

## **MEMORANDUM OF INCORPORATION FOR A PUBLIC COMPANY**

### **SUPER GROUP LIMITED**

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| <b>REGISTRATION NUMBER</b> |
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| <b>1943/016107/06</b> |
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This Memorandum of Incorporation was adopted by special resolution passed on 27 November 2012, a copy of which was filed together with the notice of amendment (“notice of amendment”) in substitution for the memorandum of association and the articles of association of the company (which were the constitutional documents of the company in terms of the Companies Act, Act 61 of 1973).

This Memorandum of Incorporation is in a form unique to the company, as contemplated in section 13(1)(a)(ii).

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## 1 INTERPRETATION

In this MOI –

- 1.1 a reference to a section by number refers to the corresponding section of the Act;
- 1.2 a reference to the Act shall include a reference to the regulations;
- 1.3 unless the context clearly indicates or requires a contrary intention an expression which denotes -
  - 1.3.1 any gender includes the other genders;
  - 1.3.2 a natural person includes an artificial person and vice versa;
  - 1.3.3 the singular includes the plural and vice versa;
- 1.4 words and expressions which are defined and used or have a particular meaning ascribed to them in a particular context in the 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;
- 1.5 where any term is defined within the context of any particular clause in this MOI, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the meaning ascribed to it for all purposes in terms of this MOI, notwithstanding that the term has not been defined in clause 3;
- 1.6 the use of the word “including” followed by a specific example/s shall not be construed as limiting the meaning of the general wording preceding it and the eiusdem generis rule shall not be applied in the interpretation of such general wording or such specific example/s. Accordingly, without limiting the generality of the foregoing, wherever the words “includes” or “including” are used in this MOI, the words “without limitation” shall be deemed to follow them;

- 1.7 should any provision in a definition in clause 3 be a substantive provision conferring any right or imposing any obligation on any person, then notwithstanding that it is only in a definition in clause 3, effect shall be given to it as if it were a substantive provision in this MOI;
- 1.8 a reference to a clause by number refers to a corresponding provision of this MOI;
- 1.9 in any instance where there is a conflict between a provision (be it expressed, implied or tacit) of this MOI and –
- 1.9.1 an alterable or elective provision of the Act, the provision of this MOI shall prevail to the extent of the conflict; and
- 1.9.2 an unalterable or non-elective provision of the Act, the unalterable or non-elective provision of the Act shall prevail to the extent of the conflict unless the MOI imposes on the company a higher standard, greater restriction, longer period of time or similarly more onerous requirement, in which event the relevant provision of this MOI shall prevail to the extent of the conflict;
- 1.10 clause headings are for convenience only and are not to be used in its interpretation;
- 1.11 should the due date for performance of any obligation in terms of this MOI be a day which is not a business day then (unless otherwise stipulated), the due date for performance of the relevant obligation shall be the immediately succeeding business day;
- 1.12 any reference to a notice shall be construed as a reference to a written notice, and shall include a notice which is transmitted electronically in a manner and form permitted in terms of the Act;
- 1.13 any reference to any enactment shall be a reference to such enactment as amended, consolidated or re-enacted from time to time;
- 1.14 any reference to –

- 1.14.1 “days” shall be construed as calendar days unless qualified by the word “business”, in which instance a “business day” will be any day other than a Saturday, Sunday or public holiday as gazetted by the government of the RSA from time to time;
- 1.14.2 “law” means any law of general application, as amended and re-enacted from time to time, and includes the common law and any statute, constitution, decree, treaty, regulation, directive, ordinance, by-law, order or any other enactment of legislative measure of government (including local and provincial government) statutory or regulatory body which has the force of law; and
- 1.14.3 “writing” means legible writing and in English and includes printing, typewriting, lithography or any other mechanical process, as well as any electronic communication in a manner and a form permitted in terms of the Act.

## **2 CALCULATION OF BUSINESS DAYS**

When a particular number of “business days” is provided for between the happening of one event and another, the number of days must be calculated by –

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

## **3 DEFINITIONS**

In this MOI the following words and expressions shall, unless the context otherwise requires, have the meanings assigned to them below and cognate expressions shall bear corresponding meanings -

- 3.1.1 “Act” - the Companies Act, Act 71 of 2008, as amended, consolidated or re-enacted from time to time, and includes all schedules to the Act;
- 3.1.2 “board” - the board of directors of the company from time to time;
- 3.1.3 “certificated securities” - securities issued by the company that are not uncertificated securities;
- 3.1.4 “CSD” – a Central Securities Depository as contemplated in section 1 of the FMA;
- 3.1.5 “CIPC” - Companies and Intellectual Property Commission established in terms of section 185;
- 3.1.6 “company” - Super Group Limited (registration number 1943/016107/06), a public company, duly incorporated in accordance with the laws of the RSA;
- 3.1.7 “director” - a member of the board or an alternate director, from time to time, and includes any person occupying the position of a director or alternate director, by whatever name designated;
- 3.1.8 “electronic communication” - has the meaning set out in section 1 of the Electronic Communications and Transactions Act, Act 25 of 2002;
- 3.1.9 “JSE” – the exchange, licensed under the SSA, operated by the JSE Limited (a company duly registered and incorporated with limited liability under the company laws of the RSA (registration number 2005/022939/06));
- 3.1.10 “legal incapacity” means infancy or minority, or placing under curatorship by reason of insanity or prodigality, or death, or sequestration or liquidation, or any other reason which, in the opinion of the directors, deprives a shareholder of his legal capacity to act;
- 3.1.11 “Listings Requirements” - Listings Requirements of the JSE applicable from time to time;



- 3.1.12 “MOI”- the Memorandum of Incorporation of the company as set out herein;
- 3.1.13 “ordinary share” – an ordinary share of no par value in the company;
- 3.1.14 “ordinary shareholder” – a holder of an ordinary share;
- 3.1.15 “participant” - has the meaning set out in section 1 of the FMA;
- 3.1.16 “person” – includes any body of persons, whether or not incorporated under any law of any country;
- 3.1.17 “preference share” – an “A” redeemable preference shares of no par value in the company;
- 3.1.18 “preference shareholder” – a holder of a preference share;
- 3.1.19 “prescribed officer” - a person who performs any function within the company that has been designated by the Minister in terms of section 66(10);
- 3.1.20 “regulations” - regulations made, from time to time, in terms of the Act;
- 3.1.21 “RSA” - the Republic of South Africa;
- 3.1.22 “secretary” – the secretary of the company from time to time;
- 3.1.23 “securities” – any shares, debentures or other instruments, irrespective of their form or title, issued or authorised to be issued by the company;
- 3.1.24 “securities register” - the register of issued securities of the company required to be established in terms of section 50(1);
- 3.1.25 “FMA” - Financial Markets Act, No. 19 of 2012, as amended from time to time or any legislation which replaces it;

- 3.1.26 “SENS” - Stock Exchange News Service established and operated by the Listings Division of the JSE;
- 3.1.27 “share” - one of the units into which the proprietary interest in the company is divided;
- 3.1.28 “shareholder” - subject to the provisions of section 57, the holder of any security in the company who is entered as such in the securities register;
- 3.1.29 “solvency and liquidity test” - has the meaning attributed thereto in section 4;
- 3.1.30 “uncertificated securities” - any “securities” defined as such in Chapter 1. (1) of the FMA; and
- 3.1.31 “uncertificated securities register” - the record of uncertificated securities administered and maintained by a participant or CSD, as determined in accordance with the rules of the CSD and which forms part of the company’s securities register established and maintained in terms of the Act.

#### **4 INCORPORATION AND JURISTIC PERSONALITY**

- 4.1 The company is incorporated, as from the date of its incorporation reflected in its registration certificate, as a public company, as defined in section 8(2)(d) of the Act.
- 4.2 The company is a pre-existing company as defined in the Act and, as such, continues to exist as a public company as if it had been incorporated and registered in terms of the Act, as contemplated in item 2 of schedule 5 to the Act, and this MOI replaces and supersedes the Memorandum of Association and Articles of Association of the company applicable immediately prior to the filing hereof.
- 4.3 The company is constituted in terms of section 19(1)(c) in accordance with and governed by the –

- 4.3.1 unalterable provisions of the Act, subject to any higher standards, greater restrictions, longer periods of time or similarly more onerous requirements set out in this MOI in accordance with section 15(2)(a)(iii); and
- 4.3.2 alterable provisions of the Act, subject to any negation, restriction, limitation, extension or other alteration set out in this MOI in accordance with section 1 read with section 15(2)(a)(ii); and
- 4.3.3 other provisions of this MOI subject to and in accordance with section 15(2).

## **5 COMPANY'S POWERS**

- 5.1 The company has all of the legal powers and capacity of an individual without limitation, and no provision contained in this MOI shall be interpreted or construed as negating, limiting, or restricting those powers in any way whatever. The company may do anything which it is empowered to do by the Act and this MOI.
- 5.2 The legal powers and capacity of the company are not subject to any restrictions, limitations or qualifications, as contemplated in section 19(1)(b)(ii).

## **6 SPECIAL CONDITIONS**

This MOI does not contain any special conditions applicable to the company as contemplated in section 15(2)(b) or section 15(2)(c).

## **7 RATIFICATION OF ULTRA VIRES ACTS**

Unless otherwise agreed with the JSE, the ratification of the company's actions as provided for in sections 20(2) and 20(6) is prohibited to the extent that such ratification is contrary to the Listings Requirements.

**8 LIMITATION OF LIABILITY**

No person shall, solely by reason of being an incorporator, shareholder or director of the company, be liable for any liabilities or obligations of the company.

**9 AUTHORISED SHARES**

The company is authorised in terms of section 36(1) to issue up to –

9.1 700 000 000 ordinary shares of no par value; and

9.2 54 857 377 preference shares of no par value.

**10 RIGHTS ATTACHING TO ORDINARY SHARES**

10.1 All the ordinary shares shall rank pari passu (as contemplated in paragraph 3.29 of the Listings Requirements) in all respects.

10.2 The holders of each ordinary share shall have the rights and privileges associated therewith in terms of the Act and this MOI including –

10.2.1 the right to be entered in the securities register as the registered holder of such ordinary share;

10.2.2 the right to receive notice of, attend, participate in, speak at and vote, in person or by proxy, on any matter to be considered at any meeting of the holders of the ordinary shares, on the basis that (i) each ordinary share shall confer one vote on the holder thereof at any meeting of the shareholders in the case of a vote by means of a poll; and (ii) all the ordinary shares held by an ordinary shareholder shall entitle such ordinary shareholder to one vote in aggregate in respect of a vote taken on a show of hands at any meeting of the shareholders;

10.2.3 the right to receive any distribution by the company, if and when declared on the ordinary shares, in proportion to the aggregate number of ordinary shares held by each holder thereof;

10.2.4 the right to receive a portion of the total net assets of the company remaining upon its liquidation or winding up; and

10.2.5 any other rights attaching to the ordinary shares in terms of the Act or any other law.

## 11 RIGHTS ATTACHING TO THE PREFERENCE SHARES

11.1 All the preference shares shall rank pari passu (as contemplated in paragraph 3.29 of the Listings Requirements) in all respects.

