

This is the new Memorandum of Incorporation of the Company adopted by special resolution on 24 February 2017

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

MEMORANDUM OF INCORPORATION

OF

QUANTUM FOODS HOLDINGS LIMITED

A PUBLIC COMPANY

REGISTRATION NUMBER: 2013/208598/07

REGISTRATION DATE: 7 November 2013

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SCHEDULE 1: ADDITIONAL CLASSES OF SHARES

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**" or "**Directors**" 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 Financial Markets Act;

1.1.5 "**Commission**" means the Companies and Intellectual Property Commission established by section 185 of the Act;

1.1.6 "**Companies Tribunal**" means the Companies Tribunal established by section 193 of the Act;

1.1.7 "**Company**" means the company named on the first page of this document, duly incorporated under the registration number endorsed thereon;

1.1.8 "**Director**" means a member of the Board as contemplated in section 66 of the Act, and includes any person occupying the position of a director by whatever name designated;

1.1.9 "**Electronic Communication**" has the meaning set out in section 1 of the Electronic Communications and Transactions Act, No 25 of 2002;

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

South Africa from time to time by the Financial Reporting Standards Council established in terms of section 203;

- 1.1.11 "**Lead Independent Director**" has the meaning ascribed thereto in the King Report;
- 1.1.12 "**JSE**" means the exchange, licensed under the Financial Markets Act, operated by JSE Limited (Registration number 2005/022939/06), a public company duly incorporated in South Africa;
- 1.1.13 "**JSE Listings Requirements**" means the Listings Requirements of the JSE applicable from time to time;
- 1.1.14 "**King Report**" means the King Report on Corporate Governance for South Africa, 2009, as amended or replaced from time to time;
- 1.1.15 "**Participant**" has the meaning set out in section 1 of the Financial Markets Act;
- 1.1.16 "**Prescribed Officer**" has the meaning attributable thereto in section 1;
- 1.1.17 "**Regulations**" means the regulations published in terms of the Act from time to time;
- 1.1.18 "**Securities**" means -
 - 1.1.18.1 any shares, notes, bonds, debentures or other instruments, irrespective of their form or title, issued, or authorised to be issued, by the Company; or
 - 1.1.18.2 anything falling within the meaning of "securities" as set out in section 1 of the Financial Markets Act;
- 1.1.19 "**Securities Register**" means the register of issued Securities required to be established in terms of section 50(1) of the Act;
- 1.1.20 "**Financial Markets Act**" means the Financial Markets Act, No 19 of 2012, including any amendment, consolidation or re-enactment thereof;
- 1.1.21 "**SENS**" means the Stock Exchange News Service established and

- operated by the Issuer Regulation Division of the JSE;
- 1.1.22 **"Share"** means one of the units into which the proprietary interest in the Company is divided;
- 1.1.23 **"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;
- 1.1.24 **"Solvency and Liquidity Test"** has the meaning attributed thereto in section 4 of the Act;
- 1.1.25 **"South Africa"** means the Republic of South Africa;
- 1.1.26 **"Sub-register"** means the record of Uncertificated Securities administered and maintained by a Participant, which forms part of the Securities Register in terms of the Act;
- 1.1.27 **"Uncertificated Securities"** means any "securities" defined as such in section 29 of the Financial Markets Act; and
- 1.1.28 **"Uncertificated Securities Register"** means the record of uncertificated securities administered and maintained by a Participant 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 section by number refers to the corresponding section of the Act;
- 1.2.4 a reference to a clause by number refers to a corresponding provision of this Memorandum of Incorporation;
- 1.2.5 in any instance where there is a conflict between a provision (be it

expressed, implied or tacit) of this Memorandum of Incorporation and –

- 1.2.5.1 a provision of any agreement between Shareholders as contemplated in section 15(7), the provision of this Memorandum of Incorporation shall prevail to the extent of the conflict;
- 1.2.5.2 an alterable provision of the Act, the provision of this Memorandum of Incorporation shall prevail to the extent of the conflict;
- 1.2.5.3 an unalterable provision of the Act, the unalterable provision of the Act shall prevail to the extent of the conflict, provided that this Memorandum of Incorporation does not impose on the Company a higher standard, greater restriction, longer period of time or similarly more onerous requirement;
- 1.2.5.4 an unalterable provision of the Act, the provisions of this Memorandum of Incorporation shall prevail to the extent of the conflict, if this Memorandum of Incorporation imposes on the Company a higher standard, greater restriction, longer period of time or similarly more onerous requirement; and
- 1.2.5.5 an exemption granted by the Companies Tribunal to the Company in terms of section 6(2) from any prohibition or requirement established by or in terms of an unalterable provision of the Act, the exemption shall prevail to the extent of the conflict;
- 1.2.6 clause headings are for convenience only and are not to be used in its interpretation;
- 1.2.7 an expression which denotes -
 - 1.2.7.1 any gender includes the other genders;
 - 1.2.7.2 a natural person includes a juristic person and *vice versa*; and
 - 1.2.7.3 the singular includes the plural and *vice versa*;
- 1.2.8 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;
- 1.2.9 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;
- 1.2.10 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 South Africa 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; and
- 1.3.3 "**writing**" means legible writing 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 otherwise provided, defined terms appearing in this Memorandum of Incorporation in title case shall be given their meaning as defined, while

the same terms appearing in lower case shall be interpreted in accordance with their plain English meaning.

- 1.6 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.
- 1.7 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.
- 1.8 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**

The Company is incorporated in accordance with and governed by –

- 2.1 the unalterable provisions of the Act, provided that this Memorandum of Incorporation does not impose on the Company a higher standard, greater restriction, longer period of time or similarly more onerous requirement;
- 2.2 the alterable provisions of the Act, subject to the limitations, extensions, variations or substitutions set out in this Memorandum of Incorporation; and
- 2.3 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**

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.

5 RESTRICTIVE CONDITIONS

This Memorandum of Incorporation does not contain any restrictive conditions applicable to the Company as contemplated in section 15(2)(b) or (c).

6 ISSUE OF SHARES AND VARIATION OF RIGHTS

6.1 The Company is authorised to issue –

6.1.1 400,000,000 (four hundred million) ordinary Shares with no par value, of the same class, each of which ranks *pari passu* in respect of all rights and entitles the holder to – **[LR10.5(a)]**

6.1.1.1 vote on any matter to be decided by the Shareholders and to 1 (one) vote in respect of each ordinary Share in the case of a vote by means of a poll; **[LR10.5(b)]**

6.1.1.2 participate proportionally in any distribution made by the Company; and

6.1.1.3 receive proportionally the net assets of the Company upon its liquidation;

6.1.2 such number of each of such further classes of Shares, if any, as are set out in Schedule 1 hereto with the preferences, rights, limitations and other terms associated with each such class set out therein, subject to the JSE Listings Requirements.

6.2 The power of the Board to –

6.2.1 increase or decrease the number of authorised Shares of any class of the Company's Shares; or

6.2.2 create any class of Shares; or

6.2.3 reclassify any classified Shares that have been authorised but not issued; or

- 6.2.4 classify any unclassified Shares that have been authorised but not issued; or
- 6.2.5 determine the preferences, rights, limitations or other terms of any Shares,
- shall be subject to the approval of the Shareholders by way of a special resolution. **[LR10.5(d)]**
- 6.3 The authorisation and classification of Shares, 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. **[LR10.5(d)]**
- 6.4 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, and accordingly if any amendment to this Memorandum of Incorporation relates to the variation of any preferences, rights, limitations and other terms associated with any class of Share already in issue, such amendments shall not be implemented without a special resolution adopted by the holders of Shares of that class at a separate meeting. The holders of Shares of that class will, subject to the further provisions of clause 25.2, also be entitled to vote at the meeting of ordinary Shareholders where the amendment is tabled for approval. **[LR10.5(e) & LR10.9(c)]**
- 6.5 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. **[LR10.5(g)]**.
- 6.6 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. **[LR10.2(a)]**

- 6.7 The Board may, subject to clauses 6.8, 6.10 and 6.11 and the further provisions of this clause 6.7, the Act and the JSE Listings Requirements, resolve to issue Shares at any time, but only –
- 6.7.1 within the classes and to the extent that those Shares have been authorised by or in terms of this Memorandum of Incorporation; and
- 6.7.2 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 Board, 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, provided further that the approval of Shareholders in general meeting shall not be required -
- 6.7.2.1 to the extent that 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; or
- 6.7.2.2 to the extent that such Shares are issued for the acquisition of assets by the Company, whether by means of an acquisition issue or a vendor consideration placement.
- 6.8 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. **[LR10.9(a)]**
- 6.9 Save where permitted by the JSE, all Securities for which a listing is sought on the JSE and all Securities of the same class as Securities which are listed on the JSE must be freely transferable and 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. **[LR10.2(a)]**
- 6.10 Save –

- 6.10.1 where otherwise permitted under the Act, the JSE Listings Requirements or this Memorandum of Incorporation;
- 6.10.2 where approved by Shareholders in general meeting; or
- 6.10.3 where such Shares are issued for the acquisition of assets by the Company, whether by means of an acquisition issue or a vendor consideration placement,

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. **[LR10.1]**

- 6.11 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, to the extent applicable, such transaction(s) has/have been approved by the JSE and comply with the JSE Listings Requirements.
- 6.12 Notwithstanding anything to the contrary herein, 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.
- 6.13 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 clause 6.10, 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.

