

Republic of South Africa Companies Act, 2008

Memorandum of incorporation for a public company

Name of company: Sun International Limited

Registration No: 1967/007528/06

(the "**Company**")



This Memorandum of Incorporation was adopted by Special Resolution passed on 23 November 2012, a copy of which was filed together with the notice of amendment in substitution for the existing Memorandum of Incorporation (being the memorandum of association and articles of association of the Company, which were the constitutional documents of the Company in terms of the Companies Act No. 61 of 1973).

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

PART ONE: Introduction

1: Definitions

In this MOI:

- 1.1 words and expressions that are defined in the Companies Act and/or the Regulations and which are not defined herein shall have the meanings given to them in the Companies Act and/or the Regulations. For ease of reading, such terms have been capitalised in this MOI; and
- 1.2 unless otherwise indicated, the following terms shall have the meaning assigned to them hereunder and cognate expressions shall have a corresponding meaning:
 - 1.2.1 "**Board**" means the board of Directors of the Company from time to time or, if there is only one Director, then that Director;
 - 1.2.2 "**Companies Act**" or "**Act**" means the Companies Act No. 71 of 2008, as amended, consolidated or re-enacted from time to time, and includes all schedules thereto and the Regulations;
 - 1.2.3 "**Company**" means Sun International Limited, a company duly registered and incorporated with limited liability under the company laws of the Republic of South Africa under registration number 1967/007528/06, and listed on the stock exchange operated by the JSE;
 - 1.2.4 "**Filing Date**" means the date on which this MOI is filed with the Companies and Intellectual Property Commission in accordance with section 16(7);
 - 1.2.5 "**JSE**" means JSE Limited, a company duly registered and incorporated with limited liability under the company laws of the Republic of South Africa under registration number 2005/022939/06, licensed as an exchange under the SSA;
 - 1.2.6 "**Listing Requirements**" means the Listings Requirements as amended from time to time by the JSE, whether by way of practice note or otherwise;
 - 1.2.7 "**MOI**" or "**memorandum of incorporation**" means the memorandum of incorporation of the Company, being this document (and including any schedules hereto), as amended or replaced from time to time;
 - 1.2.8 "**Ordinary Share**" shall have the meaning ascribed thereto in clause 11.1;
 - 1.2.9 "**Preference Shares**" shall have the meaning attributed to that term in clause 12;
 - 1.2.10 "**Preference Share Terms**" means the preferences, rights, limitations and other terms attaching to the Preference Shares;
 - 1.2.11 "**Prescribed Officer**" shall have the meaning given to that term in Regulation 38, and "**Prescribed Officers**" shall have a corresponding meaning;

1: Definitions (continued)

- 1.2.12 **"rand"** or **"R"** shall mean the lawful currency of South Africa;
- 1.2.13 **"Regulations"** means regulations published pursuant to the Companies Act as amended, consolidated or re-enacted from time to time;
- 1.2.14 **"SENS"** means the Securities Exchange News Service;
- 1.2.15 **"SSA"** means the Securities Services Act No. 36 of 2004, as amended or replaced from time to time;
- 1.2.16 **"STRATE"** means Strate Limited, a company duly registered and incorporated with limited liability under the company laws of the Republic of South Africa under registration number 1998/02224/06, licensed as a central securities depository under the SSA.

2: Interpretation

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

- 2.1 references to a Shareholder represented by proxy shall include Shareholders entitled to vote represented by an agent appointed under a general or special power of attorney. The holder of a general or special power of attorney given by a Shareholder shall be entitled to vote, if duly authorised under that power of attorney to attend and take part in the Shareholders Meetings and proceedings of the Company, whether or not he be himself a Shareholder of the Company;
- 2.2 all references to **"section/s"** in this MOI refer to the corresponding sections of the Companies Act, unless the context indicates otherwise and all references to **"Clauses"** are to Clauses of this MOI;
- 2.3 words and expressions that are defined in the Listings Requirements and which are not defined herein shall have the meaning given to them in the Listings Requirements;
- 2.4 references to Shareholders entitled to vote or Present at a Meeting or acting in person shall include Juristic Persons represented by duly authorised representative or acting in the manner prescribed in section 57(5);
- 2.5 any reference to **"Present at such Meeting"** or **"Present at the Meeting"** will be construed in accordance with the definition of **"Present at a Meeting"** in the Companies Act;
- 2.6 any reference to **"general meetings of the Company"**, **"general meeting of members of the Company"** or **"general meetings of ordinary members"** will, for the purposes of Clauses 12, 13 and/or 14, as the case may be, be construed in accordance with the definition of **"shareholders meeting"** in the Companies Act.
- 2.7 the headings are for reference purposes only and shall not affect the interpretation of this MOI;
- 2.8 words in the singular number shall include the plural, and words in the plural number shall include the singular, words importing the masculine gender shall include the female gender, and words importing persons shall include created entities (corporate or not);
- 2.9 if any term is defined within the context of any particular Clause in the MOI, the term so defined, unless it is clear from the Clause in question that the term so defined has limited application to the relevant Clause, shall bear the meaning ascribed to it for all purposes in terms of this MOI, notwithstanding that that term has not been defined in clause 1;
- 2.10 save to the extent Item 4(4) of Schedule 5 of the Companies Act may permit this MOI to prevail, if the provisions of this MOI are in any way inconsistent with the provisions of the Companies Act, the provisions of the Companies Act shall prevail, and this MOI shall be read in all respects subject to the Companies Act;
- 2.11 any reference to an enactment is to that enactment as at the Filing Date and as amended or re-enacted or replaced from time to time and includes any subordinate legislation made from time to time under such enactment;
- 2.12 if any provision in a definition is a substantive provision conferring rights or imposing obligations on any Person, notwithstanding that it is only in clause 1, effect shall be given to it as if it were a substantive provision in the body of the MOI;
- 2.13 the rule of construction that a contract shall be interpreted against the party responsible for the drafting or preparation of the contract, shall not apply to this MOI;
- 2.14 the words **"include"**, **"including"**, **"in particular"**, **"other"** and **"otherwise"** shall be construed as being by way of example or emphasis only and shall not be construed as, nor shall they take effect as, limiting the generality of any preceding word/s (and as such the *ejusdem generis* rule shall not apply);
- 2.15 any reference in this MOI to any other agreement or document shall be construed as a reference to such other agreement or document as same may have been, or may from time to time be, amended, varied, novated or supplemented;
- 2.16 **"in writing"** means legible writing and in English and includes printing, typewriting, lithography, any other mechanical process and/or any Electronic Communication; and
- 2.17 when a particular number of **"Business Days"** is provided for between the happening of one event and another, the number of days must be calculated by:
 - 2.17.1 excluding the day on which the first such event occurs;
 - 2.17.2 including the day on or by which the second event is to occur; and
 - 2.17.3 excluding any public holiday, Saturday or Sunday that falls on or between the days contemplated in Clauses 2.17.1 and 2.17.2 respectively.

PART TWO: Nature of the Company

3: Juristic personality

The Company was incorporated on 11 July 1967 and is a Pre-existing Company as defined in the Companies Act. As such, the Company continues to exist as a Public Company as if it had been incorporated and registered in terms of the Companies Act, as contemplated in Item 2 of Schedule 5 to the Companies Act.

4: Public company

- 4.1 The Company is a Profit Company.
- 4.2 The Shares and other Securities issued by the Company are freely transferable. **[10.2(a)]**
- 4.3 The Company is entitled to offer its Shares and other Securities to the public.
- 4.4 The Company is not a Private Company, a State-Owned Company or a Personal Liability Company and, accordingly, the Company is classified as a Public Company in accordance with the provisions of section 8(2)(d).

5: Powers and capacity of the company

- 5.1 Save as otherwise set out in this MOI, the Company has the powers and capacity of an individual except to the extent that a Juristic Person is incapable of exercising any such power, or having such capacity.
- 5.2 There is no provision of this MOI that constitutes a restrictive condition, as contemplated in section 15(2)(b).

6: 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, except to the extent that the Companies Act or this MOI provides otherwise.

7: Amendment of the MOI

- 7.1 Subject to the Listings Requirements, every provision of this MOI is capable of alteration or amendment in accordance with section 16(1)(a), 16(1)(c), 17 and 152(6)(b). Accordingly, the provisions of section 15(2)(c) shall not apply. **[10.5 (d)]**
- 7.2 The MOI may be altered or amended only:
 - 7.2.1 in compliance with a court order on the basis set out in section 16(1)(a) read with section 16(4);
 - 7.2.2 by way of a Special Resolution passed in accordance with section 16(1)(c);
 - 7.2.3 by the Board in accordance with section 17(1); or
 - 7.2.4 by the business rescue practitioner in accordance with section 152(6)(b).
- 7.3 The MOI may not be amended by the Board on the basis set out in section 16(1)(b), nor in accordance with any other Alterable Provision of the Companies Act that allows for a method for the alteration or amendment of the MOI by the Board other than those methods contemplated in clause 7.1, clause 7.2 or elsewhere in this MOI. **[10.5 (d)]**
- 7.4 The Company shall publish a notice of any alteration made to this MOI by the Board in order to correct this MOI in accordance with section 17(1) by placing a notice together with a copy of the amendment to this MOI or a copy of the amended MOI, as the case may be, on the Company's website. The Company shall File a notice of the alteration in the manner prescribed by the Companies Act.
- 7.5 Subject to the Listings Requirements, any change to the name of the Company shall be affected by an amendment to this MOI by way of a Special Resolution, as contemplated in clause 7.2.2. **[10.5 (d) (vii)]**

8: Ratification of ultra vires acts

For so long as the Listing Requirements so require, no Special Resolution contemplated in section 20(2) and section 20(6) shall be proposed to the Shareholders in the event that such a resolution would lead to the ratification of an act that is contrary to the Listing Requirements, unless otherwise agreed by the JSE. **[10.3]**

9: Rules

The Board shall not have the power or authority to make, amend or repeal any Rules relating to the governance of the Company, as contemplated in section 15(3). **[10.4]**

10: Extended accountability requirements

Unless the Company has been exempted from doing so in terms of any provision of the Companies Act, the Company, being a Public Company, is required in terms of section 34(1) to comply with the extended accountability requirements set out in Chapter 3 of the Companies Act.

