

Republic of South Africa

Companies Act No. 71 of 2008

MEMORANDUM OF INCORPORATION

Name of company: Nampak Limited

Registration No.: 1968/008070/06

This MOI was adopted by special resolution passed on 8 February 2013

Proposed amendments in track changes as approved by the JSE and recommended by special resolutions to be passed at the General Meeting to be held on Thursday, 6 August 2020

Table of Contents

PART I: INTRODUCTION	4
ADOPTION OF MEMORANDUM OF INCORPORATION	4
1 INTERPRETATION.....	4
2 NATURE OF THE COMPANY.....	6
3 POWERS AND CAPACITY OF THE COMPANY.....	7
4 AMENDMENT OF MOI	7
5 COMPANY RULES.....	8
6 TRANSLATIONS AND CONSOLIDATIONS OF MOI	8
PART II: CAPITAL, CERTIFICATES, TRANSFER AND DISTRIBUTIONS.....	9
7 CAPITAL.....	9
8 TERMS AND CONDITIONS OF THE CUMULATIVE PREFERENCE SHARES	9
9 ALLOTMENT AND ISSUE OF SECURITIES	10
10 PRE-EMPTION ON ISSUE OF EQUITY SECURITIES	12
11 CERTIFICATED AND UNCERTIFICATED SECURITIES AND SECURITIES REGISTER	12
12 TRANSFER OF SECURITIES	14
13 TRANSMISSION OF SECURITIES BY OPERATION OF LAW.....	16
14 NO LIEN.....	17
15 COMMISSION.....	17
16 DISTRIBUTIONS AND DIVIDENDS	17
17 DEBT INSTRUMENTS.....	19
18 CAPITALISATION SHARES	19
19 FINANCIAL ASSISTANCE.....	20
20 BENEFICIAL INTERESTS IN SECURITIES.....	20
21 ACQUISITION BY THE COMPANY OF ITS OWN SHARES	20
22 RECORD DATE FOR DETERMINING SHAREHOLDER RIGHTS	21
PART III: SHAREHOLDERS' MEETNGS AND RESOLUTIONS	22
23 SHAREHOLDERS' MEETINGS.....	22

24	RESOLUTIONS	27
25	VOTING PROCEDURE.....	27
26	MINUTES	29
27	PROXIES AND POWERS OF ATTORNEY	29
	PART IV: DIRECTORS	30
28	APPOINTMENT OF DIRECTORS	30
29	ROTATION.....	31
30	VACATION OF OFFICE.....	32
31	REMUNERATION	33
32	MANAGEMENT OF THE COMPANY AND POWERS OF THE BOARD.....	33
33	EXECUTIVE DIRECTORS	34
34	COMMITTEES	34
35	MEETINGS OF DIRECTORS.....	34
36	ROUND ROBIN RESOLUTIONS BY DIRECTORS.....	36
37	DISCLOSURE OF PERSONAL FINANCIAL INTERESTS	36
38	INDEMNIFICATION OF DIRECTORS	37
	PART V: FINANCIAL AND ACCOUNTING	38
39	AUDITOR	38
40	ACCOUNTING RECORDS	38
41	FINANCIAL STATEMENTS.....	39
	PART VI: ADMINISTRATION	39
42	COMPANY SECRETARY	39
43	LOSS OF DOCUMENTS.....	40
44	NOTICES	40
45	APPOINTMENT OF ATTORNEYS	41
46	REPRESENTATION	41

ADOPTION OF MEMORANDUM OF INCORPORATION

This memorandum of incorporation was adopted by special resolution passed on 8 February 2013 and amended by Special Resolution passed on [insert date]. The amendment will take effect in terms of section 16(9)(b)(i) of the Companies Act on the date and time at which the notice of amendment is filed with the Commission.

PART 1: INTRODUCTION

1. INTERPRETATION

- 1.1. In this MOI, words that are defined in the Companies Act, but not in this MOI, will bear the same meaning as in the Companies Act.
- 1.2. Unless the context otherwise requires –
 - 1.2.1. "address" means in regard to Electronic Communication, any email address furnished to the company by the holder and otherwise an address registered by the holder with the company in accordance with the provisions of clause 44.2;
 - 1.2.2. "Companies Act" means the Companies Act, No. 71 of 2008, as amended or any legislation which replaces it;
 - 1.2.3. "company" means Nampak Limited, (Registration No. 1968/008070/06), or by whatever other name it may be known from time to time;
 - 1.2.4. "deliver" means deliver in the manner in which the company is entitled to give notice or deliver documents in accordance with clause 44;
 - 1.2.5. "Financial Markets Act" means the Financial Markets Act, Act No 19 of 2012 and as amended from time to time;
 - 1.2.6. ~~(1.2.5)~~ "holders" means registered holders of securities;
 - 1.2.7. ~~(1.2.6)~~ "ineligible or disqualified" means ineligible or disqualified as contemplated in the Companies Act or as contemplated in clause 30 which shall apply not only to directors and alternate directors but also to members of board committees and members of audit committees and prescribed officers and the secretary of the company;
 - 1.2.8. ~~(1.2.7)~~ "JSE" means a company duly registered and incorporated with limited liability under the company laws of the Republic of South Africa under registration number 2005/022939/06 licensed as an exchange under the Financial Markets Act~~Securities Services Act, No. 36 of 2004;~~
 - 1.2.9. ~~(1.2.8)~~ "MOI" means this Memorandum of Incorporation;
 - 1.2.10. ~~(1.2.9)~~ "participant" means a depository institution accepted by a Central Securities Depository as a participant in the Financial Markets Act~~Securities Services Act;~~

- 1.2.11. ~~(1.2.10)~~ "regulations" means regulations published pursuant to the Companies Act;
- 1.2.12. ~~(1.2.11)~~ "round robin resolution" means a resolution passed—
- 1.2.12.1. ~~(1.2.11.1)~~ other than at a shareholders' meeting, which –
- 1.2.12.1.1. ~~(1.2.11.1.1)~~ does not relate to a matter to be considered at an annual general meeting or a matter to be considered at a general meeting in terms of the JSE Listings Requirements;
- 1.2.12.1.2. ~~(1.2.11.1.2)~~ was submitted for consideration to the holders entitled to exercise voting rights in relation to the resolution; and
- 1.2.12.1.3. ~~(1.2.11.1.3)~~ was voted on in writing in counterparts or otherwise, by the requisite percentage of the holders entitled to vote as contemplated in clause 24.5 by signing a resolution in counterparts within 20 (twenty) business days after the resolution was submitted to them;
- ~~(1.2.11.1.4)~~ and includes written polling of holders entitled to vote regarding the election of directors;
- 1.2.12.2. ~~(1.2.11.2)~~ other than at a meeting of directors, in respect of which, subject to clause 36, was adopted by written consent of a majority of the directors, given in person, or by electronic communication, provided that each director received notice of the matter to be decided ~~all the directors who may at the time be present in South Africa being not less than a quorum of directors, voted in favour by signing in writing a resolution in counterparts, within 20 (twenty) business days after the resolution was submitted to them;~~
- 1.2.13. ~~(1.2.12)~~ "securities" means any shares, debentures or other instruments irrespective of their form or title, issued or authorised to be issued by the company;
- ~~(1.2.13)~~ "Securities Services Act" means the Securities Services Act, Act No 36 of 2004;
- 1.2.14. "sub-register" means the record of uncertificated securities administered and maintained by a participant which forms part of the company's securities register, provided that no name of any person for whom the participant holds uncertificated securities as nominee shall form part of the sub-register;
- 1.2.15. "uncertificated securities" means securities as defined in the ~~Securities Services Act~~ Financial Markets Act which are by virtue of the Companies Act transferable without a written instrument and are not evidenced by a certificate;
- 1.2.16. "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 address for electronic communication;

- 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 holders entitled to vote present at a meeting or acting in person shall include juristic persons represented by a duly authorised representative or acting in the manner prescribed in the Companies Act;
- 1.5. the headings are for reference purposes only and shall not affect the interpretation of this MOI;
- 1.6. words in the singular number shall include the plural, and words in the plural number 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);
- 1.7. 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;
- 1.8. 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;
- 1.9. if any of the provisions of this MOI have been included as a consequence of the company's obligations under the Listings Requirements and the JSE -
 - 1.9.1 amends any of those Listings Requirements, this MOI shall be read so as to comply with such amended requirements;
 - 1.9.2 deletes any of those Listings Requirements, this MOI shall be read as if those provisions of the MOI had been deleted;
- 1.10. ~~(4.9)~~ 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;
- 1.11. ~~(4.10)~~ a reference to a section by number refers to the corresponding section of the Companies Act.
- 1.12. ~~(4.11)~~ 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 —
 - 1.12.1. ~~(1.11.1)~~ excluding the day on which the first such event occurs;
 - 1.12.2. ~~(1.11.2)~~ including the day on or by which the second event is to occur; and
 - 1.12.3. ~~(4.11.3)~~ excluding any public holiday, Saturday or Sunday that falls on or between the days contemplated in clauses 1.12.1 and 1.12.2 respectively.

2. NATURE OF THE COMPANY

- 2.1. The company is a pre-existing company as defined in the Companies Act and continues to exist as if it had been incorporated and registered in terms of the Companies Act.

- 2.2. The company is classified as a public company in terms of section 8(2) of the Companies Act, since it is entitled to offer its securities to the public and its securities are freely transferrable.

