

CUSTOMER CODE:NEILXX

MEMORANDUM OF INCORPORATION

OF

**MINE RESTORATION INVESTMENTS LIMITED
(Formerly Capricorn Investment Holdings Limited)
“the Company or MRI”**

with registration number 1987/004821/06, which is a profit public Company, has a minimum of 4 (FOUR) [L.R. SCH.10.16 (a)] Directors, is authorized to issue Securities as described in Section 2, and is referred to in the rest of this Memorandum of Incorporation as “the Company”.

ADOPTION OF MEMORANDUM OF INCORPORATION

The Company is a profit public Company as defined in section 8 (3) (a) of Companies Act 71 of 2008 (“the Act”), and as such, continues to exist as a profit public Company, and this Memorandum of Incorporation (“Memorandum”) is in a form unique to the Company, as set out in section 13(1)(a)(ii) of the Act, was adopted by special resolution of the Shareholders of the Company on _____, which replaces and supersedes the pre-existing Memorandum and Articles of the Company immediately prior to the filing hereof and this Memorandum.

DIRECTOR

on behalf of the board of directors
of the Company, who warrants that
he is duly authorised to do so

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1. DEFINITIONS AND INTERPRETATIONS

1.1 In this Memorandum of Incorporation: –

1.1.1 A reference to a section by number refers to the corresponding section of the Act;

1.1.2 a reference to a regulation by number refers to the corresponding Regulation made under the Act, as amended from time to time;

1.1.3 the words and phrases used in this Memorandum shall bear the same meaning as the corresponding words and phrases used and defined in the Act, unless otherwise defined herein or unless the context of this Memorandum requires a different interpretation:

1.1.3.1 The words "include" and "including" mean "include without limitation" and "including without limitation". The use of the words "include" and "including" followed by a specific example or examples shall not be construed as limiting the meaning of the general wording preceding it.

1.2 In this Memorandum of Incorporation the following expressions bear the meaning assigned to them:

1.2.1 **“the/Act”** means the Companies Act, Act 71 of 2008, consolidate or re-enacted from time to time, and include all Schedules to the Act;

1.2.2 **“Alternate Director”** means a person elected or appointed to serve, as the occasion requires, as a member of the Board of the Company in substitution for a particular elected or appointed Director of that Company;

1.2.3 **“Auditor”** means the auditor of the Company;

1.2.4 **“Authorised Shares”** means the maximum number of shares the Company can issue. This number is specified in the Company’s Memorandum of Incorporation, but it can be changed with Shareholder approval;

1.2.5 **“Beneficial interest”** means when used in relation to the Company’s securities, the right or entitlement of a person, through ownership, agreement, relationship or otherwise, alone or together with another person to:

- (a) receive or participate in any distribution in respect of the Company's securities;
- (b) exercise or cause to be exercised, in the ordinary course, any or all of the rights attaching to the Company's securities; or
- (c) dispose or direct the disposition of the Company's securities, or any part of a distribution in respect of the securities, but does not include any interest held by a person in a unit trust or collective investment scheme in terms of the Collective Investment Schemes Act, 2002 (Act 45 of 2002);

1.2.6 **"Board"** means the Board of Directors of the Company from time to time;

1.2.7 **"Capitalisation shares"** means shares governed by Section 47 of the Act. Although capitalisation shares are not defined in the Act, they are shares which are issued to incumbent Shareholders on the basis that the Company capitalises a portion of its accumulated reserves in discharge of the consideration for which those shares are issued. The Shareholders do not pay for capitalisation shares. The Board determines the consideration for these shares;

1.2.8 **"Central Securities Depository"** means as defined in section 1 of the Securities Services Act;

1.2.9 **"Certificated Securities"** means Securities issued by the Company that are not uncertificated Securities;

1.2.10 **"Chief Executive Officer"** means the Chief Executive Officer of the Company as appointed to that position from time to time and "CEO" shall have a similar meaning.

1.2.11 **"Company"** means Mine Restoration Incorporation Limited, with registration number 1987/004821/06, duly incorporated in accordance with the laws of the Republic of South Africa;

1.2.12 **"Consideration"** means anything of value given and accepted in exchange for any property, service, act, omission or forbearance or any other thing of value, including:

- (a) any money, property, negotiable instrument, securities, investment credit facility, token or ticket;

- (b) any labour, barter or similar exchange of one thing for another; or
- (c) any other thing, undertaking, promise, agreement or assurance, irrespective of its apparent or intrinsic value, or whether it is transferred directly or indirectly;

1.2.13 **“Day”** means a business day which is any other day than a Saturday, Sunday or public holiday;

1.2.14 **“Debt instrument”** includes any securities other than shares of the Company, irrespective of whether or not they are issued in terms of a ‘security document’, such as a trust deed. A ‘debt instrument’ includes a security other than a share that has equity participation and/or voting rights. A ‘debt instrument’ does not include promissory notes and loans, whether constituting an encumbrance on the assets of the Company or not. Loans and promissory notes, whether secured or unsecured, are not ‘debt instruments’;

1.2.15 **“Director”** means a member of the Board, or alternative Director, and includes any person occupying the position of a Director or alternative Director, by whatever name designated;

1.2.16 **“Distribution”** means a direct or indirect:

- (a) transfer by the Company of money or other property of the Company, other than its own shares, to or for the benefit of one or more holders of any of the shares, or to the holder of a beneficial interest in any such shares, of that Company or of another Company within the same group of companies, whether:
 - (i) in the form of a dividend;
 - (ii) as a payment in lieu of a capitalisation share, as contemplated in Section 47 of the Act;
 - (iii) as consideration for the acquisition:
 - (aa) by the Company of any of its shares, as contemplated in Section 48 of the Act; or

- (bb) by any Company within the same group of companies, of any shares of the Company within that group of companies; or
- (iv) otherwise in respect of any of the shares of that Company or of another Company within the same group of companies, subject to Section 164(19) of the Act;
 - (b) incurrence of a debt or other obligation by the Company for the benefit of one or more holders of any of the shares of that Company or of another Company within the same group of companies; or
 - (c) forgiveness or waiver by the Company of a debt or other obligation owed to the Company by one or more holders of any of the shares of that Company or of another Company within the same group of companies;

but does not include any such action taken upon the final liquidation of the Company;

1.2.17 **“Dividend”** means a distribution of a portion of the Company’s earnings, decided by the Board of Directors, to a class of its Shareholders;

1.2.18 **“Electronic communication”** means including but not limited, to e-mail, fax as set out in the Electronic Communications and Transaction and Act, No. 25 of 2002;

1.2.19 **“Financial assistance”** means the lending of money, guaranteeing a loan or other obligation, and securing any debt or obligation; but does not include: lending money in the ordinary course of business by the Company whose primary business is the lending of money; an accountable advance to meet: legal expenses in relation to a matter concerning the Company; or anticipated expenses to be incurred by the person on behalf of the Company; or an amount to defray the person’s expenses for removal at the Company’s request;

1.2.20 **“Financial statements”** includes: Annual Financial Statements and provisional Annual Financial Statements; interim or preliminary reports; group and consolidated financial statements in the case of a group of Companies; and financial information in a circular, prospectus or provisional

announcement of results, that an actual or prospective creditor or holder of the Company's securities, or the Commission, Panel or other regulatory authority, may reasonably be expected to rely on;

- 1.2.21 **"IFRS"** means the International Financial Reporting Standards, as adopted from time to time by the Board of the International Accounting Standards Committee, or its successor body, and approved for use in South Africa from time to time by the Financial Reporting Standards Council;
- 1.2.22 **"JSE"** means JSE Limited (registration number 2005/022939/06), a public company duly incorporated in accordance with the laws of the Republic, licensed as an exchange under the Securities Services Act;
- 1.2.23 **"JSE Listings requirements"** means the JSE Listings Requirements of the JSE and all other applicable rules, regulations, requirements and rulings of the JSE. Any requirements of this MOI in relation to such JSE Listings Requirements shall only apply for as long as the Securities of the Company are listed on the JSE;
- 1.2.24 **"Memorandum, or Memorandum of Incorporation (MOI)"** means the sole governing and constitutional document of the Company, as amended from time to time, which sets out rights, duties and responsibilities of Shareholders, Directors and others within and in relation to the Company;
- 1.2.25 **"Option(s)"** means any right similar to an option, given or granted by a regulated Company, irrespective of: whether that right is vested or not; or whether that right is granted or given in terms of any formalised: share incentive scheme; phantom scheme; share participation rights scheme that has rights that could be equity settled; or agreement with any person that has rights that could be equity settled or otherwise;
- 1.2.26 **"Ordinary Resolution"** means a resolution adopted with the support of more than 50% (Fifty percent) of the voting rights exercised on the resolution by the Shareholders at a Shareholders' meeting;
- 1.2.27 **"Participant"** has the meaning set out in section 1 of the Securities Services Act;

- 1.2.28 **“Prescribed Officer”** means a person who, within the Company, performs any function that has been designated by the Minister in terms of Section 66(10) of the Act. Despite not being a Director of a particular Company, a person is a “prescribed officer” of the Company for all purposes of the Act if that person: exercises general executive control over and management of the whole, or a significant portion, of the business and activities of the Company; or regularly participates to a material degree in the exercise of general executive control over and management of the whole, or a significant portion, of the business and activities of the Company;
- 1.2.29 **“Record Date”** means a date set by the Board for the purpose of determining which Shareholders are entitled to exercise their rights in accordance with their shareholding and as set out in of section 59 of the Act;
- 1.2.30 **“Regulations”** means the regulations published as set out in of the Act;
- 1.2.31 **“Related”** means when used in respect of two persons, means persons who are connected to one another in any manner contemplated in Section 2(1)(a) to (c) of the Act;
- 1.2.32 **“Securities”** means any shares and debt instruments, irrespective of their form or title, issued or authorised to be issued by the Company;
- 1.2.33 **“Securities Register”** means the Register of issued Securities of the Company required be establishing as set out in section 50(1) of the Act and referring to in clause 3.6.hereof;
- 1.2.34 **“Securities Services Act”** means the Securities Services Act, No 36 of 2004, as amended from time to time;
- 1.2.35 **“Shareholder”** means a holder of a share who is entered as such in the Securities Register;
- 1.2.36 **“SENS”** means the Stock Exchange News Service established and operated by the Regulation Division of the JSE;
- 1.2.37 **“Solvency and Liquidity Test”** has the meaning attributed thereto in Section 4 of the Act; being the test the Company satisfies if at a particular time, considering all reasonably foreseeable circumstances at that time:

- (a) the Company's assets, as fairly valued, equal or exceed its liabilities. It is the assets of the particular Company which must be valued (including any investment in subsidiaries). The Company must have a positive net asset value at a specific point in time. This is the solvency element of the test. It is also called the 'Balance Sheet Solvency' Test;
- (b) it appears that the Company will be able to pay its debts as they become due in the ordinary course of business for a period of 12 months after the date on which the test is considered or 12 months following the distribution. This is the liquidity element of the test. It is also called the 'Commercial Solvency Test';

1.2.38 **"Special Resolution"** means a resolution adopted with the support of at least 75% of the voting rights exercised on the resolution by the Shareholders at the Shareholders meeting;

1.2.39 **"Uncertificated Securities"** means any securities defined in section 29 of the Securities Services Act;

2. **ARTICLE 1: INCORPORATION AND NATURE OF THE COMPANY**

2.1 **Incorporation**

2.1.1 The Company is a pre-existing profit public company as defined in the Act and, as such, continues to exist as a profit public company as if it had been incorporated and registered in terms of the Act, as contemplated in item 2 of the Fifth Schedule to the Act, and this Memorandum of Incorporation replaces and supersedes the Memorandum and Articles of Association of the Company applicable immediately prior to the filing hereof.

2.1.2 Therefore Company is a public company and accordingly: -

2.1.2.1 there is no restriction on the transferability of any securities of the Company;

2.1.2.2 it is not prohibited from offering any securities of the Company to the public.

2.1.3 The Company is incorporated in accordance with and governed by: –

- 2.1.3.1 The unalterable provisions of the Act;
- 2.1.3.2 The alterable provisions of the Act subject to the limitations, extensions, variations or substitutions set out in this Memorandum;
- 2.1.3.3 The provisions of the JSE Listings requirements;
- 2.1.3.4 The provisions of this Memorandum of Incorporation.

2.2 Powers of the Company

- 2.2.1 The company has all of the legal powers and capacity contemplated in the Act, and no provision contained in this Memorandum of Incorporation should be interpreted or construed as negating, limiting, or restricting those powers in any way whatsoever. There is no provision of this MOI which constitutes a restrictive condition as contemplated in section 15(2)(b) of the Act.
- 2.2.2 The legal powers and capacity of the company are not subject to any restrictions, limitations or qualifications, as contemplated in section 19(1)(b)(ii) of the Act.
- 2.2.3 No Special Resolution contemplated in section 20(2) or section 20(6) of the Companies Act to ratify any action which is contrary to the JSE Listings Requirements shall be proposed to the Shareholders unless otherwise agreed to by the JSE. **[L.R. SCH. 10.3]**

2.3 Memorandum of Incorporation and Company rules

- 2.3.1 This Memorandum of Incorporation may only be altered or amended by way of a special resolution of the ordinary shareholders in accordance with section 16(1)(c) of the Act, except if such amendment is in compliance with a Court order as contemplated in section 16(1)(a) of the Act **[L.R. SCH. 10.5]**, An Amendment, for the avoidance of doubt, shall include, but shall not be limited to the Change of the Company's name **[L.R. SCH. 10.5 (d)(vii)]**,
- 2.3.2 An amendment of this Memorandum of Incorporation will take effect from the later of: –
 - 2.3.2.1 the date on, and time at, which the Commission accepts the filing of the notice of amendment contemplated in section 16(7) of the Act; and

2.3.2.2 the date, if any, set out in the said notice of amendment, save in the case of an amendment that changes the name of the company, which will take effect from the date set out in the amended registration certificate issued by the Commission.

2.3.3 The Board shall not have the power or authority to create, amend or appeal rules in terms of sections 15(3) to 15(5) of the Act [**L.R. SCH. 10.4**]

2.4 **Limitation of Liability**

2.4.1 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.

3. **ARTICLE 2 : SECURITIES OF THE COMPANY**

3.1 **Authorised class of shares and associated rights**

3.1.1 The authorised share capital of the Company immediately following the date of the adoption of this MOI consists of, and the Company is authorised to issue no more than:

3.1.1.1 1,000,000,000 (ONE BILLION) Ordinary Shares of a single class of shares with no nominal or par value, which is designated “**ordinary shares**”, each of which rank *pari passu* in respect of all rights [**L.R. SCH. 10.5(a)**] and entitles the holders of these ordinary shares shall be referred to as “**ordinary shareholders**”), to: –

3.1.1.1.1 Vote at any annual general meeting or general meeting, or as contemplated in the Memorandum, the Act and/or JSE L.R, in person or by proxy, on any matter to be decided by the Shareholders of the Company and to 1 (one) vote in respect of each ordinary Share in the case of a vote by means of a poll; [**L.R. SCH.10.5(b)**];

3.1.1.1.2 Participate in any proportionate distribution to the Shareholders;

3.1.1.1.3 share in the proportionate distribution of the Company’s residual value upon its dissolution.

3.1.2 The holders of securities, other than ordinary shares and any special shares created for the purpose of black economic empowerment in terms of the BEE Act and BEE Codes, shall not be entitled to vote on any resolutions taken by the company, save for as permitted as in the JSE Listings Requirements. [L.R SCH.10.h(h)]. In instances that such shareholders are permitted to vote at general/annual general meetings, their vote may not carry any special rights or privileges and they shall be entitled to one vote for each share that they hold, provided that their total voting right at such general/annual meeting may not exceed 24.99% of the total voting rights of all shareholder at such meeting.

3.1.3 In event of fractions of securities, all allocations of Securities will be rounded up or down, based on standard rounding convention (i.e. allocations will be rounded down to the nearest whole number if they are less than 0,5 (zero comma five) and will be rounded up to the nearest whole number if they are equal to or greater than 0,5 (zero comma five), resulting in allocations of whole Securities and no fractional entitlements.

3.2 **Authority to alter the authorised class of shares and rights associated to class/es of shares**

3.2.1 The Company's Board of Directors may propose, which must be authorised by a special resolution adopted by Shareholders, save where such amendment is ordered by a Court as set out in section 16(1)(a) and 16(4) of the Act [L.R. SCH. 10.5 (d)] [L.R. SCH. 10.9(c)], to enact the following: -

3.2.1.1 The creation of any class of shares;[L.R. SCH. 10.5 (d)(i)];

3.2.1.2 To increase or decrease of the number of authorised shares of any class of the Company's shares as set out in section 36(3)(a) of the Act;[L.R. SCH. 10.5 (d)(iv)];

3.2.1.3 The Conversion of one class of shares into one or more other classes; [L.R. SCH. 10.5 (d)(iii)];

3.2.1.4 To reclassify or vary any shares that have been authorised but not issued as set out section 36(3)(b) of the Act;[L.R. SCH. 10.5 (d)(ii)];

- 3.2.1.5 To classify any unclassified shares as set out in section 36 (3)(c) of the Act; **[L.R. SCH. 10.5 (d)(ii)]**;
- 3.2.1.6 To determine or variation of the preferences, rights, limitations or other terms of any class of shares, as set out in section 36(3)(d) of the Act; **[L.R. SCH. 10.5 (d)(ii)]**;
- 3.2.1.7 The consolidation of securities; **[L.R. SCH. 10.5 (d)(v)]**;
- 3.2.1.8 A sub-division of securities **[L.R. SCH. 10.5 (d)(vi)]**;
- 3.2.2 If any amendment relates to the variation of any preferences, rights, limitations and other terms attaching to any other class of shares already in issue, that amendment must not be implemented without a special resolution, taken by the holders of shares in that class at a separate meeting. In such instances, the holders of such shares may be allowed to vote at the meeting of ordinary shareholders. No resolution of shareholders of the company shall be proposed or passed, unless a special resolution, of the holders of the shares in that class, have approved the amendment. **[L.R. SCH. 10.5 (e)]**;
- 3.2.3 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 set out in sections 37(6) and 37(7) of the Act. **[L.R. SCH. 10.5 (g)]**

3.3 Issuing of shares

- 3.3.1 Unless otherwise authorised by the Act, the JSE Listings Requirements and the Company's Shareholders in accordance with clause 3.3.2, the Board may only issue unissued Shares if such Shares have first been offered to existing Shareholders in proportion to their shareholding on such terms and in accordance with such procedures as the Board may determine, unless such Shares are issued for the acquisition of assets by the Company. **[L.R. SCH. 10.1]**;
- 3.3.2 Subject to clauses 3.3.3 to 3.3.8, the Board may resolve to issue Shares and/or grant options to subscribe for Shares within the classes and to the extent that those Shares have been authorised by or in terms of this Memorandum of Incorporation, but only to the extent that such issue or option has been approved by the Shareholders in general meeting, either by way of a general or specific authority provided that such issue or option shall

be subject to the JSE Listings Requirements and the approval by the JSE. **[L.R. SCH. 10.1];**

