

Republic of South Africa

Companies Act No. 71 of 2008 (as amended)

MEMORANDUM OF INCORPORATION FOR A PRIVATE COMPANY

Name of company: **RH BOPHELO OPERATING COMPANY PROPRIETARY LIMITED**

Registration No: 2016/533529/07

(the "**Company**")

This memorandum of incorporation was adopted by Special Resolution passed on 30 March 2017, a copy of which was filed together with the notice of amendment in substitution for the existing memorandum of incorporation.

The memorandum of incorporation in the prescribed form as contemplated in section 13(1)(a)(i) of the Companies Act No. 71 of 2008, as amended, shall not apply to the Company.

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PART ONE: INTRODUCTION

1. DEFINITIONS

In this MOI, –

- 1.1. words and expressions that are defined in the Companies Act and/or the Regulations and which are not defined herein shall have the meanings given to them in the Companies Act and/or the Regulations. For ease of reading, such terms have been capitalised in this MOI; and
- 1.2. unless otherwise indicated, the following terms shall have the meaning assigned to them hereunder and cognate expressions shall have a corresponding meaning:
 - 1.2.1. **“Accounting Period”** means the period commencing on the first day of the financial year of the Holding Company in each calendar year and ending on the last day of such financial year of the Holding Company in the immediately succeeding calendar year, it being agreed however that the:
 - 1.2.1.1. initial “Accounting Period” of the Company shall be the period commencing on the Commencement Date and ending on the first day of the financial year of the Company after the Commencement Date; and
 - 1.2.1.2. last “Accounting Period” of the Company shall be the period commencing on the most recent financial year of the Company and ending on the termination date of the Management Agreement;
 - 1.2.2. **“Board”** means the board of Directors of the Company from time to time or, if there is only 1 (one) Director, then that Director;
 - 1.2.3. **“Companies Act”** means the Companies Act No. 71 of 2008, as amended, consolidated or re-enacted from time to time, and includes all schedules thereto and the Regulations;
 - 1.2.4. **“Company”** means the Company as defined as such on the front page of this MOI;
 - 1.2.5. **“Filing Date”** means the date on which this MOI is filed with the Companies and Intellectual Property Commission in accordance with section 16(7);
 - 1.2.6. **“Financial Year”** shall have the meaning ascribed thereto in Clause 48;
 - 1.2.7. **“Holding Company”** means RH Bophelo Proprietary Limited (Registration No. 2016/533398/07) (which shall be converted to a public company and, it is intended, will be renamed RH Bophelo Limited);

- 1.2.8. **"MOI"** or **"Memorandum of Incorporation"** means the memorandum of incorporation of the Company, being this document (and including any schedules hereto), as amended or replaced from time to time;
- 1.2.9. **"Ordinary Share"** shall have the meaning ascribed thereto in Clause 9, and **"Ordinary Shares"** shall have a corresponding meaning;
- 1.2.10. **"Prescribed Officer"** shall have the meaning given to that term in Regulation 38, and **"Prescribed Officers"** shall have a corresponding meaning;
- 1.2.11. **"Regulations"** means regulations published pursuant to the Companies Act as amended, consolidated or re-enacted from time to time; and
- 1.2.12. **"Share"** a share (as defined in the Companies Act) of the Company, which includes an Ordinary Share.

2. INTERPRETATION

For the purposes of this MOI the following rules of construction shall apply, unless the context requires otherwise -

- 2.1. references to a Shareholder represented by proxy shall include Shareholders entitled to vote represented by an agent appointed under a general or special power of attorney;
- 2.2. the holder of a general or special power of attorney given by a Shareholder shall be entitled to vote, if duly authorised under that power of attorney to attend and take part in the Shareholders Meetings and proceedings of the Company, whether or not he be himself a Shareholder of the Company;
- 2.3. all references to **"section/s"** in this MOI refer to the corresponding sections of the Companies Act, unless the context indicates otherwise and all references to **"Clauses"** are to Clauses of this MOI;
- 2.4. words and expressions that are defined in the Listings Requirements and which are not defined herein shall have the meaning given to them in the Listings Requirements;
- 2.5. references to Shareholders entitled to vote Present At A Meeting or acting in person shall include Juristic Persons represented by duly authorised representative or acting in the manner prescribed in section 57(5);
- 2.6. any reference to **"Present At Such Meeting"** or **"Present At The Meeting"** will be construed in accordance with the definition of **"Present At A Meeting"** in the Companies Act;
- 2.7. the headings are for reference purposes only and shall not affect the interpretation of this MOI;

- 2.8. words in the singular number shall include the plural, and words in the plural number shall include the singular, words importing the masculine gender shall include the female gender, and words importing persons shall include created entities (corporate or not);
- 2.9. if any term is defined within the context of any particular Clause in the MOI, the term so defined, unless it is clear from the Clause in question that the term so defined has limited application to the relevant Clause, shall bear the meaning ascribed to it for all purposes in terms of this MOI, notwithstanding that that term has not been defined in Clause 1 ;
- 2.10. save to the extent Item 4(4) of Schedule 5 of the Companies Act may permit this MOI to prevail, if the provisions of this MOI are in any way inconsistent with the provisions of the Companies Act, the provisions of the Companies Act shall prevail, and this MOI shall be read in all respects subject to the Companies Act;
- 2.11. any reference to an enactment is to that enactment as at the Filing Date and as amended or re-enacted or replaced from time to time and includes any subordinate legislation made from time to time under such enactment;
- 2.12. if any provision in a definition is a substantive provision conferring rights or imposing obligations on any Person, notwithstanding that it is only in Clause 1, effect shall be given to it as if it were a substantive provision in the body of the MOI;
- 2.13. the rule of construction that a contract shall be interpreted against the party responsible for the drafting or preparation of the contract, shall not apply to this MOI;
- 2.14. the words "**include**", "**including**", "**in particular**", "**other**" and "**otherwise**" shall be construed as being by way of example or emphasis only and shall not be construed as, nor shall they take effect as, limiting the generality of any preceding word/s (and as such the *eiusdem generis* rule shall not apply);
- 2.15. any reference in this MOI to any other agreement or document shall be construed as a reference to such other agreement or document as same may have been, or may from time to time be, amended, varied, novated or supplemented;
- 2.16. "**in writing**" means legible writing and in English and includes printing, typewriting, lithography or any other mechanical process, as well as any Electronic Communication; and
- 2.17. when a particular number of "**Business Days**" is provided for between the happening of one event and another, the number of days must be calculated by –
 - 2.17.1. excluding the day on which the first such event occurs;
 - 2.17.2. including the day on or by which the second event is to occur; and
 - 2.17.3. excluding any public holiday, Saturday or Sunday that falls on or between the days contemplated in Clauses 2.17.1 and 2.17.2 respectively.

PART TWO: NATURE OF THE COMPANY

3. JURISTIC PERSONALITY

The Company was incorporated on 13 December 2016 and is a Private Company as defined in the Companies Act.

