



MEMORANDUM OF INCORPORATION

of

Mahube Asset Management Proprietary Limited
Registration number 2016/297256/07

This MOI was adopted by the shareholders of the Company, in accordance with section 16(1)(c),
on 07th September 2022.

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1. Definitions and interpretation

1.1 Definitions

In this MOI, unless the context indicates a contrary intention, the following words and expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings:

AFSA means the Arbitration Foundation of Southern Africa (or its successor);

Affiliate in relation to a person, means any other person directly or indirectly Controlling, Controlled by or under common Control with such person;

Authority means any supra-national, national or sub-national authority, commission, department, agency, regulator, regulatory body, court, tribunal or arbitrator;

Board means the board of Directors of the Company from time to time;

Board Reserved Matters means any of the matters listed in Part 1 of **Schedule 1**;

Budget means the annual budget of the Company as approved by the Board;

Business Day means any day other than a Saturday, Sunday or officially recognised public holiday in the Republic of South Africa;

Business Plan means the business plan of the Company as approved by the Shareholders;

Bona Fide Third Party means any person other than a Shareholder which is not an Affiliate, under Control of or common Control of any Shareholder, or otherwise related to or associated with a Shareholder and/or its business;

Claims means, in relation to any Shareholder, the loan claims which such Shareholder has against the Company;

Company mean Mahube Asset Management Proprietary Limited a company incorporated in South Africa with registration number 2016/297256/07, whose registered address is Third Floor, Penthouse 5, 4 The High Street, Melrose Arch, Johannesburg, 2196

Companies Act means the Companies Act 71 of 2008;

Companies Regulations means the Companies Regulations, 2011 promulgated by the Minister in terms of section 223;

Control bears the meaning ascribed to it in section 2(2);

Deed of Adherence means a deed of adherence to be signed by a prospective shareholder in order to become a Shareholder, substantially in the form annexed to the Shareholders' Agreement as **Schedule 2**;

Director has the meaning as defined in the Companies Act, being as at the date of adoption of this MOI a member of the Board as contemplated in section 66, or an alternate director, and includes any person occupying the position of a director or alternate director, by whatever name designated;

Dispose means to sell, alienate, transfer, exchange, make over, give, donate, unbundle, distribute or otherwise dispose of (including by way of donation, dividend or by way of the terms of a will or any back-to-back arrangement or transaction or series of transactions or

arrangements, cession of any rights, grant of options or any other transaction which has the same economic effect);

Distribution has the meaning as defined in the Companies Act, being as at the date of adoption of this MOI a direct or indirect:

- (a) transfer by the Company of money or other property of the Company, other than its own Shares, to or for the benefit of one or more holders of, or the holder of a beneficial interest in, any of the Shares or shares of another company within the Company's group of companies, whether:
 - (i) in the form of a dividend;
 - (ii) as a payment in lieu of a capitalisation share, as contemplated in section 47;
 - (iii) as consideration for the acquisition:
 - (A) by the Company of any of its Shares, as contemplated in section 48;
 - (B) by any company within the Company's group of companies, of any shares of a company within that group of companies; or
 - (C) otherwise in respect of any of the Shares or shares of another company within the Company's group of companies, subject to section 164(19);
- (b) incurrence of a debt or other obligation by the Company for the benefit of one or more holders of any of the Shares or shares of another company within the same group of companies; or
- (c) forgiveness or waiver by the Company of a debt or other obligation owed to the Company by one or more holders of any of the Shares or shares of another company within the Company's group of companies,

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

Electronic Communication has the meaning as defined in the Companies Act, being as at the date of adoption of this MOI a communication by means of data generated, sent, received or stored by electronic means;

Encumbrance means any mortgage, charge, pledge, lien, hypothecation, option, restriction, assignment, right to acquire, right of pre-emption, right of retention or any other form of right, interest, preference, security or encumbrance of any nature in favour of a third party or any agreement, arrangement or obligation to create any of them, and **Encumber** will be construed accordingly;

Group and **Group Companies** means the Company and its Subsidiaries for the time being, and **Group Company** means any of them;

Independent Expert means an independent auditor from one of the ten largest (based on number of partners or shareholders, as the case may be) firms of auditors in the Republic of South Africa, or any other professional valuator as may be agreed and acceptable to the parties in dispute, suitably experienced and qualified to determine the market value of shares and/or any other matter that requires to be determined by an independent expert in terms of this Agreement, agreed upon in writing between the Shareholders in dispute (within five business days of receipt of any request for such agreement) or, failing any such agreement as to the identity of such expert within the aforesaid five business day period calling for agreement, an expert nominated at the request at any time of any Shareholder in dispute by the President for

the time being of the South African Institute of Chartered Accountants (or failing it or should it decline to act as contemplated herein, the Western Cape provincial director of the Legal Practice Council or its successor in title), which independent expert shall act as an expert and not as an arbitrator and whose determination as to any matter referred to him in terms of this Agreement shall, in the absence of fraud or manifest or clerical error, be final and binding as between the parties concerned.

MOI means this memorandum of incorporation of the Company, including all schedules (if any), as may be amended or replaced from time to time;

Ordinary Share means an ordinary share in the Company, having the preferences, rights, limitations and other terms set out in article 3.1(a);

Policies means the policies of the Group as adopted by the Company from time to time;

present at a meeting means to be:

- (a) present in person;
- (b) able to participate in the meeting by Electronic Communication; or
- (c) represented by a proxy who is present in person or able to participate in the meeting by Electronic Communication,

and any reference to **present at such meeting** or **present at the meeting** will be construed accordingly;

publish or **deliver** means, in relation to any document that is required to be published or delivered to Shareholders in terms of this MOI, that the document in question is prepared in plain language and, if applicable, in the prescribed form, in accordance with sections 6(4) and (5), and is delivered to each Shareholder at that Shareholder's registered address (either its business, postal or residential address, or by email) as recorded in the securities register;

Related has the meaning as defined in the Companies Act, being as at the date of adoption of this MOI:

- (a) an individual is related to another individual if they:
 - (i) are married, or live together in a relationship similar to a marriage; or
 - (ii) are separated by no more than two degrees of natural or adopted consanguinity or affinity;
- (b) an individual is related to a juristic person if the individual directly or indirectly Controls the juristic person; and
- (c) a juristic person is related to another juristic person if:
 - (i) either of them directly or indirectly Controls the other, or the business of the other;
 - (ii) either is a Subsidiary of the other; or
 - (iii) a person directly or indirectly Controls each of them, or the business of each of them,

subject to section 75(1)(b);

Shareholder means:

- (a) the holder of one or more Shares who is entered as such in the securities register, being the person who shall be regarded for purposes of this MOI as the person who, in relation to the Company, is the person entitled to exercise the rights attaching to the Shares so registered; and
- (b) for purposes of Part F of Chapter 2 of the Companies Act, a person who is entitled to exercise any voting rights in relation to the Company, irrespective of the form, title or nature of the securities to which those voting rights are attached;

Shareholders' Agreement means the agreement (if any) between the Shareholders and the Company from time to time, in terms of which the relationship between the Shareholders themselves, and the relationship between the Shareholders (collectively) and the Company, is regulated, provided that at the date of adoption of this MOI such agreement is the agreement titled *Subscription and Shareholders Agreement*;

Shareholder Reserved Matters means any of the matters listed in Part 2 of **Schedule 1**;

Shares means shares of any class in the share capital of the Company;

Solvency and Liquidity Test means the test set out in section 4(1);

Subsidiary has the meaning determined in accordance with section 3; and

ZAR means South African Rand, the lawful currency of the Republic of South Africa.

1.2 Interpretation

- (a) In this MOI, (unless the context requires otherwise):
 - (i) **days** shall be construed as calendar days unless qualified by the word "business", in which instance a **Business Day** will bear the meaning set out in section 1;
 - (ii) the use of the words **include, including, for example or in particular**, followed by a specific example or examples, shall not be construed as limiting the meaning of the general wording preceding it to the examples provided and the phrase "without limitation" shall be implied;
 - (iii) **law** means any law of general application and includes the common law and any statute, constitution, decree, treaty, regulation, directive, ordinance, by-law, order or any other enactment of legislative measure of government (including local and provincial government), statutory or regulatory body which has the force of law;
 - (iv) **person** includes an individual, body corporate, association, partnership, firm, trust or Authority (whether or not having a separate legal personality);
 - (v) a reference to a **regulation** by number refers to the corresponding regulation in the Companies Regulations;
 - (vi) a reference to a **section** by number that does not refer to a specific act of legislation refers to the corresponding section of the Companies Act; and
 - (vii) a reference to **writing** means legible writing and in English and includes printing, typewriting or any other mechanical process, as well as any Electronic

Communication in a manner and a form such that it can conveniently be printed by the recipient within a reasonable time and at a reasonable cost.

- (b) In this MOI (unless the context required otherwise), any reference to:
- (i) any gender includes all genders, and the singular includes the plural (and vice versa);
 - (ii) any time of day or date is to that time or date in the Republic of South Africa;
 - (iii) a month or a year shall be to a calendar month or a calendar year respectively;
 - (iv) a specific statute or statutory provision is to that statute or provision as in force at the date of adoption of this MOI and as amended or substituted from time to time, and includes any subordinate legislation made under it;
 - (v) writing or written includes any method of representing or reproducing words in a legible form; and
 - (vi) a consecutive series of two or more articles is deemed to be inclusive of both the first and last mentioned articles.
- (c) In this MOI (unless the context requires otherwise), any reference:
- (i) to an article or schedule is to an article of or schedule to this MOI;
 - (ii) to a part or paragraph is to a part or paragraph of a schedule to this MOI;
 - (iii) within a schedule to a part is to a part of that schedule; and
 - (iv) within a part of a schedule to a paragraph is to a paragraph of that part of that schedule.
- (d) Whenever any person is required to act **as an expert and not as an arbitrator** in terms of this MOI then, unless otherwise stated in the remainder of this MOI:
- (i) the determination of the expert shall (in the absence of manifest error) be final and binding on the parties;
 - (ii) subject to any express provision to the contrary, the expert shall determine the liability for his or its charges, which shall be paid accordingly;
 - (iii) the expert shall be entitled to determine such methods and processes as he or it may, in his or its sole discretion, deem appropriate in the circumstances provided that the expert may not adopt any process which is manifestly biased, unfair or unreasonable;
 - (iv) the expert shall consult with the parties (provided that the extent of the expert's consultation shall be in his or its sole discretion) prior to rendering a determination; and
 - (v) the expert shall be entitled to take advice from any person considered by him or it to have expert knowledge with reference to the matter in question, having regard to the sensitivity of any confidential information.
- (e) The contents list, headings and any descriptive notes are for ease of reference only and shall not affect the construction or interpretation of this MOI.

