set out in the Auditing Profession Act, but does not include an "independent review" of annual financial statements, as contemplated in section 30(2)(b)(ii)(bb);

"Auditing Profession Act" means the Auditing Profession Act, 2005 (Act No. 26 of 2005);

"auditor" has the meaning set out in the Auditing Profession Act;

"Banks Act" means the Banks Act, 1990 (Act No. 94 of 1990);

"beneficial interest", when used in relation to a company's securities, means the right or entitlement of a person, through ownership, agreement, relationship or otherwise, alone or together with another person to -

- (a) receive or participate in any distribution in respect of the company's securities;
- (b) exercise or cause to be exercised, in the ordinary course, any or all of the rights attaching to the company's securities; or
- (c) dispose or direct the disposition of the company's securities, or any part of a distribution in respect of the securities,

but does not include any interest held by a person in a unit trust or collective investment scheme in terms of the Collective Investment Schemes Act, 2002 (Act No. 45 of 2002);

"board" means the board of directors of a company;

"business days" has the meaning determined in accordance with section 5(3);

"central securities depository" has the meaning set out in section 1 of the Securities Services Act, 2004 (Act No. 36 of 2004);

¹ Regulation 25(3) contains requirements as to what the accounting records must include.

"Commission" means the Companies and Intellectual Property Commission established by section 185;

"Commissioner" means the person appointed to or acting in the office of that name, as contemplated in section 189;

"company" means a juristic person incorporated in terms of this Act, a domesticated company, or a juristic person that, immediately before the effective date -

- (a) was registered in terms of the -
 - (i) Companies Act, 1973 (Act No. 61 of 1973), other than as an external company as defined in that Act; or
 - (ii) Close Corporations Act, 1984 (Act No. 69 of 1984), if it has subsequently been converted in terms of Schedule 2 of the Act;
- (b) was in existence and recognised as an 'existing company' in terms of the Companies Act, 1973 (Act No. 61 of 1973); or
- (c) was deregistered in terms of the Companies Act, 1973 (Act No. 61 of 1973), and has subsequently been re-registered in terms of this Act;

"Competition Act", means the Competition Act, 1998 (Act No. 89 of 1998);

"consideration" means anything of value given and accepted in exchange for any property, service, act, omission or forbearance or any other thing of value, including -

- (a) any money, property, negotiable instrument, securities, investment credit facility, token or ticket;
- (b) any labour, barter or similar exchange of one thing for another; or
- (c) any other thing, undertaking, promise, agreement or assurance, irrespective of its apparent or intrinsic value, or whether it is transferred directly or indirectly;

"convertible" when used in relation to any securities of a company, means securities that may, by their terms, be converted into other securities of the company, including -

- (a) any non-voting securities issued by the company and which will become voting securities -
 - (i) on the happening of a designated event; or
 - (ii) if the holder of those securities so elects at some time after acquiring them; and
- (b) options to acquire securities to be issued by the company, irrespective of whether those securities may be voting securities, or non-voting securities contemplated in paragraph (a);

"director" means a member of the board of a company, as contemplated in section 66, or an alternate director of a company and includes any person occupying the position of a director or alternative director, by whatever name designated;

"distribution" means a direct or indirect -

- (a) transfer by a company of money or other property of the company, other than its own shares, to or for the benefit of one or more holders of any of the shares or to the holder of a beneficial interest in any such shares, of that company or of another company within the same group of companies, whether -
 - (i) in the form of a dividend;

- (ii) as a payment in lieu of a capitalisation share, as contemplated in section 47;
 - (iii) as consideration for the acquisition -
 - (aa) by the company of any of its shares, as contemplated in section 48; or
 - (bb) by any company within the same group of companies, of any shares of a company within that group of companies; or
 - (iv) otherwise in respect of any of the shares of that company or of another company within the same group of companies, subject to section 164(19);
- (b) incurrence of a debt or other obligation by a company for the benefit of one or more holders of any of the shares of that company or of another company within the same group of companies; or
- (c) forgiveness or waiver by a company of a debt or other obligation owed to the company by one or more holders of any of the shares of that company or of another company within the same group of companies,

but does not include any such action taken upon the final liquidation of the company;

"effective date", with reference to any particular provision of this Act, means the date on which that provision came into operation in terms of section 225;

"electronic communication" has the meaning set out in section 1 of the Electronic Communications and Transactions Act;

"Electronic Communications and Transactions Act" means the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002);

"employee share scheme" has the meaning set out in section 95(1)(c);

"exchange" when used as a noun, has the meaning set out in section 1 of the Securities Services Act, 2004 (Act No. 36 of 2004);

