

**THE COMPANIES ACT, NO. 71 OF 2008
(AS AMENDED)**

MEMORANDUM OF INCORPORATION

OF

VODACOM GROUP LIMITED

A PUBLIC COMPANY

REGISTRATION NUMBER: 1993/005461/06

REGISTRATION DATE: 20 SEPTEMBER 1993

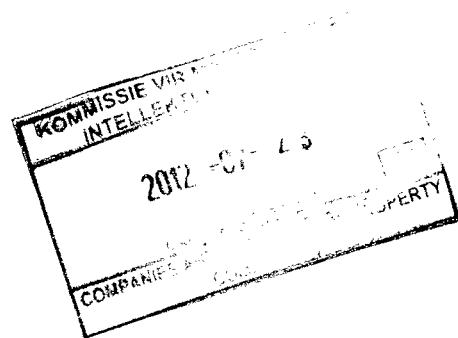


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1 INTERPRETATION

- 1.1 In this Memorandum of Incorporation, unless the context clearly indicates a contrary intention, the following words and expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings –
- 1.1.1 "**Act**" means the Companies Act, No. 71 of 2008, as amended, consolidated or re-enacted from time to time, and includes all schedules to such Act;
- 1.1.2 "**board**" means the board of directors from time to time of the company;
- 1.1.3 "**certificated securities**" means securities issued by the company that are not uncertificated securities;
- 1.1.4 "**Central Securities Depository**" has the meaning set out in section 1 of the Securities Services Act;
- 1.1.5 "**Commission**" means the Companies and Intellectual Property Commission established by section 185 of the Act;
- 1.1.6 "**company**" means the company named on the first page of this document, duly incorporated under the registration number endorsed thereon;
- 1.1.7 "**CSDP**" means any "participant" defined as such in section 1 of the Securities Services Act;
- 1.1.8 "**director**" means a member of the board as contemplated in section 66 of the Act, or an alternate director, and includes any person occupying the position of a director or alternate director, by whatever name designated;
- 1.1.9 "**foreign committee**" means those persons duly appointed as such in terms of the provisions of clause 36.1 to act for the company in such foreign country or countries for which they are so appointed;
- 1.1.10 "**IFRS**" means the International Financial Reporting Standards, as adopted from time to time by the board of the International Accounting Standards Committee, or its successor body, and approved for use in the Republic from time to time by the Financial Reporting Standards Council established in terms of section 203 of the Act;



- 1.1.11 "**JSE**" means the exchange, licensed under the Security Services Act, operated by JSE Limited (registration number 2005/022939/06), a public company duly incorporated in the Republic;
- 1.1.12 "**JSE Listings Requirements**" means the Listings Requirements of the JSE applicable from time to time;
- 1.1.13 "**legal incapacity**" means death, insolvency, or judicial management or liquidation, or placing under curatorship by reason of insanity or prodigality, infancy or minority, or any other event which satisfies the directors that a shareholder is deprived of his legal capacity to act and that it is vested in some other person;
- 1.1.14 "**Regulations**" means the regulations published in terms of the Act from time to time;
- 1.1.15 "**Republic**" means the Republic of South Africa;
- 1.1.16 "**securities**" means -
- 1.1.16.1 any shares, notes, bonds, debentures or other instruments, irrespective of their form or title, issued, or authorised to be issued, by the company; or
- 1.1.16.2 anything falling within the meaning of "securities" as set out in section 1 of the Securities Services Act;
- 1.1.17 "**securities register**" means the register of issued securities of the company required to be established in terms of section 50(1) of the Act;
- 1.1.18 "**Securities Services Act**" means the Securities Services Act, No. 36 of 2004, as amended, consolidated or re-enacted from time to time;
- 1.1.19 "**SENS**" means the Securities Exchange News Service established and operated by the Listings Division of the JSE;
- 1.1.20 "**share**" means one of the units into which the proprietary interest in the company is divided;
- 1.1.21 "**shareholder**" means the holder of a share who is entered as such in the securities register, subject to the provisions of section 57 of the Act;



- 1.1.22 "**solvency and liquidity test**" has the meaning attributed thereto in section 4 of the Act;
- 1.1.23 "**sub-register**" means the record of uncertificated securities administered and maintained by a CSDP, which forms part of the securities register in terms of the Act;
- 1.1.24 "**transfer office**" means any office maintained by the company to receive for registration, transfer of securities and undertaken at the office of the transfer secretary for the time being of the company or, if no transfer secretary is appointed, the registered office for the time being of the company;
- 1.1.25 "**transfer secretary**" means the person appointed to act as transfer secretary of the company from time to time;
- 1.1.26 "**uncertificated securities**" means any "securities" defined as such in section 29 of the Securities Services Act; and
- 1.1.27 "**uncertificated securities register**" means the record of uncertificated securities administered and maintained by a CSDP or Central Securities Depository, as determined in accordance with the rules of the Central Securities Depository.
- 1.2 In this Memorandum of Incorporation, unless the context clearly indicates otherwise –
- 1.2.1 words and expressions defined in the Act and which are not defined herein shall have the meanings given to them in the Act;
- 1.2.2 a reference to the Act shall include reference to the Regulations;
- 1.2.3 a reference to a clause by number refers to a corresponding provision of this Memorandum of Incorporation;
- 1.2.4 in any instance where there is a conflict between a provision (be it expressed, implied or tacit) of this Memorandum of Incorporation and –
- 1.2.4.1 an alterable or elective provision of the Act, the provision of this Memorandum of Incorporation shall prevail to the extent of the conflict; and



- 1.2.4.2 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 Memorandum of Incorporation 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 Memorandum of Incorporation shall prevail to the extent of the conflict;
- 1.2.5 clause headings are for convenience only and are not to be used in its interpretation;
- 1.2.6 an expression which denotes -
- 1.2.6.1 any gender includes the other genders;
- 1.2.6.2 a natural person includes a juristic person and *vice versa*; and
- 1.2.6.3 the singular includes the plural and *vice versa*;
- 1.2.7 if the due date for performance of any obligation in terms of this Memorandum of Incorporation is 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;
- 1.2.8 any words or expressions defined in any clause shall, unless the application of any such word or expression is specifically limited to that clause, bear the meaning assigned to such word or expression throughout the whole of this Memorandum of Incorporation;
- 1.2.9 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 and/or the Regulations.
- 1.3 Any reference in this Memorandum of Incorporation to –
- 1.3.1 "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 Republic from time to time;



- 1.3.2 "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, before and after adoption of this Memorandum of Incorporation; and
- 1.3.3 "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 and/or the Regulations.
- 1.4 The words "include" and "including" mean "include without limitation" and "including without limitation". The use of the words "include" and "including" followed by a specific example or examples shall not be construed as limiting the meaning of the general wording preceding it.
- 1.5 Unless specifically otherwise provided, any number of days prescribed shall be determined by excluding the first and including the last day or, where the last day falls on a day that is not a business day, the next succeeding business day.
- 1.6 Where figures are referred to in numerals and in words, and there is any conflict between the two, the words shall prevail, unless the context indicates a contrary intention.
- 1.7 Any reference herein to "this Memorandum of Incorporation" shall be construed as a reference to this Memorandum of Incorporation as amended from time to time.

2 JURISTIC PERSONALITY

- 2.1 This Memorandum of Incorporation replaces and supersedes the memorandum and articles of association of the company applicable immediately prior to the filing hereof.
- 2.2 The company is incorporated in accordance with and governed by –



- 2.2.1 the unalterable provisions of the Act, subject only to such higher standards, greater restrictions, longer periods of time or similarly more onerous requirements as may be imposed on the company by this Memorandum of Incorporation in relation to such unalterable provisions;
- 2.2.2 the alterable provisions of the Act, subject to the limitations, extensions, variations or substitutions set out in this Memorandum of Incorporation; and
- 2.2.3 the other provisions of this Memorandum of Incorporation.

3 **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.

4 **POWERS OF THE COMPANY**

- 4.1 Subject to the provisions of clause 4.2, the main object and business of the company is that of an investment holding company.
- 4.2 The company has all of the legal powers and capacity contemplated in the Act, and no provision contained in this Memorandum of Incorporation should be interpreted or construed as negating, limiting, or restricting those powers in any way whatsoever.
- 4.3 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) of the Act.

5 **ISSUE OF SHARES AND VARIATION OF RIGHTS**

- 5.1 The company is authorised to issue 4,000,000,000 (four billion) no par value ordinary shares, of the same class, each of which ranks *pari passu* in respect of all rights and entitles the holder to –
 - 5.1.1 1 (one) vote on any matter to be decided by the shareholders of the company;
 - 5.1.2 participate proportionally in any distribution made by the company; and
 - 5.1.3 receive proportionally the net assets of the company upon its liquidation.
- 5.2 The board shall not have the power to –



- 5.2.1 create any class of shares; or
- 5.2.2 increase or decrease the number of authorised shares of any class of shares; or
- 5.2.3 consolidate and reduce the number of the company's issued and authorised shares of any class; or
- 5.2.4 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
- 5.2.5 reclassify any classified shares that have been authorised but not issued; or
- 5.2.6 classify any unclassified shares that have been authorised but not issued; or
- 5.2.7 determine the preferences, rights, limitations or other terms of any shares; or
- 5.2.8 change the name of the company,

and such powers shall only be capable of being exercised by the shareholders by way of a special resolution of the shareholders.

- 5.3 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 as contemplated in clause 20.2.
- 5.4 In addition, and without prejudice to, the provisions of clause 5.2, the numbers of authorised shares of each class, and the preferences, rights, limitations and other terms associated with each class of shares as set out in this Memorandum of Incorporation may be changed only by an amendment of this Memorandum of Incorporation by special resolution of the shareholders and in accordance with the JSE Listings Requirements, and such amendments shall not be implemented without a special resolution adopted by the holders of shares of that class at a separate meeting.
- 5.5 No shares may be authorised in respect of which the preferences, rights, limitations or any other terms of any class of shares may be varied in response to any objectively ascertainable external fact or facts as provided for in sections 37(6) and 37(7) of the Act.



