



Companies and Intellectual Property Commission

Republic of South Africa

Memorandum of Incorporation

of

Wings Park (Proprietary) Limited

(Registration number 2007/001782/07)

which is a private company, is authorised to issue securities as described in article 2, and is referred to in the rest of this MOI as "**the Company**".

Adoption of the MOI

This MOI was adopted by special resolution on 6th November 2021.



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Part I - Interpretation and preliminary, continuing obligations incorporation and nature of the Company

1. Interpretation

The headings of the articles in this MOI are for the purpose of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms of this MOI nor any article hereof or paragraph of any schedule hereto. Unless a contrary intention clearly appears -

1.1 words importing -

1.1.1 any one gender include the other two genders;

1.1.2 the singular include the plural and *vice versa*; and

1.1.3 natural persons include created entities (corporate or unincorporate) and the state and *vice versa*;

1.2 the following terms shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings, namely -

1.2.1 "**Board**" means the board of Directors of the Company, from time to time;

1.2.2 "**Budget**" means the budget of the Company for any applicable Financial Year;

1.2.3 "**Business**" means [the accommodation and game hunting/breeding business conducted by the Company from time to time or any other business as decided by the Board from time to time];

1.2.4 "**Business Day**" means any day other than a Saturday, Sunday or official public holiday in the Republic of South Africa;

1.2.5 "**Business Plan**" means the business plan of the Company for any Financial Year which includes the strategy, modus operandi, projects and ventures which the Board approves on to achieve the objectives of the Company;

1.2.6 "**Companies Act**" means the Companies Act, 2008;

1.2.7 "**Control**" - means (a) the power of a person (whether directly or indirectly and whether by the ownership of share capital, the possession of voting power, contract or otherwise) to appoint and/or remove all or such of the



members of the board or other governing body as are able to cast a majority of the votes capable of being cast by the members of that board or body on all, or substantially all, matters, or otherwise to control or have the power to control the policies and affairs of that person; and/or (b) the holding and/or possession of the beneficial interest in and/or the ability to exercise the voting rights applicable to shares or other securities in any person (whether directly or by means of holding such interests in one or more other persons) which confer in aggregate on the holders thereof more than fifty per cent. (50%) of the total voting rights exercisable at general meetings of that person on all, or substantially all, matters, and to "**Control**" or to be "**Controlled**" shall be construed accordingly;

- 1.2.8 "**Debt Instruments**" bears the meaning as defined in section 43(1)(a) of the Companies Act;
- 1.2.9 "**Defaulting Shareholder**" shall have the meaning given to it in article 11.1;
- 1.2.10 "**Director**" means a director of the Company, and where the context so provides, an alternate director appointed in respect of such director;
- 1.2.11 "**Executive Committee**" means the Wings Park Executive Committee, which is a subcommittee of the Board, whose members are appointed in terms hereof;
- 1.2.12 "**Fair Value**" means the fair value of any Forced Sale Equity as determined in accordance with article 11;
- 1.2.13 "**Financial Year**" - means the annual accounting period of the Company, commencing on 1 March and ending on the last day of February;
- 1.2.14 "**Forced Sale Equity**" shall have the meaning given to it in article 11.3;
- 1.2.15 "**Forced Sale Notice**" shall have the meaning given to it in article 11.2;
- 1.2.16 "**Insolvency Event**" means in respect of any undertaking, taking steps to enter into business rescue, any distress, execution, sequestration or other similar process being levied, enforced or sued upon against the property of that undertaking which is not discharged within one hundred and eighty (180) days; or an encumbrancer taking possession of, or an administration, administrative receiver, receiver, trustee, provisional liquidator or liquidator



being appointed over the whole or any part of the undertaking, property or assets of that undertaking; or a petition is presented/order is made or a resolution is passed for the winding-up of that undertaking and in respect of an individual, if any process similar to those set out above is commenced by application to a court, and is not discharged within ninety (90) days of the date of such application;

- 1.2.17 "**Leasehold Improvements**" means any structures erected on any portion of the property of the Company as assigned to an Ordinary Shareholder in terms of Appendix 1.2.17 hereto.
- 1.2.18 "**this MOI**" means this memorandum of incorporation of the Company and any schedules hereto, as amended from time to time;
- 1.2.19 "**Non- Defaulting Shareholder**" shall have the meaning given to it in article 11.3;
- 1.2.20 "**Options**" means options for the issue or subscription of Shares, Securities or Debt Instruments, as the case may be;
- 1.2.21 "**Ordinary Shareholder**" means a person reflected, from time to time, in the Securities Register as holding Ordinary Shares;
- 1.2.22 "**Ordinary Shares**" means shares in the Company which have been designated as such;
- 1.2.23 "**the Parties**" means the Company and each Securities Holder or any one or more of them, as the context may require;
- 1.2.24 "**Regulations**" means the regulations promulgated from time to time under the Companies Act;
- 1.2.25 "**Reserved Matters**" shall have the meaning given to it in Article 4.2;
- 1.2.26 "**Securities**" shall bear the meaning as defined in the Companies Act, from time to time, and shall include, without limitation, the Ordinary Shares and unless the context indicates differently, Debt Instruments;
- 1.2.27 "**Securities Register**" means the register of Securities established or maintained by the Company in terms of section 50(1) of the Companies Act;



- 1.2.28 "**Securities Holder**" means the registered holder of any Securities in the Company, including without limitation an Ordinary Shareholder;
- 1.2.29 "**Shareholder Loans**" means all amounts of whatsoever nature and however arising owing by the Company to an Ordinary Shareholder;
- 1.2.30 "**Shareholders**" means the registered holders of Shares in the Company, from time to time;
- 1.2.31 "**Shareholders Rules and Guidelines Manual**" means the document containing the rules and guidelines for the behaviour and actions of persons utilising or accessing the assets or premises owned by the Company;
- 1.2.32 "**Shares**" means any shares of whatever designation and with whatever rights, privileges and limitations, as set out in this MOI;
- 1.2.33 "Wings Park " or "the Company" means Wings Park (Proprietary) limited, a company incorporated under the laws of the Republic of South Africa under registration number 2007/001782/07 with registered address at Knickelbein & Hartmann 67 Jarvis Road, Berea, East London, 5241, South Africa;
- 1.2.34 "**Trigger Event**" shall have the meaning given to it in article 11.1;
- 1.2.35 a reference to a section by number refers to the corresponding section of the Companies Act;
- 1.3 where any term is defined within the context of any particular article in this MOI, the term so defined, unless it is clear from the article in question that the term so defined has limited application to the relevant article, shall bear the meaning ascribed to it for all purposes in terms of this MOI, notwithstanding that that term has not been defined in this interpretation article;
- 1.4 when any number of days is prescribed in this MOI, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Friday, Saturday, Sunday or public holiday, in which case the last day shall be the next Business Day;
- 1.5 where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail;



- 1.6 the expiration or termination of this MOI shall not affect such of the provisions of this MOI as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the articles themselves do not expressly provide for this;
- 1.7 any reference in this MOI to the Company or any one or more Securities Holders, as the case may be, shall if the Company or any one or more Securities Holders, as the case may be, is put under business rescue, liquidated or sequestered, be applicable also to and binding upon the Company's or the relevant Securities Holders', as the case may be, business rescue practitioner, liquidator or trustee, as the case may be; and
- 1.8 any reference to a statute shall be a reference to such statute as at the date of the adoption of this MOI by the Company and as amended from time to time thereafter.

2. **Obligations of Securities Holders after cessation of holding any Securities**

Save in relation to article 1 and articles 28 to 34, a Securities Holder shall cease to be bound by this MOI from the date on which it validly ceases to hold any Securities in the Company. For the avoidance of doubt, the termination of the binding nature of this MOI with respect to such exiting Securities Holder shall not affect any of its existing or contingent obligations and liabilities which arose prior to the termination of the binding nature of the MOI in relation to that Securities Holder or which may accrue thereafter in respect of any act or omission which occurred prior to such termination.

3. **Incorporation and nature of the Company**

3.1 **Incorporation**

The Company is constituted in terms of section 19(1)(c) of the Companies Act in accordance with and governed by -

- 3.1.1 the unalterable provisions of the Companies Act (subject to any higher standards, greater restrictions, longer periods of time or more onerous requirements set out in this MOI in accordance with section 15(2)(a)(iii) of the Companies Act);
- 3.1.2 the alterable provisions of the Companies Act (subject to any negation, restriction, limitation, qualification, extension or other alteration set out in this



MOI in accordance with section 1 read with 15(2)(a)(ii) of the Companies Act); and

3.1.3 the provisions of this MOI (subject to and in accordance with section 15(2) of the Companies Act).

3.2 **Matters reserved for a special majority**

The Company and the powers of the Board are subject to the following restrictive conditions and prohibitions and the Ordinary Shareholders undertake to procure that the Company shall not engage in, agree to, perform or undertake any acts or matters listed below ("**Reserved Matters**"), except as may be approved or agreed to by special resolution by Ordinary Shareholders, which special resolution shall require the approval of Ordinary Shareholders who at the relevant time hold at least 75% (seventy five per cent) of the Ordinary Shares present in person or by proxy at meeting of Shareholders -

3.2.1 the undertaking of any act which requires a special resolution of the Company to be passed, pursuant to the Companies Act and/or this MOI;

3.2.2 the amendment of this MOI, including without limitation the rights attaching to any class of Securities whether issued or not, or the filing of a consolidated version of the MOI;

3.2.3 the acquisition by the Company of its own Securities or Securities in its holding company, as defined in the Companies Act;

3.2.4 changing of the year end of the Company;

3.2.5 changes to the capital structure of the Company, including, without derogating from the generality of the foregoing, the allotment and/or issuing of any equity and/or securities, whether convertible into shares, debentures, warrants or options in respect of equity or not, by the Company, the creation of any new Securities, the increase or decrease of the number of authorised Securities; the reclassification of any authorised but unissued Securities; the classification of any authorised but unused unclassified Securities; and the determination or amendment of the preferences, rights, limitations or other terms of Securities in a class contemplated in section 36(1)(d) of the Companies Act, all as contemplated in section 36(3) of the Companies Act;



- 3.2.6 any waiver of pre-emptive rights as envisaged in article 7.1.2;
- 3.2.7 the determination of the remuneration for any member of staff of the Company who is a Member or connected person in relation to any Member as contemplated in the definition of "connected person" in Section 1 of the Income Tax Act, No 58 of 1962, including the salaries of its Directors, which includes any amendments thereto;
- 3.2.8 The disposal of the Business of the Company or a material part thereof;
- 3.2.9 any matter requiring a special resolution in terms of the Companies Act No 61 of 1973, as amended;
- 3.2.10 any change in the basis of accounting of the Company other than as required by Generally Accepted Accounting Practice;
- 3.2.11 loans to any employees of the Company in excess of R10 000 (ten thousand rands);
- 3.2.12 the negotiation, structuring and/or implementation of any joint venture with any third party;
- 3.2.13 the negotiation, structuring and/or implementation of any merger or acquisition between the Company and any third party;
- 3.2.14 the conclusion of any contracts, agreements and/or arrangements outside the ordinary course of the business of the Company, between the Company and any third parties who are connected persons in relation to it, or in relation to any of the Members, as defined in the Income Tax Act;
- 3.2.15 any resolution requiring Shareholders to advance funds to the Company on loan account as envisaged in article 4.3.
- 3.2.16 any resolution relating to the dividend policy of the Company, or with regard to a decision to declare and/or pay a dividend to the Shareholders, provided that the Company shall not declare and pay dividends whilst there are any amounts owing on loans from Shareholders.