"exercise", when used in relation to voting rights, includes voting by proxy, nominee, trustee or other person in a similar capacity;

"ex officio director" means a person who holds office as a director of a particular company solely as a consequence of that person holding some other office, title, designation or similar status specified in the company's Memorandum of Incorporation;

"external company" means a foreign company that is carrying on business, or non-profit activities, as the case may be, within the Republic, subject to section 23(2);

"financial statement" includes -

- (a) annual financial statements and provisional annual financial statements;
- (b) interim or preliminary reports;
- (c) group and consolidated financial statements in the case of a group of companies; and
- (d) financial information in a circular, prospectus or provisional announcement of results, that an actual or prospective creditor or holder of the company's securities, or the Commission, Panel or other regulatory authority, may reasonably be expected to rely on;

"group of companies" means a holding company and all of its subsidiaries;

"holding company", in relation to a subsidiary, means a juristic person that controls that subsidiary as a result of any circumstances contemplated in section 2(2)(a) or 3(1)(a);

"incorporator", when used -

- (a) with respect to a company incorporated in terms of this Act, means a person who incorporated that company, as contemplated in section '13; or
- (b) with respect to a pre-existing company, means a person who took the relevant actions comparable to those contemplated in section 13 to bring about the Incorporation of that company;

"individual" means a natural person;

"inter-related" when used in respect of three or more persons, means persons who are related to one another in a linked series of relationships, such that two of the persons are related in a manner contemplated in section 2(1) and one of them is related to the third in any such manner, and so forth in an unbroken series;

"juristic person" includes -

- (a) a foreign company; and
- (b) a trust, irrespective of whether or not it was established within or outside the Republic;

"knowing", "knowingly" or "knows", when used with respect to a person, and in relation to a particular matter, means that the person either -

- (a) had actual knowledge of the matter; or
- (b) was in a position in which the person reasonably ought to have -
 - (i) had actual knowledge;
 - (ii) investigated the matter to an extent that would have provided the person with actual knowledge; or
 - (iii) taken other measures which, if taken, could reasonably be expected to have provided the person with actual knowledge of the matter;

"material", when used as an adjective, means significant in the circumstances of a particular matter, to a degree that is -

- (a) of consequence in determining the matter; or
- (b) might reasonably affect a person's judgement or decision-making in the matter;

"nominee" has the meaning set out in section 1 of the Securities Services Act, 2004 (Act No. 36 of 2004);

"ordinary resolution" means a resolution adopted with the support of more than 50% of the voting rights exercised on the resolution, or a higher percentage as contemplated in section 65(8) -

- (a) at a shareholders meeting; or
- (b) by holders of the company's securities acting other than at a meeting, as contemplated in section 60;

"person" includes a juristic person;

"personal financial interest", when used with respect to any person -

- (a) means a direct material interest of that person, of a financial, monetary or economic nature, or to which a monetary value may be attributed; but
- (b) does not include any interest held by a person in a unit trust or collective investment scheme in terms of the Collective Investment Schemes Act, 2002 (Act No. 45 of 2002), unless that person has direct control over the investment decisions of that fund or investment;

"prescribed officer" means a person who, within a company, performs any function that has been designated by the Minister in terms of section 66(10);

"present at a meeting" means to be present in person, or able to participate in the meeting by electronic communication, or to be represented by a proxy who is present in person or able to participate in the meeting by electronic communication;

"private company" means a profit company that -

- (a) is not a public, personal liability or state-owned company; and
- (b) satisfies the criteria set out in section 8(2)(b);

"profit company" means a company incorporated for the purpose of financial gain for its shareholders;

"public company" means a profit company that is not a state-owned company, a private company or a personal liability company;

"record date" means the date established under section 59 on which a company determines the identity of its shareholders and their shareholdings for the purposes of this Act;

"registered auditor" has the meaning set out in the Auditing Profession Act;

"registered office" means the office of a company, or of an external company, that is registered as required by section 23;

"related", when used in respect of two persons, means persons who are connected to one another in any manner contemplated in section 2(1)(a) to section (c);

"rules" and **"rules of a company"** means any rules made by a company as contemplated in section 15(3) to (5);

"securities" means any shares, debentures or other instruments, irrespective of their form or title, issued or authorised to be issued by a profit company;

"securities register" means the register required to be established by a profit company in terms of section 50(1);

"shareholder", subject to section 57(1), means the holder of a share issued by a company and who is entered as such in the certificated or uncertificated securities register, as the case may be;

"shareholders meeting", with respect to any particular matter concerning a company, means a meeting of those holders of that company's issued securities who are entitled to exercise voting rights in relation to that matter;