- 5.6 The company may only issue shares which are fully paid up and freely transferable and only within the classes and to the extent that those shares have been authorised by or in terms of this Memorandum of Incorporation.
- 5.7 The board may, subject to clause 5.11 and the further provisions of this clause 5.7, resolve to issue shares of the company at any time, but only –
- 5.7.1 within the classes and to the extent that those shares have been authorised by or in terms of this Memorandum of Incorporation; and
- 5.7.2 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, provided that, if such approval is in the form of a general authority to the directors, it shall be valid only until the next annual general meeting of the company and it may be varied or revoked by any general meeting of the shareholders prior to such annual general meeting.
- 5.8 All issues of shares for cash and all issues of options and convertible securities granted or issued for cash must, in addition, be in accordance with the JSE Listings Requirements.
- 5.9 All securities of the company for which a listing is sought on the JSE and all securities of the same class as securities of the company which are listed on the JSE must, notwithstanding the provisions of section 40(5) of the Act, but unless otherwise required by the Act, only be issued after the company has received the consideration approved by the board for the issuance of such securities.
- 5.10 Subject to what may be authorised by the Act, the JSE Listings Requirements and at meetings of shareholders in accordance with clause 5.12, and subject to clause 5.11, 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 for the acquisition of assets by the company.



- 5.11 Notwithstanding the provisions of clauses 5.2, 5.10 and 5.12, 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) of the Act, require the approval of the shareholders by special resolution if 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 will be equal to or exceed 30% (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.
- 5.12 Notwithstanding the provisions of clause 5.10, the shareholders may at a general meeting authorise the directors to issue shares of the company at any time and/or grant options to subscribe for shares as the directors in their discretion think fit, provided that such transaction(s) has/have been approved by the JSE and comply with the JSE Listings Requirements.
- 5.13 Except to the extent that any such right is specifically included as one of the rights, preferences or other terms upon which any class of shares is issued or as may otherwise be provided in this Memorandum of Incorporation, no shareholder shall have any pre-emptive or other similar preferential right to be offered or to subscribe for any additional shares issued by the company.

6 CERTIFICATED AND UNCERTIFICATED SECURITIES

- 6.1 Securities of the company are to be issued in certificated or uncertificated form, as shall be determined by the board from time to time. Except to the extent otherwise provided in the Act, the rights and obligations of Security holders shall not be different solely on the basis of their securities being certificated securities or uncertificated securities and each provision of this Memorandum of Incorporation applies with respect to any uncertificated securities in the same manner as it applies to certificated securities, unless otherwise stated or indicated by the context.
- 6.2 Any certificated securities may cease to be evidenced by certificates and thereafter become uncertificated securities.



- 6.3 Any uncertificated securities may be withdrawn from the uncertificated securities register, and certificates issued evidencing those securities at the election of the holder of those uncertificated securities. A holder of uncertificated securities who elects to withdraw all or part of the uncertificated securities held by it in an uncertificated securities register, and obtain a certificate in respect of those withdrawn securities, may so notify the relevant CSDP or Central Securities Depository as required by the rules of the Central Securities Depository.
- 6.4 After receiving notice from a CSDP or Central Securities Depository, as the case may be, that the holder of uncertificated securities wishes to withdraw all or part of the uncertificated securities held by it in an uncertificated securities register, and obtain a certificate in respect thereof, the company shall –
- 6.4.1 immediately enter the relevant Security holder's name and details of its holding of securities in the securities register and indicate on the securities register that the securities so withdrawn are no longer held in uncertificated form; and
- 6.4.2 within 10 (ten) business days (or 20 (twenty) business days in the case of a holder of securities who is not resident within the Republic) prepare and deliver to the relevant person a certificate in respect of the securities and notify the Central Securities Depository that the securities are no longer held in uncertificated form.
- 6.5 The company may charge a holder of its securities a reasonable fee to cover the actual cost of issuing any certificate as contemplated in this clause.

7 **SECURITIES REGISTER**

- 7.1 The company must establish or cause to be established a securities register in the form prescribed by the Act and the Regulations and maintain the securities register in accordance with the prescribed standards.
- 7.2 As soon as practicable after the issue or transfer of any securities, as the case may be, the company must enter or cause to be entered in the securities register, in respect of every class of securities it has issued or which have been transferred –
- 7.2.1 the total number of uncertificated securities;



- 7.2.2 with respect to certificated securities –
- 7.2.2.1 the names and addresses of the persons to whom the certificated securities were issued or transferred;
- 7.2.2.2 the number of certificated securities issued or transferred to each of them;
- 7.2.2.3 in the case of securities other than shares as contemplated in section 43 of the Act, the number of those securities issued and outstanding and the names and addresses of the registered owners of the securities and any holders of beneficial interests therein; and
- 7.2.2.4 any other prescribed information.
- 7.3 Each shareholder shall be entitled to 1 (one) certificate for all the shares of a particular class registered in his name, or to several certificates, each for a part of such shareholding. Every share certificate shall specify the number of shares in respect of which it is issued.
- 7.4 If the company has issued uncertificated securities, or has issued securities that have ceased to be certificated securities as contemplated in clause 6.2, a record must be administered and maintained by a CSDP or Central Securities Depository, in the prescribed form, as the uncertificated securities register, which –
- 7.4.1 forms part of the securities register; and
- 7.4.2 must contain, with respect to all uncertificated securities contemplated in this clause 7, any details referred to in clause 7.2.2, read with the changes required by the context or as determined by the rules of the Central Securities Depository.
- 7.5 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.
- 7.6 Unless all the shares rank equally for all purposes, the shares, or each class of shares, and any other securities, must be distinguished by an appropriate numbering system.
- 7.7 A certificate evidencing any certificated securities of the company –



- 7.7.1 must state on its face –
- 7.7.1.1 the name of the company;
- 7.7.1.2 the name of the person to whom the securities were issued or transferred;
and
- 7.7.1.3 the number and class of shares and designation of the series, if any,
evidenced by that certificate;
- 7.7.2 must be signed by 2 (two) persons authorised by the board, which signatures
may be affixed or placed on the certificate by autographic, mechanical or
electronic means in such manner as the directors shall from time to time
determine; and
- 7.7.3 is proof that the named Security holder owns the securities, in the absence of
evidence to the contrary.
- 7.8 A certificate remains valid despite the subsequent departure from office of any
person who signed it.
- 7.9 If, as contemplated in clause 7.6, all of the shares rank equally for all purposes,
and are therefore not distinguished by a numbering system –
- 7.9.1 each certificate issued in respect of those shares must be distinguished by a
numbering system; and
- 7.9.2 if the share has been transferred, the certificate must be endorsed with a
reference number or similar device that will enable each preceding holder of
the share in succession to be identified.
- 7.10 The failure of any share certificate to satisfy the provisions of clauses 7.7 to 7.9 is
not a contravention of the Act and does not invalidate that certificate.

8 JOINT HOLDERS OF SHARES

- 8.1 In the case of any share registered in the names of two or more persons as joint
holders, the person first-named in the securities register shall, save as may
otherwise be provided in this Memorandum of Incorporation, be the only person
recognised by the company as having any title to such share and to the
corresponding certificate.



- 8.2 Upon the legal incapacity of any joint holder of any share, the sole remaining holder or the first-named of two or more remaining joint holders, as the case may be, shall be the only person or persons recognised by the company as having any title to such share.
- 8.3 No person shall be recognised by the company as holding any share upon any trust, and no notice of any trust expressed or implied or constructive shall be entered in the securities register or be receivable by the company, and the company shall not, except only as otherwise provided by this Memorandum of Incorporation or by the Act or by any order of a court of competent jurisdiction, be bound by or compelled in any way to recognise any equitable, contingent, future, partial or representative interest in any share or any right in or in respect of any share, other than an absolute right to the entirety thereof in the registered holder and such other rights in case of transmission thereof as are provided for in this Memorandum of Incorporation.

9 TRANSFER OF SECURITIES

- 9.1 Subject to the Act and the provisions of this Memorandum of Incorporation, any shareholder may transfer all or any of his securities.
- 9.2 Every transfer form in respect of certificated shares must be in writing and shall be implemented in accordance with the common form of transfer or such other form as the directors may approve.
- 9.3 The directors may decline to register any transfer where –
- 9.3.1 the instrument of transfer has not been lodged at the transfer office; or
- 9.3.2 the provisions of any law affecting transfer have not been complied with.
- 9.4 Every instrument of transfer shall be left at the transfer office at which it is presented for registration or in the absence thereof, at the registered office where the transfer register in respect of the share to which the transfer form relates is being kept, or at such place as the directors may prescribe, accompanied by the certificated securities to be transferred, and or such other evidence as the company may require to prove the title of the transferor or his rights to transfer the securities.



- 9.5 The company shall not be bound to allow the exercise of any act or matter by an agent for a shareholder, unless a duly certified copy of such agent's authority be produced and lodged with the company.
- 9.6 All instruments of transfer which are registered shall be retained by the company, but any instrument of transfer which the directors decline to register shall (except in the case of fraud), on demand, be returned to the person depositing the same.
- 9.7 The instrument of transfer of any certificated securities shall be signed by the transferor 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.
- 9.8 All authorities to sign transfer deeds or other instruments of transfer granted by holders of securities for the purpose of transferring certificated securities which may be lodged, produced or exhibited with or to the company at its registered office shall, as between the company and the grantor of such authorities, be taken and deemed to continue and remain in full force and effect, and the company may allow the same to be acted upon until such time as express notice in writing of the revocation of the same shall have been given and lodged at such of the company's offices at which the authority was first lodged, produced or exhibited. Even after the giving and lodging of such notice, the company shall be entitled to give effect to any instruments signed under the authority to sign and certified by any officer of the company as being in order before the giving and lodging of such notice.
- 9.9 The transfer of uncertificated securities may be effected only –
- 9.9.1 by a CSDP or Central Securities Depository;
- 9.9.2 on receipt of an instruction to transfer sent and properly authenticated in terms of the rules of a Central Securities Depository or an order of a Court; and
- 9.9.3 in accordance with section 53 of the Act and the rules of the Central Securities Depository.