3. POWERS AND CAPACITY OF THE COMPANY

- 3.1. The company has all the legal powers and capacity of an individual and they are not subject to any restrictions, limitations or qualifications as contemplated in section 19(1)(b)(ii) of the Companies Act.
- 3.2. The company is governed by:
- 3.2.1. the unalterable provisions of the Companies Act; and
 - 3.2.2. the alterable provisions of the Companies Act, subject to the limitations, qualifications, restrictions, extensions or other variations as set out in this MOI.
- 3.3. This MOI does not:
- 3.3.1. contain any restrictive conditions applicable to the company as contemplated in section 15(2)(b) of the Companies Act; and
 - 3.3.2. prohibit the amendment of any particular provision hereof.

4. AMENDMENT OF MOI

- 4.1. All amendments to the MOI must be submitted to the JSE for approval before being submitted to the shareholders of the company for approval.
- 4.2. Save for an amendment to the MOI ordered by a court in terms of section 16(1)(a) of the Companies Act, this MOI may only be altered or amended by way of a special resolution passed by the ordinary shareholders of the company, subject to that special resolution having been proposed by (i) the board; or (ii) the ordinary shareholders of the company entitled to exercise at least 10% of the voting rights that may be exercised on such a resolution.
- 4.3. Amendments to the MOI to be made in accordance with the provisions of 0 above include, but are not limited to:
- 4.3.1. the creation of any class of shares;
 - 4.3.2. the variation of any preference rights, limitation and other share terms attaching to any class of shares;
 - 4.3.3. the conversion of one class of shares into one or more other classes;
 - 4.3.4. the increase in the number of authorised shares;
 - 4.3.5. consolidation of securities;
 - 4.3.6. sub-division of securities;

4.3.7. the change of name of the company.

4.4. An amendment to the MOI may take the form of:

4.4.1. a new MOI in substitution for the existing MOI; or

4.4.2. one or more alterations to the existing MOI by:

4.4.2.1. changing the name of the company;

4.4.2.2. deleting, altering or replacing any of its provisions;

4.4.2.3. inserting any new provisions in the MOI; or

4.4.2.4. making any combination of such alterations.

4.5. Any amendment of the MOI will take effect from the later of:

4.5.1. the date on, and time at, which the commission accepts the filing of the notice of amendment as contemplated in section 16(7) of the Companies Act; or

4.5.2. the date, if any, set out in the notice of amendment;

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

4.6. The board, or an individual authorised by the board, may alter the MOI in any manner necessary to correct a patent error in spelling, punctuation, reference, grammar or similar defect on the face of the MOI, by filing a notice of the alteration with the commission and by obtaining the necessary approval from the JSE.

4.7. The board shall publish a copy of any correction to the MOI effected in accordance with clause 4.6 on the company's website.

4.8. To the extent necessary to implement an adopted business rescue plan and provided that the business rescue plan was approved by the holders, as contemplated in section 152 (3) (c) of the Companies Act, the business rescue practitioner may, subject to the JSE Listings Requirements, amend this MOI to authorise, and determine the preferences, rights, limitations and other terms of any securities that are not otherwise authorised, but are contemplated to be issued in terms of the business rescue plan, despite any provision of this MOI or of sections 16, 36 or 37 of the Companies Act, to the contrary, in accordance with section 152 (6) (b) of the Companies Act.

5. COMPANY RULES

The board shall not have the authority to make, appeal or amend any rules relating to the governance of the company in respect of matters that are not addressed in the Companies Act or the MOI.

6. TRANSLATIONS AND CONSOLIDATIONS OF MOI

- 6.1. At any time after having filed its MOI with the Commission, the company may file one or more translations thereof, in any official language or languages of the Republic of South Africa, provided that every such translation must be accompanied by a sworn statement by the person who made the translation, stating that it is a true, accurate and complete representation of the MOI, as so translated.
- 6.2. At any time after having filed its MOI with the Commission, and having subsequently filed one or more alterations or amendments to it, the company may (or if the Commission requires it to, must) file a consolidated revision of its MOI, as so altered or amended, provided that every such consolidated revision filed with the Commission in terms of this clause 0 must be accompanied by:
 - 6.2.1. a sworn statement by a director; or
 - 6.2.2. a statement by an attorney or notary public,stating that it is a true, accurate and complete representation of the company's MOI, as so altered or amended.

PART II: CAPITAL, CERTIFICATES, TRANSFER AND DISTRIBUTIONS

7. CAPITAL

- 7.1. The authorised ordinary share capital of the company consists of R38,842,860 (thirty eight million eight hundred and forty two thousand eight hundred and sixty rand) divided into 776,857,200 (seven hundred and seventy six million eight hundred and fifty seven thousand two hundred) ordinary shares with a par value of R0.05 (five cents) each.
- 7.2. The authorised preference share capital of the company consists of:
 - 7.2.1. R200,000 (two hundred thousand rand) divided into 100,000 (hundred thousand) 6.5% cumulative preference shares with a par value of R2.00 (two rand) each; and
 - 7.2.2. R800,000 (eight hundred thousand rand) divided into 400,000 (four hundred thousand) 6% cumulative preference shares with a par value of R2.00 (two rand) each.
- 7.3. Each of the authorised ordinary shares when issued entitles the holder to –
 - 7.3.1. one vote on any matter to be decided by a vote of shareholders of the company;
 - 7.3.2. participate proportionately in any distribution of profit to shareholders; and
 - 7.3.3. share proportionately in the distribution of the company's residual value upon its dissolution.

8. TERMS AND CONDITIONS OF PREFERENCE SHARES

- 8.1. The following terms and conditions shall apply to the 6% and 6.5% cumulative preference shares in the capital of the company:

- 8.1.1. The right to receive out of the profits of the company from time to time available for distribution a fixed cumulative preferential dividend at the rate of 6.5% per annum calculated on the capital paid up or credited as paid up thereon, which shall be calculated half-yearly up to 31 January and 31 July in each year, and will be payable as nearly as may be early in February and August in each year;
 - 8.1.2. The right in the event of the winding up of the company to repayment in priority to the ordinary shares, of the capital and any arrears of fixed cumulative preferential dividends thereon, whether declared or not, calculated up to the date of commencement of the winding up, but not to participate further in the profits or surplus assets of the company;
 - 8.1.3. The 6.5% cumulative preference shares shall not entitle the holders thereof to attend and vote at any general meeting unless the fixed cumulative preferential dividend payable thereon for any period of six months is six months in arrear and remains unpaid, or unless a resolution is to be proposed thereat for the winding up of the company, or for the sanctioning of the sale of the undertaking of the company, or for the reduction of the capital of the company, or which directly affects the rights and privileges attached to the said 6.5% cumulative preference shares, in which event on a show of hands every holder of 6.5% cumulative preference shares who is present in person shall have one vote, and on a poll any such holder who is present in person or by proxy shall have four votes for every one of the said 6.5% cumulative preference shares of which he is the registered holder, provided that their total voting right at such general meeting shall not exceed 24.99% of the total voting rights of all shareholders at such meeting;
 - 8.1.4. The 6% cumulative preference shares shall rank pari passu in all respects with the 6.5% cumulative preference shares, save that the rate of the fixed cumulative preferential dividend shall be 6%.
- 8.2. Subject to the provisions of clause 0 below, the holders of preference shares shall have the right to vote at any general / annual general meeting of the company:
- 8.2.1. during any special period, as provided for in clause 8.2.3 below, during which any dividend, any part of any dividend on such preference shares or any redemption payment thereon remains in arrears and unpaid; and / or
 - 8.2.2. in regard to any resolution proposed for the winding-up of the company or a reduction of its capital;
 - 8.2.3. the period referred to in clause 8.2.1 above shall be the period commencing on a day specified in the MOI, not being more than six months after the due date of the dividend or redemption payment in question or, where no due date is specified, after the end of the financial year of the company in respect of each such dividend accrued or such redemption payment became due.

9. ALLOTMENT AND ISSUE OF SECURITIES

- 9.1. The board shall not have the power to issue authorised securities and/or to grant options to subscribe for unissued securities without the prior approvals contemplated in clauses 0 and 9.3 and the approval of the JSE (where necessary).

