

THE COMPANIES ACT, NO. 71 OF 2008

(AS AMENDED)

MEMORANDUM OF INCORPORATION

OF

**WELVERDIEND PROPERTIES SHARE BLOCK PROPRIETARY
LIMITED**

A PRIVATE COMPANY

REGISTRATION NUMBER: 2004/008708/07

REGISTRATION DATE: 1 APRIL 2004

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1. INTERPRETATION

- 1.1. In this Memorandum of Incorporation, unless the context clearly indicates a contrary intention, the following words and expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings –
- 1.1.1. "**Act**" means the Companies Act, No. 71 of 2008, as amended, consolidated or re-enacted from time to time, and includes all Schedules to such Act and the Regulations;
- 1.1.2. "**Board**" means the board of Directors from time to time of the Company or if there is only one Director, then that Director;
- 1.1.3. "**Commission**" means the Companies and Intellectual Property Commission established by section 185;
- 1.1.4. "**Common Property**" means the whole of the Property excluding the respective Sites allocated to the various Share Blocks;
- 1.1.5. "**Company**" means the company named on the first page of this document, duly incorporated under the registration number endorsed thereon;
- 1.1.6. "**Deed of Adherence**" means a deed of adherence substantially in the form of the draft deed annexed hereto as Annexure B;
- 1.1.7. "**Director**" means a member of the Board as contemplated in section 66, or an alternate director, and includes any person occupying the position of a director or alternate director, by whatever name designated;
- 1.1.8. "**Electronic Communication**" has the meaning set out in section 1 of the Electronic Communications and Transactions Act, No 25 of 2002;
- 1.1.9. "**IFRS**" means the International Financial Reporting Standards, as adopted from time to time by the Board of the International Accounting Standards Committee, or its successor body, and approved for use in South Africa from time to time by the Financial Reporting Standards Council established in terms of section 203;
- 1.1.10. "**IFRS for SMEs**" means the International Financial Reporting Standards for Small and Medium Enterprises, as adopted from time to time by the Board of the International Accounting Standards Committee, or its successor body, and approved for use in South Africa from time to time by the Financial Reporting Standards Council established in terms of section 203;
- 1.1.11. "**Property**" means the Remaining Extent of Portion 6 of the Farm Welverdiend No. 243, Registration Division K.T. Northern Province, measuring 1309.6990 hectares held by the Company under title deed T10638/2018;
- 1.1.12. "**Regulations**" means the regulations published in terms of the Act from time to time;

- 1.1.13. **"Republic"** or **"South Africa"** means the Republic of South Africa;
- 1.1.14. **"Rights of Use"** means the rights of use as contemplated in the Use Agreement;
- 1.1.15. **"Rules"** means any rules made in respect of the Company from time to time as contemplated in section 15(3) to (5) of the Act and clause 39 hereof;
- 1.1.16. **"Schedule"** means Annexure A attached to and forming part of this Memorandum of Incorporation;
- 1.1.17. **"Securities"** means any Shares, debentures or other instruments, irrespective of their form or title, issued or authorised to be issued by the Company;
- 1.1.18. **"Securities Register"** means the register contemplated in section 50(1) of the Act and referred to in clause 9 hereof;
- 1.1.19. **"Share"** means one of the units into which the proprietary interest in the Company is divided;
- 1.1.20. **"Share Block"** means a number of Shares in the Company (each Share Block being constituted by the Shares in the Company set out in the Schedule) which entitle the registered holder thereof to exercise Rights of Use in respect of that part of the Property identified in the Schedule;
- 1.1.21. **"Share Blocks Act"** means the Share Blocks Control Act, No 59 of 1980, as amended, consolidated or re-enacted from time to time, and includes all Schedules to such Act and all regulations published in terms thereof from time to time;
- 1.1.22. **"Shareholder"** means the holder of a Share and who is entered as such in the Securities Register, subject to the provisions of section 57(1);
- 1.1.23. **"Site"** means one of the 35 sites situated on the Property, each having a building area extending by a radius of 20 metres from the respective co-ordinates set out in the Schedule;
- 1.1.24. **"Solvency and Liquidity Test"** has the meaning attributed thereto in section 4; and
- 1.1.25. **"Use Agreement"** means the agreement between each Shareholder and the Company, conferring a right to the use of the Property and setting out the terms and conditions for the exercise of such right.
- 1.2. In this Memorandum of Incorporation, unless the context clearly indicates otherwise –
- 1.2.1. words and expressions defined in the Act and which are not defined herein shall have the meanings given to them in the Act;
- 1.2.2. a reference to a section by number refers to the corresponding section of the Act notwithstanding the renumbering of such section after the date on which this Memorandum of Incorporation is lodged with the Commission for filing;

- 1.2.3. in any instance where there is a conflict between a provision (be it expressed, implied or tacit) of this Memorandum of Incorporation and –
 - 1.2.3.1. a provision of any Shareholders Agreement, the provision of this Memorandum of Incorporation shall prevail to the extent of the conflict;
 - 1.2.3.2. an alterable or elective provision of the Act, the provision of this Memorandum of Incorporation shall prevail to the extent of the conflict; and
 - 1.2.3.3. an unalterable or non-elective provision of the Act, the unalterable or non-elective provision of the Act shall prevail to the extent of the conflict unless the Memorandum of Incorporation imposes on the Company a higher standard, greater restriction, longer period of time or similarly more onerous requirement, in which event the relevant provision of this Memorandum of Incorporation shall prevail to the extent of the conflict;
- 1.2.4. clause headings are for convenience only and are not to be used in its interpretation;
- 1.2.5. an expression which denotes —
 - 1.2.5.1. any gender includes the other genders;
 - 1.2.5.2. a natural person includes a juristic person and *vice versa*; and
 - 1.2.5.3. the singular includes the plural and *vice versa*;
- 1.2.6. if the due date for performance of any obligation in terms of this Memorandum of Incorporation is a day which is not a business day then (unless otherwise stipulated), the due date for performance of the relevant obligation shall be the immediately succeeding business day;
- 1.2.7. any words or expressions defined in any clause shall, unless the application of any such word or expression is specifically limited to that clause, bear the meaning assigned to such word or expression throughout the whole of this Memorandum of Incorporation;
- 1.2.8. a reference to a consecutive series of two or more clauses is deemed to be inclusive of both the first and last mentioned clauses; and
- 1.2.9. any reference to a notice shall be construed as a reference to a written notice, and shall include a notice which is transmitted electronically in a manner and form permitted in terms of the Act and/or the Regulations.
- 1.3. Any reference in this Memorandum of Incorporation to –
 - 1.3.1. "**days**" shall be construed as calendar days unless qualified by the word "business", in which instance a "business day" will be any day other than a Saturday, Sunday or public holiday as gazetted by the government of the Republic from time to time;

- 1.3.2. **"law"** means any law of general application and includes the common law and any statute, constitution, decree, treaty, regulation, directive, ordinance, by-law, order or any other enactment of legislative measure of government (including local and provincial government) statutory or regulatory body which has the force of law and a reference to any statutory enactment shall be construed as a reference to that enactment as amended or substituted from time to time;
- 1.3.3. **"writing"** means legible writing and in English and includes printing, typewriting, lithography or any other mechanical process, as well as any electronic communication in a manner and a form permitted in terms of the Act and/or the Regulations.
- 1.4. The words **"include"** and **"including"** mean "include without limitation" and "including without limitation". The use of the words **"include"** and **"including"** followed by a specific example or examples shall not be construed as limiting the meaning of the general wording preceding it.
- 1.5. Unless otherwise provided in this Memorandum of Incorporation or the Act and/or the Share Blocks Act, defined terms appearing herein in title case shall be given their meaning as defined, while the same terms appearing in lower case shall (except where defined in the Act and/or the Share Blocks Act) be interpreted in accordance with their plain English meaning.
- 1.6. Where a particular number of business days is provided for between the happening of one event and another, the number of days must be calculated by excluding the day on which the first event occurs and including the day on which or by which the second event is to occur.
- 1.7. Any reference herein to **"this Memorandum of Incorporation"** or any to other agreement or document shall be construed as a reference to this Memorandum of Incorporation or, as the case may be, such other agreement or document, as amended, varied, novated or supplemented from time to time.