PART THREE: Capitalisation and Securities of the Company

11: Share capital and variation of preferences, rights, limitations and other terms

- 11.1 The Company is authorised to issue:
- 11.1.1 200,000,000 (two hundred and fifty million) ordinary par value Shares of R0.08 (eight cents) each ("**Ordinary Shares**"). Each such Ordinary Share shall rank *pari passu* in all respects with all other Ordinary Shares and each holder of Ordinary Shares shall be entitled to: **[10.5 (a)]**
 - 11.1.1.1 exercise one vote on any matter to be decided on a show of hands irrespective of the number of Ordinary Shares held or the Voting Rights such holder would otherwise be entitled to exercise in respect of the number of Ordinary Shares held, whether at a Shareholders' Meeting or otherwise and whether in person or by proxy; **[10.5 (b)]**
 - 11.1.1.2 exercise one vote for each Ordinary Share held in respect of any matter to be decided by way of a poll; **[10.5 (b)]**
 - 11.1.1.3 vote on any matter to be decided by the Shareholders at any Shareholders Meeting; **[10.5 (b)]**
 - 11.1.1.4 vote on any proposal to amend the preferences, rights, limitations and other terms associated with that Ordinary Share;
 - 11.1.1.5 participate proportionally in any Distribution made by the Company; and
 - 11.1.1.6 receive proportionally the net assets of the Company upon its liquidation; and
 - 11.1.2 100,000,000 (one hundred million) variable rate cumulative redeemable par value preference shares of R0.01 (one cent) each, having the preferences, rights, limitations and other terms as set out in clause 12.
- 11.2 Save as otherwise contemplated in clause 12 below and notwithstanding the provisions of section 36(3), the Board will not have the power to:
- 11.2.1 increase or decrease the number of authorised Shares of any class of Shares;
 - 11.2.2 reclassify any classified Shares that have been authorised but not issued;
 - 11.2.3 classify any unclassified Shares that have been authorised but not issued; or
 - 11.2.4 determine the preferences, rights, limitations or other terms of Shares, which power shall be reserved for the Shareholders as contemplated in clause 11.3.
- 11.3 The Shareholders may, by amendment to this MOI passed by way of Special Resolution (as contemplated in clause 7.2.2) and in accordance with the Listings Requirements (where necessary): **[10.9 (c)]**
- 11.3.1 increase or decrease the number of authorised Shares of any class of Shares;
 - 11.3.2 reclassify any classified Shares that have been authorised but not issued;
 - 11.3.3 classify any unclassified Shares that have been authorised but not issued;
 - 11.3.4 determine the preferences, rights, limitations or other terms of Shares;
 - 11.3.5 vary any preferences, rights, limitations and other terms attaching to any class of Shares; **[10.5 (d) (ii)]**
 - 11.3.6 create any class of Shares; **[10.5 (d) (i)]**
 - 11.3.7 convert one class of Shares into one or more other classes; **[10.5 (d) (iii)]**
 - 11.3.8 increase the number of Securities of a class; or **[10.5 (d) (iv)]**
 - 11.3.9 consolidate or subdivide any class of Securities. **[10.5 (d) (v) & (vi)]**
- 11.4 No Shares may be authorised in respect of which the preferences, rights, limitations or any other terms of any class of Shares may be varied in response to any objectively ascertainable external fact or facts as provided for in section 37(6) and section 37(7). **[10.5 (g)]**
- 11.5 The holders of Securities, other than the Ordinary Shares, Preference Shares and any special shares created for the purposes of black economic empowerment as contemplated in the Broad Based Black Economic Empowerment Act, 53 of 2003 and the Broad Based Black Economic Empowerment Codes of Good Practice published in terms thereof, shall not be entitled to vote on any resolution proposed to be passed at any Shareholders' Meeting. In instances where the holders of such Securities are permitted to vote at Shareholders' Meetings, those Securities shall not carry any special Voting Rights or privileges and each such holder shall be entitled to exercise one vote for each Security held, provided that the total Voting Rights exercisable by such holders at a Shareholders' Meeting may not exceed 24,99% (twenty four comma nine nine percent) of the total Voting Rights exercisable by all Shareholders at that meeting. **[10.5(c)]**

12: Variable rate cumulative redeemable preference shares

The following rights and privileges shall attach to the variable rate cumulative redeemable preference shares of R0,01 (one cent) each (the "**Preference Shares**") in the share capital of the Company, namely:

- 12.1 the Preference Shares shall be allotted and issued, credited as fully paid at such premium per Preference Share as the Board may determine against receipt of the relevant subscription price; **[10.2(a)]**
- 12.2 each Preference Share shall confer the right on the holder to receive out of the profits available for distribution semi-annual cumulative preferential cash dividends (the "**Preference Dividends**") which shall be cumulative on 6 (six) monthly intervals (the "**Dividend Dates**") and determined in the manner set out in clauses 12.3 and 12.4, and which shall rank in priority to any dividends which after the date of issue of the relevant tranche of Preference Shares may be declared in respect of any other class of Shares in the Company;
- 12.3 the Preference Dividends shall be due and payable on each of the Dividend Dates, with the final dividend payment due and payable on the redemption date of the Preference Shares being such date as the Board may determine and set out in the terms of issue of the Preference Shares concerned or as otherwise provided for in this clause 12 (the "**Redemption Date**"). The Preference Dividends are to be declared and paid on each Dividend Date and are to be calculated as follows:
 - 12.3.1 in respect of the first dividend period, from the date of allotment and issue of the relevant tranche of Preference Shares until the day preceding the first Dividend Date, both days inclusive;
 - 12.3.2 in respect of the last dividend period, from the preceding Dividend Date until the day preceding the Redemption Date, both days inclusive;
 - 12.3.3 in respect of all other dividend periods, from the preceding Dividend Date until the day preceding the next Dividend Date, both days inclusive;
- 12.4 the Preference Dividend shall be calculated on an amount equal to the par value of the Preference Shares together with the premium originally paid in respect thereof at such rate as the Board may determine in respect of each tranche of the Preference Shares issued by the Company prior to the issue of such tranche;
- 12.5 if any Preference Dividend is not paid on its due date (whether declared or not) (the "**Arrear Preference Dividend**"), such Arrear Preference Dividend shall be increased by an additional dividend calculated at 2,5% (two comma five percent) above the publicly quoted prime overdraft rate of the Company's bankers (the "**Prime Rate**") on an amount equal to such Arrear Preference Dividend from the date the Preference Dividend was due to the date of payment of the Arrear Preference Dividend, and calculated on a daily basis and compounded in arrears on the last day of every month;
- 12.6 the Preference Shares shall confer the right on a winding-up of the Company to receive a preferential return equal to the total of all the amounts which would have been payable on redemption of each Preference Dividend in accordance with clause 12.7 as if such redemption had taken place on the commencement date of the winding-up together with interest calculated in accordance with clause 12.12 and all dividends referred to in clause 12.12, in priority to any other payments on any other Shares in the Company;
- 12.7 the Company shall be obliged to redeem the Preference Shares, at least at par together with the premium originally paid in respect thereof per Preference Share, in full and without penalty on the Redemption Date (the "**Redemption Price**"). There shall in addition be paid on the Preference Shares redeemed, any Arrear Preference Dividends increased by any additional dividend due in terms of clause 12.5 (whether declared or not) and all Preference Dividends which have not been paid, but which would have accrued had the Preference Dividends accrued on a day-to-day basis up to and including the date on which the Preference Shares are redeemed (whether such dividends have been declared or not). The share premium shall be payable out of the share premium account;
- 12.8 the Company shall be obliged to pay interest on the Redemption Price if not redeemed on the Redemption Date, calculated at 2% (two percent) per annum above the Prime Rate from due date thereof to date of payment;
- 12.9 the registered holder/s of the Preference Shares shall not be entitled to vote, either in person or by proxy, at any meeting of the Company, by virtue of or in respect of the Preference Shares, unless any one or more of the following circumstances prevail at the date of the meeting: **[10.5(c) and (h)]**
 - 12.9.1 the Preference Dividends or any part thereof, whether declared or not, remain in arrear and unpaid on the date thereof; **[10.5(h)(i) and (ii)]**
 - 12.9.2 any Redemption Price remains in arrear and unpaid on the due date thereof; **[10.5(h)(i) and (iii)]**
 - 12.9.3 a resolution of the Company is proposed which directly affects the rights attached to the Preference Shares or the interest (that is, the right to receive Preference Dividends and redemption monies in full) of the holders thereof, including a resolution for the winding-up of the Company or for the redemption of its share capital or share premium account; **[10.5(h)(ii)]**
- 12.10 the Company shall be obliged to give the holder/s of the Preference Shares notice, in terms of the Act, of any meeting of the holders of the Preference Shares. At every meeting of the holders of the Preference Shares, the provisions of the Company's memorandum of incorporation relating to general meetings of the ordinary members shall apply *mutatis mutandis*. At any general meeting or adjourned general meeting of the Company at which holders of the Ordinary Shares and/or the holders of the Preference Shares are present and entitled to vote upon a poll, a holder of the Preference Shares shall be entitled to that proportion of the total votes in the Company which the aggregate nominal value and premium paid up on the Preference Shares held by that holder bears to the aggregate amount of the nominal value and premium on all Shares issued by the Company at that time; **[10.5 (c)]**

12: Variable rate cumulative redeemable preference shares (continued)