7 CERTIFICATED AND UNCERTIFICATED SECURITIES

- 7.1 Securities are to be issued in certificated or uncertificated form, as shall be determined by the Board from time to time. Except to the extent otherwise provided in the 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.
- 7.2 Any Certificated Securities may cease to be evidenced by certificates, and thereafter become Uncertificated Securities, if so determined by the Board.
- 7.3 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 Participant or Central Securities Depository as required by the rules of the Central Securities Depository.
- 7.4 After receiving notice from a Participant 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 –
- 7.4.1 enter or cause to be entered the relevant Security holder's name and details of its holding of Securities in the Securities Register and indicate or cause to be indicated on the Securities Register that the Securities so withdrawn are no longer held in uncertificated form; and
- 7.4.2 within 10 (ten) business days (or 20 (twenty) business days in the case of a holder of Securities who is not resident within South Africa) prepare and deliver or cause the preparation and delivery to the relevant person

a certificate in respect of the Securities and notify or cause to be notified the Central Securities Depository that the Securities are no longer held in uncertificated form.

- 7.5 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.

8 SECURITIES REGISTER

- 8.1 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.

- 8.2 As soon as practicable after issuing any Securities the Company must enter or cause to be entered in the Securities Register, in respect of every class of Securities it has issued –

8.2.1 the total number of Uncertificated Securities;

8.2.2 with respect to Certificated Securities –

8.2.2.1 the names and addresses of the persons to whom the Certificated Securities were issued;

8.2.2.2 the number of Certificated Securities issued to each of them;

8.2.2.3 in the case of Securities other than Shares as contemplated in section 43 of the Act, the number of those Securities issued and outstanding, or the names and addresses of the registered owners of the Securities and any holders of beneficial interests therein; and

8.2.2.4 any other prescribed information.

- 8.3 If the Company has issued Uncertificated Securities, or has issued Securities that have ceased to be Certificated Securities as contemplated in clause 7.2, a record must be administered and maintained by a Participant or Central Securities Depository, in the prescribed form, as the

Uncertificated Securities Register, which –

- 8.3.1 forms part of the Securities Register; and
- 8.3.2 must contain, with respect to all Uncertificated Securities contemplated in this clause 8, any details referred to in clause 8.2.2, read with the changes required by the context or as determined by the rules of the Central Securities Depository.
- 8.4 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.
- 8.5 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.
- 8.6 A certificate evidencing any Certificated Securities –
 - 8.6.1 must state on its face –
 - 8.6.1.1 the name of the Company;
 - 8.6.1.2 the name of the person to whom the Securities were issued; and
 - 8.6.1.3 the number and class of Shares and designation of the series, if any, evidenced by that certificate;
 - 8.6.2 must be signed by 2 (two) persons authorised by the Board, which signatures may be affixed or placed on the certificate by autographic, mechanical or electronic means; and
 - 8.6.3 is proof that the named Security holder owns the Securities, in the absence of evidence to the contrary.
- 8.7 A certificate remains valid despite the subsequent departure from office of any person who signed it.
- 8.8 If, as contemplated in clause 8.5, all of the Shares rank equally for all purposes, and are therefore not distinguished by a numbering system –

- 8.8.1.1 each certificate issued in respect of those Shares must be distinguished by a numbering system; and
- 8.8.1.2 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.
- 8.9 If a Share certificate is defaced, lost or destroyed, it may be replaced by the Company subject to clause 8.10 against –
- 8.9.1 payment (if any) of an amount approved by the Board from time to time and any tax in respect of the new Share certificate; and
- 8.9.2 in the case of defacement, delivery of the defaced Share certificate, to the Company.
- 8.10 The Board may in its discretion impose such conditions (if any) regarding proof, indemnity and payment of the actual expenditure of the Company for the investigation of evidence presented and, in the case of loss or destruction, of the advertisement thereof.

9 TRANSFER OF SECURITIES

- 9.1 The instrument of transfer of any Certificated Securities which are not listed on the JSE shall be signed by both the transferor and the transferee and the transferor shall be deemed to remain the holder of such Certificated Securities until the name of the transferee is entered in the Securities Register. The Directors may, however, in their discretion in such cases as they deem fit, dispense with requiring the signature of the transferee on the instrument of transfer.
- 9.2 Subject to such restrictions as may be applicable, (whether by virtue of the preferences, rights, limitations or other terms associated with the Securities in question), any Shareholder or holder of other Securities may transfer all or any of its Certificated Securities by instrument in writing in any usual or common form or any other form which the Directors may approve.
- 9.3 Every instrument of transfer shall be delivered to the principal place of

business of the Company or to such other place(s) as the Board may instruct from time to time, accompanied by –

- 9.3.1 the certificate issued in respect of the Certificated Securities to be transferred; and/or
- 9.3.2 such other evidence as the Company may require to prove the title of the transferor, or his right to transfer the Certificated Securities.
- 9.4 All authorities to sign transfer deeds or other instruments of transfer granted by holders of Securities for the purpose of transferring Securities which may be lodged, produced or exhibited with or to the Company at its registered office or at its transfer 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 the Company's registered office or transfer office. 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. **[LR10.2(b)]**
- 9.5 The Company shall not be obliged to allow any representative to act on behalf of a Shareholder or prospective transferor of Securities, unless the original or certified copy of such representative's authorisation has been handed to the Company.
- 9.6 The Board may refuse to register a transfer of Securities if –
 - 9.6.1 the instrument of transfer is not duly stamped and lodged at the Company or to such other place(s) as the Board may instruct from time to time; or
 - 9.6.2 any legal provision regarding the transfer has not been complied with; or
 - 9.6.3 transfer fees as determined by the Board from time to time, has not been paid to the Company; or
 - 9.6.4 the instrument of transfer does not refer to one class of Shares only.

- 9.7 Any instrument of transfer which the Directors may decline to register shall (unless the Directors shall resolve otherwise) be returned on demand to the person who lodged it.
- 9.8 The transfer of Uncertificated Securities may be effected only –
- 9.8.1 by a Participant or Central Securities Depository;
- 9.8.2 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
- 9.8.3 in accordance with section 53 of the Act and the rules of the Central Securities Depository.
- 9.9 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.
- 9.10 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

It is recorded for the avoidance of doubt that Securities shall not be subject to any lien in favour of the Company and shall be freely transferable. **[LR10.2(a) & LR10.12]**

11 TRANSMISSION OF SECURITIES

- 11.1 The executor of the estate of a deceased sole holder of a Security shall be the only person recognised by the Company as having any title to such Security. In the case of a Security registered in the names of 2 (two) or more holders, the survivor or survivors, or the executor of the estate of any

deceased Shareholder, as determined by the Board, shall be the only person recognised by the Company as having any title to the Security. Any person who submits proof of his appointment as the executor, administrator, trustee, curator, or guardian in respect of the estate of a deceased Shareholder or holder of other Securities of the Company, or of a Securities holder whose estate has been sequestrated or of a Securities holder who is otherwise under a disability or as the liquidator of any body corporate which is a Securities holder of the Company, shall be entered in the Securities Register in his official capacity, and shall thereafter, for all purposes, be deemed to be a Securities holder. **[LR10.13]**

- 11.2 Subject to the provisions of clause 11.1, any person becoming entitled to any Security by virtue of the death of a Securities holder shall, upon producing such evidence that he has such title or rights as the Directors think sufficient, have the right either to have such Security transferred to himself or to make such other transfer of the Security as such Securities holder could have made, provided that in respect of a transfer other than to himself –
- 11.2.1 the Directors shall have the same right to refuse or suspend registration as they would have had in the case of a proposed transfer of such Security by such Securities holder before his death; and
- 11.2.2 a person becoming entitled to any Security shall not, unless and until he is himself registered as a Securities holder in respect of such Security, be entitled to exercise any voting or other right attaching to such Security or any other right relating to meetings of the Company.