4. PRIVATE COMPANY

4.1. The Company –

4.1.1. is a Profit Company;

4.1.2. is prohibited from offering any of its Shares or other Securities to the public; and

4.1.3. has restrictions on the transferability of its Shares and other Securities as set out in this MOI.

4.2. The Company is, accordingly, classified as a Private Company in accordance with the provisions of section 8(2)(b).

5. POWERS AND CAPACITY OF THE COMPANY

5.1. The Company has the powers and capacity of an individual except to the extent that a Juristic Person is incapable of exercising any such power, or having such capacity.

5.2. There is no provision of this MOI that constitutes a restrictive condition, as contemplated in section 15(2)(b).

6. AMENDMENT OF THE MOI

6.1. Every provisions of this MOI is capable of alteration or amendment in accordance with section 16(1)(a), 16(1)(c), 17 and 152(6)(b). Accordingly, the provisions of section 15(2)(c) shall not apply.

6.2. The MOI may only be altered or amended –

6.2.1. in compliance with a court order on the basis set out in section 16(1)(a) read with section 16(4);

6.2.2. by way of a Special Resolution passed in accordance with section 16(1)(c), read in conjunction with the remaining provisions of the Companies Act and this MOI; or

6.2.3. as contemplated in section 17 and section 152(6)(b).

- 6.3. The MOI may not be amended by the Board on the basis set out in section 16(1)(b), nor in accordance of any other Alterable Provision of the Companies Act that allows for a method for the alteration or amendment of the MOI by the Board other than those methods contemplated in Clause 6.1, Clause 6.2 or elsewhere in this MOI.
- 6.4. The Company must publish a notice of any alteration made to this MOI in order to correct this MOI in accordance with section 17(1) by delivering notice of the amended MOI to the Shareholders in accordance with the provisions of Clause 54 and shall file a notice of the alteration in the manner prescribed in the Companies Act.
- 6.5. Any change to the name of the Company shall be affected by an amendment to this MOI by way of a Special Resolution, as contemplated in Clause 6.2.2.

7. RULES

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

8. ELECTION IN RESPECT OF OPTIONAL PROVISIONS OF THE COMPANIES ACT

The Company does not elect -

- 8.1. in terms of section 34(2), to comply voluntarily with the provisions of Chapter 3 of the Companies Act; or
- 8.2. in terms of section 118(1)(c)(ii), to comply voluntarily with the provisions of Part B and Part C of Chapter 5 of the Companies Act and Takeovers Regulations, but this Clause does not derogate from section 118(1)(c)(i).

PART THREE: CAPITALISATION AND SECURITIES OF THE COMPANY

9. SHARE CAPITAL AND VARIATION OF PREFERENCES, RIGHTS, LIMITATIONS AND OTHER TERMS

- 9.1. The Company is authorised to issue 10 000 (ten thousand) ordinary shares with no par value of the same class.
- 9.2. Each such Share shall rank *pari passu* with all other Shares and shall entitle the holder thereof to –
 - 9.2.1. 1 (one) vote on a show of hands irrespective of the Voting Rights such holder would otherwise be entitled to exercise or 1 (one) vote for each Shares held in respect of every matter to be decided on a poll;
 - 9.2.2. vote on any matter to be decided by the Shareholders at any Shareholders Meeting;

- 9.2.3. vote on any proposal to amend the preferences, rights, limitations and other terms associated with that Share;
 - 9.2.4. participate proportionally in any Distribution made by the Company; and
 - 9.2.5. receive proportionally the net assets of the Company upon its liquidation.
- 9.3. All or any of the rights, privileges or conditions attached to any class of securities of the Company may (unless otherwise provided by the terms of issue of the securities of that class), whether or not the Company is being wound up, be varied in any manner with the consent in writing of the holders of not less than $\frac{3}{4}$ (three fourths) of the voting rights of the issued securities of that class at a separate meeting of the holders of that class, in addition to any other consents required in terms of this MOI and/or the Companies Act.
- 9.4. The provisions of this MOI relating to shareholders meetings shall *mutatis mutandis* apply to any such separate meeting.
- 9.5. The Board will not in accordance with section 36(3), have the power to –
- 9.5.1. increase or decrease the number of authorised Shares of any class of Shares;
 - 9.5.2. reclassify any classified Shares that have been authorised but not issued;
 - 9.5.3. classify any unclassified Shares that have been authorised but not issued; or
 - 9.5.4. determine the preferences, rights, limitations or other terms of Shares contemplated in section 36(1)(d)(iii),
- which power shall be reserved for the shareholders as contemplated in Clause 9.6 below.
- 9.6. The Shareholders may, by amendment to this MOI passed by way of Special Resolution of the Shareholders as contemplated in Clause 6.2.2 above –
- 9.6.1. increase or decrease the number of authorised Shares of any class of Shares;
 - 9.6.2. reclassify any classified Shares that have been authorised but not issued;
 - 9.6.3. classify any unclassified Shares that have been authorised but not issued; or
 - 9.6.4. determine the preferences, rights, limitations or other terms of Shares.

10. **AUTHORITY TO ISSUE SECURITIES AND OPTIONS TO SUBSCRIBE FOR SECURITIES**

- 10.1. The Board shall not have the power to issue Shares or other Securities of the Company (other than as contemplated in Clause 12 : (a) unless such Shares or other Securities of the

Company have been authorised in terms of this MOI; and (b) without the approvals contemplated in Clause 10.2.

10.2. As regards the issue –

10.2.1. in terms of section 41, of Shares or other Securities convertible into Shares, or the grant of options contemplated in section 42, or the grant of any other rights exercisable for Securities of the Company, the Board shall not have the power to allot or issue same without the approval of a Special Resolution;

10.2.2. in terms of section 42, of options for the allotment or subscription of Shares or other Securities of the Company, the Board shall not have the power to issue same without the approval of an Ordinary Resolution; and

10.2.3. of Shares and other Securities of the Company, other than those contemplated in Clause 10.2.1, the Board shall not have the power to issue or allot the same without the approval of an Ordinary Resolution.

10.3. Any approvals contemplated in Clause 10.2 may be in the form of a general authority to the Board, whether conditional or unconditional, to allot and issue any Shares or other Securities of the Company in their discretion, or in the form of a specific authority in respect of any particular allotment or issue of any Shares or other Securities of the Company. Such authority shall endure for the period provided in the Ordinary Resolution or Special Resolution in question but may be revoked by Ordinary Resolution or Special Resolution, as the case may be, at any time.

10.4. 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 section 37(6) and section 37(7).

11. **DEBT INSTRUMENTS**

The Board may authorise the Company to issue secured or unsecured debt instruments as set out in section 43(2), provided that the Board shall not be entitled to issue any debt instruments that grant the holders thereof any rights regarding attending and voting at general meetings and the appointment of Directors. The debt instrument may not confer on the holder thereof any right to receive any Shares or other Securities of the Company (whether by way of redemption or substitution of the debt instrument) without the approval of an Ordinary Resolution. The authority of the Board to authorise the Company to issue secured or unsecured debt instruments, as set out in section 43(2), is accordingly limited and restricted by this MOI as aforesaid.