- (f) The fact that a substantive provision that confers rights and/or imposes obligations on a person appears in a definition anywhere in this MOI shall not limit or restrict the application or effect of that provision.
- (g) Words and expressions defined in any article shall, unless the application of any such word or expression is specifically limited to that article, bear the meaning assigned to such word or expression throughout this MOI.
- (h) Words and expressions which are defined and used or have a particular meaning ascribed to them in a particular context in the Companies Act shall, when used in this MOI in a similar context, bear the same meaning, unless excluded by the subject or the context, or unless this MOI provides otherwise.
- (i) If there is any conflict between any definitions in this MOI then, for purposes of interpreting any article of the MOI or paragraph of any schedule, the definition appearing in that article or paragraph shall prevail over any other conflicting definition appearing elsewhere in the MOI or any schedule.
- (j) Unless otherwise provided and subject to article 1.2(h), defined terms appearing in this Agreement in title case shall be given their meaning as defined, while the same terms appearing in lower case shall be interpreted in accordance with their plain English meaning.
- (k) References in this MOI to an agreement shall be construed as a reference to that agreement as validly amended, supplemented and/or novated from time to time.
- (l) The use of any expression covering a process available under South African law (including, for example, a winding-up) shall, if any of the Shareholders or other persons in respect of which this MOI applies is subject to the law of any other jurisdiction, be interpreted in relation to such person as including any equivalent or analogous proceeding under the law of such other jurisdiction.
- (m) Where 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 excluding the day on which the first event occurs and including the day on which or by which the second event is to occur.
- (n) Any reference to a notice shall be construed as a reference to a written notice, and shall include a notice which is transmitted electronically in a manner and form such that the notice can conveniently be printed by the recipient within a reasonable time and at a reasonable cost.
- (o) Each provision, each sentence and each part of a sentence in this MOI is separate and severable from each other, and to the extent any provision or sentence or part thereof is found to be illegal or unenforceable or inconsistent with or contravenes any provision of the Companies Act, or void, such may to that extent only be modified or severed from the MOI, so that the remaining part of that provision or sentence or part thereof, as the case may be, is legal, enforceable or consistent with or does not contravene the Companies Act or is not void.

2. Incorporation and nature of the Company

2.1 Incorporation

The Company is incorporated, as from the date of incorporation reflected in its registration certificate, as a private company in terms of the Companies Act.

2.2 Private company

In accordance with section 8(2)(b)(ii):

- (a) the Company is hereby prohibited from offering its securities to the public; and
- (b) the transferability of the Company's securities is restricted as set out in article 3.

2.3 Constitution of the Company

The Company is constituted in terms of section 19(1)(c) in accordance with, and governed by:

- (a) the unalterable provisions of the Companies Act (subject to any higher standards, greater restrictions, longer periods of time or more onerous requirements set out in this MOI in accordance with section 15(2)(a)(iii));
- (b) the alterable provisions of the Companies Act (subject to any negation, restriction, limitation, qualification, extension or other alteration set out in this MOI in accordance with section 1 read with section 15(2)(a)(ii));
- (c) the provisions of this MOI; and
- (d) the Shareholders' Agreement (if any), provided that in the event of any conflict or inconsistency between a provision in the Shareholders' Agreement and a provision of the Companies Act or MOI, the latter shall prevail.

2.4 Powers and capacity of the Company

- (a) The Company is not subject to any restrictive conditions or prohibitions contemplated in section 15(2)(b) or (c).
- (b) The legal powers and capacity of the Company are not restricted, limited or qualified as contemplated in section 19(1)(b)(ii).

2.5 Amendment of MOI

Subject to article 6, this MOI may be amended by special resolution as contemplated in section 16 if such special resolution is proposed by:

- (a) the Board;
- (b) Shareholders entitled to exercise at least 10% of the voting rights that may be exercised on such a resolution; or
- (c) any one or more Director(s) or Shareholder(s), with respect to any proposal to amend this MOI in order to remove or eliminate any inconsistency between a provision of this MOI and any provision of the Companies Act,

and adopted by the Shareholders.

2.6 Alteration of the MOI by the Board

The Board, or any person authorised by the Board to do so, may alter any of the provisions of this MOI in any manner necessary to correct a patent error in spelling, punctuation, reference, grammar or similar defect on the fact of the document in accordance with section 17(1), in which case the Company must publish a notice of such alteration in accordance with the requirements of article 10.

2.7 Rules

The Board shall not have the authority to make, amend or repeal any rules relating to the governance of the Company as contemplated in section 15(3) to 15(5A).

2.8 Elections in respect of optional provisions of the Companies Act

- (a) The Company shall not be required, in terms of section 34(2), to comply voluntarily with the provisions of Chapter 3 of the Companies Act.
- (b) The Company does not elect, in terms of section 118(1)(c)(ii), to submit itself voluntarily to the provisions of Parts B and C of Chapter 5 of the Companies Act and to the Takeover Regulations.
- (c) The Company's annual financial statements will not be audited, unless required in terms of regulation 28.

3. Securities of the Company

3.1 Authorisation of Shares

The Company is authorised to issue up to 5,000 (five thousand) no par value Shares to which the preferences, rights, limitations and other terms set out in article 3.1(a) attach (**Shares**).

- (a) The following rights attach to an Ordinary Share:
 - (i) the right to attend, participate in and speak (in person (whether physically or electronically) or by proxy) at any meeting of Shareholders where Shareholders are entitled to vote;
 - (ii) the right to exercise one vote on any matter to be decided upon by the Shareholders;
 - (iii) an irrevocable statutory right to vote on any proposal to amend the preferences, rights, limitations and other terms associated with the Ordinary Share (in addition to the requirements of article 3.1(b));
 - (iv) the right to receive Distributions by the Company if and when declared on the Shares, to be made in proportion to the number of Shares held by each Shareholder;
 - (v) subject to article 9, the right to receive a portion of the total net assets of the Company remaining upon its liquidation, in proportion to the number of Shares held by each Shareholder; and
 - (vi) any other rights attaching to such a share in terms of the Companies Act or any other law.
- (b) The preferences, rights, limitations and other terms associated with a particular class of Shares may only be amended with the prior approval of a special resolution of the holders of such class of Shares.
- (c) Should there be any issued preference Shares, the issue of further Shares ranking in priority to or *pari passu* with those preference Shares shall be deemed to be a variation of the rights attaching to those preference Shares, which adversely affects those rights.

- (d) In terms of section 36(3) read with section 36(2)(b), the Board may not:
 - (i) increase or decrease the number of authorised Shares of any class;
 - (ii) reclassify any classified Shares that have been authorised but not issued; or
 - (iii) classify any unclassified Shares that have been authorised as contemplated in section 36(1)(c) but are not issued.
- (e) The Shares may from time to time, by way of a special resolution of the relevant class of Shareholders, be:
 - (i) consolidated by reducing the number of its issued Shares; or
 - (ii) subdivided by increasing the number of its issued Shares without an increase in its stated capital.

3.2 Issue of Shares or options to subscribe for Shares

Subject to shareholder approval in terms of section 41 (where applicable), the Board may issue Shares or securities convertible into Shares in terms of section 38, as well as options to subscribe for Shares in terms of section 42.

3.3 Shareholders' rights of pre-emption on issue

- (a) The provisions of section 39 apply to the issue of any Shares of the Company, read with the additional provisions, and amended as set out, in the remainder of this article 3.3.
- (b) The provisions set out in articles 3.3(c) to 3.3(h) shall apply in respect of all issues of Shares, except:
 - (i) issued in terms of options or conversion rights;
 - (ii) issued as capitalisation Shares contemplated in section 47; or
 - (iii) issued as consideration for the acquisition of any assets, corporeal or incorporeal, or for services rendered.
- (c) Fresh issue of Shares
 - (i) If the Company proposes to issue Shares then the Board must offer in writing to each holder of Shares the right to subscribe for that number of the Shares of the proposed issue as each holder of Shares' Shareholding bears to the Company's issued Shares, both calculated as at the date of the offer.
 - (ii) The written offer to each Shareholder must stipulate the date of the offer, the subscription price per Share, the number and class of Shares for which the Shareholder is entitled to subscribe, the total number of Shares proposed to be issued, the date by which acceptances must be received and on which the subscription price is payable, as well as a copy of the provisions of this MOI which relate to the offer.

(d) Delivery of offer and acceptance period

The offer made by the Board shall be delivered to each eligible Shareholder, and is irrevocable and open for acceptance by notice of acceptance in writing (**Notice of Acceptance**) which must, in order to constitute valid acceptance:

- (i) specify whether the Shareholder is accepting the number of Shares offered or less than that number, or wishes to subscribe for more than that number (**Excess Shares**) if and to the extent available should other Shareholders not accept the rights offer in terms of this article; and
- (ii) be received by the Board within 40 (forty) Business Days of the date of the offer.

(e) Allocation of Shares not subscribed for

The Board shall within 10 (ten) Business Days of the date of the offer:

- (i) allocate the Shares not subscribed for pursuant to the offer among the Shareholders who offered to subscribe for Excess Shares *pro rata* in the proportions that each of their Shareholdings bears to the aggregate number of Shares offered; and
- (ii) in writing advise the relevant Shareholders of the number of and subscription price payable for the Excess Shares allocated to each of them,

provided that no Shareholder shall be allocated more Excess Shares than the number of Excess Shares that Shareholder indicated that it wishes to subscribe for.