- 12.11 notwithstanding any provisions to the contrary contained herein:
- 12.11.1 in terms of the Preference Shares may not be modified, altered, varied, added to or abrogated;
 - 12.11.2 the share premium and/or non-distributable reserves of the Company may not be repaid or distributed (except in such manner as is permitted by the Act, and provided that such repayment or distribution does not have the effect of reducing the share premium account to below the amount of the original premium paid per issued Preference Share);
 - 12.11.3 no Shares in the capital of the Company ranking, as regards rights to dividend or redemption or on a winding-up as regards return of capital, in priority to or *pari passu* with the Preference Shares, shall be created or issued without:
 - 12.11.3.1 the prior written consent of all holders of the Preference Shares; or
 - 12.11.3.2 the prior sanction of a resolution passed at a separate class meeting of the holders of the Preference Shares in the same manner, *mutatis mutandis*, as a Special Resolution; **[10.5(e) and (f)]**
- 12.12 the Preference Dividends and any Arrear Preference Dividends on any Preference Shares shall cease to accrue from the Redemption Date unless, on surrender of the certificate for such Preference Share, payment of the amounts referred to in clause 12.7 shall be refused by the Company, in which event the Preference Dividends and Arrear Preference Dividends shall continue to accrue and be payable until the date of actual payment of such amounts;
- 12.13 the Company shall not be liable to the Preference Shareholders for interest on any unclaimed redemption monies;
- 12.14 payment in respect of Preference Dividends and/or redemption monies shall be made by electronic transfer or cheque sent by registered post and at the risk of the registered holder to his address as recorded in the register of members or, at the option of the registered holder, to its commercial bank, nominated in writing, for credit of an account nominated in writing by such holder;
- 12.15 the Company shall have the right to redeem all the Preference Shares on the furnishing of no less than 30 (thirty) days' written notice to the holder thereof;
- 12.15.1 if:
- 12.15.1.1 there is any change in:
 - 12.15.1.1.1 any present or future law, rule, regulation, directive or banking practice; or
 - 12.15.1.1.2 the interpretation or administration of any present or future law, rule, regulation, directive or banking practice (whether or not having the force of law) by any relevant fiscal, monetary or other authority; or
 - 12.15.1.1.3 the rates, method of collection or calculation or the nature of any tax applicable to a holder as at the date it acquires the Preference Shares; or
 - 12.15.1.2 any tax, penalties or interest be imposed on a holder of the Preference Shares (the "Holder") as a result of any disallowance or reversal or reduction by the Commissioner for the South African Revenue Services of any allowances or deductions claimed by a Holder in respect of or arising from that Holder holding the Preference Shares which was not taken into account in determining the initial net after-tax return to that Holder otherwise than negligence or wilful default on the part of the Holder; or
 - 12.15.1.3 a Holder is subject to any tax duty, impost or other charge in respect of or arising from its holding of the Preference Shares which was not taken into account in determining the initial net after-tax return to the Holder otherwise than negligence or wilful default on the part of the Holder;
 - 12.15.1.4 a Holder is unable, in determining the net dividends in respect of which it is liable to pay secondary tax on companies, to deduct any of the Preference Dividends or the additional Preference Dividends referred to in clause 12.5 from the dividends declared by the Holder otherwise than negligence or wilful default on the part of the Holder; or
 - 12.15.1.5 any new law, rule, regulation, directive or practice is promulgated given or adopted, which has or could have the effect of reducing the net after-tax return afforded or to be afforded to the Holder pursuant to its holding of the Preference Shares to below its initial after-tax return, then the Holder may, upon written notice to the Company within a period of 60 (sixty) days of any of the abovementioned events, require that the rate of the Preference Dividend be increased, with effect from the date upon which the net after-tax return received or to be received by the Holder is so reduced, to such rate as will afford the Holder the same net after-tax return as the initial net after-tax return to the Holder;
- 12.15.2 subject to clause 12.15.3, the Company shall, within 7 (seven) days after having received any notice contemplated in clause 12.15, by written notice to the Holder either:
- 12.15.2.1 increase the rate of the Preference Dividend in accordance with the notice referred to in clause 12.15.1; or
 - 12.15.2.2 redeem all or part of the issued Preference Shares for the amounts referred to in clause 12.7 plus an amount which will afford the same after-tax return to the Holder in respect of the Preference Shares so redeemed as the initial net after-tax return to the Holder on such Preference Shares, calculated from the effective date of any reduction in the net after-tax return to the date of payment by the Company, provided that:
 - 12.15.2.2.1 the Company will be deemed to have elected to increase the rate of the Preference Dividend in terms of clause 12.15.2 should it fail to make any election in terms of either clause 12.15.2.1 or clause 12.15.2.2; and
 - 12.15.2.2.2 any partial redemption of the Preference Shares pursuant to clause 12.15.2.2 shall not relieve the Company of its obligation to pay such increased Preference Dividend in respect of the Preference Shares which are not so redeemed;

12: Variable rate cumulative redeemable preference shares (continued)

- 12.15.3 a Holder's rights in terms of article 12.15.1 shall survive the redemption of its Preference Shares. Accordingly, should any person who was a Holder (a "**Previous Holder**") be required to give any notice contemplated in clause 12.15.1 after redemption of its Preference Shares, the Preference Dividends payable from the date upon which the net after-tax return received by the Previous Holder has been reduced to the date of redemption of the Preference Shares shall be increased in accordance with the notice and the Company shall be obliged within 7 (seven) days after having received such notice to pay to the Previous Holder the difference between the increased Preference Dividends so payable and the actual Preference Dividends paid during such period;
- 12.15.4 the Company shall be entitled to require any increase in the Preference Dividend in terms of clause 12.15.2.1 and clause 12.15.2.2 and any additional amount referred to in clause 12.15.2.2 to be verified by the auditors of the Holder and the costs of such verification shall be borne and paid by the Company if such verification indicates that the Holder's calculations are correct;
- 12.15.5 for the purposes of this clause 12.15, "**initial net after-tax return**" shall mean the net after-tax return afforded to a Holder pursuant to its holding of the Preference Shares as at the date that it subscribes for the Preference Shares.

13: Authority to issue securities and options to subscribe for securities

- 13.1 The Board shall not have the power to issue Shares or other Securities of the Company:
- 13.1.1 unless such Shares or other Securities of the Company have been authorised in terms of this MOI;
- 13.1.2 without the approvals contemplated in clause 13.2 (other than an issue as contemplated in clause 15 and clause 16.1), unless Shareholder approval is required in terms of the Listings Requirements; and
- 13.1.3 the approval of the JSE, where necessary.
- 13.2 As regards the issue of:
- 13.2.1 Shares or other Securities convertible into Shares in terms of section 41, or the grant of options contemplated in section 42, or the grant of any other rights exercisable for Securities of the Company in terms of section 41(1), subject to the provisions of section 41(2), the Board shall not have the power to allot or issue same without having first obtained the approval of Shareholders by way of a Special Resolution;
- 13.2.2 options for the allotment or subscription of Shares or other Securities of the Company in terms of section 42, the Board shall not have the power to issue same without having first obtained the approval of Shareholders by way of an Ordinary Resolution;
- 13.2.3 Shares and other Securities of the Company, other than those contemplated in clause 13.2.1, the Board shall not have the power to issue or allot the same without having first obtained the approval of Shareholders by way of an Ordinary Resolution.
- 13.3 In addition to the approvals required in terms of clause 13.2, all issues of Shares for cash and all issues of options and "convertible securities" (as defined in the Listings Requirements) granted or issued for cash must be in accordance with the Listings Requirements. **[10.9 (a)]**
- 13.4 Any approvals contemplated in clause 13.2 and in the Listings Requirements (as contemplated in clause 13.3) may be in the form of a general authority to the Board, whether conditional or unconditional, to allot and issue any Shares or other Securities of the Company in their discretion, or in the form of a specific authority in respect of any particular allotment or issue of any Shares or other Securities of the Company. Such authority shall endure for the period provided in the Ordinary Resolution or Special Resolution in question but may be revoked by Ordinary Resolution or Special Resolution, as the case may be, at any time.
- 13.5 Notwithstanding the provisions of this clause 13, Shareholders in a Shareholders' Meeting may authorise the Directors to issue unissued Securities, and/or grant options to subscribe for unissued Securities, as the Directors in their discretion deem fit, provided that such corporate action(s) has/have been approved by the JSE (where necessary) and are subject to the Listings Requirements (where necessary). **[10.1]**
- 13.6 Notwithstanding the provisions of section 40(5), all Securities of the Company for which a listing is sought on the JSE must, unless otherwise required by the Companies Act, only be issued after the Company has received the consideration approved by the Board for the issuance of such Securities. **[10.2 (a)]**

14: Debt instruments

The Board may authorise the Company to issue secured or unsecured debt instruments as set out in section 43(2), provided that the Board shall not be entitled to issue any debt instruments that grant the holders thereof any special rights or privileges regarding attending and voting at general meetings and the appointment of Directors. The debt instrument may not confer on the holder thereof any right to receive any Shares or other Securities of the Company (whether by way of redemption or substitution of the debt instrument) without the approval of an Ordinary Resolution. The authority of the Board to authorise the Company to issue secured or unsecured debt instruments, as set out in section 43(2), is accordingly limited and restricted by this MOI as aforesaid. **[10.10]**

15: Capitalisation issue

- 15.1 The Board is authorised to approve the issuing of any authorised Shares as capitalisation shares, to issue Shares of one class as capitalisation shares in respect of Shares of another class, and to resolve to permit shareholders to elect to receive a cash payment in lieu of a capitalisation shares as set out in section 47(1). **[10.6] and [10.7]**
- 15.2 The Board may not resolve to offer a cash payment in lieu of awarding a capitalisation share, as contemplated in section 47(1)(c), unless the Board:
- 15.2.1 has considered the Solvency and Liquidity Test, as required by section 46, on the assumption that every such Shareholder would elect to receive cash; and
- 15.2.2 is satisfied that the Company would satisfy the Solvency and Liquidity Test immediately upon completion of the Distribution.
- 15.3 **If, on any capitalisation issue, Shareholders would, but for the provisions of this clause 15, become entitled to fractions of Shares, the Board shall, subject to any contrary provision in the resolution authorising the capitalisation issue, round off the number of capitalisation shares to be received as per clause 50 bis hereof.**

16: Subscription of shares

- 16.1 Authorised but unissued equity securities (as defined in the Listings Requirements) shall first be offered to the existing Shareholder by way of a rights offer *pro rata* to their shareholding in the Company immediately before the offer was made, unless such equity securities are to be issued: [10.1]
- 16.1.1 for the purposes of the acquisition of assets;
- 16.1.2 for the purposes of an approved share incentive scheme;
- 16.1.3 for the purposes of an Amalgamation or Merger;
- 16.1.4 pursuant to the approval by the Shareholders, provided that same has been approved by the JSE (where necessary); and/or
- 16.1.5 in terms of options or conversion rights or as contemplated in section 40(5) to (7) or as a capitalisation issue as contemplated in section 47, as more fully contemplated in section 39(1)(b)(i) and (ii).
- 16.2 Save as provided for in clause 16.1 or except to the extent that any such right is specifically included as one of the preferences, rights or other terms upon which any class of equity securities (as defined in the Listings Requirements) are issued, no Shareholder shall have any pre-emptive right or other similar preferential right to be offered or subscribe for any additional equity securities (as defined in the Listings Requirements) issued by the Company.

17: Registration of beneficial interest

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 (and subject to) section 56.