12 **SHARE WARRANTS**

- 12.1 The Company may, subject to the provisions of the Act, the JSE Listings Requirements and any other provisions of this Memorandum of Incorporation, issue Share warrants.
- 12.2 For the purposes mentioned in clause 12.1, the Board may –
- 12.2.1 issue warrants in respect of paid-up Shares, declaring that the holder thereof shall be entitled to the Shares specified therein;

- 12.2.2 by the issue of coupons or otherwise provide for the payment of future dividends on the Shares to which such warrants refer.
- 12.3 The Board may from time to time determine and amend –
 - 12.3.1 the form and language in which the conditions on which warrants shall be issued;
 - 12.3.2 the conditions under which –
 - 12.3.2.1 the bearer of a warrant shall be entitled to attend general meetings and to vote;
 - 12.3.2.2 a Share warrant may be waived;
 - 12.3.2.3 the name of the holder in respect of the Shares specified in the warrant may be entered in the Securities Register.
- 12.4 The bearer of a warrant shall –
 - 12.4.1 subject to the provisions of this Memorandum of Incorporation, be a full Shareholder; and
 - 12.4.2 be bound by the provisions applicable thereto from time to time, whether such provisions have become effective before or after the issue of that warrant.
- 12.5 If a warrant or coupon is defaced, lost or destroyed, it may be replaced by the Company subject to the provisions of clauses 8.9 and 8.10 as far as such provisions apply thereto.

13 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. **[LR10.10]**.

14 CAPITALISATION SHARES

14.1 The Board shall not, save to the extent authorised by the Shareholders by means of ordinary resolution, have the power or authority to –

14.1.1 approve the issuing of any authorised Shares as capitalisation Shares;

14.1.2 to issue Shares of one class as capitalisation Shares in respect of Shares of another class; and/or

14.1.3 subject to the provisions of clause 14.2, to resolve to permit Shareholders to elect to receive a cash payment in lieu of a capitalisation Share,

unless the JSE Listings Requirements have been complied with.

14.2 The Board may not resolve to offer a cash payment in lieu of awarding a capitalisation share, as contemplated in clause 14.1.3, unless the Board –

14.2.1 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

14.2.2 is satisfied that the Company would satisfy the Solvency and Liquidity Test immediately upon the completion of the distribution. **[LR10.6]**

15 DISTRIBUTION OF CAPITAL GAINS

The Board may resolve at any time that any surplus money of the Company representing capital gains (obtained from the realisation of any capital assets) and which is not necessary for the payment of any fixed preference dividend, shall be distributed to the ordinary Shareholders on the basis that they would receive it as capital and in the same proportion as they would have received it if it had been paid out as a dividend.

16 POWER OF BOARD AT THE CAPITALISATION OR DISTRIBUTION OF PROFITS

16.1 If any problem arises with regard to any distribution in terms of this Memorandum of Incorporation, the Board may resolve it as it deems fit

subject to clause 18.3 and the JSE Listings Requirements generally.

17 **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.

18 **CONSOLIDATION, SUBDIVISION AND REDUCTION OF CAPITAL AND FRACTIONAL ENTITLEMENT**

18.1 The Company may from time to time by special resolution –

- 18.1.1 subdivide its existing Shares or reduce or consolidate the number of its issued Shares;
- 18.1.2 increase the number of its issued Shares without increasing its stated capital;
- 18.1.3 cancel Shares not taken up by anyone on the date of passing the resolution or not undertaken to be taken up;
- 18.1.4 subject to compliance with any other statutory or other legal requirements decrease its share capital, stated capital or capital redemption reserve in any manner;
- 18.1.5 convert any of its Shares, whether issued or not, into Shares of another class;
- 18.1.6 amend any rights in respect of any Shares, whether issued or not, subject (in the case of Shares already issued) to the consent required from the holders of that class of Shares;
- 18.1.7 convert ordinary Shares into redeemable preference Shares.

18.2 Any action in terms of the preceding clause shall be executed subject to –

- 18.2.1 the provisions of Act; and/or
- 18.2.2 the provisions of the special resolution whereby it is authorised; or

18.2.3 as far as clauses 18.2.1 or 18.2.2 is not applicable, in the manner prescribed by the Board.

18.3 If a fraction of a Share comes into being as a result of any action contemplated in clause 18.1 or any other corporate action, the Board may, subject to compliance with the JSE Listings Requirements, to the extent applicable, round all allocations of Shares down to the nearest whole number and make a cash payment for any fractional entitlement. Notwithstanding the aforementioned to the extent that the JSE advises of another principle to apply to fractional entitlements, the Board may apply such principle. For clarity this clause 18.3 shall apply mutatis mutandis to any capitalization issue in clause 14.

19 FINANCIAL ASSISTANCE

19.1 The Board may authorise the Company to provide financial assistance by way of loan, guarantee, the provision of security or otherwise to any person for the purpose of, or in connection with, the subscription of any option, or any Securities, issued or to be issued by the Company or a related or inter-related company, or for the purchase of any such Securities, as set out in section 44 of the Act, and the authority of the Board in this regard is not limited or restricted by this Memorandum of Incorporation.

19.2 Any decision by the Company to provide financial assistance as contemplated in clause 19.1 must satisfy the requirements of section 44 of the Act and, accordingly, the Company may not provide such financial assistance unless –

19.2.1 the particular provision of financial assistance is –

19.2.1.1 pursuant to an employee share scheme that satisfies the requirements of section 97 of the Act; or

19.2.1.2 pursuant to a special resolution of the Shareholders, adopted within the previous 2 (two) years, which approved such assistance for the specific recipient, or generally for a category of potential recipients, and the specific recipient falls within that category; and

- 19.2.2 the Board is satisfied that –
- 19.2.2.1 immediately after providing the financial assistance, the Company would satisfy the Solvency and Liquidity Test; and
- 19.2.2.2 the terms under which the financial assistance is proposed to be given are fair and reasonable to the Company.

20 ACQUISITION BY THE COMPANY OF ITS OWN SHARES

- 20.1 Subject to the JSE Listings Requirements, the provisions of section 48 of the Act and the further provisions of this clause 20 –
- 20.1.1 the Board may determine that the Company acquire a number of its own Shares; and
- 20.1.2 the board of any subsidiary of the Company may determine that such subsidiary acquire Shares of the Company, but –
- 20.1.2.1 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
- 20.1.2.2 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.
- 20.2 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 –
- 20.2.1 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 such acquisition shall otherwise comply with the JSE Listings Requirements, provided that no such approval of Shareholders shall be required in respect of a pro rata acquisition by the Company from all its Shareholders; **[LR10.9(b)]**

- 20.2.2 the acquisition –
 - 20.2.2.1 is pursuant to an existing legal obligation of the Company, or a court order; or
 - 20.2.2.2 the Board, by resolution, has authorised the acquisition;
- 20.2.3 it reasonably appears that the Company will satisfy the Solvency and Liquidity Test immediately after completing the proposed acquisition; and
- 20.2.4 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.
- 20.3 A decision of the Board referred to in clause 20.1.1 –
 - 20.3.1 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
 - 20.3.2 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.
- 20.4 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 in issue other than –
 - 20.4.1 Shares held by one or more subsidiaries of the Company; or
 - 20.4.2 convertible or redeemable Shares.