2. **JURISTIC PERSONALITY**

- 2.1. The Company is a pre-existing company as defined in the Act and, as such, continues to exist as a private company as if it had been incorporated and registered in terms of the Act, as contemplated in item 2 of the Fifth Schedule to the Act, and this Memorandum of Incorporation replaces and supersedes the Memorandum and Articles of Association of the Company applicable immediately prior to the filing hereof.
- 2.2. The Company is incorporated in accordance with and governed by –
- 2.2.1. the unalterable provisions of the Act, subject only to such higher standards, greater restrictions, longer periods of time or similarly more onerous requirements as may be imposed on the Company by this Memorandum of Incorporation in relation to such unalterable provisions;

- 2.2.2. the alterable provisions of the Act, subject to the limitations, extensions, variations or substitutions set out in this Memorandum of Incorporation;
- 2.2.3. the other provisions of this Memorandum of Incorporation; and
- 2.2.4. its Rules, if any.

3. PRIVATE COMPANY PROVISIONS

The Company is a private company, and accordingly –

- 3.1. the transferability of the Securities of the Company is restricted as provided in this Memorandum of Incorporation; and
- 3.2. any offer to the public to subscribe for any Securities of the Company is prohibited.

4. LIMITATION OF LIABILITY

No person shall, solely by reason of being an incorporator, Shareholder or Director of the Company, be liable for any liabilities or obligations of the Company.

5. MAIN OBJECT AND POWERS OF THE COMPANY

- 5.1. The main object of the Company is to operate a share block scheme in respect of the Property.
- 5.2. The Company shall only have those powers as may be necessary to enable it to realise, subject to the provisions of the Share Blocks Act, its main object referred to in clause 5.1 and objects ancillary to that main object.
- 5.3. The Company shall not have the power, save with the approval by special resolution, to alienate or cede, as the case may be, any immovable property of which it is the owner or any of its rights to immovable property of which it is not the owner and in respect of which it operates a share block scheme.
- 5.4. The Company shall not have the power, save as in accordance with section 14 of the Share Blocks Act, to increase its loan obligations as defined in that Act.

6. RESTRICTIVE CONDITIONS

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

7. APPLICATION OF OPTIONAL PROVISIONS OF THE ACT

- 7.1. The Company does not elect, in terms of section 34(2), to comply voluntarily with the extended accountability provisions set out in Chapter 3 of the Act.

- 7.2. The Company, being a private company, does not elect in terms of section 118(1)(c)(ii) to submit voluntarily to the provisions of Parts B and C of Chapter 5 of the Act and to the Takeover Regulations provided for in the Act.

8. SHARES

- 8.1. The Company is authorised to issue 3500 ordinary Shares of the same class, with a par value of R1 each, each of which entitles the holder to –
- 8.1.1. vote on any matter to be decided by the Shareholders of the Company and to 1 vote in the case of a vote by means of a poll;
- 8.1.2. participate proportionally in any distribution made by the Company; and
- 8.1.3. receive proportionally the net assets of the Company upon its liquidation.
- 8.2. The authorised Shares of the Company set out in clause 8.1 are apportioned into 35 Share Blocks, numbered 1 to 35, as set out in the third column of the Schedule, each of which corresponds to (and is linked to) one of the 35 Sites situated on the Property, which Sites are set out in the fourth column of the Schedule.
- 8.3. The Shares comprising each Share Block shall entitle the holder thereof to –
- 8.3.1. the exclusive use, occupation and enjoyment of the Site to which such Share Block is allocated as indicated in the Schedule; and
- 8.3.2. the shared use of the Common Property in common with all the other Shareholders, subject to this Memorandum of Incorporation and the Use Agreement, until the liquidation of the Company or cancellation of all the Share Blocks.
- 8.4. The Board may, subject to the approval of the Shareholders by way of special resolution, resolve to issue Shares of the Company at any time, but only within the classes and to the extent that those Shares have been authorised by or in terms of this Memorandum of Incorporation.
- 8.5. No provision of this Memorandum of Incorporation shall be construed as detracting from the principle, in accordance with section 3(1)(b) of the Share Blocks Act, that each Share of the Company shall entitle the holder thereof to a vote at a meeting of the Company.

9. LIEN ON SHARES

- 9.1. The Company shall have a first lien on every Share comprising every Share Block for all amounts owed to it, whether the time for payment has arrived or not, including the costs of any proceedings instituted by the Company in respect of the recovery of such amounts.

- 9.2. The Directors may enforce the lien, subject to clause 9.3, and 9.4 by selling the Share at such time or times and in such manner and upon such terms and conditions as they may think fit. No sale shall be made in terms of this clause 9 unless an amount is then payable and remains unpaid notwithstanding 14 days' notice to the Shareholder, stating the amount and demanding payment of such amount, and stating the Directors' intention to sell the Share if payment has not been made within the period of 14 days.
- 9.3. No sale of shares shall take place without first being subject to the pre-emption rights enjoyed by other shareholders under clause 15.4 and 15.5.
- 9.4. Should any Share be subject to any cession in security in respect of which the Company shall have received written notice, the Company shall give the cessionary concerned 21 days' notice at the address furnished by the cessionary to the Company, to remedy the breach of the Shareholder, failing which the Company shall be entitled to proceed with the sale. No cessionary shall have any prior claim against the Company.
- 9.5. The net proceeds of any such sale shall firstly be applied in or towards the satisfaction of the amount owed to the Company and the balance, if any, shall be paid to a cessionary who shall have given the Company notice as provided for in clause 9.3 or to the Shareholder, as the case may be.
- 9.6. Upon any such sale, the Directors may enter the purchaser's name in the Securities Register of the Company, and the purchaser's title shall not be affected by any irregularities or invalidity in the proceedings in relation to the sale.
- 9.7. An affidavit by a Director or the company secretary of the Company, whose designation need not be proved, that the Share has been duly sold in accordance with this clause 9, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to such Share or its proceeds. Such affidavit, and a receipt of the Company for the purchase price of the Share, shall constitute a good title to such Share and the validity of the sale may not be questioned by any person.

10. **SECURITIES REGISTER**

- 10.1. Securities of the Company are to be issued only in certificated form.
- 10.2. Notwithstanding anything to the contrary herein contained, where Shares are registered in the names of 2 or more persons, they shall be treated as 1 Shareholder for the purposes of this Memorandum of Incorporation.
- 10.3. The Company must establish or cause to be established a register of its issued Securities in the form prescribed by the Act and the Regulations and maintain such register in accordance with the prescribed standards.
- 10.4. As soon as practicable after the issue or transfer of any Securities, as the case may be, the Company must enter or cause to be entered in the Securities Register, in respect of every class of Securities it has issued or which have been transferred –

- 10.4.1. the total number of those Securities that are held in uncertificated form;
- 10.4.2. with respect to certificated Securities –
 - 10.4.2.1. the names and addresses of the persons to whom the Securities were issued or transferred;
 - 10.4.2.2. the number of Securities issued or transferred to each of them;
 - 10.4.2.3. the number of, and prescribed circumstances relating to, any Securities that have been placed in trust as contemplated in section 40(6)(d) or whose transfer has been restricted;
 - 10.4.2.4. in the case of Securities other than Shares as contemplated in section 43, the number of those Securities issued and outstanding, or the names and addresses of the registered owners of the Securities and any holders of beneficial interests therein; and
 - 10.4.2.5. any other prescribed information.
- 10.5. The Securities Register maintained in accordance with the Act shall be sufficient proof of the facts recorded in it, in the absence of evidence to the contrary.
- 10.6. Unless all the Shares rank equally for all purposes, the Shares, or each class of Shares, and any other Securities, must be distinguished by an appropriate numbering system.
- 10.7. A certificate evidencing any certificated Securities of the Company –
 - 10.7.1. must state on its face –
 - 10.7.1.1. the name of the Company;
 - 10.7.1.2. the name of the person to whom the Securities were issued or transferred;
 - 10.7.1.3. the number and class of Shares and designation of the series, if any, evidenced by that certificate; and
 - 10.7.1.4. any restriction on the transfer of the Securities evidenced by that certificate;
 - 10.7.2. must be signed by 2 persons authorised by the Board, which signatures may be affixed or placed on the certificate by autographic, mechanical or electronic means; and
 - 10.7.3. is proof that the named Security holder owns the Securities, in the absence of evidence to the contrary.
- 10.8. A certificate remains valid despite the subsequent departure from office of any person who signed it.