12. **CAPITALISATION ISSUE**

12.1. The Board is authorised to approve the issuing of any authorised Shares as capitalisation shares, to issue Shares of one class as capitalisation shares in respect of Shares of another

class, and to resolve to permit Shareholders to elect to receive a cash payment in lieu of a capitalisation shares, as set out in, and in accordance with, section 47(1).

12.2. The Board may not resolve to offer a cash payment in lieu of awarding a capitalisation share, as contemplated in section 47(1)(c), unless the Board –

12.2.1. has considered the Solvency and Liquidity Test, as required by section 46, on the assumption that every such Shareholder would elect to receive cash; and

12.2.2. is satisfied that the Company would satisfy the Solvency and Liquidity Test immediately upon completion of the Distribution.

13. **SUBSCRIPTION OF SHARES**

13.1. Subject to Clause 13.2, unissued Shares shall be offered to existing Shareholders *pro rata* to their shareholding in the Company and in accordance with section 39.

13.2. The provisions of Clause 13.1 and section 39 shall not apply in circumstances where the Company, with the requisite approval by Shareholders as contemplated in Clause 10.2, approves the issue of Shares –

13.2.1. for the purposes of the acquisition of assets;

13.2.2. for the purposes of an approved share incentive scheme;

13.2.3. for the purposes of an Amalgamation or Merger; and/or

13.2.4. in terms of options or conversion rights or as contemplated in section 40(5) to (7) or as a capitalisation issue as contemplated in section 47, as more fully contemplated in section 39(1)(b)(i) and (ii).

14. **REGISTRATION OF BENEFICIAL INTEREST**

Save as otherwise contemplated in this MOI, the Company shall not permit issued Shares or other Securities of the Company to be held by, and registered in the name of, one person for the Beneficial Interest of another and as such 'nominee' ownership of issued Securities is prohibited. As such, no Person shall be permitted to vote at a meeting of holders of a class of Securities on behalf of another (save a proxy or as authorised representative of a holder) and the Company shall not recognise any Person other than the registered holder of a Security as the holder.

15. **RESTRICTION ON THE TRANSFER OF SECURITIES**

15.1. The common form of transfer shall be used for the transfer of Shares and other Securities in the Company or any other form which the Board may approve.

15.2. Every instrument of transfer shall be left at the transfer office of the Company at which it is presented for registration accompanied by the certificate of the Securities so transferred

and/or such other evidence as the Company may require, to provide the title of the transferor or his rights to transfer the Securities.

- 15.3. Shares or other Securities of the Company may be transferred only pursuant to the authority of a resolution of the Directors and the Directors may at any time in their absolute discretion and without assigning any reason therefor decline to authorise the registration of any transfer. The Directors shall be deemed to have declined to authorise the registration of any proposed transfer of Shares or other Securities of the Company until they have resolved to authorise it.

16. REGISTER AND CERTIFICATES

- 16.1. The Securities issued by the Company shall be issued in certificated form.
- 16.2. The Company shall establish (or cause to be established) and maintain (or cause to be maintained) a Securities Register in accordance with the provisions of the Companies Act and the Regulations and, to the extent that the form and the manner of maintaining the Securities Register is not prescribed, the Board shall determine the form and manner thereof.
- 16.3. The Company shall enter into its Securities Register the transfer of any certificated Securities, which is effected in accordance with the provisions of Clause 15 and shall include in such entry the information required by section 51(5).
- 16.4. If a certificate evidencing any certificated Securities is defaced, lost or destroyed, it may be replaced, on such terms, as to evidence and indemnity (in respect of any loss of any nature which the Company may incur pursuant to the replacement thereof) as the Directors think fit, and (in case of defacement) on delivery of the old certificate.
- 16.5. Each Shareholder shall be entitled to 1 (one) certificate for all of the Securities of a particular class registered in his name, or to several certificates, each for a part of such Securities.
- 16.6. Every certificate evidencing certificated Securities shall: (a) specify the number of Securities in respect of which it is issued; and (b) comply with the requirements set out in section 51(1).
- 16.7. The Directors may, in their discretion, record in the Securities Register that any Securities are held by a trust and for whom such Securities are so held.

17. TRANSMISSION OF SECURITIES BY OPERATION OF LAW

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

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

- 17.1.2. the trustee of an insolvent holder;
- 17.1.3. the liquidator of a body corporate;
- 17.1.4. the tutor or curator of a holder under disability;
- 17.1.5. the executor or administrator of the estate of a deceased holder; or
- 17.1.6. any other person becoming entitled to any Securities held by a holder by any lawful means other than transfer in terms of this MOI,

shall, upon production of such evidence as may be required by the Directors, have the right either -

- 17.1.7. to exercise the same rights and to receive the same Distributions and other advantages to which he would be entitled if he were the holder of the Securities registered in the name of the holder concerned; or
- 17.1.8. herself/himself/itself to be registered as the holder *nomino officii* in respect of those Securities and to make such transfer of those Securities as the holder concerned could have made, but the Directors shall have the same right to decline or suspend registration as they would have had in the case of a transfer of the Securities by the holder.

18. ACQUISITION OF SHARES

The Company is authorised to repurchase its Shares and those of the Holding Company in accordance with and subject to the provisions of section 48 of the Companies Act and the Listings Requirements (where necessary).

PART FOUR: SHAREHOLDERS

19. SHAREHOLDERS' RIGHT TO INFORMATION

Each Shareholder and each Person who holds or has a Beneficial Interest (if permitted by this MOI) in any Securities issued by the Company will have the information rights set out in section 26 read with Regulation 24, or elsewhere in the Companies Act and this MOI.

20. SHAREHOLDERS' AUTHORITY TO ACT

20.1. If, at any time, there is only one Shareholder, the authority of that Shareholder to exercise any or all of the Voting Rights pertaining to the Company on any matter and at any time without notice or compliance with any other internal formalities, as set out in section 57(2), is not limited or restricted by this MOI and section 59 to section 65 does not apply to the governance of the Company. Accordingly, the provisions of Clause 22 and Part Five of this MOI will not apply.

20.2. If, at any time, every Shareholder is also a Director, as contemplated in section 57(4), any matter that is required to be referred by the Board to the Shareholders for decision may be decided by the Shareholders at any time after being referred by the Board without notice or compliance with any other internal formalities, and that power is not limited or restricted by this MOI, subject to compliance with the requirements of section 57(4).

21. PROXIES

21.1. Representation by concurrent proxies

The rights of a Shareholder to appoint Persons concurrently as proxies is not restricted or limited by this MOI, as more fully contemplated in section 58(3)(a).

21.2. Authority of proxy to delegate

Save for any restriction set out in the instrument appointing the proxy, the authority of a Shareholder's proxy to delegate the proxy's powers to another Person is not limited or restricted by this MOI, as more fully contemplated in section 58(3)(b).