21 ODD-LOT OFFERS

21.1 In this clause 21 -

21.1.1 "**Minimum Quantity**" means the maximum quantity Affected Shares that a Shareholder may hold in order to be classified as an Odd-lot Holder;

21.1.2 "**Affected Shares**" means that class of Shares in the issued Share capital of the Company to which the Odd-lot Offer refers;

21.1.3 "**Odd-lot Holder**" means a Shareholder holding not more than the Minimum Quantity Affected Shares at the time set out in the Odd-lot Offer, during which it has to be determined which Shareholders are holding the Minimum Quantity or less Affected Shares;

21.1.4 "**Odd-lot Offer**" means an offer made by the Company or a subsidiary of the Company ("**Subsidiary**") to the Shareholders in terms whereof -

21.1.4.1 Shareholders holding, at a date as determined in the Odd-lot Offer, the Minimum Quantity or less Affected Shares, are classified as Odd-lot Holders;

21.1.4.2 An Odd-lot Offer is made to those Odd-lot Holders to -

21.1.4.2.1 subscribe for additional Affected Shares in order to increase the number of Affected Shares held by them in the Company to the Minimum Quantity; or

21.1.4.2.2 to sell their Affected Shares to the Company or the Subsidiary; or

21.1.4.2.3 expressly choose to keep their Affected Shares.

21.2 If an Odd-lot Offer is made and implemented by the Company or the Subsidiary, and an Odd-lot Holder neglects to exercise one of the choices referred to in clause 21.1.4.2, it shall be deemed that that Odd-lot Holder chose to accept the Odd-lot Offer by the Company or the Subsidiary for the sale of all his Affected Shares against the purchase price per Share as set out in the Odd-lot Offer and -

21.2.1 the Company shall procure the transfer of such an Odd-lot Holder's

Affected Shares to the Company or the Subsidiary, as the case may be, the payment of the purchase price due to the Odd-lot Holder against delivery of his Share certificates or if such an Odd-lot Holder cannot be found, the keeping of the purchase price by Company or the Subsidiary for the Odd-lot Holder until the Odd-lot Holder claims payment thereof; and

- 21.2.2 the Company shall have all the rights and powers to effect the actions in clause 21.2.1 and shall be particularly authorised to transfer all rights, title and interest in the Affected Shares of the Odd-lot Holder to the Company or Subsidiary, as the case may be, on behalf of the Odd-lot Holder and to perform all actions in order to procure such a transfer; and
- 21.2.3 each Director shall, without prejudice to any of the rights and powers of the Company referred to above, also be empowered to transfer all rights, title and interest in the Affected Shares of the Odd-lot Holder to the Company or the Subsidiary, as the case may be, on behalf of the Odd-lot Holder and to perform all actions in order to procure such a transfer.
- 21.3 All Odd-lot Offers will be made and implemented subject to the approval by Shareholders in terms of the JSE Listings Requirements.

22 RECORD DATE FOR EXERCISE OF SHAREHOLDER RIGHTS

- 22.1 The record date for the purpose of determining which Shareholders are entitled to –
- 22.1.1 receive notice of a Shareholders' meeting;
- 22.1.2 participate in and vote at a Shareholders' meeting;
- 22.1.3 decide any matter by written consent or by Electronic Communication;
- 22.1.4 receive a distribution;
- 22.1.5 be allotted or exercise other rights; or
- 22.1.6 participate in any other transaction,

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 as prescribed by the JSE Listings Requirements. **[LR10.15]**

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

23 SHAREHOLDERS' MEETINGS

23.1 Calling of Shareholders' meetings

- 23.1.1 The Board, or any Prescribed Officer of the Company authorised by the Board, is entitled to call a Shareholders' meeting at any time.
- 23.1.2 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 –
- 23.1.2.1 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 **[LR10.11(d)]**
- 23.1.2.2 whenever required in terms of the Act to fill a vacancy on the Board;
or
- 23.1.2.3 when required in terms of clause 23.1.3 or by any other provision of this Memorandum of Incorporation.
- 23.1.3 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 –
- 23.1.3.1 each such demand describes the specific purpose for which the meeting is proposed; and
- 23.1.3.2 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.

23.2 Annual general meetings

- 23.2.1 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 once in each calendar year, but no more than 15 (fifteen) months after the date of the previous annual general meeting.
- 23.2.2 Subject to the provisions of the JSE Listings Requirements, and for as long as required in terms of the provisions of the Act, any such annual general meeting –
- 23.2.2.1 shall, if determined by the Board in its discretion, be held by Electronic Communication in accordance with the further provisions of this Memorandum of Incorporation; and
- 23.2.2.2 shall not be capable of being held in accordance with the provisions of section 60 referred to in clause 28.
- 23.2.3 Each annual general meeting of the Company contemplated in clause 23.2 shall provide for at least the following business to be transacted –
- 23.2.3.1 the presentation of the directors' report, audited financial statements for the immediately preceding financial year of the Company and an audit committee report;
- 23.2.3.2 the election of Directors, to the extent required by the Act and this Memorandum of Incorporation;
- 23.2.3.3 the appointment of an auditor and an audit committee for the following financial year; and
- 23.2.3.4 any matters raised by the Shareholders, with or without advance notice to the Company.

23.2.4 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.

23.3 Location of and notices of meetings

23.3.1 The Board may determine the location of any Shareholders' meeting, and the Company may hold any such meeting in South Africa or 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.

23.3.2 All meetings (whether called for the passing of special or ordinary resolutions) shall be called on not less than 15 (fifteen) business days' notice. **[LR10.11(a) & (b)]**

23.4 Quorum and adjournment of meetings

23.4.1 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 at the meeting. In addition –

23.4.1.1 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

23.4.1.2 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. **[LR 10.11(h)]**

23.4.2 If within half an hour after the appointed time for a meeting to begin, the requirements of clause 23.4 –

23.4.2.1 for that meeting to begin have not been satisfied, the meeting may be postponed, without any motion, vote or further notice, for 1 (one) week;

23.4.2.2 for consideration of a particular matter to begin have not been satisfied –

23.4.2.2.1 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

23.4.2.2.2 if there is no other business on the agenda of the meeting, the meeting may 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 23.4 may extend the half an hour limit allowed in clause 23.4.2 for a reasonable period on the grounds that –

23.4.2.3 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

23.4.2.4 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 23.4.

23.4.3 The accidental omission to give notice of any meeting to any particular Shareholder or Shareholders shall not invalidate any resolution passed at any such meeting.

23.4.4 Subject to the provisions of clause 23.4.5, the Company shall not be required to give further notice of a meeting that has been postponed or adjourned in terms of clause 23.4.2 unless the location for the meeting is different from –

23.4.4.1 the location of the postponed or adjourned meeting; or

23.4.4.2 the location announced at the time of adjournment, in the case of an adjourned meeting.

23.4.5 For so long as any of the Securities are listed on the JSE, the Company

shall release a notice on SENS of any postponed or adjourned meeting (whether postponed or adjourned in terms of clause 23.4.4 or otherwise).

23.4.6 If at the time appointed in terms of clause 23.4.2 for a postponed meeting to begin, or for an adjourned meeting to resume, the requirements of clause 23.4 have not been satisfied, the Shareholders present in person or by proxy will be deemed to constitute a quorum.

23.4.7 After a quorum has been established for a meeting, or for a matter to be considered at a meeting, all the Shareholders forming part of the quorum must be present at the meeting for the matter to be considered at the meeting. **[LR10.11(h)]**

23.4.8 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.

23.4.9 The maximum period allowable for an adjournment of a Shareholders' meeting is as set out in section 64(12) of the Act, without variation.

23.5 **Conduct of meetings**

23.5.1 The chairperson, or in his absence, the Lead Independent Director (if there is one) shall preside as chairperson at every Shareholder's meeting.

23.5.2 If there is no such chairperson or Lead Independent Director, or if at any 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 Directors present shall choose 1 (one) of their number to be chairperson. If no Director is willing to act as chairperson or if no Director is present within 15 (fifteen) minutes after the time appointed for commencement of the meeting, the Shareholders present shall choose one of their number to be chairperson of the meeting.