- 10.9. If, as contemplated in clause 10.6, all of the Shares rank equally for all purposes, and are therefore not distinguished by a numbering system –
- 10.9.1. each certificate issued in respect of those Shares must be distinguished by a numbering system; and
- 10.9.2. if the Share has been transferred, the certificate must be endorsed with a reference number or similar device that will enable each preceding holder of the Share in succession to be identified,

provided that in terms of Schedule 5 of the Act, as the Company is a pre-existing company (as defined in the Act), the failure of any Share certificate to satisfy the provisions of clauses 10.7 to 10.9 is not a contravention of the Act and does not invalidate that certificate.

11. COPIES OF USE AGREEMENTS

The Company shall keep a copy of every signed Use Agreement and any amendment thereof in accordance with the provisions of the Share Blocks Act.

12. TRANSFER OF SECURITIES

- 12.1. The instrument of transfer, which shall be the Company's standard Share Sale Agreement in force from time to time, of any Security shall be signed by both the transferor and the transferee and the transferor shall be deemed to remain the holder of such Security until the name of the transferee is entered in the Securities Register. The Directors may, however, in their discretion dispense with the signature of the transferee in such cases as they deem fit.
- 12.2. Securities transfer tax and other legal costs payable in respect of any transfer of Securities pursuant to this Memorandum of Incorporation will be paid by the Company to the extent that the Company is liable therefor in law, but shall, to that extent, be recoverable from the person acquiring such Securities.
- 12.3. Subject to such restrictions as may be applicable (whether by virtue of the preferences, rights, limitations or other terms associated with the Securities in question), and particularly to the provisions of this clause 12 and clause 13, any Shareholder or holder of other Securities may only transfer all or any of its Shares or other Securities by a form which the Directors have approved.
- 12.4. Every instrument of transfer shall be delivered to the principal place of business of the Company, accompanied by –
- 12.4.1. the certificate issued in respect of the Securities to be transferred; and/or
- 12.4.2. such other evidence as the Company may require to prove the title of the transferor, or his or her right to transfer the Securities.

12.5. All authorities to sign transfer deeds granted by holders of Securities for the purpose of transferring Securities which may be lodged, produced or exhibited with or to the Company or its registered office shall, as between the Company and the grantor of such authorities, be taken and deemed to continue and remain in full force and effect, and the Company may allow the same to be acted upon until such time as express notice in writing of the revocation of the same shall have been given and lodged at such of the Company's offices at which the authority was first lodged, produced or exhibited. Even after the giving and lodging of such notice, the Company shall be entitled to give effect to any instruments signed under the authority to sign and certified by any officer of the Company as being in order before the giving and lodging of such notice.

12.6. All instruments of transfer, when registered, shall either be retained by the Company or disposed of in such manner as the Directors shall from time to time decide. Any instrument of transfer which the Directors may decline to register shall (unless the Directors shall resolve otherwise) be returned on demand to the person who lodged it.

13. RESTRICTIONS ON THE DISPOSAL OF SHARES

13.1. No Share in the Company may be transferred without the prior approval of the Board, which approval shall not, however, be unreasonably withheld, provided that no such consent shall be necessary for the transfer of Shares from a Shareholder or holder of Securities, his executor, administrator or other legal representative to the spouse or any dependant of such Shareholder.

13.2. No Shares in the Company may be transferred unless –

13.2.1. all the other Shares, which together with that Share, comprise the relevant Share Block; and

13.2.2. the rights and obligations of the Shareholder concerned under the Use Agreement, are, prior to or simultaneously with such transfer, transferred, ceded and delegated to the same transferee.

13.3. Shares may only be disposed of in accordance with the provisions of this Memorandum of Incorporation and no disposal of any Shares which conflicts with any provision hereof shall be approved nor be permitted to be registered.

13.4. Subject to any other express provisions of Memorandum of Incorporation to the contrary –

13.4.1. the Directors shall not register the transfer of a Share unless they are satisfied that the provisions of this Memorandum of Incorporation have been complied with (to the extent that they are applicable), nor shall they register the transfer of a Share where it is disposed of contrary to the provisions of clauses 13.1 and/or 13.2;

- 13.4.2. the Directors may decline to recognise an instrument of transfer, unless the instrument of transfer is accompanied by the certificate of the Shares to which it relates and such other evidence as the Directors may reasonably require to show the right of the transferor make the transfer; and
- 13.4.3. if the Directors refuse to register the transfer of a Share they shall give notice of that refusal to the proposed transferor and transferee within 14 days immediately following the date on which the relevant transfer form is lodged at the Company's principal place of business.
- 13.5. No beneficial holder of any Share that is registered in the Securities Register in the name of a nominee (such nominee therefore being a Shareholder in respect of such Share) shall dispose of such Share unless such nominee, in relation to the disposal or intended disposal in question, complies with all of the provisions of this Memorandum of Incorporation as fully and effectually as if the Share in question was owned by the nominee Shareholder in question.

14. TRANSMISSION OF SECURITIES

- 14.1. The executor of the estate of a deceased sole holder of a Security shall be the only person recognised by the Company as having any title to the Security. In the case of a Security registered in the names of 2 or more holders, the survivor or survivors, or the executor of any deceased Shareholder shall be the only person recognised by the Company as having any title to the Security. Any person who submits proof of his appointment as the executor, administrator, trustee, curator, or guardian in respect of the estate of a deceased Shareholder or holder of other Securities ("**Security Holder**") of the Company, or of a Security Holder whose estate has been sequestered or of a Security Holder who is otherwise under a disability or as the liquidator of any body corporate which is a Security Holder of the Company, shall be entered in the Securities Register of the Company *nomine officii*, and shall thereafter, for all purposes, be deemed to be a Security Holder of the Company.
- 14.2. Subject to the provisions of clause 14.1, any person becoming entitled to any Security by virtue of the death of a Security Holder shall, upon producing such evidence that he has such title or rights as the Directors think sufficient, have the right either to have such Security transferred to himself or to make such other transfer of the Security as such Security Holder could have made: provided that in respect of a transfer other than to himself –
- 14.2.1. the Directors shall have the same right to refuse or suspend registration as they would have had in the case of a proposed transfer of such Security by such Security Holder before his death; and
- 14.2.2. a person becoming entitled to any Security shall not, unless and until he is himself registered as a Security Holder in respect of such Security, be entitled to exercise any

voting or other right attaching to such Security or any other right relating to meetings of the Company.

15. VOLUNTARY DISPOSAL OF SHARES AND RIGHTS OF PRE-EMPTION

- 15.1. Save for any other provision contained herein, a Shareholder who wishes to dispose of any Share Block shall not be entitled to do so unless –
 - 15.1.1. such disposal is pursuant to a sale in terms of which the entire purchase price is expressed to be, and is payable, in the currency of South Africa against transfer of the Shares in question; and
 - 15.1.2. if such Shareholder is indebted to the Company, it simultaneously repays to the Company all amounts owing by it to the Company; and
 - 15.1.3. such sale is permitted in terms of the following provisions of this clause 15.
- 15.2. Any Shareholder who wishes to sell any Share Block owned by it or who receives an offer from a *bona fide* third party for the purchase of any Share Block and wishes to accept same ("**Transferor**"), shall give notice ("**Transfer Notice**") to the Board that it wishes to transfer such Shares. The Transfer Notice shall specify —
 - 15.2.1. the Share Block which the Transferor proposes to sell;
 - 15.2.2. the intended selling price thereof ("**Sale Consideration**");
 - 15.2.3. where the Transferor has received an offer for the purchase of its Share Block ("**Third Party Offer**"), the identity of the *bona fide* third party purchaser ("**Third Party Purchaser**") and shall be accompanied by a true copy of the offer from the Third Party Purchaser, to the extent that the offer is in writing; and
 - 15.2.4. all the terms and conditions of the Third Party Offer to the extent that such terms and conditions are not in writing.
- 15.3. The Transfer Notice shall not be revocable except with the written consent of the remaining Shareholders and shall be deemed to have designated the Board the agent of the Transferor for the sale and transfer of the Share Block at the Sale Consideration.
- 15.4. The Company shall procure that, within 7 days of the Board receiving the Transfer Notice, notice ("**Board Notice**") shall be given to all other Shareholders of the Share Block which the Transferor proposes to sell, the name of the Third Party Purchaser (to the extent applicable), the Sale Consideration and the terms of payment required, together with the terms and conditions of the Third Party Offer, if any, (to the extent that such terms and conditions are not in writing) and, to the extent that such terms and conditions are in writing, a copy of such writing.
- 15.5. The Board Notice shall call on each Shareholder to inform the Board by way of notice by a date stated by the Board (which stated date shall not be less than 30 days and not

more than 40 days after the giving of the Board Notice to the Shareholder which receives such notice last) whether it wishes to acquire the applicable Share Block on the terms so offered. Any such notification given to the Board by any Shareholder shall, provided it is accompanied by reasonable proof of such Shareholder's ability to pay timeously for the Share Block referred to in the notification, be deemed to be an irrevocable offer by such Shareholder to purchase the applicable Share Block.