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

9.11 Securities transfer tax and other legal costs payable in respect of any transfer of securities pursuant to this Memorandum of Incorporation 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.

10 **NO LIEN**

Fully paid securities shall not be subject to any lien in favour of the company and shall be freely transferable, provided that the directors may decline to register any transfer to a minor or to a person of unsound mind or to any trustee, curator, executor, administrator or other person in any representative capacity of any shares, failing proof of their appointment in such representative capacity.

11 **TRANSMISSION OF SECURITIES**

11.1 The executor or administrator of a deceased member or the trustee of an insolvent shareholder and the curator of any insane or prodigal (reckless) shareholder or any person duly appointed by competent authority to represent or act for any shareholder shall be the only person recognised by the company as having any title to any share registered in the name of such shareholder.

11.2 Subject to applicable law –

11.2.1 the parent or guardian or curator of any member who is a minor;

11.2.2 the trustee of an insolvent shareholder;

11.2.3 the liquidator of a body corporate;

11.2.4 the tutor or curator of a member under disability;

11.2.5 the executor or administrator of any deceased member's estate; or



11.2.6 any other person becoming entitled to any share held by a shareholder by any lawful means other than transfer in terms of this Memorandum of Incorporation,

shall, upon production of such evidence as may be required by the directors and with the consent of the directors (which they shall not be obliged to give), have the right either –

11.2.7 to exercise the same rights and to receive the same dividends and other advantages to which he would be entitled if he were the registered holder of the shares registered in the name of the shareholder concerned; or

11.2.8 himself to be registered as a shareholder in respect of those shares and to make such transfer of those shares as the shareholder concerned could have made or to elect to have a person nominated by him registered as the transferee thereof.

12 DEBT INSTRUMENTS

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

13 CAPITALISATION SHARES

13.1 Save to the extent authorised by the shareholders by means of ordinary resolution, and unless such transaction(s) has/have been approved by the JSE (and the JSE Listings Requirements have been complied with), the board shall not have the power or authority to –

13.1.1 approve the issuing of any authorised shares as capitalisation shares; or

13.1.2 to issue shares of one class as capitalisation shares in respect of shares of another class; or

13.1.3 to resolve to permit shareholders to elect to receive a cash payment in lieu of a capitalisation share.

- 13.2 The board may not resolve to offer a cash payment in lieu of awarding a capitalisation share, as contemplated in clause 13.1.3, unless the board –
- 13.2.1 has considered the solvency and liquidity test as required by section 46 of the Act, on the assumption that every such shareholder would elect to receive cash; and
- 13.2.2 is satisfied that the company would satisfy the solvency and liquidity test immediately upon the completion of the distribution.

14 **BENEFICIAL INTERESTS IN SECURITIES**

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 set out in section 56(1) of the Act.

15 **FINANCIAL ASSISTANCE**

The board may, as contemplated in and subject to the requirements of –

- 15.1 Section 44, 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, and the authority of the board in this regard is not limited or restricted by this Memorandum of Incorporation; and
- 15.2 Section 45, authorise the company to provide financial assistance to any person referred to in section 45(2), and the power of the board in this regard is not limited or restricted by this Memorandum of Incorporation.

16 **ACQUISITION BY THE COMPANY OF ITS OWN SHARES**

- 16.1 Subject to the JSE Listings Requirements, the provisions of section 48 of the Act and the further provisions of this clause 16 –
- 16.1.1 the board may determine that the company acquire a number of its own shares; and
- 16.1.2 the board of any subsidiary of the company may determine that such subsidiary acquire shares of the company, but –



- 16.1.2.1 not more than 10% (ten percent), 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
- 16.1.2.2 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.
- 16.2 Any decision by the company to acquire its own shares must satisfy the JSE Listings Requirements and the requirements of section 46 of the Act and, accordingly, the company may not acquire its own shares unless –
 - 16.2.1 for as long as it is required in terms of the JSE 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 sections 5.67 to 5.69 of the JSE Listings Requirements (or such other sections as may be applicable from time to time);
 - 16.2.2 the acquisition –
 - 16.2.2.1 is pursuant to an existing legal obligation of the company, or a court order; or
 - 16.2.2.2 the board, by resolution, has authorised the acquisition;
 - 16.2.3 it reasonably appears that the company will satisfy the solvency and liquidity test immediately after completing the proposed acquisition; and
 - 16.2.4 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.
- 16.3 A decision of the board referred to in clause 16.1.1 –
 - 16.3.1 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



16.3.2 is subject to the requirements of sections 114 and 115 of the Act 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% (five percent) of the issued shares of any particular class of the company's shares.

16.4 Notwithstanding any other provision of this Memorandum of Incorporation, 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 –

16.4.1 shares held by one or more subsidiaries of the company; or

16.4.2 convertible or redeemable shares.

17 RECORD DATE FOR EXERCISE OF SHAREHOLDER RIGHTS

17.1 The record date for the purpose of determining which shareholders are entitled to –

17.1.1 receive notice of a shareholders meeting;

17.1.2 participate in and vote at a shareholders meeting;

17.1.3 decide any matter by written consent or by electronic communication;

17.1.4 receive a distribution; or

17.1.5 be allotted or exercise other rights,

shall be determined by the board, provided that, for as long as the JSE Listings Requirements apply to the company and prescribe a record date, such record date shall be the record date so prescribed.

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

18 SHAREHOLDERS MEETINGS

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

- 18.2 Subject to the provisions of section 60 of the Act dealing with the passing of resolutions of shareholders otherwise than at a meeting of shareholders, the company shall hold a shareholders meeting –
- 18.2.1 at any time that the board is required by the Act, the JSE Listings Requirements or this Memorandum of Incorporation to refer a matter to shareholders for decision; or
- 18.2.2 whenever required in terms of the Act to fill a vacancy on the board; or
- 18.2.3 when required in terms of clause 18.3 or by any other provision of this Memorandum of Incorporation.
- 18.3 The board shall call a meeting of shareholders if 1 (one) or more written and signed demands by shareholders calling for such a meeting are delivered to the company and –
- 18.3.1 each such demand describes the specific purpose for which the meeting is proposed; and
- 18.3.2 in aggregate, demands for substantially the same purpose are made and signed by the holders, as of the earliest time specified in any of those demands, of at least 10% (ten percent) of the voting rights entitled to be exercised in relation to the matter proposed to be considered at the meeting.
- 18.4 In addition to other meetings of the company that may be convened from time to time, the company shall convene an annual general meeting of its shareholders in each calendar year, but no more than 15 (fifteen) months after the date of the previous annual general meeting.
- 18.5 The company shall deliver notices of meetings to each shareholder entitled to vote at such meeting who has elected to receive such documents.
- 18.6 Subject to the provisions of the JSE Listings Requirements, any such annual general meeting –
- 18.6.1 shall be capable of being held by electronic communication in accordance with the further provisions of this Memorandum of Incorporation; and
- 18.6.2 shall not be capable of being held in accordance with the provisions of section 60 of the Act set out in clause 23.



- 18.7 Each annual general meeting of the company contemplated in clause 18.4 shall provide for at least the following business to be transacted –
- 18.7.1 the consideration of the directors' report, audited financial statements for the immediately preceding financial year of the company and an audit committee report;
 - 18.7.2 the election of directors, to the extent required by the Act or by this Memorandum of Incorporation;
 - 18.7.3 the appointment of an auditor and an audit committee for the following financial year;
 - 18.7.4 the sanctioning or declaration of distributions; and
 - 18.7.5 any matters raised by the shareholders, with or without advance notice to the company.
- 18.8 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 JSE Listings Requirements.
- 18.9 The board may determine the location of any shareholders meeting, and the company may hold any such meeting in the Republic or in any foreign country, and the authority of the board and the company in this regard is not limited or restricted by this Memorandum of Incorporation.
- 18.10 All meetings (whether called for the passing of special or ordinary resolutions) shall be called on not less than 15 (fifteen) business days' notice.
- 18.11 The quorum for a shareholders meeting to begin or for a matter to be considered, shall be at least 3 (three) shareholders entitled to attend and vote and present in person. In addition –
- 18.11.1 a shareholders meeting may not begin until sufficient persons are present at the meeting to exercise, in aggregate, at least 25% (twenty five percent) of the voting rights that are entitled to be exercised in respect of at least one matter to be decided at the meeting; and



- 18.11.2 a 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% (twenty five percent) of all of the voting rights that are entitled to be exercised in respect of that matter at the time the matter is called on the agenda.
- 18.12 Save as provided to the contrary in this Memorandum of Incorporation, the time periods specified in sections 64(4) and (5) of the Act apply to the company without variation. If within 15 (fifteen) minutes after the appointed time for a meeting to begin, the requirements of clause 18.11 –
- 18.12.1 for that meeting to begin have not been satisfied, the meeting shall be postponed, without any motion, vote or further notice, for 1 (one) week;
- 18.12.2 for consideration of a particular matter to begin have not been satisfied –
- 18.12.2.1 if there is other business on the agenda of the meeting, consideration of that matter may be postponed to a later time in the meeting without any motion or vote; or
- 18.12.2.2 if there is no other business on the agenda of the meeting, the meeting shall be adjourned, without any motion or vote, for 1 (one) week,
- provided that the person intended to chair a meeting that cannot begin due to the operation of clause 18.11 may extend the 15 (fifteen) minute limit allowed in clause 18.12 for a reasonable period on the grounds that –
- 18.12.3 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
- 18.12.4 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 18.11.
- 18.13 The accidental omission to give notice of any meeting to any particular shareholder or shareholders, or an immaterial defect in the manner or form of giving notice of any such meeting, shall not invalidate any resolution passed at any such meeting.