11.2 Each preference share shall –

11.2.1 on the winding up or liquidation of the company rank, as regards a return of capital, in an amount equal to the par value of the preference share, before the ordinary shares and in priority to the holders of any other shares in the company;

11.2.2 not be entitled to receive any amount (over and above that referred to in clause 11.2.1) in the event of the winding up or liquidation of the company;

11.2.3 not confer on the preference shareholder the right to receive any dividend out of the profits which the company determines to distribute from time to time;

11.2.4 confer the right on the holder thereof to receive notice of and to attend each meeting of the ordinary shareholders but, save as otherwise provided in the Act, not confer on the holder thereof the right to vote at any meeting of the ordinary shareholders; and

11.2.5 where the holder thereof is entitled to vote at any meeting of the ordinary shareholders, then as regards each resolution in respect of which it is entitled to vote it shall, if present in person or represented by proxy have, one vote in respect of a vote taken on a show of hands and one vote for each preference share held in respect of a vote taken by a poll.

11.3 Notwithstanding anything to the contrary contained herein no preference share shall be issued by the company until the preference shares have been converted to shares of no par value.

## 12 **ISSUE OF SHARES**

12.1 The board shall not have the power to –

12.1.1 increase or decrease the number of authorised shares of any class of shares; or

12.1.2 consolidate and reduce the number of the company's issued and authorised shares of any class; or

12.1.3 subdivide its shares of any class by increasing the number of its issued and authorised shares of that class without an increase of its capital; or

12.1.4 reclassify any classified shares that have been authorised but not issued; or

12.1.5 classify any unclassified shares that have been authorised but not issued; or

12.1.6 determine the preferences, rights, limitations or other terms of any shares,

and such powers shall only be capable of being exercised by the shareholders by way of a special resolution of the shareholders and an amendment to this MOI.

12.2 Notwithstanding the provisions of clause 12.12, the shareholders may in a general meeting authorise the directors to issue unissued securities of the company at any time and/or to grant options to subscribe for unissued securities at any time, as the directors in their discretion think fit, provided that

any such corporate action has been approved by the JSE and complies with the Listings Requirements.

12.3 Subject to the provisions of the Act and this MOI, and without prejudice to any special rights previously conferred on the holders of existing shares, any share may be issued with such –

12.3.1 preferred, deferred or other special rights or subject to such restrictions, whether in regard to dividend, return of capital or otherwise;

12.3.2 limited or suspended rights to voting,

as the company may from time to time determine.

12.4 The company may direct that shares may be issued by the directors on such terms and conditions, and with such rights, privileges or restrictions attached thereto as the directors may determine, subject to clause 12.1, save that the directors may not impose any restrictions which are contrary to the Listings Requirements and/or the Act.

12.5 Each share issued by the company has associated with it an irrevocable right of the shareholder to vote on any proposal to amend the preferences, rights, limitations and other terms associated with that share. The variation of any preferences, rights, limitations and other terms associated with any class of shares as contained in this MOI may be effected only by an amendment of this MOI approved by special resolution of the ordinary shareholders.

12.6 The authorisation and classification of securities, the number of authorised securities of each class, and the preferences, rights, limitations and other terms associated with each class of securities as set out in this MOI may be changed only by an amendment of this MOI by special resolution of the shareholders and in accordance with the Listings Requirements, and such amendments shall not be implemented without a special resolution adopted by the holders of securities of that class at a separate meeting. No such resolution of the shareholders shall be proposed or passed, unless a special

resolution of the holders of securities in that class have approved the resolution.

- 12.7 Should there be listed cumulative and/or listed non cumulative preference shares issued by the company, the following right shall attach to such shares - "No further securities ranking in priority to, or pari passu with, existing preference shares, of any class, shall be created without a special resolution being passed at a separate general meeting of such preference shareholders."
- 12.8 Securities for which listing is sought shall be fully paid up and freely transferable, unless otherwise required by statute. Notwithstanding the provisions of section 40(5) of the Act, the JSE shall not list securities that are not fully paid up upon listing.
- 12.9 The board may, subject to clause 12.11 and the further provisions of this clause 12.9, resolve to issue shares of the company at any time, but –
- 12.9.1 only within the classes and to the extent that those shares have been authorised by or in terms of this MOI; and
- 12.9.2 only to the extent that such issue has been approved by the shareholders in general meeting, either by way of a general authority (which may be either conditional or unconditional) to issue shares in its discretion or a specific authority in respect of any particular issue of shares, in accordance with the Listings Requirements, provided that, should such approval be in the form of a general authority to the directors, it shall be valid only until the next annual general meeting of the company or for fifteen months from the date of the ordinary resolution, whichever is the earlier, and it may be varied or revoked by any general meeting of the shareholders prior to such annual general meeting.
- 12.10 All issues of shares for cash and all issues of options and convertible securities granted or issued for cash, must, in addition to the provisions of this MOI, be undertaken in accordance with the Listings Requirements.



- 12.11 Notwithstanding anything to the contrary contained in this MOI, any issue of shares, securities convertible into shares, or rights exercisable for shares in a transaction, or a series of integrated transactions shall, in accordance with the provisions of section 41(3), require the approval of the shareholders by special resolution should the voting power of the class of shares that are issued or are issuable as a result of the transaction or series of integrated transactions equal or exceed thirty percent of the voting power of all the shares of that class held by shareholders immediately before that transaction or series of integrated transactions.
- 12.12 Subject to what may be authorised by the Act, the Listings Requirements and at meetings of shareholders in accordance with this clause 12.2, the board may only issue unissued shares if such shares have first been offered to existing ordinary shareholders in proportion to their shareholding on such terms and in accordance with such procedures as the board may determine, unless such shares are issued –
- 12.12.1 for the acquisition of assets by the company;
- 12.12.2 in consideration for the acquisition by the company of any securities in another company, or any other property that does not sound in money (for this purpose, any claim by a shareholder against the company for the payment of any amount will be deemed to sound in money);
- 12.12.3 pursuant to a capitalisation issue of shares;
- 12.12.4 issued in terms of option or conversion rights.
- 12.13 Subject to section 40(5) to (7), when the company has received the consideration approved by the board for the issue of any shares –
- 12.13.1 those shares are fully paid up; and
- 12.13.2 the company must issue those shares and cause the name of the holder to be entered onto the securities register in accordance with sections 49 to 56.

**13 AMENDMENTS TO THE MOI**

13.1 All amendments to this MOI must be approved by a special resolution of the ordinary shareholders and must comply with the relevant provisions of the Listings Requirements, other than any amendment ordered by a court in terms of the Act. An amendment, for the avoidance of doubt, shall include, but shall not be limited to –

13.1.1 the authorisation and classification of shares;

13.1.2 the creation of any class of shares;

13.1.3 the variation of any preferences, rights, limitations and other terms attaching to any class of shares;

13.1.4 the conversion of one class of shares into one or more other classes;

13.1.5 an increase in the number of securities of a class;

13.1.6 a consolidation of securities;

13.1.7 a sub-division of securities;

13.1.8 the change of the name of the company; and/or

13.1.9 the conversion of shares from par value to no par value.

13.2 Should any amendment to this MOI relate to the variation of any preferences, rights, limitations or other terms attaching to any class of shares then in issue, that amendment shall not be implemented without a special resolution being passed by the holders of shares in that class at a separate meeting. In such instances the holders of such shares shall be allowed to vote at the relevant meeting of ordinary shareholders subject to the relevant provisions of the Listings Requirements. No resolution of the shareholders of the company regarding any amendment of this MOI shall be proposed or passed, unless a special resolution, of the holders of the shares in that class, have approved the amendment.

- 13.3 Notwithstanding anything to the contrary contained in this MOI, preferences, rights and limitations or other terms of any class of shares of the company may not be varied and no resolution may be proposed to shareholders for rights attaching to any shares to include such variation in response to any objectively ascertainable external fact or facts as provided for in sections 37(6) and 37(7).
- 13.4 No further securities ranking in priority to, or pari passu with, existing preference shares, of any class, shall be created without a special resolution being passed at a separate general meeting of such preference shareholders.
- 13.5 An amendment of this MOI will take effect from the later of the date -
- 13.5.1 on, and the time at which CIPC accepts the filing of the notice of amendment contemplated in section 16(7); and
- 13.5.2 if any set out in the said notice of amendment save in the case of an amendment that changes the name of the company, which will take effect from the date set out in the amended registration certificate issued by CIPC.

## 14 **CERTIFICATES**

- 14.1 The certificates of title to securities other than uncertificated securities of the company shall -
- 14.1.1 be issued under the authority of the directors (or of a committee authorised thereto by the directors) in such manner and form as the directors may from time to time prescribe, save that they must state on the face -
- 14.1.1.1 the name of the company;
- 14.1.1.2 the name of the person to whom the securities were issued;

- 14.1.1.3 the number and class of securities and the designation of the series, if any, evidenced by that certificate; and
- 14.1.1.4 any restriction on the transfer of the securities evidenced by that certificate;
- 14.1.2 bear the signatures of two persons, duly authorised thereto by the directors. Any such signature may be affixed to or placed on the certificate by autographic, mechanical or electronic means;
- 14.1.3 specify the securities held by any shareholder, and
- 14.1.4 be prima facie evidence of the title of the shareholder to such securities.
- 14.2 Unless all the securities of the company rank equally for all purposes, the securities, or each class of securities, must be distinguished by an appropriate numbering system.
- 14.3 Should all securities of the company rank equally for all purposes, and are therefore not distinguished by a numbering system –
  - 14.3.1 each certificate issued in respect of those securities must be distinguished by a numbering system; and
  - 14.3.2 should the security be transferred, the certificate must be endorsed with a reference number or similar device that will enable each preceding holder of the security in succession to be identified.
- 14.4 Should the company be a pre-existing company (as defined in the Act), the failure of any share certificate to satisfy the provisions of this clause 14 shall not be contravention of the Act and will not invalidate that certificate.
- 14.5 A certificate remains valid despite the subsequent departure from office of any person who signed it.

- 14.6 Every person whose name is entered as a shareholder in the register of certificated securities shall, subject to the provisions of clause 17, be entitled to receive –
- 14.6.1 without request or payment, one certificate for all his securities of any one class; or
- 14.6.2 on request, and subject to the discretion of the secretary, several certificates, each for one or more of his securities of such class, against payment of such fee as the secretary may prescribe from time to time.
- 14.7 A shareholder who has transferred some of his securities, other than uncertificated securities, shall be entitled to receive a certificate for the balance of his securities.
- 14.8 Notwithstanding anything to the contrary contained in this MOI where securities are registered in the names of two or more persons, they shall be treated as one shareholder for the purposes of this clause.
- 14.9 Should a certificate be defaced, lost or destroyed, it may be replaced –
- 14.9.1 by the company; and
- 14.9.2 in case of defacement, on delivery of the old certificate to the company,
- against payment of such amount and on such conditions as the directors may determine from time to time.
- 14.10 The directors may, as they deem fit, determine such terms (if any) as to evidence, indemnity and payment of the out-of-pocket expenses of the company incurred in investigating such evidence and, in the case of loss or destruction, of advertising same.
- 14.11 The certificates for securities registered in the names of two or more persons shall be delivered to the person first named in the register of certificated

securities in respect thereof, or to his authorised agent, and such delivery shall be a sufficient delivery to all joint holders of such securities.