- 15.6. In the event of the Board receiving an offer from any Shareholder to purchase the applicable Share Block, the Board shall, within a period of not more than 7 days following such receipt –
 - 15.6.1. sell such Share Block to such Shareholder at the Sale Consideration and give notice of such sale to the Transferor, whereupon the Transferor shall be obliged, on payment to it of the Sale Consideration, to transfer such Shares to the purchaser thereof; and
 - 15.6.2. advise all remaining Shareholders thereof (including any other Shareholders who may have submitted offers subsequent to receipt by the Board of the first offer, each of whose offers will be deemed to have been declined).
- 15.7. In the event that the Board receives no offers from willing Shareholders to purchase the applicable Share Block during the period contemplated in clause 15.5, advise the Transferor accordingly, and the Transferor shall, at any time within 90 days thereafter, but not thereafter without again offering the Share Block in terms of clauses 15.2 to 15.5 (inclusive), be at liberty to transfer such Share Block to the Third Party Purchaser or (in the absence of a Third Party Offer contemplated in clause 15.2) to any third party at a price and on terms not more favourable to the Third Party Purchaser or such person than the price at, and the terms on which the same was made available to the Shareholders in terms of the foregoing, provided that –
 - 15.7.1. the Third Party Purchaser or other third party, as the case may be, agrees in writing to be bound by the provisions of the Use Agreement in terms of a Deed of Adherence; and
 - 15.7.2. the sale may incorporate such warranties and indemnities to be given by the Transferor in respect of the Share Block as are required by the Third Party Purchaser or other third party, as the case may be, and agreed to by the Transferor.
- 15.8. If the Transferor fails to transfer any Share Block pursuant to the above provisions, the Board may in its name transfer the Share Block to the purchaser and may give a good receipt to the purchaser for the purchase price and issue to the purchaser certificates for the Shares in question, and in such event the Board shall hold the purchase price, free of interest, until such time as the Transferor shall have delivered up its Share certificates and any other documents evidencing the Share Block in question, when such purchase price shall be paid in full. For purposes of this clause 15.8, the Shareholders irrevocably appoint any one of the Directors as their attorney and agent to sign all documents and to

do all such things that may be necessary to register the transfer of such Shares on their behalf.

16. **BENEFICIAL INTERESTS IN SECURITIES**

The Company's issued Securities may be held by, and registered in the name of, one person for the beneficial interest of another person as set out in section 56(1).

17. **ACQUISITION BY THE COMPANY OF ITS OWN SHARES**

17.1. In accordance with and subject to the provisions of section 48 and subject to the further provisions of this clause 18 the Board duly authorised by the members by way of a Special Resolution may determine that the Company acquire a number of its own Shares.

17.2. Any decision by the Company to acquire its own Shares must satisfy the requirements of section 46 and, accordingly, the Company may not acquire its own Shares unless –

17.2.1. the acquisition –

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

17.2.1.2. the Board, by resolution, has authorised the acquisition;

17.2.2. it reasonably appears that the Company will satisfy the Solvency and Liquidity Test immediately after completing the said acquisition; and

17.2.3. the Board, by resolution, has acknowledged that it has applied the Solvency and Liquidity Test and reasonably concluded that the Company will satisfy the Solvency and Liquidity Test immediately after completing the said acquisition.

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

17.3.1. Shares held by one or more subsidiaries of the Company; or

17.3.2. convertible or redeemable Shares.

18. **SINGLE SHAREHOLDER'S AUTHORITY TO ACT**

18.1. If, at any time, as contemplated in section 57(2), the Company has only 1 Shareholder –

18.1.1. that Shareholder may exercise any and all of the voting rights pertaining to the Company, at any time, without notice or compliance with any other internal formalities as set out in that section, and such power is not limited or restricted by this Memorandum of Incorporation; and

- 18.1.2. the provisions of clauses 20 (Record Date for Exercise of Shareholder Rights), 21 (Shareholders' Meetings), 22 (Shareholders' Meetings by Electronic Communication), 23 (Votes of Shareholders), 25 (Shareholders' Resolutions) and 26 (Shareholders Acting Other Than at a Meeting) shall not apply to the Company.
- 18.2. If at any time every Shareholder is also a Director —
- 18.2.1. any matter that is required to be referred by the Board to the Shareholders for decision may be decided by the Shareholders at any time after being referred by the Board, without notice or compliance with any other internal formalities, provided that —
- 18.2.1.1. every such person was present at the Board meeting when the matter was referred to them in their capacity as Shareholders;
- 18.2.1.2. sufficient persons are present in their capacity as Shareholders to satisfy the quorum requirements set out in clause 21.4.1;
- 18.2.1.3. a resolution adopted by those persons in their capacity as Shareholders has at least the support that would have been required for it to be adopted as an ordinary resolution or special resolution, as the case may be, at a properly constituted Shareholders' meeting; and
- 18.2.2. when acting in their capacity as Shareholders, those persons are not subject to the provisions of sections 73 to 78 relating to the duties, obligations, liabilities and indemnification of Directors.

19. RECORD DATE FOR EXERCISE OF SHAREHOLDER RIGHTS

- 19.1. The Board may set a record date for the purpose of determining which Shareholders are entitled to —
- 19.1.1. receive notice of a Shareholders' meeting;
- 19.1.2. participate in and vote at a Shareholders' meeting;
- 19.1.3. decide any matter by written consent or by Electronic Communication;
- 19.1.4. receive a distribution; or
- 19.1.5. be allotted or exercise other rights.
- 19.2. A record date determined by the Board —
- 19.2.1. may not be earlier than the date on which the record date is determined or more than 10 business days before the date on which the event or action, for which the record date is being set, is scheduled to occur; and
- 19.2.2. must be published to the Shareholders in a manner that satisfies any prescribed requirements.

- 19.3. If, at any time, the Board fails to determine a record date for any action or event, the record date shall be –
- 19.3.1. in the case of a meeting, the latest date by which the Company is required to give Shareholders notice of that meeting; or
- 19.3.2. in any other case, the date of the relevant action or event.

20. SHAREHOLDERS' MEETINGS

20.1. Calling of Shareholders' Meetings

- 20.1.1. The Board, or any prescribed officer of the Company authorised by the Board, is entitled to call a Shareholders' meeting at any time.
- 20.1.2. Subject to clause 19.1 and to the provisions of section 60 dealing with the passing of resolutions of Shareholders otherwise than at a meeting of Shareholders, the Company shall hold a Shareholders' meeting –
- 20.1.2.1. at any time that the Board is required by the Act or this Memorandum of Incorporation to refer a matter to Shareholders for decision; or
- 20.1.2.2. whenever required in terms of the Act to fill a vacancy on the Board; or
- 20.1.2.3. when required in terms of clause 21.1.3 or by any other provision of this Memorandum of Incorporation.
- 20.1.3. The Board shall call a meeting of Shareholders if 1 or more written and signed demands calling for such a meeting are delivered to the Company and –
- 20.1.3.1. each such demand describes the specific purpose for which the meeting is proposed; and
- 20.1.3.2. in aggregate, demands for substantially the same purpose are made and signed by the holders, at the earliest time specified in any of those demands, of at least 10% of the voting rights entitled to be exercised in relation to the matter proposed to be considered at the meeting.

20.2. Annual General Meetings

- 20.2.1. Notwithstanding any provision of the Act to the contrary, and in addition to other meetings of the Company that may be convened from time to time, the Company shall convene an annual general meeting of its Shareholders once in each calendar year, but no more than 9 months after the Financial Year End of the Company, provided that any such annual general meeting shall be capable of being held by Electronic Communication in accordance with the further provisions of this Memorandum of Incorporation.