- 3.3.3 Without derogating from the aforesaid, the Board may also, in its discretion, if it has been granted a general authority in general meeting to issue or grant options in respect of Shares, issue such Shares or grant such options to some of the Shareholders only or to a combination of some of the Shareholders and subscribers who do not hold any Shares in the Company.
- 3.3.4 All issues of Shares for cash and all issues of options and convertible securities granted or issued for cash must, in addition, be in accordance with the JSE Listings Requirements. **[L.R. SCH. 10.9 (a)];**
- 3.3.5 No Shareholder shall have any pre-emptive or other similar preferential right to be offered or to subscribe for any additional Shares issued by the Company, except to the extent that any such right is specifically included as one of the rights, preferences or other terms upon which any class of Shares is issued or as may otherwise be provided in clause 3.3.2.
- 3.3.6 Notwithstanding the provisions of clauses 3.3.2 and 3.3.3, any issue of Shares, Securities convertible into Shares, or rights exercisable for Shares in a transaction, or a series of integrated transactions shall, as set out in section 41(3) of the Act, require the approval of the Shareholders by special resolution if the voting power of the class of Shares that are issued or are issuable as a result of the transaction or series of integrated transactions will be equal to or exceed 30% (thirty percent) of the voting power of all the Shares of that class held by Shareholders immediately before that transaction or series of integrated transactions.
- 3.3.7 All Securities for which a listing is sought on the JSE must, notwithstanding the provisions of section 40(5) of the Act, be fully paid-up and freely transferable, unless otherwise required by law. **[L.R. SCH. 10.2(a)];**
- 3.3.8 Without derogating from the aforesaid, the Board may also, in its discretion, if it has been granted thereto by a special resolution adopted by Shareholders, be authorized to issue shares for consideration or securities convertible into shares, or a grant of options as set out in section 42 of the Act and in accordance with the JSE Listings Requirements, or a grant of any other rights exercisable for securities as set out in section 41(1) of the Act to the following persons:

- 3.3.8.1 Director, future Director, prescribed officer, or future prescribed of the Company;
- 3.3.8.2 Person related or inter-related to the Company or to a Director or prescribed office of the Company;
- 3.3.8.3 A nominee of a person contemplated in paragraph 3.3.8.1 and 3.3.8.2.

3.4 **Certificated and Uncertificated Securities**

- 3.4.1 Securities of the Company are to be issued in certificated or uncertificated form, as shall be determined by the Board from time to time. Except to the extent otherwise provided in the Act, the rights and obligations of Security holders shall not be different solely on the basis of their Securities being Certificated Securities or Uncertificated Securities and each provision of this Memorandum of Incorporation applies with respect to any Uncertificated Securities in the same manner as it applies to Certificated Securities, unless otherwise stated or indicated by the context.
- 3.4.2 Any Certificated Securities may cease to be evidenced by certificates and thereafter become Uncertificated Securities.
- 3.4.3 Any Uncertificated Securities may be withdrawn from the Uncertificated Securities Register, and certificates issued evidencing those Securities at the election of the holder of those Uncertificated Securities. A holder of Uncertificated Securities who elects to withdraw all or part of the Uncertificated Securities held by it in an Uncertificated Securities Register, and obtain a certificate in respect of those withdrawn Securities, may so notify the relevant Participant or Central Securities Depository as required by the rules of the Central Securities Depository.
- 3.4.4 After receiving notice from a Participant or Central Securities Depository, as the case may be, that the holder of Uncertificated Securities wishes to withdraw all or part of the Uncertificated Securities held by it in an Uncertificated Securities Register, and obtain a certificate in respect thereof, the Company shall, in accordance with the provisions of the Act: –
 - 3.4.4.1 enter the relevant Security holder's name and details of its holding of Securities in the Securities Register and indicate on the

Securities Register that the securities so withdrawn are no longer held in uncertificated form; and

3.4.4.2 within the time periods specified in the Act, prepare and deliver to the relevant person a certificate in respect of the Securities and notify the Central Securities Depository that the Securities are no longer held in uncertificated form.

3.4.5 The Company may charge a holder of its Securities a reasonable fee to cover the actual cost of issuing any certificate as contemplated in this clause.

3.5 **Commission**

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

3.6 **Securities Register**

3.6.1 The Company must establish or cause to be established a Securities Register in the form prescribed by the Act and the Regulations and maintain the Securities Register in accordance with the prescribed standards.

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

3.6.2.1 the total number of Uncertificated Securities;

3.6.2.2 with respect to Certificated Securities: –

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

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

3.6.2.2.3 in the case of Securities other than Shares as contemplated in section 43 of the Act, the number of those Securities issued and outstanding and the names and addresses of the registered holders of

the Securities and any holders of beneficial interests therein; and

3.6.2.2.4 any other prescribed information.

3.6.3 If the Company has issued Uncertificated Securities, or has issued Securities that have ceased to be Certificated Securities as contemplated in clause 3.6.2, a record must be administered and maintained by a Participant or Central Securities Depository, in the prescribed form, as the Uncertificated Securities Register, which: –

3.6.3.1 form part of the Securities Register; and

3.6.3.2 must contain, with respect to all Uncertificated Securities contemplated in this clause 3.6, any details referred to in clause 3.6.2.2, read with the changes required by the context or as determined by the rules of the Central Securities Depository.

3.6.4 The Securities Register or Uncertificated Securities Register maintained in accordance with the Act shall be sufficient proof of the facts recorded in it, in the absence of evidence to the contrary.

3.6.5 Unless all the Shares rank equally for all purposes, the Shares, or each class of Shares, and any other Securities, must be distinguished by an appropriate numbering system.

3.6.6 A certificate evidencing any Certificated Securities of the Company: –

3.6.6.1 must state on its face: –

3.6.6.1.1 the name of the Company;

3.6.6.1.2 the name of the person to whom the Securities were issued;

3.6.6.1.3 the number and class of Shares and designation of the series, if any, evidenced by that certificate;

3.6.6.2 must be signed by 2 (two) persons authorised by the Board, which signatures may be affixed or placed on the certificate by autographic, mechanical or electronic means; and

- 3.6.6.3 is proof that the named Security holder owns the Securities, in the absence of evidence to the contrary.
- 3.6.7 A certificate remains valid despite the subsequent departure from office of any person who signed it.
- 3.6.8 If, as contemplated in clause 3.6.5, all of the Shares rank equally for all purposes, and are therefore not distinguished by a numbering system: –
- 3.6.8.1 each certificate issued in respect of those Shares must be distinguished by a numbering system; and
- 3.6.8.2 if the Share has been transferred, the certificate must be endorsed with a reference number or similar device that will enable each preceding holder of the Share in succession to be identified, provided that in terms of Schedule 5 of the Act, if the Company is a pre-existing company (as defined in the Act), the failure of any Share certificate to satisfy the provisions of clauses 3.6.6 to 3.6.8 is not a contravention of the Act and does not invalidate that certificate.
- 3.6.9 If a Share certificate is defaced, lost or destroyed, it may be replaced: –
- 3.6.9.1 free of charge by the Company; and
- 3.6.9.2 in case of defacement, on delivery of the old certificate to the Company.
- 3.6.10 In the case of any share registered in the names of two or more persons as joint holders, the person first-named in the securities register shall, save as may otherwise be provided in this Memorandum of Incorporation, be the only person recognised by the company as having any title to such share and to the corresponding certificate.
- 3.6.11 Upon the legal incapacity of any joint holder of any share, the sole remaining holder or the first-named of two or more remaining joint holders, as the case may be, shall be the only person or persons recognised by the company as having any title to such share.

3.7 Transfer of Securities

- 3.7.1 All Securities for which a listing is sought on the JSE must, notwithstanding the provisions of section 40(5) of the Act, be fully paid-up and freely transferable, unless otherwise required by law. **[L.R. SCH. 10.2(a)];**
- 3.7.2 The instrument of transfer of any Certificated Securities which are not listed on the JSE shall be signed by both the transferor and the transferee and the transferor shall be deemed to remain the holder of such Certificated Securities until the name of the transferee is entered in the Securities Register. The Directors may, however, in their discretion in such cases as they deem fit, dispense with requiring the signature of the transferee on the instrument of transfer.
- 3.7.3 Subject to such restrictions as may be applicable, (whether by virtue of the preferences, rights, limitations or other terms associated with the Securities in question), any Shareholder or holder of other Securities may transfer all or any of its Certificated Securities by instrument in writing in any usual or common form or any other form which the Directors may approve.
- 3.7.4 Every instrument of transfer shall be delivered to the principal place of business of the Company, accompanied by: –
- 3.7.4.1 the certificate issued in respect of the Certificated Securities to be transferred; and/or
- 3.7.4.2 such other evidence as the Company may require to prove the title of the transferor, or his or her right to transfer the Certificated Securities.
- 3.7.5 All authorities to sign transfer deeds or other instruments of transfer granted by holders of Securities for the purpose of transferring Certificated Securities which may be lodged, produced or exhibited with or to the Company at its registered office or at its transfer office shall, as between the Company and the grantor of such authorities, be taken and deemed to continue and remain in full force and effect, and the Company may allow the same to be acted upon until such time as express notice in writing of the revocation of the same shall have been given and lodged at the Company's registered office or transfer office at which the authority was first lodged, produced or exhibited. Even after the giving and lodging of such notice, the Company shall be entitled to give effect to any instruments signed under the authority to sign and certified by any officer of the Company as being in order before the giving and lodging of such notice. **[L.R. SCH. 10.2(b)];**

- 3.7.6 All instruments of transfer, when registered, shall either be retained by the Company or disposed of in such manner as the Directors shall from time to time decide.
- 3.7.7 The transfer of Uncertificated Securities may be affected only: –
- 3.7.7.1 by a Participant or Central Securities Depository;
- 3.7.7.2 on receipt of an instruction to transfer sent and properly authenticated in terms of the rules of a Central Securities Depository or an order of a Court; and
- 3.7.7.3 in accordance with section 53 of the Act and the rules of the Central Securities Depository.
- 3.7.8 Transfer of ownership in any Uncertificated Securities must be effected by debiting the account in the Uncertificated Securities Register from which the transfer is effected and crediting the account in the Uncertificated Securities Register to which the transfer is effected, in accordance with the rules of the Central Securities Depository.
- 3.7.9 Securities transfer tax and other legal costs payable in respect of any transfer of Securities pursuant to this Memorandum of Incorporation will be paid by the Company to the extent that the Company is liable therefore in law, but shall, to that extent, be recoverable from the person acquiring such Securities.