21.3. Requirement to deliver proxy instrument to the Company

21.3.1. The requirement that a Shareholder must deliver to the Company, or to any other Person on behalf of the Company, a copy of the instrument appointing a proxy before that proxy may exercise the Shareholder's rights at a Shareholders Meeting is not varied by this MOI, as more fully contemplated in section 58(3)(c).

21.3.2. The instrument appointing a proxy shall be delivered to the Company's Registered Office not less than 24 (twenty four) hours before the time appointed for the holding of the Shareholders Meeting, or the resumption of an adjourned Shareholders Meeting, at which the Person named therein proposes to vote; provided that any instrument appointing a proxy not delivered within the aforesaid time period may be handed to the chairperson of the Shareholders Meeting immediately prior to the commencement of the Shareholders Meeting before the proxy may exercise the Shareholder's rights.

21.4. Deliberative authority of proxy

The authority of a Shareholder's proxy to decide without direction (except to the extent that the instrument appointing a proxy provides otherwise), from the Shareholder whether to exercise, or abstain from exercising any Voting Rights of the Shareholder is not limited or restricted by this MOI, as more fully contemplated in section 58(7).

21.5. Proxy Instrument

Subject to the provisions of the Companies Act, a form appointing a proxy may be in any usual or common form. The Company shall supply a generally standard form of proxy upon request by a Shareholder entitled to vote. The Board may determine a standard form of proxy appointment and make it available to Shareholders on request.

21.6. Duration

A proxy appointment remains valid for 1 (one) year after the date on which it was signed or any longer or shorter period expressly set out in the appointment, unless it is revoked in the manner contemplated in section 58(4)(c) or expires earlier as contemplated in section 58(8)(d).

21.7. Validity of Proxy Instrument

A vote given in accordance with the terms of any instrument of proxy shall be valid notwithstanding the death or mental disorder of the principal or revocation of the proxy or of the authority under which the proxy was executed, or the transfer of the Securities in respect of which the proxy is given, provided that no intimation in writing of such death, insanity, revocation or transfer as aforesaid shall have been received by the Company at its Registered Office before the commencement of the Shareholders Meeting or adjourned Shareholders Meeting at which the proxy is used.

22. **RECORD DATE**

22.1. The Board may, in accordance with the provisions of section 59 and the Regulations, determine and publish a Record Date for the purposes of determining which Shareholders are entitled to –

- 22.1.1. receive a notice of a Shareholders Meeting;
- 22.1.2. participate in and vote at a Shareholders Meeting;
- 22.1.3. decide any matter by written consent or by Electronic Communication;
- 22.1.4. exercise pre-emptive rights, as contemplated in Clause 13.1;
- 22.1.5. receive a Distribution; or
- 22.1.6. be allotted or exercise any other rights.

22.2. If, at any time, the Board fails to determine a Record Date as contemplated in Clause 22.1, the Record Date for the relevant action or event shall be determined in accordance with section 59(3).

- 22.3. A Company shall publish a notice of a Record Date for any matter in accordance with the provisions of Regulation 37 and deliver notice thereof to the Shareholders in accordance with Clause 54.

PART FIVE: SHAREHOLDERS MEETINGS, VOTING AND RESOLUTIONS

23. REQUIREMENT TO HOLD A SHAREHOLDERS MEETING

- 23.1. The Company will not be required to hold any Shareholders Meeting other than those required by the Companies Act and/or this MOI.
- 23.2. For the purposes of section 61, in addition to the Board, any two directors or any Prescribed Officer authorised by the Board for the purposes of convening Shareholders Meetings may call a Shareholders Meeting and submit a resolution to be voted on other than at a meeting in terms of section 60.
- 23.3. Subject to section 60, the Company must hold a Shareholders Meeting in the circumstances contemplated in section 61(2).
- 23.4. The reference to 10% (ten percent) in section 61(3) is hereby retained at 10% (ten percent) as contemplated in section 61(4) and, accordingly, the right of Shareholders to demand a meeting, as set out in section 61(3), may be exercised by the holders of at least 10% (ten percent) of the Voting Rights entitled to be exercised in relation to the matter to be considered at the meeting.

24. LOCATION OF SHAREHOLDERS MEETINGS

The Board is authorised to determine the location of any Shareholder Meeting, and this MOI does not limit or restrict the authority of the Company to hold any such meeting in South Africa or in any foreign country, as set out in section 61(9).

25. NOTICE OF SHAREHOLDERS MEETINGS

- 25.1. The Company must deliver a notice of each Shareholders Meeting in the prescribed manner and form to all of the Shareholders of the Company as of the Record Date for the meeting at least 10 (ten) Business Days before the meeting is to begin.
- 25.2. The Company may call a Shareholders Meeting with less notice than the aforementioned 10 (ten) Business Days, but such a meeting may proceed only if every Person who is entitled to exercise Voting Rights in respect of any item on the meeting agenda:
- 25.2.1. is Present At The Meeting; and
- 25.2.2. votes to waive the required minimum notice of the meeting.

25.3. The accidental omission to give notice of any Shareholder Meeting to, or the non-receipt of notice of a Shareholders Meeting by, any particular Shareholder or Shareholders entitled to receive notice shall not invalidate any resolution or resolutions passed at such meeting.

26. **ELECTRONIC PARTICIPATION IN SHAREHOLDERS MEETINGS**

26.1. This MOI does not limit or restrict the authority of the Company to conduct a Shareholders Meeting entirely by Electronic Communication, or to provide for participation in a Shareholders Meeting by Electronic Communication, as more fully contemplated in section 63(2).

26.2. Access to the available medium or means of Electronic Communication is at the expense of the Company.

27. **VOTING**

27.1. At a Shareholders Meeting, voting may either be by show of hands or by polling.

27.2. If voting is by a show of hands, any Person who is Present At The Meeting, whether as a Shareholder or as a proxy for a Shareholder and entitled to exercising Voting Rights has one vote, irrespective of the number of Voting Rights that Person would otherwise be entitled to exercise.

27.3. If voting on a particular matter is by polling, 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.

27.4. A polled vote must be held on any particular matter to be voted on at a meeting if a demand for such a vote is made by: (a) at least 5 (five) Persons having the right to vote on that matter, either as a Shareholder or proxy representing a Shareholder; or (b) a Person who is, or Persons who together are, entitled, as a Shareholder or proxy representing a Shareholder, to exercise at least 10% (ten percent) of the Voting Rights entitled to be voted on that matter; or (c) the chairperson of the meeting.

27.5. At any Shareholders Meeting a resolution put to the vote of the Shareholder Meetings shall be decided on a show of hands, unless before or on the declaration of the results of the show of hands, a poll shall be demanded by any Person in accordance with Clause 27.4 and, unless a poll is so demanded, a declaration by the chairperson that a resolution has, on a show of hands been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect into the minute book of the Company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, such resolution. The demand for a poll may be withdrawn.