- 20.2.2. Each annual general meeting of the Company contemplated in clause 21.2.1 shall provide for at least the following business to be transacted –
- 20.2.2.1. the presentation of the financial statements for the immediately preceding financial year of the Company;
 - 20.2.2.2. the election of Directors, to the extent required by the Act or by this Memorandum of Incorporation;
 - 20.2.2.3. the appointment of an auditor for the following financial year, to the extent that the annual financial statements of the Company are required to be audited in terms of the Act or by this Memorandum of Incorporation; and
 - 20.2.2.4. any matters raised by the Shareholders, with or without advance notice to the Company.
- 20.2.3. Save as otherwise provided herein, the Company is not required to hold any other Shareholders' meetings other than those specifically required by the Act.

20.3. Location and Notices of Meetings

- 20.3.1. The Board may determine the location of any Shareholders' meeting, and the Company may hold any such meeting in the Republic or in any foreign country, and the authority of the Board and the Company in this regard is not limited or restricted by this Memorandum of Incorporation.
- 20.3.2. The minimum number of days for the Company to deliver a notice of a Shareholders' meeting to the Shareholders as required by section 62 is as provided for in section 62(1) and, accordingly, any such notice shall be delivered to all Shareholders as of the record date for the meeting at least 15 business days before the meeting is to begin.

20.4. Quorum and Adjournment of Meetings

- 20.4.1. The quorum requirement for a Shareholders' meeting to begin or for a matter to be considered are as set out in section 64(1) without variation and, accordingly –
 - 20.4.1.1. a Shareholders' meeting may not begin until sufficient persons are present at the meeting to exercise, in aggregate, at least 25% of the voting rights that are entitled to be exercised in respect of at least one matter to be decided at the meeting; and
 - 20.4.1.2. a matter to be decided at a Shareholders' meeting may not begin to be considered unless sufficient persons are present at the meeting to exercise, in aggregate, at least 25% of all of the voting rights that are entitled to be exercised in respect of that matter at the time the matter is called on the agenda,
- provided that, if the Company has more than 2 Shareholders, a meeting may not begin, or a matter begin to be debated, unless –

- 20.4.1.3. at least 3 Shareholders are present at the meeting; and
 - 20.4.1.4. the requirements of clauses 21.4.1.1 and 21.4.1.2 are satisfied.
 - 20.4.2. The time periods allowed in section 64(4) and (5) apply to the Company without variation and, accordingly, if within 1 hour after the appointed time for a meeting to begin, the requirements of clause 21.4.1 –
 - 20.4.2.1. for that meeting to begin have not been satisfied, the meeting is postponed, without any motion, vote or further notice, for 1 week;
 - 20.4.2.2. for consideration of a particular matter to begin have not been satisfied –
 - 20.4.2.2.1. if there is other business on the agenda of the meeting, consideration of that matter may be postponed to a later time in the meeting without any motion or vote; or
 - 20.4.2.2.2. if there is no other business on the agenda of the meeting, the meeting is adjourned, without any motion or vote, for 1 week,
- provided that the person intended to chair a meeting that cannot begin due to the operation of clause 21.4.1 may extend the 1 hour limit allowed in clause 21.4.2 for a reasonable period on the grounds that –
- 20.4.2.3. exceptional circumstances affecting weather, transportation or Electronic Communication have generally impeded or are generally impeding the ability of Shareholders to be present at the meeting; or
 - 20.4.2.4. one or more particular Shareholders, having been delayed, have communicated an intention to attend the meeting, and those Shareholders, together with others in attendance, would satisfy the requirements of clause 21.4.1.
- 20.4.3. The accidental omission to give notice of any meeting to any particular Shareholder or Shareholders, or an immaterial defect in the manner or form of giving notice of any such meeting, shall not invalidate any resolution passed at any such meeting.
- 20.4.4. The Company shall not be required to give further notice of a meeting that has been postponed or adjourned in terms of clause 21.4.2 unless the location for the meeting is different from –
 - 20.4.4.1. the location of the postponed or adjourned meeting; or
 - 20.4.4.2. the location announced at the time of adjournment, in the case of an adjourned meeting.
- 20.4.5. If at the time appointed in terms of clause 21.4.2 for a postponed meeting to begin, or for an adjourned meeting to resume, the requirements of clause 21.4.1 have not been

satisfied, the Shareholders present in person or by proxy will be deemed to constitute a quorum.

20.4.6. After a quorum has been established for a meeting, or for a matter to be considered at a meeting, the meeting may continue, or the matter may be considered, so long as at least 1 Shareholder with voting rights entitled to be exercised at the meeting, or on that matter, is present at the meeting, and the provisions of section 64(9) are not limited or restricted by this Memorandum of Incorporation.

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

20.5. Conduct of Meetings

20.5.1. The chairperson, if any, of the Board shall preside as chairperson at every Shareholder's meeting.

20.5.2. If there is no such chairperson, or if at any meeting he or she is not present within 15 minutes after the time appointed for holding the meeting or is unwilling to act as chairperson, the Directors present shall choose 1 of their number to be chairperson. If no Director is willing to act as chairperson or if no Director is present within 15 minutes after the time appointed for holding the meeting, the Shareholders present shall choose one of their number to be chairperson of the meeting.

20.5.3. The chairperson of a Shareholders' meeting may —

20.5.3.1. appoint any firm or persons to act as scrutineers for the purpose of checking any powers of attorney received and for counting the votes at the meeting;

20.5.3.2. act on a certificate given by any such scrutineers without requiring production at the meeting of the forms of proxy or himself counting the votes.

20.5.4. If any votes were counted which ought not to have been counted or if any votes were not counted which ought to have been counted, the error shall not vitiate the resolution, unless —

20.5.4.1. it is brought to the attention of the chairperson at the meeting; and

20.5.4.2. in the opinion of the chairperson of the meeting, it is of sufficient magnitude to vitiate the resolution.

20.5.5. Any objection to the admissibility of any vote (whether on a show of hands or on a poll) shall be raised —

20.5.5.1. at the meeting or adjourned meeting at which the vote objected to was recorded; or

20.5.5.2. at the meeting or adjourned meeting at which the result of the poll was announced,

and every vote not then disallowed shall be valid for all purposes. Any objection made timeously shall be referred to the chairperson of the meeting, whose decision shall be final and conclusive.

20.5.6. Even if he is not a Shareholder —

20.5.6.1. any Director; or

20.5.6.2. the Company's attorney (or where the Company's attorneys are a firm, any partner or director thereof),

may attend and speak at any general meeting, but may not vote, unless he is a Shareholder or the proxy or representative of a Shareholder.

21. **SHAREHOLDERS' MEETINGS BY ELECTRONIC COMMUNICATION**

21.1. The Company may conduct a Shareholders' meeting entirely by Electronic Communication or provide for participation in a meeting by Electronic Communication, as set out in section 63, and the power of the Company to do so is not limited or restricted by this Memorandum of Incorporation. Accordingly –

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

21.1.2. one or more Shareholders, or proxies for Shareholders, may participate by Electronic Communication in all or part of any Shareholders' meeting that is being held in person,

so long as the Electronic Communication employed ordinarily enables all persons participating in that meeting to communicate concurrently with each other and without an intermediary, and to participate reasonably effectively in the meeting.

21.2. Any notice of any meeting of Shareholders at which it will be possible for Shareholders to participate by way of Electronic Communication shall inform Shareholders of the ability to so participate and shall provide any necessary information to enable Shareholders or their proxies to access the available medium or means of Electronic Communication, provided that such access shall be at the expense of the Shareholder or proxy concerned.