3.8 No Lien

- 3.8.1 It is recorded for the avoidance of doubt that fully paid Securities shall not be subject to any lien in favour of the Company and shall be freely transferable. **[L.R. SCH. 10.2 (a) & L.R. SCH. 10.12].**

3.9 Transmission of Securities

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

person who submits proof of his appointment as the executor, administrator, trustee, curator, or guardian in respect of the estate of a deceased Shareholder or holder of other Securities ("Security Holder") of the Company, or of a Security Holder whose estate has been sequestered or of a Security Holder who is otherwise under a disability or as the liquidator of any body corporate which is a Security Holder of the Company, shall be entered in the Securities Register *nomine officii*, and shall thereafter, for all purposes, be deemed to be a Securities Holder. [L.R. SCH. 10.13];

3.9.2 Subject to the provisions of clause 3.9.1, any person becoming entitled to any Security by virtue of the death of a Security Holder shall, upon producing such evidence that he has such title or rights as the Directors think sufficient, have the right either to have such Security transferred to himself or to make such other transfer of the Security as such Security Holder could have made, provided that in respect of a transfer other than to himself: –

3.9.2.1 the Directors shall have the same right to refuse or suspend registrations they would have had in the case of a proposed transfer of such Security by such Security Holder before his death;

3.9.2.2 is himself registered as a Security Holder in respect of such Security, be entitled to exercise any voting or other right attaching to such Security or any other right relating to meetings of the Company.

3.10 Odd-lot Offers

3.10.1 If, upon implementation of any odd-lot offer made by the Company in accordance with the restrictions and procedures imposed by the JSE Listings Requirements, subject to the majority shareholders approving same at a general meeting and the approval thereof by the JSE, there are holders of Shares holding in aggregate less than 100 (one hundred) Shares, or such other number of shares as determined by the JSE as amounting to an odd-lot ("odd-lots") in the Company ("odd-lot holders"), then the Company shall, save in respect of odd-lot holders who have elected to retain their odd-lots or to sell their odd-lots to holdings, or such other number of Shares as determined by the JSE as amounting to an odd-lot, in the Company: –

3.10.1.1 cause the odd-lots to be sold in such manner as the Directors may direct; and

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

3.10.2 All unclaimed proceeds (of such sales) will be held in the Company's trust account from the date on which the Directors caused the odd-lots to be sold until claimed, whereafter any such unclaimed proceeds held in trust be declared forfeited by the Directors for the benefit of the Company and may be invested or applied otherwise as deemed fit by the Directors, taking into account the laws of prescription.

3.11 Debt instruments

3.11.1 The authority of the Board to authorise the Company to issue secured or unsecured debt instruments, as set out in section 43(2) of the Act is not limited or restricted by this Memorandum of Incorporation.

3.11.2 The Board shall not be entitled to: -

3.11.2.1 issue debt instruments convertible into ordinary shares;

3.11.2.2 grant special privileges regarding: -

3.11.2.2.1 attending and voting at General Meetings and the appointment of directors; or

3.11.2.2.2 allotment of Securities, redemption by the Company, or substitution of the debt instrument for shares of the Company and, for the avoidance of doubt, no debt instruments shall carry voting rights which affect the control position of the ordinary shares. **[L.R. SCH. 10.10];**

3.12 Financial assistance for subscription of securities

3.12.1 The Board may propose, if authorised thereto by a special resolution adopted by Shareholders, 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 of any option, or any securities, issued or to be issued by the Company or a related or inter-related Company, or for the purchase of any securities of the Company or a related or inter-related Company, subject to sections 44(3) and (4) of the Act and the particular provision of financial assistance must be pursuant to a

Special Resolution of Shareholders adopted within the previous 2 (two) years which approved such assistance either for the specific recipient or generally for a category of potential recipients and the specific recipient falls within that category and the Board is satisfied that immediately after providing the financial assistance, the Company would satisfy the Solvency and Liquidity Test and the terms under which the financial assistance is proposed to be given are fair and reasonable to the Company and the Board must ensure that any conditions or restrictions respecting the granting of financial assistance as set out in the Company's Memorandum of Incorporation have been satisfied.

3.13 **Loans and other financial assistance to Directors or inter-related person**

3.13.1 The board may propose if authorised thereto by a special resolution adopted by shareholders may authorise the Company to provide direct or indirect financial assistance in relation to the subscription of any option or securities of the Company or of a related or inter-related Company, to any of the following:

3.13.1.1 a Director or Prescribed Officer of the Company;

3.13.1.2 a Director or Prescribed Officer of a related or inter-related Company;

3.13.1.3 a related or inter-related Company or corporation;

3.13.1.4 a Member of a related or inter-related corporation;

3.13.1.5 a person related to any such Company, Corporation, Director, Prescribed Officer or Member, subject to sections 45(3) and (4) of the Act and the particular provision of financial assistance must be pursuant to a Special Resolution of Shareholders adopted within the previous 2 (two) years which approved such assistance.

3.13.2 The Board is prohibited to authorise any financial assistance as set out in section 45(2) of the Act, unless the particular provision of financial assistance is pursuant to a Special Resolution of the Shareholders, adopted within the previous 2 (two) years, which approved such assistance either for the specific recipient, or generally for a category of potential recipients, and the specific recipient falls within that category; and the Board is satisfied that immediately after providing the financial assistance, the Company would

satisfy the Solvency and Liquidity Test; and the terms under which the financial assistance is proposed to be given are fair and reasonable to the Company, and the Board must ensure that any conditions or restrictions respecting the granting of financial assistance set out in the Company's Memorandum of Incorporation have been satisfied.

3.13.3 In the event that the Board of the Company adopts a resolution in terms of section 45(2) of the Act, the Company must provide a written notice of that resolution to all Shareholders, unless every Shareholder is also a Director of the Company, and to any trade union representing its employees within 10 (ten) business days after the Board adopts the resolution, if the total value of all loans, debts, obligations or assistance contemplated in that resolution, together with any previous such resolution during the financial year, exceed one-tenth of 1% (one percent) of the Company's net worth at the time of the resolution; or within 30 (thirty) business days after the end of the financial year, in any other case as set out in Section 45(5)(a)(b) of the Act.

3.14 Capitalisation shares

3.14.1 Subject to the provisions of section 47 of the Act and the JSE Listings Requirements, The Company's Board of Directors may propose and be authorised **[L.R. SCH. 10.6]**:

3.14.1.1 To approve the issuing of any authorised shares of the Company, as capitalisation shares, on a *pro-rata* basis to the Shareholders of one more classes of shares;

3.14.1.2 Shares of one class may be issued as a capitalisation shares in respect of shares of another class;

3.14.1.3 When resolving to award a capitalisation share, the Board may at the same time resolve to permit any Shareholder entitled to receive such an award to elect instead to receive a cash payment at a value determined by the Board and the Shareholders.

3.14.2 The Board of the Company may not resolve to offer a cash payment in lieu of awarding a capitalisation share as contemplated above unless the Board has considered the Solvency and Liquidity Test as required by section 46 of the Act on the assumption that every such Shareholder would elect to receive a cash payment, and is satisfied that the Company would satisfy the Solvency and Liquidity Test immediately upon the completion of the distribution as set out in Section 47(1)(2) of the Act.

3.15 The Company or Subsidiary acquiring Company's shares

3.15.1 Subject to the provisions of the JSE listings Requirements and section 48 of the Act, the Board may determine that the Company acquire a number of its own Shares **[L.R. SCH. 10.9(b)]**:

3.15.2 The board of any subsidiary of the Company may determine that such subsidiary acquire Shares of the Company, subject: –

3.15.2.1 not more than 10% (ten percent), in aggregate, of the number of issued Shares of any class may be held by, or for the benefit of, all of the subsidiaries of the Company, taken together; and

3.15.2.2 no voting rights attached to those Shares may be exercised while the Shares are held by that subsidiary and it remains a subsidiary of the Company.

3.15.3 Any decision by the Company to acquire its own Shares and/or Subsidiary acquiring the Company's shares must satisfy the requirements of section 46 of the Act.

3.15.4 A decision of the Board referred to in clause 3.17.1 and 3.17.2: -

3.15.4.1 must be approved by a special resolution of the Shareholders if any Shares are to be acquired by the Company from a Director or prescribed officer of the Company, or a person related to a Director or prescribed officer of the Company; and

3.15.4.1 is subject to the requirements of sections 114 and 115 of the Act if considered alone, or together with other transactions in an integrated series of transactions, it involves the acquisition by the Company of more than 5% (five percent) of the issued Shares of any particular class of the Company's Shares.

3.15.5 Notwithstanding any other provision of this Memorandum of Incorporation, the Company may not acquire its own Shares, and no subsidiary of the Company may acquire Shares of the Company if, as a result of that acquisition, there would no longer be any Shares of the Company in issue other than: –

3.15.5.1 Shares held by one or more subsidiaries of the Company; or

3.15.5.2 Convertible or redeemable Shares.

3.16 Distribution

3.16.1 Subject to section 46 of the Act, the Company may propose a distribution if: -

3.16.1.1 It is pursuant to an existing legal obligation of the Company, or a court order;

3.16.1.2 The Board of the Company, by resolution of Board, has authorised the distribution.

3.16.2 The Board must apply the solvency and liquidity test immediately prior to completing the proposed distribution and the Board of the Company, by resolution, has acknowledged that it has applied the solvency and liquidity test, as set out in section 4 of the Act, and reasonably concluded that the Company will satisfy the solvency and liquidity test immediately after completing the proposed distribution.