- 9.2. Any issue of shares, securities convertible into shares or rights exercisable for securities as contemplated in section 41(1) or section 41(3) of the Companies Act will require the approval of holders by special resolution, provided that such issue shall be subject to the JSE Listings Requirements and the approval of the JSE.
- 9.3. As regards the issue of other securities and unless any provision of this MOI dictates otherwise, the directors shall not have the power to allot or issue same without the prior approval of an ordinary resolution of the holders.
- 9.4. Any approval by the holders to allot or issue securities contemplated in clauses 0 and 0 may be in the form of a general authority to the directors, whether conditional or unconditional, in their discretion, or in the form of a specific authority in respect of any particular allotment or issue of such securities contemplated in clauses 0 and 0. Such authority shall endure for the period provided in the ordinary or special resolution in question but may be revoked by ordinary resolution or special resolution, as the case may be, of the holders at any time.
- 9.5. Shares with a par value which were authorised prior to 1 May 2011 may be issued at par or at a premium or at a discount (where necessary), provided that shares of that class had been issued prior to 1 May 2011.
- 9.6. Securities in each class shall rank *pari passu* in respect of all rights.
- 9.7. The holder of any other securities (other than ordinary shares) shall not be entitled to vote on any resolution taken by the company, save as expressly provided in this clause. Where the holders of such securities are allowed to vote at a shareholders' meeting, their votes may not carry any special rights or privileges and they shall be entitled to 1 (one) vote for each security that they hold, provided that their total voting right at such shareholders' meeting, may never exceed 24.99% (twenty four point nine nine per cent) of the total voting rights of all holders at such meeting.
- 9.8. If any amendment to the MOI relates to the variation of any preferences, rights, limitation and other terms attaching to any other class of securities already in issue, that amendment must not be implemented without a special resolution passed by the holders of securities in that class at a separate meeting. In such instances the holders of such securities will be allowed to vote at the shareholders' meeting subject to the provisions of clause 0 above.
- 9.9. Where preference shares have been issued, no further securities ranking in priority to or *pari passu* with the preference shares shall be created without the consent in writing of the holders of 75% (seventy five per cent) of the preference shares or with the sanction of a special resolution passed at a separate meeting of the holders of such preference shares.
- 9.10. Preferences, rights, limitations or other terms of any shares shall not be varied and no resolution shall be proposed to holders for rights to include a variation in response to any ascertainable external fact or facts as provided for in sections 37(6) and 37(7) of the Companies Act.
- 9.11. All issues of shares for cash and all issues of options and convertible securities granted or issued for cash must be done in accordance with the JSE Listings Requirements.

- 9.12. All securities for which a listing is sought on the JSE must, notwithstanding the provisions of section 40(5) of the Companies Act be fully paid up and freely transferable, unless otherwise required by law.
- 9.13. Payments to holders must be provided for in accordance with the JSE Listings Requirements and must not provide that capital shall be repaid upon the basis that it may be called up again.

10. PRE-EMPTION ON ISSUE OF EQUITY SECURITIES

- 10.1. Equity securities of a particular class in the company which are authorised but unissued shall be offered to the existing holders of that class of equity securities pro rata to their holding of that class, except where such equity securities are issued:
- 10.1.1. for the acquisition of assets; and
- 10.1.2. pursuant to a resolution approved by holders at a shareholders' meeting, provided that such transactions have been approved by the JSE and are subject to the JSE Listings Requirements.
- 10.2. All allocations of securities will be rounded up or down, based on standard rounding convention (i.e. allocations will be rounded down to the nearest whole number if they are less than 0.5 and will be rounded up to the nearest whole number (unless the JSE has granted a ruling to permit otherwise), if they are equal to or greater than 0.5) resulting in allocations of whole securities and a cash payment for the fraction as determined in terms of the JSE Listings Requirements. ~~no fractional entitlements.~~

11. CERTIFICATED AND UNCERTIFICATED SECURITIES AND SECURITIES REGISTER

- 11.1. Securities are to be issued in certificated or uncertificated form, as shall be determined by the board from time to time. Except to the extent otherwise provided in the Companies Act, the rights and obligations of holders shall not be different solely on the basis of their securities being certificated or uncertificated and each provision of this MOI applies with respect to certificated and uncertificated securities in the same manner. Each original certificate issued to a holder in certificated form shall be issued without charge and within 21 (twenty one) days, 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.
- 11.2. Any certificated securities may cease to be evidenced by certificates and thereafter become uncertificated securities.
- 11.3. **Withdrawal of Uncertificated Securities**
- 11.3.1. If a holder of uncertificated securities wishes to withdraw all or part of the uncertificated securities held by him and obtain a certificate in respect of those withdrawn securities, such holder may notify the relevant CSDP or Central Securities Depository as required by the rules of the Central Securities Depository, who shall within 5 (five) business days remove the details of the uncertificated securities in the uncertificated securities register and notify the company to provide the requested certificate.

- 11.3.2. Upon receipt of the notice by the CSDP or Central Securities Depository, as the case may be, the company shall immediately enter the necessary details of the relevant securities holder and his holding of securities in the certificated securities register and indicate on the securities register that the securities so withdrawn are no longer held in uncertificated form.
- 11.3.3. The company shall within 10 (ten) business days (or 20 (twenty) business days in the case of a holder of securities who is not resident within South Africa) of receipt of the notice referred to in clause 11.3.1 prepare and deliver to the relevant holder a certificate in respect of the securities and notify the Central Securities Depository that the securities are no longer held in uncertificated form.
- 11.4. The company may charge a holder of its securities a reasonable fee to cover the actual cost of issuing any certificate as contemplated in this clause 11.
- 11.5. Securities Register**
- 11.5.1. The company must establish a securities register in the prescribed form and must maintain the securities register in accordance with the prescribed standards.
- 11.5.2. As soon as practicable after the issue or transfer of any securities, as the case may be, the company must enter in the securities register, in respect of every class of securities it has issued or which have been transferred:
- 11.5.2.1. the total number of uncertificated securities;
 - 11.5.2.2. with respect to certificated securities:
 - 11.5.2.3. the names and addresses of the persons to whom the certificated securities were issued or transferred;
 - 11.5.2.4. the number of certificated securities issued or transferred to each of them;
 - 11.5.2.5. in the case of securities other than shares as contemplated in section 43 of the Companies Act, the number of those securities issued and outstanding and the names and addresses of the registered owners of the securities and any holders of beneficial interests therein; and
 - 11.5.2.6. any other prescribed information. - 11.5.3. An uncertificated securities register must be administered and maintained by a CSDP or Central Securities Depository in respect of all uncertificated securities in issue, in the form and manner prescribed by the Companies Act or as determined by the rules of the Central Securities Depository. The uncertificated securities register shall form part of the company's securities register.
 - 11.5.4. The securities register or uncertificated securities register maintain in accordance with the Companies Act shall be sufficient proof of the facts recorded in it, in the absence of evidence to the contrary.

11.6. Certificates

11.6.1. A certificate evidencing any certificated securities:

11.6.1.1. must state on its face the name of the company, the name of the person to whom the securities were issued, and the number and class of shares and designation of the series, if any, evidenced by that certificate;

11.6.1.2. must be signed by 2 (two) persons authorised by the board, which signatures may be affixed or placed on the certificate by autographic, mechanical or electronic means and remain valid despite the subsequent departure from office of any person who signed it; and

11.6.1.3. is proof that the named security holder owns the securities, in the absence of evidence to the contrary.

11.6.2. Unless all the shares rank equally for all purposes, the shares, or each class of shares, and any other securities, must be distinguished by an appropriate numbering system. If all of the shares rank equally for all purposes, and are therefore not distinguished by a numbering system:

11.6.2.1. each certificate in respect of those shares must be distinguished by a numbering system; and

11.6.2.2. if the share has been transferred, the certificate must be endorsed with a reference number or similar device that will enable each preceding holder of this share in succession to be identified;

provided that in terms of schedule 5 of the Companies Act, due to the company being a pre-existing company (as defined in the Companies Act), the failure of any share certificate to satisfy the provisions of clauses 11.4 and 11.6 above is not a contravention of the Companies Act and does not invalidate that certificate.

11.6.3. If a certificate for securities is defaced, lost or destroyed, it may be replaced by the company after:

11.6.3.1. the company is indemnified, upon such terms and conditions the board may deem fit, in respect of such replacement; and

11.6.3.2. payment of any costs to evidence the right to such certificate or in respect of such replacement; and

11.6.3.3. in the case of defacement, delivery of the defaced securities certificate to the company.

11.6.4. Each holder shall be entitled to 1 (one) for all the securities of a particular class registered in his / hers / its name, or to several certificates, each for a part of such securities.

11.6.5. 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 a

delivery of a certificate for securities to that person shall be a sufficient delivery to all joint holders.

- 11.6.6. If a certificate for securities or share warrant to bearer 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 or share warrant to bearer to the company.

12. TRANSFER OF SECURITIES

- 12.1. There is no restriction on the transfer of securities.

12.2. Transfer of Certificated Securities

- 12.2.1. Every transfer form in respect of certificated securities must be in writing and shall be implemented in accordance with the common form of transfer or such other form as the directors may approve.

- 12.2.2. The directors may decline to register any transfer where:

12.2.2.1. the instrument of transfer has not been lodged at the transfer office;
or

12.2.2.2. the provisions of any law affecting transfer have not been complied with.

- 12.2.3. 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 rights to transfer the securities. 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 proper offices shall as between the company and the grantor of such authorities, be taken and deemed to continue and remain in full force and effect, and the company may allow the same to be acted upon until such time as express notice in writing of the revocation of the same shall have been given and lodged at the company's 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.

- 12.2.4. The company must enter in its securities register regarding every transfer of any securities the information contemplated in clause 11.5.2, any reference to issue being read as a reference to transfer, including in the entry —

12.2.4.1. the date of the transfer; and

12.2.4.2. the value of any consideration still to be received by the company on each share, in the case of a transfer of securities in respect of which the subscription price has not been fully paid,

provided that such entry may only be made ~~only~~ if the transfer —

12.2.4.3. is evidenced by a proper instrument of transfer that has been delivered to the company; or

12.2.4.4. was effected by operation of law.

12.2.5. The securities register (but not any sub-registers) may, subject to the JSE Listings Requirements, be closed during such time as the directors deem fit for the purposes of determining the identities of the persons entitled to receive notice, participate in distributions or other advantages and / or exercise other rights to which holders may be entitled.