(f) Payment for, and issue of, Shares and Excess Shares

- (i) Payment of the subscription price for the number of Shares recorded in a Notice of Acceptance and for Excess Shares must be made within 10 (ten) Business Days of:
 - (A) delivery of a Notice of Acceptance in the case of a Shareholder who does not wish to subscribe for any Excess Shares; or
 - (B) the Board notifying the relevant Shareholders of the allocation of Shares in terms of article 3.3(e) in the case of Shareholders who wish to subscribe for Excess Shares.
- (ii) Within 5 (five) Business Days of receipt of payment in terms of article 3.3(f)(i), the Company shall issue the Shares subscribed for and update the securities register accordingly.

(g) Offer of remaining Shares to third parties

If all the Shares offered by the Company are not subscribed for, the Board may, with the approval of the majority of the holders of Shares, to offer the remaining Shares to third parties, which offer must be made within 40 (forty) Business Days of expiry of the period in article 3.3(d)(ii) on the same terms and conditions as the offer to the Shareholders in terms of article 3.3(c).

- (h) Pre-emption provisions to apply again

If, after an offer in accordance with article 3.3(g), there are Shares which have not been subscribed for, then such Shares shall not be issued except after again following the pre-emption provisions of this article 3.3.

3.4 Transfer of Shares

- (a) Proper instrument of transfer

For purposes of section 51(6)(a), a "*proper instrument of transfer*" means an instrument in writing, in any form, specifying:

- (i) the full name of the transferor (being the name of a person entered in the securities register as the registered holder of the Shares being transferred);
- (ii) the full name of the transferee; and
- (iii) the number of the class of Shares being transferred, which has been signed by or on behalf of the registered Shareholder as transferor and signed by or on behalf of the transferee.

- (b) Registration of transfer

- (i) The Board may not decline to register the transfer of any Shares in terms of a proper instrument of transfer unless (and for so long as):
 - (A) the transfer is not in accordance with the requirements for such transfer set out in this MOI;
 - (B) the transfer is not in accordance with the requirements of any Shareholders' Agreement;
 - (C) the transferee has not settled in full the securities transfer tax payable in respect of such a transfer (if any); or
 - (D) the transferee has not signed a Deed of Adherence.
- (ii) The transferor shall be deemed to remain the holder of and shall remain the registered Shareholder in respect of such Shares until the name of the transferee is entered in the securities register in respect thereof.

- (c) Recognition of title

The parent or guardian of a Shareholder who is a minor, the executor or administrator of a Shareholder who is deceased, the trustee of a Shareholder who is an insolvent or the *curator bonis* of any Shareholder who is mentally incapacitated or prodigal or any person duly appointed by competent authority to represent or act for any Shareholder shall be the only person recognised by the Company as having any title to any Shares registered in the name of such Shareholder, including for voting purposes.

- (d) Transmission of Shares

- (i) Subject to section 51(6)(b) and any laws from time being in force relating to taxation or duty upon the estates of deceased persons, any person recognised by the Company in terms of article 3.4(c) as having any title to any Shares may, upon producing such evidence as the Board deems sufficient, as to the capacity in which he claims to act under this article or as to his title to any

Shares, but subject to the transfer provisions in this MOI (including the rights of pre-emption in article 3.4(g), which shall apply *mutatis mutandis* in the case of a potential transmission of Shares and, if and to the extent that the Shares are not acquired pursuant to such pre-emptive rights provisions, such Shares will be transferred as contemplated by this article), transfer such Shares to himself or any other appropriate person.

- (ii) A person who submits proof of his appointment as executor, administrator, trustee, curator or guardian in respect of the estate of a Shareholder who is deceased or the estate of a Shareholder whose estate has been sequestrated or who is otherwise under a disability or of his appointment as the liquidator of any body corporate which is a Shareholder, shall be entered in the securities register *nominee officii*, and shall thereafter, for all purposes, deemed to be a Shareholder.
- (e) Documents required for registration of transfer
- (i) Any person who requires the Company to register the transfer of any Shares shall deliver to the Company:
 - (A) a copy of a proper instrument of transfer, certified as a true copy of the original;
 - (B) the original certificate of the Shares being transferred or, in the absence of such original or duplicate certificate, such other evidence as the Company may require proving the title of the transferor or its rights to transfer the Shares; and
 - (C) a Deed of Adherence.
 - (ii) Where an instrument of transfer is signed by a person other than the relevant Shareholder, a copy of the authority granted by the Shareholder for the purpose of transferring Shares, certified as a true copy of the original authority, shall be lodged, produced or exhibited with or to the Company if the Company so requests.
 - (iii) Such authorities shall, as between the Company and the grantor of such authorities, be deemed to continue and remain in full force and effect, and the Board may allow such instruments of transfer signed for the Shareholder as transferor pursuant to such authority to be acted upon, until express written notice of its revocation signed by or on behalf of the Shareholder is lodged at the Company's registered office. Even after the lodging of such notice of revocation, the Company shall be entitled to give effect to any instrument of transfer, signed under the authority to sign and certified by any officer of the Company as being in order, before the lodging of such written notice of revocation.
 - (iv) The copy of the instrument of transfer, original or duplicate certificate, other documentary evidence and a copy of any authority to transfer the Shares shall remain in the custody of the Company at its registered office, unless the Board refuses to register the transfer the Shares in question in which case the Company shall return such documents to the transferor within 20 (twenty) Business Days of the Company giving written notice to the transferor and transferee of such refusal.

(f) Encumbrance of Shares

No Shareholder shall Encumber any of the Shares held by that Shareholder unless:

- (i) the Board has approved the Encumbrance (which approval shall not be unreasonably withheld or delayed);
- (ii) that Encumbrance is subject to the Shareholder rights described in article 3.4(h); and
- (iii) the third party in whose favour those Shares are Encumbered have provided a written acknowledgement of the Shareholder rights described in article 3.4(h).

(g) No Disposal of Shares without Disposal of Claims

- (i) No Shareholder may transfer any Shares without simultaneously transferring a proportionate percentage of that Shareholder's Claims (if any).
- (ii) Claims shall be sold at their face value, plus any accumulated but unpaid interest.

(h) Shareholders' rights of pre-emption on Disposal of Shares

- (i) In this article 3.4(h), the following words shall have the following meanings:
 - (A) **Allocation Notice** means an allocation notice in terms of article 3.4(m)(i);
 - (B) **Title Warranties** means warranties to the effect that the Seller:
 - (1) is the lawful owner and holder of the relevant Offer Interest; and
 - (2) has not Encumbered, sold, transferred or granted any right to a third party in respect of the Offer Interest;
 - (C) **Offer Interest** means the Offer Shares and a *pro rata* portion of the Claims of the Seller (if any) forming the subject matter of a Pre-Emptive Rights Offer;
 - (D) **Offer Shares** means the Shares offered for sale in terms of a Pre-Emptive Rights Offer;
 - (E) **Offerees** means the Shareholders other than the Seller;
 - (F) **Offeree's Proportion** means the proportion that an Offeree's Shareholding bears to the aggregate Shareholding held by all the Offerees;
 - (G) **Pre-Emptive Rights Offer** means a written offer for sale in terms of this article 3.4(h), which offer shall be personal to each Offeree and not capable of cession to a nominee of an Offeree; and
 - (H) **Seller** means a Shareholder who wishes to dispose of all or any of its Shares (together with a *pro rata* portion of its Claims, if any).
- (ii) No Shareholder shall Dispose of any of its Shares or Claims related thereto unless it has first complied with the pre-emptive rights provisions contained in

this article 3.4(h) in respect of that sale, save where the other Shareholders have waived the requirement for that Shareholder to comply with this article 3.4(h).

- (i) Pre-Emptive Rights Notice
 - (i) A Seller shall commence the pre-emptive rights process by delivering a written notice to that effect (**Pre-Emptive Rights Notice**) to all the Offerees and the Company.
 - (ii) A Pre-Emptive Rights Notice shall:
 - (A) clearly reflect the number of Shares and the proportionate amount of Claims (if any) being offered for sale;
 - (B) if the Seller has received a written offer from a *Bona Fide* Third Party to purchase the Offer Interest (**Third Party Offer**):
 - (1) state that fact, as well as full details regarding the relevant third party (including such details in respect of its ultimate shareholder/s and/or controlling entities as may be reasonably required to enable the Offerees to ascertain the ultimate identity of the third party);
 - (2) enclose a written copy of the Third Party Offer; and
 - (3) if the Third Party Offer reflects a price payable *in specie*,
an Independent Expert's written opinion in respect of the fair market value cash equivalent of the consideration *in specie*;
 - (C) if no Third Party Offer has been received, set out the exact terms and conditions (in addition to the standard terms and conditions set out in article 3.4(k)(ii)) on which the Seller wishes to sell the Offer Interest to the Offerees; and
 - (D) if the disposal by the Seller of the Offer Interest will require the approval of the Seller's shareholders, members or the like in terms of section 112 or equivalent provisions in terms of the laws of the jurisdiction in which the Seller is incorporated/established, documentary proof that such approval has been obtained.
- (j) Pre-Emptive Rights Period
 - (i) Delivery of a Pre-Emptive Rights Notice shall give rise to an irrevocable Pre-Emptive Rights Offer.
 - (ii) A Pre-Emptive Rights Offer is open for acceptance for a period of 40 (forty) Business Days following the date upon which the last Offeree received its Pre-Emptive Rights Notice.
- (k) Terms and Conditions of Pre-Emptive Rights Offer
 - (i) A Pre-Emptive Rights Offer shall:
 - (A) if a Third Party Offer has been enclosed with the Pre-Emptive Rights Notice, be subject to the standard terms recorded in article 3.4(k)(ii)

read with the terms and conditions reflected in the Third Party Offer, but excluding:

- (1) terms and conditions in the Third Party Offer that are specific to the relevant third party in question and that cannot reasonably and logically be applied to the Offerees; and
- (2) warranties (other than Title Warranties) in the Third Party Offer which the Seller is required to give in favour of the third party.