3.3 **Matters reserved for an ordinary majority**

The Company and the powers of the Board are subject to the following restrictive conditions and prohibitions and the Ordinary Shareholders undertake to procure that the Company shall not engage in, agree to, perform or undertake any acts or matters listed below except as may be approved or agreed to by special resolution by Ordinary Shareholders, which special resolution shall require the approval of Ordinary Shareholders who at the relevant time hold more than 50% (fifty per cent) of the Ordinary Shares present in person or by proxy at meeting of Shareholders -

- 3.3.1 The appointment of an auditor of the Company;
- 3.3.2 the ratification of any amendments approved by the Board to the Shareholders Rules and Guidelines Manual, failing which such amendments will be of no force and effect from the date on which ratification was considered by Shareholders;
- 3.3.3 the approval of any fees paid to Directors for their services as Directors, in terms of section 66 of the Companies Act, if applicable;
- 3.3.4 the approval of financial assistance to related or inter-related persons as contemplated in section 45 of the Companies Act from the conclusion of that meeting until the conclusion of the next annual general meeting of the Company;
- 3.3.5 the approval of the appointment of the members of the Executive Committee sub-committee of the Board who are not Directors and
- 3.3.6 the approval of the appointment of Directors if, at the time of the annual general meeting, such person or persons have been appointed to the Board to fill a vacancy or otherwise.

Part II - Securities, Securities Register, certificates, restrictions on the powers of the Board as regards Securities, pre-emptive rights and transfers

4. Securities

4.1 Classes and numbers of Securities

The Company's authorised Securities comprise 1000 (one thousand) shares designated as Ordinary Shares, which Ordinary Shares may only be increased,



decreased or issued subject to compliance with this MOI, including without limitation article **Error! Reference source not found.** 4.6.2.

4.2 **Rights attaching to the Ordinary Shares**

4.2.1 The following rights are applicable to the Ordinary Shares in the Company -

4.2.1.1 all the Ordinary Shares of the Company shall rank *pari passu* in all respects;

4.2.1.2 all Ordinary Shares shall have the right to -

4.2.1.2.1 be entered in the Securities Register of the Company as the registered holder of an Ordinary Share;

4.2.1.2.2 attend, participate in, speak at and vote on any matter to be considered at, any meeting of Ordinary Shareholders;

4.2.1.2.3 in respect of each Ordinary Share, lease a designated portion of the property owned by the Company, as set out in Schedule 2 and the Shareholder may erect an aircraft hangar, which may include a section for temporary accommodation, thereon, subject to:

4.2.1.2.3.1 the payment of rental as determined by the Board from time to time; and

4.2.1.2.3.2 the pre-approval of any structures to be erected by the Board as well as compliance with all relevant laws, regulations and any relevant provisions of the Shareholders Rules and Guidelines Manual.

4.2.1.2.4 receive any distribution by the Company, if and when declared on the Ordinary Shares, to be made in proportion to the number of Ordinary Shares held by each Ordinary Shareholder.

4.2.1.3 if the Company is to be wound up, the assets remaining after payment of the debts and liabilities of the Company and the costs of the liquidation shall be distributed among the Ordinary Shareholders in proportion to the number of Ordinary Shares held by each of them,



provided that the provisions of this article shall be subject to the rights of the holders of Securities, issued upon special conditions;

4.2.1.4 the assets remaining after payment of the debts and liabilities of the Company for purposes of article 4.2.1.3, will be determined after deducting the aggregate value of all Leasehold Improvements as determined in the sole discretion of the liquidator;

4.2.1.5 in a winding-up of the Company, any part of the assets of the Company, including any securities of other companies may, with the sanction of a special resolution of the Company, be paid to the Ordinary Shareholders of the Company *in specie*, or may, with the same sanction, be vested in trustees for the benefit of such Ordinary Shareholders, and the liquidation of the Company may be closed and the Company dissolved; and

4.2.1.6 any other rights attaching to the Ordinary Share in terms of the Companies Act or any other law.

4.3 **Shareholders' obligation to fund the Company**

4.3.1 The amount of funding required from time to time by the Company shall be determined by the Board.

4.3.2 The operating capital of the Company may be funded by way of:

4.3.2.1 undistributed profits of the Company; and/or

4.3.2.2 borrowings from the Company's bankers on overdraft in such amount as the Directors may determine from time to time;

4.3.2.3 loans made by the Shareholders to the Company, which loans shall be credited to their respective loan accounts.

4.3.3 Shareholders shall only be obliged to advance loans to the Company if so resolved in accordance with article 3.2.15.

4.3.4 Shareholder loan accounts shall be free of interest unless otherwise resolved in accordance with article 3.2.15.



- 4.3.5 Loans by the Shareholders to the Company shall, unless otherwise agreed between the Company and the relevant Shareholder/s, be:
- 4.3.5.1 in proportion to their respective shareholdings;
 - 4.3.5.2 subject to the same terms as to payment of interest and repayment;
 - 4.3.5.3 advanced simultaneously by Shareholders.
- 4.3.6 No Shareholder shall be entitled to repayment of his loan account unless so resolved or the Company is placed in liquidation.
- 4.3.7 If Shareholder Loan Accounts are not proportionate to their Shares, any repayment shall first be applied to reduce Loan Accounts to such proportions whereafter repayment shall be made to all Shareholders pro rata in the proportion of their Shares.
- 4.3.8 A certificate signed by the auditors of the company from time to time shall constitute prima facie proof of the amount owing by the Company in respect of the Shareholder loan accounts.
- 4.3.9 No Shareholder shall, without the prior written consent of the Company:
- 4.3.9.1 cede his/its loan account to any person, whether absolutely or as security for the debt of any person;
 - 4.3.9.2 pledge his/its Shares in favour of any person or cede his rights thereunder to any person, whether absolutely or as security for the debt of any person.
- 4.4 **Securities Register**
- 4.4.1 Any person who is entitled to have his/her/its name entered into the Securities Register of the Company shall provide to the Company all the information it may require from time to time for purposes of establishing and maintaining the Securities Register, including the name, business address, residential address, postal address, mobile telephone number and available e-mail address of that person.
 - 4.4.2 Any person contemplated in article 4.4.1, may by written notice to the Company change the business address, residential address, postal address,



mobile telephone number and available e-mail address of that person, provided that the change shall become effective *vis-à-vis* that person on the 10th (tenth) Business Day from the receipt of the notice by the Company.

4.4.3 In the case of any Security registered in the names of 2 (two) or more persons as joint holders, the person first-named in the Securities Register shall, save as is provided in this MOI, be the only person recognised by the Company as having any title to such Security and to the related certificate of title, subject to the provisions of the Companies Act.

4.4.4 Upon the death, insolvency or placing under curatorship by reason of insanity or prodigality of any joint holder of any Security, the sole remaining holder or the first-named of 2 (two) or more remaining joint holders, as the case may be, shall be the only person recognised by the Company as having any title to such Security, subject to the provisions of the Companies Act.

4.5 **Certificated Securities**

4.5.1 Every person to whom Securities are issued and whose name is entered in the Securities Register shall be entitled to 1 (one) certificate for all the Securities in any class registered in his name, or to several certificates, each for a part of such Securities.

4.5.2 If a certificate is defaced, lost or destroyed, it may be replaced with a duplicate certificate endorsed "**Duplicate Certificate**" on payment of such reasonable fee, if any, and on such terms, if any, as to evidence and indemnity as the Board may think fit.

4.5.3 A certificate registered in the names of 2 (two) or more persons shall be delivered to the person first-named in the Securities Register as a holder thereof, and delivery of a certificate to that person shall be a sufficient delivery to all joint holders of that Security.

4.6 **Pre-emptive right to be offered and to subscribe for additional Shares**

4.6.1 **Alteration of the alterable provisions in section 39 of the Companies Act**

The pre-emptive right of the Shareholders to be offered and to subscribe for additional Shares (additional to the Shares in issue from time to time), as set



out in section 39(2) of the Companies Act read with sections 39(3) and 39(4) of the Companies Act does not apply, instead article 4.6.2 shall apply.

4.6.2 **Shareholders' rights of pre-emption on issue**

4.6.2.1 **Fresh issue of an existing class of issued Shares**

4.6.2.1.1 If the Company proposes to issue additional Shares (additional to the Shares in issue from time to time) then the Company must first offer in writing ("**the Offer**") to each Shareholder in the same class as the proposed issue the right to subscribe, within 20 (twenty) Business Days of the date of the Offer, for that number of the Shares of the proposed issue as each Shareholder's shareholding in that class bears to the Company's issued Shares of that class, both calculated as at the date of the Offer.

4.6.2.1.2 The written Offer to each Shareholder must stipulate at least the date of the Offer, the subscription price per Share, the number and class of Shares for which the Shareholder is entitled to subscribe, the total number of Shares proposed to be issued, the date by which acceptances must be received and on which the subscription price is payable, as well as a copy of the provisions of this MOI which relate to the Offer.

4.6.2.2 **Delivery of offer and acceptance period**

The Offer shall be delivered to each Shareholder in the same class as the proposed issue, and is irrevocable and open for acceptance by delivering notice of acceptance in writing to the Company ("**Notice Of Acceptance**") which must in order to constitute valid acceptance -

4.6.2.2.1 specify whether the Shareholder is accepting the number of Shares offered or less than that number; or wishes to subscribe for more than that number; and

4.6.2.2.2 be received by the Company within 7 (seven) Business Days of the date of the Offer ("**Acceptance Period**").



4.6.2.3

Allocation of excess Shares not subscribed for

The Board shall within 10 (ten) Business Days of the date of the Offer -

4.6.2.3.1

offer the Shares not subscribed for ("**Excess Shares**") to the Shareholders who offered to subscribe for the Excess Shares in a Notice of Acceptance *pro rata* in the proportions that each of their Shareholdings in the class offered bears to the aggregate number of Shares of the class offered held by the Shareholders who offered to subscribe for Excess Shares set out in article 4.6.2.2.1; and

4.6.2.3.2

the offer in article 4.6.2.3.1 shall be delivered to each of the Shareholders who offered to subscribe for the Excess Shares and is irrevocable and open for acceptance by giving Notice of Acceptance in writing to the Company ("**the Second Notice of Acceptance**") which must in order to constitute valid acceptance

-

4.6.2.3.2.1

specify whether the Shareholder is accepting the number of Shares offered or less than that number; and

4.6.2.3.2.2

be received by the Company within 2 (two) Business Days of the date of the offer in article 4.6.2.3.1.

4.6.2.4

Payment for Shares and Excess Shares subscribed for

Payment of the subscription price for the number of Shares recorded in a Notice of Acceptance and the Second Notice of Acceptance must be made within 20 (twenty) Business Days of the date of the original Offer and failing payment the Board will be entitled (but not obliged) to offer the Shares and Excess Shares for which a Shareholder had submitted a Notice of Acceptance and the Second Notice of Acceptance to any persons approved in accordance with article 4.6.2.5.1.