12.3. Transfer of Uncertificated Securities

12.3.1. The transfer of uncertificated securities may be affected only:

12.3.1.1. by a CSDP or Central Securities Depository;

12.3.1.2. on receipt of an instruction to transfer sent and properly authenticated in terms of the rules of a Central Securities Depository or an order of court; and

12.3.1.3. in accordance with section 53 of the Companies Act and the rules of the Central Securities Depository.

12.3.2. Transfer of ownership in any uncertificated securities must be effected by debiting the account in the uncertificated securities register from which the transfer is effected and crediting the account in the uncertificated securities register to which the transfer is effected, in accordance with the rules of the Central Securities Depository.

12.3.3. Securities transfer tax and other legal costs payable in respect of any transfer of securities pursuant to this MOI will be paid by the company to the extent that the company is liable in law, but shall to that extent be recoverable from the person acquiring such securities.

13. TRANSMISSION OF SECURITIES BY OPERATION OF LAW

Subject to the laws relating to securities transfer tax upon or in respect of the estates of deceased persons and the administration of the estates of insolvent and deceased persons and persons under disability –

13.1. the parent or guardian or curator of any holder who is a minor;

13.2. the trustee of an insolvent holder;

13.3. the liquidator of a body corporate;

13.4. the tutor or curator of a holder under disability;

13.5. the executor or administrator of the estate of a deceased holder; or

- 13.6. any other person becoming entitled to any securities held by a holder by any lawful means other than transfer in terms of this MOI,
- 13.7. shall, upon production of such evidence as may be required by the directors, have the right either –
- 13.8. (a) to exercise the same rights and to receive the same distributions and other advantages to which she/he/it would be entitled if she/he/it were the holder of the securities registered in the name of the holder concerned; or
- (b) herself/himself/itself to be registered as the holder in respect of those securities and to make such transfer of those securities as the holder concerned could have made, but the directors shall have the same right to decline or suspend registration as they would have had in the case of a transfer of the securities by the holder.

14. NO LIEN

The company does not have the power to claim a lien upon any of its issued securities, which shall be freely transferable.

15. 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 it subscribing or agreeing to subscribe, whether absolutely or conditionally, for any securities or of it procuring or agreeing to procure subscriptions, whether absolute or conditional, for any securities. Any such commission may be satisfied in whole or in part in fully paid-up securities, provided that no such commission, or any portion thereof, shall be paid in shares without the prior approval of an ordinary resolution.

16. DISTRIBUTIONS AND DIVIDENDS

- 16.1. Subject to the provisions of the Companies Act (and in particular section 46 thereof) and this MOI, the company may make a proposed distribution if such distribution:
- 16.1.1. is pursuant to an existing legal obligation of the company or a court order; or
- 16.1.2. is authorised by resolution of the board, in compliance with the listings requirements.
- 16.2. A distribution shall not be made unless:
- 16.2.1. it reasonably appears that the company will satisfy the solvency and liquidity test as set out in section 4(1) of the Companies Act immediately after completing the proposed distribution; and
- 16.2.2. the board of the company has, by resolution, 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

- 16.2.3. Any such distribution must be completed fully within 120 (one hundred and twenty) business days after the acknowledgement referred to in clause 16.2.2, failing which the board must again comply with the foregoing provisions.
- 16.3. Dividends are declared by directors in accordance with the Companies Act.
- 16.4. Any distribution must be made payable to shareholders registered as at a record date subsequent to the date of declaration thereof or the date of confirmation thereof, whichever is the later date.
- 16.5. No dividend shall bear interest against the company.
- 16.6. Dividends must be declared by the directors in accordance with the Companies Act and specifically in accordance with section 46 thereof. The board of the company may from time to time declare a dividend to be paid to all holders in proportion to their number of securities. Any payments to holders which is not in proportion to their number of securities must be approved by an ordinary resolution of shareholders in general meeting.
- 16.7. Always subject to clause 18 where a capitalisation issue of shares is awarded, the directors shall be entitled to afford holders the right to elect to receive:
- 16.7.1. capitalisation shares in lieu of cash dividends; or
- 16.7.2. cash dividends in lieu of capitalisation shares, either in whole or in part.
- 16.8. A dividend may be declared out of the profits or reserves of the company, whether realised or unrealised, whether of a revenue or a capital nature and whether designated distributions or not.
- 16.9. Subject to clause 0, the directors may from time to time pay to the holders on account of the next forthcoming dividend such interim dividends as the position of the company may warrant.
- 16.10. Dividends may be declared either free or subject to the deduction of income tax or any other withholding tax or duty required by law or in respect of which the company may be chargeable.
- 16.11. Any dividend or cash distribution may be paid by electronic transfer or otherwise as the directors may from time to time determine, and may be sent by post to the last registered address of the holder entitled thereto or in the case of a joint holding, of the holder first named in the register in respect of such holding, or may be sent to any other address specified for such purpose by such holder or first named holder, as the case may be.
- 16.12. The payment shall be good discharge to the company of the obligation to pay the amount specified in the document. In the case where several persons are registered as joint holders of any share, any one of such persons may give effectual receipt for all dividends or distributions and payments on account of dividends or distributions in respect of such security.
- 16.13. All unclaimed dividends as contemplated in this clause shall be held by the company in trust for the benefit of the company until claimed, provided that any dividend remaining unclaimed for a period of not less than 3 (three) years from the date on which it became payable may be forfeited by resolution of the directors for the benefit of the company, or for

payment to a registered charitable organisation selected by the board. The directors may at any time annul such forfeiture upon such condition (if any) as it thinks fit. The company must hold monies other than dividends due to holders in trust indefinitely until lawfully claimed by holders.

- 16.14. Notwithstanding anything to the contrary contained herein, if any shareholder is entitled to an aggregate dividend of R30.00 (thirty rand) or less in respect of all certificated securities held by such shareholder on the record date, then the directors shall be entitled to direct that such shareholders' dividend (unless such shareholder delivers a written notice to the contrary prior to the date of payment of the dividend) be paid to a charitable organisation nominated by the board from time to time.
- 16.15. Any dividend, distribution, interest or other sum payable in cash to the holder of a share shall be paid by electronic transfer and unless otherwise requested by a shareholder in writing, shall not be paid by cheque. Any payment made by cheque shall be sent by post to the last registered address of the holder entitled thereto or in the case of a joint holding, of the holder first named in the register in respect of such holding, or shall be sent to any other address specified for such purpose by such holder or first named holder, as the case may be. Any unclaimed dividends or distributions shall be suppressed and be retained in the company's unclaimed dividend account, whereafter it may be claimed by a shareholder upon written request to the company in a form prescribed by the directors from time to time.
- 16.16. No notice of change of address or instructions as to payment given after the determination of a dividend or other distribution by the company in terms of clause 16.1.1 shall become effective until after the dividend or other distribution has been made, unless the board so determines at the time the dividend or other distribution is approved.

17. DEBT INSTRUMENTS

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

18. CAPITALISATION SHARES

- 18.1. Subject to the approval by the shareholders by ordinary resolution, the board is authorised to:
 - 18.1.1. 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;
 - 18.1.2. issue shares of one class as capitalisation shares in respect of shares of another class; and / or
 - 18.1.3. resolve to permit any shareholder to receive a cash payment in lieu of a capitalisation share.
- 18.2. The board may not resolve to offer a cash payment in lieu of awarding a capitalisation share, unless the board:

18.2.1. has considered the solvency and liquidity test as required by section 46 of the Companies Act, on the assumption that every shareholder would elect to receive cash; and

18.2.2. is satisfied that the company would satisfy the solvency and liquidity test immediately upon completion of the distribution.

19. FINANCIAL ASSISTANCE

19.1. The board may authorise the company to provide financial assistance by way of loan, guarantee, the provision of security or otherwise to any purpose for the purpose of, or in connection with, the subscription of any option, or any securities, issued or to be issued by the company or a related or inter-related company, or for the purchase of any such securities, and the authority of the board in this regard is not limited or restricted by this MOI.

19.2. The board may authorise the company to provide financial assistance, subject to compliance with the requirements of section 45 of the Companies Act, to any person referred to in section 45(2) of the Companies Act, and the power of the board in this regard is not limited or restricted by this MOI.

20. BENEFICIAL INTERESTS IN SECURITIES

20.1. The company's issued securities may be held by, and registered in the name of, one person for the beneficial interest of any another person.

20.2. If the company knows or has reasonable cause to believe that any of its securities are held by one person for the beneficial interest of another person, the company may by notice in writing require either of those persons to:

20.2.1. confirm or deny that fact;

20.2.2. provide particulars of the extent of the beneficial interest held during the 3 (three) years preceding the date of the notice; and

20.2.3. disclose the identity of each person with the beneficial interest in the securities held by that person.

20.3. The company shall establish and maintain a register of the disclosures made in terms of this clause and publish in its annual financial statements a list of the persons who hold beneficial interests equal to or in excess of 5% of the total number of securities of that class issued by the company, together with the extent of those beneficial interests.

21. ACQUISITION BY THE COMPANY OF ITS OWN SHARES

21.1. Subject to the provisions of the Companies Act and the JSE Listings Requirements:

21.1.1. the board may determine that the company acquires a number of its own shares;

21.1.2. the board of any subsidiary of the company may determine that such subsidiary acquires shares of the company, but

21.1.2.1. not more than 10% (ten per cent) in aggregate, of the number of issued shares of any class may be held by, or for the benefit of, all of the subsidiaries of the company, taken together; and

21.1.2.2. no voting rights attached to those shares may be exercised while the shares are held by that subsidiary and it remains a subsidiary of the company.