18: Certificated and uncertificated securities and the securities register

- 18.1 The Securities issued by the Company shall either be issued in:
- 18.1.1 certificated form, being Securities evidenced by certificates ("**Certificated Securities**") as contemplated in section 49(2)(a); or
- 18.1.2 uncertificated form, in which case the Company must not issue certificates, evidencing or purporting to evidence title to those Securities, subject to section 49(6).
- 18.2 Except to the extent that the Companies Act expressly provides otherwise the rights and obligations of the Security holders are not different solely on the basis of their respective Securities being certificated or uncertificated and any provision of this MOI and the Companies Act applies with respect to any Uncertificated Securities in the same manner as it applies to Certificated Securities.
- 18.3 The Company shall, as soon as reasonably practicable after issuing any Securities, enter or cause to be entered in its Securities Register, in respect of the class of Securities issued, the information referred to in section 50 and any other applicable provision of the Companies Act and/or the Regulations.
- 18.4 In respect of Certificated Securities:
- 18.4.1 The Company shall establish (or cause to be established) and maintain (or cause to be maintained) a Securities Register in accordance with the provisions of the Companies Act and the Regulations and, to the extent that the form and manner of maintaining the Securities Register is not prescribed, the Board shall determine the form and manner thereof.
- 18.4.2 Every certificate evidencing any Certificated Securities of the Company shall comply with the formalities and content prescribed by section 51 and any other applicable provision of the Companies Act and/or the Regulations and may otherwise be in such form as the Board may determine from time to time.
- 18.4.3 The Company shall enter into its Securities Register the transfer of any Certificated Securities, which is effected in accordance with this MOI and shall include in such entry the information required by Section 51(5) and any other applicable provision of the Companies Act and/or the Regulations.

18: Certificated and uncertificated securities and the securities register (continued)

- 18.4.4 Each holder of a Certificated Security shall be entitled to one certificate for all of the Securities of a particular class registered in his name, or to several certificates, each for a part of such Securities.
- 18.4.5 Every registered Securities holder shall be entitled on the initial issue or transfer of Securities to the Security holder of the initial certificate/s free of charge, but for every subsequent certificate/s, the Board may make such reasonable charge as it may from time to time think fit.
- 18.4.6 If a certificate evidencing any Certificated Securities is defaced, lost or destroyed it may be replaced, on such terms as to evidence, indemnity (in respect of any loss of any nature which the Company may incur pursuant to the replacement thereof) and at such reasonable cost as the Directors think fit; and, in the event of the defacement, on the delivery of the old certificate.
- 18.4.7 The substitution or conversion of Certificated Securities to Uncertificated Securities shall occur in accordance to the Companies Act and/or the Regulations, any applicable provision of the SSA and any applicable requirements or rules of the JSE, STRATE and the relevant Central Securities Depository or Participant.
- 18.4.8 The Directors may, in their discretion, record in the Securities Register any Certificated Securities of the Company held by a trust and for whom such Securities are so held.
- 18.5 In respect of Uncertificated Securities:
- 18.5.1 If the Company has issued Uncertificated Securities or has issued Securities that have ceased to be Certificated Securities (as contemplated in section 49(5)), a record must be administered and maintained by a Participant or a Central Securities Depository, in the prescribed form, as the Uncertificated Securities Register, which:
- 18.5.1.1 forms part of the Company's Securities Register, and
- 18.5.1.2 must contain, with respect to all Uncertificated Securities, any detail referred to in Section 50(2)(b), read with the changes required by the context, or determined by the rules of the Central Securities Depository.
- 18.5.2 The provisions of sections 52 to 55 shall apply to registration, transfer and substitution of and the liability relating to Uncertificated Securities and shall prevail in the case of a conflict between any provision of those sections and any other provision of the Companies Act, any other law, the common law, this MOI or any agreement.
- 18.5.3 The substitution or conversion of Uncertificated Securities to Certificated Securities shall occur in accordance with the Companies Act and/or the Regulations, any applicable provision of the SSA and any applicable requirements or rules of the JSE, STRATE and the relevant Central Securities Depository or Participant.

19: Transfer of securities

- 19.1 The Shares and other Securities issued by the Company are freely transferable, subject to compliance with the procedural requirements for transfer as contemplated in this clause 19.
- 19.2 The transfer of ownership of Uncertificated Securities in the Uncertificated Securities Register may only be effected by:
- 19.2.1 a Participant or Central Securities Depository;
- 19.2.2 on receipt of an instruction to transfer sent and properly authorised in terms of the rules of a Central Securities Depository or an order of a court; and
- 19.2.3 in accordance with section 53 and the rules of the Central Securities Depository.
- 19.3 The transfer of ownership in any Uncertificated Securities must be affected by:
- 19.3.1 debiting the account in the Uncertificated Securities Register from which the transfer is effected; and
- 19.3.2 crediting the account in the Uncertificated Securities Register to which the transfer is effected, in accordance with the rules of a Central Securities Depository.
- 19.4 Nothing in this MOI prejudices any power of a Participant or Central Securities Depository, as the case may be, to effect a transfer to a Person to whom the right to any Uncertificated Securities of the Company has been transmitted by operation of law.
- 19.5 The Company shall not enter into its Securities Register the transfer of any Certificated Securities, unless:
- 19.5.1 the transfer is evidenced by a proper instrument of transfer signed by or on behalf of the transferor and the transferee, the form of which shall be the common form of transfer or such other form as determined by the Board from time to time, which has been delivered to the Company together with:
- 19.5.1.1 such proof as the Board may require of the authority of the signatory/ies to that instrument of transfer; and
- 19.5.1.2 the original certificate (or duplicate certificate issued pursuant to clause 18.4.6) in respect of the Securities being transferred or, in the absence of such original or duplicate certificate, such other evidence as the Board may require to prove the title of the transferor or his right to transfer the Securities concerned; or
- 19.5.2 the transfer was effected by operation of law.

19: Transfer of securities (continued)

- 19.6 An instrument of transfer that complies with the provisions of clause 19.5.1 shall constitute a "proper instrument of transfer" for the purposes of section 51(6)(a).
- 19.7 The Board may not decline to register the transfer of any Certificated Securities in terms of a proper instrument of transfer except if and for so long as the transfer in question is not in accordance with the requirements for such transfer, if any, set out in this MOI with regard to the transfer in question. The transferor shall be deemed to remain the holder of the Certificated Securities in question until the name of the transferee is entered in the Securities Register in respect thereof.
- 19.8 If the Board refuses to register the transfer in terms of the clause 19.7, notice of the refusal shall, within 30 (thirty) days after the date on which the instruments of transfer was delivered to the Company, be sent to the transferee and transferor.
- 19.9 The instruments of transfer, original or duplicate certificate and such other documentary evidence shall, when the transfer is registered, either be retained by the Company at its Registered Office or disposed of in such manner as the Board shall from time to time decide, subject to section 24 (to the extent applicable).
- 19.10 All authorities to sign transfer deeds granted by holders for the purpose of transferring Securities that may be lodged, produced or exhibited with or to the Company at any of its transfer offices 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 transfer offices at which the authority was lodged, produced or exhibited. Even after the giving and lodging of such notices 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. **[10.2 (b)]**

20: Transmission of securities by operation of law

- 20.1 Subject to the laws relating to securities transfer tax upon or in respect of the estates of deceased persons and the administration of the estates of insolvent and deceased persons and Persons under disability:
- 20.1.1 the parent or guardian or curator of any holder who is a minor;
 - 20.1.2 the trustee of an insolvent holder;
 - 20.1.3 the liquidator of a body corporate;
 - 20.1.4 the tutor or curator of a holder under disability;
 - 20.1.5 the executor or administrator of the estate of a deceased holder; or
 - 20.1.6 any other person becoming entitled to any Securities held by a holder by any lawful means other than transfer in terms of this MOI, shall, upon production of such evidence as may be required by the Directors, have the right either:
 - 20.1.7 to exercise the same rights and to receive the same Distributions and other advantages to which he would be entitled if he were the holder of the Securities registered in the name of the holder concerned; or
 - 20.1.8 herself/himself/itself to be registered as the holder or holder *nomino officii* in respect of those Securities and to make such transfer of those Securities as the holder concerned could have made, but the Directors shall have the same right to decline or suspend registration as they would have had in the case of a transfer of the Securities by the holder.
- 20.2 No Securities which are registered in the name of a deceased or insolvent holder shall be forfeited if the executor fails to register them in his own name or in the name of heir(s) or legatees, when called upon by the Directors to do so. **[10.13]**

21: Lien upon securities

The Company shall not be entitled to claim any *lien* over Securities issued by it. **[10.12]**

22: Acquisition of shares issued by the company

In accordance with and subject to the provisions of section 48 and any other applicable provision of the Companies Act and the Listings Requirements: **[10.9 (b)]**

- 22.1 the Board may determine that the Company will acquire a number of its own Shares; and
- 22.2 the board of a Subsidiary of the Company may determine that it will acquire Shares of its Holding Company, but:
- 22.2.1 not more than 10% (ten percent), in aggregate, of the number of issued Shares of any class of Shares of the Company may be held by, or for the benefit of, all of the Subsidiaries of the Company, taken together; and
 - 22.2.2 no Voting Rights attached to those Shares may be exercised while the Shares are held by the Subsidiary, and it remains a Subsidiary of the Company whose Shares it holds.

23: Joint holders

Where two or more Persons are registered as the holders of any Security, they shall be deemed to hold that Security jointly, and:

- 23.1 notwithstanding anything to the contrary contained elsewhere in this MOI, on the death, sequestration, liquidation or illegal disability of any one of those joint holders who is not represented in any manner contemplated in clause 20, the remaining joint holders may be recognised, at the discretion of the Board, as the only persons having title to that Security;
- 23.2 any one of those joint holders may give effective receipts for any Distributions or other payments or accruals payable to those joint holders;
- 23.3 only the joint holder whose name stands first in the Securities Register shall be entitled to delivery of the certificate relating to that Security, or to receive notices or payments from the Company (and any notice or payment given to that joint holder shall be deemed to be notice or payment, as the case may be, to all of the joint holders);
- 23.4 any one of the joint holders of any Security conferring a right to vote on any matter may vote either personally or by proxy and any meeting in respect of that Security as if he were solely entitled to exercise that vote, and, if more than one of those joint holders is present at any such meeting, either personally or by proxy, the joint holder who tenders a vote (including abstention) and whose name stands in the Securities Register before the other joint holders who are present, in person or by proxy, shall be the joint holder whose is entitled to vote in respect of that Security.

PART FOUR: Shareholders

24: Shareholders' right to information

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

25: Proxies

25.1 Representation by concurrent proxies

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

25.2 Authority of proxy to delegate

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

25.3 Requirement to deliver proxy instrument to the Company

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

25.3.2 The instrument appointing a proxy shall be delivered to the Company's Registered Office or to the office of the transfer secretaries of the Company not less than 48 (forty eight) hours before the time appointed for the holding of the Shareholders Meeting, or the resumption of an adjourned Shareholders Meeting, at which the Person named therein proposes to vote; provided that any instrument appointing a proxy not delivered within the aforesaid time period may be handed to the chairperson of the Shareholders Meeting immediately prior to the commencement of the Shareholders' Meeting before the proxy may exercise the Shareholder's rights.