4.6.2.5

Offer of remaining Shares to approved persons

4.6.2.5.1

If all the Shares which are the subject matter of the Offer are not subscribed for or if the Board exercises its rights under



article 4.6.2.4 ("**Remaining Shares**") and if the Ordinary Shareholders have, by ordinary resolution approved any person or persons ("**Approved Persons**") to whom the Remaining Shares may be offered, the Board shall then offer these Remaining Shares to the Approved Persons.

4.6.2.5.2 The offer to the Approved Persons must be made within the 5 (five) Business Days immediately following the due date for payment of the subscription price set out in article 4.6.2.4 at the equivalent same issue price per Share and on terms and conditions no more favourable than those as provided for in terms of the Offer except that -

4.6.2.5.2.1 the Acceptance Period may be extended at the discretion of the Board by no more than 90 (ninety) days or such longer period (not exceeding an additional 90 (ninety) days) as the Board may allow if any of the Approved Persons requires an extension to obtain any regulatory approvals;

4.6.2.5.2.2 payment of the subscription price must be made within 7 (seven) Business Days of delivery of the Notice of Acceptance or obtaining the required regulatory approvals, whichever is the later; and

4.6.2.5.2.3 warranties and indemnities as shall be normal for a transaction of this nature may be provided to the Approved Persons.

4.6.2.6 **Pre-emption provisions to apply again**

If after the relevant Shares have been offered in accordance with article 4.6.2.5.1 there are Shares which have not been subscribed for, then such Shares shall not be issued except after again following the pre-emption provisions of this article 4.6.2.

4.6.2.7 **Shareholders with insufficient funds to subscribe for Shares**

If any Shareholder does not have the finances to subscribe for Shares pursuant to the Offer, the undertaking of the issue of Shares pursuant



to the Offer and the price at which it is undertaken shall not constitute unfairly prejudicial, unjust or inequitable conduct.

4.7 Pre-emptive right to be offered and to subscribe for additional Securities

Subject to article **Error! Reference source not found.**, the provisions of articles REF_Ref299703358 \r \h * MERGEFORMAT 4.6.1 and 4.6.2 shall apply *mutatis mutandis* to any other additional Securities (additional to the Securities in issue from time to time) to be issued by the Company, from time to time.

5. Restrictions on the transferability of and offers to the public of Securities

5.1 The Company shall not offer any of its Securities to the public, as contemplated in section 8(2)(b)(ii)(aa) of the Companies Act.

5.2 The transferability and transmission of the Securities of the Company is restricted, as contemplated in section 8(2)(b)(ii)(bb) of the Companies Act, and further regulated as set out in articles 6 and 7.

6. Restrictions on transferability of Securities

6.1 Proper instrument of transfer

For purposes of section 51(6)(a) of the Companies Act, a "proper instrument of transfer" means an instrument in writing, in any form, specifying: (a) the full name of the transferor (being the name of a person entered in the Securities Register as the registered holder of the Securities being transferred); (b) the full name of the transferee; (c) the number of the class of Shares or type of Securities being transferred; and (d) the registered address of the transferee, which shall include a business address, residential address, postal address, mobile number and email address, if available; which has been signed by or on behalf of the registered Securities Holder as transferor and signed by or on behalf of the transferee.

6.2 The Board's power to decline to register a transfer

The Board may decline to register the transfer of any Securities where it is reasonably of the view that such transfer would not be in the best interests of the Shareholders. The transferor shall be deemed to remain the holder of and shall remain the registered holder in respect of such Securities until the name of the transferee is entered in the Securities Register in respect thereof.



6.3 Documents required for registration of transfer

6.3.1 Any person wishing the Company to register the transfer of any Securities shall deliver to the Company -

6.3.1.1 a copy of a proper instrument of transfer as contemplated in article 6.1, certified as a true copy of the original; and

6.3.1.2 the original certificate issued by the Company as regards the relevant Securities (or a Duplicate Certificate issued pursuant to article 4.5.2) of the Securities being transferred or, in the absence of such original or Duplicate Certificate, such other evidence as the Company may require to prove the title of the transferor or his rights to transfer the Securities.

6.3.2 Where an instrument of transfer is signed by a person other than the relevant Securities Holder, a copy of the authority granted by the Securities Holder for the purpose of transferring Securities, certified as a true copy of the original authority, shall be lodged, produced or exhibited with or to the Company if the Company so requests.

6.3.3 Such authorities shall, as between the Company and the grantor of such authorities be deemed to continue and remain in full force and effect, and the Board may allow such instruments of transfer signed for the Securities Holder as transferor pursuant to such authority to be acted upon, until express written notice of its revocation signed by or on behalf of the Securities Holder is lodged at the Company's registered office. Even after the lodging of such notice of revocation, the Company shall be entitled to give effect to any instrument of transfer signed under the authority to sign and certified by any officer of the Company as being in order before the lodging of such written notice of revocation.

6.3.4 The copy of the instrument of transfer, original or Duplicate Certificate, other documentary evidence and a copy of any authority to transfer the Securities shall remain in the custody of the Company at its registered office.

6.4 Recognition of title

The parent or guardian of a Securities Holder who is a minor, the executor or administrator of a Securities Holder who is deceased, the trustee of a Securities



Holder who is an insolvent or the *curator bonis* of any registered Securities Holder who is mentally incapacitated or prodigal or any person duly appointed by competent authority to represent or act for any registered Securities Holder shall, subject to the provisions of articles 4.4.3 and 4.4.4 and regarding joint holders, be the only person recognised by the Company as having any title to any Securities registered in the name of such Securities Holder, including for voting purposes.

6.5 **Transmission of Securities**

The following provisions relating to the transmission of Securities apply -

- 6.5.1 subject to section 51(6)(b) of the Companies Act and any laws for the time being in force relating to taxation or duty upon the estates of deceased persons, any person recognised by the Company in terms of articles 4.4.3 and 4.4.4 as having any title to any Securities (and also the legal guardian of any Securities Holder who is a minor and any person who obtains title to any Securities by operation of law in any other manner) may, upon producing such evidence as the Board deems sufficient as to the capacity in which he or she claims to act under this article or as to his or her title to any Securities, and subject to the transfer provisions in this MOI but not the right of pre-emption referred to in article 6, transfer such Securities to himself or to any other person;
- 6.5.2 a person who submits proof of his or her appointment as the executor, administrator, trustee, curator or guardian in respect of the estate of a registered Securities Holder who is deceased or the estate of a Securities Holder whose estate has been sequestrated or who is otherwise under a disability or of his or her appointment as the liquidator of any body corporate which is a Securities Holder, shall be entered in the Securities Register *nominee officii*, and shall thereafter, for all purposes, be deemed to be a Securities Holder.

7. **Shareholders' rights of pre-emption on transfer of Shares**

7.1 **Transfer of Ordinary Shares and Shareholder Loans**

- 7.1.1 No Ordinary Shareholder may transfer any Ordinary Shares without simultaneously transferring a proportionate percentage of his/her/its Shareholder Loans and disposing of any Leasehold Improvements owned by



that Ordinary Shareholder to the transferee of such Ordinary Shares and Shareholder Loans.

- 7.1.2 Unless so authorised by seventy five percent of Ordinary Shareholders no Ordinary Shareholder may transfer any Ordinary Shares or Shareholder Loans unless such Ordinary Shareholder ("**the Seller**") first offers to sell such Ordinary Shares, the Leasehold Improvements and an equivalent proportion of his/her/its Shareholder Loans to the other Ordinary Shareholders ("**the Offerees**").
- 7.1.3 Notwithstanding the provisions of this article 7, the Ordinary Shareholders ("**the Disposer**") shall be entitled to dispose of all (and not some only) of its Shares, the Leasehold Improvements and Shareholder Loans ("**Sale Equity**") to any third party, subject to -
- 7.1.3.1 the pre-emptive rights in terms of this article 7; and
- 7.1.3.2 the Disposer having complied with the provisions of this article 7.
- 7.1.4 The Seller's offer in terms of article 7.1.2 -
- 7.1.4.1 shall be in writing and delivered to the secretary of the Executive Committee who shall notify Offerees of such offer by way of any one or more of the methods specified in article 24;
- 7.1.4.2 shall remain open for acceptance by the Offerees for a period of 7 (seven) days after receipt;
- 7.1.4.3 shall specify the Shareholder Loans, the Leasehold Improvements and the number of Ordinary Shares which the Seller is offering to sell;
- 7.1.4.4 shall be accompanied, where applicable, by -
- 7.1.4.4.1 a written memorandum of the consideration and all the other terms and conditions that have been offered to the Seller orally and/or which is subsequently reduced to writing; or
- 7.1.4.4.2 a true and complete copy of any written offer made to the Seller (which sets out the consideration and all other terms and conditions of such offer),



made by any *bona fide* third party in respect of the Seller's Ordinary Shares in the Company and Shareholder Loans and which the Seller wishes to accept, and which in either case must contain the name of the *bona fide* third party, and in the case where the *bona fide* third party is an agent, the name of its ultimate principal (if any);

- 7.1.4.5 shall be subject to the conditions that -
 - 7.1.4.5.1 the Seller's offer may be accepted by the Offerees only on the basis that all of the Ordinary Shares, Leasehold Improvements and Shareholder Loans offered are to be purchased;
 - 7.1.4.5.2 unless the written offer referred to in article 7.1.4.4 or the Seller's offer referred to in article **Error! Reference source not found.** provides to the contrary -
 - 7.1.4.5.2.1 delivery of a written cession of the Shareholder Loans offered and accepted and delivery of the share certificates in respect of the Ordinary Shares offered and accepted together with transfer forms in respect of such Ordinary Shares duly completed in accordance with the MOI of the Company shall be made to the Offerees within 30 (thirty) days after acceptance of the Seller's offer; and
 - 7.1.4.5.2.2 the consideration referred to in article 7.1.4.4 or article **Error! Reference source not found.**, as the case may be, shall be payable against delivery as set out in article 7.1.4.5.2.1 above;
 - 7.1.4.5.3 the consideration shall be in money and be expressed only in the currency of the Republic of South Africa; and
 - 7.1.4.5.4 if there is no offer from a *bona fide* third party as contemplated in this article 7.1.4 above, state that fact; and
 - 7.1.4.6 shall not be subject to any other terms or conditions.
- 7.1.5 Any of the Offerees may accept an offer made in terms of article 7.1.2 in respect of all of the Ordinary Shares and Shareholder Loans and Leasehold Improvements offered.