21.2. Any acquisition by the company of its own shares must satisfy the JSE Listings Requirements and the requirements of the Companies Act. Any such acquisition shall be subject to such shareholder approval (if any) as may be required from time to time in terms of the Companies Act and / or the JSE Listings Requirements.

21.3. Notwithstanding any other provision of this MOI, the company may not acquire its own shares, and no subsidiary of the company may acquire shares of the company if, as a result of that acquisition, there would no longer be any shares of the company in issue other than:

21.3.1. shares held by one or more subsidiaries of the company; or

21.3.2. convertible or redeemable shares.

22. RECORD DATE FOR DETERMINING SHAREHOLDER RIGHTS

22.1. The board may set a record date for the purpose of determining which shareholders are entitled to:

22.1.1. receive notice of a shareholders meeting;

22.1.2. participate in and vote at a shareholders meeting;

22.1.3. decide any matter by written consent or electronic communication;

22.1.4. receive a distribution; or

22.1.5. be allotted or exercise other rights.

The record date shall be determined by the board in accordance with the Companies Act, provided that, for as long as the JSE Listings Requirements apply to the company, such record date shall be the record date as required by the JSE Listings Requirements.

22.2. Such record date must be published to the shareholders in a manner that satisfies the JSE Listings Requirements, if any, and any other prescribed requirements.

22.3. If the board does not determine a record date for any action or event, the record date will be:

22.3.1. in the case of a meeting, the latest date by which the company is required to give holders notice of that meeting; or

22.3.2. the date of the action or event, in any other case.

PART III: SHAREHOLDERS' MEETINGS AND RESOLUTIONS

23. SHAREHOLDERS' MEETINGS

23.1. Calling of Shareholders' Meetings

23.1.1. The company shall not be required to hold any meetings of shareholders other than those specifically required by the Companies Act and / or the JSE Listings Requirements.

23.1.2. The board of the company, or any prescribed officer of the company authorised by the board, is entitled to call a shareholders' meeting at any time.

23.1.3. The company shall hold a general meeting:

23.1.3.1. at any time that the board is required by the Companies Act, the JSE Listings Requirements or this MOI to refer a matter to shareholders for decision; or

23.1.3.2. when required by any other provision of this MOI; or

23.1.3.3. if one or more written and signed demands calling for such a meeting are delivered to the company and:

23.1.3.3.1. each such demand describes the specific purpose for which the meeting is proposed; and

23.1.3.3.2. in aggregate, demands for substantially the same purpose are made and signed by the holders, as of the earliest time specified in any of those demands, of at least 10% (ten per cent) of the voting rights entitled to be exercised in relation to the matter proposed to be considered at the meeting.

23.1.4. If the company is unable to convene a shareholders' meeting because it has no directors or because all of its directors are incapacitated, any holder may convene a meeting.

23.2. General Meetings

23.2.1. 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 –

23.2.1.1. presentation of –

23.2.1.1.1. the directors' report;

23.2.1.1.2. audited financial statements for the immediately preceding financial year;

- 23.2.1.1.3. an audit committee report;
- 23.2.1.2. election of directors, to the extent required by the Companies Act or the MOI;
- 23.2.1.3. appointment of an auditor for the ensuing year;
- 23.2.1.4. appointment of the audit committee;
- 23.2.1.5. the feedback by a member of the company's social and ethics committee on the matters within its mandate; and any matters raised by holders, with or without advance notice to the company.
- 23.2.2. The company shall, as determined by the board, either –
 - 23.2.2.1. hold a shareholders' meeting in order to consider one or more resolutions; or
 - 23.2.2.2. as regards such resolution/s that could be voted on at a shareholders' meeting, other than an annual general meeting or any shareholders' meeting called for in terms of the JSE Listings Requirements, instead require them to be dealt with by round robin resolution of holders entitled to vote.
- 23.2.3. A company must hold a shareholders' meeting or put the proposed resolution to holders entitled to vote, by way of a round robin resolution (other than an annual general meeting or any shareholders' meeting called for in terms of the JSE Listings Requirements) –
 - 23.2.3.1. 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;
 - 23.2.3.2. whenever the number of directors fall below the minimum number prescribed in clause 0 and the company is required to fill a vacancy on the board in terms of clause 0.
- 23.2.4. 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) of the Companies Act, is not limited or restricted, always subject to the JSE Listings Requirements.
- 23.2.5. Subject to clause 23.2.4 above, the responsibility for, and any expense of gaining access to the medium or means of electronic communication employed for any shareholders' meeting shall be that of the shareholder or proxy. If a provision has been made for a shareholders' meeting to be conducted by electronic communication or for participation in a shareholders' meeting by electronic communication and the medium or means of such electronic communication is

available and functioning, then the shareholders' meeting shall be entitled to proceed even if a shareholder or proxy is not able to gain access to the medium or means of electronic communication so employed.

~~23.2.6. If the company is unable to convene a shareholders' meeting because it has no directors or because all of its directors are incapacitated, any holder may convene a meeting.~~

23.3. Notice of and Location of Meetings

23.3.1. The board may determine the location of any shareholders' meeting and the company may hold any such meeting in South Africa or any foreign country, and the authority of the board and the company in this regard is not limited or restricted by this MOI.

23.3.2. 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 to the JSE. An announcement shall also be made on SENS.

23.3.3. A notice of a shareholders' meeting must be in writing, in plain language and must include:

23.3.3.1. the date, time and place for the meeting, and the record date for the meeting;

23.3.3.2. the general purpose of the meeting, and any specific purpose contemplated in clause 23.1.3.3.1, if applicable;

23.3.3.2.1. in the case of the annual general meeting a summarised form of the financial statements to be presented and directions for obtaining a copy of the complete financial statements for the preceding financial year;

23.3.3.2.2. a copy of any proposed resolution of which the company has received notice, and which is to be considered at the meeting, and a notice of the percentage of voting rights that will be required for that resolution to be adopted;

23.3.3.3. a reasonably prominent statement that –

23.3.3.3.1. a holder entitled to attend and vote at the shareholders' meeting shall be entitled to appoint a proxy to attend, participate in, speak and vote at the shareholders' meeting in the place of the holder entitled to vote or give or withhold written consent on behalf of the holder entitled to vote to a decision by round robin resolution of the relevant holders entitled to vote;

23.3.3.3.2. a proxy need not be a holder entitled to vote; and

23.3.3.3.3. participants in a shareholders' meeting are required to furnish satisfactory identification in terms of section 63(1)

of the Companies Act in order to reasonably satisfy the person presiding at the shareholders' meeting.

23.4. Quorum and Adjournment

- 23.4.1. Business may be transacted at any shareholders' meeting only while a quorum is present.
- 23.4.2. The quorum for a general meeting to begin or for a matter to be considered, shall be at least 3 (three) shareholders entitled to attend and vote and present in person. In addition:
- 23.4.2.1. a general meeting may not begin until sufficient persons are present at the general meeting in person or represented by proxy to exercise, in aggregate, at least 25% (twenty five per cent) of the voting rights that are entitled to be exercised in respect of at least one matter to be decided at the general meeting; and
 - 23.4.2.2. a matter to be decided at a general meeting may not begin to be considered unless sufficient persons are present at the general meeting in person or represented by proxy to exercise, in aggregate 25% (twenty five per cent) of all of the voting rights that are entitled to be exercised in respect of that matter at the time the matter is called on the agenda.
- 23.4.3. After a quorum has been established for a shareholders' meeting, or for a matter to be considered at a shareholders' meeting, the shareholders' meeting may continue, or the matter may be considered, so long as all the holders for such quorum are present at the shareholders' meeting.
- 23.4.4. If within 30 (thirty) minutes from the time appointed for the shareholders' meeting to commence, a quorum is not present, the shareholders' meeting shall be postponed, without motion, vote or further notice, subject to clause 23.4.7 for 1 (one) week to 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 holder/s entitled to vote present shall be deemed to be the requisite quorum.
- 23.4.5. 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 —
- 23.4.5.1. held by all of the persons who are present at the shareholders' meeting at the time; and
 - 23.4.5.2. that are entitled to be exercised on at least 1 (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 agreed at the shareholders' meeting.

- 23.4.6. A shareholders' meeting may not be adjourned beyond the earlier of:
- 23.4.6.1. the date that is 120 (one hundred and twenty) business days after the record date; or
 - 23.4.6.2. the date that is 60 (sixty) Business Days after the date on which the adjournment occurred.
- 23.4.7. No further notice is required to be delivered by the company of a shareholders' meeting that is postponed or adjourned as contemplated in clause 23.4.4, unless the location for the shareholders' meeting is different from –
- 23.4.7.1. the location of the postponed or adjourned shareholders' meeting; or
 - 23.4.7.2. a location announced at the time of adjournment, in the case of an adjourned shareholders' meeting.
- 23.4.8. A holder entitled to vote, who is present at a shareholders' meeting –
- 23.4.8.1. is regarded as having received or waived notice of the shareholders' meeting, if at least the required minimum notice was given; and
 - 23.4.8.2. has a right to —
 - 23.4.8.2.1. allege a material defect in the form of notice for a particular item on the agenda for the shareholders' meeting; and
 - 23.4.8.2.2. participate in the determination whether to waive the requirements for notice, if at least the required minimum notice was given, or to ratify a defective notice; and
- except to the extent set out in clause 23.4.8.2 is regarded to have waived any right based on an actual or alleged material defect in the notice of the shareholders' meeting.