If the Third Party Offer was made for a consideration *in specie*, the Offerees shall be entitled to accept the offer at the cash price equivalent certified by the Independent Expert opinion enclosed with the Third Party Offer (as contemplated in article 3.4(i)(ii)(B));

- (B) if no Third Party Offer has been enclosed with the Pre-Emptive Rights Notice, be subject to the terms and conditions reflected by the Seller in the Pre-Emptive Rights Notice (which shall, for the avoidance of doubt, reflect a price payable in cash) read with the standard terms recorded in article 3.4(k)(ii).
- (ii) All Pre-Emptive Rights Offers shall be subject to the following standard terms and conditions (which shall, in the event of a conflict, override the provisions of a Third Party Offer and/or Pre-Emptive Rights Notice, as the case may be):
- (A) acceptances by Offerees are subject to the suspensive condition that the Pre-Emptive Rights Offer is timeously accepted in respect of the entire Offer Interest (and not part only), unless the Seller has stated in its Pre-Emptive Rights Notice that it does not require this condition to apply to the Pre-Emptive Rights Offer and that it is willing to accept partial implementation of the offer;
 - (B) if any regulatory approval or consent is required for the lawful implementation of the Pre-Emptive Rights Offer, it shall be a suspensive condition to the implementation of the Pre-Emptive Rights Offer that such consent or approval is obtained by the relevant party/ies (and to the extent that the approval or consent is conditional, that such conditions are reasonably acceptable to the parties affected thereby) as soon as reasonably possible but in any event within 120 (one hundred and twenty) Business Days of the date upon which an Allocation Notice has been issued, subject to article 3.4(k)(ii)(C);
 - (C) if any accepting Offeree is required to be notified to the competition authorities, then:
 - (1) the Pre-Emptive Rights Offer shall be subject to the suspensive condition that competition approval for its acquisition of the relevant portion of the Offer Interest is obtained on terms and conditions reasonably acceptable to the parties affected thereby;
 - (2) any costs and fees payable in respect of such filing shall be paid in accordance with any written agreement reached between the Seller, the Offeree and/or the Company at the relevant time, failing which the Company and the affected Offeree shall be liable to pay all such costs and fees in equal shares;

- (3) the Company shall be obliged to assist the Seller, the Offeree and their representatives in a reasonable and co-operative manner to ensure that the required filing is completed and submitted as soon as reasonably possible;
 - (4) the time period for fulfilment contemplated in article 3.4(k)(ii)(B) shall not apply;
 - (5) if the affected Offeree has failed to submit its filing within 20 (twenty) Business Days of receipt of the Allocation Notice (and such delay did not result wholly or primarily from the Company's failure to duly assist the Offeree), then the Offeree's acceptance shall lapse and cease to be of any further force or effect, unless the Seller agrees otherwise in writing;
- (D) if a suspensive condition applicable to one or some of the Offerees has failed, then:
 - (E) the Company shall re-issue the Allocation Notice if other Offerees have over-accepted the Pre-Emptive Rights Offer, so that the portion of the Offer Interest in respect of which the condition has failed (**Available Interest**) can be allocated amongst those Offerees who have over-accepted the offer; and
 - (F) if the Available Interest cannot be allocated to over-accepting Offerees, and the relevant Pre-Emptive Rights Offer was subject to the condition that it had to be accepted in full, then the Pre-Emptive Rights Offer (and all acceptances by Offerees) shall fail in its entirety;
 - (G) the purchase price payable by each accepting Offeree, as stipulated in the Allocation Notice, shall be paid by the relevant accepting Offerees in cash, and share certificates and proper instruments of transfer in respect of the Offer Interest shall be delivered to the relevant accepting Offerees:
 - (1) on the third Business Day following the date of delivery of the Allocation Notice or
 - (2) if the Pre-Emptive Rights Offer is subject to suspensive conditions at the time when the Allocation Notice is issued, on the third Business Day following the date upon which all such conditions have been fulfilled or lawfully waived by the Seller (as the case may be), or the Available Interest has been successfully allocated amongst over-accepting Offerees in terms of article 3.4(k)(ii)(D); and
 - (H) the Seller shall be deemed to have given Title Warranties in respect of the Offer Interest.
- (I) Acceptance of Pre-Emptive Rights Offer
 - (i) If an Offeree wishes to accept all or any portion of a Pre-Emptive Rights Offer, it must deliver a written notice to that effect (**Acceptance Notice**) to the Seller and the Company before the expiry of the 20 (twenty) Business Day period contemplated in article 3.4(j)(ii) (failing which such Offeree shall be deemed to have rejected the Pre-Emptive Rights Offer).

- (ii) An Offeree may accept the Pre-Emptive Rights Offer in respect of its Offeree's Proportion of the Offer Interest (or less), or the Offeree may over-accept the Pre-Emptive Rights Offer in respect of more than its Offeree's Proportion, subject to the allocation provisions in article 3.4(m)(i).
 - (iii) An Acceptance Notice shall clearly reflect the portion of the Offer Interest that the Offeree wishes to purchase, it being recorded for the avoidance of doubt that a Pre-Emptive Rights Offer must always be accepted in respect of Shares and Claims on a proportionately linked basis.
- (m) Successful Pre-Emptive Rights Offer: Allocation to Offerees
- (i) If the Pre-Emptive Rights Offer has been timeously accepted in whole by the Offerees (or in respect of such lesser portion of the Offer Interest as the Seller may expressly have agreed, as contemplated in article 3.4(k)(ii)(A)), the Company shall deliver a written notice to that effect (**Allocation Notice**) to the Offerees within three Business Days:
 - (A) Of expiry of the 20 (twenty) Business Day period referred to in article 3.4(j)(ii); or
 - (B) of the date upon which all the Offerees have either delivered Acceptance Notices and/or has otherwise confirmed in writing that they do not wish to accept any portion of the Pre-Emptive Rights Offer, whichever occurs earliest in time. An Allocation Notice shall record:
 - (1) the extent to which the Pre-Emptive Rights Offer has been accepted;
 - (2) the portion of the Offer Interest to be purchased by each Offeree who has accepted the Pre-Emptive Rights Offer (based on the allocation principles listed in article 3.4(m)(i)(B)(4)), as well as the purchase price payable by each such accepting Offeree;
 - (3) if the Pre-Emptive Rights Offer has been accepted in full (but has not been over-accepted) each accepting Offeree shall be allocated the portion of the Offer Interest set out in its Acceptance Notice;
 - (4) if the Pre-Emptive Rights Offer has been over-accepted by the Offerees then:
 - (a) the Company shall first allocate to each accepting Offeree the lesser of: (1) the portion of the Offer Interest that it has accepted; and (2) its Offeree's Proportion;
 - (b) the Company shall thereafter allocate the remainder of the Offer Interest (if any) to the over-accepting Offerees *pro rata* to their Offeree's Proportions, provided that: (i) no over-accepting Offeree shall be obliged to purchase more than the Offer Interest actually accepted by it; and (ii) an over-accepting Offeree may be allocated more than its Offeree's Proportion of the remaining Offer Interest if it is the

only over-accepting Offeree who has offered to acquire the portion in question.

- (ii) In applying the allocation principles set out in article 3.4(m)(i), the Company shall be entitled to round numbers of Shares up or off to the nearest integer in any manner that the Board deems fit.
- (n) Right to Sell to a Third Party
- (i) If:
 - (A) the Pre-Emptive Rights Offer has not been timeously accepted in full by the Offerees (or the relevant acceptances did not become unconditional); and
 - (B) such Pre-Emptive Rights Offer enclosed a *Bona Fide* Third Party Offer, then the Seller shall be entitled, subject to the remainder of the provisions of article 3.4(h), for a period of 120 (one hundred and twenty) Business Days after the expiry of the 20 (twenty) Business Day acceptance period or, if any suspensive conditions had to be fulfilled, after the date on which the conditions failed, to dispose of the Offer Interest (or where applicable, the portion thereof not purchased by the Offerees) to the third party, and on the terms, disclosed in the Third Party Offer, and the provisions of articles 3.5 and 3.6 shall apply.
 - (ii) If the Offer Interest is not sold to the third party disclosed in the Third Party Offer within the 120 (one hundred and twenty) Business Days referred to in article 3.4(n)(i), then the Seller shall not be entitled to sell the Offer Interest (or relevant portion thereof) without again having complied with the pre-emptive rights process set out in article 3.4(h).
 - (iii) Notwithstanding anything to the contrary contained or implied in article 3.4(h), a Seller shall not be entitled to sell any Offer Interest to a third party who has not been approved for such purpose by an ordinary resolution of the Shareholders.
 - (iv) No offer to sell (and sale) any Offer Interest by an Offeror to any third party shall be valid or effective unless (and shall be subject to the fulfilment of the following suspensive conditions, namely that):
 - (A) the third party is acting as principal and not as an agent for another third party;
 - (B) an offer in terms of article 3.4(h) has not been triggered in respect of the Offer Interest; and
 - (C) the third party agrees in writing to be bound by the provisions of the Shareholders' Agreement (if any) in terms of a Deed of Adherence.
 - (v) If the Pre-Emptive Rights Notice did not enclose a Third Party Offer, then the Seller shall not be entitled (notwithstanding the fact that the entire Offer Interest was not purchased during the pre-emptive rights process) to sell the Offer Interest to a third party without first having again complied with the pre-emptive rights process set out in article 3.4(h) (this time enclosing a Third Party Offer with its Pre-Emptive Rights Notice).

(o) No Disposal at all

If an Offeror does not sell all of the (remaining) Offer Interest to a third party in terms of article 3.4(n)(i), then in respect of any subsequent attempt to Dispose of the Offer Interest or any part thereof, all the provisions of article 3.4(h) shall again apply from the beginning.

(p) Authority of the Directors

Any Director is hereby irrevocably and unconditionally authorised as the agent *in rem suam* of any Seller who fails to deliver Offer Interest to accepting Offeree/s to sign all documents and do all other things necessary to effect the transfer of such Offer Interest on behalf of such Seller.

(q) Terms and conditions applying to any Disposal

(i) Return of documents

Upon ceasing to be a Shareholder, the exiting Shareholder shall hand over to the Company all material correspondence, budgets, business plans, schedules, documents and records relating to the Company which are held by it or any person Controlled by it, or by any third party which has acquired such matter through it, and shall not keep any copies in any form whatsoever except if expressly required to do so by law, and then only to the extent so required.