- 7.1.6 Where multiple Offerees accept an offer made in terms of article 7.1.2, the Seller will determine to which Offeree the Ordinary Shares, Loan Accounts and Leasehold Improvements will be sold.
- 7.1.7 If any of the Offerees fail to accept the Seller's offer to it within the period of 7 (seven) days referred to in article 7.1.4.2, the Seller shall offer the Ordinary Shares and Shareholder Loans to the remaining Offerees, excluding the Ordinary Shareholder who failed to accept the Seller's offer, *mutatis mutandis* on the conditions set out in this article 7, provided that the offer in such an event will only remain open for acceptance for a period of 10 (ten) days after receipt thereof by the remaining Offerees.
- 7.1.8 If the offer referred to in article 7.1.2 is accepted in writing in respect of all the Ordinary Shares and Shareholder Loans offered or such lesser number of the Ordinary Shares and Shareholder Loans offered as the Seller may agree to in writing, by any of the Offerees, the resulting sales shall be indivisibly interrelated, the intention being to ensure that if any one of the Offerees breaches its obligations pursuant to the sale resulting from the acceptance of the offer, and if as a result the Seller elects to cancel any such sale, it shall be entitled (but not obliged) to cancel all the other sales to the other Offerees, even though they may have complied with their obligations.
- 7.1.9 Should the Offerees not accept the Seller's offer in terms of articles 7.1.2, 7.1.5 or 7.1.7 (as applicable) in respect of all Ordinary Shares and Shareholder Loans offered, the Seller shall be entitled, subject to the remainder of the provisions of this article 7, for a period of 30 (thirty) days after the expiry of the time for acceptance by the Offerees, to dispose of all the Ordinary Shares and Shareholder Loans included in the Seller's offer to the *bona fide* third party whose offer was disclosed in the Seller's offer referred to in article 7.1.4, provided -
- 7.1.9.1 the Ordinary Shares and the Shareholder Loans are transferred to the other third party only at a price and on terms and conditions not more favourable to the purchaser than the price, terms and conditions set out in the Seller's offer referred to in article 7.1.4, provided that the fact that the Seller gives any *bona fide* third party normal warranties excluding any profit warranty shall not constitute terms more favourable than those given to the remaining Ordinary Shareholders



who will not be given any warranties provided that the giving of any warranties to a *bona fide* third party is not a method, of permitting the *bona fide* third party to pay a lower purchase price to frustrate the pre-emption; and

- 7.1.9.2 the third party agrees to purchase all the Ordinary Shares, Leasehold Improvements and Shareholder Loans which were offered by the Seller in terms of article 7.1.2.
- 7.1.10 If all the Ordinary Shares, Leasehold Improvements and Shareholder Loans offered for sale by the Seller are not sold to the *bona fide* third party within the 30 (thirty) days referred to in article 7.1.5, then the provisions of articles 7.1.2 to 7.1.8 shall again apply to the Seller's Ordinary Shares and Shareholder Loans.
- 7.1.11 If the Seller's offer in terms of article 7.1.4 is accepted in accordance with the provisions of this article 7, the Seller irrevocably authorises the Offerees to sign any share transfer form on the Seller's behalf for purposes of effecting due transfer to the Offerees of the Ordinary Shares sold against payment of the purchase price.
- 7.1.12 Unless otherwise specified in the Seller's offer, payment for Ordinary Shares, Shareholder Loans and Leasehold Improvements acquired by other Ordinary Shareholders in terms of this article 7 shall be effected in cash against delivery of a written cession of the Shareholder Loans and transfer of the Ordinary Shares so acquired within 30 (thirty) days after acceptance of the offer.
- 7.1.13 Notwithstanding any provision to the contrary, any Seller who disposes of its Ordinary Shares and Shareholder Loans as contemplated in this article 7 shall be entitled to stipulate as a condition of such sale that -
- 7.1.13.1 the Seller shall be released *pro rata* to the number of Ordinary Shares sold, as a surety or guarantor or indemnitor on behalf of the Company, subject to the purchaser(s) of the Ordinary Shares in question binding itself as surety or guarantor or indemnitor in its stead; or
- 7.1.13.2 if the release contemplated in article 7.1.13.1 cannot be achieved, or pending such release being implemented, the Seller shall be



indemnified by the purchaser of the Ordinary Shares and the Shareholder Loans *pro rata* to the number of Ordinary Shares sold against any claims made against the Seller by reason of such suretyship, guarantee or indemnity. Such purchaser shall be liable for any amount payable in terms hereof together with value added tax levied in terms of the Value-added Tax Act, 1991 thereon.

- 7.1.14 The purchaser of any Ordinary Shares and Shareholder Loans pursuant to this article 7, shall pay the securities transfer tax and any other similar duties and fees, inclusive of any fees charged by service providers associated with the transfer, payable thereon.
- 7.1.15 Notwithstanding that an Ordinary Shareholder may sell, transfer, exchange or dispose of or otherwise alienate any of its Ordinary Shares in or Shareholder Loans against the Company in accordance with the provisions of this MOI, it shall in no way affect or limit the obligations of such Ordinary Shareholder arising out of or in connection with this MOI notwithstanding the fact that such an Ordinary Shareholder has disposed of or otherwise alienated any of its Ordinary Shares in and Shareholder Loans against the Company.

8. Permitted transfers by Ordinary Shareholders

The following transfers of Ordinary Shares and Shareholder Loans shall be permitted without triggering the rights of pre-emption under article 7, namely -

- 8.1 if the Ordinary Shareholder is a company, a transfer to its wholly owned subsidiary, provided that if that wholly owned subsidiary at any time ceases to be a wholly owned subsidiary of the original Ordinary Shareholder, it shall prior to it ceasing to be such wholly owned subsidiary, transfer all of the Ordinary Shares and Shareholder Loans it then holds to the original Ordinary Shareholder;
- 8.2 By the executor of a deceased individuals estate to the deceased's spouse, descendants or a testamentary trust established by the deceased or a trust nominated by the deceased and whose beneficiaries are common with the deceased's spouse or descendants;



- 8.3 if the Ordinary Shareholder is a wholly owned subsidiary, a transfer by that wholly owned subsidiary to another wholly owned subsidiary in the same group subject to the same proviso as set out in article 8.1;
- 8.4 if the Ordinary Shareholder is the beneficial owner of a trust that owns the Ordinary Shares, a transfer to that Ordinary Shareholder or a trust of which that Ordinary Shareholder is the beneficial owner; and
- 8.5 if the Ordinary Shareholder is the beneficial owner of the Ordinary Shares, to a trust nominated by the Ordinary Shareholder and whose beneficiaries are the spouse and/or descendants of such Ordinary Shareholder.

9. **Come along (drag along)**

- 9.1 In the event of a third party offering to purchase 100% (one hundred of the Ordinary Shares in issue as well as pro-rata portion of the claims and such offer is accepted by shareholders holding 75% or more of the Ordinary Shares in issue, then the remaining Shareholders shall be deemed to also have accepted such offer; and
- 9.2 the sale that will result from acceptance of the Proposal is not subject to any condition other than the suspensive condition that all regulatory approvals (if any) which are necessary for the implementation of that sale, are granted unconditionally.

10. **Tag along (piggy back)**

- 10.1 If, in terms of article 7.1.2, one or more Seller, either alone or together, make an offer constituting not less than 25% of the total number of issued Ordinary Shares, then any Offeree in terms of article 7.1.2 may indicate that it wishes to dispose of its Ordinary Shares in the same terms and conditions as the Seller, then such sale may not proceed unless the purchaser agrees to purchase the Ordinary Shares, Leasehold Improvements and claims of such Offerees on the same terms and conditions as offered to the Seller.

11. **Competition Authority**

If the approval of any Competition Authority is required to any transaction contemplated in this MOI (including under the pre-emption provisions), the Ordinary Shareholders shall co-operate with each other in order to present the necessary filing to the relevant Competition Authority as soon as reasonably possible and to the extent that any time



periods have been imposed in this MOI for the completion of the particular transaction, which are inappropriate having regard to the time period permitted to the relevant Competition Authority to consider the matter, the time periods in question in this MOI shall be extended sufficiently so as to enable the requisite filing to be made with the relevant Competition Authorities and for the relevant Competition Authorities to respond.

12. Involuntary transfer provisions

12.1 A “**Trigger Event**” shall be deemed to have occurred in relation to a Shareholder if such Shareholder (the “**Defaulting Shareholder**”) –

12.1.1 not being a natural person, an Insolvency Event occurs in respect of a Shareholder or it makes an assignment for the benefit of creditors generally or fails to pay its debts generally as they become due but excluding any winding-up pursuant to a solvent reconstruction, reorganisation or scheme of arrangement; or

12.1.2 being a natural person, commits an act of insolvency or is sequestrated, whether provisionally or finally;

12.1.3 is guilty of any material breach of this MOI, any shareholders' agreement or any other material agreement between such Shareholder and the Company, and fails to remedy such breach within 20 Business Days of written notice, from the Board or any other Shareholder, to do so;

12.1.4 is guilty of any material breach of the Shareholders Rules and Guidelines Manual, and fails to remedy such breach within 20 Business Days of written notice, from the Board, to do so;

12.1.5 being a natural person is physically or mentally incapacitated or disabled to such an extent that he cannot continue with his relationship with the Company;

12.1.6 not being a natural person, is a trust, or has a shareholder which is a trust, and the beneficiaries and/or trustees of such trust are changed from those beneficiaries and/or trustees as at the time of acquiring the Ordinary Shares;

12.1.7 not being a natural person, there is a change of Control of a Shareholder (except as expressly permitted in this MOI);



- 12.2 If a Trigger Event (as hereinafter contemplated) occurs in relation to the Defaulting Shareholder, then, without prejudice to the Defaulting Shareholder's obligations under this MOI and to any other rights or remedies available to any of the other Shareholder(s) with respect to the Defaulting Shareholder, the other Shareholder(s) shall be entitled to serve written notice (a "**Forced Sale Notice**") on the Defaulting Shareholder at any time whilst such Trigger Event exists to require:
- 12.2.1 that the Defaulting Shareholder shall not exercise its rights attached to the Shares held by it or any other rights granted under this MOI; and/or
- 12.2.2 that any Director directly related to the Defaulting Shareholder shall be suspended from directorship; and/or
- 12.2.3 a transfer of Shares in accordance with this article 11.
- 12.3 If a Trigger Event has occurred in relation to a Defaulting Shareholder, any of the other Shareholder(s) (the "**Non-Defaulting Shareholder**") shall have the right to require, by giving notice to the Company, the Defaulting Shareholder to either (i) sell to the Non-Defaulting Shareholder all of the Equity held by the Defaulting Shareholder at Fair Value or (ii) purchase all of the Equity held by the Non-Defaulting Shareholder at Fair Value (in each case, a "**Forced Sale Equity**") . In such event, the consideration payable for the Forced Sale Equity shall be equal to the Fair Value, as determined in terms of this article 11.
- 12.4 In all other respects, the provisions of article 8 shall apply mutatis mutandis to the Forced Sale Equity and its disposal as if –
- 12.4.1 the Forced Sale Equity is Equity available for purchase in terms of article 8; and
- 12.4.2 the Forced Sale Notice is a Board Notice.
- 12.5 In the event that a Shareholder's Equity is purchased pursuant to the provisions of this article 11 –
- 12.5.1 such Defaulting Shareholder or Non- Defaulting Shareholder (as the case may be) shall on the date of delivery of his Securities fully discharge all amounts of whatsoever nature owed by it to the Company, and in this regard expressly authorises each Shareholder which has purchased such Securities



or any portion thereof to pay so much of the purchase proceeds as is necessary to discharge such indebtedness to such Company on account of such indebtedness;

12.5.2 the purchasers thereof shall use their respective best endeavours to procure the release of such Defaulting Shareholder or Non-Defaulting Shareholder (as the case may be) from all suretyships (should there be no balance outstanding in respect of any funding acquired thereunder), guarantees and indemnities furnished on behalf of the Company and, until such release is procured, such purchasers shall (pro rata to the proportions in which they have purchased such Securities) indemnify such Shareholder and hold it harmless against all and any claims made in respect thereof.

12.6 When it is required to determine the Fair Value of any Forced Sale Equity, the Board shall attempt to come to an agreement with the Shareholder holding the Forced Sale Equity.