- 18.14 The company shall not be required to give further notice of a meeting that has been postponed or adjourned in terms of clause 18.12 unless the location for the meeting is different from –
- 18.14.1 the location of the postponed or adjourned meeting; or
- 18.14.2 the location announced at the time of adjournment, in the case of an adjourned meeting.
- 18.15 If at the time appointed in terms of clause 18.12 for a postponed meeting to begin, or for an adjourned meeting to resume, the requirements of clause 18.11 have not been satisfied, the shareholders present in person or by proxy will be deemed to constitute a quorum.
- 18.16 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.
- 18.17 The chairperson of a meeting may with the consent of a meeting at which a quorum is present (and must if the meeting resolves thus) adjourn the meeting from time to time and from place to place, but an adjourned meeting may only deal with matters which could legally be dealt with at the meeting on which the adjournment took place.
- 18.18 The maximum period allowable for an adjournment of a shareholders meeting is as set out in section 64(12) of the Act, without variation.
- 18.19 The chairman, if any, of the board shall preside as chairman at every shareholders meeting.
- 18.20 If there is no such chairman, or if at any meeting he or she is not present within 15 (fifteen) minutes after the time appointed for holding the meeting or is unwilling to act as chairman, the directors present shall choose 1 (one) of their number to be chairman. If no director is willing to act as chairman or if no director is present within 15 (fifteen) minutes after the time appointed for commencement of the meeting, the shareholders present shall by way of a poll appoint one of their number to be chairman of the meeting.
- 18.21 Voting shall only be conducted by means of a polled vote in respect of any matter to be voted on at a meeting of shareholders.



- 18.22 The chairman of a shareholders meeting may –
- 18.22.1 appoint any firm or persons to act as scrutineers for the purpose of checking any powers of attorney received and for counting the votes at the meeting;
- 18.22.2 act on a certificate given by any such scrutineers without requiring production at the meeting of the forms of proxy or himself counting the votes.
- 18.23 If any votes were counted which ought not to have been counted or if any votes were not counted which ought to have been counted, the error shall not vitiate the resolution, unless -
- 18.23.1 it is brought to the attention of the chairman at the meeting; and
- 18.23.2 in the opinion of the chairman of the meeting, it is of sufficient magnitude to vitiate the resolution.
- 18.24 Any objection to the admissibility of any vote shall be raised -
- 18.24.1 at the meeting or adjourned meeting at which the vote objected to was recorded; or
- 18.24.2 at the meeting or adjourned meeting at which the 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 chairman of the meeting, whose decision shall be final and conclusive.
- 18.25 Even if he is not a shareholder -
- 18.25.1 any director; or
- 18.25.2 the company's attorney (or where the company's attorneys are a firm, any partner or director thereof),

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



19 SHAREHOLDERS MEETINGS BY ELECTRONIC COMMUNICATION

19.1 Subject to the provisions of the JSE 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 of the Act, and the power of the company to do so is not limited or restricted by this Memorandum of Incorporation. Accordingly –

19.1.1 subject to the provisions of clause 19.3, any shareholders meeting may be conducted entirely by electronic communication; or

19.1.2 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.

19.2 Any notice of any meeting of shareholders at which it will be possible for shareholders to participate by way of electronic communication shall inform shareholders of the ability to so participate and shall provide any necessary information to enable shareholders or their proxies to access the available medium or means of electronic communication, provided that such access shall be at the expense of the shareholder or proxy concerned.

19.3 Notwithstanding anything to the contrary contained in this clause 19, the notice referred to in clause 19.2 may, *inter alia*, provide that those shareholders who intend to participate in a meeting by way of electronic communication shall be required to deliver their proxies in the manner, at the place and before the time, prescribed in the applicable notice.

20 VOTES OF SHAREHOLDERS

20.1 Subject to any special rights or restrictions as to voting attached to any shares by or in accordance with this Memorandum of Incorporation, at a meeting of the company –



- 20.1.1 any person who is present at the meeting, whether as a shareholder or as proxy for a shareholder, has the number of votes determined in accordance with the voting rights associated with the securities held by that shareholder; and
- 20.1.2 the holders of securities other than ordinary shares shall not be entitled to vote on any resolution at a meeting of shareholders, except as provided in clause 20.2.
- 20.2 If any resolution is proposed as contemplated in clause 5.3, the holders of such shares ("**affected shareholders**") shall be entitled to vote at the meeting of ordinary shareholders as contemplated in clause 20.1, provided that the votes of the shares of that class held by the affected shareholders ("**affected shares**") shall not carry any special rights or privileges and each Affected shareholder shall be entitled to 1 (one) vote for every affected share held, provided that the total voting rights of the affected shareholders in respect of the affected shares shall not be more than 24.99% (twenty four point nine nine percent) of the total votes (including the votes of the ordinary shareholders) exercisable at that meeting (with any cumulative fraction of a vote in respect of any affected shares held by an affected shareholder rounded down to the nearest whole number).
- 20.3 A poll shall be taken in such manner as the chairman directs (including the use of ballots or voting papers or tickets), and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. In computing the majority on the poll, regard shall be had to the number of votes to which each shareholder is entitled.
- 20.4 In the case of an equality of votes the chairman of the meeting shall not be entitled to a second or casting vote.
- 20.5 If an amendment is proposed to any resolution under consideration but is ruled out of order by the chairman of the meeting, acting in good faith, the proceedings on the substantive resolution shall not be invalidated by any error in such ruling.



- 20.6 Where there are joint registered holders of any share, any 1 (one) of such persons may exercise all of the voting rights attached to that share at any meeting, either personally or by proxy, as if he or she were solely entitled thereto. If more than 1 (one) of such joint holders is present at any meeting, personally or by proxy, the person so present whose name stands first in the securities register in respect of such share shall alone be entitled to vote in respect thereof.
- 20.7 The board of any company or the controlling body of any other entity or person that holds any securities of the company may authorise any person to act as its representative at any meeting of shareholders of the company, in which event the following provisions will apply –
- 20.7.1 the person so authorised may exercise the same powers of the authorising company, entity or person as it could have exercised if it were an individual holder of shares; and
- 20.7.2 the authorising company, entity or person shall lodge a resolution of the directors of such company or controlling body of such other entity or person confirming the granting of such authority, and certified under the hand of the chairman or secretary thereof, with the company before the commencement of any shareholders meeting at which such person intends to exercise any rights of such shareholder, unless excused from doing so by the chairman of such meeting.
- 20.8 No objection shall be raised to the admissibility of any vote, except at the meeting or adjourned meeting at which the vote objected to is or may be given or tendered and every vote not disallowed at such meeting shall be valid for all purposes. Any objection shall be referred to the chairman of the meeting, whose decision shall be final and conclusive.
- 20.9 Any person entitled to a share in terms of clause 11.2 may vote at any meeting in respect thereof in the same manner as if he were the registered holder of that share, provided that (except where the directors have previously accepted his rights to vote in respect of that share) at least 24 (twenty four) hours before the time of holding the meeting at which he proposes to vote, he shall have satisfied the directors that he is entitled to exercise the right referred to in article 11.2. Co-executors of a deceased shareholder in whose name shares stand in the securities register shall, for the purpose of this clause, be deemed joint holders of those shares.



20.10 A member entitled to more than 1 (one) vote need not cast all his votes, nor cast them in the same manner.

21 PROXIES AND REPRESENTATIVES

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

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

21.1.2 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 1 (one) proxy to exercise voting rights attached to different securities held by the shareholder.

21.2 A proxy appointment –

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

21.2.2 remains valid for –

21.2.2.1 1 (one) year after the date on which it was signed; or

21.2.2.2 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.

21.3 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 before such holder exercises any rights of the shareholder at a shareholders meeting.

21.4 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 –



- 21.4.1 a shareholder has the right to appoint 2 (two) or more persons concurrently as proxies as set out in section 58(3)(a) ("**concurrent proxies**"), provided that the instrument appointing such concurrent proxies clearly states the order in which the votes of the concurrent proxies are to take precedence in the event that both or all of the concurrent proxies are present, and vote, at the meeting concerned;
- 21.4.2 a shareholder's proxy may delegate the proxy's powers to another person as set out in section 58(3)(b);
- 21.4.3 a shareholder or his proxy must deliver to the company a copy of the instrument appointing a proxy not later than 24 (twenty four) hours before the commencement of the meeting at which the proxy intends to exercise that shareholder's rights, provided that the chairperson of the meeting may, in his discretion, accept proxies that have been delivered after the expiry of the aforementioned period up until the time of commencement of the meeting; and
- 21.4.4 unless the instrument appointing a proxy provides otherwise, a shareholder's 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 Memorandum of Incorporation.

- 21.5 Every instrument of proxy shall be in such form as the directors may approve from time to time.

22 **SHAREHOLDERS RESOLUTIONS**

- 22.1 For an ordinary resolution to be approved it must be supported by more than 50% (fifty percent) of the voting rights of shareholders exercised on the resolution, as provided in section 65(7) of the Act. Notwithstanding anything to the contrary contained in this Memorandum of Incorporation, to the extent that the JSE Listings Requirements require a higher percentage in respect of any particular ordinary resolution, the Company shall not implement such ordinary resolution unless the Company has obtained the support of the applicable percentage prescribed in terms of the JSE Listings Requirements.