(ii) Loans, borrowings, guarantees and indemnities

(A) Upon the transfer of all (or a portion of) the Shares held by any Shareholder, the transferee Shareholder/s shall use its best endeavours to procure the release (proportionate to the number of Shares transferred, if not all) of any guarantees, indemnities, security or other comfort given by the transferring Shareholder to or in respect of the Company or its business and, pending such release, shall:

(1) indemnify the transferring Shareholder in respect of any liability which arises thereunder after the date on which the Shares are transferred (provided that each transferee Shareholder's liability shall be limited to a *pro rata* share of the liability of the transferring Shareholder, proportionate to the number of Shares held by each of the transferee Shareholders at the time of the sale); and

(2) furnish acceptable security to such transferring Shareholder.

(B) Any assumption of the obligations of a transferring Shareholder by the transferee Shareholder/s shall be without prejudice to the right of the continuing Shareholders and/or the Company (as the case may be) to claim from the transferring Shareholder in respect of liabilities arising prior to the completion date of the transfer of the Shares.

- (r) Restriction on disposal and transfer of Shares

No transfer, disposal or issue of any Shares to any person who is not already a party to the Shareholders' Agreement (if any) shall be effected until such person signs a Deed of Adherence.

3.5 Drag along

- (a) If:
- (i) a *Bona Fide* Third Party (which shall not include a person that is Controlled by one or more of the Shareholders) offers to acquire all of the Shares of all of the Shareholders on the same terms and conditions; and
 - (ii) Shareholders holding 90% or more of the issued Shares accept such offer (subject to the rights of pre-emption) in respect of their Shares (**Disposing Shareholders**); and
 - (iii) after the Disposing Shareholders first having complied with the provisions of article 3.4(h) and offering the whole (and not part only) of their Shares to the other Shareholders (**Remaining Shareholders**), the Remaining Shareholders do not accept the whole of the offer made to them,

then the Remaining Shareholders shall be obliged and shall be deemed to have accepted the offer of the third party in respect of all of their Shares and all of their Claims.

- (b) The Board is hereby irrevocably and unconditionally authorised as the agent *in rem suam* of any Shareholder to sign all documents and do all other things necessary to give effect to the provisions of article 3.5(a).

3.6 Tag along

If:

- (a) a *Bona Fide* Third Party (or one or more *bona fide* third parties who are Related) offers to purchase more than 40% of the issued Shares and related Claims; and
- (b) the Shareholders to whom such offer has been made have not exercised their rights under article 3.5,

then, notwithstanding that such Shareholders have complied with the provisions of article 3.4(h), such Shareholders shall not be entitled to sell their Shares to such *Bona Fide* Third Party (or one or more *bona fide* third parties who are Related or inter-Related) unless the same offer to acquire the Shares and Claims is made *pro rata* by such *Bona Fide* Third Party (or one or more *bona fide* third parties who are Related or inter-Related) also to the other Shareholders.

3.7 Financial assistance

- (a) Financial assistance for the acquisition of options or securities

The Board may, as contemplated in section 44 and subject to the requirements of that section, authorise the Company to provide financial assistance by way of a loan, guarantee, the provision of security or otherwise to any person for the purpose of, or in connection with, the subscription for 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.

- (b) Financial assistance to directors, Prescribed Officers and Related persons

The Board may, as contemplated in section 45 and subject to the requirements of that section, authorise the Company to provide direct or indirect financial assistance to a director or Prescribed Officer of the Company or of a Related or inter-Related company, or to a Related or inter-Related company or corporation, or to a member of a Related or inter-Related corporation, or to a person Related to any such company, corporation, director, Prescribed Officer or member.

3.8 Capitalisation Shares

The Board shall be entitled, as contemplated by section 47, to approve the issuing of any authorised Shares of the Company as capitalisation Shares, to issue Shares of one class as capitalisation shares in respect of Shares of another class, and to resolve to permit Shareholders to elect to receive a cash payment in lieu of a capitalisation Share.

3.9 Debt instruments

- (a) The Board may authorise the Company to issue secured or unsecured debt instruments, as set out in section 43(2); and
- (b) a debt instrument issued by the Company may not grant special privileges as set out in section 43(3).

3.10 Repurchase of Shares

The Board may authorise the acquisition by the Company of its own Shares, as contemplated by section 48(2) read with section 46(1)(a)(ii).

3.11 Registration of beneficial interests

The Company's issued Shares may be held by, or registered in the name of, one person for the beneficial interest of another person, as contemplated in section 56(1).

3.12 Securities register

- (a) Any person who is entitled to have its name entered into the securities register of the Company shall provide to the Company all the information it may require from time to time, for purposes of establishing and maintaining the securities register, including the name, business address, residential address, postal address and available email address of that person.
- (b) In the case of any Shares registered in the names of two or more persons as joint holders, the person first named in the securities register shall, save as is provided in this MOI, be the only person recognised by the Company as having any title to such Shares and to the related certificate of title.
- (c) Upon the death, insolvency or placing under curatorship by reason of insanity or prodigality of any joint holder of any Share, the sole remaining holder or the first-named of two or more remaining joint holders, as the case may be, shall be the only person recognised by the Company as having any title to such Share.

3.13 Certificated Shares

- (a) Shares of the Company are to be issued in certificated form only, as contemplated in section 49(2)(a).

- (b) A certificate evidencing any Shares of the Company:
 - (i) must state on its face:
 - (A) the name of the Company;
 - (B) the name of the person to whom the Shares were issued or transferred, as the case may be;
 - (C) the number and class of Shares and the designation of the series, if any, evidenced by that certificate; and
 - (D) any restriction on the transfer of the Shares evidenced by the certificate;
 - (ii) must be signed by two persons authorised by the Board; and
 - (iii) may otherwise be in such form as the Board prescribes from time to time.
- (c) Every registered Shareholder shall be entitled to be issued certificates evidencing ownership of the Shares on the initial issue or transfer of Shares to the Shareholder, free of charge, but for every subsequent certificate the Board may make such charge as from time to time the Board may think fit.
- (d) Every person to whom Shares are issued or transferred and whose name is entered in the securities register shall be entitled to one certificate for all the Shares of each class registered in its name, or, if the Board agrees, to several certificates, each for a part of such Shares.
- (e) Where a Shareholder has transferred part only of its Shares evidenced by a particular certificate, it shall be entitled, free of charge, to be issued with a new certificate for the balance of its Shares.
- (f) The Company shall, within three Business Days after the issue of any certificated Shares or the lodgement of an instrument of transfer for any certificated Shares, have ready for delivery the relevant certificate/s of title.
- (g) A Share certificate complying with article 3.13(b) is proof that the named Shareholder owns the Shares specified in the certificate, in the absence of evidence to the contrary.
- (h) If a certificate is defaced, lost or destroyed, it may be replaced with a duplicate certificate endorsed "*Duplicate Certificate*" on payment of such reasonable fee by the Shareholder, if any, and on such terms, if any, as to evidence and indemnity as the Board may think fit.
- (i) A certificate registered in the names of two or more persons shall be delivered to the person first named in the securities register as a holder thereof, and delivery of a certificate to that person shall be a sufficient delivery to all joint holders of that Share.

3.14 Fractions

If, on any issue of Shares, or on any consolidation or sub-division of Shares, or on any other transaction with the Company or Shareholders would, but for the provisions of this article, become entitled to fractions of Shares, all allocations of such Shares shall be rounded up or down based on standard rounding convention (ie allocations will be rounded up to the nearest whole number if they are equal to or greater than 0.5, or rounded down to the nearest whole number if they are less than 0.5), resulting in the allocations of whole Shares and no fractional entitlements.

4. Regulatory Approvals

- 4.1 If a notification, in any form, is required to any Authority in terms of applicable law or if regulatory approval or consent is required from any Authority in respect of any transaction contemplated in this MOI (including as contemplated under article 3.3), the Shareholders and the Company shall co-operate with each other in order to present the necessary notification to any relevant Authority as soon as reasonably possible and within any applicable prescribed time frames.
- 4.2 To the extent that the approval of an Authority is required for the implementation of any transaction contemplated in this MOI (including as contemplated under article 3.3), if any time periods that have been imposed in this MOI for the completion of the particular transaction are inappropriate having regard to the time period permitted to the relevant Authority to consider the matter, the time periods in question shall be extended sufficiently so as to enable the requisite filing to be made with the relevant Authority and for the relevant Authority to take a decision.
- 4.3 If any requisite approval of an Authority is conditional, the transaction concerned shall not be given effect to unless each party (and any third party) affected by the condition(s), accepts such conditions in writing.
- 4.4 To the extent that any of the provisions of this article 4 conflicts with or is inconsistent with the provisions of article 3.4(k)(ii), the latter will prevail.

5. Shareholders

5.1 Record date for exercise of Shareholder rights

- (a) The Board may determine record dates for purposes of determining Shareholder rights in accordance with section 59(1) and (2).
- (b) If, at any time, the Board fails to determine a record date as contemplated by section 59(3), the record date for the relevant matter shall be the date on which the event or action, in respect of which the record date is being set, is scheduled to occur.

5.2 Shareholders' meetings

- (a) Right to call a meeting
- (i) The Board may, in terms of section 61(1), call a Shareholders' meeting at any time.
- (ii) The Company authorises any Shareholder to call a Shareholders' meeting in the case that the Company is unable to convene a meeting because there are no Directors or all the Directors are incapacitated, as set out in section 61(11).
- (b) Requirement to hold meetings
- The Company is not required to hold any Shareholders' meetings other than meetings specifically required by the Companies Act.
- (c) Shareholders' right to requisition a meeting
- (i) The right of Shareholders to requisition a meeting, as set out in section 61(3), may be exercised by the holders of at least 10% of the voting rights entitled to be exercised in relation to the matter to be considered at the meeting, as provided for in that section.

- (ii) If one or more Shareholders exercise such right, the Board shall be obliged to call a Shareholders' meeting to be held no later than 20 Business Days after being so requisitioned by the Shareholders.