- 23.5.3 The chairperson of a Shareholders' meeting may –
- 23.5.3.1 appoint any firm or persons to act as scrutineers for the purpose of checking any powers of attorney or proxies received and for counting the votes at the meeting; or
- 23.5.3.2 act on a certificate given by any such scrutineers without requiring production at the meeting of the forms of proxy or himself counting the votes.
- 23.5.4 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 -
- 23.5.4.1 it is brought to the attention of the chairperson at the meeting; and
- 23.5.4.2 in the opinion of the chairperson of the meeting, it is of sufficient magnitude to vitiate the resolution.
- 23.5.5 Any objection to the admissibility of any vote (whether on a show of hands or on a poll) shall be raised -
- 23.5.5.1 at the meeting or adjourned meeting at which the vote objected to was recorded; or
- 23.5.5.2 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 chairperson of the meeting, whose decision shall be final and conclusive.
- 23.5.6 Even if he is not a Shareholder -
- 23.5.6.1 any Director; or
- 23.5.6.2 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.

24 SHAREHOLDERS' MEETINGS BY ELECTRONIC COMMUNICATION

24.1 Subject to the provisions of the JSE Listings Requirements, if determined by the Board in its discretion, 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 –

24.1.1 any Shareholders' meeting may be conducted entirely by Electronic Communication; or

24.1.2 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.

24.2 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.

25 VOTES OF SHAREHOLDERS

25.1 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 –

25.1.1 every person present and entitled to exercise voting rights shall be

- entitled to 1 (one) vote on a show of hands, irrespective of the number of voting rights that person would otherwise be entitled to exercise;
- 25.1.2 on a poll, 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 **[LR10.5(b)]**; and
- 25.1.3 the holders of Securities other than ordinary Shares, shall not be entitled to vote on any resolution at a meeting of Shareholders, except as provided in clause 25.2 **[LR10.5(c)]**.
- 25.2 If any resolution is proposed as contemplated in clause 6.3, the holders of such Shares ("**Affected Shareholders**") shall be entitled to vote at the meeting of ordinary Shareholders as contemplated in clause 25.1, provided that –
- 25.2.1 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; and
- 25.2.2 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). **[LR10.5 (c) & (e)]**
- 25.3 Voting shall be conducted by means of a polled vote in respect of any matter to be voted on at a meeting of Shareholders if a demand is made for such a vote by –
- 25.3.1 at least 5 (five) persons having the right to vote on that matter, either as Shareholders or as proxies representing Shareholders; or
- 25.3.2 a Shareholder who is, or Shareholders who together are, entitled, as

Shareholders or proxies representing Shareholders, to exercise at least 10% (ten percent) of the voting rights entitled to be voted on that matter;
or

- 25.3.3 the chairperson of the meeting.
- 25.4 At any meeting of the Company a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded in accordance with the provisions of clause 25.3, 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 defeated, and an entry to that effect in the book containing the minutes of the proceedings 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.
- 25.5 If a poll is duly demanded, it shall be taken in such manner as the chairperson directs, 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.
- 25.6 In the case of an equality of votes, whether on a show of hands or on a poll, the chairperson of the meeting at which the show of hands takes place, or at which the poll is demanded, shall have a second or casting vote.
- 25.7 A poll demanded on the election of a chairperson (as contemplated in clause 23.5.2) 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.
- 25.8 A person who is entitled to more than 1 (one) vote, does not have to exercise all his votes and does not have to exercise all his votes in the same manner.

- 25.9 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 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.
- 25.10 The board of any company or the controlling body of any other entity or person that holds any Securities may authorise any person to act as its representative at any meeting of Shareholders, in which event the following provisions will apply –
- 25.10.1 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
- 25.10.2 the authorising company, entity or person shall lodge (1) a resolution of the directors of such company or controlling body of such other entity or person, or (2) other written authority acceptable to the chairperson of such meeting, confirming the granting of such authority, and certified under the hand of the chairperson, secretary or other authorised person 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 chairperson of such meeting.
- 25.11 The parent or guardian of a minor and the *curator bonis* of an insane Shareholder as well as each person who is entitled to transfer Shares in terms of clause 11, may vote in respect thereof at a general meeting in the same manner as if he had been the holder of those Shares, provided that he shall, at least 48 (forty eight) hours before the time when the meeting is held at which he proposes to exercise his vote, furnish satisfactory proof to the company secretary that he is such parent, guardian or curator or that he is entitled in terms of clause 11 to transfer those Shares, or that the Board has previously recognised his right to vote in respect of those Shares.

- 25.12 Co-executors of a deceased Shareholder in whose name Shares are listed in the Securities Register, shall be deemed for the purposes of this clause 25, to be joint holders of those Shares.

26 PROXIES AND REPRESENTATIVES

- 26.1 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 –

26.1.1 participate in, and speak and vote at, a Shareholders' meeting on behalf of that Shareholder; or

26.1.2 give or withhold written consent on behalf of that Shareholder to a decision contemplated in section 60 of the Act,

provided that a Shareholder may appoint more than 1 (one) proxy to exercise voting rights attached to different Securities held by the Shareholder.

- 26.2 A proxy appointment –

26.2.1 must be in writing, dated and signed by the Shareholder; and

26.2.2 remains valid for –

26.2.2.1 1 (one) year after the date on which it was signed; or

26.2.2.2 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.

- 26.3 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. A Shareholder so represented at a meeting of the Company shall be deemed for purposes of this Memorandum of

Incorporation to be a Shareholder who is personally present at the meeting.

26.4 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 –

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

26.4.2 a Shareholder or his proxy must deliver to the Company a copy of the instrument appointing a proxy not later than 48 (forty eight) hours before –

26.4.2.1 the commencement of the meeting or adjourned meeting at which the proxy intends to exercise that Shareholder's rights;

26.4.2.2 the commencement of voting by poll where such poll will be held after the meeting or adjourned meeting,

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 the commencement of the meeting or adjourned meeting; and

26.4.3 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) of the Act,

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

26.5 If the instrument of proxy was not delivered within the time period referred to in clause 26.4.2, it shall not be treated as valid.

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

"I/We _____

being a shareholder of _____ Limited do hereby appoint

or failing him

or failing him, the chairperson of the meeting as my/our proxy to vote or abstain from voting on my/our behalf at the meeting of the Company to be held at _____ on _____ and at any adjournment thereof as follows:-

	In favour of	Against	Abstain
Special Resolution 1
Ordinary Resolution 1

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

SIGNED this ____ day of _____ in the year of _____.

SHAREHOLDER'S SIGNATURE

(Note: A Shareholder entitled to attend, speak and vote is entitled to appoint a proxy to attend, speak and vote in his stead, and such proxy need not be a Shareholder of the Company)."

- 26.7 A vote recorded in terms of an instrument of proxy shall be valid notwithstanding the previous legal incapacity of the principal or the revocation of the instrument of proxy or the transfer of the Share in respect whereof the vote was recorded, unless written notice of such legal incapacity, revocation or transfer is received by the Company at the office where such instrument of proxy is registered, not less than 48 (forty eight) hours before commencement of the meeting at which or before the voting is held by poll for which the instrument of proxy will be used.

27 SHAREHOLDERS' RESOLUTIONS

- 27.1 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.

27.2 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. **[LR10.11(a)]**

27.3 No matters, except –

27.3.1 those matters set out in section 65(11) of the Act; or

27.3.2 any other matter required by the Act to be resolved by means of a special resolution; or

27.3.3 for as long as any of the Securities are listed on the JSE, any other matter required by 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.

27.4 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.

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

28.1 In accordance with the provisions of section 60 of the Act, but subject to clause 28.4, a resolution that could be voted on at a Shareholders' meeting may instead be –

28.1.1 submitted by the Board for consideration to the Shareholders entitled to exercise the voting rights in relation to the resolution; and

28.1.2 voted on in writing by such Shareholders within a period of 20 (twenty) business days after the resolution was submitted to them. **[LR10.16(b)]**

28.2 A resolution contemplated in clause 28.1 –

- 28.2.1 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
- 28.2.2 if adopted, will have the same effect as if it had been approved by voting at a meeting.
- 28.3 Within 10 (ten) business days after adopting a resolution in accordance with the procedures provided for in this clause 28, the Company shall deliver a statement describing the results of the vote or consent process to every Shareholder who was entitled to vote on or consent to the resolution.
- 28.4 The provisions of this clause 28 shall not apply to any Shareholder meetings that are called in terms of the JSE Listings Requirements or the passing of any resolution in terms of clause 29.2.1 or to any annual general meeting of the Company. **[LR10.11(c) & LR10.16(b)]**

29 DIRECTORS

29.1 Number of Directors

- 29.1.1 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 (unless exempted), the Board must comprise at least 4 (four) Directors and not more than 20 (twenty) Directors. **[LR10.16(a)]**
- 29.1.2 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 29.2.6 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 Directors or invalidate anything done by the Directors while their number is below the minimum number fixed in accordance with this

Memorandum of Incorporation. **[LR10.16(d)]**

29.1.3 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 29.1.2, 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. **[LR10.16(d)]**

29.2 **Nomination and appointment of Directors**

29.2.1 Subject to the provisions of clauses 29.2.6 and 32.1, all Directors shall be nominated by the Shareholders for appointment as Directors in terms of the provisions of clauses 29.2.2 and 29.2.3 and elected as such 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. **[LR10.16(b)]**

29.2.2 Subject to the provisions of clauses 29.3 and 29.2.6, a person as envisaged in clause 29.2.1 shall only be eligible for election as a Director if he is nominated in the manner referred to in clause 29.2.3.