- 22.2 For a special resolution to be approved it must be supported by the holders of at least 75% (seventy five percent) of the voting rights exercised on the resolution, as provided in section 65(9) of the Act.
- 22.3 No matters, except those matters set out in section 65(11) of the Act and any other matter required by the Act, this Memorandum of Incorporation and the JSE Listings Requirements to be resolved by means of a special resolution, require a special resolution adopted at a shareholders meeting of the company.
- 22.4 In the event that any shareholder abstains 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.
- 22.5 Anything done in pursuance of any ordinary resolution or special resolution shall be done in a manner provided and subject to any conditions imposed by the Act and the JSE Listings Requirements, so far as these shall be applicable, and so far as the Act and the JSE Listings Requirements shall not be applicable, in accordance with the terms of the applicable resolution authorising the same.

23 SHAREHOLDERS ACTING OTHER THAN AT A MEETING

- 23.1 In accordance with the provisions of section 60 of the Act, but subject to clause 23.4, a resolution that could be voted on at a shareholders meeting (other than in respect of the election of directors) may instead be –
- 23.1.1 submitted by the board for consideration to the shareholders entitled to exercise the voting rights in relation to the resolution; and
- 23.1.2 voted on in writing by such shareholders within a period of 20 (twenty) business days after the resolution was submitted to them.
- 23.2 A resolution contemplated in clause 23.1 –
- 23.2.1 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



- 23.2.2 if adopted, will have the same effect as if it had been approved by voting at a meeting.
- 23.3 Within 10 (ten) business days after adopting a resolution in accordance with the procedures provided in this clause 23, 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.
- 23.4 The provisions of this clause 23 shall not apply to any shareholder meetings that are called for in terms of the Listings Requirements or the passing of any resolution in terms of clause 24.3 or to any annual general meeting of the company, which shareholder meetings shall be governed by the provisions of clause 18 and, to the extent applicable, the provisions of clause 19.

24 COMPOSITION OF THE BOARD

- 24.1 It is the intention of the company to comply with corporate governance practices from time to time appropriate for JSE listed companies similarly placed to the company.
- 24.2 In addition to the minimum number of directors, if any, that the company must have to satisfy any requirement in terms of the Act to appoint an audit committee and a social and ethics committee, the board must comprise at least 4 (four) directors.
- 24.3 All directors shall be elected by an ordinary resolution of the shareholders at a general or annual general meeting of the company and no appointment of a director in accordance with a resolution passed in terms of section 60 of the Act shall be competent.
- 24.4 Every person holding office as a director, prescribed officer, company secretary or auditor of the company immediately before the effective date of the Act will, as contemplated in item 7(1) of Schedule 5 to the Act, continue to hold that office.
- 24.5 In any election of directors –
- 24.5.1 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 have been filled; and



- 24.5.2 in each vote to fill a vacancy –
- 24.5.2.1 each vote entitled to be exercised may be exercised once; and
- 24.5.2.2 the vacancy is filled only if a majority of the votes exercised support the candidate.
- 24.6 The company shall only have elected directors and there shall be no appointed or *ex officio* directors as contemplated in section 66(4) of the Act.
- 24.7 Apart from satisfying the qualification and eligibility requirements set out in section 69 of the Act, a person need not satisfy any eligibility requirements or qualifications to become or remain a director or a prescribed officer of the company.
- 24.8 If the number of directors falls below the minimum number fixed in accordance with this Memorandum of Incorporation, the remaining directors must as soon as possible and in any event not later than 3 (three) months from the date that the number falls below such minimum, fill the vacancy/ies in accordance with clause 30.1.1 or convene a general meeting for the purpose of filling the vacancies, and the failure by the company to have the minimum number of directors during the said 3 (three) month period does not limit or negate the authority of the board of directors or invalidate anything done by the board of directors while their number is below the minimum number fixed in accordance with this Memorandum of Incorporation.
- 24.9 The directors in office may act notwithstanding any vacancy in their body, but if after the expiry of the 3 (three) month period contemplated in clause 24.8, their number remains below the minimum number fixed in accordance with this Memorandum of Incorporation, they may, for as long as their number is reduced below such minimum, act only for the purpose of filling vacancies in their body in terms of section 68(3) of the Act or of summoning general meetings of the company, but not for any other purpose.



25 EMPLOYMENT AND REMOVAL OF DIRECTORS

- 25.1 Subject to the provisions of the Act, the company may by ordinary resolution remove any director before the expiration of his period of office and may by ordinary resolution elect another person in his stead. The person so elected shall hold office during such time only as the director in whose place he is elected would have held office.
- 25.2 A director may, before the expiration of his period of office, be removed from office by a resolution signed by a majority of the other directors.

26 DISQUALIFICATION OF DIRECTORS

Without derogating from the provisions of section 69 of the Act, a director shall cease to hold office as such -

- 26.1 if he becomes insolvent, or assigns his estate for the benefit of his creditors or suspends payment or files a petition for the liquidation of his affairs, or compounds with his creditors; or
- 26.2 if his employment contract with the company is terminated; or
- 26.3 if he becomes of unsound mind; or
- 26.4 if he is absent from meetings of the directors for 6 (six) consecutive months without leave of the directors and is not represented at any meetings held during such 6 (six) consecutive months by an alternate director, and the directors resolve that the office be vacated, provided that the directors shall have power to grant any director leave of absence for any or an indefinite period; or
- 26.5 if he is removed under clause 25.1 or clause 25.2, or
- 26.6 if he is given notice, signed by shareholders holding in the aggregate more than 50% (fifty percent) of the total voting rights on a poll of all the members then entitled to vote on a poll at a general meeting, of the termination of his appointment; or
- 26.7 if he resigns his office by notice in writing to the company; or
- 26.8 if he shall pursuant to the provisions of the Act be disqualified or cease to hold office or be prohibited from acting as director.



27 ROTATION OF DIRECTORS

27.1 At each annual general meeting referred to in clause 18.4, $\frac{1}{3}$ (one third) of the directors for the time being, or if their number is not 3 (three) or a multiple of 3 (three), the number nearest to one third, but not less than one third, shall retire from office.

27.2 The 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 directors on the same day, those to retire shall, unless they otherwise agree among themselves, be determined by lot.

27.3 A retiring director shall be eligible for re-election. No person other than a director retiring at the meeting shall, unless recommended by the directors for election in terms of clause 27.6, be eligible for election to the office of director at any general meeting unless, there shall have been given to the secretary notice in writing –

27.3.1 in respect of the annual general meeting, within the first 2 (two) months after the year end of the company; and

27.3.2 in respect of any other meeting, not less than 6 (six) days nor more than 14 (fourteen) days before the day appointed for the meeting,

by one shareholder holding not less than 10% (ten percent) of the issued shares of the intention of such shareholder to propose such person for election and also notice in writing signed by the person to be proposed of his willingness to be elected, it being recorded that it is the intention that the period to be allowed before the date of the general meeting for the nomination of a new director must be such to give sufficient time, after the receipt of the notice, for nominations to reach the office from any part of the Republic.

27.4 The company, at the general meeting at which a director retires in the above manner, or at any other general meeting, may fill the vacancy by electing a person thereto, provided that the company shall not be entitled to fill the vacancy by means of a resolution passed in accordance with clause 23.



- 27.5 If at any meeting at which an election of directors ought to take place the offices of the retiring directors are not filled, unless it is expressly resolved not to fill such vacancies, the meeting shall stand adjourned and the further provisions of this Memorandum of Incorporation, including clauses 18.12 to 18.15 (inclusive) will apply *mutatis mutandis* to such adjournment, and if at such adjourned meeting the vacancies are not filled, the retiring directors, or such of them as have not had their offices filled, shall be deemed to have been re-elected at such adjourned meeting.
- 27.6 The board shall, through its nomination committee if such committee has been constituted in terms of clause 35, provide the shareholders with a recommendation in the notice of the meeting at which the re-election of a retiring director is proposed, as to which retiring directors are eligible for re-election, taking into account that director's past performance and contribution. Sufficient time shall be allowed between the date of such notice and the date of the general meeting or annual general meeting at which the re-election of the director is to be proposed to allow nominations to reach the company's office from any part in the Republic.
- 27.7 No director shall be appointed for life or for an indefinite period.

28 ALTERNATE DIRECTORS

- 28.1 Each director shall have the power to appoint a person to act as alternate director in his place ("**alternate director**"), and at his discretion to remove such alternate director, and to appoint another in his stead, provided that the appointment of such alternate director shall be made in writing and approved by the directors; and on such appointment being made and approved, the alternate director shall in all respects be subject to the terms and conditions existing with reference to the other directors of the company. An alternate director shall be entitled to act at all meetings and in all proceedings in which, and on all occasions when, the director who appointed him shall not act himself.



- 28.2 An alternate director whilst acting in the place of the director who appointed him, shall exercise and discharge all the duties and functions of the director he represents. The appointment of an alternate director shall be cancelled and the alternate director shall cease to hold office whenever the director who appointed him shall cease to be a director or shall give notice in writing to the secretary that the alternate director representing him shall have ceased to do so. A director retiring at any annual general meeting and being re-elected shall not, for the purposes of this clause 28, be deemed to have ceased to be a director.
- 28.3 The appointment of an alternate director shall be cancelled and the alternate director shall cease to hold office on the happening of any event which, if he were a director, would cause him to cease to hold office in terms of this Memorandum of Incorporation.
- 28.4 In the event of the appointment of an alternate director being cancelled or upon such alternate director's resignation during the absence or inability to act of the director whom he represents, the vacancy so arising shall be filled by the Chairman of the directors who shall appoint a person to fill such vacancy subject to the approval of the board.
- 28.5 A person may be appointed as an alternate director to more than 1 (one) director and where a person is an alternate director to more than one director, or where an alternate director is a director, he shall have a separate vote, on behalf of each director he is representing, in addition to his own vote, if any.