- 27.6. No objection shall be raised as to the admissibility of any vote except at the meeting or adjourned meeting at which the voted objected to or may be given or tendered and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection shall be referred to the chairperson of the meeting, whose decision, if made in good faith, shall be final and conclusive.
- 27.7. If a poll is duly demanded it shall be taken in such manner as the chairperson of the meeting directs and the results of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. Scrutineers may be appointed to count the votes and to declare the results of the poll, and if appointed their decision, which shall be given by the chairperson of the meeting, shall be deemed to be the resolution of the meeting at which the poll is demanded.
- 27.8. A poll demanded on the election of a chairperson (as contemplated in Clause 29.2) or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairperson of the meeting directs. The demand for a poll shall not prevent the continuation of a meeting for the transaction of any business other than the question upon which the poll has been demanded.
- 27.9. Any person entitled to Securities in terms of Clause 17.1 may vote at any Shareholders Meeting in the same manner as if he were the registered holder of that Security; provided that (except where the Directors have previously accepted his right to vote in respect of that Security) 24 (twenty four) hours at least before the time of holding the Shareholders Meeting at which he proposes to vote, he shall have satisfied the Directors that he is entitled to exercise the right referred to in Clause 17.1. Several executors of a deceased Shareholder in whose name Securities stand in the Securities Register shall, for the purposes of this Clause, be deemed to be joint holders of those Securities.

28. **QUORUM FOR SHAREHOLDERS MEETINGS AND ADJOURNMENTS**

- 28.1. Subject to section 64 and the remaining provisions of this Clause 28, a quorum at any Shareholders Meeting shall be sufficient persons 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 at least one matter to be decided at the meeting. In addition a –
- 28.1.1. Shareholders Meeting may not begin until 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 at least one matter to be decided at the meeting; and
- 28.1.2. a matter to be decided at the 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 on that matter at the time the matter is called on the agenda.

- 28.2. The quorum requirements for the purposes of passing a resolution contemplated in section 115(2)(a) shall be the same as the quorum requirements in Clause 28.1.
- 28.3. After a quorum has been established for a Shareholders Meeting, or for a matter to be considered at a Shareholders Meeting, the Shareholders Meeting may continue, or the matter may be considered so long as the Shareholders forming part of the quorum are Present At The Meeting for the matter to be considered at the meeting.
- 28.4. The period of 'one hour' contemplated in sections 64(4) and 64(5) is hereby substituted with a reference to 30 (thirty) minutes.
- 28.5. The period of 'one week' contemplated in sections 64(4) is hereby retained as a reference to 'one week'.
- 28.6. A Shareholders Meeting, or the consideration of any matter being debated at a Shareholders Meeting, may be adjourned as contemplated in sections 64(10), 64(11) and 64(12), it being recorded that the periods of adjournment set out in section 64(12) will apply without variation.
- 28.7. When a meeting is adjourned as a result of a direction given in terms of the Companies Act, notice of the adjourned meeting shall be given only if prescribed by the Companies Act and then only in the manner prescribed by the Companies Act but, save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

29. **CHAIRPERSON OF SHAREHOLDERS MEETINGS**

- 29.1. The chairperson of the Board, as determined in accordance with Clause 38 shall preside as the chairperson at every Shareholders Meeting.
- 29.2. If there is no chairperson of the Board, or if at any Shareholders Meeting he is not present within 15 (fifteen) minutes after the time appointed for holding the meeting or is unwilling to act as chairperson, the Persons entitled to vote which are present shall select a Director present to be chairperson of the Shareholders Meeting, or if no Director be present, or if all the Directors present decline to take the chair, the Persons entitled to vote shall select one of their number which is present to be chairperson of the Shareholders Meeting.
- 29.3. In the case of an equality of votes, whether on a show of hands or on a poll, the chairperson of the Shareholders Meeting at which the show of hands takes place, or at which the poll is demanded, shall not be entitled to a second or casting vote.

30. **SHAREHOLDERS RESOLUTIONS**

- 30.1. For an Ordinary Resolution to be approved by Shareholders, it must be supported by more than 50% (fifty percent) of the Voting Rights exercised on the resolution.

- 30.2. For a Special Resolution to be approved by Shareholders, it must be supported by at least 75% (seventy five percent) of the Voting Rights exercised on the resolution.
- 30.3. Except for those matters that require the approval or authority of a Special Resolution in terms of this MOI, section 65(11) or elsewhere in the Companies Act, no other matters that the Company may undertake require the approval or authority of a Special Resolution of the Shareholders.

31. **SHAREHOLDERS ACTING OTHER THAN AT A MEETING**

- 31.1. A resolution that could be voted on at a Shareholders Meeting may instead –
- 31.1.1. be submitted for consideration to the Shareholders entitled to exercise Voting Rights in relation to the resolution; and
- 31.1.2. voted on in writing by Shareholders entitled to exercise sufficient Voting Rights in relation to the resolution within 20 (twenty) Business Days after the resolution was submitted to them.
- 31.2. A resolution contemplated in Clause 31.1 –
- 31.2.1. 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 Resolution or Special Resolution, as the case may be, at a properly constituted Shareholders Meeting; and
- 31.2.2. if adopted, has the same effect as if it had been approved by voting at a meeting.
- 31.3. The resolution may consist of several documents each signed by one or more Shareholders.

PART SIX: AUTHORITY OF THE BOARD, GENERAL POWERS AND DUTIES OF DIRECTORS

32. **AUTHORITY OF THE BOARD , GENERAL POWERS AND DUTIES OF DIRECTORS**

- 32.1. The business and affairs of the Company will be managed by or under the direction of the Board, which will have the authority to exercise all of the powers and perform any of the functions of the Company, subject to Shareholder approval where required in terms of the Companies Act or this MOI.
- 32.2. The Directors shall have the power from time to time to delegate or allocate, by way of passing a majority resolution of the Board, to any one of their members or to any other Person, whether in South Africa or not, such of the powers as are vested in the Directors pursuant to the Companies Act (including any and every other statute or ordinance from time

to time in force concerning companies and necessarily affecting the Company) or under this MOI, as they may deem fit.

32.3. If, at any time, there is only 1 (one) Director, that Director may exercise any power and perform any function of the Board at any time, without notice or compliance with any other internal formalities, as set out in section 57(3), and that power is not limited or restricted by this MOI and sections 71(3) to (7), 73 and 74 do not apply to the governance of the Company. Accordingly, the provisions of Clauses 37 below and 38 below will not apply.

33. **BORROWING POWERS**

33.1. The Directors may, from time to time, at their discretion, raise or borrow or secure the payment of any sum or sums for the purposes of the Company, provided that the total amount owing by the Company in respect of the monies so raised, borrowed or secured shall not exceed the amount authorised by the Holding Company.