23.5. **Chairperson**

- 23.5.1. The chairperson of the board shall preside as the chairperson of each shareholders' meeting; provided that, if no chairperson is present and willing to act, within 30 (thirty) minutes after the time appointed for holding the shareholders' meeting, the holders present shall elect one of the directors present to be chairperson. If no director is willing to act as chairperson, or if no director is present within 30 (thirty) minutes after the time appointed for commencement of the meeting, the holders present shall choose one of the holders present to be chairperson of the meeting.
- 23.5.2. The chairperson of a shareholders' meeting shall, subject to the Companies Act and this MOI, determine the procedure to be followed at that meeting.

23.5.3. The chairperson of a shareholders' meeting may:

23.5.3.1. appoint any firm or persons to act as scrutineers for the purpose of checking any powers of attorneys or proxies received and for counting the votes at the meeting;

23.5.3.2. act on a certificate given by any such scrutineers without requiring production at the meeting of the forms of proxy or himself counting the votes.

24. RESOLUTIONS

24.1. Every resolution of holders is either an ordinary resolution or a special resolution.

24.2. Each resolution shall be expressed with sufficient clarity and specificity and accompanied by sufficient information and explanatory material to enable a holder 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.

24.3. For an ordinary resolution to be approved by holders, it must be supported by more than 50% (fifty per cent) of the voting rights exercised on the resolution.

24.4. For a special resolution to be approved by holders, it must be supported by at least 75% (seventy five per cent) of the voting rights exercised on the resolution. For so long as the company is listed on the JSE, if any of the JSE 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.

24.5. Round robin resolutions submitted to shareholders in terms of section 60 of the Companies Act will have been adopted if supported ~~be passed if signed~~ by holders entitled to exercise sufficient voting rights for it to have been adopted as an ordinary or special resolution, as the case may be, at a properly constituted shareholders' meeting. Subject to any exceptions provided for in the JSE Listings Requirements, a All shareholder meetings convened in terms of the JSE Listings Requirements must be held "in person" and may not be held in terms of a written resolution submitted to shareholders in terms of section 60 of the Companies Act.

24.6. Without limiting the power of the board to authorise or declare distributions, any shareholders' meeting of the company shall be entitled to sanction or declare dividends.

24.7. Any proposed resolution to shareholders in terms of sSections 20(2) and 20(6) of the Companies Act is prohibited in the event that such a resolution would lead to the ratification of an act that is contrary to the JSE Listings Requirements, unless otherwise agreed with the JSE.

25. VOTING PROCEDURE

25.1. Subject to any special rights or restrictions as to voting attached to any securities by or in accordance with this MOI, at any shareholders' meeting of the company, every person present and entitled to exercise voting rights shall be entitled to:

- 25.1.1. one vote if voting is conducted by a show of hands, irrespective of the number of voting rights that person would otherwise be entitled to exercise; and
 - 25.1.2. the number of votes determined in accordance with the voting rights associated with the securities held by that shareholder, if voting is conducted by polling; and
 - 25.1.3. the holders of securities other than ordinary shares shall not be entitled to vote on any resolution at a meeting of ordinary shareholders except as provided in clause 25.4.
- 25.2. A person who is entitled to more than one vote, does not have to exercise all his votes and does not have to exercise all his votes in the same manner.
- 25.3. Where there are joint registered holders of any securities, any one of such persons may exercise all of the voting rights attached to that security at any meeting, either personally or by proxy, as if he were solely entitled thereto. If more than one of such joint holders is present at any meeting, personally or by proxy, the person so present whose name stands first in the securities register in respect of such shares shall alone be entitled to vote in respect thereof.
- 25.4. If any resolution is proposed as contemplated in clause 0, the holders of such securities (“affected holders”) shall be entitled to vote at the meeting of ordinary shareholders as contemplated in clause 0, provided that the votes of the securities of that class held by the affected holders (“affected securities”) shall not carry any special rights or privileges and each affected holder shall be entitled to one vote for every affected security held, provided that the total voting rights of the affected holders in respect of the affected securities shall not be more than 24.99% (twenty four point nine nine) of the total votes (including the votes of ordinary holders) exercisable at that meeting (with any cumulative fraction of a vote in respect of any affected securities held by an affected holder rounded down to the nearest whole number).
- 25.5. At any shareholders’ meeting a resolution put to the vote of the holders entitled to 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 –
- 25.5.1. not less than 5 (five) persons having the right to vote on that matter either as holder/s entitled to vote or proxy for a holder entitled to vote; or
 - 25.5.2. a holder/s (and/or her/his/it/their proxies) entitled to exercise not less than 10% (ten percent) of the total voting rights of all the holders having the right to vote on that matter; or
 - 25.5.3. the chairperson of the meeting,

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.

25.6. 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 in addition to the vote or votes to which he is entitled as a holder, ~~provided that the chairman shall not be permitted to have a casting vote if only two directors are present at a meeting of directors.~~

25.7. 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.

~~25.8 The proposal of any resolution to shareholders' in terms of sections 20(2) and 20(6) of the Companies Act is prohibited in the event that such a resolution would lead to the ratification of an act by the company or director that is contrary to the JSE Listings Requirements, unless otherwise agreed with the JSE.~~

26. MINUTES

26.1. The company must keep minutes of shareholders' meetings, and include in the minutes every resolution adopted at the shareholders' meeting.

26.2. Resolutions adopted at the shareholders' meeting are effective as of the date of the resolution, unless the resolution states otherwise. A resolution for the amendment of the MOI shall take effect in accordance with clause 4.4.2.45.

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

27. PROXIES AND POWERS OF ATTORNEY

27.1. Any holder may appoint a proxy, who need not be a holder, to attend, speak and subject to the provisions of section 58 of the Companies Act, to vote in his/her place on a show of hands on a poll or a round robin resolution.

27.2. A proxy appointment must be in writing, dated and signed by the holder and remains valid for 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.

27.3. For administrative purposes, it is preferable that the ~~The~~ form appointing a proxy and/or 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 transfer office of the company not later than 48 hours (excluding Saturdays, Sundays and public holidays) before the commencement of the shareholders' meeting at which the person so empowered proposes

to vote, provided however that the form appointing a proxy or 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, in order to be recognised be handed in before the relevant resolution on which the proxy is to vote, is considered at the shareholders' meeting and no effect shall be given to any such proxy and the power of attorney or other authority unless such instrument is received in the manner required by this clause.

- 27.4. A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the death or mental disorder 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, insanity, revocation or transfer as aforesaid shall have been received by the company at its transfer office 48 (forty eight) hours (excluding Saturdays, Sundays and public holidays) before the commencement of the shareholders' meeting.
- 27.5. Subject to the provisions of the Companies Act, a form appointing a proxy may be in any usual or common form. The company shall supply a generally standard form of proxy upon request by a holder entitled to vote.
- 27.6. 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 sees fit unless the proxy indicates otherwise.
- 27.7. A holder, holding more than 100 (one hundred) shares entitled to vote may appoint more than 1 (one) proxy to exercise voting rights attached to different securities held by that holder entitled to vote in respect of any shareholders' meeting and may appoint more than 1 (one) proxy to exercise voting rights attached to different securities held by the holder which entitle her/him/it to vote;
- 27.8. the proxy may delegate the authority granted to him as proxy, subject to any restriction in the proxy itself.

PART IV: DIRECTORS

28. APPOINTMENT OF DIRECTORS

- 28.1. The minimum number of directors shall be 6 (six) and not more than such number as the board may from time to time determine. Any shareholder will have the right to nominate directors.
- 28.2. If the number of directors falls below the minimum provided in clause 0, the remaining directors 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, appoint directors to fill the vacancies, or call a shareholders' meeting for the purpose of electing directors to filling the vacancies. The failure by the company to have the minimum number of directors during the 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 3 (three) month period the remaining directors shall only be permitted to act for the purpose of filling vacancies or calling a shareholders' meeting.
- 28.3. The authority of the board to appoint a director to fill any vacancy on the board on a temporary basis is not restricted or varied by this MOI. A director appointed on a temporary basis has all the powers, functions and duties, and is subject to all the liabilities, of any

other director. The appointment of a director to fill a casual vacancy must be confirmed by the ~~shareholder company~~ at the next annual general meeting following such appointment. For the purposes of this clause, the next annual general meeting at which the appointment of a director is to be confirmed by shareholders shall be the next annual general meeting to be convened in terms of clause 23.2.1 and in respect of which notice is still to be delivered.

- 28.4. ~~All of the~~ Subject to clause 28.13, dDirectors and any alternate directors shall be elected by an ordinary resolution of the shareholders at a shareholders' meeting. No appointment of a director in accordance with a resolution passed in terms of section 60 of the Companies Act shall be competent. Any shareholder will have the right to nominate directors.
- 28.5. An alternate director shall serve in the place of one or more director/s named in the resolution electing him during the director's/s' absence or inability to act as director. If a person is an alternate director to more than one director, or if an alternate director is also a director, he shall have a separate vote on behalf of each director he is representing in addition to his own vote, if any. No director shall be entitled to appoint any person as an alternate director to himself.
- 28.6. A director may be employed in any capacity by the company, or as a director or employee of a company controlled by, or itself a major subsidiary of, the company and, in such event, his appointment and remuneration in respect of such other offers must be determined by a disinterested quorum of directors.
- 28.7. In any election of directors and alternate directors, the election is to be conducted as follows –
- 28.7.1. 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
- 28.7.2. in each vote to fill a vacancy —
- 28.7.2.1. each voting right entitled to be exercised may be exercised once; and
- 28.7.2.2. the vacancy is filled only if a majority of the voting rights exercised support the candidate, but if the number of persons nominated for election exceeds the number of vacancies, the vacancies will be filled by those persons who receive the highest number of votes in excess of a majority of the voting rights exercised in support of each of the candidates.
- 28.8. No appointment of a director or alternate director, except that of a retiring director re-elected at an annual general meeting, shall take effect until he has delivered to the company a written consent to serve.
- 28.9. 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 appointing directors.
- 28.10. The appointment of directors or alternate directors shall comply with the relevant provisions of the Companies Act.