29 EXECUTIVE DIRECTORS

- 29.1 The directors may from time to time appoint managing and other executive directors (with or without specific designation) of the company ("**executive director**"), which conditions of employment shall be subject to the usual standard terms of employment for company employees which notice period shall not exceed 6 (six) months and whose remuneration may be determined from time to time by a quorum of the directors.



- 29.2 Any director appointed in terms hereof shall nevertheless be subject to retirement by rotation and be taken into account in determining the rotation of retirement of directors, and he shall be subject to the same provisions as to removal as the other directors. If he ceases to hold office as a director, his appointment to such position shall *ipso facto* terminate without prejudice to any claims for damages which may accrue to him as a result of such termination.
- 29.3 A director in terms of the provisions of this clause 29 to the office of executive director of the company, or to any other executive office in the company, may be paid in addition to the fees or remuneration payable in terms of any other clause in this Memorandum of Incorporation, such remuneration not exceeding a reasonable maximum in each year, in respect of such office as may be determined by a quorum of the directors.
- 29.4 The directors may from time to time entrust and confer upon an executive director for the time being such of the powers and authorities vested in them as they think fit and may confer such powers and authorities for such time and to be exercised for such objects and purposes and upon such terms and conditions and with such restrictions as they may think expedient. The directors may from time to time in their discretion revoke, withdraw or vary such powers as they deem fit.

30 POWERS OF THE DIRECTORS

- 30.1 The board has the power to –
- 30.1.1 fill any vacancy on the board on a temporary basis, as set out in section 68(3) of the Act, provided that such appointment must be confirmed by the shareholders, in accordance with clause 24.3, at the next annual general meeting of the company, as required in terms of section 70(3)(b)(i) of the Act; and
- 30.1.2 exercise all of the powers and perform any of the functions of the company, as set out in section 66(1) of the Act.



- 30.2 The management of the business and the control of the company shall be vested in the directors who may exercise all such powers as may be exercised by the company and are not hereby or by the Act expressly directed or required to be exercised by the company in general meeting, but subject, nevertheless, to the provisions of this Memorandum of Incorporation and to any resolution not inconsistent with this Memorandum of Incorporation passed at any general meeting of the members in accordance therewith, provided that no resolution passed by the company in general meeting shall invalidate any prior act of the directors which would have been valid if such resolution had not been passed.
- 30.3 The directors may at any time and from time to time by power of attorney appoint any person or persons to be the attorney or attorneys and agent(s) 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 this Memorandum of Incorporation) and for such period and subject to such conditions as the directors may from time to time think fit. Any such appointment may, if the directors think fit, be made in favour of any company, the shareholders, directors, nominees or managers of any company or firm, or otherwise in favour of any fluctuating body of persons, whether nominated directly or indirectly by the directors. Any such power of attorney may contain such provisions for the protection or convenience of persons dealing with such attorneys and agents as the directors think fit. Any such attorneys or agents as aforesaid may be authorised by the directors to sub-delegate all or any of the powers, authorities and discretions for the time being vested in them.
- 30.4 Save as otherwise expressly provided herein, 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.
- 30.5 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 the 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 may determine. Any remuneration so paid may be in addition to the remuneration payable in terms of clause 32.1.



- 30.6 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 other office must be determined by a disinterested quorum of directors.
- 30.7 Each director and each alternate director, prescribed officer and member of any committee of the board (whether or not such latter persons are also members of the board) shall, subject to the exemptions contained in section 75(2) of the Act and the qualifications contained in section 75(3) of the Act, comply with all of the provisions of section 75 of the Act in the event that they (or any person who is a related person to them) has a personal financial interest in any matter to be considered by the board.
- 30.8 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.
- 30.9 Save where the directors have obtained the prior approval of the JSE to so propose such a resolution, 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 Memorandum of Incorporation (including any ratification contemplated in sections 20(2) and section 20(6) of the Act), or the authority of the directors to perform such an act on behalf of the company, is prohibited.

31 MEETINGS OF DIRECTORS

- 31.1 Save as may be provided otherwise herein, the directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit, provided that there shall be at least 4 (four) board meetings per annum. A director may at any time require the secretary to convene a meeting of the directors. Notice of a meeting shall be given to a director at the business address of the director as nominated by the director. The directors may determine what period of notice shall be given of meetings of directors and may determine the



medium of giving such notice which may include telephone, telegram, telex, telefax or any other form of electronic communication. Notice shall also be given to all duly appointed alternate directors.

- 31.2 The directors shall elect an independent non-executive director to be the chairman of their meetings and 1 (one) or more non-executive director as deputy chairman to preside in the absence of the chairman, and may determine a period for which they are to hold office, which period shall, however, not exceed 1 (one) year, but if no such chairman or deputy chairman is elected or if at any meeting neither the chairman nor a deputy chairman is present at the time appointed for holding the meeting, the directors shall choose 1 (one) of their number to be chairman of such meeting. The chairman shall be eligible for re-election. The directors shall be entitled to appoint a non-executive chairman who is not independent on a temporary basis for a period not exceeding 9 (nine) months to fill an unplanned vacancy in the position if they are unable on short notice to identify a suitable non-executive person to fill such vacancy.
- 31.3 In addition to the provisions of section 73(1) of the Act, any director shall at any time be entitled to call a meeting of the directors.
- 31.4 The board has the power to –
- 31.4.1 consider any matter and/or adopt any resolution other than at a meeting contemplated in section 74 of the Act and, accordingly, any decision that could be voted on at a meeting of the board may instead be adopted by the written consent of a majority of the directors, given in person or by electronic communication, provided that each director has received notice of the matter to be decided and provided further that any such resolution shall contain the affirmative vote of at least 2 (two) of the directors nominated by any shareholder holding more than 50% (fifty percent) of the shares from time to time;
- 31.4.2 conduct a meeting entirely by electronic communication, or to provide for participation in a meeting by electronic communication, as set out in section 73(3) of the Act, provided that, as required by such section, the electronic communication facility employed ordinarily enables all persons participating in the meeting to communicate concurrently with each other without an intermediary and to participate reasonably effectively in the meeting;



31.4.3 determine the manner and form of providing notice of its meetings contemplated in section 73(4) of the Act, provided that –

31.4.3.1 the notice period for the convening of any meeting of the board will be at least 7 (seven) days unless the decision of the directors is required on an urgent basis which justifies a shorter period of notice, in which event the meeting may be called on shorter notice. The decision of the chairman of the board, or failing the chairman for any reason, the decision of any (two) directors as to whether a matter should be decided on an urgent basis, and the period of notice to be given, shall be final and binding on the directors;

31.4.3.2 an agenda of the matters to be discussed at the meeting shall be given to each director, together with the notice referred to in clause 31.4.3.1; and

31.4.4 proceed with a meeting despite a failure or defect in giving notice of the meeting, as provided in section 73(5) of the Act,

and the powers of the board in respect of the above matters are not limited or restricted by this Memorandum of Incorporation.

31.5 The quorum requirement for a directors meeting (including an adjourned meeting) to begin, the voting rights at such a meeting, and the requirements for approval of a resolution at such a meeting are as set out in section 73(5) of the Act, subject only to clause 31.5.5, and accordingly –

31.5.1 if all of the directors of the company –

31.5.1.1 acknowledge actual receipt of the notice convening a meeting; or

31.5.1.2 are present at a meeting; or

31.5.1.3 waive notice of a meeting,

the meeting may proceed even if the company failed to give the required notice of that meeting or there was a defect in the giving of the notice;

31.5.2 a majority of the directors must be present at a meeting before a vote may be called at any meeting of directors;

31.5.3 each director has 1 (one) vote on a matter before the board;



- 31.5.4 a majority of the votes cast in favour of a resolution is sufficient to approve that resolution; and
- 31.5.5 in the case of a tied vote the chairman shall not have a deciding vote in addition to any deliberative vote.
- 31.6 If, within 30 (thirty) minutes from the time appointed for a meeting, a quorum is not present, the meeting shall stand adjourned to the same day in the next week at the same time and place, or if that day is a public holiday in the Republic, to the next succeeding business day. If present within 30 (thirty) minutes from the time appointed for the meeting, the directors at that meeting shall constitute a quorum.
- 31.7 Resolutions adopted by the board –
- 31.7.1 must be dated and sequentially numbered; and
- 31.7.2 are effective as of the date of the resolution, unless any resolution states otherwise.
- 31.8 The company shall keep minutes of the meetings of the board, and of any of its committees, and include in the minutes –
- 31.8.1 any disclosure made by notice or made by a director as required by section 75 of the Act, as contemplated in clause 30.7; and
- 31.8.2 every resolution adopted by the board.
- 31.9 Any minutes of any meetings of the directors or of the company, if purporting to be signed by the Chairman of such meeting, or by some person present thereat and appointed by the directors to sign the same in his place, or by the Chairman of the next succeeding meeting of the directors, or by any 2 (two) directors, shall be receivable as evidence of the matters stated in such minutes.
- 31.10 Any extract from such minutes or extract from any resolution in writing passed in terms of clause 31.4.1 if signed by any director or by the secretary or by any duly authorised person acting in the place of the secretary, shall be receivable as evidence of the matters stated in such minutes or extracts.



32 DIRECTORS' COMPENSATION

- 32.1 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 2 (two) years, as set out in section 66(8) and (9) of the Act, and the power of the company in this regard is not limited or restricted by this Memorandum of Incorporation.
- 32.2 Directors and alternate directors shall be paid all their travelling and other expenses properly and necessarily incurred by them in and about the business of the company, and in attending meetings of the directors or of committees thereof from any place in the Republic. If any director shall be required to perform extra service or to go or to reside abroad, or if any director shall be specially occupied about the company's business or perform services which, in the opinion of the directors, are outside the scope of the ordinary duties of a director, he may receive such extra remuneration as determined by a disinterested quorum of the directors and such extra remuneration may be either in addition to or in substitution for the remuneration provided for in clause 32.1.