12.7 In the event of no agreement in terms of article 11.6, the auditor of the Company shall act as the independent valuer ("Valuer") and shall determine the Fair Value of any Forced Sale Equity.

12.8 In making such determination, the Valuer shall act as an expert and not as an arbitrator and the following provisions shall apply –

12.8.1 the Valuer shall, subject to the provisions of article 11.8.3, use such method of determination and take such steps for such determination as he deems appropriate in the circumstances;

12.8.2 the holder of the Forced Sale Equity and the remaining Shareholders shall be entitled to make oral or written representations to the Valuer regarding the determination of the fair value of such Securities;

12.8.3 the Valuer shall have access to such books, documents and other records of the Company and to receive such additional information from the Shareholders as he may consider necessary or desirable for making his determination;

12.8.4 the determination by the Valuer shall be final and binding on the Shareholders and the costs of such determination shall be borne by the Shareholder whose representation as to the fair value of the Forced Sale



Equity shows the greatest deviation from the Fair Value determined by the Valuer.

12.8.5 The Shareholders agree that the Valuer, when determining Fair Value in terms of this article 11, will value all shareholders loans at face value and as debt.

Part III - Proxies

13. Proxies

13.1 Form of proxy

Shareholders shall use the form set out in **Schedule 1** for purposes of appointing a proxy.

13.2 Rights of Securities Holders as regards proxies

The provisions of the Companies Act, as read with this MOI, as regards proxies, shall apply *mutatis mutandis* to all Securities Holders.

Part IV - Meetings and resolutions

14. Shareholders' meetings

14.1 Chairperson of Shareholders' meetings

14.1.1 The chairperson of the Board shall be entitled to chair Shareholders' meetings.

14.1.2 If, however, there is no chairperson or if he or she has notified his or her inability to attend a meeting or if at any meeting he or she is not present within 10 (ten) minutes of the time appointed for the meeting, the Shareholders who are entitled to exercise voting rights in relation to the Company present and represented shall choose a Director to chair the meeting. If no Director is present or if none of the Directors present are willing to chair the meeting, then the Shareholders shall choose one of their own representatives at the relevant meeting, to be the chairperson of the meeting.



14.2 **Right to call meeting**

14.2.1 The Board may in terms of section 61(1) of the Companies Act, call a Shareholders' meeting at any time by giving not less than fourteen (14) days notice in writing to all Shareholders, unless all of the Shareholders agree to a shorter notice period.

14.2.2 Shareholders constituting no less than fifty (50) percent of the holders of Ordinary Shares may call a Shareholders' meeting by written notice to the Board, which shall be compelled to call such meeting within 30 days of receipt of such notice and will give not less than fourteen (14) days' notice in writing to all Shareholders, unless all of the Shareholders agree to a shorter notice period. The Board will be compelled to table to Shareholders any resolution proposed by the Shareholders that issued such notice.

14.3 **Annual General Meeting**

14.3.1 If the Board so decides, the Company shall be required to hold one meeting of Shareholders each year as soon as reasonably possible after the finalisation of the annual financial statements of the Company for the preceding Financial Year, to be referred to for purposes of this MOI as an annual general meeting which meeting shall deal with at least the following matters -

14.3.1.1 if, in terms of the Companies Act or in terms of a Board or Shareholders' resolution the Company is obliged to appoint an auditor and such resolution remains valid or if the Company is obliged to appoint an auditor in terms of the Companies Act, the appointment of the Auditors to hold office from the conclusion of that meeting until the conclusion of the next annual general meeting of the Company; and

14.3.1.2 Or, if, in terms of in terms of the Companies Act or in terms of a Board or Shareholders' resolution the Company is obliged to appoint an independent reviewer to undertake an independent review of the financial statements of the Company and such resolution remains valid or if the Company is obliged to have its financial statements independently reviewed in terms of the Companies Act and/or the Regulations, the appointment of the independent reviewer who will from the conclusion of that meeting until the conclusion of the next



annual general meeting of the Company, undertake such independent review;

- 14.3.1.3 the presentation of the financial statements of the Company for the immediately preceding Financial Year and for purposes of clarity it is recorded that the Company will not be required to produce audited financial statements.
- 14.3.1.4 the ratification of any amendments approved by the Board to the Shareholders Rules and Guidelines Manual;
- 14.3.1.5 the approval of any fees paid to Directors for their services as Directors, in terms of section 66 of the Companies Act, if applicable;
- 14.3.1.6 the approval of financial assistance to related or inter-related persons as contemplated in section 45 of the Companies Act from the conclusion of that meeting until the conclusion of the next annual general meeting of the Company;
- 14.3.1.7 the approval of the appointment of the members of the Executive Committee sub-committee of the Board who are not Directors and
- 14.3.1.8 the approval of the appointment of Directors if, at the time of the annual general meeting, such person or persons have been appointed to the Board to fill a vacancy or otherwise.

14.4 **Quorum for Shareholders' meetings**

- 14.4.1 In terms of section 64 (1) of the Companies Act, the quorum requirement for a Shareholders' meeting to begin, or for a matter to be considered is Shareholders holding 50% (fifty percent) of the votes exercisable at the relevant meeting.
- 14.4.2 Provided that if, within thirty (30) minutes from the time appointed for a meeting, a quorum is not present, the meeting shall stand adjourned for the same day the next week, at the same time and place, and if, at such adjourned meeting, a quorum is not present within thirty (30) minutes from the time appointed for the meeting, the Shareholders then present in person or by proxy, shall be a quorum.



14.5 **Cessation of quorate Shareholders' meetings**

In terms of section 64(9) of the Companies Act, should any meeting of the Shareholders of the Company which has been constituted as quorate in terms of the Companies Act, cease to be quorate at any time during such meeting due to the departure of any Shareholder/s, then such meeting shall be adjourned as soon as the meeting ceases to be quorate without any matters being further considered or voted upon.

14.6 **Shareholders' resolutions**

14.6.1 for an ordinary resolution to be adopted, it must be supported by the holders of more than 50% (fifty percent) of the voting rights (capable of and entitled to be exercised), present in person, or by proxy at a Shareholders meeting, exercised on the resolution; and

14.6.2 for a special resolution to be adopted, it must be supported by Ordinary Shareholders holding at least 75% (seventy five percent) of the voting rights (capable of and entitled to be exercised), present in person, or by proxy at a Shareholders meeting, exercised on the resolution.

14.6.3 A special resolution adopted is required, in addition to the matters set out in section 65(11) of the Companies Act, for the matters set out in article 3.2.

14.7 Notwithstanding any other provision herein, no person may vote more than five proxy votes in respect of any resolution proposed at a meeting of Shareholders.

14.8 **Minutes**

Minutes will be -

14.8.1 kept of all Shareholders' meetings;

14.8.2 settled by the chairperson of the relevant Shareholders' Meeting and circulated to all Shareholders within 30 (thirty) days following the Shareholders' meeting;

14.8.3 submitted to the next Shareholders' meeting for approval, with or without modification; and



14.8.4 signed by the chairperson of that meeting confirming the approval of the meeting.

14.9 **Right to demand a vote by show of hands**

Twenty-five (25) percent of Shareholders present at a meeting shall be entitled to demand that voting take place by show of hands at any meeting of Shareholders.

14.10 **Application of provisions to all Securities Holders**

The provisions of the Companies Act, as read with this MOI, as regards Shareholders' meetings and resolutions, shall apply *mutatis mutandis* to meetings of any Securities Holders.

15. **Written resolutions by shareholders**

15.1 A resolution that could be voted on at a Shareholders Meeting may instead be adopted by written vote, as contemplated in section 15, if it is -

15.1.1 submitted to the Shareholders entitled to exercise voting rights in relation to the resolution; and

15.1.2 supported by Persons entitled to exercise sufficient Voting Rights for it to have been adopted, in terms of the Companies Act and this MOI, as an Ordinary or Special Resolution, as the case may be, at a properly constituted Shareholders Meeting.

15.2 Unless the contrary is stated in the resolution, any such resolution shall be deemed to have been adopted on the date on which the Company received the written vote of the Shareholder or the proxy of the Shareholder whose vote resulted in the resolution being supported by sufficient votes for its adoption irrespective of any votes received thereafter, provided that such date falls within the 20 Business Day period referred to in section 60(1)(b) of the Companies Act.

16. **Position of only one Shareholder**

If the Company has only one Shareholder that Shareholder may exercise any or all of the voting rights pertaining to the Company on any matter, at any time, without notice or compliance with any other internal formalities, except that minutes of the any meeting required under the Companies Act shall be kept in accordance with article 14.8.



17. General provisions regarding resolutions as regards legal proceedings against Shareholders and others

If any resolution of the Company is proposed that the Company institute any legal proceedings against any Shareholder or any party which is a related person or inter-related person (both terms as defined in the Companies Act) in respect of the Shareholder or against any Director of the Company, such resolution shall be deemed to be within the Shareholders' domain not the Directors' domain. If any Shareholder vetos any such resolution, and as a result the requisite majority to pass the resolution cannot be obtained then, provided that the remaining Shareholders furnish an indemnity to the Company against all costs, losses or damages of whatsoever nature which the Company may sustain in bringing any such legal proceedings, such vetoing Shareholder shall be deemed to have voted in favour of the resolution.

Part V - Directors and officers

18. Directors and officers

18.1 Composition of the Board

18.1.1 The Board shall comprise at least two (2) and no more than four (4) Directors, in addition to the minimum number of Directors that the Company must have to satisfy any requirement, whether in terms of the Companies Act or this MOI, to appoint an audit committee or a social and ethics committee.

18.1.2 Subject to article 18.1.7, all of the Directors shall be elected by an Ordinary Resolution of the Shareholders, on the basis that section 68(2) (and, if such election is to be conducted by written vote, section 60(3) and article 15) shall apply to such election.

18.1.3 Subject to article 18.1.4 each Director elected in terms of article 18.1.2 shall serve for an four-year term, as contemplated in section 68(1), until he ceases to be a Director in terms of this MOI or the Companies Act.

18.1.4 A Director shall cease to hold office if:

18.1.4.1 An Ordinary Resolution of the Shareholders resolves for such Director to no longer hold office. Such a resolution may be proposed by any Shareholder at a meeting of Shareholders;



- 18.1.4.2 Such Director resigns as Director with written notice to the remaining Directors and the company secretary.
- 18.1.5 Subject to any limitations set out in the Companies Act, the Company indemnifies and holds harmless all persons who are serving or have served as Directors in respect of any losses or damages suffered by them including, without limiting the generality thereof, as a result of expenses incurred by them, claims against them or regulatory sanctions imposed on them as a result of their actions or inactions as Directors of the Company, and will reimburse such persons for any such losses or damages suffered.
- 18.1.6 There shall be no ex officio directors, as contemplated in section 66(4)(a)(ii) of the Companies Act, and no Person shall have the right to effect the direct appointment of one or more Directors as contemplated in section 66(4)(a)(i) of the Companies Act.
- 18.1.7 The Board may appoint a Person who satisfies the requirements for election as a Director to fill any vacancy and serve as a Director on a temporary basis until the date on which the vacancy has been filled by election in terms of article 18.1.2. During that period any Person so appointed has all of the powers, functions and duties, and is subject to all of the liabilities, of any other Director. The authority of the Board in this regard is not limited or restricted by this MOI.
- 18.1.8 The Company may not permit a person to serve as Director if that Person is ineligible or disqualified in terms of the Companies Act.
- 18.1.9 In addition to the grounds of ineligibility and disqualification of Directors as contained in section 69, a Director shall cease to be eligible to continue to act as a Director if he absents himself from all meetings of the Board



occurring within a period of six consecutive months without the leave of the Board, and the Board resolves that his office shall be vacated.