33.2. The Directors may secure the payment or repayment of any sums of money borrowed or raised in terms of Clause 33.1 or the payment of any debt, liability or obligation whatsoever of the Company or of a third party, in such manner and upon such terms and conditions in all respects as they think fit, and in particular by the execution of bonds or the issue of debt instruments subject to Clause 11 charged upon all or any part of the property or rights of the Company, both present and future, including uncalled capital.

PART SEVEN: DIRECTORS AND OFFICERS

34. **COMPOSITION OF THE BOARD AND ELECTION OF DIRECTORS**

34.1. The Board shall comprise of at least 1 (one) Director.

34.2. All of the Directors will be elected by an Ordinary Resolution.

34.3. The provisions of section 68(2) will apply to the election of Directors, provided that a Director may be elected in accordance with section 60(3).

34.4. The Company may not permit a person to serve as a Director if that Person is ineligible or disqualified in terms of the Companies Act.

34.5. Each individual elected as a Director shall furnish the Company, in writing, with a postal address, physical address, facsimile number and email address at which notices of Directors meetings may be given to him.

34.6. The Board shall be entitled to appoint *ex officio* directors of the Company as contemplated in section 66(4)(a)(ii) of the Companies Act, but any such person shall not be entitled to vote at Board meetings. The Board may from time to time entrust to and confer upon any such persons for the time being such of the powers vested in the Directors as they may think fit,

and may confer such powers for such time and to be exercised for such objects and upon such terms and with such restrictions as they may think expedient, and they may confer such powers either collaterally or to the exclusion of, and in substitution for, all or any of the powers of the Directors, and may from time to time revoke or vary all or any of such powers.

34.7. The Board may appoint a person who satisfies the requirements for election as a Director to fill any vacancy and serve as a Director of the Company on a temporary basis until the vacancy has been filled by election in terms of this Clause 34, within the period and in the manner contemplated in section 70(3), and, during that period, any person so appointed has all of the powers, functions and duties, and is subject to all of the liabilities, of any other director of the Company. The authority of the Board in this regard will not be limited or restricted by this MOI.

35. **VACANCIES ON THE BOARD**

35.1. Each Director of the Company shall serve, as contemplated in section 68(1), indefinitely or until:

35.1.1. he resigns by written notice to the Company;

35.1.2. any of the circumstances contemplated in section 69 and/or section 70 arise;

35.1.3. he is removed in terms of section 71; and/or

35.1.4. he is otherwise removed in accordance with any provisions of this MOI.

35.2. Section 70 will apply to any vacancy on the Board that may arise from time to time.

35.3. The Shareholder shall have the rights, in terms of section 66(4)(a)(i), to remove any Director if a notice removing him from office is signed by Shareholders having a right to attend and vote at a Shareholders Meeting who hold not less than 50% (fifty percent) plus 1 of the total Voting Rights of all of the Shareholders who are at that time entitled so to attend and vote and such notice is delivered to the Company or lodged at its Registered Office.

35.4. An Alternate Director shall cease to be an Alternate Director if the Director to whom he is an Alternate Director ceases for any reason to be a Director, provided that if an Alternate Director has been appointed as an Alternate Director to more than 1 (one) Director such Alternate Director shall cease to be an Alternate Director when the last Director for whom he is an Alternate Director ceases to be a Director.

36. **FURTHER ELIGIBILITY OR QUALIFICATION REQUIREMENTS**

36.1. There are no further eligibility requirements or qualifications prescribed by the Company in this MOI for a person to become or serve as a Director in addition to those set out in

section 69. The provisions of this Clause 36.1 shall not detract from any requirements or qualifications which are prescribed by law or contract on any Director.

36.2. For the purposes of this Clause 36, "*Director*" includes an Alternate Director, and a Prescribed Officer or a Person who is a member of a committee of the Board, irrespective of whether or not the Person is also a member of the Board as more fully contemplated in section 69(1).

37. DIRECTORS MEETINGS

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

37.2. Any 1 (one) Director is hereby authorised by the Board to call a meeting of the Board at any time.

37.3. The right of the Directors to requisition a meeting of the Board, as set out in section 73(1)(b) may be exercised by –

37.3.1. at least 25% (twenty five percent), in the case of a Board that has at least 12 (twelve) members; or

37.3.2. any 1 (one) Director, despite the provisions of section 73(1)(b)(ii).

37.4. This MOI does not restrict or limit the authority of the Board to conduct a meeting entirely by Electronic Communication, or to provide for participation in a meeting by Electronic Communication, as more fully contemplated in section 73(3). A resolution passed during the course of such proceedings shall be valid and effectual as if it had been passed at a meeting of the Directors duly called and constituted.

37.5. Subject to Clause 37.6, no Directors meeting may be convened without notice to all of the Directors. The Directors may determine what period of notice shall be given of meetings of Directors and may determine the means of giving such notice which may include telephone, telegram, telex, telefax or any form of Electronic Communication.

37.6. Notwithstanding anything to the contrary contained in this MOI, if all Directors of the Company –

37.6.1. acknowledge actual receipt of notice;

37.6.2. are Present At A Meeting; or

37.6.3. waive notice of the meeting,

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

- 37.7. Subject to Clause 37.8, a majority of the Directors must be Present At A Meeting before a vote may be called at that Directors meeting.
- 37.8. If, within 30 (thirty) minutes from the time appointed for a Directors' meeting a quorum is not present, the meeting shall stand adjourned to such day, time and place as the Directors then present determine (or, if that day is not a Business Day, to the next Business Day), and all the Directors shall be notified in writing of the date, time and place of the adjourned meeting at least 2 (two) Business Days before the date of the adjourned meeting, provided that where those Directors present determine that matters which require urgent consideration, the meeting shall stand adjourned to such date and time as they may determine (and they shall be required to give prior written notice, to those Directors who were not present, of the date and the time as soon as possible but in any event at least 24 (twenty-four) hours before the adjourned meeting). If, at such adjourned meeting, a quorum is not present within 30 (thirty) minutes from the time appointed for the meeting, the Directors (or their Alternate Directors) then present shall constitute a quorum.
- 37.9. A Directors' meeting shall continue to be quorate notwithstanding that any one or more Directors taken into account for purposes of achieving a quorum might thereafter cease to be Present At The Meeting.
- 37.10. Each Director has 1 (one) vote on a matter before the Board, as contemplated in section 73(5)(c).
- 37.11. A majority of the votes cast on a resolution is sufficient to approve that resolution.
- 37.12. The Company shall keep minutes of the meetings of the Board, and any of its committees, and include in those minutes –
- 37.12.1. any declaration given by notice or made by a Director, as required by section 75;
- 37.12.2. every resolution adopted by the Board.
- 37.13. Resolutions adopted by the Board –
- 37.13.1. must be dated and sequentially numbered; and
- 37.13.2. are effective as of the date of the resolution, unless the resolution states otherwise.
- 37.14. Any minutes of a meeting, or a resolution, signed by the chairperson of the meeting, or by the chairperson of the next meeting of the Board, is evidence of the proceedings of that meeting, or adoption of that resolution, as the case may be.