"solvency and liquidity test" means the test set out in section 4(1);

"special resolution" means -

- (a) in the case of a company, a resolution adopted with the support of at least 75% of the voting rights exercised on the resolution, or a different percentage as contemplated in section 65(10) -

- (i) at a shareholders meeting; or
 - (ii) by holders of the company's securities acting other than at a meeting, as contemplated in section 60; or
- (b) in the case of any other juristic person, a decision by the owner or owners of that person, or by another authorised person, that requires the highest level of support in order to be adopted, in terms of the relevant law under which that juristic person was incorporated;

"subsidiary" has the meaning determined in accordance with section 3;

"voting power", with respect to any matter to be decided by a company, means the voting rights that may be exercised in connection with that matter by a particular person, as a percentage of all such voting rights;

"voting rights", with respect to any matter to be decided by a company, means -

- (a) the rights of any holder of the company's securities to vote in connection with that matter, in the case of a profit company; or
- (b) the rights of a member to vote in connection with the matter, in the case of a non-profit company;

"voting securities", with respect to any particular matter, means securities that -

- (a) carry voting rights with respect to that matter; or
- (b) are presently convertible to securities that carry voting rights with respect to that matter;

"wholly-owned subsidiary" has the meaning determined in accordance with section 3(1)(b).

Schedule 2 - Ineligible/ disqualified in terms of section 69(7) and (8) of the Companies Act

1. A person is ineligible to be a Director if the Person -
 - 1.1. is a Juristic Person;
 - 1.2. is an unemancipated minor, or is under a similar legal disability; or
 - 1.3. does not satisfy any qualification set out in the MOI.
2. A person is disqualified to be a Director if -
 - 2.1. a court has prohibited that Person to be a Director, or declared the Person to be delinquent in terms of section 162, or in terms of section 47 of the Close Corporations Act, 1984 (Act No. 69 of 1984); or
 - 2.2. the Person, subject to subsections (9) to (11B) of section 69 -
 - 2.2.1. is an unrehabilitated insolvent;
 - 2.2.2. is prohibited in terms of any public regulation to be a Director;
 - 2.2.3. has been removed from an office of trust, on the grounds of misconduct involving dishonesty; or
 - 2.2.4. has been convicted, in the Republic or elsewhere, and imprisoned without the option of a fine, or fined more than R1 000,00 (one thousand rand), for theft, fraud, forgery, perjury or an offence -
 - 2.2.4.1. involving fraud, misrepresentation or dishonesty;
 - 2.2.4.2. in connection with the promotion, formation or management of a company, or in connection with any act contemplated in subsection (2) or (5); or
 - 2.2.4.3. under the Companies Act, the Insolvency Act, 1936 (Act No. 24 of 1936), the Close Corporations Act, 1984, the Competition Act, the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001), the Securities Services Act, 2004 (Act No. 36 of 2004), or Chapter 2 of the Prevention and Combating of Corruption Activities Act, 2004 (Act No. 12 of 2004).

Schedule 3 - Prescribed methods of delivery in the Regulation

Nature of Person to whom the document is to be delivered	Method of Delivery	Date and Time of Deemed delivery
ANY PERSON	By faxing the notice or a certified copy of the document to the person, if the person has a fax number; or	On the date and at the time recorded by the fax receiver, unless there is conclusive evidence that it was delivered on a different date or at a different time.
	By sending the notice or a copy of the document by electronic mail, if the person has an address for receiving electronic mail; or	On the date and at the time recorded by the computer used by the sender, unless there is conclusive evidence that it was delivered on a different date or at a different time.
	By sending the notice or a certified copy of the document by registered post to the person's last-known address; or	On the 7th day following the day on which the notice or document was posted as recorded by a post office, unless there is conclusive evidence that it was delivered on a different day.
	By any other means authorised by the High Court; or	In accordance with the order of the High Court.
	By any other method allowed for that person in terms of the following rows of this Table.	As provided for that method of delivery.
ANY NATURAL PERSON	By handing the notice or a certified copy of the document to the person, or to any representative authorised in writing to accept service on behalf of the person; or	On the date and at the time recorded on a receipt for the delivery.
	By leaving the notice or a certified copy of the document at the person's place of residence or business with any other person who is apparently at least 16 years old and in charge of the premises at the time; or	On the date and at the time recorded on a receipt for the delivery.
	By leaving the notice or a certified copy of the document at the person's place of employment with any person who is apparently at least 16 years old and apparently in authority.	On the date and at the time recorded on a receipt for the delivery.
THE TRIBUNAL	By entering the required information in an electronic representation of that form on the internet website, if any, maintained by the Tribunal, if the document is a prescribed form; or	On the date and at the time recorded by the Tribunal's computer system, as verified by fax reply to the sender of the information.
	By transmitting the document as a separate file attached to an electronic mail message addressed to the recording officer of the Tribunal; or	On the date and at the time recorded by the Tribunal's computer system, unless, within 1 business day after that date, the recording officer advises the sender that the file is unreadable.