18.1.10 This MOI does not impose any minimum shareholding or other qualifications to be met by the Directors in addition to the ineligibility and disqualification provisions of the Companies Act and article 18.1.9.

18.2 Appointment of the chairperson of the Board

The Board shall appoint the person to preside as the chairperson of any Directors' meeting.

18.3 Authority of a single Director to act

If, at any time, the Company has only one Director, as contemplated in section 57(3) of the Companies Act, the authority of that Director to act without notice or compliance with any other internal formalities applies, save that any resolution must be recorded and sections 73(6) and (7) of the Companies Act shall apply.

18.4 Round robin resolutions of the Board

18.4.1 The following provisions relating to the authority of the Board to consider a matter other than at a meeting, as contemplated in section 74 of the Companies Act apply -

18.4.1.1 a written resolution (which may consist of one or more documents in like form) signed by all the Directors and inserted in the minute book, shall be valid and effective in accordance with its terms as if passed at a meeting of Directors;

18.4.1.2 unless the contrary is stated therein, any such resolution shall be deemed to have been passed on the date that the last Director signs it;

18.4.1.3 a scanned and signed Director's resolution shall be acceptable evidence that such resolution has been signed by the Director.



18.5 Requisitioning of Directors' meetings

The right of the Company's Directors to requisition a meeting of the Board, shall be as set out in section 73(1) of the Companies Act.

18.5.1 Board meetings by electronic communication

18.5.1.1 A resolution signed by the number of Directors required to vote in favour of a resolution who were connected by electronic communication at a Board meeting where a quorum was present where -

18.5.1.1.1 all such Directors remained connected for the duration of the electronic meeting;

18.5.1.1.2 the subject matter of the resolution has been discussed; and

18.5.1.1.3 the chairperson or any other Director present in person or electronically certified in writing that the aforementioned requirements have been met, shall be valid and shall be deemed to have been passed on the date on which the meeting was held (unless a statement to the contrary is made in the minutes of the meeting).

18.5.1.2 Such resolution may consist of several documents, each of which may be signed by one or more Directors who participated in the electronic meeting.

18.5.1.3 Within 10 (ten) Business Days after the adoption or failing of a resolution at a meeting contemplated in article 18.5.1.1, the Company shall -

18.5.1.3.1 deliver to each Director a copy of the resolution proposed with a statement describing the results; and

18.5.1.3.2 insert a copy of the resolution and statement referred to in article 18.5.1.3.1 in the Company's minute book.



18.5.2 **Notice of Board meetings**

- 18.5.2.1 The authority of the Board to determine the manner and form of providing notice of its meetings, as set out in section 73(4) of the Companies Act is amended to the extent set out in articles 18.5.2.2 to **Error! Reference source not found..**
- 18.5.2.2 Subject to section 73(5)(a) of the Companies Act, a notice of a Board meeting must be in writing and delivered to each Director of the Company (including each alternate Director) so as to be received by the Director in question in the ordinary course not less than 7 (seven) Business Days before the date appointed for the Board meeting, provided that in exceptional circumstances, as determined by the chairperson of the Board, the notice period may be shortened as is necessary to allow the Directors to attend to the exceptional circumstances in question.
- 18.5.2.3 Such notice of a Board meeting may be in any form determined by the Board but must as a minimum include -
- 18.5.2.3.1 the date, time and place for the meeting;
- 18.5.2.3.2 a detailed agenda for the meeting;
- 18.5.2.3.3 information with respect to the availability of participation in the meeting (and in the postponement or adjournment of the meeting) by electronic communication and the necessary information to enable Directors (including their alternates) to access the available medium or means of communication; and
- 18.5.2.3.4 the general purpose of the meeting.
- 18.5.2.4 The contents of the notice and agenda shall be prepared by and be the responsibility of the chairperson of the Board.
- 18.5.2.5 Any Director may at any time require that any matter be included on the agenda for a meeting.
- 18.5.2.6 Board meetings will be held at a reasonable time and venue. In the ordinary course, Board meetings will be held at the principal place of



business of the Company or at such other venue as the Board may agree to in writing.

18.5.3 Defective or inadequate notice of Board meeting

The authority of the Board to proceed with a meeting despite a failure or defect in giving notice of the meeting, as set out in section 73(5) of the Companies Act shall not apply, unless all Directors consent to the relevant meeting continuing.

18.5.4 Quorum for Board meetings

The quorum for a Board meeting shall be at least 2 (two) Directors or alternate Directors, provided that such Directors or alternate Directors shall include at least 1 (one) Director or alternate Director appointed by each Ordinary Shareholder, who must be personally present at the meeting or participate in person electronically, before such meeting shall commence and before a vote may be called at such meeting. For the avoidance of doubt, to the extent that the foregoing requires any Director appointed by a particular Ordinary Shareholder to form part of the quorum, that requirement shall only apply if and to the extent that the Ordinary Shareholder concerned has in fact appointed a Director or Director has been appointed following the nomination of a person by such Ordinary Shareholder.

18.5.5 Adjournment and postponement of Directors meetings

18.5.5.1 Automatic postponement of a meeting

18.5.5.1.1 If within 30 (thirty) minutes of the appointed time for a Board meeting to begin a quorum is not present, then the meeting is automatically postponed (without any motion, vote or further notice) for one week.

18.5.5.1.2 The 30 (thirty) minute limit may be extended for a reasonable period not exceeding 2 (two) hours by the chairperson of the meeting.



18.5.5.2 **Automatic adjournment of a meeting**

If at the time a matter is to be considered at a Board meeting, such meeting ceases to be quorate and there is no other business on the agenda which can be dealt with, the meeting is automatically adjourned (without any motion or vote) for one week.

18.5.5.3 **Further notice required for postponed or adjourned meeting**

Further notice of a Board meeting that is postponed or adjourned is required on the same basis as the original meeting which is being postponed or adjourned, save that notice shall be given within 2 (two) Business Days of the date on which the meeting which is being postponed or adjourned was held and the only items on the agenda may be the items which were on the agenda for the original meeting.

18.5.5.4 **Deemed quorum at a postponed or adjourned meeting**

If at the appointed time for a postponed meeting to begin or an adjourned meeting to resume, the quorum requirements are not met, then those Directors, present in person at the Board meeting including those participating electronically, will be deemed to constitute a quorum.

18.5.5.5 **Adjournment by Directors**

A Board meeting may otherwise be adjourned by majority vote of the Directors present at the meeting.

18.6 **Voting, approval of resolutions and minutes of Directors meetings**

18.6.1 **Number of votes at Board meetings**

Subject to the exclusions in the Companies Act, each Director shall have 1 (one) vote on the particular resolution.

18.6.2 **Approval of resolutions**

Resolutions of Directors in order to be of force and effect must be approved by a majority of the votes exercised.



18.6.3 **Tied votes**

The chairperson of the Board shall not have a casting vote and shall not have a vote if he/she is not a Director.

18.6.4 **Minutes**

Minutes will be -

18.6.4.1 kept of all Board meetings;

18.6.4.2 settled by the chairperson of the Board and circulated to all Directors within 30 (thirty) days following the Board meeting;

18.6.4.3 submitted to the next Board meeting for approval, with or without modification; and

18.6.4.4 signed by the chairperson of that meeting confirming the approval of the meeting.

18.7 **Committees of the Board**

18.7.1 **Authority of the Board to appoint committees of Directors and to delegate to any such committee any of the authority of the Board**

18.7.1.1 The authority of the Board 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 Companies Act, and to include in any such committee persons who are not Directors, as set out in section 72(2)(a) of the Companies Act is amended to the extent set out in article 18.7.1.2.

18.7.1.2 Any delegation by the Board of its authority to a committee may be wholly or partially withdrawn by the Directors at any time.

18.7.1.3 The members of the Executive Committee sub-committee who are not Directors will be approved by the Ordinary Shareholders.



18.7.2 **Authority of a committee appointed by the Board**

18.7.2.1 The authority of a committee appointed by the Board, as set out in section 72(2)(b) and (c) of the Companies Act is amended to the extent set out in article 18.7.2.2.

18.7.2.2 **A committee appointed by the Board -**

18.7.2.2.1 may with the prior approval in each instance of the Board, consult with or receive advice from any person, at the expense of the Company;

18.7.2.2.2 shall have the full authority of the Board in respect of a matter referred to it, save that in the exercise of the authority delegated to it, and in carrying out its duties, the committee shall comply with any mandates or instructions that may from time to time be given by the Board; and

18.7.2.2.3 may include persons who are not Directors and such non-Director members may vote on any matter to be decided by the committee.

18.8 **Authority of the Board to manage and direct the Business and affairs of the Company**

The authority of the Board to manage and direct the business and affairs of the Company, as set out in section 66(1) of the Companies Act is amended to the extent set out in article 18.8.1.

18.8.1 **Management of the Company**

18.8.1.1 **Board's authority to manage and direct business affairs**

The Directors' powers to manage and direct the business and affairs of the Company, as contemplated in section 66(1) of the Companies Act shall be limited in the manner set out in article 3.2 and 3.3.

18.8.1.2 **Specific matters falling under the responsibility of the Board**

The Board shall be responsible for the business and affairs of the Company, including -



- 18.8.1.2.1 establishing directives for the initial setup of the Company, including guidelines for the initial Budget, preparation of initial bids, and staffing/ mobilization plan for those bids;
- 18.8.1.2.2 establishing guidelines for the Company's risk profile and identification of special risks;
- 18.8.1.2.3 establishing financial objectives and criteria;
- 18.8.1.2.4 determining dividends to be declared by the Company, and
- 18.8.1.2.5 establishing an Executive Committee to oversee the day-to-day operations and activities of the Company.

- 18.8.1.3 **General**
 - 18.8.1.3.1 The Company shall –
 - 18.8.1.3.1.1 keep accurate books and records reflecting all transactions entered into by the Company and all amounts owing and owed by the Company;
 - 18.8.1.3.1.2 prepare and submit to the Board and a duly authorised representative of each Shareholder –
 - 18.8.1.3.1.2.1 other information which the Board may reasonably require, including annual Budgets;
 - 18.8.1.3.1.2.2 minutes and agendas of the meetings of the Board and Shareholders of the Company.
 - 18.8.1.3.2 The Company shall –
 - 18.8.1.3.2.1 comply with all statutory obligations applicable to the Company;
 - 18.8.1.3.2.2 comply with the provisions of this MOI and any shareholders agreement entered into between the company and its members;
 - 18.8.1.3.2.3 implement and comply with such financial systems as its board may from time to time instruct;



- 18.8.1.3.2.4 take out such insurance as may be recommended by the Board from time to time;
- 18.8.1.3.2.5 implement adequate internal controls for the protection of the Company's assets, if any; and
- 18.8.1.3.2.6 maintain adequate records and reconciliation, including value added tax returns.

18.8.1.4 **Corporate governance**

- 18.8.1.4.1 The Shareholders agree that the Company will conduct the Business as a separate, independent and autonomous going concern.