14.12 In the case of the legal incapacity of any one or more of the joint holders of any certificated securities, the first named in the register of certificated securities who is not subject to any legal incapacity shall be the only person recognised by the company as being entitled to such certificate, or any new certificate which may be issued in place thereof.

## 15 **DEMATERIALISATION**

15.1 The company shall be entitled to allow the dematerialisation of any of its securities. Once such dematerialisation has been allowed –

15.1.1 any new securities that are issued may be issued in uncertificated form if so requested by the subscriber of those securities; or

15.1.2 shareholders of the company shall be allowed to dematerialise securities already issued into uncertificated securities in such a form as may be prescribed by the directors from time to time.

15.2 Uncertificated securities that are dematerialised as contemplated in clause 15.1.2 shall have the rights which attached to such securities prior to their dematerialisation.

## 16 **SECURITIES REGISTER**

16.1 The company shall keep a securities register and procure that the participants keep an uncertificated securities register at the place(s) and in the manner specified in the Act.

16.2 The company shall, where applicable, keep an index of the names of the shareholders in the manner specified in the Act.

16.3 The company in general meeting may place reasonable restrictions on the inspection of the securities register.

- 16.4 As soon as practicable after issuing any securities the company must enter or cause to be entered in the securities register, in respect of every class of securities it has issued –
- 16.4.1 the total number of uncertificated securities;
- 16.4.2 with respect to certificated securities –
- 16.4.2.1 the names and addresses of the persons to whom the certificated securities were issued;
- 16.4.2.2 the number of certificated securities issued to each of them;
- 16.4.2.3 in the case of securities contemplated in section 43, the number of those securities issued and outstanding, and the names and addresses of the registered owners of the securities and any holders of beneficial interests therein; and
- 16.4.2.4 any other prescribed information.
- 16.5 Should the company have issued uncertificated securities, or should any issued securities have ceased to be certificated securities as contemplated in clause 15, a record must be administered and maintained by a participant or CSD in the prescribed form, in the uncertificated securities register, which –
- 16.5.1 forms part of the securities register; and
- 16.5.2 must contain, with respect to all uncertificated securities contemplated in this clause 16, any details referred to in clause 16.4.2, read with the changes required by the context or as determined by the rules of the CSD.
- 16.6 The securities register or uncertificated securities register maintained in accordance with the Act shall be sufficient proof of the facts recorded in it, in the absence of evidence to the contrary.

**17 TRANSFER OF SECURITIES**

17.1 The provisions of this clause 17 shall in respect of uncertificated securities, be subject to the provisions of clauses 19 and 20.

17.2 The directors may appoint a committee (to be designated registrars, transfer agents or by such other title as the directors may think fit), whether in the RSA or elsewhere, consisting of two or more natural persons or of a corporate body to whom the directors may delegate all or any of their powers, authorities and discretions with regard to the –

17.2.1 registration of transfers of securities and the keeping of registers and other records required by the Act to be kept;

17.2.2 issue of certificates in respect of securities.

17.3 The directors may appoint a person as secretary of such committee or authorise such committee to appoint a person to be its secretary.

17.4 Subject to –

17.4.1 any law relating to stamp duty, estate duty or other taxes;

17.4.2 any other statutory restrictions on transfer;

17.4.3 the provisions of this MOI; and

17.4.4 such restrictions as may be applicable (whether by virtue of the preferences, rights, limitations or other terms associated with the securities in question) but in no way derogating from the provisions of clause 12.8 regarding securities being freely transferable,

any shareholder may transfer all or any of his securities.

17.5 Every instrument of transfer must be in writing in any usual or common form or in such other form as the directors may approve. The instrument of transfer of any certificated securities shall be signed by both the transferor and the



transferee and the transferor shall be deemed to remain the holder of such certificated securities until the name of the transferee is entered in the securities register. The directors may, however, in their discretion in such cases as they deem fit, dispense with requiring the signature of the transferee on the instrument of transfer.

17.6 Every instrument of transfer shall be delivered to the principal place of business of the company, accompanied by –

17.6.1 the certificate issued in respect of the certificated securities to be transferred; and/or

17.6.2 such other evidence as the company may require to prove the title of the transferor, or his or her right to transfer the certificated securities.

17.7 All instruments of transfer, when registered, shall either be retained by the company or disposed of in such manner as the directors shall from time to time decide.

17.8 Any instrument of transfer which the directors may decline to register shall (unless the directors resolve otherwise) be returned on demand to the person who lodged it.

17.9 The directors may decline to register any transfer where the –

17.9.1 instrument of transfer has not been duly stamped and lodged with the company;

17.9.2 provisions of any law affecting transfer have not been complied with; and/or

17.9.3 instrument of transfer is not in respect of only one class of securities.

17.10 Should the directors refuse to register a transfer, a notice of the refusal shall, within thirty days after the date on which the instrument of transfer was lodged, be sent to the transferee and transferor.

- 17.11 All powers of attorney or other authorities granted by shareholders for the purpose of transferring or accepting the transfer of securities, which may be lodged, produced or exhibited with or to the company at the place where the register of transfers relating to such securities is kept, shall, as between the company and the grantor of such powers or other authorities, be taken and deemed to continue and remain in full force and effect, and the company may allow the same to be acted upon until such time as express notice in writing of the revocation of the same shall have been given and lodged at the place aforesaid. Even after the giving and lodging of such notice, the company shall be entitled to give effect to any instrument signed under the power of attorney or other authority and certified by any officer of the company as being valid before such notice was given and so lodged.
- 17.12 The company shall not be bound to allow an agent to act for a shareholder or intending transferee of securities unless the original or a certified copy of such agent's authority is produced and filed with the company.
- 17.13 Nothing contained in this MOI shall preclude the company from recognising a renunciation of the allotment of any security by the allottee in favour of some other person.
- 17.14 All securities transfer tax and other legal costs payable in respect of any transfer of securities pursuant to this MOI will be paid by the company to the extent that the company is liable therefor in law, but shall, to that extent, be recoverable from the person acquiring such securities.

## 18 **TRANSMISSION OF SECURITIES**

- 18.1 Subject to any law relating to securities transfer tax, stamp duty, estate duty or other taxes, the executor or administrator of a deceased shareholder (not being one of several joint holders) shall be the only person recognised by the company as having any right to a security registered in the name of such deceased shareholder.
- 18.2 In the case of the death of any one or more of the joint holders of any security, the survivor or survivors, or if the joint holders died simultaneously, the executor of any holder registered in the security register, shall be the only

person or persons recognised by the company as having any title to or interest in such security.

18.3 Any person becoming entitled to a security in consequence of the legal incapacity of a shareholder, or by any lawful means otherwise than by transfer in accordance with this MOI –

18.3.1 may, on production of such evidence of his right, with the consent of the directors (which they shall not be obliged to give) either be registered himself as a shareholder in respect of such securities or elect to have some person nominated by him registered as the transferee thereof;

18.3.2 shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered shareholder of the security, except that he shall not be entitled in respect thereof to exercise any right conferred by virtue of his holdings of any security in relation to meetings of the company until he has been registered as a shareholder in respect of the security.

18.4 Should the person so becoming entitled elect to –

18.4.1 be registered as a shareholder himself, he shall notify the company accordingly in writing;

18.4.2 have his nominee registered as a shareholder, he shall testify his election by executing a transfer form of such security, if applicable, in favour of his nominee.

18.5 All the limitations, restrictions and provisions of this MOI relating to the right to transfer and the registration of securities, shall be applicable to any such notice of transfer or registration under this MOI as if the legal incapacity or other means had not occurred and the notice or transfer was a transfer validly executed.

18.6 A person who submits proof of his appointment as the executor, administrator, trustee, curator or guardian in respect of the estate of a deceased shareholder

or the estate of a shareholder whose estate has been sequestrated, or who is otherwise suffering any legal incapacity, shall be entered in the securities register nomine officii, and shall thereafter for all purposes be deemed to be a shareholder of the company.

- 18.7 A failure by an executor, administrator, trustee, curator or guardian in respect of the estate of a deceased shareholder, or the estate of a shareholder whose estate has been sequestrated, or who is suffering any legal incapacity, shall not amount to a forfeiture of the shareholder's securities, where the executor, administrator, trustee, curator or guardian, as the case may be, fails to register the shareholder's securities in his own name or the name of the heir(s) or legatees of the shareholder, when called upon to do so by the directors.

## 19 **UNCERTIFICATED SECURITIES REGISTER**

- 19.1 The company shall enter into the securities register the total number of securities of each class held in uncertificated form.

- 19.2 An uncertificated securities register of names shall be administered and maintained by the participant or CSD. The uncertificated securities register shall contain the details required in terms of the Act, provided that the uncertificated securities register shall not contain the name of any person on whose behalf the participant or CSD holds the uncertificated securities as nominee.

- 19.3 Shareholders shall be entitled to inspect the uncertificated securities register in accordance with section 52. The company shall, within five business days of the date of a request for inspection, produce an uncertificated securities register reflecting at least the details prescribed by sections 50(3)(b) of the Act as at the close of business on the day the request for inspection was made.

## 20 **TRANSFER OF UNCERTIFICATED SECURITIES**

- 20.1 Ownership in uncertificated securities shall be transferred upon the debiting and crediting, respectively, of both the account in the uncertificated securities register from which the transfer is effected and the account in the uncertificated securities register to which the transfer is made. Only a

participant or CSD shall be entitled to effect such a transfer and it shall only be entitled to do so –

20.1.1 on receipt of –

20.1.1.1 an instruction to transfer that has been sent and properly authenticated in terms of the rules of the CSD; or

20.1.1.2 an order of court; and

20.1.2 in accordance with section 53 and the rules of the CSD.

20.2 Upon entry of the name of a person into the uncertificated securities register, that person shall become a shareholder of the company and shall be recognised as such in respect of the uncertificated security registered in his name.

20.3 Transfer of ownership in accordance with clauses 20.1 and 20.2 shall occur notwithstanding any fraud, illegality or insolvency which may affect the uncertificated securities in respect of which the transfer was effected or which may have resulted in the transfer being effected, provided that a transferee who was party to or had knowledge of such fraud or illegality or knowledge of the insolvency, as the case may be, may not rely on the provisions of this clause 20.3.

20.4 The company shall not be entitled to issue certificates evidencing or purporting to evidence title to uncertificated securities.

## 21 **WITHDRAWAL OF UNCERTIFICATED SECURITIES**

21.1 Should a shareholder wish to withdraw all or part of his uncertificated securities held by the participant or CSD and to obtain a certificate in respect of those uncertificated securities he must notify the participant or CSD thereof in accordance with the rules of the CSD.

21.2 The participant or CSD shall within five business days of receipt of the notification referred to in clause 21.1, notify the company to provide a

certificate and shall remove the uncertificated securities so withdrawn from the uncertificated securities register.

21.3 The company shall immediately upon receipt of the notification from the participant or CSD enter the necessary details of the shareholder and his shareholding into the register of certificated securities and indicate in the securities register that the uncertificated securities so withdrawn are no longer held in uncertificated form.