3.16.3 The Board may from time to time declare and pay to the shareholders such distribution, in accordance with the Act, as the Board considers to be appropriate. If the Board should decide on such a distribution, said distribution will be done in accordance with the Act and the JSE Listings Requirements. No larger distribution shall be declared by the Company in General Meeting than is recommended by the Board, but the Company in General Meeting may declare a smaller distribution. **[L.R. SCH. 10.17(a)];**

3.16.4 Any distribution must be made payable to Shareholders registered as at a date subsequent to the date of declaration thereof or the date of confirmation thereof, whichever is the later date. **[L.R. SCH. 10.17(b)];**

3.16.5 Distributions shall be payable to Shareholders registered as such on the record date determined by the Board in accordance with the Act. If a record date for distributions is not determined by the Board, then record date shall occur in accordance with the Act and as set out in the JSE Listings Requirements.

3.16.6 Distributions payable in monetary form shall be authorised in the currency of the Republic (Rands), and cash distributions, interest or other moneys

payable to a Shareholder may be paid by cheque or otherwise, as the Board may from time to time determine, and may be sent by post to the last Registered address of the Shareholder entitled thereto, as recorded in the Securities Register or any other address requested by him, or, in the case of joint Shareholders, to that one of them first named in the Securities Register in respect of such joint Shareholdings, and the payment of such cheque or payment by electronic transfer into the bank account nominated by the Shareholder or, in the case of joint Shareholders, into the bank account nominated by the Shareholder whose name stands first in the Securities Register in respect of the share, shall be a good discharge by the Company in respect thereof. The Company shall not be responsible for the loss in transmission of any cheque or warrant or of any document (whether similar to a cheque or warrant or not) sent by post as aforesaid.

3.16.7 All unclaimed distribution (i.e.) dividends will be held by the Company in trust until claimed, and dividends that remain unclaimed for a period of 3 (three) years from the date on which they were declared may be declared by the Directors to be forfeited for the benefit of the Company. The Directors may at any time annul such forfeiture upon such conditions (if any) as they think fit. All unclaimed monies, other than dividends, that are due to Shareholder/s shall be held by the Company in trust, subject to the laws of prescription. **[L.R. SCH. 10.17(c)];**

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

3.16.9 Distributions may be declared either free of or subject to the deduction of income tax and any other tax or duty in respect of which the Company may be chargeable.

3.16.10 Without limiting the provisions of this clause, all payments made to holders of Securities listed on the JSE must be in accordance with the JSE Listings Requirements and capital payments to holders of Listed Securities may not be made on the basis that it can be called up again. **[L.R. SCH. 10.8];**

3.17. Reserves

3.17.1 The Board may, before recommending any distribution as in this memorandum of incorporation or the Act, set aside such amounts from the profits of the Company as reserves as it deems fit.

3.17.2 Such reserves may in the discretion of the Board be used for any admissible purpose and pending such use, the Board may in its discretion: –

3.17.2.1 use them for the business of the Company without them being separated from the other assets of the Company; or

3.17.2.2 invest it.

3.17.3 The Board may in its discretion transfer any profits which should not be distributed in its opinion, without putting them to reserve.

3.17.4 The Board may: –

3.17.4.1 distribute any such reserve funds as it deems fit;

3.17.4.2 consolidate such funds, or any part thereof, if it should be held in separate account, in one fund.

3.18 **Beneficial Interest in Securities**

3.18.1 The authority of the Company's Board of Directors to allow the Company's issued Securities to be held by, and Registered in the name of, one person for the beneficial interest of another person, as set out in section 56 (1) of the Act is not limited or restricted by this Memorandum of Incorporation.

4. **ARTICLE 3 : SHAREHOLDERS' RIGHTS**

4.1 **Shareholders' right to information**

4.1.1 Subject to the JSE Listings Requirements, every Shareholder of the Company shall be entitled to demand all and/or any information of the Company, which a Directors by law would be entitled to receive. Against receipt of written demand from a Shareholder, the Company shall within a reasonable period, provide all information demanded by such Shareholder, subject to such Shareholder confirming in the written demand that such information shall be treated as confidential and not be used other than in protection of the Shareholder's rights, in its capacity as Shareholder.

4.2 **Record Date for the Exercise of Shareholder Right**

- 4.2.1 The board of a company may set a record date as set out in section 59 of the Act **[L.R. SCH. 10.15]** for the purpose of determining which shareholders are entitled to: -
- 4.2.1.1 Receive notice of a shareholders meeting;
 - 4.2.1.2 Participate in and vote at a shareholders meeting;
 - 4.2.1.3 Decide any matter by written consent or electronic communication, as contemplated in section 60 of the Act;
 - 4.2.1.4 Receive a distribution;
 - 4.2.1.5 Be allotted or exercise other rights;
 - 4.2.1.6 Exercise pre-emptive rights as contemplated in Section 39 of the Act.
- 4.2.2 If, at any time, the Company's Board of Directors fails to determine a record date, such record date must be published to the Shareholders in a manner that satisfies the JSE Listings Requirements and any other prescribed requirements, for as long as the JSE Listings Requirements apply to the company and prescribe a record date, such record date shall be the record date so prescribed **[[L.R. SCH. 10.15 and L.R SCH 24.7]**

4.3 Proxies and Representatives

- 4.3.1 Any Shareholder may at any time appoint any natural person (or two or more natural persons concurrently), including a natural person who is not a Shareholder, as a proxy to: –
- 4.3.1.1 participate in, and speak and vote at, a Shareholders' meeting on behalf of that Shareholder; or
 - 4.3.1.2 give or withhold written consent on behalf of that Shareholder to a decision contemplated in section 60 of the Act, provided that a Shareholder may appoint more than 1 (one) proxy to exercise voting rights attached to different Securities held by the Shareholder.
- 4.3.2 A proxy appointment: –

4.3.2.1 must be in writing, dated and signed by the Shareholder; and remains valid for: –

4.3.2.1.1 1 (one) year after the date on which it was signed;

or

4.3.2.1.2 any longer or shorter period expressly set out in the appointment, unless it is revoked in a manner contemplated in the Act or expires earlier as contemplated in the Act.

4.3.3 The holder of a power of attorney or other written authority from a Shareholder may, if so authorised thereby, represent such Shareholder at any meeting of the Company and such holder shall deliver the power of attorney or other written authority (if any), or a copy thereof, to the Company before such holder exercises any rights of the Shareholder at a Shareholders' meeting. A Shareholder so represented at a meeting of the Company shall be deemed for purposes of this Memorandum of Incorporation to be a Shareholder who is present at the meeting, particular: –

4.3.3.3.1 a Shareholder has the right to appoint 2 (two) or more persons concurrently as proxies as set out in section 58(3)(a) of the Act;

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

4.3.3.3.3 a Shareholder or his proxy must deliver to the Company a copy of the instrument appointing a proxy not later than 48 (forty eight) hours before the commencement of the meeting at which the proxy intends to exercise that Shareholder's rights, provided that the chairperson of the meeting may, in his discretion, accept proxies that have been delivered after the expiry of the aforementioned period up until the time of commencement of the meeting; and

4.3.3.3.4 unless the instrument appointing a proxy provides otherwise, a Shareholder's proxy may decide, without

direction from the Shareholder, whether to exercise or abstain from exercising any voting right of the Shareholder, as set out in section 58(7) of the Act, and none of such rights or powers are limited, restricted or varied by this Memorandum of Incorporation.

5. ARTICLE 4 : SHAREHOLDERS' MEETINGS

5.1 Requirement to hold meetings

5.1.1 In addition to other meetings of the Company that may be convened from time to time, the Company shall convene an annual general meeting of its Shareholders once in each calendar year, but no more than 15 (fifteen) months after the date of the previous annual general meeting.

5.1.2 The Company shall deliver notices of meetings to each Shareholder entitled to vote at such meeting who has elected to receive such documents. **[L.R. SCH. 10.11(e)];**

5.1.3 Subject to the provisions of the JSE Listings Requirements, and for as long as required in terms of the provisions of the Act, any such annual general meeting: –

5.1.3.1 shall be capable of being held by Electronic Communication in accordance with the further provisions of this Memorandum of Incorporation; and

5.1.3.2 shall not be capable of being held in accordance with the provisions of this clause.

5.1.4 Each annual general meeting of the Company contemplated in clause 5.1.1 shall provide for at least the following business to be transacted: –

5.1.4.1 the presentation of the directors' report, audited financial statements for the immediately preceding financial year of the Company and an audit committee report;

5.1.4.2 the election of Directors, to the extent required by the Act and by clause of this Memorandum of Incorporation;

5.1.4.3 the appointment of an auditor and an audit committee for the following financial year;

5.1.5 any matters raised by the Shareholders, with or without advance notice to the Company.

5.1.6 Save as otherwise provided herein, the Company is not required to hold any other Shareholders' meetings other than those specifically required by the Act and the JSE Listings Requirements.

5.2 Shareholders' Right to Requisition a Meeting

5.2.1 The Board, or any Prescribed Officer of the Company authorised by the Board, is entitled to call a Shareholders' meeting at any time.

5.2.2 Subject to the provisions of section 60 of the Act, dealing with the passing of resolutions of Shareholders otherwise than at a meeting of Shareholders, the Company shall hold a Shareholders' meeting: –

5.2.2.1 at any time that the Board is required by the Act, the JSE Listings Requirements or this Memorandum of Incorporation to refer a matter to Shareholders for decision; or **[L.R. SCH. 10.11(d)]**;

5.2.2.2 whenever required in terms of the Act to fill a vacancy on the Board;
or

5.2.2.3 by any other provision of this Memorandum of Incorporation.