Part VI - Access to information

19. Securities Holders' right to additional information

In addition to the rights to access information set out in sections 26(1) and 31 of the Companies Act, every person who has a beneficial interest in any of the Securities has the further rights to information, set out in this article 19.

19.1 General

- 19.1.1 The Board may, from time to time, in its discretion, grant a person who has a registered or beneficial interest in any of Securities the right to access any information pertaining to the Company in addition to that to which he is entitled in terms of section 26(1) of the Companies Act.
- 19.1.2 The Board may from time to time in its discretion grant any person the right to access any information pertaining to the Company as contemplated in section 26(3) of the Companies Act provided that the confidential information of the Company is adequately protected and subject to article 19.1.3 below. No such right if conferred, may negate or diminish any mandatory protection of any record, required by or in terms of Part 3 of the Promotion of Access to Information Act, 2000, as amended.
- 19.1.3 For the purposes of section 26(1) of the Companies Act, Shareholders may be treated by the Company as constituting persons who hold or have a beneficial interest in securities issued by the Company, or to the extent



necessary, Shareholders, will be treated as being entitled in terms of section 26(3) of the Companies Act to access to the Company records on the same basis provided for in, and subject to section 26(1) of the Companies Act.

- 19.1.4 The grant of any additional information right(s) shall be on such terms and subject to such conditions and for such period(s) as the Board may determine in writing, provided always that the confidential information of the Company is adequately protected.

17.3 Shareholders' access to the Company's financial records

Any Shareholder shall upon written request to the Company in relation to any specific information required by such Shareholder and upon furnishing *bona fide* reasons for such request, subject to having given reasonable written notice to the Company, and during business hours, have access to and the right to inspect such books and accounts of the Company relating to the specific information requested. Any costs relating to accessing or procuring information under the provisions of this article 17.3 shall be for the account of the Shareholder requesting such information. Nothing in this article shall give any of the Shareholders a right of access to any asset of the Company or any subsidiary of the Company.

Part VII - General

20. Deadlock

- 20.1 If the required majority for the passing of Directors' resolution cannot be obtained or if there is a deadlock in that there is 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.
- 20.2 If the required majority for the passing of a Shareholders' Reserved Matter resolution cannot be obtained or if there is a deadlock in that there is an equality of votes, a dispute shall be deemed to exist between the Shareholders and the resolution in question shall fail. Any such deadlock shall not constitute a ground for the winding-up of the Company.

21. Partnership

- 21.1 The relationship between the Securities Holders as such shall not be construed as that of partners.



21.2 Shareholders shall at all times display the utmost good faith towards each other.

22. Application of this MOI to subsidiaries of the Company

All provisions of this MOI shall apply *mutatis mutandis* to any subsidiaries of the Company from time to time and a provision to that effect will be inserted in the MOI of each such subsidiary.

23. Limitation of liability

To the extent permitted under the Companies Act, no Party shall be liable to any of the other Parties for any indirect, incidental, special or consequential damages, or for any loss of profits, loss of interest or other financing charges or loss of use, arising from a breach of this MOI, notwithstanding fault, negligence in whole or in part, strict liability, breach of contract, or otherwise of the Party whose liability to damages is so limited, and shall extend to any liability for damages of the Party arising as a result of any fault, negligence in whole or in part, strict liability, breach of contract, or otherwise of its related entities and its and their directors, officers, and employees.

24. Delivery and publication of notices and certain documents

24.1 All notices and documents required to be published as contemplated in the Companies Act or this MOI shall be delivered by the Company in accordance with sections 6(9), 6(10) and 6(11), read with Regulation 7 and Table CR3, to each Securities Holder who is required to receive notice in terms of the Companies Act or this MOI to any of his/her/its registered addresses in the Securities Register or any digital or social media platform used by the Company and associated with the mobile number provided by the Shareholder to the Company or any email address provided by the Shareholder to the Company.

24.2 If a Securities Holder has not notified an address in terms of article 4.3, he/she/it shall be deemed (for all purposes, including for the purposes set out in article 24.1 and article 25) to have nominated the Company's registered address, from time to time.

24.3 The notice may be given by the Company to the persons entitled to a Security in consequence of the death or insolvency of a Securities Holder, or by sending it through the post in a prepaid envelope addressed to them by name, or by the title of representatives of the deceased, or trustees of the insolvent or by any like description, at the address or mobile number (if any) supplied for the purpose by



the persons claiming to be so entitled, or (until such address has been supplied) by giving the notice in any manner in which it might have been given if the death or insolvency had not occurred.

- 24.4 Where a notice is sent by post, the post office shall be the agent for the Securities Holder and the Securities Holder shall, from the time and date of delivery of the notice to the post office, bear all risks associated with that notice including of non-delivery or late delivery of the notice.
- 24.5 A notice given to any Securities Holder shall be binding on all persons claiming on his death or on any transmission of his interests.
- 24.6 The signature to any notice given by the Company may be written or printed, or partly written and partly printed.

25. ***Domicilium citandi et executandi***

- 25.1 Subject to the provisions of the Companies Act and the Regulations, the Parties have chosen as their *domicilia citandi et executandi* for all purposes under this MOI, whether in respect of court process, notices or other documents or communications of whatsoever nature (including the exercise of any option), the business address, residential address, postal address, mobile number and available e-mail address of that person as recorded or deemed to have been recorded in the Securities Register or otherwise provided by that person to the Company.
- 25.2 Notwithstanding anything to the contrary herein contained a written notice or communication actually received by a Securities Holder or the Company, as the case may be, shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen *domicilium citandi et executandi*, subject to the provisions of the Companies Act.



26. Arbitration

- 26.1 Any dispute between in connection with the interpretation of this MOI may be referred to and be determined by informal arbitration in terms of this article.
- 26.2 Either party to such dispute may demand that such dispute be determined in terms of this clause by written notice given to the other party.
- 26.3 This clause shall not preclude either party from obtaining interim relief on an urgent basis from a court of competent jurisdiction pending the decision of the arbitrator.
- 26.4 The arbitrator shall be agreed upon between the parties. Should the parties fail to agree on an arbitrator within 14 (fourteen) days after the giving of notice in terms of clause 24.2, the arbitrator will be appointed at the written request of any party to the dispute by the chairman for the time being of the East London Attorneys Association.
- 26.5 The arbitration shall be held:
- 26.5.1 at East London;
- 26.5.2 in an informal manner without any pleadings and without it being necessary to observe the strict rules of evidence;
- 26.5.3 as soon as possible with a view to it being completed within one (1) month from the date on which the dispute is referred to the arbitrator;
- 26.5.4 in accordance with such procedures as the arbitrator may determine in his discretion, provided that such procedures shall be fair to both parties.
- 26.6 The arbitrator shall be entitled to investigate or cause to be investigated any matter which he considers necessary or desirable in connection with the dispute and for that purpose shall have the widest powers of investigating all the relevant books and records of the parties to the dispute, including the right to make copies and to



have such records and books produced or delivered at any reasonable place required by him for the aforesaid purpose.

- 26.7 The arbitrator shall decide the dispute in accordance with South African law.
- 26.8 The arbitrator shall be entitled to make such award, including an award in respect of costs, as he may deem fit provided that the arbitrator shall be required to furnish written reasons.
- 26.9 The decision of the arbitrator shall be final and binding on both parties, save in the event of it being established that:
- 26.9.1 the arbitrator has misconducted himself in relation to his duties as arbitrator; or
 - 26.9.2 the arbitrator has committed any gross irregularity in the conduct of the arbitration proceedings or has exceeded his powers; or
 - 26.9.3 an award has been improperly obtained,
- 26.10 in which event the decision of the arbitrator may be set aside upon application to the High Court by the aggrieved party in accordance with the provisions of Section 33 of the Arbitration Act 1965.
- 26.11 The decision of the arbitrator may be made an order of court by either of the parties at the cost of such party.
- 26.12 The provisions of this clause are severable from the rest of this agreement and will remain in effect notwithstanding the cancellation, termination or invalidity for any reason of this agreement or any portion of this agreement.

27. Breach and specific performance

- 27.1 Subject to article 27.2, if any of the Securities Holders and/or the Company ("**Defaulting Party**") breaches any material provision or term of this MOI, and fails to remedy such breach within 10 (ten) days of receipt of a written notice requiring it to do so, such breach shall not constitute grounds for winding up the Company, and any of the other Securities Holders and/or the Company shall be entitled at its option without prejudice to any other specific remedy or right that it may have under this MOI -



- 27.1.1 to uphold this MOI against the Defaulting Party and sue for specific performance of the Defaulting Party's obligations to it under this MOI, with or without a claim for damages; or
- 27.1.2 to uphold this MOI against the Defaulting Party and sue for damages, it being recorded that the remedy of cancellation shall not be available to any of the Securities Holders or the Company.
- 27.2 Each of the Securities Holders and the Company acknowledge that it may be difficult or even impossible to measure in money, the damages that will arise from the failure of any of Securities Holders and/or the Company to perform any of its obligations under this MOI. Bearing in mind that cancellation is not a remedy available under this MOI, the Securities Holders and/or the Company agree that it shall be competent for any of them to bring an action for specific performance of the provisions of this MOI and the Parties waive their rights to claim or raise as a defence, that an alternative adequate remedy exists at law.

28. Confidentiality

- 28.1 The Securities Holders and the Company agree -
- 28.1.1 that any information obtained by any of the Securities Holders and/or the Company in terms, or arising from the implementation, of this MOI shall be treated as confidential by them and shall not be used, divulged or permitted to be divulged to any person not being a Securities Holders Company without the prior written consent of the Securities Holders and the Company;
- 28.1.2 to -
- 28.1.2.1 keep confidential all information (written, including information contained in electronic format or oral) concerning the business and affairs of the disclosing party which it has obtained or received whether pursuant to this MOI or otherwise ("**the Information**");
- 28.1.2.2 not without the disclosing party's written consent disclose the Information in whole or in part to any other person save those of the receiving party's employees and/or affiliates involved in the implementation, of this MOI and who have a need to know the same; and



- 28.1.2.3 use this Information solely in connection with this MOI and not for its own or the benefit of any third party,
- save that -
- 28.1.2.4 each of the Securities Holders and the Company shall be entitled to disclose such Information to such of its employees (which shall include any of its Directors) and/or contractors who need to know for the purposes of this MOI. Before revealing such Information to any such employees and/or contractors, it undertakes to procure that the employees and/or contractors are aware of the confidential nature of the Information being made available to them;
- 28.1.2.5 any Information which is required to be furnished by law or by existing contract or by any stock exchange on which the securities of any of the Securities Holders and/or the Company are listed may be so furnished; and
- 28.1.2.6 none of the Securities Holders and the Company shall be precluded from using or divulging such Information in order to pursue any legal remedy available to it.
- 28.2 Each of the Securities Holders and the Company undertakes to the other to make all relevant employees, affiliates and agents aware of the confidentiality of the Information and the provisions of this article 28 and without prejudice to the generality of the foregoing to take all such steps as shall from time to time be necessary to ensure compliance by its employees, affiliates and agents with the provisions of this article 28.
- 28.3 Upon the expiration of this MOI or a Securities Holder ceasing to hold any Securities for any reason whatsoever, each Party shall promptly return the Information of the other, together with all copies, notes and reproductions in connection with such Information to the disclosing party.
- 28.4 Furthermore, the Securities Holders and the Company shall ensure that the utmost confidentiality is maintained in respect of any matter that may affect the Company negatively or any of the investments of the Company.
- 28.5 The Parties acknowledge and agree that the provisions of this article 28 shall survive the termination of this MOI.