38. DIRECTORS ACTING OTHER THAN AT A MEETING

A decision that could be voted on at a meeting of the Board may instead be adopted by written consent of the majority of the Directors, given in person, or by Electronic Communication, provided that each Director has received notice of the matter to be decided. Such resolution, inserted into the minute book, shall be as valid and effective as if it had been passed at a meeting of Directors. Any such resolution may consist of several documents and shall be deemed to have been passed on the date on which it was signed by the last Director who signed it (unless a statement to the contrary is made in that resolution).

39. CHAIRPERSON OF THE BOARD

39.1. The Board shall be entitled to appoint any Director as the chairperson or deputy chairperson and to determine the period for which they, respectively, shall hold office. If at any meeting the chairperson is not present within 15 (fifteen) minutes after the time appointed for holding it, the Directors present may choose one of their number to be a chairperson or deputy chairperson (as the case may be) of the meeting.

39.2. The chairperson shall, subject to the provisions of the Companies Act and this MOI and any decision of the Board, determine the procedure to be followed at all meetings of the Board.

39.3. Notwithstanding the provisions of section 73(5)(e), the chairperson at any Directors meeting will not have a casting vote in the event of a deadlock of equality of votes arising.

40. DIRECTORS COMPENSATION

40.1. The Company may pay remuneration to its Directors for their services as Directors only in accordance with a Special Resolution approved within the previous 2 (two) years as more fully contemplated in section 66(8) and (9) and the authority of the Board in this regard is not restricted or limited by this MOI.

40.2. For the avoidance of doubt, it is recorded that this Clause 40 does not apply to remuneration paid to any Director for their services as employees of the Company.

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

40.4. Each Director (including an Alternate Director) may be paid their travelling and other expenses, properly and necessarily incurred by them in and about the business of the Company, and in attending meetings of the Directors or of committees thereof; and, if any Director is required to perform extra services, to devote special attention to the business of the Company, to reside abroad or be specifically occupied about the Company's business, he may be entitled to receive such remuneration (as defined in section 30(6)) as is

determined by a disinterested quorum of Directors, which may be either in addition to or in substitution for any other remuneration payable.

41. INDEMNIFICATION OF DIRECTORS

- 41.1. The Company is authorised to advance expenses to a Director, or indemnify a Director, in respect of the defence of legal proceedings, as more fully contemplated in section 78(4).
- 41.2. The Company is authorised to indemnify a Director in respect of liability, as more fully contemplated in section 78(5).
- 41.3. The Company is authorised to purchase insurance to protect the Company or a Director, as more fully contemplated in section 78(7).
- 41.4. For the purposes of this Clause 41, "*Director*" includes a former Director and a Prescribed Officer or a Person who is a member of a committee of the Board, irrespective of whether or not the Person is also a member of the Board, as more fully contemplated in section 78(1).

42. PERSONAL FINANCIAL INTEREST

- 42.1. Each Director shall, subject to the exemptions contained in section 75(2) and the qualifications contained in section 75(3), comply with all of the provisions of section 75 in the event that they (or any person who is a Related Person to them) have a Personal Financial Interest in any matter to be considered by the Board.
- 42.2. A decision by the Board, or a transaction or agreement approved by the Board, is valid despite any Personal Financial Interest of a Director (or any person who is a Related Person to them), subject to the provisions of section 75.
- 42.3. For the purposes of this Clause 42, "*Director*" includes an Alternate Director, a Prescribed Officer and a Person who is a member of a committee of the Board, irrespective of whether or not the Person is also a member of the Board, as more fully contemplated in section 75(1).

43. COMMITTEES OF THE BOARD

- 43.1. The Board may appoint any number of committees of Directors and may delegate to any committee any of the authority of the Board, as more fully contemplated section 72(1)(a) and (b). Except to the extent contemplated in this MOI or a resolution establishing a committee provides otherwise, the committee may include Persons who are not Directors, as more fully contemplated in section 72(2)(a), but any such Person must not be ineligible or disqualified to be a Director in terms of section 69 and no such Person has a vote on a matter to be decided by the committee.

- 43.2. Except to the extent contemplated in this MOI or a resolution establishing a committee provides otherwise, the committee may consult with or receive advice from any Person and has the full authority of the Board in respect of any matter referred to it, as more fully contemplated in section 72(2)(b) and (c).

PART EIGHT: GENERAL PROVISIONS

44. LISTINGS REQUIREMENTS

Notwithstanding anything to the contrary contained herein, no provision of this MOI shall frustrate or relieve the Holding Company in any way from compliance with its obligations in terms of the Listings Requirements.

45. DISTRIBUTIONS

45.1. Subject to the provisions of this MOI, the Board may declare any Distributions in accordance with the provisions of the Companies Act (in particular section 46), provided however that the Board shall be obliged to, annually within [5 Business Days] after the last day of each Accounting Period, declare a Distribution to its Holding Company in such maximum amount as may be available for distribution on such date, given the requirements of section 46 and any obligations of the Company.

45.2. No notice of change of address or instructions as to payment given after the determination of any Distributions in Shareholders Meeting or by the Board, shall become effective until after the Distribution has been made, unless a Shareholders Meeting or the Board so determines at the time the Distributions are approved.

45.3. Any Distribution or other monies payable to Shareholders –

45.3.1. which is unclaimed, may be retained by the Company and held in trust indefinitely and may while so retained be invested as the Board may deem fit until claimed or until such Shareholder's claim therefor prescribes in terms of Clause 45.3.2;

45.3.2. may only be claimed for a period of 3 (three) years (or such other period as may be applicable to such Shareholder's claim therefor in terms of the law of prescription) from the date on which it accrued to such Shareholder, after which period such Shareholder's claim therefor shall prescribe and the amount of that Distribution shall, unless the Board otherwise decides, be forfeited for the benefit of the Company.

45.4. The Company may transmit any Distributions or other monies to a Shareholder by electronic bank transfer to such bank account as the Shareholder may have notified to the Company in writing for this purpose, and the Company shall not be responsible for any loss in transmission. A Distribution may also be paid in any other way determined by the Board, and

if the directives of the Board 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.

45.5. No Distribution shall bear interest against the Company, except as otherwise provided under the conditions of issue of the Shares or other Securities of the Company in respect of which such Distribution is payable.

45.6. The Board shall, for the purposes of facilitating the winding-up or deregistration of the Company before the date of prescription as contemplated in Clause 45.3.2, be entitled to delegate the liability for the payment of any Distributions or other monies to any Shareholder in respect of unclaimed Distributions or other unclaimed monies to any one of the Company's bankers from time to time.

46. **DEADLOCK**

46.1. If the required majority for the passing of a Directors' resolution in terms of this MOI cannot be obtained, then such particular resolution only shall cease *ipso facto* to be within the Directors' domain and shall be put to the Shareholders.