(d) Location of Shareholders' meetings

The authority of the Board to determine the location of any Shareholders' meeting, as set out in section 61(9), is not amended by this MOI and may be held in the Republic of South Africa or in any foreign country.

(e) Notice of Shareholders' meetings

- (i) The minimum number of days for the Company to deliver a notice of a Shareholders' meeting to the Shareholders, as required by section 62(1)(b), is 10 (ten) Business Days before the meeting is to begin.
- (ii) A notice of meeting must be in writing and include the information set out in sections 62(3), 63(3) and 65(4).

(f) Electronic participation in Shareholders' meetings

The authority of the Company to conduct a meeting entirely by Electronic Communication or to provide for participation in a meeting by Electronic Communication, as set out in section 63(2), is not amended by this MOI.

(g) Quorum for Shareholders' meetings

- (i) A Shareholders' meeting may not begin until:
 - (A) if the Company has more than two Shareholders, at least three Shareholders are present at the meeting; and
 - (B) sufficient Shareholders are present at the meeting to exercise, in aggregate, at least 60% of all the voting rights that are entitled to be exercised by Shareholders in respect of at least one matter to be decided at the meeting.
- (ii) A matter to be decided at the meeting may not begin to be considered unless:
 - (A) if the Company has more than two Shareholders, at least three Shareholders are present at the meeting; and
 - (B) sufficient Shareholders are present at the meeting to exercise, in aggregate at least **60%** of all the voting rights that are entitled to be exercised by Shareholders on that matter at the time the matter is called on the agenda, provided that if the matter is a Shareholder Reserved Matter, the percentage will be **75%**.
- (iii) The authority of a meeting to continue to consider a matter whether or not a quorum remains present at the meeting, as set out in section 64(9), is amended by this MOI in that a meeting may only continue to consider a matter while a quorum remains present.

(h) Automatic postponement of a meeting

If, within 30 (thirty) minutes after the appointed time for a meeting to begin, a quorum is not present, the meeting will be automatically postponed for one week at the same time and venue. The 30 (thirty) minute limit may be extended for a reasonable period

by the chairperson of the meeting in the circumstances described in section 64(5), including for delays caused by verification of any Shareholder's identity as contemplated in section 63(1).

(i) Automatic adjournment of a meeting

If, at the time a matter is to be considered at a meeting, a quorum is not present with respect to that matter and there is no other business on the agenda, the meeting will be automatically adjourned for one week at the same time and venue.

(j) Voluntary postponement of a particular matter to later in the meeting

If, at the time a particular matter is to be considered at the meeting, a quorum is not present with respect to that matter, but there is other business remaining on the agenda, consideration of that matter may be postponed by the chairperson of the meeting to a later time in the meeting.

(k) Further notice required for postponed/adjourned meeting

At least 5 (five) Business Days' notice shall be given to Shareholders of the date, time and venue of a meeting that is postponed or adjourned.

(l) Deemed quorum at a postponed or adjourned meeting

If at the appointed time for a postponed meeting to begin or an adjourned meeting to resume, the quorum requirements are not met, then those Shareholders present at the meeting will be deemed to constitute a quorum, provided that such requirements are not met as a result of the same Shareholder/s who was/were absent at the original meeting not being present at the adjourned or postponed meeting.

(m) Adjournment of a meeting by Shareholders

(i) A Shareholders' meeting, or the consideration of any matter being debated at the meeting, may be adjourned from time to time on a motion supported by persons entitled to exercise, in aggregate, a majority of the voting rights:

(A) held by all of the Shareholders who are present at the meeting at the time; and

(B) that is entitled to be exercised on at least one matter remaining on the agenda of the meeting, or on the matter under debate, as the case may be.

(ii) Any such adjournment by motion of Shareholders at a meeting may be either be:

(A) "*to a fixed time and place*", in which event no further notice need be given to Shareholders of the adjourned meeting unless otherwise required by article 5.2(k); or

(B) "*until further notice*", as agreed at the meeting, in which event a further notice of the adjourned meeting must be given to all the Shareholders at the applicable record date for the giving of such notice.

(n) Limit on period of adjournment

A Shareholders' meeting may not be adjourned beyond the earlier of:

- (i) a date that is 120 (one hundred and twenty) Business Days after the record date determining which Shareholders are entitled to attend and vote at the meeting; or
- (ii) a date that is 60 (sixty) Business Days after the date on which the adjournment occurred.

(o) Business at adjourned meeting

No business shall be transacted at an adjourned meeting other than the business left unfinished at the meeting which was adjourned.

(p) Chairperson

The chairperson of the Board shall chair Shareholders' meetings. If, however, there is no chairperson, he has notified his inability to attend a meeting or if at any meeting he is not present within 15 (fifteen) minutes after the time appointed for the meeting, the Shareholders who are present shall elect (by majority vote) another Director to chair the meeting. If no Director is present or if none of the Directors present are willing to chair the meeting, then the Shareholders shall by majority vote elect one of their own to be the chairperson of the meeting.

(q) Proxies

(i) Representation by concurrent proxies

The right of a Shareholder of the Company to appoint persons concurrently as proxies, as set out in section 58(3)(a), is not amended by this MOI.

(ii) Authority of proxy to delegate

A proxy may not delegate his authority to act on behalf of a Shareholder appointing him as proxy to another person as contemplated in section 58(3)(b).

(iii) Requirement to deliver proxy instrument to the Company

The requirement that a Shareholder must deliver to the Company a copy of the instrument appointing a proxy before that proxy may exercise the Shareholder's rights at a Shareholders meeting, as set out in section 58(3)(c), is amended in that the original instrument appointing a proxy, or a certified copy thereof, must be:

- (A) delivered to the Company at any of its offices, or to any other person and/or place specified to receive such instrument in the notice convening the meeting, at least 48 (forty eight) hours (excluding Saturdays, Sundays and public holidays), or such shorter period as the Board may determine in relation to any particular meeting, before the scheduled time for commencement of the relevant meeting (or if the meeting is adjourned or postponed, the scheduled time for the resumption thereof); or
- (B) handed to the chairperson at the meeting before the proxy exercises any rights of the Shareholder under such instrument.

(iv) Form of proxy instrument

A form of proxy shall be in a form approved by the Board from time to time.

(v) Validity of proxy instrument

(A) A proxy instrument shall not be valid for longer than 12 (twelve) months after its execution, unless the proxy document expressly states otherwise.

(B) A proxy instrument that is invalid in respect of a Shareholders' meeting will also be invalid in respect of any postponement or adjournment of such meeting.

(C) Voting rights exercised pursuant to an instrument of proxy, shall be valid notwithstanding the prior death of the Shareholder who appointed the proxy, or the revocation of the proxy or transfer of the Shares in respect of which the voting rights were exercised, provided that written notice of such death, revocation or transfer, as the case may be, does not reach the registered office of the Company or the chairperson of the meeting prior to the relevant Shareholders meeting.

(vi) Deliberative authority of proxy

The authority of a Shareholder's proxy to decide to vote in favour of, against, or to abstain from exercising any voting rights, as contemplated in section 58(7), shall be determined by the instrument appointing the proxy.

(r) Voting

(i) Voting at a Shareholders' meeting shall always be by way of poll and not by a show of hands and, accordingly, any person who is present at the meeting has the number of votes determined in accordance with the voting rights attached to the Shares held by that Shareholder.

(ii) Objections as to the admissibility of any vote may only be raised at the Shareholders' meeting at which such vote is given or tendered. In the event of a *bona fide* dispute regarding allowing the exercise of a voting right or not, the chairperson of the meeting shall make a decision on the matter, which decision (if made in good faith) shall be final and binding.

(iii) A poll shall be taken in such manner as the chairperson of the Shareholders' meeting directs. Scrutineers may be appointed to count the votes and declare the results of the poll.

(iv) In the event of a deadlock in respect of the voting on a particular matter, whether by show of hands or by way of a poll, the chairperson of the meeting shall not have a casting vote.

(v) In the case of any Share registered in the names of two or more persons as joint holders, the vote of the person first-named in the securities register who votes, whether personally or by proxy, shall be accepted to the exclusion of the other joint holder or holders.

- (s) Minutes
 - (i) Minutes of Shareholders' meetings will be:
 - (A) settled by the chairperson and circulated to the Shareholders within 20 (twenty) Business Days following the relevant meeting;
 - (B) submitted to the next meeting for approval, with or without modification; and
 - (C) signed by the chairperson of that meeting confirming the approval thereof.
 - (ii) Any minutes of a meeting, or a resolution, signed by the chairperson of the meeting, or by the chairperson of the next Shareholders' meeting, is *prima facie* evidence of the proceedings of that meeting, or adoption of that resolution, as the case may be.

5.3 Shareholders' resolutions

- (a) For an ordinary resolution to be adopted at a meeting, it must be supported by more than 60% of the voting rights validly exercised on the resolution, as provided in section 65(7).
- (b) For a special resolution to be adopted at a meeting, it must be supported by at least 75% of the voting rights validly exercised on the resolution by the holders of Shares, as provided in section 65(9).
- (c) Written resolutions may be adopted by the Shareholders in accordance with section 60, provided that:
 - (i) for an ordinary resolution to be adopted in such manner, more than 60% of all the voting rights validly exercisable on the resolution must be exercised in favour thereof;
 - (ii) for a special resolution to be adopted in such manner, at least 75% of all the voting rights validly exercisable on the resolution must be exercised in favour thereof.
- (d) Notwithstanding anything elsewhere in this MOI that may be construed to the contrary, in addition to the matters requiring special resolutions in terms of the Companies Act and other provisions of this MOI, the Shareholder Reserved Matters shall require approval in accordance with article 6 (*Reserved Matters*).