5.2.3 The Board shall call a meeting of Shareholders if 1 (one) or more written and signed demands by Shareholders calling for such a meeting are delivered to the Company and: –

5.2.3.2 in aggregate, demands for substantially the same purpose are made and signed by the holders, as of the earliest time specified in any of those demands, of at least 10% (ten percent) of the voting rights entitled to be exercised in relation to the matter proposed to be considered at the meeting.

5.3 Location of Shareholders' Meetings

5.3.1 The Board may determine the location of any Shareholders' meeting, and the Company may hold any such meeting in South Africa or in any foreign country, and the authority of the Board and the Company in this regard is not limited or restricted by this Memorandum of Incorporation.

5.3.2 Every Shareholder's meeting shall be reasonably accessible within South Africa for electronic participation by Shareholders, irrespective of whether the meeting is held in South Africa or elsewhere

5.4 **Notice of Shareholders' meetings**

5.4.1 All shareholders' meetings whether called for the passing of special or ordinary resolutions shall be called on not less than 15 (fifteen) business days' notice, as set out in section 62 of the Act and the JSE Listings Requirements. **[L.R. SCH. 10.11(a) & [L.R. SCH. 10.11 (b)];**

5.4.2 A notice of a meeting must be in writing and include the information set out in sections 62(3) and 63(3) of the Act.

5.4.3 A notice of meeting must be sent to the JSE at the same time that it is sent to the shareholders and must also be announced through the Securities Exchange News Service of the JSE. **[L.R. SCH. 10.11(f)].**

5.5 **Electronic participation in Shareholders' meetings**

5.5.1 Subject to the provisions of the JSE Listings Requirements, the Company may conduct a Shareholders' meeting entirely by Electronic Communication or provide for participation in a meeting by Electronic Communication, as set out in section 63 of the Act, and the power of the Company to do so is not limited or restricted by this Memorandum of Incorporation.

5.6 **Quorum for Shareholders' meetings**

5.6.1 The quorum for a Shareholders' meeting to begin or for a matter to be considered, shall be at least 3 (three) Shareholders entitled to attend and vote and present at the meeting. In addition a Shareholders' meeting may not begin until sufficient persons are present at the meeting to exercise, in aggregate, at least 25% (twenty five percent) of the voting rights that are entitled to be exercised in respect of at least one matter to be decided at the meeting;

5.6.2 a matter to be decided at a Shareholders' meeting may not begin to be considered unless sufficient persons are present at the meeting to exercise, in aggregate, at least 25% (twenty five percent) of all of the voting rights that are entitled to be exercised in respect of that matter at the time the matter is called on the agenda. **[L.R. SCH. 10.11(h)].**

5.7 Conducting of shareholder's meeting

- 5.7.1 The chairperson, shall preside as chairperson at every Shareholder's meeting.
- 5.7.2 If there is no such chairperson, or if at any meeting he is not present within 15 (fifteen) minutes after the time appointed for holding the meeting or is unwilling to act as chairperson, the Directors present shall choose 1 (one) of the Directors present to be chairperson. If no Director is willing to act as chairperson or if no Director is present within 15 (fifteen) minutes after the time appointed for commencement of the meeting, the Shareholders present shall choose one of the Shareholders present to be chairperson of the meeting.
- 5.7.3 The chairperson of a Shareholders' meeting may: –
- 5.7.3.1 appoint any firm or persons to act as scrutineers for the purpose of checking any powers of attorney or proxies received and for counting the votes at the meeting;
- 5.7.3.2 act on a certificate given by any such scrutineers without requiring production at the meeting of the forms of proxy or himself counting the votes.
- 5.7.4 If any votes were counted which ought not to have been counted or if any votes were not counted which ought to have been counted, the error shall not vitiate the resolution, unless: -
- 5.7.4.1 it is brought to the attention of the chairperson at the meeting; and
- 5.7.4.2 in the opinion of the chairperson of the meeting, it is of sufficient magnitude to vitiate the resolution.
- 5.7.5 Any objection to the admissibility of any vote (whether on a show of hands or on a poll) shall be raised: -
- 5.7.5.1 at the meeting or adjourned meeting at which the vote objected to was recorded; or
- 5.7.5.2 at the meeting or adjourned meeting at which the result of the poll was announced, and every vote not then disallowed shall be valid for

all purposes. Any objection made timeously shall be referred to the chairperson of the meeting, whose decision shall be final and conclusive.

5.7.6 Even if he is not a Shareholder: –

5.7.6.1 any Director; or

5.7.6.2 the company's attorney (or where the company's attorneys are a firm, any partner or director thereof), may attend and speak at any Shareholders' meeting, but may not vote, unless he is a Shareholder or the proxy or representative of a Shareholder.

5.8 **Adjournment of Shareholders' meetings**

5.8.1 The maximum period allowable for an adjournment of a Shareholders' meeting is as set out in section 64 (13) of the Act, without variation.

5.9 **Shareholders Resolutions**

5.9.1 For an ordinary resolution to be approved it must be supported by more than 50% (fifty percent) of the voting rights of Shareholders exercised on the resolution, as provided in section 65(7) of the Act.

5.9.2 For a special resolution to be approved it must be supported by the holders of at least 75% (seventy five percent) of the voting rights exercised on the resolution, as provided in section 65(9) of the Act. **[L.R. SCH.10.11(a)];**

5.9.3 No matters require a special resolution adopted at a Shareholders' meeting of the Company, other than: –

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

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

5.9.3.3 for so long as the Company's Securities are listed on the JSE, any other matter required by the JSE Listings Requirements to be resolved by means of a special resolution.

5.9.4 In the event that any Shareholder abstains from voting in respect of any resolution, such Shareholder will, for the purposes of determining the number

of votes exercised in respect of that resolution, be deemed not to have exercised a vote in respect thereof.

5.10 Shareholders Acting Other Than at a Meeting

5.10.1 In accordance with the provisions of section 60 of the Act, but subject to clause 5.10.4, a resolution that could be voted on at a Shareholders' meeting (other than in respect of the election of Directors) may instead be:

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

5.10.1.2 voted on in writing by such Shareholders within a period of 20 (twenty) business days after the resolution was submitted to them.

5.10.2 A resolution contemplated in clause 5.10.1: –

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

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

5.10.3 Within the period prescribed by the Act after adopting a resolution in accordance with the procedures provided in this clause 5.10, the Company shall deliver a statement describing the results of the vote, consent process, or election to every Shareholder who was entitled to vote on or consent to the resolution.

5.10.4 The provisions of this clause 5.10 shall not apply to any Shareholder meetings that are called for in terms of the Listings Requirements or the passing of any resolution in terms of clause 6.1.2 or to any annual general meeting of the Company. **[L.R. SCH.10.11(c) & L.R. SCH.10.16(b)].**

6 ARTICLE 5 : DIRECTORS AND OFFICERS

6.1 Composition of the Board of Directors

- 6.1.1 In addition to the minimum number of Directors, if any, that the Company must have to satisfy any requirement in terms of the Act to appoint an audit committee and a social and ethics committee, the Board must comprise at least 4 (four) Directors and the Shareholders shall be entitled, by ordinary resolution, to determine such maximum number of Directors as they from time to time shall consider appropriate. **[L.R. SCH.10.16(a)];**
- 6.1.2 All Directors shall be elected by an ordinary resolution of the Shareholders at a general or annual general meeting of the Company and no appointment of a Director in accordance with a resolution passed in terms of 60 of the Act shall be competent. **[L.R. SCH.10.16(b)];**
- 6.1.3 Every person holding office as a Director, Prescribed Officer, company secretary or auditor of the Company immediately before the effective date of the Act will, as contemplated in item 7(1) of Schedule 5 to the Act, continue to hold that office.

6.2 Appointment and nomination of Directors

- 6.2.1 In any election of Directors: –
- 6.2.1.1 the election is to be conducted as a series of votes, each of which is on the candidacy of a single individual to fill a single vacancy, with the series of votes continuing until all vacancies on the Board have been filled; and
- 6.2.1.2 in each vote to fill a vacancy: –
- 6.2.1.2.1 each vote entitled to be exercised may be exercised once; and
- 6.2.1.2.2 the vacancy is filled only if a majority of the votes exercised support the candidate.
- 6.2.2 the Company shall only have elected Directors and there shall be no appointed or *ex officio* Directors as contemplated in section 66(4) of the Act.

6.3 Eligibility, resignation and retirement of Directors

- 6.3.1 Apart from satisfying the qualification and eligibility requirements set out in section 69 of the Act, a person need not satisfy any eligibility requirements or

qualifications to become or remain a Director or a Prescribed Officer of the Company.

6.3.2 No Director shall be appointed for life or for an indefinite period and the Directors shall rotate in accordance with the following provisions of this clause 6.3.2: – **[L.R. SCH. 10.16(k)]**

6.3.2.1 at each annual general meeting, 1/3 (one third) of the Directors for the time being, or if their number is not 3 (three) or a multiple of 3 (three), the number nearest to 1/3 (one third), but not less than 1/3 (one third), shall retire from office, provided that if a Director is appointed as an executive Director or as an employee of the Company in any other capacity, he or she shall not, while he or she continues to hold that position or office, be subject to retirement by rotation and he or she shall not, in such case, be taken into account in determining the rotation or retirement of Directors; **[L.R. SCH.10.16(g)]**;

6.3.2.2 the Directors to retire in every year shall be those who have been longest in office since their last election, but as between persons who were elected as Directors on the same day, those to retire shall, unless they otherwise agree among themselves, be determined by lot;

6.3.2.3 a retiring Director shall be eligible for re-election;

6.3.2.4 the Company, at the general meeting at which a Director retires in the above manner, or at any other general meeting, may fill the vacancy by electing a person thereto, provided that the Company shall not be entitled to fill the vacancy by means of a resolution passed in accordance with clause 5.10;

6.3.2.5 if at any meeting at which an election of Directors ought to take place the offices of the retiring Directors are not filled, unless it is expressly resolved not to fill such vacancies, the meeting shall stand adjourned and the further provisions of this Memorandum of Incorporation related to adjournment shall apply, and if at such adjourned meeting the vacancies are not filled, the retiring Directors, or such of them as have not had their offices filled, shall be deemed to have been reelected at such adjourned meeting.