25.4 Deliberative authority of proxy

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

25.5 Proxy Instrument

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

25.6 Duration

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

25: Proxies (continued)

25.7 Validity of Proxy Instrument

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

26: Record date

26.1 The Record Date for the purposes of determining which Shareholders are entitled to:

- 26.1.1 receive a notice of a Shareholders Meeting;
- 26.1.2 participate in and vote at a Shareholders Meeting;
- 26.1.3 decide any matter by written consent or by Electronic Communication;
- 26.1.4 exercise pre-emptive rights, as contemplated in clause 16.1;
- 26.1.5 receive a Distribution; or
- 26.1.6 be allotted or exercise any other rights,

shall be determined by the Board in accordance with the provisions of section 59 and the Regulations, provided that, for so long as the Listings Requirements apply to the Company, such Record Date shall be the record date as required by the Listings Requirements. **[10.15]**

26.2 Subject to the Listings Requirements, if, at any time, the Board fails to determine a Record Date as contemplated in clause 26.1, the Record Date for the relevant action or event shall be determined in accordance with section 59(3). **[10.15]**

26.3 The Company shall publish and deliver a notice of a Record Date in a manner that satisfies the Listings Requirements and any other prescribed requirements in terms of the Companies Act and/or the Regulations. **[10.15]**

PART FIVE: Shareholders' Meetings, Voting and Resolutions

27: Requirement to hold a shareholders' meeting

27.1 The Company will not be required to hold any Shareholders Meeting other than those required by the Companies Act, this MOI and/or the Listings Requirements. **[10.11 (d)]**

27.2 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, or within an extended time allowed by the Companies Tribunal on good cause shown.

27.3 To the extent required by the Companies Act, each Annual General Meeting must, as a minimum, provide for the following business to be transacted:

- 27.3.1 the presentation of: (a) the Directors' report; (b) the audited annual financial statements for the immediately preceding financial year of the Company; and (c) an audit committee report; and (d) the report of any other committee appointed by the Board from time to time, including any social and ethics committee that may have been appointed by the Board as at the date of that meeting;
- 27.3.2 the election of Directors to the extent required by the Companies Act and by this MOI;
- 27.3.3 the appointment of an Auditor for the ensuing financial year and an audit committee; and
- 27.3.4 any matter raised by Shareholders, with or without advance notice to the Company.

27.4 In terms of section 61(1), the Board may call a Shareholders' Meeting and submit a resolution to be voted on other than at a meeting in terms of section 60 (subject to clause 35.4).

27.5 Subject to section 60, without limiting the foregoing, the Company must hold a Shareholders Meeting in the circumstances contemplated in section 61(2).

28: Location of shareholders' meetings

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

29: Notice of shareholders' meetings

- 29.1 The Company must deliver a notice of each Shareholders' Meeting in the prescribed manner and form to: **[10.11 (e)]**
- 29.1.1 all of the Shareholders of the Company and who have elected to receive such notices as of the Record Date for the meeting; and
- 29.1.2 the **JSE, [10.11 (f)]**
- at least 15 (fifteen) Business Days before the meeting is to begin. **[10.11 (a) & (b)]**
- 29.2 Any material defect in the form and manner of giving notice of a Shareholders' Meeting shall be dealt with in accordance with the provisions of sections 62(4) and 62(5) and any other applicable provisions of the Companies Act. Any immaterial defect in the form or manner of giving notice of a Shareholders' Meeting or an accidental or inadvertent failure in the delivery of the notice to any particular Shareholder to whom it was addressed, does not invalidate any action take at the meeting.

30: Electronic participation in shareholders' meetings

- 30.1 This MOI does not limit or restrict the authority of the Company to conduct a Shareholders' Meeting entirely by Electronic Communication, or to provide for participation in a Shareholders' Meeting by Electronic Communication, as more fully contemplated in section 63(2).
- 30.2 Access to the available medium or means of Electronic Communication is at the expense of the Company.

31: Voting

- 31.1 At a Shareholders' Meeting, voting may either be by show of hands or by polling.
- 31.2 If voting is by a show of hands, any Person who is Present At The Meeting, whether as a Shareholder or as a proxy for a Shareholder and entitled to exercising Voting Rights has one vote, irrespective of the number of Voting Rights that Person would otherwise be entitled to exercise.
- 31.3 If voting on a particular matter is by polling, any Person who is Present At The Meeting, whether as a Shareholder or as proxy for a Shareholder, has the number of votes determined in accordance with the Voting Rights associated with the Securities held by that Shareholder.
- 31.4 A polled vote must be held on any particular matter to be voted on at a meeting if a demand for such a vote is made by:
- 31.4.1 at least 5 (five) Persons having the right to vote on that matter, either as a Shareholder or proxy representing a Shareholder; or
- 31.4.2 a Person who is, or Persons who together are, entitled, as a Shareholder or proxy representing a Shareholder, to exercise at least 10% (ten percent) of the Voting Rights entitled to be voted on that matter; or
- 31.4.3 the chairperson of the meeting.
- 31.5 At any Shareholders' Meeting a resolution put to the vote of the Shareholder Meetings shall be decided on a poll, unless before or on the declaration of the results of the poll, a vote on the show of hands shall be demanded by any Person and, unless a vote on the show of hands is so demanded, a declaration by the chairperson that a resolution has, on a poll been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect into the minute book of the Company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, such resolution. The demand for a vote on the show of hands may be withdrawn.
- 31.6 No objection shall be raised as to the admissibility of any vote except at the meeting or adjourned meeting at which the voted objected to or may be given or tendered and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection shall be referred to the chairperson of the meeting, whose decision, if made in good faith, shall be final and conclusive.
- 31.7 If a poll is duly demanded it shall be taken in such manner as the chairperson of the meeting directs and the results of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
- 31.8 A poll demanded on the election of a chairperson (as contemplated in clause 33.2) 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.
- 31.9 The chairperson of the Shareholders' Meeting may:
- 31.9.1 appoint any firm or Person/s to act as scrutineers for the purposes of checking the powers of attorney received and for counting the votes at the meeting; and
- 31.9.2 act on a certificate given by any such scrutineers without requiring production at the meeting of the instrument of proxy or himself counting the votes.

31: Voting

- 31.10 If any votes were counted which ought not to be counted or if any votes were not counted which ought to be counted, the error shall not vitiate the resolution unless:
- 31.10.1 it is brought to the attention of the chairperson at the meeting; and
 - 31.10.2 in the opinion of the chairperson of the meeting, it is of sufficient magnitude to vitiate the resolution.
- 31.11 Any objection to the admissibility of any vote (whether on a show of hands or on a poll) shall be raised at the meeting or adjourned meeting:
- 31.11.1 at which the vote objected to was recorded; or
 - 31.11.2 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.
- 31.12 Any person entitled to Securities in terms of clause 20.1 may vote at any Shareholders Meeting in the same manner as if he were the registered holder of that Security; provided that (except where the directors have previously accepted his right to vote in respect of that Security) 48 (forty eight) hours at least before the time of holding the Shareholders Meeting at which he proposes to vote, he shall have satisfied the Directors that he is entitled to exercise the right referred to in clause 20.1. Several executors of a deceased Shareholder in whose name Securities stand in the Securities Register shall, for the purposes of this clause, be deemed to be joint holders of those Securities.

32: Quorum for shareholders meetings and adjournments

- 32.1 Subject to section 64 the remaining provisions of this clause and clause 12, a quorum at any Shareholders' Meeting shall be at least 3 (three) Shareholders, present in person or represented by proxy, entitled attend and vote thereat. In addition: **[10.11 (h)]**
- 32.1.1 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 all of the Voting Rights that are entitled to be exercised in respect of at least one matter to be decided at the meeting; and
 - 32.1.2 a matter to be decided at the meeting may not begin to be considered unless sufficient Persons are Present At The Meeting to exercise, in aggregate, at least 25% (twenty five percent) of all of the Voting Rights that are entitled to be exercised on that matter at the time the matter is called on the agenda.
- 32.2 After a quorum has been established for a Shareholders' Meeting, or for a matter to be considered at a Shareholders Meeting, the Shareholders' Meeting may continue, or the matter may be considered so long as the Shareholders forming part of the quorum are Present At The Meeting for the matter to be considered at the meeting. **[10.11 (h)]**
- 32.3 The period of 'one week' contemplated in sections 64(4) is hereby retained as a reference to 'one week'.
- 32.4 A Shareholders' Meeting, or the consideration of any matter being debated at a Shareholders' Meeting, may be adjourned as contemplated in sections 64(10), 64(11) and 64(12), it being recorded that the periods of adjournment set out in section 64(12) will apply without variation.
- 32.5 When a meeting is adjourned as a result of a direction given in terms of the Companies Act, notice of the adjourned meeting shall be given only if prescribed by the Companies Act and then only in the manner prescribed by the Companies Act but, save as aforesaid, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
- 32.6 Subject to clause 32.7 below:
- 32.6.1 any Director; or
 - 32.6.2 the Company's attorneys (or where the Company's attorneys are a firm or a company, any partner, director or employee thereof); or
 - 32.6.3 any other Person admitted by the chairperson of the meeting, or
 - 32.6.4 any member of a committee of the Board, 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.
- 32.7 Before any person may attend, vote or participate in a Shareholders' Meeting:
- 32.7.1 that person must present reasonably satisfactory identification; and
 - 32.7.2 the person presiding at the meeting must be reasonably satisfied that the right of that person to participate and vote, either as a Shareholder or as a proxy for a Shareholder, has been reasonably verified.

33: Chairperson of shareholders meetings

- 33.1 The chairperson of the Board, as determined in accordance with clause 43, shall preside as the chairperson at every Shareholders' Meeting.
- 33.2 If there is no chairperson of the Board, or if at any Shareholders' Meeting he is not present within 10 (ten) minutes after the time appointed for holding the meeting or is unwilling to act as chairperson, the Persons entitled to vote which are present shall select a Director present to be chairperson of the Shareholders' Meeting, or if no Director be present, or if all the Directors present decline to take the chair, the Persons entitled to vote shall select one of their number which is present to be chairperson of the Shareholders' Meeting.
- 33.3 In the case of an equality of votes, whether on a show of hands or on a poll, the chairperson of the Shareholders Meeting at which the show of hands takes place, or at which the poll is demanded, shall not be entitled to a second or casting vote.