6. RESERVED MATTERS

- 6.1 Subject to article 6.2, the Company shall not and shall procure that no Subsidiary of the Company shall take any action in respect of:
- (a) any of the Board Reserved Matters (or do anything which is analogous or has substantially similar effect to any of the Board Reserved Matters), unless it is approved:
 - (i) by a resolution in respect of which all of the Directors present and entitled to vote on such matter at the relevant Board meeting voted in favour; or
 - (ii) by the prior written consent of all of the Directors (excluding any Director who is not entitled to vote on such matter) in accordance with section 74;

- (b) any of the Shareholder Reserved Matters (or do anything which is analogous or has substantially similar effect to any of the Shareholder Reserved Matters), other than with the prior approval of a unanimous resolution supported by all of the voting rights of Shareholders:
 - (i) exercised on the resolution at a meeting of Shareholders (quorate in accordance with the requirements set out in article 5.2(g)(ii)); or
 - (ii) exercisable on the resolution if passed as a written resolution in terms of section 60;

and the Board's powers are limited accordingly.

6.2 If a matter that would otherwise require approval under article 6.1:

- (a) has been expressly included in the Business Plan or Budget for the relevant financial year that has been approved as a Shareholder Reserved Matter; or
- (b) is required to happen in order to comply with applicable law,

then no approval under article 6.1 is required in respect of that matter.

7. Directors and officers

7.1 Authority of the Board

- (a) The authority of the Board to manage and direct the business and affairs of the Company, as set out in section 66(1), is amended only as expressly set out in this MOI.
- (b) The Board shall have the power from time to time to delegate to any one of the Directors or to any other person or committee of persons such powers as are vested in the Board, as they may deem fit.

7.2 Composition of the Board

- (a) The Board shall comprise a minimum of 2 (two) Directors and a maximum of 10 (ten) Directors.
- (b) If at any time the number of Directors serving on the Board are less than the minimum number stipulated in article 7.2(a), the authority of the remaining Directors shall be limited to convening the necessary Board and/or Shareholder meetings and/or passing the necessary resolutions to procure the filling of a sufficient number of vacancies on the Board in order to meet the number in article 7.2(a).
- (c) All of the Directors shall be elected in accordance with section 68 provided that only the holders of Shares shall be entitled to vote on the appointment or removal of Directors.

(d) Elected Directors

The Shareholders will be entitled to elect Directors in accordance with the provisions of this article 7.2(d) at shareholders' meetings or by way of written resolution in terms of section 66, as may be required.

- (i) Each Shareholder shall be entitled (but not obliged):
 - (A) by written notice to the Company and the other Shareholders to nominate one individual for election to the Board (as well as an alternate, if required) for each complete 10% of the issued Shares held by such Shareholder; and
 - (B) to require that any such Director (and his alternate, if any) from time to time is removed and replaced, if required.
- (ii) In the event of a Shareholder nominating an individual for election to the Board, or requiring a Director so nominated by it to be removed from the Board:
 - (A) the Board shall procure that a Shareholders' meeting is convened or the procedure in section 60 is commenced for purposes of voting on (i) the election of the individual in question, (ii) the removal of the Director in question and/or (iii) the election of a replacement Director, as the case may be; and
 - (B) each of the other Shareholders irrevocably and unconditionally:
 - (1) undertakes to vote all of its Shares in favour of the proposed resolutions contemplated by article 7.2(d)(ii)(A); and
 - (2) appoints the Shareholder making the request as its proxy and agent *in rem suam* to represent it at any Shareholders' meeting convened and held, or to vote on its behalf on any resolution proposed in terms of section 60, for purposes of passing any resolution electing or removing any one or more of the Director/s concerned, and to sign and execute any document (including any proxy or round-robin resolution) necessary or desirable to give effect to the provisions of this article 7.2(d)(ii)(B).
- (iii) Subject to articles 7.2(d)(i)(B) and 7.2(d)(v), each elected Director shall serve for an indefinite term.
- (iv) All appointed Directors are required to have been employed by the Company on a permanent basis immediately prior to their appointment as Directors.
- (v) If any Shareholder ceases to be entitled to nominate, remove and replace one or more Directors in terms of article 7.2(d)(i) by virtue of it ceasing to own and hold a sufficient number of Shares, then that Shareholder shall be obliged to procure, at its own cost and expense, the removal and/or resignation of all the Directors (as well as their alternates) nominated by it within five Business Days of that Shareholder ceasing to be so entitled. A Shareholder who removes its nominated Director shall keep the Company indemnified against any claim instituted by such Director as a result of his/her removal from office and all costs arising from such claim.

(e) Alternates

- (i) An alternate Director to each elected Director may be elected by the Shareholders *mutatis mutandis* in the manner set out in article 7.2(d).
- (ii) Each alternate Director is entitled to act as a Director in the absence of the Director for whom he is an alternate. A person may be elected as an alternate director to more than one Director. Where a person has been elected as an alternate Director to more than one Director or where 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).
- (iii) An alternate director shall cease to be an alternate director if:
 - (A) on the happening of any event, if he were a Director, would cause him to cease to hold the office of a Director; or
 - (B) the Director to whom he is an alternate Director ceases for any reason to be a Director, provided that if an alternate director has been appointed as an alternate to more than one Director, such alternate director shall cease to be an alternate Director when the last Director for whom he is an alternate ceases to be a Director.

(f) Vacancies on the Board

A person shall forthwith cease to be a Director if:

- (i) in the case of Directors appointed in terms of article 7.2(d), he is removed as a Director by that Director's appointing Shareholder giving notice to the Company and to that Director of his removal;
- (ii) he is removed as an elected Director by ordinary resolution of the Shareholders in terms of section 71;
- (iii) he ceases to be a Director or becomes prohibited from being a Director by virtue of any provision of the Companies Act;
- (iv) he resigns his office by notice in writing to the Company; and
- (v) for more than 6 (six) months he is absent without permission of the Board from Board meetings held during that period.

(g) Filling of vacancies by the Board

The authority of the Board to fill any vacancy on the Board on a temporary basis, as set out in section 68(3), is not amended by this MOI.

7.3 Appointment of executives

- (a) The Board may from time to time appoint a chief executive officer, a financial director and/or such other executives, for a period and on such remuneration and incentives as the Board thinks fit, and may from time to time remove or dismiss them from office and appoint others in their place in accordance with the agreement concluded between the Company and such executive.
- (b) The Directors may from time to time entrust to and confer upon a person appointed to executive office under article 7.3(a) such of the powers exercisable under this MOI by the Board as they think fit, and may confer such powers for such time, and to be

exercised for such objects and purposes and upon such terms and conditions and with such restrictions, as they think expedient, and they may confer such powers either collaterally with or to the exclusion of and in substitution for all or any of the powers of the Board in that behalf, and may from time to time revoke, withdraw, alter or vary all or any of such powers.

7.4 Holding of other offices by, and interests of, Directors

- (a) A Director may hold any other office or place of profit under the Company (except that of auditor) in conjunction with his office of Director, for such period and on such terms as to remuneration (in addition to the remuneration to which he may be entitled as a Director) and otherwise as a disinterested quorum of Directors may determine.
- (b) A Director may be or become a director or other officer of, or otherwise interested in, any company promoted by the Company or in which the Company may be interested as shareholder or otherwise and (except insofar as otherwise decided by the Board) he shall not be accountable for any remuneration or other benefits received by him as a director or officer of or from his interest in such other company.
- (c) A Director who (or in respect of whom a related person as contemplated in section 75(1)(b)) has a personal financial interest, whether directly or indirectly, in a contract or arrangement or proposed contract or arrangement with the Company, shall declare the nature of such interest in accordance with, and otherwise comply with, section 75.

7.5 Board meetings

- (a) Chairperson

The chairperson will be a Director elected for such purpose by the Directors from time to time.
- (b) Required meetings

The Board shall meet at least 4 (four) times per year.
- (c) Requisitioning of meetings

The right of the Directors to requisition a meeting of the Board, as set out in section 73(1)(b), may be exercised by one Director.
- (d) Electronic meetings

The authority of the Board to conduct a meeting entirely by Electronic Communication, or to provide for participation in a meeting by Electronic Communication, as set out in section 73(3), is not amended by this MOI.
- (e) Notice of meetings

A notice of a Board meeting must be in writing and delivered to each Director in accordance with article 10, so as to be received by the Director in question in the ordinary course not less than 5 (five) Business Days before the date appointed for the Board meeting, provided that in exceptional circumstances the notice period may be shortened as is necessary to allow the Directors to attend to the exceptional circumstances in question.

(f) Defective or inadequate notice of Board meeting

If all of the Directors of the Company:

- (i) acknowledge actual receipt of the notice;
- (ii) are present at the meeting; or
- (iii) waive notice in writing of the meeting,

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

(g) Quorum

The quorum for a Board meeting shall be a majority of the Directors in office at the time, who must be personally present at the meeting (whether physically or electronically) before a vote may be called at such meeting.

(h) Automatic postponement of a meeting

- (i) If within 30 (thirty) minutes of the appointed time for a Board meeting to begin a quorum is not present, then the meeting is automatically postponed (without any motion, vote or further notice) for 5 (five) Business Days.
- (ii) The 30 (thirty) minute limit may be extended by the chairperson of the meeting for a reasonable period not exceeding one hour.

(i) Automatic adjournment of a meeting

If at the time a matter is to be considered at a Board meeting, a quorum is not present and there is no other business on the agenda which can be dealt with, the meeting is automatically adjourned (without any motion or vote) for 5 (five) Business Days.

(j) Voluntary postponement of a particular matter to later in the Board meeting

If at the time a particular matter is to be considered at the Board meeting, a quorum is not present, but there is other business remaining on the agenda, consideration of that matter may be postponed (without motion or vote) to the end of the Board meeting.

(k) Further notice required for postponed or adjourned meeting

At least 5 (five) Business Days' notice shall be given to all Directors of the date, time and venue of a meeting that is postponed or adjourned.

(l) Deemed quorum at a postponed or adjourned meeting

The postponed or adjourned meeting may only deal with the matters that were on the agenda included in the notice of the meeting in terms of article 7.5(e).

(m) Continuing quorum during meeting

After a quorum has been established for a Board meeting or for a matter to be considered at a Board meeting, the Board meeting may only continue or the matter may only be considered, as the case may be, for so long as such quorum remains present at the meeting.

(n) Adjournment by Directors

A Board meeting may otherwise be adjourned by majority vote of the Directors present at the meeting.