22. **VOTES OF SHAREHOLDERS**

22.1. Subject to any special rights or restrictions as to voting attached to any Shares by or in accordance with this Memorandum of Incorporation, at a meeting of the Company –

22.1.1. every person present and entitled to exercise voting rights shall be entitled to 1 vote on a show of hands, irrespective of the number of voting rights that person may otherwise be entitled to exercise; and

- 22.1.2. on a poll any person who is present at the meeting, whether as a Shareholder or as proxy for a Shareholder, has one vote for each Share held by that Shareholder.
- 22.2. Voting shall be conducted by means of a polled vote in respect of any matter to be voted on at a meeting of Shareholders if a demand is made for such a vote by –
- 22.2.1. at least 5 persons having the right to vote on that matter, either as Shareholders or as proxies representing Shareholders; or
- 22.2.2. a person who is, or persons who together are, entitled, as Shareholders or proxies representing Shareholders, to exercise at least 10% of the voting rights entitled to be voted on that matter; or
- 22.2.3. the chairperson of the meeting.
- 22.3. At any meeting of the Company a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded in accordance with the provisions of clause 23.2, and unless a poll is so demanded, a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously or by a particular majority or defeated, and an entry to that effect in the book containing the minutes of the proceedings of the Company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution. The demand for a poll may be withdrawn.
- 22.4. If a poll is duly demanded, it shall be taken in such manner as the chairperson directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. In computing the majority on the poll, regard shall be had to the number of votes to which each Shareholder is entitled.
- 22.5. In the case of an equality of votes, whether on a show of hands or on a poll, the chairperson of the meeting at which the show of hands takes place, or at which the poll is demanded, shall be entitled to a second or casting vote.
- 22.6. A poll demanded on the election of a chairperson (as contemplated in clause 21.5.2) or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairperson of the meeting directs. The demand for a poll shall not prevent the continuation of a meeting for the transaction of any business other than the question upon which the poll has been demanded.
- 22.7. Where there are joint registered holders of any Share, any 1 of such persons may exercise all of the voting rights attached to that Share at any meeting, either personally or by proxy, as if he or she were solely entitled thereto. If more than 1 of such joint holders is present at any meeting, personally or by proxy, the person so present whose name stands first in the Securities Register in respect of such Share shall alone be entitled to vote in respect thereof.

22.8. The board of any company or the controlling body of any other entity or person that holds any Securities of the Company may authorise any person to act as its representative at any meeting of Shareholders of the Company, in which event the following provisions will apply –

22.8.1. the person so authorised may exercise the same powers of the authorising company, entity or person as it could have exercised if it were an individual holder of Shares; and

22.8.2. the authorising company, entity or person shall lodge a resolution of the directors of such company or controlling body of such other entity or person confirming the granting of such authority, and certified under the hand of the chairperson or secretary thereof, with the Company before the commencement of any Shareholders' meeting at which such person intends to exercise any rights of such Shareholder, unless excused from doing so by the chairperson of such meeting.

23. PROXIES AND REPRESENTATIVES

23.1. Any Shareholder may at any time appoint any natural person (or two or more natural persons concurrently), including a natural person who is not a Shareholder, as a proxy to –

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

23.1.2. give or withhold written consent on behalf of that Shareholder to a decision contemplated in section 60.

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

23.2. A proxy appointment –

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

23.2.2. remains valid for –

23.2.2.1. 1 year after the date on which it was signed; or

23.2.2.2. any longer or shorter period expressly set out in the appointment,

unless it is revoked in a manner contemplated in the Act or expires earlier as contemplated in the Act.

23.3. The holder of a power of attorney or other written authority from a Shareholder may, if so authorised thereby, represent such Shareholder at any meeting of the Company and such holder shall deliver the power of attorney or other written authority (if any), or a copy

thereof, to the Company before such holder exercises any rights of the Shareholder at a Shareholders' meeting.

- 23.4. All of the remaining provisions of the Act relating to the appointment and revocation of proxies and the rights of proxies generally shall apply and, in particular –
 - 23.4.1. a Shareholder has the right to appoint 2 or more persons concurrently as proxies as set out in section 58(3)(a) ("**Concurrent Proxies**"), provided that the instrument appointing such Concurrent Proxies clearly states the order in which the votes of the Concurrent Proxies are to take precedence in the event that both or all of the Concurrent Proxies are present, and vote, at the meeting concerned;
 - 23.4.2. a Shareholder's proxy may delegate the proxy's powers to another person as set out in section 58(3)(b);
 - 23.4.3. a Shareholder or his proxy must deliver to the Company a copy of the instrument appointing a proxy before the commencement of the meeting at which the proxy intends to exercise that Shareholder's rights; and
 - 23.4.4. unless the instrument appointing a proxy provides otherwise, a Shareholder's proxy may decide, without direction from the Shareholder, whether to exercise or abstain from exercising any voting right of the Shareholder, as set out in section 58(7),

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

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

"I/We _____

being a shareholder of _____ Share Block Proprietary Limited do hereby appoint

or failing him/her

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

	In favour of	Against	Abstain
Special Resolution 1

Ordinary Resolution 1

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

SIGNED this day of in the year of .

SHAREHOLDER'S SIGNATURE

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

24. **SHAREHOLDERS' RESOLUTIONS**

- 24.1. For an ordinary resolution to be approved it must be supported by more than 50% of the voting rights exercised on the resolution, as provided in section 65(7).
- 24.2. For a special resolution to be approved it must be supported by the holders of at least 75% of the voting rights exercised on the resolution, as provided in section 65(9).
- 24.3. No matters, except those matters set out in section 65(11) and any other matter required by the Act or by this Memorandum of Incorporation to be resolved by means of a special resolution, require a special resolution of the Company.
- 24.4. In the event that any Shareholder abstains from voting in respect of any resolution, such Shareholder will, for the purposes of determining the number of votes exercised in respect of that resolution, be deemed not to have exercised a vote in respect thereof.

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

- 25.1. In accordance with the provisions of section 60, a resolution that could be voted on at a Shareholders' meeting (including in respect of the election of Directors) may instead be –
 - 25.1.1. submitted by the Board for consideration to the Shareholders entitled to exercise the voting rights in relation to the resolution; and
 - 25.1.2. voted on in writing by such Shareholders within a period of 20 business days after the resolution was submitted to them.
- 25.2. A resolution contemplated in clause 26.1 –

- 25.2.1. will have been adopted if it is supported by persons entitled to exercise sufficient voting rights for it to have been adopted as an ordinary or special resolution, as the case may be, at a properly constituted Shareholders' meeting; and
- 25.2.2. if adopted, will have the same effect as if it had been approved by voting at a meeting.
- 25.3. In addition to a resolution passed in terms of clause 26.1, a resolution in writing signed by all the Shareholders entitled to vote thereon shall be as valid and effectual as if adopted at a duly convened meeting of Shareholders.
- 25.4. Within 10 business days after adopting a resolution, or conducting an election of Directors in terms of the provisions of this clause 26, the Company shall deliver a statement describing the results of the vote, consent process, or election to every Shareholder who was entitled to vote on or consent to the resolution, or vote on the election of a Director, as the case may be.

26. COMPOSITION AND POWERS OF THE BOARD OF DIRECTORS

26.1. Number of Directors

- 26.1.1. In addition to the minimum number of Directors, if any, that the Company must have to satisfy any requirement in terms of the Act to appoint an audit committee, or a social and ethics committee, the Board must comprise at least 2 Directors and the Shareholders shall be entitled by ordinary resolution to determine such maximum number of Directors as they from time to time shall consider appropriate, but not exceeding 5.
- 26.1.2. The Directors shall be elected in terms of section 68(1) by the persons entitled to exercise voting rights in such an election, being the Shareholders of the Company.

26.2. Election of Directors

- 26.2.1. In any election of Directors –
 - 26.2.1.1. the election is to be conducted as a series of votes, each of which is on the candidacy of a single individual to fill a single vacancy, with the series of votes continuing until all vacancies on the Board have been filled; and
 - 26.2.1.2. in each vote to fill a vacancy –
 - 26.2.1.2.1. each vote entitled to be exercised may be exercised once; and
 - 26.2.1.2.2. the vacancy is filled only if a majority of the votes exercised support the candidate,

provided only that, in the event that the Company only has 1 Shareholder, the above provisions of this clause 27.2.1 will not apply and the election of Directors shall take place in such manner as the Shareholder shall determine.

- 26.2.2. The Company shall only have elected Directors and there shall be no appointed or *ex officio* Directors as contemplated in section 66(4).

26.3. Eligibility and Term of Office

- 26.3.1. In addition to satisfying the qualification and eligibility requirements set out in section 69, no person may become or remain a Director or a prescribed officer of the Company unless that person (or his or her spouse) is a Shareholder of the Company or is a director or trustee of any company or trust that is a Shareholder of the Company.
- 26.3.2. The Directors shall rotate in accordance with the following provisions of this clause 27.3.2 –
- 26.3.2.1. each Director shall retire from office at the annual general meeting of the Company immediately following the second anniversary of his or her appointment;
- 26.3.2.2. a retiring Director shall be eligible for re-election;
- 26.3.2.3. the Company, at the annual general meeting at which a Director retires in the above manner, or at any other general meeting, may fill the vacancy by electing a person thereto;
- 26.3.2.4. if at any meeting at which an election of Directors ought to take place the offices of the retiring Directors are not filled, unless it is expressly resolved not to fill such vacancies, the retiring Directors, or such of them as have not had their offices filled, shall be deemed to have been re-elected at such adjourned meeting.