21.4 The company shall within ten business days, or twenty business days in the case of a shareholder who is not resident within the RSA, of receipt of a notice referred to in clause 21.2, prepare and deliver to the relevant shareholder a certificate in respect of such securities, and notify the CSD that those securities are no longer held in uncertificated form.

21.5 The company may charge a holder of its securities a reasonable fee to cover the actual costs of issuing a certificate, as contemplated in this clause 21.

## 22 **LIENS**

Securities shall not be subject to any lien in favour of the company and shall be freely transferable.

## 23 **DEBT INSTRUMENTS**

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

## 24 **CAPITALISATION SHARES**

24.1 Save to the extent authorised by the shareholders by means of ordinary resolution, and unless such transaction has been approved by the JSE (and the provisions of the Listings Requirements have been complied with), the board shall not have the power or authority in terms of section 47, to -

- 24.1.1 approve the issuing of any authorised shares as capitalisation shares;  
or
  - 24.1.2 issue shares of one class as capitalisation shares in respect of shares  
of another class; or
  - 24.1.3 resolve to permit shareholders to elect to receive a cash payment in  
lieu of a share.
- 24.2 The board may not resolve to offer a cash payment in lieu of awarding a  
capitalisation share, as contemplated in clause 24.1.3, unless the board -
- 24.2.1 has considered the solvency and liquidity test as required by  
section 46, on the assumption that every such shareholder would elect  
to receive cash; and
  - 24.2.2 is satisfied that the company would satisfy the solvency and liquidity  
test immediately upon the completion of the distribution.

**25 BENEFICIAL INTEREST IN SECURITIES AND DISCLOSURE**

- 25.1 The company's issued securities may be held by, and registered in the name  
of, one person for the beneficial interest of another person as contemplated in  
section 56(1).
- 25.2 Should any securities issued by the company be registered in the name of a  
person who is not the holder of the beneficial interest in all of the securities  
issued by the company held by that person, that registered holder of those  
securities shall disclose to the company the identity of -
- 25.2.1 the person on whose behalf those securities are held; and
  - 25.2.2 each person with a beneficial interest in the securities so held, the  
number and class of securities held for each such person with a  
beneficial interest, and the extent of each such beneficial interest.

- 25.3 Should the company know or have reasonable cause to believe that any of its securities are held by one person for the beneficial interest of another, then the company shall be entitled, by notice in writing, to require either of those persons to –
- 25.3.1 confirm or deny that fact;
- 25.3.2 provide the company with particulars of the extent of the beneficial interest held during the three years preceding the date of the notice; and
- 25.3.3 disclose the identity of each person with a beneficial interest in the securities held by that person.
- 25.4 The information required in terms of clause 25.3 shall be furnished within ten business days from the date of receipt of such notice.
- 25.5 The company shall establish and maintain a register of the disclosures made in terms of this clause 25 and shall publish in its annual financial statements a list of the persons who hold beneficial interests equal to or in excess of 5% of the total number of securities of that class issued by the company together with the extent of those beneficial interests.
- 25.6 The register envisaged in clause 25.5 shall be open for inspection mutatis mutandis as if it were a register contemplated in section 50.

## 26 **FINANCIAL ASSISTANCE**

- 26.1 The board may authorise the company to provide financial assistance by way of loan, guarantee, the provision of security or otherwise to any person for the purpose of, or in connection with, the subscription of any option, or any securities, issued or to be issued by the company or a related or inter-related company or for the purchase of any such securities, as contemplated in section 44, and the authority of the board in this regard is not limited or restricted by this MOI.



26.2 The board may, as contemplated in and subject to the requirements of section 45, authorise the company to provide direct or indirect financial assistance to a director prescribed officer or other person referred to in section 45(2) and the power of the board in this regard is not limited or restricted by this MOI.

## 27 ACQUISITION BY THE COMPANY OF ITS OWN SHARES

27.1 Subject to the Listings Requirements, the provisions of section 48 and the further provisions of this clause 27, the board -

27.1.1 may determine that the company acquire a number of its own shares; and/or

27.1.2 of any subsidiary of the company may determine that such subsidiary acquire shares of the company but -

27.1.2.1 not more than 10% in aggregate, of the number of issued shares of any class may be held by or for the benefit of all of the subsidiaries of the company taken together; and

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

27.2 Any decision by the company to acquire its own shares must satisfy the Listings Requirements and the requirements of the Act and, accordingly the company may not acquire its own shares unless -

27.2.1 for as long as it is required in terms of the Listings Requirements, the acquisition has been approved by a special resolution of the shareholders, whether in respect of a particular repurchase or generally approved by shareholders and unless such acquisition otherwise complies with the applicable provisions of the Listings Requirements;

27.2.2 the acquisition –

- 27.2.2.1 is pursuant to an existing legal obligation of the company, or a court order; or
  - 27.2.2.2 the board by resolution, has authorised the acquisition;
  - 27.2.3 it reasonably appears that the company will satisfy the solvency and liquidity test immediately after completing the proposed acquisition; and
  - 27.2.4 the board, by resolution, has acknowledged that it has applied the solvency and liquidity test and reasonably concluded that the company will satisfy the solvency and liquidity test immediately after completing the proposed acquisition.
- 27.3 A decision of the board referred to in clause 27.1 -
- 27.3.1 must be approved by a special resolution of the shareholders if any shares are to be acquired by the company from a director or prescribed officer of the company or a person related to a director or prescribed officer of the company; and
  - 27.3.2 is subject to the requirements of sections 114 and 115 if considered alone, or together with other transactions in an integrated series of transactions, it involves the acquisition by the company of more than 5% of the issued shares of any particular class of the company's shares.
- 27.4 Notwithstanding any other provision of this MOI, the company may not acquire its own shares, and no subsidiary of the company may acquire shares of the company if, as a result of that acquisition, there would no longer be any shares of the company in issue other than -
- 27.4.1 shares held by one or more subsidiaries of the company; or
  - 27.4.2 convertible or redeemable shares.

**28 RECORD DATE**

28.1 Should the directors determine the record date for a shareholders' meeting or other event or action, the record date shall be as set out in the Listings Requirements.

28.2 The record date shall be published to the shareholders in a manner that satisfies the Listings Requirements and/or any other prescribed requirements.

**29 SHAREHOLDERS' MEETINGS**

29.1 The company shall from time to time hold annual general meetings as provided in the Act.

29.2 Save as otherwise provided herein, the company is not required to hold any other shareholders' meetings other than those specifically required by the Act and the Listings Requirements.

29.3 The board or any person authorised by the board, is entitled to call a shareholders' meeting at any time.

29.4 Subject to the provisions of section 60, the company shall hold a shareholders' meeting -

29.4.1 at any time that the board is required by the Act, the Listings Requirements or the MOI to refer a matter to shareholders for decision;

29.4.2 when required in terms of clause 29.5 or by any other provision of this MOI.

29.5 The board or any other person authorised in terms of this MOI shall call a shareholders meeting if one or more written and signed demands by shareholders calling for such a meeting are delivered to the company, and -

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

- 29.5.2 in aggregate, demands for substantially the same purpose are made and signed by the shareholders, as of the earliest time specified in any of those demands, of at least 10% of the voting rights entitled to be exercised in relation to the matter proposed to be considered at the meeting.
- 29.6 The company shall convene an annual general meeting once in each calendar year, but no more than fifteen months after the date of the previous annual general meeting.
- 29.7 Each annual general meeting convened in terms of clause 29.6 shall, at the minimum, provide for the following business to be transacted -
- 29.7.1 the presentation of the directors' report, audited financial statements for the immediately preceding financial year of the company and an audit committee report;
- 29.7.2 the election of directors, to the extent required by the Act or this MOI;
- 29.7.3 the appointment of an auditor for the following financial year and an audit committee; and
- 29.7.4 any matters raised by shareholders, with or without advance notice to the company.
- 29.8 Subject to the provisions of the Listings Requirements, any shareholders' meeting shall be capable of being held by electronic communication in accordance with the further provisions of this MOI.
- 29.9 Subject to clause 29.9A below, all shareholder meetings convened in terms of the Listings Requirements shall be held in person and shall not be capable of being held by means of a written resolution as contemplated in section 60.
- 29.9A Subject to the provisions of this MOI and the Act, the following resolutions may be proposed as written resolutions in accordance with section 60 of the Act –
- 29.9A.1 a change of name of the company;

- 29.9A.2 an odd lot offer;
- 29.9A.3 an increase in the authorised share capital of the company;
- 29.9A.4 an approval of any amendment to this MOI.

- 29.10 The board may determine the location of any shareholders meeting, and the company may hold any such meeting in the RSA or in any foreign country and the authority of the board and the company in this regard is not limited or restricted by this MOI.
- 29.11 Every shareholder's meeting shall be reasonably accessible within the RSA for electronic participation by shareholders, irrespective of whether the meeting is held in the RSA or elsewhere.
- 29.12 All meetings (whether called for the passing of special or ordinary resolutions) shall be called on not less than fifteen business days' notice. The aforementioned notice period shall not be applicable in the event that the company adheres to the provisions of section 62(2A) of the Act.
- 29.13 Subject to the provisions of the Listings Requirements, the company may conduct a shareholders' meeting entirely by electronic communication or provide for participation in a meeting by electronic communication, as set out in section 63, and the power of the company to do so is not limited or restricted by this MOI.
- 29.14 Any shareholders' meeting may be conducted entirely by electronic communication, or one or more shareholders, or proxies for shareholders, may participate by electronic communication in all or part of any shareholders' meeting that is being held in person, so long as the electronic communication employed ordinarily enables all persons participating in that meeting to communicate concurrently with each other and without an intermediary and to participate reasonably effectively in the meeting.

- 29.15 Should the company provide for participation in a meeting by electronic communication, as contemplated in clause 29.14 -
- 29.15.1 the notice of that meeting must inform shareholders of the availability of that form of participation, and provide any necessary information to enable shareholders or their proxies to access the available medium or means of electronic communication; and
- 29.15.2 access to the medium or means of electronic communication is at the expense of the shareholder or proxy, except to the extent that the company determines otherwise.
- 29.16 Notices of meetings of the company shall be delivered to the JSE at the same time as notices are sent to the shareholders. In accordance with the Listings Requirements any such notice must also be announced through SENS.