Nature of Person to whom the document is to be delivered	Method of Delivery	Date and Time of Deemed delivery
	By sending a computer disk containing the document in electronic form, by registered post addressed to the recording officer of the Tribunal; or	On the date and at the time of delivery of the registered post to the recording officer of the Tribunal, as recorded by the post office, unless, within 1 business day after that date, the recording officer advises the sender that the disk is unreadable.
	By handing the document, or a computer disk containing the document in electronic form, to the recording officer of the Tribunal.	On the date and at the time noted in a receipt issued by the recording officer of the Tribunal unless, the document is on a computer disk, and, within 1 business day after that date, the recording officer advises the sender that the disk is unreadable.
THE COMMISSION	By entering the required information in an electronic representation of that form on the internet website, if any, maintained by the Commission, if the document is a prescribed form; or	On the date and at the time recorded by the Commission's computer system, as verified by fax reply to the sender of the information.
	By transmitting the document as a separate file attached to an electronic mail message addressed to the Commission; or	On the date and at the time recorded by the Commission's computer system, unless, within 1 business day after that date, the Commission advises the sender that the file is unreadable.
	By sending a computer disk containing the document in electronic form, by registered post addressed to the Commission; or	On the date and at the time of delivery of the registered post to the Commission, as recorded by the post office, unless, within 1 business day after that date, the Commission advises the sender that the disk is unreadable.
	By handing the document, or a computer disk containing the document in electronic form, to the Commission, or a responsible employee who is apparently in charge of the Commission's office.	On the date and at the time noted in a receipt issued by the Commission unless, the document is on a computer disk, and, within 1 business day after that date, the Commission advises the sender that the disk is unreadable.
A COMPANY OR SIMILAR BODY CORPORATE	By handing the notice or a certified copy of the document to a responsible employee of the company or body corporate at its registered office or its principal place of business within the Republic; or	On the date and at the time recorded on a receipt for the delivery.
	If there is no employee willing to accept service, by affixing the notice or a certified copy of the document to the main door of the office or place of business.	On the date and at the time sworn to by affidavit of the person who affixed the document, unless there is conclusive evidence that the document was affixed on a different date or at a different time.
THE STATE OR A PROVINCE	By handing the notice or a certified copy of the document to a responsible employee in any office of the State Attorney.	On the date and at the time recorded on a receipt for the delivery.
A MUNICIPALITY	By handing the notice or a certified copy of the document to the town clerk, assistant town clerk or any person acting on behalf of that person.	On the date and at the time recorded on a receipt for the delivery.

Nature of Person to whom the document is to be delivered	Method of Delivery	Date and Time of Deemed delivery
A TRADE UNION	By handing the notice or a certified copy of the document to a responsible employee who is apparently in charge of the main office of the union or for the purposes of section 13(2), if there is a union office within the magisterial district of the firm required to notify its employees in terms of these regulations, at that office.	On the date and at the time recorded on a receipt for the delivery.
	If there is no person willing to accept service, by affixing a certified copy of the notice or document to the main door of that office.	On the date and at the time sworn to by affidavit of the person who affixed the document, unless there is conclusive evidence that the document was affixed on a different date or at a different time.
EMPLOYEES OF FIRM	By fixing the notice or certified copy of the document, in a prominent place in the workplace where it can be easily read by employees.	On the date and at the time sworn to by affidavit of the person who affixed the document, unless there is conclusive evidence that the document was affixed on a different date or at a different time.
A PARTNERSHIP, FIRM OR ASSOCIATION	By handing the notice or a certified copy of the document to a person who is apparently in charge of the premises and apparently at least 16 years of age, at the place of business of the partnership, firm or association; or	On the date and at the time recorded on a receipt for the delivery.
	If the partnership, firm or association has no place of business, by handing the notice or a certified copy of the document to a partner, the owner of the firm, or the chairman or secretary of the managing or other controlling body of the association, as the case may be.	On the date and at the time recorded on a receipt for the delivery.
A STATUTORY BODY OTHER THAN THE COMMISSION AND TRIBUNAL	By handing the notice or a certified copy of the document to the secretary or similar officer or member of the board or committee of that body, or any person acting on behalf of that body.	On the date and at the time recorded on a receipt for the delivery.