34: Shareholders' resolutions

- 34.1 For an Ordinary Resolution to be approved by Shareholders, it must be supported by more than 50% (fifty percent) of the Voting Rights exercised on the resolution.
- 34.2 For a Special Resolution to be approved by Shareholders, it must be supported by at least 75% (seventy five percent) of the Voting Rights exercised on the resolution. **[10.11 (a)]**
- 34.3 Except for those matters which require the approval or authority of a Special Resolution in terms of section 65(11), any other section of the Companies Act, this MOI or, for so long as the Company's Securities are listed on the JSE, any other matter required by the Listings Requirements to be resolved by means of a Special Resolution, no other matters that the Company may undertake require the approval or authority of a Special Resolution of the Shareholders.

35: Shareholders acting other than at a meeting

- 35.1 A resolution that could be voted on at a Shareholders Meeting may instead:
- 35.1.1 be submitted for consideration to the Shareholders entitled to exercise Voting Rights in relation to the resolution; and
- 35.1.2 voted on in writing by Shareholders entitled to exercise sufficient Voting Rights in relation to the resolution within 20 (twenty) Business Days after the resolution was submitted to them.
- 35.2 A resolution contemplated in clause 35.1:
- 35.2.1 will have been adopted if it is supported by Persons entitled to exercise sufficient Voting Rights for it to have been adopted as an Ordinary Resolution or Special Resolution, as the case may be, at a properly constituted Shareholders' Meeting; and
- 35.2.2 if adopted, has the same effect as if it had been approved by voting at a meeting.
- 35.3 The resolution may consist of several documents each signed by one or more Shareholders.
- 35.4 All Shareholders' Meetings convened in terms of the Listings Requirements must be held 'in person' and may not be held by means of a written resolution as is contemplated in section 60. **[10.11 (c)]**

PART SIX: Authority of the Board, General Powers and Duties of Directors

36: Authority of the board, general powers and duties

- 36.1 The business and affairs of the Company will be managed by or under the direction of the Board, which will have the authority to exercise all of the powers and perform any of the functions of the Company, except to the extent that the Companies Act or this MOI provides otherwise.
- 36.2 The Directors shall have the power from time to time to delegate or allocate to any one of their members or to any other Person, whether in the Republic or not, such of the powers as are vested in the Directors pursuant to the Companies Act (including any and every other statute or ordinance from time to time in force concerning companies and necessarily affecting the Company) or under this MOI, as they may deem fit.
- 36.3 The Directors may:
- 36.3.1 establish and maintain any non-contributory or contributory pension, superannuation, provident and benefit fund for the benefit of; and
- 36.3.2 give pensions, gratuities and allowances to and make payments for or towards the insurance of, any individuals who are employees or ex-employees (including Directors or ex-Directors) of the Company, or of any Company which is or was a Subsidiary of the Company or is or was in any way allied to or associated with it or any such Subsidiary, and the wives, widows, families and dependants of such individuals.

37: Executive directors

- 37.1 The Directors may from time to time appoint:
- 37.1.1 executive Directors (with or without specific designation) of the Company;
 - 37.1.2 any Director to any other executive office of the Company,
- as the Directors shall think fit, for a period as the Directors shall think fit, and may from time to time remove or dismiss such persons from office and appoint another or others in his or their place or places.
- 37.2 Any executive Directors appointed in terms of clause 37.1 shall be subject to the same provisions as to removal and disqualification as the other Directors of the Company. An executive Director of the Company will, without prejudice to any claims for damages which such Director may have against the Company, cease to be a Director of the Company if for any reason he ceases to be employed by the Company.
- 37.3 The remuneration of a Director appointed to any position or executive office in terms of clause 37.1:
- 37.3.1 shall be determined by a disinterested quorum of the Directors or a committee of the Board constituted for the purpose of determining the remuneration of a Directors;
 - 37.3.2 shall be in addition to or in substitution of any ordinary remuneration as a Director of the Company;
 - 37.3.3 may consist of such remuneration (as contemplated in section 30(6)) as the Directors may direct.
- 37.4 The Board may from time to time entrust to and confer upon a Director appointed to any position or executive office in terms of clause 36.1 for the time being such of the powers vested in the Directors as they may think fit, and may confer such powers for such time and to be exercised for such objects and upon such terms and with such restrictions as they may think fit; and they may confer such powers either collaterally or to the exclusion of, and in substitution for, all or any of the powers of the Directors, and may from time to time revoke or vary all or any such powers. A Director appointed to any position or executive office pursuant to the provisions hereof shall not be regarded as an agent or delegate of the Directors and after powers have been conferred upon him by the Board in terms hereof he shall be deemed to derive such powers directly from this clause.

38: Borrowing powers

- 38.1 The Directors may, from time to time, at their discretion:
- 38.1.1 raise or borrow for the purposes of the Company such sums as they think fit;
 - 38.1.2 secure payment or repayment of any such sums or any other sum, as they think fit, whether by the creation and issue of debt instruments (whether secured or unsecured), mortgage or charge upon all or any of the property or assets of the Company; or
 - 38.1.3 make such regulations regarding the transfer of debt instruments, the issue of certificates therefor and all such other matters incidental to debt instruments as the Directors think fit (subject to clause 16).
- 38.2 For the purposes of clause 38.1, the powers of the Board shall be unlimited.

PART SEVEN: Directors and Officers

39: Composition of the board and election of directors

- 39.1 In addition to the minimum number of Directors, if any, that the Company must have to satisfy any requirement, whether in terms of the Companies Act or this MOI, to appoint an audit committee or a social and ethics committee, the Board shall comprise not less than 4 (four) Directors. **[10.16 (a)]**
- 39.2 All of the Directors (including Alternate Directors) will be elected by an Ordinary Resolution at any Shareholders Meetings or at the Annual General Meeting, as the case may be. The provisions of section 68(2) will apply to the election of Directors, provided that a Director may not be elected in accordance with section 60(3). **[10.16 (b)]**
- 39.3
- 39.3.1 At each Annual General Meeting of the Company, $\frac{1}{3}$ (one third) of the Directors for the time being, or if their number is not 3 (three) or a multiple of 3 (three), the number nearest to $\frac{1}{3}$ (one third), but not less than $\frac{1}{3}$ (one third), shall retire from office, provided that if a Director is appointed as an executive Director or as an employee of the Company in any other capacity, 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.
 - 39.3.2 The Directors to retire shall be those who have been longest in office since their last election, but in the case of Directors who were elected on the same day, those to retire shall, unless they otherwise agree among themselves, be determined by lot.
 - 39.3.3 Any Director appointed by the Board in terms of clause 39.9 after the conclusion of the Company's preceding Annual General Meeting shall, in addition to the Directors retiring in terms of clause 39.3, retire from office at the conclusion of the Annual General Meeting held immediately after his appointment.

39: Composition of the board and election of directors (continued)

- 39.3.4 Notwithstanding anything to the contrary contained herein, if at the date of any Annual General Meeting any Director shall have held office for a period of 3 (three) years since his last election and appointment, he shall retire at such meeting either as one of the Director's to retire by rotation or additionally thereto. Accordingly, life directorships and directorships for an indefinite period are not permissible. **[10.16(k)]**
- 39.3.5 The length of time a Director has been in office shall be computed from his last election, appointment or date upon which he was deemed re-elected.
- 39.3.6 Retiring Directors shall be eligible for re-election.
- 39.3.7 No Person other than a retiring Director shall be eligible for election as a Director at any Annual General Meeting, unless:
- 39.3.7.1 the Directors recommended such other Person for election; or
- 39.3.7.2 that Person has been nominated in accordance with clause 39.4.
- 39.3.8 A retiring Director shall continue to act as a Director throughout the meeting at which he retires and his retirement shall become effective only at the end of such meeting.
- 39.3.9 The Board or a committee of the Board, constituted for this purposes, shall 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 Directors past performance and contribution.
- 39.4 Any Shareholder shall be entitled to nominate any Person for election as a Director at any Shareholders Meeting, provided that such nomination, together with the consent of that Person to be elected as a Director, shall be received by the Company no later than [6 (six)] weeks prior to the date of such Shareholders Meeting. **[10.16(b)]**
- 39.5 The Company may not permit an individual to serve as a Director if that individual is ineligible or disqualified in terms of the Companies Act.
- 39.6 In addition to the grounds of ineligibility and disqualification of Directors as contemplated in section 69, a Director shall cease to be eligible to continue to act as a Director if
- 39.6.1 he absents himself from all meetings of the Board occurring within a period of 6 (six) consecutive months, without the leave of the Board, and the Board resolves that his office shall be vacated, provided that this clause 39.6 shall not apply to a Director who is represented by an Alternate Director who does not so absent himself; or
- 39.6.2 he receives a written notice signed by a majority of his co-Directors wherein he is requested to vacate his office (which shall become operative on delivery of the aforesaid written notice to the Director concerned) but without prejudice to any claim for damages.
- 39.7 An individual may be appointed as an Alternate Director to more than one Director. Where an individual is an Alternate Director to more than one Director or where an Alternate Director is also a Director, he shall have a separate vote, on behalf of each Director he is representing in addition to his own vote, if any.
- 39.8 There will no ex officio Directors, as contemplated in section 66(4)(a)(ii), and no Person will have the right to effect the direct appointment and removal of one or more Directors, as contemplated in section 66(4)(a)(i).
- 39.9 The Board may appoint an individual who satisfies the requirements for election as a Director to fill any vacancy and serve as a Director of the Company on a temporary basis until the earlier of the date of the next Annual General Meeting of the Company and the date on which the vacancy has been filled by election in terms of this clause 39.2 and, during that period, any individual so appointed has all of the powers, functions and duties, and is subject to all of the liabilities, of any other Director of the Company. The authority of the Board in this regard is not limited or restricted by this MOI. **[10.16 (c)]**
- 39.10 If the number of Directors is below the minimum number fixed in accordance with this MOI, the remaining Directors must, as soon as possible, and, in any event, not later than 3 (three) months from the date that the number of Directors falls below such minimum, fill the vacancy/ies in accordance with clause 39.9 or convene a Shareholders Meeting for the purposes of filling the vacancies, and the failure by the Company to have the minimum number of Directors during the said 3 (three) month period does not limit or negate the authority of the Board or invalidate anything done by the Board or the Company while their number is below the minimum number fixed in accordance with this MOI. **[10.16 (d)]**
- 39.11 The Directors in office may act notwithstanding any vacancy in their body, but if after the expiry of the 3 (three) month period contemplated clause 39.10, their number remains below the minimum number fixed in accordance with this MOI, they may, for as long as their number is reduced below such minimum, act only for the purposes of filling vacancies in their body in terms of section 68(3) or for calling Shareholders' Meetings. **[10.16 (d)]**

40: Vacancies on the board

- 40.1 A Director shall vacate his office if:
- 40.1.1 he resigns by written notice to the Company;
 - 40.1.2 any of the circumstances contemplated in section 69 and/or section 70 arise;
 - 40.1.3 he is removed in terms of section 71; and/or
 - 40.1.4 he is otherwise removed or becomes ineligible or disqualified in accordance with any provisions of this MOI.
- 40.2 Section 70 shall apply to any vacancy on the Board which may arise from time to time.
- 40.3 An Alternate Director shall cease to be an Alternate Director if the Director to whom he is an Alternate Director ceases for any reason to be a Director, provided that if:
- 40.3.1 an Alternate Director has been appointed as an Alternate Director to more than one Director such Alternate Director shall cease to be an Alternate Director when the last Director for whom he is an Alternate Director ceases to be a Director; and
 - 40.3.2 any Director retires by rotation in terms of clause 39.3.9, but is re-elected at the Annual General Meeting, the appointment of the Alternate Director appointed to such Director shall not cease but shall remain in force as though the Director to whom he is an alternate had not retired.