### **30 PROCEEDINGS AT SHAREHOLDERS' MEETINGS**

- 30.1 Subject to the provisions of clause 30.2, a -
- 30.1.1 shareholders' meeting may not begin until sufficient persons are present at the meeting to exercise, in aggregate, at least 25% of the voting rights that are entitled to be exercised in respect of at least one matter to be decided at the meeting; and
- 30.1.2 matter to be decided at a shareholders' meeting may not begin to be considered unless sufficient persons are present at the meeting to exercise, in aggregate, at least 25% of all of the voting rights that are entitled to be exercised on that matter at the time the matter is called on the agenda.
- 30.2 A quorum for a shareholders' meeting to begin or for a matter to be debated, shall be at least three shareholders entitled to attend and vote at such meeting.
- 30.3 If within one hour after the appointed time for a shareholders' meeting to begin, the requirements of -

- 30.3.1 clause 30.1.1, for that meeting to begin have not been satisfied, the meeting shall be postponed without motion, vote or further notice, for one week;
- 30.3.2 clause 30.1.2, for consideration of a particular matter to begin have not been satisfied and if there is -
  - 30.3.2.1 other business on the agenda of the meeting, consideration of that matter may be postponed to a later time in the meeting without motion or vote; or
  - 30.3.2.2 no other business on the agenda of the meeting, the meeting shall be adjourned for one week, without motion or vote.
- 30.4 The person intended to preside at a meeting that cannot begin due to the provisions of clause 30.1.1, may extend the one hour limit allowed in clause 30.3 for a reasonable period on the grounds that -
  - 30.4.1 exceptional circumstances affecting weather, transportation or electronic communication have generally impeded or are generally impeding the ability of shareholders to be present at the meeting; or
  - 30.4.2 one or more particular shareholders, having been delayed, have communicated an intention to attend the meeting, and those shareholders, together with others in attendance, would satisfy the requirements of clause 30.1.
- 30.5 The company is not required to give further notice of a meeting that is postponed or adjourned in terms of clause 30.3, unless the location for the meeting is different from -
  - 30.5.1 the location of the postponed or adjourned meeting; or
  - 30.5.2 a location announced at the time of adjournment, in the case of an adjourned meeting.

- 30.6 If at the time appointed in terms of this clause 30 for a postponed meeting to begin, or for an adjourned meeting to resume, the requirements of clause 30.1 have not been satisfied, the shareholders present in person or by proxy will be deemed to constitute a quorum.
- 30.7 After a quorum has been established for a meeting, or for a matter to be considered at a meeting, all the shareholders forming part of the quorum must be present at the meeting for the matter to be considered at the meeting.
- 30.8 A meeting may not be adjourned beyond the earlier of the date that is -
- 30.8.1 120 business days after the record date determined in accordance with clause 28; or
- 30.8.2 sixty business days after the date on which the adjournment occurred.
- 30.9 The chairperson (if any) of the board of directors, or, in his/her absence, the deputy chairperson (if any), shall preside as chairperson at every general meeting of the company.
- 30.10 Should –
- 30.10.1 there be no such chairperson or deputy chairperson; or
- 30.10.2 at any meeting neither the chairperson nor the deputy chairperson be present within ten minutes after the time appointed for the meeting, or neither of them be willing to act as chairperson,
- the directors present shall choose one of their number to act as such, but if only one director is present, he shall preside as chairperson if he/she is willing so to act.
- 30.11 In the absence of a chairperson in terms of clauses 30.9 or 30.10, the shareholders present shall elect one of their number to act as chairperson.



- 30.12 At a general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is demanded before or immediately after the declaration of the result of the show of hands by –
- 30.12.1 the chairperson of the meeting; or
- 30.12.2 not less than five shareholders having the right to vote at the meeting;  
or
- 30.12.3 a shareholder or shareholders representing not less than one tenth of the total voting rights of all the shareholders having the right to vote at the meeting; or
- 30.12.4 a shareholder or shareholders entitled to vote at the meeting and holding in the aggregate not less than at least one tenth of the issued share capital of the company.
- 30.13 Unless a poll is demanded and the demand is not withdrawn, a declaration by the chairperson of the meeting that a resolution has –
- 30.13.1 been passed unanimously on a show of hands or by a particular majority; or
- 30.13.2 not been passed by a particular majority, or rejected,
- and an entry to that effect in the minute book shall be conclusive evidence of that fact.
- 30.14 The result of a poll shall be deemed to be the resolution of the meeting at which the poll was held.
- 30.15 In the case of an equality of votes, whether on a show of hands or on a poll, the chairperson of the meeting shall not have a second or casting vote.
- 30.16 A poll demanded in respect of any matter shall be taken at such time and place and in such manner as the chairperson of the meeting directs (but not later than thirty days after the poll was demanded).

30.17 Until such time as the poll is held, the meeting may proceed with any business, other than that upon which a poll was demanded.

30.18 The chairperson of a meeting may –

30.18.1 appoint any firm or persons to act as scrutineers for the purpose of checking the powers of attorney received and for counting the votes at the meeting; and

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

30.19 Should any votes have been counted which ought not to have been counted or should any votes not be counted which ought to have been counted, the error shall not invalidate the resolution unless –

30.19.1 it is brought to the attention of the chairperson at the meeting; and

30.19.2 in the opinion of the chairperson of the meeting, it is of sufficient magnitude to invalidate the resolution.

30.20 Any objection to the admissibility of any vote (whether on a show of hands or on a poll) shall be raised at the meeting or adjourned meeting at which the –

30.20.1 vote objected to was recorded; or

30.20.2 result of the poll was announced,

and every vote not then disallowed shall be valid for all purposes. Any objection made timeously shall be referred to the chairperson of the meeting, whose decision shall be final and conclusive.

30.21 Even if he/she is not a shareholder –

30.21.1 any director; or

30.21.2 the company's attorney (or where the company's attorneys are a firm or company, any partner or director thereof),

may attend and speak at any general meeting, but may not vote unless he is a shareholder or the proxy or representative of a shareholder.

30.22 Subject to the unalterable provisions of the Act and the applicable provisions of the Listings Requirements, the accidental omission to give notice of any meeting to any particular shareholder or shareholders shall not invalidate any resolution passed at any such meeting.

## 31 VOTES OF MEMBERS

31.1 Subject to any special rights or restrictions as to voting attached to any securities by or in accordance with this MOI, at a meeting of the company –

31.1.1 every person present and entitled to exercise voting rights shall be entitled to one vote on a show of hands, irrespective of the number of voting rights that person would otherwise be entitled to exercise;

31.1.2 on a poll any person who is present at the meeting, whether as a shareholder or as a proxy, have the number of votes determined in accordance with the voting rights associated with the securities held by that person; and

31.1.3 the holder of securities other than ordinary shares shall not be entitled to vote on any resolution at a meeting of ordinary shareholders, except as prescribed in clause 31.14.

31.2 Any body corporate holding shares conferring the right to vote may, by resolution of its directors or other governing body, appoint a person to act as its representative at any general meeting of the company or at any meeting of holders of any class of shares of the company.

- 31.3 Such representative shall be entitled to exercise the same rights on behalf of the body corporate which he represents as that body corporate could exercise if it were a natural person.
- 31.4 The directors may, but shall not be obliged, to require proof to their satisfaction of the appointment or authority of such representative.
- 31.5 A person who is entitled to more than one vote need not cast all his votes, or cast them in the same manner.
- 31.6 Where two or more persons are registered as joint holders of a share, any one of them, whether in person or by proxy, may vote as if he is the sole holder thereof.
- 31.7 Should more than one of such joint holders be present at a meeting in person or by proxy, only that holder who is present whose name appears first in the securities register in respect of the share, may vote.
- 31.8 Should any shareholder abstain from voting in respect of any resolution, such shareholder will, for the purposes of determining the number of votes exercised in respect of that resolution, be deemed not to have exercised a vote in respect thereof.
- 31.9 Where several persons are entitled to a share by transmission, they shall be deemed to be joint holders of the share.
- 31.10 The parent or guardian of a minor, and the curator bonis of a lunatic shareholder, and also any person entitled under clause 18 to transfer of any shares, may vote at any meeting in respect thereof in the same manner as if he were the registered shareholder of those shares, provided that at least forty eight hours before the time of holding the meeting at which he proposes to vote, he shall satisfy the directors that he is such parent, guardian or curator or that he is entitled under clause 18 to transfer of those shares, or that the directors have previously admitted his right to vote in respect of those shares.

- 31.11 Co-executors of a deceased shareholder in whose name shares stand in the securities register shall, for the purposes of this clause, be deemed to be joint holders of those shares.
- 31.12 The holders of securities, other than ordinary shares and any special shares created for the purposes of black economic empowerment in terms of the Broad-Based Black Economic Empowerment Act, Act 53 of 2003 ("BEE Act") and the Codes of Good Practice issued under section 9(1) of the BEE Act, shall not be entitled to vote on any resolution taken by the company, save as permitted in terms of clause 31.15.
- 31.13 The holders of preference shares shall have the right to vote at any general or annual general meeting of the company -
- 31.13.1 during any special period (as defined in clause 31.14) during which any dividend, any part of any dividend on such preference shares or any redemption payment thereon remains in arrears and unpaid; and/or
- 31.13.2 in regard to any resolution proposed for the winding up of the company or for the reduction of the company's capital.
- 31.14 For the purpose of clause 31.13.1, "special period" means the period commencing on a day determined by the board, not being more than six months after the due date of the dividend or redemption payment in question or, where no due date is specified, after the end of the financial year of the company in respect of which such dividend accrued or such other redemption payment became due.
- 31.15 The votes of preference shareholders in terms of clause 31.13 shall not carry any special rights or privileges and such shareholders shall be entitled to one vote for each share that they hold, provided that their total voting right at a general or annual meeting may not exceed 24,99% of the total voting rights of all shareholders at such meeting.

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

32.1 A resolution referred to in clause 29.9A that could be voted on at a shareholders' meeting may instead be -

32.1.1 submitted for consideration to the shareholders entitled to exercise the voting rights in relation to the resolution; and

32.1.2 voted on in writing by shareholders entitled to exercise the voting rights in relation to the resolution within a period of twenty business days after the resolution was submitted to them.

32.2 A resolution contemplated in clause 32.1 -

32.2.1 will have been adopted if it is supported by persons entitled to exercise sufficient voting rights for it to have been adopted as an ordinary or special resolution, as the case may be, at a properly constituted shareholders' meeting; and

32.2.2 if adopted, will have the same effect as if it had been approved by voting at a meeting.

32.3 Within ten business days after adopting a resolution in accordance with the procedures provided in this clause 32, the company shall deliver a statement describing the results of the vote, consent process, or election to every shareholder who was entitled to vote on or consent to the resolution.

32.4 The provisions of this clause 32 shall only apply in respect of the resolutions referred to in clause 29.9A and shall not apply to any shareholders' meeting that is called for in terms of the Listings Requirements or the passing of any resolution in terms of clause 35.4 or to any annual general meeting of the company.

**33 PROXIES AND REPRESENTATIVES**

33.1 Any shareholder may appoint any natural person (or two or more natural persons concurrently), including a natural person who is not a shareholder, as a proxy to –

33.1.1 participate in, and speak and vote at, a meeting of shareholders on behalf of that shareholder; or

33.1.2 give or withhold written consent on behalf of that shareholder to a decision contemplated in section 60,

provided that a shareholder may appoint more than one proxy to exercise voting rights attached to different securities held by such shareholder.

33.2 A proxy appointment –

33.2.1 must be in writing, dated and signed by the shareholder; and

33.2.2 remains valid for –

33.2.2.1 one year after the date on which it was signed; or

33.2.2.2 any longer or shorter period expressly set out in the appointment,

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

33.3 The holder of a power of attorney or other written authority from a shareholder may, if so authorised thereby, represent such shareholder at any meeting of the company and such holder shall deliver the power of attorney or other written authority (if any), or a copy thereof, to the company, mutatis mutandis, as contemplated in clause 33.4 in order to be able to exercise any rights of the shareholders at a meeting of shareholders of the company.