6.3.3 The Board shall, through its nomination committee (if such nomination committee has been constituted in terms of clause 6.9), provide the Shareholders with a recommendation in the notice of the meeting at which the re-election of a retiring Director is proposed, as to which retiring Directors are eligible for re-election, taking into account that Director's past performance and contribution. Sufficient time shall be allowed between the date of such notice and the date of the general meeting or annual general meeting at which the re-election of the Director is to be proposed to allow nominations to reach the Company's office from any part in South Africa. **[L.R. SCH.10.16(g)].**

6.4 Powers of the Directors

6.4.1 The Board has the power to: –

6.4.1.1 appoint or co-opt any person as Director, whether to fill any vacancy on the Board on a temporary basis, as set out in section 68(3) of the Act, or as an additional Director provided that such appointment must be confirmed by the Shareholders, in accordance with clause 6.1.2, at the next annual general meeting of the Company, as required in terms of section 70(3)(b)(i) of the Act; and **[L.R. SCH.10.16(c)];**

6.4.1.2 exercise all of the powers and perform any of the functions of the Company, as set out in section 66(1) of the Act, and the powers of the Board in this regard are only limited and restricted as contemplated in this clause 6.4.

6.4.2 The Directors may at any time and from time to time by power of attorney appoint any person or persons to be the attorney or attorneys and agent(s) of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors in terms of this Memorandum of Incorporation) and for such period and subject to such conditions as the Directors may from time to time think fit. Any such appointment may, if the Directors think fit, be made in favour of any company, the shareholders, directors, nominees or managers of any company or firm, or otherwise in favour of any fluctuating body of persons, whether nominated directly or indirectly by the Directors. Any such power of attorney may contain such provisions for the protection or convenience of persons dealing with such attorneys and agents as the Directors think fit.

Any such attorneys or agents as aforesaid may be authorised by the Directors to sub-delegate all or any of the powers, authorities and discretions for the time being vested in them.

- 6.4.3 Save as otherwise expressly provided herein, all cheques, promissory notes, bills of exchange and other negotiable or transferable instruments, and all documents to be executed by the Company, shall be signed, drawn, accepted, endorsed or executed, as the case may be, in such manner as the Directors shall from time to time determine.
- 6.4.4 All acts performed by the Directors or by a committee of Directors or by any person acting as a Director or a member of a committee shall, notwithstanding that it shall afterwards be discovered that there was some defect in the appointment of the Directors or persons acting as aforesaid, or that any of them were disqualified from or had vacated office, be as valid as if every such person had been duly appointed and was qualified and had continued to be a Director or member of such committee.
- 6.4.5 If the number of Directors falls below the minimum number fixed in accordance with this Memorandum of Incorporation, the remaining Directors must as soon as possible and in any event not later than 3 (three) months from the date that the number falls below such minimum, fill the vacancy/ies in accordance with clause 6.4.1.1 or convene a general meeting for the purpose of filling the vacancies, and the failure by the Company to have the minimum number of Directors during the said 3 (three) month period does not limit or negate the authority of the Board or invalidate anything done by the Board while their number is below the minimum number fixed in accordance with this Memorandum of Incorporation. **[L.R. SCH.10.16(d)];**
- 6.4.6 The Directors in office may act notwithstanding any vacancy in their body, but if after the expiry of the 3 (three) month period contemplated in clause 6.4.5, their number remains below the minimum number fixed in accordance with this Memorandum of Incorporation, they may, for as long as their number is reduced below such minimum, act only for the purpose of filling vacancies in their body in terms of section 68(3) of the Act or of summoning general meetings of the Company, but not for any other purpose. **[L.R. SCH.10.16(d)];**

6.5 Directors' interests

- 6.5.1 A Director may hold any other office or place of profit under the Company (except that of auditor) or any subsidiary of the Company in conjunction with

the office of Director, for such period and on such terms as to remuneration (in addition to the remuneration to which he may be entitled as a Director) and otherwise as a disinterested quorum of the Directors may determine. **[L.R. SCH.10.16(e)];**

6.5.2 A Director of the Company may be or become a director or other officer of, or otherwise interested in, any company promoted by the Company or in which the Company may be interested as shareholder or otherwise, provided that the appointment and remuneration in respect of such other office must be determined by a disinterested quorum of Directors. **[L.R. SCH.10.16(e)];**

6.5.3 Each Director and each alternate Director, Prescribed Officer and member of any committee of the Board (whether or not such latter persons are also members of the Board) shall, subject to the exemptions contained in section 75(2) of the Act and the qualifications contained in section 75(3) of the Act, comply with all of the provisions of section 75 of the Act, in the event that they (or any person who is a related person to them) has a personal financial interest in any matter to be considered by the Board.

6.5.4 The Directors shall not, for as long as the Securities of the Company is listed on the JSE, have the power to propose any resolution to Shareholders to ratify an act of the Directors that is inconsistent with any limit imposed by this Memorandum of Incorporation on the authority of the Directors to perform such an act on behalf of the Company in the event that such a resolution would lead to ratification of an act that is contrary to the JSE Listings Requirements, unless the Directors have obtained the prior approval of the JSE to propose such a resolution to Shareholders. **[L.R. SCH.10.3].**

6.6 Directors' Meetings

6.6.1 The Directors may elect a chairperson and a deputy chairperson and determine the period for which each is to hold office. The chairperson, or in his absence the deputy chairperson, shall be entitled to preside over all meetings of Directors. If no chairperson or deputy chairperson is elected, or if at any meeting neither is present or willing to act as chairperson thereof within 10 (ten) minutes of the time appointed for holding the meeting, the Directors present shall choose 1 (one) of their number to be chairperson of such meeting. **[L.R. SCH.10.16(i)]**

6.6.2 The Board of Directors are authorised to consider a matter other than at a formal meeting. A decision may be adopted by Round Robin resolution with the approval of the majority of Directors given in person or by electronic

communication, provided each Director has received notice of the matter as contemplated in section 74 of the Act. Such resolution, inserted in the minute book, shall be as valid and effective as if it had been passed at a meeting of directors, as per the JSE Listings Requirements. **[L.R. SCH. 10.6 (j)]**

- 6.6.3 The Board of Directors shall convene as frequently as it decides, but at least 4 (four) times each year. A special meeting of the Board of Directors may be called either:
- 6.6.3.1 By resolution of the Board; or
 - 6.6.3.2 By the CEO whenever he deems it expedient to do so; or
 - 6.6.3.3 By at least 25% (twenty five per cent) of the voting members of the Board.
- 6.6.4 The Board of Directors may decide, by simple majority, to facilitate any meeting by using electronic conferencing technology or any other medium through which Directors who are not physically in the same location can fully participate with full video and/or audio facilities instead of convening in person at a specific venue. Directors present in person at such other locations and connected by using the said conferencing technology shall be deemed to be present in person for all purposes envisaged in this Memorandum.
- 6.6.5 The Company shall convene such a meeting by giving at least 14 (fourteen) days written notice of such meeting provided that, in the event of business, which is extremely urgent in the opinion of the CEO, with the written support of 2 (two) other Directors, only 7 (seven) Business Days' notice shall be given, unless the majority of Directors, waive such notice in writing.
- 6.6.6 The Board of Directors may proceed with a meeting despite a failure or defect in giving notice of the meeting.
- 6.6.7 In the event of neither the Chairperson nor the Chairperson Elect being present, an acting Chairperson shall be elected from the Directors present under the interim chairpersonship of the CEO, to preside at the meeting.
- 6.6.8 All decisions shall be taken by a majority of Directors present. The Chairperson, or whoever is presiding, shall have a casting vote in addition to his/her ordinary vote. However, should the quorum of directors be 2 (two), the

chairman shall not be permitted to have a casting vote if only two directors are present at a meeting of directors. **[L.R. SCH. 10.6 (i)]**

- 6.6.9 All votes shall be taken by a show of hands or verbal confirmation unless the meeting adopts a motion that a vote is taken by ballot.
- 6.6.10 The Board of Directors may regulate and adjourn its meeting as it thinks fit.
- 6.6.11 Any member of the Board of Directors may be reimbursed for reasonable authorised expenses actually incurred in attending any meetings attended at the request of the Board of Directors.
- 6.6.12 A quorum of the Board of Directors shall consist of at least a majority of Directors eligible to vote. Any decision taken without the quorum being present shall be null and void.
- 6.6.13 If, within 30 (thirty) minutes after the time appointed for a Board Meeting a quorum is not present, such meeting shall stand adjourned to the same time and place on a day 5 (five) Business Days after the date of the meeting and with written notice by electronic communication to all Directors; and
- 6.6.14 The Directors present at such an adjourned meeting shall be a quorum, irrespective of the number of Directors present.
- 6.6.15 The votes at a Board Meeting shall be weighted as 1 (one) vote for each Director.
- 6.6.16 A resolution in writing signed by all the Directors for the time being shall be valid and effectual as if it has been passed at a meeting of the Board, duly convened and held, and may consist of several documents, each signed by all the Directors. Unless otherwise stated in the resolution concerned, it shall be deemed to have been passed upon the date upon which it was signed by the last signatory, and a resolution shall be deemed to have been signed if consent thereto has been given and the message transmitted by electronic communication and purporting to emanate from the person whose signature to such resolution is required.