29. **Severability**

Any provision in this MOI which is or may become illegal, invalid or unenforceable in any jurisdiction affected by this MOI shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be treated *pro non scripto* and severed from the balance of this MOI, without invalidating the remaining provisions of this MOI or affecting the validity or enforceability of such provision in any other jurisdiction.

30. **Variation, cancellation and waiver**

No contract varying, adding to, deleting from or cancelling this MOI, and no waiver of any right under this MOI, shall be effective unless reduced to writing and signed by or on behalf of the Parties and the provisions of the Companies Act in respect of any such amendment to the MOI have been complied with.

31. **Indulgences**

No indulgence granted by a Securities Holder and/or the Company shall constitute a waiver of any of that Securities Holder's and/or the Company's rights under this MOI; accordingly, that Securities Holder and/or the Company shall not be precluded, as a consequence of having granted such indulgence, from exercising any rights against the other which may have arisen in the past or which may arise in the future.

32. **Cession**

Save as expressly provided to the contrary in this MOI, no Securities Holder or the Company may cede its rights or delegate its obligations under this MOI without the prior written consent of the other Securities Holders and the Company.

33. **Applicable law**

This MOI shall be interpreted and implemented in accordance with the laws of the Republic of South Africa.

34. **Jurisdiction of South African courts**

The Securities Holders and the Company consent to the non-exclusive jurisdiction of the Eastern Cape Division of the High Court for any proceedings arising out of or in connection with this MOI.



Proxy Form

[insert name of Company] Proprietary Limited
Registration Number [insert]
("the Company")

This proxy form is for use by holders of any securities (as defined in the Companies Act, 2008 ("Companies Act")) and shall include without limitation ordinary shares, unless the context indicates differently, debt instruments (as defined in the Companies Act) ("Securities"), reflected from time to time in the register of Securities established or maintained by the Company ("Securities Holders").

For instructions on the use of this proxy form and a summary of the rights of the Securities Holder and the proxy, please see the instructions and notes at the end of this form.

I/We _____

(please print full names)

of _____

do hereby appoint

1. _____ or failing him / her

2. _____ or failing him / her

the chairperson of the meeting as my/our proxy, to vote for me/us on my/our behalf in respect of the resolutions proposed by the board of directors of the Company at the meeting or at any adjournment or postponement thereof, for the purpose of considering and, if deemed fit, passing with or without modification, the resolutions to be proposed thereat and to vote on such resolutions in respect of the Securities registered in my/our name.

The proxy may vote or abstain at his/her discretion.

Table with 5 columns and 3 rows, currently empty.

Signed at _____ on [insert]

Signature: _____



NOTES TO THE FORM OF PROXY

1. Instructions on signing and lodging the form of proxy

- 1.1 Securities Holders who hold Securities on the record date indicated in the notice of the meeting ("**the Notice**"), to which this form is attached, and who wish to appoint another person for the purposes of voting at the meeting are entitled to complete this proxy form.
- 1.2 This proxy form shall apply to all the Securities carrying voting rights entitled to be exercised at the meeting, registered in the name of Securities Holders at the record date, unless a lesser number of Securities are inserted.
- 1.3 A Securities Holder may insert the name of a proxy or the names of two alternative proxies of the Securities Holder's choice in the space/s provided. Any such proxy need not be a Securities Holder of the Company. If the name of the proxy is not inserted, the chairperson of the meeting will be appointed as proxy. If more than one name is inserted, then the person whose name stands first on the form of proxy and who is present at the meeting will be entitled to act as proxy to the exclusion of those whose names follow.
- 1.4 The proxy appointed in this proxy form may delegate the authority given to him in this proxy form by delivering to the Company, in the manner required by these instructions, a further proxy form which has been completed in a manner consistent with the authority given to the proxy in this proxy form.
- 1.5 Unless revoked, the appointment of a proxy in terms of this proxy form remains valid until the end of the meeting, even if the meeting or a part thereof is postponed or adjourned.
- 1.6 The proxy will be entitled to vote or abstain from voting, as he or she thinks fit, in relation to that resolution or matter.
- 1.7 This proxy form is revoked, if the Securities Holder who granted the proxy -
- 1.7.1 cancels the proxy appointment in writing; and
- 1.7.2 delivers a copy of the revocation instrument to the Company and to the proxy or proxies concerned, so that it is received by the Company by not later than 24 (twenty four) hours before the time of the meeting; or



- 1.7.3 makes a later, inconsistent appointment of a proxy.
- 1.8 If this proxy form is signed by a person on behalf of the Securities Holder, whether in terms of a power of attorney or otherwise, then this proxy form will not be effective unless -
- 1.8.1 it is accompanied by a certified copy of the authority given by the Securities Holder to such signatory; or
- 1.8.2 the Company has already received a certified copy of that authority.
- 1.9 The completion and lodging of this form of proxy will not preclude the relevant Securities Holder from attending, participating in and voting at the meeting, to the exclusion of any proxy appointed in terms thereof.
- 1.10 The chairperson of the meeting, may, at his discretion either reject a proxy form or other written appointment of a proxy which has not been completed and/or received in accordance with these instructions, or he/she may accept such proxy form or other written appointment of a proxy which is received prior to the time at which the meeting, deals with a resolution or matter to which the appointment of the proxy relates. However, the chairperson shall not accept any such appointment of a proxy unless the chairperson is satisfied that it reflects the intention of the Securities Holder appointing the proxy.
- 1.11 Any alterations or corrections made in this form of proxy must be initialled by the authorised signatory/ies.
- 1.12 A minor must be assisted by his/her parent or guardian unless the relevant documents establishing his/her legal capacity are produced.
- 1.13 Documentary evidence establishing the authority of a person signing the proxy form in a representative capacity must be attached to this proxy form.
- 1.14 If duly authorised, companies and other corporate bodies who are Securities Holders of the Company having Securities registered in their own name may, instead of completing this proxy form, appoint a representative to represent them and exercise all of their rights at the meeting, by giving written notice of the appointment of that representative. This notice will not be effective at the meeting, unless it is accompanied by a duly certified copy of the resolution/s or other authorities in terms of which that representative is appointed and is received



at the Company's registered office, not later than 24 (twenty four) hours before the time of the meeting.

2. **Summary of rights established by section 58 of the Companies Act, 71 of 2008 ("Companies Act"), as required in terms of subsection 58(8)(b)(i) of the Companies Act**

- 2.1 A Securities Holder may at any time appoint any individual, including a non-Securities Holder of the Company, as a proxy to participate in, speak and vote at a Securities Holders' meeting on his or her behalf (section 58(1)(a)), or to give or withhold consent on behalf of the Securities Holder to a decision in terms of section 60 (Securities Holders acting other than at a meeting) (section 58(1)(b)).
- 2.2 A proxy appointment must be in writing, dated and signed by the Securities Holder, and remains valid for one year after the date on which it was signed or any longer or shorter period expressly set out in the appointment, unless it is revoked in terms of paragraph 2.6.3 or expires earlier in terms of paragraph 2.10.3 (section 58(2)).
- 2.3 A Securities Holder may appoint two or more persons concurrently as proxies and may appoint more than one proxy to exercise voting rights attached to different securities held by the Securities Holder (section 58(3)(a)).
- 2.4 A proxy may delegate his or her authority to act on behalf of the Securities Holder to another person, subject to any restriction set out in the instrument appointing the proxy ("**proxy instrument**") (section 58(3)(b)).
- 2.5 A copy of the proxy instrument must be delivered to the Company, or to any other person acting on behalf of the Company, before the proxy exercises any rights of the Securities Holder at a Securities Holders' meeting (section 58(3)(c)) and in terms of the Memorandum of Incorporation ("**MOI**") of the Company before the scheduled time for commencement of the relevant meeting.
- 2.6 Irrespective of the form of instrument used to appoint a proxy -
- 2.6.1 the appointment is suspended at any time and to the extent that the Securities Holder chooses to act directly and in person in the exercise of any rights as a Securities Holder (section 58(4)(a));
- 2.6.2 the appointment is revocable unless the proxy appointment expressly states otherwise (section 58(4)(b)); and



- 2.6.3 if the appointment is revocable, a Securities Holder may revoke the proxy appointment by cancelling it in writing or by making a later, inconsistent appointment of a proxy, and delivering a copy of the revocation instrument to the proxy and to the Company (section 58(4)(c)).
- 2.7 The revocation of a proxy appointment constitutes a complete and final cancellation of the proxy's authority to act on behalf of the Securities Holder as of the later of the date stated in the revocation instrument, if any, or the date on which the revocation instrument was delivered as contemplated in paragraph 2.6.3 (section 58(5)).
- 2.8 If the proxy instrument has been delivered to a Company, as long as that appointment remains in effect, any notice required by the Companies Act or the Company's MOI to be delivered by the Company to the Securities Holder must be delivered by the Company to the Securities Holder (section 58(6)(a)), or the proxy or proxies, if the Securities Holder has directed the Company to do so in writing and paid any reasonable fee charged by the Company for doing so (section 58(6)(b)).
- 2.9 A proxy is entitled to exercise, or abstain from exercising, any voting right of the Securities Holder without direction, except to the extent that the MOI or proxy instrument provides otherwise (section 58(7)).
- 2.10 If a Company issues an invitation to Securities Holders to appoint one or more persons named by the Company as a proxy, or supplies a form of proxy instrument -
- 2.10.1 the invitation must be sent to every Securities Holder entitled to notice of the meeting at which the proxy is intended to be exercised (section 58(8)(a));
- 2.10.2 the invitation or form of proxy instrument supplied by the Company must -
- 2.10.2.1 bear a reasonably prominent summary of the rights established in section 58 of the Companies Act (section 58(8)(b)(i));
- 2.10.2.2 contain adequate blank space, immediately preceding the name(s) of any person(s) named in it, to enable a Securities Holder to write the name, and if desired, an alternative name of a proxy chosen by the Securities Holder (section 58(8)(b)(ii)); and



- 2.10.2.3 provide adequate space for the Securities Holder to indicate whether the appointed proxy is to vote in favour of or against any resolution(s) to be put at the meeting, or is to abstain from voting (section 58(8)(b)(iii));
- 2.10.2.4 the Company must not require that the proxy appointment be made irrevocable (section 58(8)(c)); and
- 2.10.3 the proxy appointment remains valid only until the end of the meeting at which it was intended to be used, subject to paragraph 2.7 (section 58(8)(d)).



Schedule 2

Taxiway ECHO								
 WINGS PARK PLOT ALLOCATION 50 Sites allocated Date: OCTOBER 2021 Non-Shareholder Site		E12	E10	E8	E6	E4	E2	
		D11	D9	D7	D5	D3	D1	
Taxiway DELTA								
		D12	D10	D8	D6	D4	D2	
		C11	C9	C7	C5	C3	C1	
Taxiway CHARLIE								
C16	C14		C12	C10	C8	C6	C4	C2
B15	B13		B11	B9	B7	B5	B3	B1
Taxiway BRAVO								
B14	B12		B10	B8	B6	B4	B2	
	A11 BORDER AVIATION CLUB		A9	A7	A5	A3	A1	
Taxiway ALPHA								
	A12 EAA HANGER							