33 INDEMNIFICATION OF DIRECTORS

- 33.1 The company may –
- 33.1.1 advance expenses to a director or directly or indirectly indemnify a director in respect of the defence of legal proceedings, as set out in section 78(4) of the Act;
- 33.1.2 indemnify a director in respect of liability as set out in section 78(5) of the Act; and/or
- 33.1.3 purchase insurance to protect the company or a director as set out in section 78(7) of the Act,

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

- 33.2 The provisions of clause 33.1 shall apply *mutatis mutandis* in respect of any former director, prescribed officer or member of any committee of the board, including the audit committee.



34 BORROWING POWERS

34.1 Subject to the provisions of clause 34.2 the other provisions of this Memorandum of Incorporation, the directors may from time to time -

34.1.1 borrow for the purposes of the company such sums as they think fit; and

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

34.2 The directors shall procure (but as regards subsidiaries of the company only insofar as by the exercise of voting and other rights or powers of control exercisable by the company they can so procure) that the aggregate principal amount at any one time outstanding in respect of monies so borrowed or raised by –

34.2.1 the company; and

34.2.2 all the subsidiaries for the time being of the company (excluding monies borrowed or raised by any of such companies from any other of such companies but including the principal amount secured by any outstanding guarantees or suretyships given by the company or any of its subsidiaries for the time being for the indebtedness of any other company or companies whatsoever and not already included in the aggregate amount of the monies so borrowed or raised),

shall not exceed the aggregate amount at that time authorised to be borrowed or secured by the company or the subsidiaries for the time being of the company (as the case may be).

35 COMMITTEES OF THE BOARD

35.1 The board may –

35.1.1 appoint committees of directors and delegate to any such committee any of the authority of the board as contemplated in section 72(1) of the Act; and/or



35.1.2 include in any such committee persons who are not directors, as contemplated in section 72(2)(a) of the Act,

and the power of the board in this regard is not limited or restricted by this Memorandum of Incorporation.

35.2 The authority of a committee appointed by the board as contemplated in section 72(2)(b) and (c) of the Act is not limited or restricted by this Memorandum of Incorporation.

35.3 If and for as long as it is required to do so in terms of the Act or the Regulations and unless the company is exempted from doing so by the Tribunal in terms of section 72(5) of the Act, the JSE Listings Requirements or any other applicable law, the board must appoint any and all such committees having the powers and functions prescribed in terms of section 72 of the Act and the Regulations, including the following committees –

35.3.1 an audit committee; and

35.3.2 a social and ethics committee.

35.4 The meetings and proceedings of any such committee, consisting of 2 (two) or more directors, shall be governed by the provisions herein contained for regulating the meetings and proceedings of the directors so far as the same are applicable thereto.

35.5 All acts done at any meeting of the directors or of any executive or other committee of the directors, or by any person acting as a director shall, notwithstanding that it shall afterwards be discovered that there was some defect in the appointment of the directors or persons acting as aforesaid, or that they or any of them were disqualified or had vacated office or were not qualified to vote be as valid as if every such person had been duly appointed and was qualified to be and to act and vote as a director.

36 FOREIGN COMMITTEES

36.1 Without prejudice to the general powers conferred by this Memorandum of Incorporation, it is hereby expressly declared that the directors shall be entrusted with the power to appoint persons resident in a country other than the Republic to be a foreign committee in that country, and at their discretion to remove or



suspend such foreign committee or any member thereof, to fix and vary their remuneration, and also to open branch securities registers in foreign countries and transfer offices of the company where necessary and to close the same at their discretion, and to appoint and remove agents to represent the company for the issue, subdivision and transmission of shares, and for such other purposes as the directors, subject to the provisions of this Memorandum of Incorporation, may determine. The directors may also give the members of such foreign committee, or any such agents, the power to appoint alternate committeemen or substituted agents and to remove such alternates and substitutes, to appoint others or to act again themselves, and also to grant to such committeemen or agents power to appoint other persons as co-committeemen or joint agents. Any director who is in the country for which the foreign committee is appointed to act may take part in the proceedings of such committee and shall have the same rights and privileges as any member of the committee.

- 36.2 All appointments of alternate committeemen or substituted agents by members of any foreign committee made in accordance with the provisions of the preceding clause shall be subject to the approval of the remaining members of the foreign committee and shall be reported forthwith to the directors. No member of the foreign committee or his alternate shall be obliged to be a member.
- 36.3 The directors may at any time by power of attorney appoint any person or persons to be the attorney or attorneys of the company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the directors under this Memorandum of Incorporation) including the right of sub-delegation, and for such period and subject to such conditions as the directors may from time to time think fit. Any such appointment may, if the directors think fit, be made in favour of any or all of the members of any foreign committee, or in favour of any company, or the shareholders, directors, nominees or managers of any company or firm, or otherwise in favour of any fluctuating body of persons, whether nominated directly or indirectly by the directors. Any such power of attorney may contain such provisions for the protection or convenience of persons dealing with such attorneys as the directors may think fit.



37 ANNUAL FINANCIAL STATEMENTS

37.1 The company shall keep all such accurate and complete accounting records, in English, as are necessary to enable the company to satisfy its obligations in terms of –

37.1.1 the Act;

37.1.2 any other law with respect to the preparation of financial statements to which the company may be subject; and

37.1.3 this Memorandum of Incorporation.

37.2 The company shall each year prepare annual financial statements within 6 (six) months after the end of its financial year, or such shorter period as may be appropriate to provide the required notice of an annual general meeting in terms of section 61(7) of the Act.

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

37.4 The annual financial statements of the company must be prepared and audited in accordance with the provisions of section 30 of the Act.

37.5 A copy of the annual financial statements must be sent to shareholders at least 15 (fifteen) business days before the date of the annual general meeting of the company at which such annual financial statements will be considered.

37.6 The annual financial statements shall be prepared on a basis that is not inconsistent with any unalterable or non-elective provision of the Act and shall –

37.6.1 satisfy, as to form and content, the financial reporting standards of IFRS; and

37.6.2 subject to and in accordance with IFRS –

37.6.2.1 present fairly the state of affairs and business of the company and explain the transactions and financial position of the business of the company;

37.6.2.2 show the company's assets, liabilities and equity, as well as its income and expenses;



- 37.6.2.3 set out the date on which the statements were produced and the accounting period to which they apply; and
- 37.6.2.4 bear on the first page thereof a prominent notice indicating that the annual financial statements have been audited and the name and professional designation of the person who prepared them.
- 37.7 All annual financial statements when audited and laid before an annual general meeting shall be deemed conclusively correct, and shall not be re-opened.
- 37.8 Subject to any applicable provisions contained in the JSE Listings Requirements from time to time, nothing contained in this clause 37 or any other provision of this Memorandum of Incorporation shall be construed as restricting the company's ability to issue summarised financial statements as contemplated in section 29(3) of the Act.

38 AUDITOR

- 38.1 The company shall appoint an auditor each year at its annual general meeting. If the company appoints a firm as its auditor, any change in the composition of the members of that firm shall not by itself create a vacancy in the office of auditor.
- 38.2 Auditors shall be appointed and their duties regulated in accordance with the provisions of the JSE Listings Requirements, the Companies Act and any other applicable law.
- 38.3 All acts done by any person acting as auditor, shall, as regards all persons dealing in good faith with the company, be valid notwithstanding that there was some defect in his appointment.

39 COMPANY SECRETARY

- 39.1 The company must, as required by section 86(1) of the Act, appoint a company secretary and such company secretary may be a juristic person or partnership as contemplated in section 87 of the Act.
- 39.2 The company secretary must, as required by section 86(2) of the Act, have the requisite knowledge of, or experience with, relevant laws and be a permanent resident of the Republic.



39.3 The board must fill any vacancy in the office of company secretary within 60 (sixty) business days after such vacancy arises by a person whom the directors consider to have the requisite knowledge and experience.

39.4 The company secretary shall be appointed by the directors for such term, at such remuneration and upon such conditions as they may think fit and any company secretary so appointed may be removed by the directors.

40 DISTRIBUTIONS

40.1 Subject to the provisions of the Act, and particularly section 46 of the Act, the company may make a proposed distribution if such distribution –

40.1.1 is pursuant to an existing legal obligation of the company, or a court order; or

40.1.2 is authorised by resolution of the board, in compliance with the JSE Listings Requirements.

40.2 No distribution shall bear interest against the company, except as otherwise provided under the conditions of issue of the shares in respect of which such distribution is payable.

40.3 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.

40.4 No larger distribution shall be declared by the company in general meeting than is recommended by the directors, but the company in general meeting may declare a smaller distribution.

40.5 All unclaimed monies 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, subject to the laws of prescription.

40.6 Any distribution, interest or other sum payable in cash to a shareholder may be paid by electronic transfer for credit to an account nominated in writing by the shareholder.

40.7 The making of such electronic transfer, to whomsoever effected, shall be a good discharge to the company.



- 40.8 A holder or any one of two or more joint holders, or his or their agent duly appointed in writing, may give valid receipts for any distributions or other monies paid in respect of a share held by such holder or joint holders.
- 40.9 A distribution may also be paid in any other way determined by the directors, and if the directives 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.
- 40.10 Without detracting from the ability of the company to issue capitalisation shares, any distribution may be paid wholly or in part -
- 40.10.1 by the distribution of specific assets; or
- 40.10.2 by the issue of shares, debentures or securities of the company or of any other company; or
- 40.10.3 in cash; or
- 40.10.4 in any other way which the directors or the company in general meeting may at the time of declaring the distribution determine.
- 40.11 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.
- 40.12 The directors may -
- 40.12.1 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
- 40.12.2 vest any such assets in trustees upon such trusts for the benefit of the persons entitled to the distribution as the directors deem expedient.
- 40.13 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.