41: Further eligibility or qualification requirements

- 41.1 Subject to clause 39.6, there are no further eligibility requirements or qualifications prescribed by the Company in this MOI for a person to become or serve as a Director in addition to those set out in section 69. The provisions of this clause 41.1 shall not detract from any requirements or qualifications which are prescribed by law or contract on any Director.
- 41.2 For the purposes of this clause 41, "**Director**" includes an Alternate Director, and a Prescribed Officer or a Person who is a member of a committee of the Board, irrespective of whether or not the Person is also a member of the Board as more fully contemplated in section 69(1).

42: Directors' meetings

- 42.1 The Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit.
- 42.2 Any one Director is hereby authorised by the Board to call a meeting of the Board at any time.
- 42.3 The right of the Directors to requisition a meeting of the Board, as set out in section 73(1)(b) may be exercised by:
- 42.3.1 at least 25% (twenty five percent), in the case of a Board that has at least 12 (twelve) members; or
 - 42.3.2 any one Director, despite the provisions of section 73(1)(b)(ii).
- 42.4 This MOI does not restrict or limited the authority of the Board to conduct a meeting entirely by Electronic Communication, or to provide for participation in a meeting by Electronic Communication, as more fully contemplated in section 73(3). A resolution passed during the course of such proceedings shall be valid and effectual as if it had been passed at a meeting of the Directors duly called and constituted.
- 42.5 Subject to clause 42.6, no Directors meeting may be convened without notice to all of the Directors. The Directors may determine what period of notice shall be given of meetings of Directors and may determine the means of giving such notice which may include telephone, telegram, telex, telefax or any form of Electronic Communication.
- 42.6 Notwithstanding anything to the contrary contained in this MOI, if all Directors of the Company:
- 42.6.1 acknowledge actual receipt of notice;
 - 42.6.2 are Present At A Meeting; or
 - 42.6.3 waive notice of the meeting, the meeting may proceed even if the Company failed to give the required notice of that meeting, or there was a defect in the giving of the notice.
- 42.7 Subject to clause 42.8, a majority of the Directors must be Present At A Meeting before a vote may be called at that Directors meeting.
- 42.8 If, within 30 (thirty) minutes from the time appointed for a Directors' meeting a quorum is not present, the meeting shall stand adjourned to such day, time and place as the Directors then present determine (or, if that day is not a Business Day, to the next Business Day), and all the Directors shall be notified in writing of the date, time and place of the adjourned meeting at least 2 (two) Business Days before the date of the adjourned meeting, provided that where those Directors present determine that matters which require urgent consideration, the meeting shall stand adjourned to such date and time as they may determine (and they shall be required to give prior written notice, to those Directors who were not present, of the date and the time as soon as possible but in any event at least 24 (twenty four) hours before the adjourned meeting). If, at such adjourned meeting, a quorum is not present within 30 (thirty) minutes from the time appointed for the meeting, the Directors (or their Alternate Directors) then present shall constitute a quorum.

42: Directors' meetings (continued)

- 42.9 Each Director has one vote on a matter before the Board, as contemplated in section 73(5)(c).
- 42.10 A majority of the votes cast on a resolution is sufficient to approve that resolution.
- 42.11 The Company shall keep minutes of the meetings of the Board, and any of its committees, and include in those minutes:
- 42.11.1 any declaration given by notice or made by a Director, as required by section 75;
 - 42.11.2 every resolution adopted by the Board.
 - 42.11.3 must be dated and sequentially numbered; and
 - 42.11.4 are effective as of the date of the resolution, unless the resolution states otherwise.
- 42.12 Any minutes of a meeting, or a resolution, signed by the chairperson of the meeting, or by the chairperson of the next meeting of the Board, is evidence of the proceedings of that meeting, or adoption of that resolution, as the case may be.

43: Directors acting other than at a meeting

A decision that could be voted on at a meeting of the Board may instead be adopted by written consent of the majority of the Directors, given in person, or by Electronic Communication, provided that each Director has received notice of the matter to be decided. Such resolution, inserted into the minute book, shall be as valid and effective as if it had been passed at a meeting of Directors. Any such resolution may consist of several documents and shall be deemed to have been passed on the date on which it was signed by the last Director who signed it (unless a statement to the contrary is made in that resolution). **[10.16 (j)]**

44: Chairperson of the board

- 44.1 The Board shall be entitled to appoint any Director as the chairperson, deputy chairperson and/or lead independent director (as the case may be) and to determine the period for which they, respectively, shall hold office. If at any meeting the chairperson, deputy chairperson, and/or lead independent director (as the case may be) is not present within 5 (five) minutes after the time appointed for holding it, the Directors present may choose one of their number to be a chairperson, deputy chairperson, and/or lead independent director (as the case may be) of the meeting. **[10.16 (i)]**
- 44.2 Notwithstanding the provisions of section 73(5)(e), the chairperson (or deputy chairperson, and/or lead independent director (as the case may be)) of the Board will not have a second or casting vote in addition to his deliberative vote.

45: Directors' compensation

- 45.1 The Company may pay remuneration to its Directors for their services as Directors only in accordance with a Special Resolution approved within the previous 2 (two) years as more fully contemplated in section 66(8) and (9) and the authority of the Board in this regard is not restricted or limited by this MOI.
- 45.2 For the avoidance of doubt, it is recorded that this clause 45 does not apply to remuneration paid to any Director for their services as employees of the Company.
- 45.3 A Director may be employed in any other capacity in the Company (except that of Auditor) or as a Director or employee of a company controlled by, or itself a major subsidiary of, the Company, and, in such event, his appointment and remuneration in respect of such other office must be determined by a disinterested quorum of Directors or a committee of the Board constituted for this purpose. **[10.16 (e)]**
- 45.4 Each Director (including an Alternate Director) may be paid their travelling and other expenses, properly and necessarily incurred by them in and about the business of the Company, and in attending meetings of the Directors or of committees thereof; and, if any Director is required to perform extra services, serve on any committees of the Board, to devote special attention to the business of the Company, to reside abroad or be specifically occupied about the Company's business, he may be entitled to receive such remuneration as is determined by a disinterested quorum of Directors, which may be either in addition to or in substitution for any other remuneration payable. **[10.16 (f)]**

46: Indemnification of directors

- 46.1 The Company is authorised to advance expenses to a Director, or indemnify a Director, in respect of the defence of legal proceedings, as more fully contemplated in section 78(4).
- 46.2 The Company is authorised to indemnify a Director in respect of liability, as more fully contemplated in section 78(5).
- 46.3 The Company is authorised to purchase insurance to protect the Company or a Director, as more fully contemplated in section 78(7).
- 46.4 For the purposes of this clause 46, "Director" includes a former Director and an Alternate Director and a Prescribed Officer or a Person who is a member of a committee of the Board, irrespective of whether or not the Person is also a member of the Board, as more fully contemplated in section 78(1).

47: Personal financial interest

- 47.1 Each Director shall, subject to the exemptions contained in section 75(2) and the qualifications contained in section 75(3), comply with all of the provisions of section 75 in the event that they (or any person who is a Related Person to them) have a Personal Financial Interest in any matter to be considered by the Board.
- 47.2 A decision by the Board, or a transaction or agreement approved by the Board, is valid despite any Personal Financial Interest of a Director (or any person who is a Related Person to them), subject to the provisions of section 75.
- 47.3 For the purposes of this clause 47, "Director" includes an Alternate Director, a Prescribed Officer and a Person who is a member of a committee of the Board, irrespective of whether or not the Person is also a member of the Board, as more fully contemplated in section 75(1).

48: Committees of the board

- 48.1 The Board may appoint any number of committees of Directors and may delegate to any committee any of the authority of the Board, as more fully contemplated section 72(1)(a) and (b). Except to the extent contemplated in this MOI or a resolution establishing a committee provides otherwise, the committee may include Persons who are not Directors, as more fully contemplated in section 72(2)(a), but any such Person must not be ineligible or disqualified to be a Director in terms of section 69 and no such Person has a vote on a matter to be decided by the committee.
- 48.2 Except to the extent contemplated in this MOI or a resolution establishing a committee provides otherwise, the committee may consult with or receive advice from any Person and has the full authority of the Board in respect of any matter referred to it, as more fully contemplated in section 72(2)(b) and (c).
- 48.3 If and for so long as it is required to do so in terms of the Companies Act or the Regulations and unless the Company is except from doing so by the Companies Tribunal in terms of section 72(5), the Board shall appoint a social and ethics committee having the powers and functions prescribed in terms of section 72 and the Regulations.
- 48.4 The Company must appoint an audit committee in the manner and for the purposes set out in Part D of Chapter 3 of the Companies Act.

PART EIGHT: General Provisions

49: Company secretary

The Company shall appoint a company secretary in the manner and for the purposes set out in Part B of Chapter 3 of the Companies Act.