29.2.3 No person other than a Director retiring at the meeting, shall (unless he is recommended by the Board), be eligible for election as a Director at any general meeting, unless –

29.2.3.1 not later than 45 days subsequent to the financial year end of the Company, there shall have been delivered at the registered office of the company a notice in writing by a Shareholder (who may also be the proposed Director) who is entitled to be present and to vote at the general meeting for which such notice was given; and

29.2.3.2 [deleted]

29.2.3.3 such notice sets out the Shareholder's intention to propose a specific

- nominee for election as Director; and
- 29.2.3.4 a written notice signed by the nominee and in which he declares that he consents to accept the appointment as Director if he is elected as such, is attached to the said notice (unless the proposer and the nominee are the same person).
- 29.2.4 In any election of Directors –
- 29.2.4.1 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
- 29.2.4.2 in each vote to fill a vacancy –
- 29.2.4.2.1 each vote entitled to be exercised may be exercised once; and
- 29.2.4.2.2 the vacancy is filled only if a majority of the votes exercised support the candidate.
- 29.2.4.3 if the election process results therein that –
- 29.2.4.3.1 more nominees are elected as Directors than there are vacancies, those nominees (being a number of the nominees that are equal to the number of vacancies) that received the most votes will be the elected Directors, provided that in the event that a number of nominees that compete for a lesser number of vacancies received an equal number of votes, the Director or Directors elected to fill those vacancies will be determined by lot in the manner that the chairperson of the meeting will determine;
- 29.2.4.3.2 less nominees are elected as Directors than there are vacancies, the remaining vacancies will remain unless filled in terms of the provisions of clause 29.2.6.
- 29.2.4.4 if no or insufficient candidates are nominated to fill the number of vacancies on the Board, the vacancies so caused shall be regarded as interim vacancies which shall be filled in terms of the provisions of

clause 29.2.6.

29.2.5 Save as provided for in clauses 29.2.6 and 32, 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.

29.2.6 The Board has the power to appoint or co-opt any person as Director, whether to fill any vacancy on the Board on a temporary basis, as set out in section 68(3) of the Act, or as additional Director, provided that such appointment must be confirmed by the Shareholders, in accordance with clause 29.2.1, at the next annual general meeting of the Company, as required in terms of section 70(3)(b)(i) of the Act.
[LR10.16(c)]

29.3 Eligibility, resignation and retirement of Directors

29.3.1 Apart from satisfying the qualification and eligibility requirements set out in section 69 of the Act and subject to the belowmentioned provisions of this clause 29.3, a person need not satisfy any eligibility requirements or qualifications to become or remain a Director or a Prescribed Officer of the Company.

29.3.2 Subject to any provisions of clause 29.3.4, a Director shall resign his office as Director if –

29.3.2.1 a majority of his co-Directors sign a written notice in which he is requested to resign his office and lodge it at the registered office of the Company, (which shall come into effect upon lodging thereof at the registered office of the Company), but without prejudice to any claim for damages;

29.3.2.2 he retires as Director by means a written notice to the Company;

29.3.2.3 he is absent from more than 4 (four) consecutive ordinary meeting of the Board without permission of the Board (and such leave may not be granted for a period stretching over more than 6 (six) consecutive ordinary meetings, unless he is absent with regard to matters of the Company); and the Board resolves that his directorship shall be

terminated due to his absence.

- 29.3.3 Notwithstanding any contrary provisions of this Memorandum of Incorporation, a Director shall resign his office after conclusion of the annual general meeting of the Company relating to the financial year in which the Director has reached the age of 70 (seventy) years.
- 29.3.4 No Director shall be appointed for life or for an indefinite period and the Directors shall rotate in accordance with the following provisions of this clause 29.3.4 – **[LR10.16(k)]**
- 29.3.4.1 at each annual general meeting referred to in clause 23.2.1, 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 1/3 (one third), but not less than 1/3 (one third), shall retire from office, provided that if a Director is appointed as an executive Director, he shall not, while he continues to hold that position or office, be subject to retirement by rotation and he shall not, in such case, be taken into account in determining the rotation or retirement of Directors; **[LR10.16(g)]**
- 29.3.4.2 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;
- 29.3.4.3 notwithstanding the provisions of this clause 29.3.4, a Director who has already held his office for a period of 3 (three) years since his last election for appointment by the date of any annual general meeting shall retire at such meeting, whether as one of the Directors retiring according to the roster referred to above, or over and above such Directors;
- 29.3.4.4 a retiring Director shall be eligible for re-election;
- 29.3.4.5 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 28; **[LR10.16(g)]**

29.3.4.6 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 23.4.2 to 23.4.5 (inclusive) will apply to such adjournment as far as such provisions apply thereto, 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.

29.3.5 The Board shall, through its nomination committee (if such nomination committee has been constituted in terms of clause 36), 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. **[LR10.16(g)]**

29.4 **Directors' interests**

29.4.1 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. **[LR10.16(e)]**

29.4.2 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. **[LR10.16(e)]**

- 29.4.3 Any Director may act for the Company personally or through his firm in a professional capacity (except as auditor) and he or his firm shall be entitled to remuneration for professional services rendered as if he had not been a Director of the Company.
- 29.4.4 Each Director, Prescribed Officer and member of any committee 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 to their knowledge any person who is a related person to them) have a personal financial interest in any matter to be considered by the Board.

30 DIRECTORS' MEETINGS

- 30.1 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.
- 30.2 The Directors may elect a chairperson and, if applicable, a Lead Independent Director, and determine the period for which each is to hold office, which shall not be longer than 2 (two) years. The chairperson, or in his absence, the Lead Independent Director (if there is one), shall be entitled to preside over all meetings of Directors. If no chairperson or Lead Independent Director is elected, or if at any meeting neither is present or willing to act as chairperson thereof within 10 (ten) minutes of the time appointed for holding the meeting, the Directors present shall choose 1 (one) of their number to be chairperson of such meeting. **[LR10.16(i)]**
- 30.3 The chairperson of the Board may call a meeting of the Board at any time, and any Director (including the chairperson of the Board) must call a meeting of the Board if required to do so by at least (1) 25% (twenty five percent) of the Directors, in the case of the Board having at least 12 (twelve) members, or (2) 2 (two) Directors, in any other case.
- 30.4 The Board has the power –
- 30.4.1 as contemplated in section 74 of the Act, to consider any matter and/or adopt any resolution other than at a meeting 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. Such resolution, inserted in 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 one or more documents signed thus and shall be deemed to have been passed when consented to in writing by a majority of the Directors, unless a statement to the contrary is made in that resolution; **[LR10.16(j)]**

- 30.4.2 to conduct a meeting entirely by Electronic Communication, or to provide for participation in a meeting by Electronic Communication, as set out in section 73(3) 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;
- 30.4.3 to determine the manner and form of providing notice of its meetings contemplated in section 73(4) of the Act, provided that –
 - 30.4.3.1 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 chairperson of the Board, or failing the chairperson for any reason, the decision of any 2 (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;
 - 30.4.3.2 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 30.4.3.1; and
- 30.4.4 to 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.