- 28.11. Directors of the company shall not be required to hold any ordinary shares in the company in order to qualify or serve as a director of the company.
- 28.12. Life directorships and directorships for an indefinite period are not permissible.
- 28.13. The Chief Executive Office, the Chief Financial Officer and any other executive director shall, for so long as he/she remains in the full time employ of the company, be *ex officio* directors of the company, as provided for in section 66(4)(a)(ii) of the Companies Act. An *ex officio* directors shall automatically cease to be a director upon cessation of his/her employment. *Ex officio* directors may not serve or continue to serve as *ex officio* directors of the company, despite holding the relevant office, title, designation or similar status, if that person is, or becomes ineligible or disqualified in terms of section 69 of the Companies Act. An *ex officio* director has all the powers, functions and duties, and is subject to all of the liabilities, of any other director of the company

29. ROTATION

- 29.1. A retiring director shall act as a director throughout the meeting at which he retires. 1/3 (one third) of the non-executive directors ~~(excluding the chief executive officer and the chief financial officer)~~, or if their number is not a multiple of 3 (three), then the number nearest to, but not less than 1/3 (one third), shall retire from office at each annual general meeting. If, at the date of any annual general meeting, any director will have held office for a period in excess of 3 (three) years or longer since his/her last election or appointment, he/she shall retire at such annual general meeting, either as one of the directors to retire in pursuance of the foregoing or additionally thereto. The directors so to retire at each annual general meeting shall be those who have been longest in office since their last election, for which purposes the length of time a director has been in office shall be computed from the date of his last election. As between directors of equal tenure, the directors shall, in the absence of agreement, be selected from amongst them by lot.
- 29.2. Retiring directors shall be eligible for re-election, provided that the board, through the nomination committee, recommends eligibility after due consideration of, *inter alia*, past performance and contribution made. No person, other than a 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 ~~45 (fifteen)~~30 (thirty) business -days before the day appointed for the meeting, there shall have been given to the company 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 her/his willingness to be elected.
- ~~29.3. If at any annual general meeting, the place of any retiring director is not filled, he shall, if willing, continue in office until the dissolution of the annual general meeting in the next year, and so on from year to year until her/his place is filled, unless it shall be determined at such meeting not to fill such vacancy.~~

30. VACATION OF OFFICE

A director or alternate director shall cease to hold office as such –

- 30.1. when his term of office contemplated in this MOI expires;

- 30.2. when he dies;
- 30.3. when he resigns by written notice to the company;
- 30.4. if he is declared delinquent by a court, or placed on probation under conditions that are inconsistent with continuing to be a director of the company;
- 30.5. if he is removed by order of a court in terms of the Companies Act;
- 30.6. if he is removed by ordinary resolution;
- 30.7. if he is removed by resolution of the board upon becoming ineligible or disqualified;
- 30.8. if he is removed by resolution of the board upon becoming 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;
- 30.9. if he is removed by resolution of the board for being negligent or derelict in performing the functions of a director;
- 30.10. he files an application for the surrender of his estate or an application for an administration order, or if he commits an act of insolvency as defined in the insolvency law for the time being in force, or if he makes any arrangement or composition with his creditors generally;
- 30.11. if he is absent for more than 6 (six) months, without permission of the directors from meetings of directors held during that period and is removed by resolution in writing signed by a majority of his co-directors; or
- 30.12. he is otherwise removed in accordance with any provisions of this MOI or the Companies Act; or

in the case of an alternate director, if the director or directors in respect of whom the alternate director was appointed to act as alternate, for whatsoever reason, cease to hold office as such.

31. REMUNERATION

- 31.1. Non-executive directors shall be entitled to such remuneration for acting as directors as may be approved from time to time by a special resolution of the holders passed at a general meeting within the previous two years.
- 31.2. The remuneration of executive directors shall from time to time be determined by a quorum of disinterested directors or a remuneration committee appointed by the directors. Such remuneration may consist of fixed (such as salary and benefits) and variables (such as incentive programs) components as the directors may direct.
- 31.3. The directors and alternate directors shall be entitled to all their travelling 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 committees thereof; if any director is required to perform extra services, or to reside abroad or to be specifically occupied about the company's business, he shall be entitled to receive such remuneration as is determined by a quorum of disinterested directors, which may be either in addition to or in substitution for any other remuneration.

32. MANAGEMENT OF THE COMPANY AND POWERS OF THE BOARD

- 32.1. The business and affairs of the company shall be managed by or under the direction of the board, which has the authority to exercise all of the powers and perform any of the functions of the company, except to the extent that the Companies Act, this MOI or the JSE Listings Requirements provide otherwise.
- 32.2. The directors may from time to time at their discretion raise and borrow or secure the payment of any sum or sums of money for the purposes of the company as they see fit.
- 32.3. The power of the board to issue secured and unsecured debt instruments is set out in clause 17.
- 32.4. Always subject to clause 0 and save as specifically provided otherwise in this MOI, any proposal by the company's board to increase or decrease the number of authorised shares of any class of the company's shares, to reclassify any shares that have been authorised but not issued, to classify any unclassified shares, or to determine the preferences, rights, limitations or other terms of any class of shares, as set out in sections 36 (2)(b) and (3)(c) of the Companies Act, must be approved by a special resolution of the ordinary holders of the company.
- 32.5. Any proposal by the company's board to authorise the company to provide financial assistance in relation to the subscription of any option or securities of the company or a related or inter-related company, as set out in section 44 of the Companies Act, must be approved by a special resolution of the ordinary holders of the company.

33. EXECUTIVE DIRECTORS

- 33.1. The directors may from time to time appoint managing and other executive directors (with or without specific designation) of the company, which conditions of employment shall be subject to the usual standard terms of employment for company employees, but with a notice period which shall not exceed 6 (six) months.
- 33.2. The board may from time to time entrust to and confer upon a chief executive officer, other executive or manager for the time being such of the powers vested in the directors as they may think fit, and may confer such powers for such time and to be exercised for such objects and upon such terms and with such restrictions as they may think expedient; and they may confer such powers either collaterally or to the exclusion of, and in substitution for, all or any of the powers of the directors, and may from time to time revoke or vary all or any of such powers. A chief executive officer appointed pursuant to the provisions hereof shall not be regarded as an agent or delegate of the directors and after powers have been conferred upon him by the board in terms hereof, she/he shall be deemed to derive such powers directly from this clause.
- 33.3. A person appointed to an executive office in terms of clause 0 shall be subject to the like provisions relating to the vacation of office as the other directors and if he ceases to hold the office of director for any cause whatsoever he shall ipso facto cease to hold such executive office and *vice versa*.

34. COMMITTEES

- 34.1. The directors may appoint any number of board committees, which may include persons who are not directors as long as they are not ineligible or disqualified to be directors who shall be able to vote, and delegate to such committees any authority of the board. Any such committee so formed shall, in the exercise of the authority and powers delegated, conform to any rules issued by the board from time to time.
- 34.2. No person shall be appointed as a member of a board committee, if he 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.
- 34.3. 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.
- 34.4. A member of a board committee shall cease to hold office as such immediately he becomes ineligible or disqualified in terms of the Companies Act.
- 34.5. Committees of the board may consult with or receive advice from any person.
- 34.6. 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.

35. MEETINGS OF DIRECTORS

35.1. Constitution

- 35.1.1. For so long as the company is listed on the JSE, the chairperson of the board shall call directors' meetings at least 4 (four) times in each calendar year at intervals of not more than 3 (three) calendar months.
- 35.1.2. A director authorised by the board –
- 35.1.2.1. may, at any time, summon a meeting of the directors; and
 - 35.1.2.2. must call a meeting of the directors if required to do so by at least 3 (three) directors.
- 35.1.3. The board may determine the manner, form and time for giving notice of its meetings. The notice of meetings shall include an agenda of the matters to be discussed at the meeting. A meeting may proceed even if the company failed to give the required notice of that meeting, or if there was a defect in the giving of the notice, if all of the directors of the company:
- 35.1.3.1. acknowledge actual receipt of the notice convening the meeting; or
 - 35.1.3.2. are present at a meeting of directors; or
 - 35.1.3.3. waive notice of the meeting.

- 35.1.4. The directors may meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they think fit.
- 35.1.5. Unless otherwise determined by the chairperson, all directors' 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.
- 35.1.6. A majority of the directors must be present at a meeting (including an adjourned meeting) to form a quorum and before a vote may be called at any such meeting.
- 35.1.7. The directors may elect a chairperson of their meetings and determine the period for which he is to hold office; but if no such chairperson is elected, or if at any meeting the chairperson is not present within 30 (thirty) minutes after the time appointed for holding it, the directors present may choose one of their number to be chairperson of the meeting.