33.4 All of the remaining provisions of the Act relating to the appointment and revocation of proxies and the rights of proxies generally shall apply and, in particular –

33.4.1 a proxy may delegate the proxy's powers to another person as set out in section 58(3)(b);

33.4.2 a shareholder or his proxy must deliver to the company a copy of the instrument appointing a proxy not later than forty eight hours, excluding Saturdays, Sundays and public holidays in the RSA, before the commencement of the meeting at which the proxy intends to exercise the rights of such shareholder; and

33.4.3 unless the instrument appointing a proxy provides otherwise, a proxy may decide, without direction from the shareholder, whether to exercise or abstain from exercising any voting right of the shareholder, as set out in section 58(7),

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

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

“I/We \_\_\_\_\_  
 being a shareholder in Super Group Limited do hereby appoint  
 \_\_\_\_\_ or failing him/her  
 \_\_\_\_\_  
 or failing him/her, the chairperson of the meeting as my/our proxy  
 to vote or abstain from voting on my/our behalf at the meeting of the  
 company to be held at \_\_\_\_\_ on  
 \_\_\_\_\_ and at any adjournment  
 thereof as follows –

|                       | In favour of | Against | Abstain |
|-----------------------|--------------|---------|---------|
| Special Resolution 1  | .....        | .....   | .....   |
| Ordinary Resolution 1 | .....        | .....   | .....   |



(Indicate instruction to proxy by way of a cross in space provided above). Except as instructed above or if no instructions are inserted above, my/our proxy may vote as he/she thinks fit.

SIGNED this \_\_\_\_\_ day of \_\_\_\_\_ in the year of 20\_\_\_\_

\_\_\_\_\_  
SIGNATURE OF SHAREHOLDER

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

## 34 **RESOLUTIONS**

- 34.1 Every resolution of shareholders is either an ordinary resolution or a special resolution.
- 34.2 For an ordinary resolution to be approved by shareholders, it must be supported by more than 50% of the voting rights exercised on the resolution.
- 34.3 For a special resolution to be approved by shareholders, it must be supported by at least 75% of the voting rights exercised on the resolution.
- 34.4 The following matters shall require a special resolution of shareholders -
- 34.4.1 matters set out in section 65(11) and any other matter required by the Act to be resolved by means of a special resolution;
- 34.4.2 the proposed change of the name of the company;
- 34.4.3 any other matter required by the Listings Requirements to be resolved by means of a special resolution.

## 35 **COMPOSITION AND POWERS OF THE BOARD OF DIRECTORS**

- 35.1 The board shall consist of not less than four directors. The shareholders shall be entitled, by ordinary resolution, to determine such maximum number of directors as they from time to time shall consider appropriate.
- 35.2 A director shall not be required to hold any qualifying shares.

- 35.3 No director shall be appointed for life or for an indefinite period.
- 35.4 All directors shall be elected by an ordinary resolution of the shareholders at a general or annual general meeting, provided that any shareholder will have the right to nominate directors and no appointment of a director in accordance with a resolution passed in terms of section 60 shall be competent.
- 35.5 In any election of directors -
- 35.5.1 the election is to be conducted as a series of votes, each of which is on the candidacy of a single individual to fill a single vacancy, with the series of votes continuing until all vacancies on the board at that time have been filled; and
- 35.5.2 in each vote to fill a vacancy -
- 35.5.2.1 each voting right entitled to be exercised may be exercised once; and
- 35.5.2.2 the vacancy is filled only if a majority of the voting rights exercised support the candidate.
- 35.6 The board may appoint a person who satisfies the requirements for election as a director to fill any vacancy and serve as a director on a temporary basis until the vacancy has been filled by election in terms of clause 35.5 at the next annual general meeting, and during that period any person so appointed has all of the powers, functions and duties, and is subject to all of the liabilities, of any other director.
- 35.7 The company shall only have elected directors and there shall be no appointed or ex officio directors as contemplated in section 66(4).
- 35.8 Apart from satisfying the qualification and eligibility requirements set out in section 69, a person need not satisfy any eligibility requirements or qualifications to become or remain a director or a prescribed officer of the company.

- 35.9 All acts performed by the directors or by a committee of directors or by any person acting as a director or a member of a committee shall, notwithstanding that it shall afterwards be discovered that there was some defect in the appointment of the directors or persons acting as aforesaid, or that any of them were disqualified from or had vacated office, be as valid as if every such person had been duly appointed and was qualified and had continued to be a director or member of such committee.
- 35.10 The proposal of any resolution to shareholders to permit or ratify an act of the directors that is inconsistent with any limitation or restriction imposed by this MOI, or the authority of the directors to perform such an act on behalf of the company, is prohibited.
- 35.11 Save as otherwise expressly provided by the MOI, all cheques, promissory notes, bills of exchange and other negotiable or transferable instruments and all documents to be executed by the company, shall be signed, drawn, accepted, endorsed or executed as the case may be in such manner as the directors shall from time to time determine.
- 35.12 The directors 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).
- 35.13 Without prejudice to any contrary provisions in this MOI, a director shall vacate his office in the circumstances envisaged in section 70(1) of the Act or if –
- 35.13.1 his estate is sequestrated or he surrenders his estate or enters into a general compromise with his creditors; or
- 35.13.2 he is found to be or becomes of unsound mind; or
- 35.13.3 a majority of his co-directors sign and deposit at the office a written notice wherein he is requested to vacate his office, which shall become operative on deposit at the office (but without prejudice to any claim for damages); or

- 35.13.4 he is removed by a resolution of the company of which proper notice has been given in terms of the Act (but without prejudice to any claim for damages); or
- 35.13.5 he is, pursuant to the provisions of the Act or any order made thereunder, prohibited from acting as a director; or
- 35.13.6 he gives one months (or with the consent of the board, a lesser period) notice in writing of his intention to resign; or
- 35.13.7 he dies or resigns his office by notice in writing to the company; or
- 35.13.8 he is absent from meetings of the directors for six consecutive months without leave of the directors while not engaged in the business of the company and -
- 35.13.8.1 he is not represented at any such meetings during such six consecutive months by an alternate director; and
- 35.13.8.2 the directors resolve that his office be, by reason of such absence, vacated,
- provided that the directors shall have power to grant to any director leave of absence for a definite or indefinite period.
- 35.14 A director may hold any other office or place of profit under the company (except that of auditor) or any subsidiary of the company in conjunction with 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 the directors or a remuneration committee appointed by the board may determine.
- 35.15 A director of the company may be or become a director or other officer of, or otherwise interested in, any company promoted by the company or in which the company may be interested as shareholder or otherwise, provided that the appointment and remuneration in respect of such office must be determined by a disinterested quorum of directors.

- 35.16 Any director may act personally or through his firm in a professional capacity for the company (otherwise than as auditor) and he or his firm shall be entitled to remuneration for professional services rendered as if he were not a director.
- 35.17 A director who is in any way, whether directly or indirectly, interested in a contract or arrangement or proposed contract or arrangement with the company, shall declare the nature of his interest in accordance with the Act.
- 35.18 No director shall be disqualified by his office from contracting with the company with regard to –
- 35.18.1 his tenure of any other office or place of profit under the company or in any company promoted by the company or in which the company is interested;
- 35.18.2 professional services rendered or to be rendered by such director;
- 35.18.3 any sale or other transaction.

No such contract or arrangement entered into by or on behalf of the company in which any director is in any way interested is voidable solely by reason of such interest.

- 35.19 No director so contracting or being so interested shall be liable to account to the company for any profit realised by any such appointment, contract or arrangement by reason of his office as director or of the fiduciary relationship created thereby.
- 35.20 A director may not vote nor be counted in the quorum (and if he shall do so his vote shall not be counted) on any resolution for his own appointment to any other office or place of profit under the company or in respect of any contract or arrangement in which he is interested, provided that this prohibition shall not apply to –

- 35.20.1 any arrangement for giving to any director any security or indemnity in respect of money lent by him to or obligations undertaken by him for the benefit of the company; or
- 35.20.2 any arrangement for the giving by the company of any security to a third party in respect of a debt or obligation of the company which the director has himself guaranteed or secured; or
- 35.20.3 any contract by a director to subscribe for or underwrite shares or debentures of the company; or
- 35.20.4 any contract or arrangement with a public company in which he is interested by reason only of being a director, officer, creditor or shareholder of such legal person,

and these provisos may at any time be suspended or relaxed either generally, or in respect of any particular contract or arrangement, by the company in general meeting.

- 35.21 A contract which violates the terms of clause 35.20 can be ratified by the company in general meeting.
- 35.22 The terms of clause 35.20 shall not prevent a director from voting as a shareholder at a general meeting at which a resolution in which he has a personal interest is tabled.
- 35.23 The directors may exercise the voting powers conferred by the shares held or owned by the company in any other company in such manner in all respects as they think fit, including the exercise thereof in favour of any resolution appointing themselves or any of them to be directors or officers of such other company or for determining any payment of or remuneration to the directors or officers of such other company.
- 35.24 A director may vote in favour of a resolution referred to in clause 35.23 for the exercise of the voting rights in the manner described in clause 35.23 notwithstanding that he may be, or is about to become, a director or other

officer of such other company and for that or any other reason may be interested in the exercise of such voting rights in the manner aforesaid.

**36 RETIREMENT OF DIRECTORS**

36.1 All the directors shall retire at the first annual general meeting and, subject to clause 39 hereof, at every annual general meeting thereafter one third of the non-executive directors, or if their number is not a multiple of three, then the number nearest to but not less than one third, shall retire from office, provided that such meeting shall not be conducted in terms of section 60 of the Act.

36.2 The non-executive directors to retire in every year shall be those who have been longest in office since their last election, but as between persons who were elected as non-executive director on the same day, those to retire shall, unless they otherwise agree among themselves, be determined by lot.

36.3 The length of time a director has been in office shall be computed from his/her last election, appointment or date upon which he/she was deemed re-elected.

36.4 A director retiring at a meeting shall retain office until the election of directors at that meeting has been completed.

36.5 Retiring directors may be re-elected provided that such directors are eligible. The board, through the nomination committee, shall recommend eligibility, taking into account past performance and contribution made by the retiring director.

36.6 No person, other than a director retiring at the meeting shall, unless recommended by the directors, be eligible for election to the office of a director at any general meeting, unless –

36.6.1 not more than twenty one, but at least seven clear days before the day appointed for the meeting, there shall have been delivered at the office of the company a notice in writing by a shareholder (who may also be the proposed director) duly qualified to be present and to vote at the meeting for which such notice is given;

- 36.6.2 such notice sets out the shareholder's intention to propose a specific person for election as director; and
- 36.6.3 notice in writing by the proposed person of his/her willingness to be elected is attached thereto (except where the proposer is the same person as the proposed).
- 36.7 The company may at the meeting at which a director retires, fill the vacated office by electing a person thereto and in default the retiring director, if willing to continue to act, shall be deemed to have been re-elected, unless –
- 36.7.1 it is expressly resolved at such meeting not to fill such vacated office;  
or
- 36.7.2 a resolution for the re-election of such director was put to the meeting and rejected.
- 36.8 Should the company in general meeting increase or reduce the number of directors, it may also determine in what rotation such increased or reduced number is to retire.