30.5 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 30.5.5, and accordingly –

30.5.1 if all of the Directors of the Company –

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

30.5.1.2 are present at a meeting; or

30.5.1.3 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;

30.5.2 a majority of the Directors must be present at a meeting before a vote may be called at any meeting of the Directors;

30.5.3 each Director has 1 (one) vote on a matter before the Board;

30.5.4 a majority of the votes cast in favour of a resolution is sufficient to approve that resolution;

30.5.5 in the case of a tied vote the chairperson shall have a second or casting vote, provided that if the quorum of a Directors meeting is 2 (two), the chairperson shall not be permitted to exercise a second or casting vote if only 2 (two) Directors are present at the meeting and the matter being voted on shall fail. **[LR10.16(i)]**

30.6 Resolutions adopted by the Board –

30.6.1 must be dated and sequentially numbered; and

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

- 30.7 The Board shall ensure that minutes shall be kept of –
- 30.7.1 all appointments of officers by the Board;
 - 30.7.2 the names of the Directors present at each Board meeting;
 - 30.7.3 all resolutions and proceedings at each meeting of the Company or of any class of Shareholders;
 - 30.7.4 all resolutions passed by the Board in terms of clauses 30.4.1, 30.4.2 and 30.5.3 and of all meetings of the Board,
- in a consecutively numbered and permanently bound book or books kept solely for that purpose.
- 30.8 Any excerpt of or minutes of a meeting, or a resolution, signed by the chairperson of the meeting, by the chairperson of the next meeting of the Board, or by the company secretary, are evidence of the proceedings of that meeting, or the adoption of that resolution, as the case may be.

31 DIRECTORS' COMPENSATION AND FINANCIAL ASSISTANCE

- 31.1 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.
- 31.2 Any Director who -
- 31.2.1 serves on any executive or other committee; or
 - 31.2.2 devotes special attention to the business of the Company; or
 - 31.2.3 goes or resides outside South Africa for the purpose of the Company; or
 - 31.2.4 otherwise performs or binds himself to perform services which, in the opinion of the Directors, are outside the scope of the ordinary duties of a Director,

may be paid such extra remuneration or allowances in addition to or in substitution of the remuneration to which he may be entitled as a Director, as a disinterested quorum of the Directors may from time to time determine.

[LR10.16(f)]

31.3 The Directors may also be paid all their travelling and other expenses necessarily incurred by them in connection with -

31.3.1 the business of the Company; and

31.3.2 attending meetings of the Directors or of committees of the Directors of the Company. **[LR10.16(f)]**

31.4 The Board may, as contemplated in and subject to the requirements of section 45 of the Act, authorise the Company to provide financial assistance to a Director, Prescribed Officer or other person referred to in section 45(2) of the Act, and the power of the Board in this regard is not limited or restricted by this Memorandum of Incorporation.

32 EXECUTIVE DIRECTORS

32.1 The Directors may from time to time appoint 1 (one) or more executive Directors for such term and at such remuneration as they may think fit, and may revoke such appointment subject to the terms of any agreement entered into in any particular case, provided that such appointment must be confirmed by the Shareholders, in accordance with clause 29.2.1, at the next annual general meeting of the Company. A person so appointed shall not (subject to the agreement in terms whereof he was appointed) be subject to retirement in the same manner as the other Directors, and his appointment shall terminate *ipso facto* if he ceases for any reason to be a Director.

32.2 Subject to the provisions of any contract between himself and the Company, an executive Director shall be subject to the same provisions as to disqualification and removal as the other Directors of the Company.

32.3 The Directors may from time to time entrust to and confer upon an executive Director for the time being such of the powers exercisable in

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

33 INDEMNIFICATION OF DIRECTORS

33.1 The Company shall –

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 in respect of any Prescribed Officer or member of any committee of the Board, including the audit committee, as far as such provisions apply thereto, or any former Director, Prescribed Officer or member of any committee of the Board.

34 POWERS OF THE BOARD OF DIRECTORS

34.1 The business and affairs of the Company shall be managed by or under the directions of the Board, which has the authority to exercise all of the powers and perform any of the functions of the Company, except to the extent that the Act or this Memorandum of Incorporation provides otherwise.

34.2 The general powers granted to the Board by this clause 34 shall not be limited or reduced by any special authorisation or power granted to the

Board by any other clause.

- 34.3 The Directors may at any time and from time to time by power of attorney appoint any person or persons to be the 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 agents as the Directors think fit. Any such 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.
- 34.4 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.
- 34.5 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.
- 34.6 The Directors shall, for as long as the Securities are listed on the JSE, not have the power to propose any resolution to Shareholders in terms of sections 20(2) and 20(6) of the Act, to ratify any act of the Directors that is contrary to the JSE Listings Requirements and is inconsistent with any limit imposed by this Memorandum of Incorporation on the authority of the Directors to perform such an act on behalf of the Company, unless

otherwise agreed with the JSE. **[LR10.3]**

35 **BORROWING POWERS**

Subject to the provisions of this Memorandum of Incorporation, the Directors may from time to time -

- 35.1 borrow for the purposes of the Company such sums as they think fit; and
- 35.2 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.

36 **COMMITTEES OF THE BOARD**

- 36.1 The Board may 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, but such committees shall not include persons who are not Directors.
- 36.2 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.
- 36.3 The Board shall further appoint such committees as it is obliged to do in terms of the Act and, for as long as any of the Company's Securities are listed on the JSE, such committees as are required by the JSE Listings Requirements, having such functions and powers as are prescribed by the Act and/or in terms of the JSE Listings Requirements, as the case may be.

37 **ACCOUNTING RECORDS**

- 37.1 The Company shall keep all such accurate and complete accounting records 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 Subject to the provisions of the Act, all actions of a person or firm acting as auditor, notwithstanding any shortcoming with regard to its appointment, shall be valid against all persons negotiating with the Company in good faith.
- 37.5 The annual financial statements of the Company must be prepared and audited in accordance with the provisions of section 30 of the Act.
- 37.6 A copy of the annual financial statements (or a summarised version thereof) must be delivered 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. **[LR10.19]**
- 37.7 The annual financial statements shall be prepared in compliance with the Act and shall –
- 37.7.1 satisfy, as to form and content, the financial reporting standards of IFRS;
and
- 37.7.2 subject to and in accordance with IFRS –
- 37.7.2.1 present fairly the state of affairs and business of the Company and explain the transactions and financial position of the business of the Company;
- 37.7.2.2 show the Company's assets, liabilities and equity, as well as its income and expenses;

- 37.7.2.3 set out the date on which the statements were produced and the accounting period to which they apply; and
- 37.7.2.4 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.

38 COMPANY SECRETARY

- 38.1 The Board must appoint a company secretary.
- 38.2 The company secretary must have the requisite knowledge of, or experience with, relevant laws and be a permanent resident of South Africa.
- 38.3 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 AUTHENTICATION OF DOCUMENTS

Any Director or the company secretary or any person appointed by the Board for that purpose shall have the power to authenticate –

- 39.1 this Memorandum of Incorporation;
- 39.2 any resolution taken by the Company in general meeting or the Board; and
- 39.3 any book, charter, certificate, document or account with regard to the matters of the Company,

and to certify copies thereof as true copies and excerpts.

40 DISTRIBUTIONS

- 40.1 The Directors may declare dividends. **[LR10.17(a)]**
- 40.2 Subject to the provisions of the Act, and particularly section 46, and this Memorandum of Incorporation, the Company may make any proposed distribution, as defined and contemplated in the Act, if such distribution –

- 40.2.1 is pursuant to an existing legal obligation of the Company, or a court order; or
- 40.2.2 is authorised by resolution of the Board, in compliance with the JSE Listings Requirements. **[LR10.8]**
- 40.3 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.
- 40.4 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.
- 40.5 The Directors may from time to time pay to the Shareholders such interim dividends as the Directors consider to be appropriate.
- 40.6 All unclaimed monies that are due to a Shareholder/s shall be held by the Company in trust for the benefit of the Company for an indefinite period until lawfully claimed by such Shareholder/s, but subject to the laws of prescription that apply in South Africa. If, after expiry of the relevant period of time provided for in terms of the Prescription Act, No. 68 of 1969, as amended, or re-enacted from time to time, such monies remain unclaimed and the Company becoming lawfully entitled to such unclaimed monies, such unclaimed monies may be declared by the Directors to be forfeited for the benefit of the Company. The Directors may at any time annul such forfeiture upon such conditions (if any) as they think fit. **[LR10.17(c)]**
- 40.7 Any distribution, interest or other sum payable in cash to the holder of a Share may be paid by cheque or warrant sent by post and addressed to -
- 40.7.1 the holder at his registered address; or
- 40.7.2 in the case of joint holders, the holder whose name appears first in the Securities Register in respect of the Share, at his registered address; or
- 40.7.3 such person and at such address as the holder or joint holders may in writing direct,

or by way of an electronic funds transfer, into the selected bank account of the relevant persons referred to in clauses 40.7.1 to 40.7.3 above.