6.7 **Director's compensation and financial assistance**

- 6.7.1 The authority of the Company to pay remuneration to the Company's Directors, in accordance with a special resolution adopted by the Shareholders within the previous two years, as set out in section 66 (9) and

(10) of the Act is not limited or restricted by this Memorandum of Incorporation.

6.7.2 Any Director who: –

6.7.2.1 serves on any executive or other committee; or

6.7.2.1 devotes special attention to the business of the Company; or

6.7.2.3 goes or resides outside South Africa for the purpose of the Company; or

6.7.2.4 otherwise performs or binds himself to perform services which, in the opinion of the Directors, are outside the scope of the ordinary duties of a Director, may be paid such extra remuneration or allowances in addition to or in substitution of the remuneration to which he may be entitled as a Director, as a disinterested quorum of the Directors may from time to time determine. **[L.R. SCH.10.16(f)].**

6.7.2.5 The Company's Board of Directors may, if authorised thereto by a special resolution adopted by Shareholders, authorise the Company to provide financial assistance to a Director, prescribed officer or other person referred to in section 45 (2) of the Act.

6.8 **Indemnification of Directors**

6.8.1 The authority of the Company to advance expenses to a Director, or indemnify a Director, in respect of the defence of legal proceedings, as set out in section 78 (4) of the Act is not limited, restricted or extended by this Memorandum of Incorporation.

6.8.2 The authority of the Company to indemnify a Director in respect of liability, as set out in section 78 (5) of the Act is not limited or restricted by this Memorandum of Incorporation.

6.8.3 The authority of the Company to purchase insurance to protect the Company, or a Director, as set out in section 78 (7) of the Act is not limited, restricted or extended by this Memorandum of Incorporation.

6.9 **Committees of the Board**

- 6.9.1 The authority of the Company's Board of Directors to appoint committees of Directors, and to delegate to any such committee any of the authority of the Board, as set out in section 72 (1) of the Act, and to include in any such committee persons who are not Directors, as set out in section 73 (2)(a) of the Act is not limited or restricted by this Memorandum of Incorporation.
- 6.9.2 The authority of a committee appointed by the Company's Board of Directors, as set out in section 72 (2)(b) and (c) of the Act is not limited or restricted by this Memorandum of Incorporation.
- 6.9.3 The Board shall further appoint such committees as it is obliged to do in terms of the Act and, for as long as the Company's Securities are listed on the JSE, such committees as are required by the JSE Listings Requirements, having such functions and powers as are prescribed by the Act and/or the JSE Listings Requirements, as the case may be.

6.10 **Borrowing Powers**

- 6.10.1 Subject to the provisions of clause 6.10.2 and the other provisions of this Memorandum of Incorporation, the Directors may from time to time: -
- 6.10.1.1 borrow for the purposes of the Company such sums as they think fit; and
- 6.10.1.2 secure the payment or repayment of any such sums, or any other sum, as they think fit, whether by the creation and issue of Securities, mortgage or charge upon all or any of the property or assets of the Company.
- 6.10.2 The Directors shall procure (but as regards subsidiaries of the Company only insofar as by the exercise of voting and other rights or powers of control exercisable by the Company they can so procure) that the aggregate principal amount at any one time outstanding in respect of moneys so borrowed or raised by: –
- 6.10.2.1 the Company; and
- 6.10.2.2 all the subsidiaries for the time being of the Company (excluding moneys borrowed or raised by any of such companies from any other of such companies but including the principal amount secured by any outstanding guarantees or suretyships given by the Company or any of its subsidiaries for the time being for the

indebtedness of any other company or companies whatsoever and not already included in the aggregate amount of the moneys so borrowed or raised), shall not exceed, to the extent applicable, the aggregate amount at that time authorised to be borrowed or secured by the Company or the subsidiaries for the time being of the Company (as the case may be).

7 GENERAL PROVISIONS

7.1 Annual Financial Statements

7.1.1 The Company shall keep all such accurate and complete accounting records as are necessary to enable the Company to satisfy its obligations in terms of:

–

7.1.1.1 the Act;

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

7.1.1.3 this Memorandum of Incorporation.

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

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

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

7.1.5 A copy of the annual financial statements must be delivered to Shareholders at least 15 (fifteen) business days before the date of the annual general meeting of the Company at which such annual financial statements will be considered. **[L.R. SCH.10.19]**.

7.1.6 The annual financial statements shall be prepared on a basis that is not inconsistent with any unalterable provision of the Act and shall: –

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

7.1.6.2 subject to and in accordance with IFRS: –

7.1.6.2.1 present fairly the state of affairs and business of the Company and explain the transactions and financial position of the business of the Company;

7.1.6.2.2 show the Company's assets, liabilities and equity, as well as its income and expenses;

7.1.6.2.3 set out the date on which the statements were produced and the accounting period to which they apply; and

7.1.6.2.4 bear on the first page thereof a prominent notice indicating that the annual financial statements have been audited and the name and professional designation of the person who prepared them.

7.2 Company Secretary

7.2.1 The Company must appoint a company secretary.

7.2.2 The company secretary must have the requisite knowledge of, or experience with, relevant laws and be a permanent resident of South Africa.

7.2.3 The Board must fill any vacancy in the office of company secretary within the period prescribed by the Act after such vacancy arises by a person whom the Directors consider to have the requisite knowledge and experience.

7.2.4 The Company must satisfy and fulfil the requirements as set out in the JSE listings requirements.

7.3 Notices

7.3.1 All notices shall be given by the Company to each Shareholder of the Company who has elected to receive such notices and simultaneously to the Issuer Services Division of the JSE, and shall be given in writing in any manner authorised by the JSE Listings Requirements and/or the Act, as may

be applicable. All notices shall, in addition to the above, be released through SENS provided that, in the event that the Shares or other Securities of the Company are not listed on the JSE, all the provisions of this Memorandum of Incorporation relating to the publication of notices via SENS shall no longer apply and such notices shall thereafter only be delivered in accordance with the provisions of the Act. **[L.R. SCH.10.11(f)].**

7.3.2 Each Shareholder of the Company: –

7.3.2.1 shall notify in writing to the Company an address, which address shall be his registered address for the purposes of receiving written notices from the Company by post and if he has not named such an address he shall be deemed to have waived his right to be so served with notices; and

7.3.2.2 may notify in writing to the Company an email address and/or facsimile number, which address shall be his address for the purposes of receiving notices by way of Electronic Communication, provided that a Shareholder who fails to notify the Company of an address as set out in this clause 7.3.2 above, will be deemed to have elected not to receive notices and documents, from the Company.

7.3.3 Any Shareholder whose address in the Securities Register is an address not within South Africa, shall be entitled to have notices served upon him at such address. **[L.R. SCH.10.18];**

7.3.4 In the case of joint holders of a Share, all notices shall, unless such holders otherwise in writing request and the Directors agree, be given to that Shareholder whose name appears first in the Securities Register and a notice so given shall be deemed sufficient notice to all the joint holders.

7.3.5 Every person who by operation of law, transfer or other means whatsoever becomes entitled to any Share, shall be bound by every notice in respect of that Share which, previously to his name and address being entered in the Securities Register, was given to the person from whom he derives his title to such Share.

7.3.6 Any notice or document delivered or sent by post to or left at the registered address of any Shareholder in pursuance of this Memorandum of Incorporation shall, notwithstanding that such Shareholder was then deceased, and whether or not the Company has notice of his death, be

deemed to have been duly served in respect of any Shares, whether held solely or jointly with other persons by such Shareholder, until some other person be registered in his stead as the sole or joint holder thereof, and such service shall for all purposes of this Memorandum of Incorporation be deemed a sufficient service of such notice or document on his heirs, executors or administrators, and all persons (if any) jointly interested with him in any such Shares.

7.4 Regulatory Approval

7.4.1 In the event that the lawful implementation of the sale of any equity ("**Affected Equity**") in terms of this Memorandum of Incorporation requires the approval of the Competition Commission, the Competition Tribunal or the Competition Appeal Court, whichever has jurisdiction for the purposes of such sale, in terms of the Competition Act, No. 89 of 1998, as amended, or requires the approval of the Takeover Regulation Panel (established by section 196 of the Act) any other regulator or regulatory authority (such approvals being referred to as "**Regulatory Approval**"), then, notwithstanding anything to the contrary contained or implied herein, the entire sale in respect of the Affected Equity shall be subject to the fulfilment of the suspensive condition that the requisite Regulatory Approval is granted, either unconditionally, or on terms and conditions acceptable to the seller and purchaser of the Affected Equity, which suspensive condition must be fulfilled within such period as may be agreed between all the parties to the sale. A party shall act reasonably in deciding whether or not such terms and conditions are acceptable to it.

7.5 Deadlock

7.5.1 If the required majority for the passing of a Directors' resolution cannot be obtained due to an equality of votes, such particular resolution only shall cease *ipso facto* to be within the Directors domain and shall be put to the Shareholders.

7.5.2 If in terms of the foregoing provisions, the required majority for the passing of a Shareholders' resolution cannot be obtained, a dispute shall be deemed to exist between the Shareholders, which shall be dealt with as contemplated in clause 7.5.3.

7.5.3 If there is a dispute or deemed dispute in terms of clause 7.5.2 between the Shareholders such dispute shall, at the request of any Shareholder be submitted by the Company to a person unanimously appointed by the

Shareholders and failing unanimity, nominated by the President for the time being of the Law Society of the Province where the Company is domiciled, who shall convene a meeting of the Shareholders within 20 days of being appointed in terms of this clause 7.5.3 and consider such representations as those present (but not their legal or other professional representatives) may wish to make and his decision shall be deemed to be a resolution of the Shareholders and shall be entered as such in the appropriate minute book of the Company. The costs and expenses incurred in this regard shall be for the Company's account.