## 37 **PROCEEDINGS OF DIRECTORS AND COMMITTEES**

- 37.1 Save as may be provided otherwise in this MOI, the directors may meet for the despatch of business, adjourn, and otherwise regulate their meetings as they think fit.
- 37.2 Until otherwise determined by the directors, two directors shall constitute a quorum.
- 37.3 A director authorised by the board of directors of the company-
- 37.3.1 may call a meeting of the directors at any time; and
- 37.3.2 must call such a meeting if required to do so by at least -



- 37.3.2.1                    25% of the directors, in the case of a board that has at least twelve members; or
- 37.3.2.2                    two directors, in any other case.
- 37.4                    The directors shall determine the number of days' notice to be given for directors' meetings, and the form of that notice.
- 37.5                    A meeting of the directors may be conducted by electronic communication and/or one or more directors may participate in a meeting by electronic communication, so long as the electronic communication facility employed ordinarily enables all persons participating in that meeting to communicate concurrently with each other without an intermediary, and to participate effectively in the meeting.
- 37.6                    The remaining directors must as soon as possible, and in any event, not later than three months from the date that the number of directors became less than the permissible minimum, fill the vacancies or call a general meeting for the purpose of filling the vacancies. Failure by the company to have the minimum number of directors during the aforesaid three month period does not limit or negate the authority of the board or the company. The directors in office may act notwithstanding any vacancy in their body, but after the expiry of the aforementioned three month period, if and for so long as their number is below the minimum number fixed in accordance with the MOI, they may act only for the purpose of filling up vacancies in their body or of summoning general meetings of the company, but not for any other purpose.
- 37.7                    The directors may –
- 37.7.1                    elect a chairperson and a deputy chairperson (to act in the absence of the chairperson) of their meetings;
- 37.7.2                    determine the period for which they are to hold office.
- 37.8                    The chairperson, or in his absence the deputy chairperson, shall be entitled to preside over all meetings of directors. Should no chairperson or deputy chairperson be elected, or if at any meeting the chairperson or deputy

chairperson is not present within five minutes after the time appointed for holding the meeting, the directors present shall choose one of their number to be chairperson at such meeting.

37.9 All issues arising at any meeting shall be decided by a majority of votes.

37.10 The chairperson shall not have a second or casting vote.

37.11 In the case of a quorum of two directors, the chairman shall not have a casting vote if only two directors are present at the meeting.

37.12 A meeting of the directors at which a quorum is present shall be entitled to exercise all or any of the powers, authorities and discretions conferred by or in terms of the MOI or which are vested in or are exercisable by the directors generally.

37.13 A resolution in writing signed, given in person, or by electronic communication by –

37.13.1 all the directors; or

37.13.2 a majority of directors,

which resolution is then inserted into the minute book and provided that each director has received notice of the matter to be decided, shall be as valid and effectual as a resolution passed at a meeting of the directors duly called and constituted.

37.14 Any resolutions contemplated in clause 37.13 –

37.14.1 may consist of one or more documents so signed;

37.14.2 shall have regard to the provisions of section 75 of the Act;

37.14.3 shall be delivered to the secretary without delay, and shall be recorded by him in the company's minute book.

Such resolution shall be deemed to have been passed on the day it was signed by the last director or alternate director who is entitled to sign it, unless a statement to the contrary is made in that resolution.

37.15 The meetings and proceedings of any committee consisting of two or more directors shall be governed by the provisions hereof in regard to meetings and proceedings of the directors so far as the same are applicable thereto and are not superseded by any regulations made by the directors.

37.16 Resolutions adopted by the board –

37.16.1 must be dated and sequentially numbered; and

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

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

37.18 Minutes of all board meetings, resolutions and directors' declarations shall be kept in accordance with the provisions of section 24.

## 38 DIRECTORS' REMUNERATION

38.1 The company may pay remuneration to the directors for their services as directors in accordance with a special resolution approved by the shareholders within the previous two years, as set out in sections 66(8) and 66(9), and the power of the company in this regard is not limited or restricted by this MOI.

38.2 Any director who –

38.2.1 serves on any executive or other committee; or

38.2.2 devotes special attention to the business of the company; or

38.2.3 goes or resides outside the RSA for the purpose of the company; or

38.2.4 otherwise performs or binds himself to perform services which, in the opinion of the directors, are outside the scope of the ordinary duties of a director,

may be paid such extra remuneration or allowance in addition to or in substitution of the remuneration to which he may be entitled as a director, as a disinterested quorum of the directors or a remuneration committee appointed by the board may from time to time determine.

38.3 A director may be employed in any other capacity in the company or as a director or employee of a company controlled by, or itself a major subsidiary of, the company and, in such event, his appointment and remuneration in respect of such other office must be determined by a disinterested quorum of director.

38.4 The directors shall also be paid all their travelling and other expenses properly and necessarily incurred by them in connection with –

38.4.1 the business of the company; and

38.4.2 attending meetings of the directors or of committees of the directors or of the company.

## 39 **EXECUTIVE DIRECTORS**

39.1 The directors may from time to time appoint –

39.1.1 managing and other executive directors (with or without specific designation) of the company;

39.1.2 any director to any other executive office with the company,

as the directors shall think fit, for a period as the directors shall think fit, and may from time to time remove or dismiss such persons from office and appoint another or others in his or their place or places.

39.2 Any director appointed in terms of clause 39.1 –

39.2.1 shall not (subject to the provisions of the contract under which he is appointed) whilst he continues to hold that position or office, be subject to retirement;

39.2.2 shall not, during the currency of such appointment, be taken into account in determining the directors to retire by rotation; and

39.2.3 shall be subject to the same provisions as to removal as the other directors of the company, and if he ceases to hold office as a director, his appointment to such position or executive office shall ipso facto terminate, without prejudice to any claims for damages which may accrue to him as a result of such termination.

39.3 Should the provisions regarding the retirement of directors by rotation apply, then only a minority of the directors may be appointed on the basis that they shall not be subject to retirement by rotation.

39.4 The remuneration of a director appointed to any position or executive office in terms of clause 39.1 –

39.4.1 shall be determined by a disinterested quorum of the directors or a remuneration committee appointed by the directors;

39.4.2 shall be in addition to or in substitution of any ordinary remuneration as a director of the company, as the directors may determine;

39.4.3 may consist of a salary or a commission on profits or dividends or both, as the directors may direct.

39.5 The directors may –

- 39.5.1 from time to time confer upon a director appointed to any position or executive office in terms of clause 39.1 any or all powers exercisable under the MOI by the directors;
- 39.5.2 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;
- 39.5.3 confer such powers with or to the exclusion of or in substitution for any powers of the directors;
- 39.5.4 from time to time revoke, withdraw or vary such powers.

#### 40 **INDEMNITY**

- 40.1 To the extent such indemnity may be given in compliance with the Act, every director, manager, secretary, auditor and officer of the company shall be indemnified out of the funds of the company against –
  - 40.1.1 all liabilities incurred by him in that capacity;
  - 40.1.2 expenditure incurred by him in defending any proceedings, whether civil or criminal relating to the affairs of the company, in which judgement is given in his favour, or in which he is acquitted; or
  - 40.1.3 costs in connection with any application under sections 77(9) and 77(10) of the Act in which relief is granted to him by the Court.
- 40.2 To the extent that such indemnity may be given in compliance with the Act, every such person shall be indemnified by the company against all costs, losses and expenses for which any such person may become liable by reason of any –
  - 40.2.1 contract entered into; or
  - 40.2.2 act done by him,

in his capacity as director, secretary, manager, auditor or officer of the company or in any way in the discharge of his duties.

40.3 The company may as contemplated in –

40.3.1 section 78(4) advance expenses to a director in respect of the defence of legal proceedings; and/or

40.3.2 section 78(7) purchase insurance to protect the company and/or a director against any liability or expense contemplated in section 78(7).

40.4 The provisions of clause 40 shall apply, mutatis mutandis, in respect of any former director, prescribed officer or any member of any committee of the board or the audit committee.

#### 41 **BORROWING POWERS**

41.1 Subject to all other provisions of this MOI, the directors may from time to time –

41.1.1 borrow for the purpose of the company such sums as they think fit;

41.1.2 secure the payment or repayment of any such sums or any other sum, as they think fit, whether by the creation and issue of debentures, mortgage or charge upon all or any of the property or assets of the company;

41.1.3 make such regulations regarding the transfer of debentures, the issue of certificates therefor and all such other matters incidental to debentures as the directors think fit.

41.2 The borrowing powers of the company as contemplated in clause 41.1 are not limited.

#### 42 **LOCAL BOARDS, AGENTS AND COMMITTEES OF THE BOARD**

42.1 The directors may –

- 42.1.1 establish any boards or agencies in the RSA or elsewhere for managing any of the affairs of the company;
- 42.1.2 appoint persons to be members of such boards, managers or agents;
- 42.1.3 fix the remuneration of such persons;
- 42.1.4 delegate to any board, manager or agent any of the powers, authorities and discretions vested in the directors with power to sub-delegate;
- 42.1.5 authorise the shareholders of any board or any of them to fill any vacancies, and to act despite any vacancy;
- 42.1.6 remove any person so appointed and annul or vary any such delegation,

subject to such terms and conditions as the directors may think fit, but no person dealing in good faith and without notice of the annulment or variation referred to in clause 42.1.6 shall be affected thereby.

- 42.2 The directors may by power of attorney appoint any company, firm or person or any fluctuating body of persons, whether nominated directly or indirectly by the directors, to be the attorney or agent of the company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the directors in terms of the MOI) and for such period and subject to such terms and conditions as they may think fit.
- 42.3 Any such power of attorney may contain such provisions for the protection and convenience of persons dealing with any such agent as the directors may think fit.
- 42.4 The directors may also authorise any such agent to sub-delegate any of his powers, authorities and discretions.



42.5 The directors may delegate any of their powers to an executive or other committee, whether consisting of a shareholder or shareholders of their body or not as they think fit.

42.6 Any committee so formed shall, in the exercise of the powers so delegated, conform to any regulations authorising the appointment of sub-committees that may from time to time be prescribed by the directors.

### 43 **ACCOUNTING RECORDS**

43.1 The directors shall cause to be kept such accounting records as are prescribed by the Act.

43.2 The accounting records shall be kept at the head office of the company or (subject to the provisions of the Act) at such other place as the directors think fit, and shall at all times be open to inspection by the directors.

43.3 A copy of all financial statements (including every document required by law to be annexed thereto) which are to be laid before the company in annual general meeting, together with copies of the directors' and auditors' reports, shall be delivered or sent by post to the registered address of each shareholder or holder of debentures or by electronic communication, and to every person entitled to a notice of the annual general meeting.

43.4 Where applicable, such number of copies of the documents referred to in clause 43.3 shall be forwarded to the secretary or other proper officer of any stock exchange on which any shares of the company are listed as may be required under that stock exchange's regulations or practice.

43.5 The documents referred to in clause 43.3 shall be sent at least fifteen business days before such annual general meeting at which they will be considered.