26.4. Certain Powers of the Directors

- 26.4.1. The Board has the power to –
- 26.4.1.1. fill any vacancy on the Board on a temporary basis, as set out in section 68(3) (and subject to section 70); and
- 26.4.1.2. exercise all of the powers and perform any of the functions of the Company, as set out in section 66(1),

and the powers of the Board in this regard are not limited or restricted by this Memorandum of Incorporation.

- 26.4.2. The Directors may at any time and from time to time by power of attorney appoint any person or persons to be the attorney or attorneys and agent(s) of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors in terms of this Memorandum of Incorporation) and for such period and subject to such conditions as the Directors may from time to time think fit. Any such appointment may, if the Directors think fit, be made in favour of any company, the shareholders, directors, nominees or managers of

any company or firm, or otherwise in favour of any fluctuating body of persons, whether nominated directly or indirectly by the Directors. Any such power of attorney may contain such provisions for the protection or convenience of persons dealing with such attorneys and agents as the Directors think fit. Any such attorneys or agents as aforesaid may be authorised by the Directors to sub-delegate all or any of the powers, authorities and discretions for the time being vested in them. Any reference to a power of attorney herein shall include any other form of delegation including the right to sub-delegate.

26.4.3. Save as otherwise expressly provided herein, all cheques, promissory notes, bills of exchange and other negotiable or transferable instruments, and all documents to be executed by the Company, shall be signed, drawn, accepted, endorsed or executed, as the case may be, in such manner as the Directors shall from time to time determine.

26.4.4. All acts performed by the Directors or by a committee of Directors or by any person acting as a Director or a member of a committee shall, notwithstanding that it shall afterwards be discovered that there was some defect in the appointment of the Directors or persons acting as aforesaid, or that any of them were disqualified from or had vacated office, be as valid as if every such person had been duly appointed and was qualified and had continued to be a Director or member of such committee.

26.4.5. The Directors in office may act notwithstanding any vacancy in their body, but if and so long as their number is reduced below the minimum number fixed in accordance with this Memorandum of Incorporation, they may act only for the purpose of filling vacancies in their body in terms of section 68(3) or of summoning general meetings of the Company, but not for any other purpose.

26.5. Directors' Interests

26.5.1. A Director may hold any other office or place of profit under the Company (except that of auditor) or any subsidiary of the Company in conjunction with the office of Director, for such period and on such terms as to remuneration (in addition to the remuneration to which he may be entitled as a Director) and otherwise as a disinterested quorum of the Directors may determine.

26.5.2. A Director of the Company may be or become a director or other officer of, or otherwise interested in, any company promoted by the Company or in which the Company may be interested as shareholder or otherwise and (except insofar as otherwise decided by the Directors) he shall not be accountable for any remuneration or other benefits received by him as a director or officer of or from his interest in such other company.

26.5.3. Each Director and each alternate Director, prescribed officer and member of any committee of the Board (whether or not such latter persons are also members of the

Board) shall, subject to the exemptions contained in section 75(2) and the qualifications contained in section 75(3), comply with all of the provisions of section 75 in the event that they (or any person who is a related person to them) has a personal financial interest in any matter to be considered by the Board.

27. **SINGLE DIRECTOR'S AUTHORITY TO ACT**

If at any time the Company has only 1 Director, as contemplated in section 57(3), that Director may, subject to any restrictions or limitations imposed in terms of section 66(1), exercise any power or perform any function of the Board at any time, without notice or compliance with any other internal formalities, and the provisions of sections 71(3) to (7), 73 and 74 shall not apply in respect of the governance of the Company.

28. **DIRECTORS' MEETINGS**

- 28.1. Save as may be provided otherwise herein, the Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit.
- 28.2. The Directors may elect a chairperson and a deputy chairperson and determine the period for which each is to hold office. The chairperson, or in his absence the deputy chairperson, shall be entitled to preside over all meetings of Directors. If no chairperson or deputy chairperson is elected, or if at any meeting neither is present or willing to act as chairperson thereof within 10 minutes of the time appointed for holding the meeting, the Directors present shall choose 1 of their number to be chairperson of such meeting.
- 28.3. In addition to the provisions of section 73(1), any Director shall at any time be entitled to call a meeting of the Directors.
- 28.4. The Board has the power to –
- 28.4.1. consider any matter and/or adopt any resolution other than at a meeting as set out in section 74 and, accordingly, any decision that could be voted on at a meeting of the Board may instead be adopted by the written consent of a majority of the Directors, given in person or by Electronic Communication, provided that each Director has received notice of the matter to be decided;
- 28.4.2. conduct a meeting entirely by Electronic Communication, or to provide for participation in a meeting by Electronic Communication, as set out in section 73(3), provided that, as required by such section, the Electronic Communication facility employed ordinarily enables all persons participating in the meeting to communicate concurrently with each other without an intermediary and to participate reasonably effectively in the meeting;
- 28.4.3. determine the manner and form of providing notice of its meetings as set out in section 73(4), provided that –

- 28.4.3.1. the notice period for the convening of any meeting of the Board will be at least 7 days unless the decision of the Directors is required on an urgent basis which justifies a shorter period of notice, in which event the meeting may be called on shorter notice. The decision of the chairperson of the Board, or failing the chairperson for any reason, the decision of any 2 Directors as to whether a matter should be decided on an urgent basis, and the period of notice to be given, shall be final and binding on the Directors;
- 28.4.3.2. an agenda of the matters to be discussed at the meeting shall be given to each Director, together with the notice referred to in clause 29.4.3.1;
- 28.4.3.3. no meeting may be held if notice thereof and the agenda therefor is not given in accordance with clauses 29.4.3.1 and 29.4.3.2; and
- 28.4.4. subject to clause 29.5.1, proceed with a meeting despite a failure or defect in giving notice of the meeting, as provided in section 73(5),

and the powers of the Board in respect of the above matters are not limited or restricted by this Memorandum of Incorporation.

- 28.5. The quorum requirement for a Directors' meeting (including an adjourned meeting) to begin, the voting rights at such a meeting, and the requirements for approval of a resolution at such a meeting are as set out in section 73(5), subject only to clauses 29.5.1 and 29.5.5, and accordingly –
 - 28.5.1. if the Company has failed to give the required notice for the convening of any meeting of the Board or there is any other defect in the giving of such notice the meeting may, subject to any quorum requirements, proceed provided that each Director (whether or not in attendance at the meeting) in writing acknowledges actual receipt of the notice and in writing waives any rights he or she might otherwise have enjoyed as a result of such short or defective notice;
 - 28.5.2. a majority of the Directors must be present at a meeting before a vote may be called at any meeting of the Directors;
 - 28.5.3. each Director has 1 vote on a matter before the Board;
 - 28.5.4. a majority of the votes cast in favour of a resolution is sufficient to approve that resolution;
 - 28.5.5. in the case of a tied vote –
 - 28.5.5.1. the chairperson may not cast a deciding vote in addition to any deliberative vote; and
 - 28.5.5.2. the matter being voted on fails.
- 28.6. Resolutions adopted by the Board –

- 28.6.1. must be dated and sequentially numbered; and
- 28.6.2. are effective as of the date of the resolution, unless any resolution states otherwise.
- 28.7. Any minutes of a meeting, or a resolution, signed by the chairperson of the meeting, or by the chairperson of the next meeting of the Board, are evidence of the proceedings of that meeting, or the adoption of that resolution, as the case may be.

29. **DIRECTORS' COMPENSATION AND FINANCIAL ASSISTANCE**

- 29.1. The Company may pay remuneration to the Directors for their services as directors in accordance with a special resolution approved by the Company's Shareholders within the previous 2 years, as set out in section 66(8) and (9), and the power of the Company in this regard is not limited or restricted by this Memorandum of Incorporation.
- 29.2. The Directors may also be paid all their travelling and other expenses properly and necessarily incurred by them in connection with —
 - 29.2.1. the business of the Company; and
 - 29.2.2. attending meetings of the Directors or of committees of the Directors of the Company.
- 29.3. The Board may, as set out in and subject to the requirements of section 45, authorise the Company to provide financial assistance to a Director, prescribed officer or other person referred to in section 45(2), and the power of the Board in this regard is not limited or restricted by this Memorandum of Incorporation.