- 40.14 The company shall be entitled at any time to delegate its obligations to any shareholder in respect of unclaimed dividends or other unclaimed payments to any one of the 'company's bankers from time to time or to any trust or other entity created by the directors for this purpose.
- 40.15 The directors may resolve that any distribution made to shareholders whose registered addresses are outside the Republic or who have given written instructions requesting payment at addresses outside the Republic shall be paid in such other currency or currencies as may be stipulated by the directors. The directors may also stipulate the date ("**currency conversion date**") upon which, and a provisional rate of exchange at which, the currency of the Republic shall be converted into such other currency or currencies, provided that such currency conversion date shall be within a period of 30 (thirty) days prior to the date of payment. If, in the opinion of the directors, there is no material difference between the rate/s of exchange ruling on the currency conversion date and the provisional rate/s of exchange stipulated by the directors, then the currency of the Republic shall be converted at the latter rate/s, but if in the opinion of the directors there is a material difference then the currency of the Republic shall be converted into such other currency or currencies at the rate/s of exchange ruling on the currency conversion date, or at a rate or rates of exchange which, in the opinion of the directors, is/are not materially different. Any subsequent rise or fall of rate/s of exchange determined as above shall be disregarded.
- 40.16 Without derogating from the foregoing, it is recorded that it is the intention of the company to maintain a dividend policy from time to time appropriate for JSE listed companies similarly placed to the company. The directors, however, acting in accordance with their fiduciary duties will declare and procure that the company pays on an annual basis, so much of the company's consolidated attributable after tax profits as shall be available after retaining such sums and repaying such debts owing to third parties as shall be necessary to meet the requirements reflected in the budget and business plan of the company, taking into account monies required for expansion and other growth opportunities.



41 RESERVES

- 41.1 The directors may, before declaring or recommending any dividends set aside out of the amount available for dividends, set aside out of the profits of the company such sums as they think proper as reserves or an addition thereto.
- 41.2 The directors may divide the reserves into such special funds as they think fit, with full power to employ the assets constituting such fund or funds in the business of the company, or may invest the same upon such investments (other than the shares of the company) as they may select without being liable for any depreciation of or loss in consequence of such investments whether the same be usual or authorised investments for trust funds or not.
- 41.3 The reserves shall, at the discretion of the directors, be applicable for –
- 41.3.1 the equalisation of dividends;
 - 41.3.2 making provision for exceptional losses, expenses or contingencies;
 - 41.3.3 the extension or development of the 'company's business;
 - 41.3.4 writing down the value of any of the assets of the company;
 - 41.3.5 repairing, improving and maintaining any buildings, plant, machinery or works connected with the business of the company, or to cover the loss in wear and tear or other depreciation in value of any property of the company;
 - 41.3.6 any of the objects or powers of the company;
 - 41.3.7 payment to the shareholders in terms of this Memorandum of Incorporation or in any manner allowed in law; or
 - 41.3.8 any other purpose to which the profits of the company may be properly applied, and the directors may at any time divide among the shareholders by way of bonus, or special dividends, any part of the reserves which they in their discretion may determine not to be required for the purposes aforesaid.

42 AUTHENTICATION OF DOCUMENTS

- 42.1 Any director or the company secretary or any person appointed by the directors for the purpose shall have power to authenticate –



- 42.1.1 this Memorandum of Incorporation;
- 42.1.2 any resolution passed by the company or the directors;
- 42.1.3 any books, records, documents and accounts relating to the business of the company,

and to certify copies thereof or extracts therefrom as true copies or extracts.

- 42.2 Where any books, records, documents or accounts are elsewhere than at the office, the local manager or other officer of the company or other person having the custody thereof shall be deemed to be a person duly appointed by the directors for the abovementioned purpose.

43 ACCESS TO COMPANY RECORDS

- 43.1 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) of the Act, being –

- 43.1.1 this Memorandum of Incorporation, and any amendments or alterations thereof;

- 43.1.2 a record of the directors, including the details of any person who has served as a director, for a period of 7 (seven) years after that person has ceased to serve as a director, and any information relating to such persons referred to in section 24(5) of the Act;

- 43.1.3 all –

- 43.1.3.1 reports presented at an annual general meeting of the company for a period of 7 (seven) years after the date of any such meeting; and

- 43.1.3.2 annual financial statements required by the Act for a period of 7 (seven) years after the date on which each such particular statements were issued;

- 43.1.4 notice and minutes of all shareholders meetings, including –



- 43.1.4.1 all resolutions adopted by them, for 7 (seven) years after the date each such resolution was adopted; and
 - 43.1.4.2 any document that was made available by the company to the holders of securities in relation to each such resolution;
 - 43.1.5 any written communications sent generally by the company to all holders of any class of the company's securities, for a period of 7 (seven) years after the date on which each of such communications was issued; and
 - 43.1.6 the securities register.
- 43.2 A person not contemplated in clause 43.1 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 for any such inspection.
- 43.3 A person who wishes to inspect the uncertificated securities register may do so only through the company in terms of section 26 of the Act, and in accordance with the rules of the Central Securities Depository. Within 5 (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) of the Act at the close of business on the day on which the request for inspection was made.

44 PAYMENT OF COMMISSION

- 44.1 The company may pay a commission at a rate not exceeding 10% (ten percent) of the issue price of a share to any person in consideration of his 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.
- 44.2 Any such commission may be paid or agreed to be paid –
- 44.2.1 out of capital or out of profits, whether current or standing to reserve or carried forward, or out of both capital and profits; or
 - 44.2.2 out of cash or by way of fully paid up shares, or by a combination of both.



45 NOTICES

- 45.1 All notices shall be given by the company to each shareholder of the company and simultaneously to the Issuer Services Division of the JSE, and shall be given in writing in any manner authorised by the JSE Listings Requirements and the Regulations, and particularly Table CR 3 annexed to the Regulations. All notices shall, in addition to the above, be released through SENS provided that, in the event that the shares or other securities of the company are not listed on the JSE, all the provisions of this Memorandum of Incorporation relating to the publication of notices via SENS shall no longer apply and such notices shall thereafter only be published in accordance with the provisions of the Act.
- 45.2 Each shareholder of the company –
- 45.2.1 shall notify in writing to the company an address, which address shall be his registered address for the purposes of receiving written notices from the company by post; and
- 45.2.2 may notify in writing to the company an email address and/or facsimile number, which address shall be his address for the purposes of receiving notices by way of electronic communication.
- 45.3 Any shareholder whose address in the securities register is an address not within the Republic, shall be entitled to have notices served upon him at such address.
- 45.4 In the case of joint holders of a share, all notices shall, unless such holders otherwise in writing request 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.
- 45.5 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.
- 45.6 Every person who by operation of law, transfer or other means whatsoever becomes entitled to any share, shall be bound by every notice in respect of that share 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 share.



- 45.7 Any notice or document delivered or sent by post to or left at the registered address of any shareholder in pursuance of this Memorandum of Incorporation 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 shares, 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 Memorandum of Incorporation 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 shares.
- 45.8 As required in terms of section 93(1)(c)(ii) of the Act, the company shall provide the auditors of the company with all notices of and other communications relating to any general shareholders meeting.

46 LISTING ON SECURITIES EXCHANGES

- 46.1 The company may seek listings on such securities exchanges as the directors may consider appropriate from time to time.
- 46.2 For so long as the shares are listed on any securities exchange in addition to the JSE, if the listing on the JSE is the primary listing and if the company is obliged to obtain the approval of the JSE in regard to any matter, it shall be obliged also to obtain the consent at the same time of any other securities exchanges on which it is listed.

47 WINDING UP

- 47.1 If the company shall be wound up, whether voluntarily or otherwise, the liquidator may with the sanction of a special resolution divide among the shareholders *in specie* any part of the assets of the company.
- 47.2 The liquidator may (with the like sanction) vest any part of the assets of the company in trust for the benefit of the shareholders as he shall think fit, and if thought expedient any such division so sanctioned may be otherwise than in accordance with the legal rights of the shareholders of the company, and in particular any class may be given preferential or special rights or may be excluded altogether or in part.



48 ODD-LOT OFFER

48.1 If, upon the implementation of any odd-lot offer made by the company, or pursuant to or following any odd-lot offer made by the company which is unconditional, in accordance with the JSE Listings Requirements, there are shareholders holding less than 100 (one hundred) ordinary shares or shareholders holding less than 100 (one hundred) ordinary shares on behalf of a person who owns the beneficial interest in such shares ("**odd-lot holdings**"), then, unless such shareholders have elected to –

48.1.1 retain their odd-lot holdings; or

48.1.2 sell their odd-lot holdings; or

48.1.3 increase the number of shares held to holdings of 100 (one hundred) shares or more,

the directors shall, with the approval of an ordinary resolution passed at a general meeting, be entitled to cause the odd-lot holdings to be sold on such basis as the directors may determine and the company shall account to such shareholders for the proceeds attributable to them pursuant to the sale of such odd-lot holdings.

49 AMENDMENT OF MEMORANDUM OF INCORPORATION

49.1 Subject to the provisions of clause 5.4, this Memorandum of Incorporation may only be altered or amended by way of a special resolution of the ordinary shareholders in accordance with section 16(1)(c) of the Act, except if such amendment is in compliance with a Court order as contemplated in section 16(1)(a) of the Act.

49.2 An amendment of this Memorandum of Incorporation will take effect from the later of –

49.2.1 the date on, and time at, which the Commission accepts the filing of the notice of amendment contemplated in section 16(7) of the Act; and

49.2.2 the date, 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 the Commission.



50 COMPANY RULES

The board is prohibited from making, amending or repealing any rules as contemplated in section 15(3) of the Act and the board's capacity to make such rules is hereby excluded.

ADOPTION

This Memorandum of Incorporation was adopted by special resolution of the shareholders on 20 July 2012.