46.2. If the required majority for the passing of a Shareholders' resolution in terms of this MOI cannot be obtained, then the resolution in question shall fail and such failure shall not constitute a ground for the winding-up of the Company.

47. **FINANCIAL ASSISTANCE**

47.1. Financial assistance for the subscription for or purchase of Securities

The Board may, as contemplated in section 44 and subject to the requirements of that section, authorise the Company to provide financial assistance by way of a loan, guarantee, the provision of security or otherwise, to any Person for the purpose of, or in connection with, the subscription for any option, or any Securities, issued or to be issued by the Company or a Related or Inter-related Company, or for the purchase of any such Securities. The authority of the Board in this regard is, accordingly, not limited or restricted by this MOI.

47.2. Financial assistance to Directors, Prescribed Officers and Related or Inter-related company or corporation

The Board may, as contemplated in section 45 and subject to the requirements of that section, authorise the Company to provide direct or indirect financial assistance to a Director or Prescribed Officer of the Company or of a Related or Inter-related Company, or to a Related or Inter-related Company or corporation, or to a member of a Related or Inter-related corporation, or to a Person related to any such Company, corporation, Director, Prescribed Officer or member. The authority of the Board in this regard is, accordingly, not limited or restricted by this MOI.

48. **FINANCIAL YEAR**

The financial year of the Company is the 12 (twelve) month period ending on 28 February of each year (the “**Financial Year**”).

49. **FINANCIAL STATEMENTS AND ACCESS TO FINANCIAL STATEMENTS**

49.1. The Company shall prepare annual financial statements in accordance with the Companies Act and the Regulations and shall, only to the extent required by the Companies Act, the Regulations or the Listings Requirements (as the case may be) have those annual financial statements audited or reviewed, as the case may be.

49.2. A copy of the annual financial statements of the Company shall be delivered to all Shareholders in accordance with Clause 53 as soon as possible after those annual financial statements have been approved by the Board.

49.3. In addition to the rights set out in Clause 20, a Person who holds or has a Beneficial Interest (to the extent permitted by this MOI) in any Securities issued by the Company, is entitled -

49.3.1. without demand to receive a notice of the publication of any annual financial statements of the Company required by the Companies Act, setting out the steps required to obtain a copy of the statements; and

49.3.2. on demand to receive without charge one copy of any annual financial statements of the Company required by the Companies Act.

50. **WINDING-UP**

If the Company shall be wound up the liquidator may, with any sanction required by the Companies Act or any other applicable legislation, divide amongst the holders of any Securities in specie or kind the whole or any part of the assets of the Company (whether they shall consist of property of the same kind or not) and may, for such purpose, set such values as he deems fair upon any property to be divided as aforesaid and may determine how such division shall be carried out as between such holders or different classes of holders. The liquidator may, with the like sanction, vest the whole or any part of the assets in trustees upon such trusts for the benefit of the holders of any Securities or any of them as the liquidator shall think fit, but so that no such holder shall be compelled to accept any Shares or other Securities of the Company or other assets whereon there is any liability.

51. **RESERVES**

The Directors may set aside out of the revenue and capital profits of the Company and carry to reserves such sums as they think proper. All sums standing to the credit of revenue and general reserves shall at the discretion of the Directors be applicable for meeting contingencies, for the gradual liquidation of any debt or liability of the Company, for repairing, improving or maintaining any property of the Company, for meeting losses in realisation of or writing down investments either

individually or in the aggregate, for equalising or paying Distributions (subject to satisfaction of the Solvency and Liquidity Test), or for any other purpose to which the revenue and capital profits of the Company may appropriately be applied. Pending such application such sums may either be employed in the business of the Company (without being kept separate from the other assets of the Company) or be invested. The Directors may divide the reserves into such special reserves as they think fit and re-allocate the amounts of such reserves either in whole or in part to other special or general reserves and may consolidate into 1 (one) reserve any special reserves or any parts of any special reserves into which the reserves may have been divided. The Directors may also carry forward any revenue and capital profits without placing them to reserves.

52. LOSS OF DOCUMENTS

The Company shall not be responsible for the loss in transmission of any cheque, warrant, certificate or (without any limitation *eiusdem generis*) other document sent through the post either to the registered address of any holder of any Securities or to any other address requested by such holder.

53. BRANCH REGISTER

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

54. NOTICES

54.1. All notices and documents intended or required to be given by the Company to any Shareholder or Director or other Person shall be given in writing in any manner authorised by the Regulations and particularly Table CR 3 annexed to the Regulations.

54.2. Each Shareholder and Director shall –

54.2.1. notify the Company in writing of a postal address, which address will be his registered address for the purposes of receiving written notices from the Company by post;

54.2.2. notify the Company in writing of a physical address, which address will be his registered address for the purposes of receiving written notices from the Company by hand; and/or

54.2.3. unless otherwise agreed with the Company, notify in writing to the Company an e-mail address and facsimile number, which address will be his address for the purposes of receiving notices by way of Electronic Communication.

54.3. Save to the extent that any of the following provisions of this Clause 54.3 may be in conflict with any provision contained in the Companies Act or the Regulations, any notice or a copy

of any document sent by the Company to any Person (including a Shareholder or Director) by –

- 54.3.1. registered post to the last known address shall be deemed to have been delivered on the 7th (seventh) day following the day on which the notice or document was posted as recorded by a post office, unless there is conclusive evidence that it was delivered on a different day;
 - 54.3.2. telefax, if the Person has a fax number, shall be deemed to have been delivered on the date and at the time recorded by the telefax receiver, unless there is conclusive evidence that it was delivered on a different date or at a different time. A notice or document delivered by fax shall be sent in accordance with Regulation 7(4);
 - 54.3.3. electronic mail, if the Person has an address for receiving electronic mail, shall be deemed to have been delivered on the date and at the time recorded by the computer used by the sender, unless there is conclusive evidence that it was delivered on a different date or at a different time. A notice or document delivered by electronic mail shall be sent in accordance with Regulation 7(4); and
 - 54.3.4. by ordinary post to the last known address shall be deemed to have been delivered on the 7th (seventh) day following the day on which the notice or document was posted, and in proving the giving of the notice or document sent by post it shall be sufficient to provide that the letter or envelope containing the notice or document was properly addressed and put into the Post Office.
- 54.4. The postal address notified by a Shareholder to the Company in terms of Clause 54.2.1 may be a postal address within or outside of the Republic.
 - 54.5. Any Shareholder or Director notifying the Company of an address for the purposes of receiving Electronic Communication from the Company shall be deemed to have agreed to receive documents and notices by Electronic Communication.
 - 54.6. As regards the signature of an Electronic Communication, it shall be in such form as the Directors may require to demonstrate that the document or notice is genuine.
 - 54.7. For the purposes of this MOI, the reference to “**sent**”, “**delivered**” or “**in writing**” of any notices or documents shall include, to the extent permissible in terms of the Companies Act, the use of Electronic Communication and publication on a website in accordance with any applicable provisions in the Companies Act or other applicable legislation, rules or requirements.