35.2. Resolutions

- 35.2.1. 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.
- 35.2.2. In the case of a tied vote the chairperson may cast a deciding vote and the resolution shall pass, provided that the chairman shall not be permitted to have a casting vote if only two directors are present at a meeting of directors.

35.3. Minutes

- 35.3.1. The company must keep minutes of the meetings of the board, and any of its committees, and include in the minutes –
 - 35.3.1.1. any declaration given by notice or made by a director as required by section 75 of the Companies Act; and
 - 35.3.1.2. every resolution adopted by the board.
- 35.3.2. Resolutions adopted by the board –
 - 35.3.2.1. must be dated and sequentially numbered; and
 - 35.3.2.2. are effective as of the date of the resolution, unless the resolution states otherwise.
- 35.3.3. Any minutes of a meeting of directors or of any committee or a resolution as contemplated in clause 36, if purported to be signed by the chair of the meeting, or by the chair of the next succeeding meeting, as the case may be, will be evidence of the proceedings of that meeting, or adoption of that resolution, as the case may be. The company secretary or deputy company secretary may sign any

extract from such minutes or extract from any resolution contemplated in clause 36, which extract will be evidence of the matters stated in such extract.

36. ROUND ROBIN RESOLUTIONS BY DIRECTORS

- 36.1. 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 (or their alternates) 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.
- 36.2. Unless the contrary is stated in the resolution, any such resolution shall be deemed to have been passed on the date on which it was signed by or on behalf of the director (or alternate director) who signed it last.
- 36.3. The resolution may consist of one or more counterpart documents, ~~each signed by one or more directors (or their alternates).~~
- 36.4. An alternate director shall only be entitled to provide the written consent to approve such resolution ~~sign such a written resolution~~ if the director to whom he is an alternate director, is, at the time of the alternate director's written consent ~~signature~~, ~~absent from South Africa,~~ or is incapacitated.

37. DISCLOSURE OF PERSONAL FINANCIAL INTERESTS

- 37.1. For the purposes of this clause 37, "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.
- 37.2. At any time, a director may disclose any personal financial interest in advance, by delivering to the board a notice in writing setting out the nature and extent of that personal financial interest, to be used generally by the company until changed or withdrawn by further written notice from that director.
- 37.3. If a director 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 –
- 37.3.1. must disclose the personal financial interest and its general nature before the matter is considered at the meeting;
 - 37.3.2. must disclose to the meeting any material information relating to the matter, and known to the director;
 - 37.3.3. may disclose any observations or pertinent insights relating to the matter if requested to do so by the other directors;
 - 37.3.4. if present at the meeting, must leave the meeting immediately after making any disclosure contemplated in clauses 37.3.2 or 37.3.3;
 - 37.3.5. must not take part in the consideration of the matter, except to the extent contemplated in clauses 37.3.2 or 37.3.3;

37.3.6. while absent from the meeting in terms of this clause 0:

37.3.6.1. 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

37.3.6.2. 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

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.

37.4. 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 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.

37.5. A decision by the board, or a transaction or agreement approved by the board is valid despite any personal financial interest of a director or person related to the director, only if –

37.5.1. it was approved following the disclosure of the personal financial interest in the manner contemplated in this clause 37; or

37.5.2. despite having been approved without disclosure of that personal financial interest, it has been ratified by an ordinary resolution of the holders entitled to vote following disclosure of that personal financial interest or so declared by a court.

38. INDEMNIFICATION OF DIRECTORS

38.1. For the purposes of this clause 38, "director" includes a former director, an alternate director, a prescribed officer, a person who is a member of a committee of the board or a member of the audit committee of the company, irrespective of whether or not the person is also a member of the board.

38.2. The company may:

38.2.1. advance expenses to a director or directly or indirectly indemnify a director in respect of the defence of legal proceedings as set out in section 78(4) of the Companies Act;

38.2.2. indemnify a director in respect of liability as set out in section 78(5) of the Companies Act; and/or

38.2.3. purchase insurance to protect the company or a director as set out in section 78(7) of the Companies Act,

and the power of the company in this regard is not limited, restricted or extended by this MOI.

38.3. The company is entitled to claim restitution from a director of the company 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 in consistent with this clause 38.

38.4. The provisions of clause 0 above shall apply *mutatis mutandis* in respect of any former director, prescribed officer or member of any committee of the board, including the audit committee.

PART V: FINANCIAL AND ACCOUNTING

39. AUDITOR

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

39.2. Auditors shall be appointed and their duties regulated in accordance with the provisions of the JSE Listings Requirements, the Companies Act and any other applicable law.

~~39.3. A retiring auditor may automatically be reappointed at an annual general meeting without any resolution being passed, unless:~~

~~39.3.1 the retiring auditor is:~~

~~39.3.1.1 no longer qualified for appointment;~~

~~39.3.1.2 no longer willing to accept the appointment and has so notified the company; or~~

~~39.3.1.3 require to cease serving as auditor, in terms of section 92 of the Companies Act;~~

~~39.3.1.4 an audit committee appointed by the committee in terms of the Companies Act objects to the reappointment; or~~

~~39.3.1.5 the company has notice of an intended resolution to appoint some other person or persons in the place of the retiring auditor.~~

39.3. If an annual general meeting of a company 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 of the Companies Act within 40 (forty) business days after the date of the meeting.

40. ACCOUNTING RECORDS

40.1. The company shall maintain the necessary accounting records in accordance with section 28 of the Companies Act.

40.2. The accounting records shall be kept at, or be accessible from, its registered office.

41. FINANCIAL STATEMENTS

- 41.1. The directors shall, in accordance with sections 30 and 31 of the Companies Act, cause to be prepared and laid before the company at its annual general meeting its audited financial statements.
- 41.2. A copy of the annual financial statements, or a summarised form thereof, must be sent to shareholders at least 15 (fifteen) days before the date of the annual general meeting of the company at which such financial statements will be considered.
- 41.3. If a holder requests a copy of the annual financial statements, the company shall make same available to such holder free of charge.
- 41.4. Any financial statements of the company must be prepared and audited (where required) in accordance with the provisions of the Companies Act and the JSE Listings Requirements.

PART VI: ADMINISTRATION

42. COMPANY SECRETARY

- 42.1. The directors must appoint a company secretary from time to time, who –
 - 42.1.1. shall be a permanent resident of South Africa and remain so while serving as secretary; and
 - 42.1.2. shall have the requisite knowledge of, or experience in, relevant laws; and
 - 42.1.3. may be a juristic person subject to the following –
 - 42.1.3.1. that 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;
 - 42.1.3.2. that 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 42.1.1 and 42.1.2;
- 42.2. 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 casual vacancy in the office of company secretary, if the juristic person or partnership continues to satisfy the requirements of clause 42.1.3.
- 42.3. If at any time a juristic person or partnership holds office as company secretary of the company –
 - 42.3.1. the juristic person or partnership must immediately notify the directors if the juristic person or partnership no longer satisfies the requirements of clause 42.1.3, and is regarded to have resigned as company secretary upon giving that notice to the company;

42.3.2. the company is entitled to assume that the juristic person or partnership satisfies the requirements of clause 42.1.3, until the company has received a notice; and

42.3.3. 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 42.1.3 at the time of that action.

42.4. 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.

42.5. 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.

43. LOSS OF DOCUMENTS

The company shall not be responsible for the loss in transmission of any cheque, warrant, certificate or (without any limitation *eiusdem generis*) other document sent through the post either to the registered address of any holder or to any other address requested by the holder and irrespective of whether or not it was so sent at the request of the holder.

44. NOTICES

44.1. Any notice that is required to be given to shareholders or directors:

44.1.1. may be given in any manner prescribed in the Table CR3 to the Regulations and that notice shall be deemed to have been delivered as provided for in the Regulations as a result of the relevant method of delivery; and

44.1.2. shall simultaneously with being distributed to shareholders, be announced through SENS and given by the company to the Issuer Regulation Division of the JSE in writing in any manner prescribed in Table CR3 to the Regulations and the manner authorised by the JSE Listings Requirements.

44.2. Each shareholder and director shall:

44.2.1. notify the company in writing of a postal address, which address shall be his registered address for the purposes of receiving written notices from the company by post; and

44.2.2. be entitled to notify the company in writing of an email address and facsimile number, which address shall be his address for the purposes of receiving notices by way of electronic communication,

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

44.3. The postal address notified by any shareholder to the company in terms of article referred to above in 44.2.1 may be a postal address within or outside the Republic of South Africa.

45. APPOINTMENT OF ATTORNEYS

The directors may at any time and from time to time by power of attorney appoint any person or persons to be the attorney or attorneys of the company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the directors under this MOI) including the right of sub-delegation, and for such period and subject to such conditions as the directors may from time to time think fit, and any such appointment may, if the directors think fit be made in favour of the members of any local committee established as aforesaid or any of them or in favour of any company or the members, directors, nominees or managers of any company or firm or otherwise in favour of any fluctuating body of persons, whether nominated directly or indirectly by the directors and any such power of attorney may contain such provisions for the protection or convenience of persons dealing with such attorneys as the directors may think fit.

46. REPRESENTATION

The company may sue or be sued in any court of law by its corporate name. All powers of attorney, bonds, deeds, contracts and other documents which may have to be executed shall be signed by any person or persons authorised so to do by resolution of the directors.

PROPOSED AMENDMENT