(o) Voting at Board meetings

- (i) Subject to the exclusions in the Companies Act and elsewhere in this MOI, each Director has one vote on a matter before the Board.
- (ii) The chairperson shall not have a casting or second vote.

(p) Minutes

- (i) Minutes of Board meetings shall:
 - (A) set out full details of the voting on, and adoption of, resolutions by the Board, including a record of who voted for or against a particular resolution;
 - (B) include any declaration of interest by a Director in terms of section 75;
 - (C) be settled by the chairperson and circulated to the Directors within 20 (twenty) Business Days following the relevant meeting;
 - (D) be submitted to the next meeting for approval, with or without modification; and
 - (E) be signed by the chairperson of that meeting confirming the approval thereof.
- (ii) Resolutions adopted by the Board:
 - (A) must be dated and sequentially numbered; and
 - (B) are effective as at the date of the resolution, unless the resolution states otherwise.
- (iii) Any minutes of a meeting, or a resolution, signed by the chairperson of the meeting, or by the chairperson of the next Board meeting, is *prima facie* evidence of the proceedings of that meeting, or adoption of that resolution, as the case may be.

7.6 Board decisions

Subject to article 7.7, a Board resolution shall be approved if supported by a majority of the Directors who have cast their vote on that resolution (excluding any Directors prohibited to vote on such resolution in terms of section 75 or the common law).

7.7 Round robin resolutions

- (a) In accordance with section 74, a decision that could be voted on at a meeting of the Board may instead be adopted by written consent of the Directors (excluding any Director who is prohibited in terms of section 75 and/or the common law to vote on such matter), given in person or by Electronic Communication.

- (b) A resolution passed in terms of section 74(1), read with article 7.7(a), shall be deemed to have been passed on the date on which it was signed by the last Director unless the resolution states otherwise.
- (c) Within 10 (ten) Business Days after the adoption or failing of a resolution as contemplated in this article 7.7, the Company shall:
 - (i) deliver to each Director a copy of the resolution proposed with a statement describing the results; and
 - (ii) insert a copy of the resolution and statement referred to in article 7.7(c)(i) in the Company's minute book.

7.8 Committees

The authority of the Board to appoint committees of Directors, and to delegate to any such committee any of the authority of the Board, as set out in section 72(1), and to include in any such committee persons who are not Directors, as set out in section 72(2)(a), is not amended by this MOI.

7.9 Directors' remuneration and expenses

- (a) Directors shall only be entitled to remuneration for their service as Directors if and to the extent approved by a special resolution in the previous two years.
- (b) Directors (including alternates) may be paid 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, to devote special attention to the business of the Company, to reside abroad or be specifically occupied about the Company's business, he may be entitled to receive such remuneration as is determined by the Board, which may be either in addition to or in substitution for any other remuneration payable.

7.10 Indemnification of Directors

- (a) The authority of the Company to advance expenses to a Director, or indemnify a Director, in respect of the defence of legal proceedings, as set out in section 78(4), is not amended by this MOI.
- (b) The authority of the Company to indemnify a Director in respect of liability, as set out in section 78(5), is not amended by this MOI.
- (c) The authority of the Company to purchase insurance to protect the Company, or a Director, as set out in section 78(7), is not amended by this MOI.

8. Distributions

- 8.1 The application of the Solvency and Liquidity Test, when applied in respect of a Distribution contemplated in paragraph (a) of the definition of "*Distribution*" in article 1.1, is not amended by this MOI.
- 8.2 Distributions shall be payable or distributable to Shareholders registered as such on the relevant record date determined in terms of article 5.1.
- 8.3 The Company shall publish a notice to Shareholders regarding the declaration of a Distribution by the Company within 10 (ten) Business Days of the declaration thereof.

- 8.4 Distributions payable in monetary form shall be declared in the currency of the Republic of South Africa.
- 8.5 No Distribution shall carry interest as against the Company, unless otherwise determined by the Board.
- 8.6 Any Distribution declared may be paid and satisfied either wholly or in part by the Distribution of specific assets or in cash or in one or more of such ways, subject to the provisions of the Companies Act, as the Board may at the time of authorising the Distribution determine and direct.
- 8.7 All cash Distributions, interest or other moneys payable to a registered Shareholder shall be paid by electronic funds transfer. The payment by electronic transfer into the bank account recorded in the bank account register of the Company (if any) nominated by the Shareholder shall be a good discharge by the Company in respect thereof.
- 8.8 If as a result of the declaration of a Distribution any registered Shareholders become entitled to fractions of any specific assets of the Company, the Board may sell the assets represented by such fractions and after deducting the expenses of such sale, distribute the balance of the proceeds of the sale amongst the Shareholders entitled to the fractions in proportion to their entitlement.
- 8.9 For the purpose of this article 8, any notice of a new registered address or a change of registered address or any notice of new bank account details or a change of bank account details or any instruction as to payment being made at any other address or into any other bank account, not reflected in the securities register or the bank account register of the Company (if any) at the time of declaration of the Distribution, which is received by the Company between the time of declaration of the Distribution and the applicable time of payment of the Distribution, shall become effective only after such time of payment.
- 8.10 Every payment of a Distribution shall be made at the risk of the Shareholders. The Company shall not be responsible for the loss in transmission of any document sent through the post, either to a registered address of any Shareholder or to any other address requested by him or for the loss or misdirection of any electronic transfer.
- 8.11 Any unclaimed Distributions payable or distributable to a registered Shareholder may be invested or otherwise made use of by the Board, as it deems fit, for the benefit of the Company until it is claimed by the person entitled to the Distribution in question, at any time before that Distribution has been declared forfeit in terms of article 8.12.
- 8.12 Distributions unclaimed for a period of not less than three years from the date on which such Distributions became payable or distributable by the Company may be declared forfeit by the Board for the benefit of the Company.

9. Winding up

- 9.1 If the Company is to be wound up, the assets remaining after payment of the debts and liabilities of the Company and the costs of the liquidation shall be distributed among the Shareholders in proportion to the number of Shares held by each of them.
- 9.2 In a winding-up of the Company, any part of the assets of the Company, including any securities of other companies may, with the approval of a special resolution, be paid to the Shareholders of the Company *in specie* or may, with the same sanction, be vested in trustees for the benefit of such Shareholders, and the liquidation of the Company may be closed and the Company dissolved.

10. Delivery and publication of notices and certain documents

All notices and documents required to be published as contemplated in sections 15(3)(a) or 17(1)(a) of the Companies Act shall be delivered by the Company in accordance with sections 6(9), 6(10) and 6(11), read with Regulation 7 and Table CR 3, to each Shareholder to any of its addresses (including fax numbers and/or email addresses) recorded in the Shareholders Agreement.

11. Enforcement

Any of the persons bound by the provisions of this MOI in terms of section 15 is entitled to enforce the provisions of this MOI.

12. Dispute resolution

If a dispute arises in respect of this MOI (including a dispute about the validity or enforceability of the MOI) then that dispute shall, on written demand by any party to the dispute ("**Dispute Party**"), be submitted to arbitration on the basis set out in clause 34 of the Shareholders' Agreement.

SCHEDULE 1: RESERVED MATTERS

Part 1: Board Reserved Matters

1. **Shares:** Issue or allot or grant any right to issue or allot shares of the Company.
2. **Encumbrances:** Mortgage, charge, pledge or otherwise encumber any asset or undertaking of the Company, except in accordance with the Business Plan or Budget.
3. **Guarantee:** Give or enter into a guarantee, surety, letter of comfort, performance bond or any similar arrangement or transaction, except in accordance with the Business Plan or Budget.
4. **Acquisitions and Disposals:** Acquire or dispose of any investment in a company or business undertaking, except in accordance with the Business Plan.
5. **Capital expenditure:** Incur capital expenditure of more than R50,000 (fifty thousand Rand) in a financial year, except in accordance with the Business Plan.
6. **Financial assistance:** Make a loan or provide financial assistance to a Director or an associate of a Director or vary the terms of a loan or financial assistance previously provided to a Director or an associate of a Director.
7. **Accounting Standards and principles:** Materially alter the accounting standards or principles previously adopted by the Company for the preparation or presentation of individual or consolidated financial statements, except to the extent required by law.
8. **Financial year end:** Change the financial year end or any other accounting period of the Company.
9. **Employee share plan:** Adopt or alter the terms of an employee share plan, employee share option scheme or employee share purchase scheme or any other arrangement giving employees of the Company the right or entitlement to acquire Shares.
10. **Employee shares:** Issue shares or grant options under any employee share plan, employee share option scheme or employee share purchase scheme or other arrangement referred to in paragraph 21.
11. **Annual Budget:** The adoption of, any material amendment to or any material departure from any other Business Plan and/or the Budget.

Part 2: Shareholder Reserved Matters

1. **Change in the terms of the ESOP:** Any material change to the terms under which any employee share incentive scheme has been established.
2. **Remuneration of Directors:** Increase the remuneration payable to a Director, except in accordance with the Business Plan
3. **Amendments to MOI:** Make any change, alteration or amendment to this MOI.
4. **Share Capital:** Increase, alter or reduce the issued or authorised share capital of the Company, including any amendment to the rights of any class of shares
5. **Sale or disposal of Business:** Sell or otherwise dispose of:
 - 5.1 all or a majority of the business or undertaking of the Company or of any assets which are fundamental to the business or undertaking of the Company; or
 - 5.2 all or a majority of the assets of the Company.
6. **Winding up:** The entry into of any kind of insolvency or winding up process or any arrangement or compromise with the Company's creditors generally (including commencing or applying for any insolvency proceedings or appointing any liquidator, receiver, administrator, trustee or similar officer in relation to the Company or any of its assets or passing any resolution or commencing any proceedings for the winding up or any other reorganisation or restructuring of the Company).
7. **Change in Nature of Business.** Any material change in the nature and/or scope of the business of the Company, including the commencement of any new business by the Company which is not ancillary to or incidental to the business of another Group Company, or the cessation of the whole or a substantial part of the business of the Company.
8. **Listing.** An admission to listing or trading of any other securities of the Company on a securities exchange.
9. **Change in auditors.** Any change in the auditors of the Company.