43.6 The documents referred to in clause 43.3 need not be sent to –

43.6.1 any person who is not entitled to receive notice of general meetings of the company or whose address is not known to the company; or

43.6.2 more than one of the joint holders of any shares or debentures.

43.7 The annual financial statements of the company shall be prepared in accordance with section 30 and the unalterable provisions of the Act.

#### 44 **ACCESS TO COMPANY RECORDS**

44.1 Each person who holds or has a beneficial interest in any securities issued by the company is entitled to inspect and copy, without any charge for any such inspection or upon payment of no more than the prescribed maximum charge for any such copy, the information contained in the records of the company referred to in section 26(1), being –

44.1.1 this MOI, and any amendments or alterations thereof;

44.1.2 a record of the directors, including the details of any person who has served as a director, for a period of seven years after that person has ceased to serve as a director, and any information referred to in section 24(5) relating to such persons;

44.1.3 all reports presented at an annual general meeting of the company for a period of seven years after the date of any such meeting;

44.1.4 all annual financial statements required by the Act for a period of seven years after the date on which each such particular statements were issued;

44.1.5 notice and minutes of all shareholders' meetings, including all resolutions adopted by them, for seven years after the date each such resolution was adopted and any document that was made available by the company to the holders of securities in relation to each such resolution;

44.1.6 any written communications sent generally by the company to all holders of any class of the company's securities, for a period of seven

years after the date on which each of such communications was issued; and

44.1.7 the securities register.

44.2 A person not contemplated in article 44.1 has a right to inspect the securities register and the register of directors of the company upon payment of an amount not exceeding the prescribed maximum fee, as set out in the Act, for any such inspection.

44.3 A person who wishes to inspect the uncertificated securities register may do so only through the company in terms of section 26, and in accordance with the rules of the CSD. Within five business days after the date of a request for inspection, the company must produce a record of the uncertificated securities register, which record must reflect at least the details referred to in section 50(3)(b) at the close of business on the day on which the request for inspection was made.

#### 45 **COMPANY SECRETARY**

45.1 In terms of the provisions of the Act, the directors shall appoint a secretary –

45.1.1 for such term;

45.1.2 at such remuneration; and

45.1.3 upon such conditions,

as they may think fit, and the directors may dismiss such secretary.

45.2 Any casual vacancy in the office of secretary shall be filled by the directors within sixty days of the vacancy occurring.

45.3 During any period that the office of secretary is vacant, the directors may generally or specifically authorise any officer of the company to carry out certain or all of the secretary's duties.

- 45.4 Where the Act or the MOI provides that an act be performed by a director and the secretary it shall not be performed validly if performed by the same person acting both as director and as secretary.
- 45.5 The directors may appoint a juristic person or partnership to hold the office of secretary, provided that -
- 45.5.1 every employee of that juristic person who provides company secretarial services, or partner and employee of that partnership, as the case may be, satisfies the requirements contemplated in section 84(5); and
- 45.5.2 at least one employee of that juristic person, or one partner or employee of that partnership, as the case may be, satisfies the requirements contemplated in section 86.
- 45.6 A change in membership of a juristic person or composition of a partnership which holds office as secretary shall not constitute a casual vacancy in the office of secretary as envisaged in clause 45.3, provided that the juristic person continues to satisfy the requirements of clauses 45.5.1 and 45.5.2.

46 **DISTRIBUTIONS**

- 46.1 Subject to the provisions of the Act and particularly section 46, the company may make a proposed distribution if such distribution is -
- 46.1.1 pursuant to an existing legal obligation of the company, or a court order; or
- 46.1.2 authorised by resolution of the board, in compliance with the Listings Requirements.
- 46.2 No distribution shall bear interest against the company, except as otherwise provided under the conditions of issue of the securities in respect of which such distribution is payable.

- 46.3 Distributions may be declared either free of or subject to the deduction of income tax and any other tax or duty in respect of which the company may be chargeable.
- 46.4 The directors may from time to time declare and pay to the shareholders such interim distributions as the directors consider to be appropriate.
- 46.5 Dividends shall be declared by the directors in accordance with the Act.
- 46.6 All unclaimed distributions may be invested or otherwise made use of by the directors for the benefit of the company until claimed, provided that distributions unclaimed cannot be invested or otherwise made use of by the directors for the benefit of the company for a period of three years from the date on which they were declared, where after such unclaimed distributions may be declared forfeited by the directors for the benefit of the company. The directors may at any time annul such forfeiture upon such conditions (if any) as they think fit. All unclaimed monies, other than distributions, that are due to any shareholder/s shall be held by the company in trust for an indefinite period until lawfully claimed by such shareholder/s.
- 46.7 Any distribution, interest or other sum payable in cash to the holder of a share may be paid by cheque or warrant sent by post or by electronic funds transfer and addressed to -
- 46.7.1 the holder at its/his/her registered address or designated bank account; or
- 46.7.2 in the case of joint holders, the holder whose name appears first in the securities register in respect of the share, at its/his/her registered address or designated bank account; or
- 46.7.3 such person and at such address or designated bank account as the holder or joint holders may in writing direct.
- 46.8 Every such cheque or warrant shall -

- 46.8.1                    be made payable to the order of the person to whom it is addressed;  
and
- 46.8.2                    be sent at the risk of the holder or joint holders.
- 46.9                    The company shall not be responsible for the loss in transmission of any cheque or warrant or of any document (whether similar to a cheque or warrant or not) sent by post as aforesaid.
- 46.10                    A holder or any one of two or more joint holders, or his or their agent duly appointed in writing, may give valid receipt for any distributions or other monies paid in respect of a security held by such holder or joint holders.
- 46.11                    When such cheque or warrant is paid, it shall discharge the company of any further liability in respect of the amount concerned.
- 46.12                    A distribution may also be paid in any other way determined by the directors, and if the instructions of the directors in that regard are complied with, the company shall not be liable for any loss or damage which a shareholder may suffer as a result thereof.
- 46.13                    Without detracting from the ability of the company to issue capitalisation shares, any distribution may be paid wholly or in part -
- 46.13.1                    by the distribution of specific assets; or
- 46.13.2                    by the issue of shares, debentures or securities of the company or of any other company; or
- 46.13.3                    in cash; or
- 46.13.4                    in any other way which the directors or the company in a general meeting may at the time of declaring the distribution determine.
- 46.14                    Where any difficulty arises in regard to such distribution, the directors may settle that difficulty as they think expedient and in particular may fix the value which shall be placed on such specific assets on distribution.

- 46.15 The directors may -
- 46.15.1 determine that cash payments shall be made to any shareholder on the basis of the value so fixed in order to secure equality of distribution; and
- 46.15.2 vest any such asset in trustees upon such trusts for the benefit of the persons entitled to the distribution as the directors deem expedient.
- 46.16 Any distribution must be made payable to shareholders registered as at a date subsequent to the date of declaration thereof or the date of confirmation thereof, whichever is the later date.
- 46.17 Payments to shareholders shall be provided for in accordance with the Listings Requirements. The company shall not provide that capital shall be repaid upon the basis that it may be called up again.
- 46.18 Any distribution must be made payable to shareholders registered as at a date subsequent to the date of declaration thereof or the date of confirmation thereof, whichever is the later date.

**47 PAYMENT OF COMMISSION**

- 47.1 The company may pay a commission at a rate not exceeding 10% of the issue price of a share to any person in consideration of his/her subscribing or agreeing to subscribe, whether absolutely or conditionally, for any shares of the company or for procuring or agreeing to procure, whether absolutely or conditionally, subscriptions for any shares of the company.
- 47.2 Commission may be paid out of capital or profits, whether current or accumulated, or partly out of the one and partly out of the other.
- 47.3 Such commission may be paid in cash or, if authorised by the company in general meeting, by the allotment of fully or not fully paid-up shares, or partly in one way and partly in the other.

47.4 The company may, on any issue of shares, pay such brokerage as may be lawful.

**48 ODD LOT OFFERS**

48.1 The company shall be entitled to implement an odd lot offer in accordance with the provisions of this clause 48, if approved by shareholders in general meeting and in accordance with the restrictions and procedures imposed by the Listings Requirements.

48.2 Should, upon implementation of an odd lot offer made by the company, there be shareholders (“odd lot holders”) who hold in aggregate less than 100 shares, or such other number of shares as may be determined by the Listings Requirements as amounting to an odd lot offer (“odd lots”), in the company, then the company shall, save in respect of odd lot holders who elect to retain their odd lots in the company –

48.2.1 cause the odd lots to be sold in such manner as the directors may direct; and

48.2.2 procure that the proceeds of such sales are paid to the odd lot holders.

**49 NOTICES**

49.1 All notices shall be given by the company to each shareholder of the company, the auditor of the company and any other person in terms of any agreement entered into between such person and the company.

49.2 Each shareholder of the company –

49.2.1 shall notify the company in writing of an address, which address shall be his registered address for the purposes of receiving written notices from the company by post; and

49.2.2 may notify the company in writing of an email address and/or facsimile number, which address shall be his address for the purposes of receiving notices by way of electronic communication.



- 49.3 In the case of joint holders of a share, all notices shall, unless such holders otherwise request in writing and the directors agree, be given to that shareholder whose name appears first in the securities register and a notice so given shall be deemed sufficient notice to all the joint holders.
- 49.4 Any notice sent by any means permitted in table CR 3 annexed to the regulations shall be deemed to have been delivered as provided for that method of delivery in such table.
- 49.5 Every person who by operation of law, transfer or other means whatsoever becomes entitled to any security, shall be bound by every notice in respect of that security which, previously to his name and address being entered in the securities register, was given to the person from whom he derives his title to such security.
- 49.6 Any notice or document delivered or sent by post to or left at the registered address of any shareholder in pursuance of this MOI shall, notwithstanding that such shareholder was then deceased, and whether or not the company has notice of his death, be deemed to have been duly served in respect of any securities, whether held solely or jointly with other persons by such shareholder, until some other person be registered in his stead as the sole or joint holder thereof, and such service shall for all purposes of this MOI be deemed a sufficient service of such notice or document on his heirs, executors or administrators, and all persons (if any) jointly interested with him in any such securities.
- 49.7 The signature to any notice to be given by or on behalf of the company may be written, printed or impressed with any kind of stamp or mechanical or electronic process.
- 49.8 Any shareholder whose address in the securities register is an address not within the RSA, shall be entitled to have notices served upon him at such address.

- 49.9 Save as otherwise provided in this MOI or in the Act, no shareholder other than a registered shareholder whose address appears in the securities register, shall be entitled to receive any notice from the company.
- 49.10 Any notice or other document delivered or sent by post to the registered address of any shareholder in terms of the MOI shall, notwithstanding that –
- 49.10.1 such shareholder is under legal incapacity;
- 49.10.2 the company had notice of his legal incapacity,
- be deemed to have been duly served in respect of any security registered in the name of such shareholder as sole or joint holder.
- 49.11 The provisions of clause 49.10 shall not apply if the name of such shareholder has, at the time of the service or despatch of the notice or document, been removed from the register as the holder of the security.
- 49.12 Notice of general/annual meetings shall be sent to each person entitled to vote at such meeting who has elected to receive such documents.