50: Distributions

Subject to the Companies Act (in particular, section 46), the Preference Share Terms, the Listings Requirements (where applicable) and this **MOI: [10.8]**

- 50.1 the Board may declare any Distributions; **[10.17 (a)]**
- 50.2 the Directors may from time to time declare and pay to the Shareholders such interim and final Distributions as the Directors considered to be justified in the circumstances;
- 50.3 the Directors may also pay the fixed Distributions payable on any Share of the Company bearing a fixed Distribution half-yearly or on fixed dates, as the Directors may deem fit;
- 50.4 unless otherwise determined by the Board, Distributions shall be declared payable to Shareholders registered as at a date subsequent to the date of declaration or date of confirmation of the Distribution, whichever is the later; **[10.17 (b)]**
- 50.5 any monies payable to Shareholders: **[10.17 (c)]**
- 50.5.1 which are not claimed, may be retained by the Company and held in trust indefinitely and may while so retained be invested as the Board may deem fit until claimed or until such Shareholder's claim therefor prescribes in terms of clause 50.5.2;
- 50.5.2 may only be claimed for such period as may be applicable to such Shareholder's claim therefor in terms of the law of prescription calculated from the date on which that claim accrued to such Shareholder, after which period such Shareholder's claim therefor shall prescribe and that amount shall, unless the Board otherwise decides, be forfeited for the benefit of the Company;

50: Distributions (continued)

- 50.6 the Company may transmit any Distributions or other monies to a Shareholder:
- 50.6.1 by cheque which shall either be sent by ordinary post to the registered address of the Shareholder recorded in the Securities Register, or such other address as the Shareholder may previously have notified to the Company in writing for this purpose, or given to him personally; or
 - 50.6.2 by electronic bank transfer to such bank account as the Shareholder may have notified to the Company in writing for this purpose, and the Company shall not be responsible for any loss in transmission. A Distribution may also be paid in any other way determined by the Board, and if the directives of the Board in that regard are complied with, the Company shall not be liable for any loss or damage which a Shareholder may suffer as a result thereof;
- 50.7 no Distribution shall bear interest against the Company, except as otherwise provided under the conditions of issue of the Shares or other Securities of the Company in respect of which such Distribution is payable;
- 50.8 the Board shall, for the purposes of facilitating the winding-up or deregistration of the Company before the date of prescription as contemplated in clause 50.5.2, be entitled to delegate the liability for the payment of any Distributions or other monies to any Shareholder in respect of unclaimed Distributions or other unclaimed monies to any one of the Company's bankers from time to time;
- 50.9 any Distributions may be paid wholly or in part:
- 50.9.1 by the distribution of specific assets; or
 - 50.9.2 by the issue of paid-up Shares, debt instruments or other Securities of the Company or of any other company; or
 - 50.9.3 in cash,
 - or in any other way which the Directors or the Shareholders in Shareholders Meeting may at the time of declaring the Distributions determine;
- 50.10 where any difficulty arises in regard to such Distributions, 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;
- 50.11 the Directors may:
- 50.11.1 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;
 - 50.11.2 vest any such assets in trustees upon such trusts for the benefit of the Persons entitled to the Distributions as the Directors deem expedient;
 - 50.11.3 not determine that capital shall be repaid on the basis that it may be called up again. **[10.8]**

50 bis FRACTIONS OF SHARES AND SECURITIES

To the extent that a fractional entitlement arises, all allocations of Shares and other Securities will be rounded down to the nearest whole number resulting in allocations of whole Shares and/or Securities and a cash payment for the fraction where the cash value is determined with reference to the method of determination as may be prescribed in the Listings Requirements from time to time and for the time being.

51: Commission

The Company shall not pay commission exceeding 10% (ten percent) to any Person in consideration for their subscribing or agreeing to subscribe, whether absolutely or conditionally, for any Securities of the Company. **[10.14]**

52: Financial assistance

52.1 Financial assistance for the subscription for or purchase of securities

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

52.2 Financial assistance to Directors, Prescribed Officers and related or inter-related company or corporation

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

53: Financial statements and access to financial statements

- 53.1 The Company shall prepare annual financial statements in accordance with the Companies Act and the Regulations and shall have those annual financial statements audited in accordance with the Companies Act and the Regulations. **[10.22]**
- 53.2 The Company shall appoint an Auditor at its Annual General Meeting in accordance with Part C of Chapter 3 of the Companies Act.
- 53.3 The annual financial statements of the Company prepared in accordance with section 29(3) shall be distributed to those Shareholders who have elected to receive notices as contemplated in clause 59 as soon as practically possible after the annual financial statements have been approved by the Board and audited, but in any event by no later than as required by the Companies Act and 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 presented. **[10.19]**
- 53.4 In addition to the rights set out in clause 24 a Person who holds or has a Beneficial Interest in any Securities issued by the Company, is entitled:
- 53.4.1 without demand to receive a notice of the publication of any annual financial statements of the Company required by the Companies Act, setting out the steps required to obtain a copy of the statements; and
- 53.4.2 on demand to receive without charge one copy of any annual financial statements of the Company required by the Companies Act.

54: Winding-up

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

55: Reserves

The Directors may set aside out of the revenue and capital profits of the Company and carry to reserves such sums as they think proper. All sums standing to the credit of revenue and general reserves shall at the discretion of the Directors be applicable for meeting contingencies, for the gradual liquidation of any debt or liability of the Company, for repairing, improving or maintaining any property of the Company, for meeting losses in realisation of or writing down investments either individually or in the aggregate, for equalising or paying Distributions (subject to satisfaction of the Solvency and Liquidity Test), or for any other purpose to which the revenue and capital profits of the Company may appropriately be applied. Pending such application such sums may either be employed in the business of the Company (without being kept separate from the other assets of the Company) or be invested. The Directors may divide the reserves into such special reserves as they think fit and re-allocate the amounts of such reserves either in whole or in part to other special or general reserves and may consolidate into one reserve any special reserves or any parts of any special reserves into which the reserves may have been divided. The Directors may also carry forward any revenue and capital profits without placing them to reserves.

56: Loss of documents

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

57: Branch register

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

58: Odd-lot offers

- 58.1 For the purpose of this clause 58, **"odd-lot"** means a total holding by a Securities holder of (a) less than 100 (one hundred) Securities (or such other number as may be permitted by the JSE); or (b) 100 or more Securities (or such other number as may be permitted by the JSE), provided that it can be illustrated to the JSE that the costs associated with a holder disposing of such number of Securities is equal to or exceeds the total value of such number of Securities.
- 58.2 Where the Company intends reducing administrative costs resulting from a large number of odd-lot holders and the Company proposes to make an odd-lot offer, the Company shall do so in accordance with the Listings Requirements or as otherwise permitted by the JSE and in such instances a two-way election shall be provided for in terms of which the Securities holders may:
- 58.2.1 elect to retain their odd-lot holding; or
- 58.2.2 elect to sell the odd-lot holding, being the default action applicable if the Securities holders do not make any election in terms of this clause 58.2.
- 58.3 In any Distribution, award or reconstruction contemplated by the Company where the holders of Securities may receive odd-lot entitlements, the holders of Securities so effected must, where the Company wishes instead to compensate such holders in monetary terms, be given the opportunity to elect to receive such odd-lot entitlements.
- 58.4 When the Company proposes to make an odd-lot offer, the Board shall pass a resolution approving the odd-lot offer confirming that the Company and its Subsidiaries (the **"Company Group"**) have passed the Solvency and Liquidity Test (in respect of the maximum payment that will be made to holders of Securities as a result of the odd lot offer) and that, since the Solvency and Liquidity Test was performed, there have been no material changes to the financial position of the Company Group.
- 58.5 If any holders of Securities who qualify to participate in the odd-lot offer do not make an election in terms of clause 58.2, such holders (and any Person with a Beneficial Interest in such odd-lots) shall be deemed to have agreed to sell their odd-lot holdings, and the Company shall be entitled (on implementation of the odd lot offer) to expropriate all of the odd-lots held by such holders, provided that the odd-lot offer has been approved by Shareholders in Shareholders Meeting by Ordinary Resolution. **[5.124 (d)]**

59: Notices

- 59.1 All notices, circulars and/or any other documents intended or required to be given by the Company to any Shareholder or Director or other Person shall be given in writing in any manner authorised by the Regulations and particularly Table CR 3 annexed to the Regulations.
- 59.2 All notices given by the Company to each Shareholder shall simultaneously be given to the Issuer Services Division of the JSE. All notices, as required by the JSE, shall, in addition, be released through SENS provided that, in the event that the Shares or other Securities of the Company are not listed on the JSE, all the provisions of this MOI relate to the issue of notices to the JSE and the publication of notice via SENS shall no longer apply and such notice shall thereafter only be published in accordance with the Companies Act and the Regulations. **[10.11 (f)]**
- 59.3 Each Shareholder and Director shall notify the Company or the transfer secretary of the Company from time to time in writing of:
- 59.3.1 a postal address, which address will be his registered address for the purposes of receiving written notices from the Company by post;
- 59.3.2 a physical address, which address will be his registered address for the purposes of receiving written notices from the Company by hand; and/or
- 59.3.3 unless otherwise agreed with the Company, an email address and facsimile number, which address will be his address for the purposes of receiving notices by way of Electronic Communication.
- 59.4 Save to the extent that any of the following provisions of this clause 59.4 may be in conflict with any provision contained in the Companies Act or the Regulations, any notice or a copy of any document sent by the Company to any Person (including a Shareholder or Director) by:
- 59.4.1 registered post to the last known address shall be deemed to have been delivered on the 7th (seventh) day following the day on which the notice or document was posted as recorded by a post office, unless there is conclusive evidence that it was delivered on a different day;
- 59.4.2 telefax, if the Person has a fax number, shall be deemed to have been delivered on the date and at the time recorded by the telefax receiver, unless there is conclusive evidence that it was delivered on a different date or at a different time. A notice or document delivered by fax shall be sent in accordance with Regulation 7(4);
- 59.4.3 electronic mail, if the Person has an address for receiving electronic mail, shall be deemed to have been delivered on the date and at the time recorded by the computer used by the sender, unless there is conclusive evidence that it was delivered on a different date or at a different time. A notice or document delivered by electronic mail shall be sent in accordance with Regulation 7(4); and
- 59.4.4 by ordinary post to the last known address shall be deemed to have been delivered on the 7th (seventh) day following the day on which the notice or document was posted, and in proving the giving of the notice or document sent by post it shall be sufficient to provide that the letter or envelope containing the notice or document was properly addressed and put into the post office.

59: Notices (continued)

- 59.5. The postal address notified by a Shareholder to the Company in terms of clause 59.3.1 may be a postal address within or outside of the Republic. **[10.18]**
- 59.6. Any Shareholder or Director notifying the Company of an address for the purposes of receiving Electronic Communication from the Company shall be deemed to have agreed to receive documents and notices by Electronic Communication.
- 59.7. As regards the signature of an Electronic Communication, it shall be in such form as the Directors may require to demonstrate that the document or notice is genuine.
- 59.8. For the purposes of this MOI, the reference to **“sent”, “delivered”** or **“in writing”** of any notices, circular and/or any other documents shall include, to the extent permissible in terms of the Companies Act, the use of Electronic Communication and publication on a website in accordance with any applicable provisions in the Companies Act or other applicable legislation, rules or requirements.

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