- 40.8 Every such cheque or warrant shall -
- 40.8.1 be made payable to the order of the person to whom it is addressed; and
- 40.8.2 be sent at the risk of the holder or joint holders.
- 40.9 The Company shall not be responsible for the loss in transmission of any cheque or warrant or of any document (whether similar to a cheque or warrant or not) sent by post as aforesaid. The Company shall not be responsible for a Shareholder's loss arising from any fraudulent, diverted or incorrect electronic funds transfer, unless such loss was due to the Company's gross negligence or wilful default.
- 40.10 A holder or any 1 (one) of 2 (two) or more joint holders, or his or their agent duly appointed in writing, may give valid receipts for any distributions or other moneys paid in respect of a Share held by such holder or joint holders.
- 40.11 When such cheque or warrant is paid or electronic funds transfer is made, it shall discharge the Company of any further liability in respect of the amount concerned.
- 40.12 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.
- 40.13 Without detracting from the ability of the Company to issue capitalisation Shares, any distribution may be paid wholly or in part -
- 40.13.1 by the distribution of specific assets; or
- 40.13.2 by the issue of Shares, debentures or securities of the Company or of any other company; or
- 40.13.3 in cash; or

- 40.13.4 in any other way which the Directors or the Company in general meeting may at the time of declaring the distribution determine.
- 40.14 Where any difficulty arises in regard to such distribution, the Directors may settle that difficulty as they think expedient, and in particular may fix the value which shall be placed on such specific assets on distribution.
- 40.15 The Directors may -
- 40.15.1 determine that cash payments shall be made to any Shareholder on the basis of the value so fixed in order to secure equality of distribution; and
- 40.15.2 vest any such assets in trustees upon such trusts for the benefit of the persons entitled to the distribution as the Directors deem expedient.
- 40.16 All dividends must be 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. **[LR10.17(b)]**
- 40.17 Without limiting the provisions of clause 40.2.2 above, all payments made to holders of Securities listed on the JSE ("**Listed Securities**") must be in accordance with the JSE Listings Requirements and capital payments to holders of Listed Securities may not be made on the basis that it can be called up again. **[LR10.8]**

41 RESERVES

- 41.1 The Board may, before recommending any preference or other dividend or other distribution, set aside such amounts from the profits of the Company as reserves as it deems fit.
- 41.2 Such reserves may in the discretion of the Board be used for any admissible purpose and pending such use, the Board may in its discretion –
- 41.2.1 use them for the business of the Company without them being separated from the other assets of the Company; or
- 41.2.2 invest it.
- 41.3 The Board may in its discretion transfer any profits which should not be

distributed in its opinion, without putting them to reserve.

41.4 The Board may –

41.4.1 distribute any such reserve in the funds as its deems fit;

41.4.2 consolidate such funds or any part thereof in one fund.

42 ACCESS TO COMPANY RECORDS

42.1 Each person who holds or has a beneficial interest in any Securities issued by the Company is entitled to inspect or copy, without any charge for any such inspection or upon payment of no more than the prescribed maximum charge for any such copy (and if no maximum charge is prescribed, then such reasonable amount as may be determined by the Directors), the information contained in the records of the Company referred to in section 26(1) of the Act, being –

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

42.1.2 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;

42.1.3 all –

42.1.3.1 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

42.1.3.2 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;

42.1.4 notice and minutes of all Shareholders' meetings, including –

42.1.4.1 all resolutions adopted by them, for 7 (seven) years after the date each such resolution was adopted; and

- 42.1.4.2 any document that was made available by the Company to the holders of Securities in relation to each such resolution;
- 42.1.5 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
- 42.1.6 the Securities Register.
- 42.2 A person not contemplated in clause 42.1 has a right to inspect or copy 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 or any such copy (and if no maximum charge is prescribed, then such reasonable amount as may be determined by the Directors for inspection and such market related amount as may be determined by the Directors for any such copy).
- 42.3 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.

43 PAYMENT OF COMMISSION

- 43.1 The Company may pay a commission to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any Securities or for procuring or agreeing to procure, whether absolutely or conditionally, subscriptions for any Securities, provided that for as long as the Securities is listed on the JSE, such commission may not exceed a rate of 10% (ten percent) of the issue price of the relevant Security. **[LR10.14]**
- 43.2 Commission may be paid out of capital or profits, whether current or

accumulated, or partly out of the one and partly out of the other.

- 43.3 Such commission may be paid in cash or, if authorised by the Shareholders by ordinary resolution, by the allotment of fully or partly paid-up Securities, or partly in one way and partly in the other.
- 43.4 The Company may, on any issue of Securities, pay such brokerage as may be lawful.

44 NOTICES

- 44.1 All notices shall be given by the Company to each Shareholder who has elected to receive such notices and, for as long as the Securities are listed on the JSE, simultaneously to the JSE, and shall be given in writing in any manner authorised by the JSE Listings Requirements and/or the Act, as may be applicable. All notices shall, in addition to the above, be released through SENS provided that, in the event that the Shares or other Securities 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 delivered in accordance with the provisions of the Act. **[LR10.11 (e) and (f)]**

44.2 Each Shareholder –

- 44.2.1 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
- 44.2.2 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,

provided that a Shareholder who fails to notify the Company of an address as set out in this clause 44.2 above, will be deemed to have elected not to receive notices and documents, from the Company.

- 44.3 Any Shareholder whose address in the Securities Register is an address not within South Africa, shall be entitled to have notices served upon him at such address. **[LR10.18]**

- 44.4 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.
- 44.5 Any notice sent by any means permitted in the Act or the Regulations shall be deemed to have been delivered as provided for that method of delivery in the Act or the Regulations, as the case may be.
- 44.6 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.
- 44.7 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 LIQUIDATION

- 45.1 If the Company is liquidated, the liquidator may, with the authorisation of a special resolution by the Shareholders, distribute the assets of the Company entirely or partially in money or assets between the Shareholders, and may for such purposes -
- 45.1.1 put a value on any asset which he deems reasonable; and
- 45.1.2 determine how the distribution between the Shareholders or various classes of Shareholders shall be executed.

- 45.2 The liquidator may with the authorisation of a special resolution of the Shareholders transfer all the assets or a part thereof to trustees who shall hold them in trust for the benefit of the Shareholders or some of the Shareholders.
- 45.3 Any such resolution may make provision and grant authorisation for a distribution of specific assets between various classes of Shareholders in conflict with their existing rights, but each Shareholder shall in such a case have the right to refuse consent as well as other additional rights, in the same manner as if such resolution is a special resolution in terms of the provisions of the Act.

46 **PRE-ACQUISITION PROFITS**

Subject to the Act, the JSE Listings Requirements and the further provisions of this Memorandum of Incorporation, where any asset, business or property is purchased by the Company with effect from an expired date on condition that the Company shall be entitled to the profits as from that date and shall be liable for the losses thereof, such profits or losses (according to the case) shall -

46.1 in the discretion of the Board; and

46.2 within the limits of the law,

be credited or debited entirely or partially against the income account.

47 **AMENDMENT OF MEMORANDUM OF INCORPORATION**

47.1 This Memorandum of Incorporation may only be altered or amended (including any alteration or amendment that changes the name of the Company) by way of a special resolution of the 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 sections 16(1)(a) and 16(4) of the Act. **[LR10.5(d)]**

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

47.2.1 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

47.2.2 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.

48 **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. **[LR10.4]**

ADOPTION

This Memorandum of Incorporation was adopted by special resolution of the Shareholders on 12 May 2014.

ADDITIONAL CLASSES OF SHARES

In addition to the Shares contemplated in clause 6.1.1 of the Memorandum of Incorporation to which this schedule is Schedule 1, the Company is authorised to issue no more than the following Shares: -

Nil