30. **MANAGING DIRECTOR**

- 30.1. The Directors may from time to time appoint 1 or more of their body to the office of managing Director for such term and at such remuneration as they may think fit (subject only to the requirements of section 66(8) and (9)), and may revoke such appointment subject to the terms of any agreement entered into in any particular case, provided that the period of office of a managing Director appointed in terms of an agreement shall be for a maximum period of 5 years at any one time. A Director so appointed shall be subject to retirement in the same manner as the other Directors except during the period of his agreement, and his appointment shall terminate if he ceases for any reason to be a Director.
- 30.2. Subject to the provisions of any contract between himself and the Company, a managing Director shall be subject to the same provisions as to disqualification and removal as the other Directors of the Company.
- 30.3. The Directors may from time to time entrust to and confer upon a managing Director for the time being such of the powers exercisable in terms of this Memorandum of Incorporation by the Directors as they may think fit, and may confer such powers for such time and to be exercised for such objects and purposes, and upon such terms and

conditions, and with such restrictions, as they think expedient; and they may confer such powers either collaterally with or to the exclusion of and in substitution for all or any of the powers of the Directors in that behalf, and may from time to time revoke, withdraw, alter or vary all or any of such powers.

31. INDEMNIFICATION OF DIRECTORS

31.1. The Company may –

31.1.1. advance expenses to a Director or directly or indirectly indemnify a Director in respect of the defence of legal proceedings, as set out in section 78(4);

31.1.2. indemnify a Director in respect of liability as set out in section 78(5); and/or

31.1.3. purchase insurance to protect the Company or a Director as set out in section 78(7),

and the power of the Company in this regard is not limited, restricted or extended by this Memorandum of Incorporation.

31.2. The provisions of clause 32.1 shall apply *mutatis mutandis* in respect of any former Director, prescribed officer or member of any committee of the Board, including the audit committee.

32. COMMITTEES OF THE BOARD

32.1. The Board may –

32.1.1. appoint committees of Directors and delegate to any such committee any of the authority of the Board as set out in section 72(1); and/or

32.1.2. include in any such committee persons who are not Directors, as set out in section 72(2)(a),

and the power of the Board in this regard is not limited or restricted by this Memorandum of Incorporation.

32.2. The authority of a committee appointed by the Board as set out in section 72(2)(b) and (c) is not limited or restricted by this Memorandum of Incorporation.

33. ANNUAL FINANCIAL STATEMENTS

33.1. Notwithstanding the provisions of clause 7.1 –

33.1.1. the Company shall keep all such accurate and complete accounting records, in English, as are necessary to enable the Company to satisfy its obligations in terms of –

33.1.1.1. the Act;

- 33.1.1.2. the Share Blocks Act;
 - 33.1.1.3. any other law with respect to the preparation of financial statements to which the Company may be subject;
 - 33.1.1.4. the Regulations; and
 - 33.1.1.5. this Memorandum of Incorporation; and
- 33.1.2. the Company shall each year prepare annual financial statements within 6 months after the end of its financial year, or such shorter period as may be appropriate to provide the required notice of an annual general meeting in terms of section 61(7).
- 33.2. The Company shall appoint an auditor upon, or as soon as reasonably possible after, its incorporation and each year at its annual general meeting. If the Company appoints a firm as its auditor, any change in the composition of the members of that firm shall not by itself create a vacancy in the office of auditor.
- 33.3. For purposes of the affairs of the Company, with regard to and/or relating to the auditor of the Company, the provisions of sections 90(1), 90(1A), 90(2)(a) and (b), 90(3), 90(5), 90(6)(a)(i) to (iii), 90(6)(b) and (c), 91(1), 91(2), and 93(1) are incorporated, *mutatis mutandis*, into this Memorandum of Incorporation.
- 33.4. In the event that the annual financial statements of the Company –
- 33.4.1. are required to be audited pursuant to regulations made in terms of section 30(7), as contemplated in section 30(2)(b)(i), or as otherwise contemplated in the Act, the annual financial statements shall be so audited in accordance with the relevant provisions of the Act; and
 - 33.4.2. are required to be audited, independently reviewed, or otherwise assessed in terms of any statute other than the Act, or a regulatory order, the Company shall comply with its relevant obligations in that regard.
- 33.5. Subject to clause 34.4, and notwithstanding any contrary provision in the Act, the annual financial statements shall be audited as set out in clause 34.6.
- 33.6. In the event that the annual financial statements are to be audited pursuant to the provisions of clause 34.5, the annual financial statements shall be prepared on a basis that is not inconsistent with any unalterable or non-elective provision of the Act and shall –
- 33.6.1. satisfy, as to form and content, the financial reporting standards of IFRS for SMEs, provided that the Board, or the Shareholders by ordinary resolution, may require, either in respect of a particular financial year of the Company or for any other fixed or indefinite period, that the annual financial statements shall be prepared in accordance with IFRS; and

- 33.6.2. subject to and in accordance with IFRS for SMEs or IFRS, as the case may be –
- 33.6.2.1. present fairly the state of affairs and business of the Company and explain the transactions and financial position of the business of the Company;
- 33.6.2.2. show the Company's assets, liabilities and equity, as well as its income and expenses and any other prescribed information;
- 33.6.2.3. set out the date on which the statements were produced and the accounting period to which they apply; and
- 33.6.2.4. bear on the first page thereof a prominent notice indicating that the annual financial statements have been audited and the name and professional designation of the person who prepared them.

34. DISTRIBUTIONS

- 34.1. Subject to the provisions of the Act, and particularly section 46, the Company may make a proposed distribution if such distribution –
- 34.1.1. is pursuant to an existing legal obligation of the Company, or a court order; or
- 34.1.2. is authorised by resolution of the Board.
- 34.2. No distribution shall bear interest against the Company, except as otherwise provided under the conditions of issue of the Shares in respect of which such distribution is payable.
- 34.3. Distributions may be declared either free of or subject to the deduction of income tax and any other tax or duty in respect of which the Company may be chargeable.
- 34.4. The Directors may from time to time declare and pay to the Shareholders such interim distributions as the Directors consider to be appropriate.
- 34.5. All unclaimed distributions may be invested or otherwise made use of by the Directors for the benefit of the Company until claimed, provided that distributions unclaimed for a period of 3 years from the date on which they were declared may be declared forfeited by the Directors for the benefit of the Company. The Directors may at any time annul such forfeiture upon such conditions (if any) as they think fit.
- 34.6. Any distribution, interest or other sum payable in cash to the holder of a Share may be paid by cheque or warrant sent by post and addressed to —
- 34.6.1. the holder at his registered address; or
- 34.6.2. in the case of joint holders, the holder whose name appears first in the Securities Register in respect of the share, at his registered address; or
- 34.6.3. such person and at such address as the holder or joint holders may in writing direct.

- 34.7. Every such cheque or warrant shall —
- 34.7.1. be made payable to the order of the person to whom it is addressed; and
- 34.7.2. be sent at the risk of the holder or joint holders.
- 34.8. The Company shall not be responsible for the loss in transmission of any cheque or warrant or of any document (whether similar to a cheque or warrant or not) sent by post as aforesaid.
- 34.9. A holder or any one of two or more joint holders, or his or their agent duly appointed in writing, may give valid receipts for any distributions or other moneys paid in respect of a Share held by such holder or joint holders.
- 34.10. When such cheque or warrant is paid, it shall discharge the Company of any further liability in respect of the amount concerned.
- 34.11. A distribution may also be paid in any other way determined by the Directors, and if the directives of the Directors in that regard are complied with, the Company shall not be liable for any loss or damage which a Shareholder may suffer as a result thereof.
- 34.12. Without detracting from the ability of the Company to issue capitalisation Shares, any distribution may be paid wholly or in part —
- 34.12.1. by the distribution of specific assets; or
- 34.12.2. by the issue of Shares, debentures or securities of the Company or of any other company; or
- 34.12.3. in cash; or
- 34.12.4. in any other way which the Directors may at the time of declaring the distribution determine.
- 34.13. Where any difficulty arises in regard to such distribution, the Directors may settle that difficulty as they think expedient, and in particular may fix the value which shall be placed on such specific assets on distribution.
- 34.14. The Directors may —
- 34.14.1. determine that cash payments shall be made to any Shareholder on the basis of the value so fixed in order to secure equality of distribution; and
- 34.14.2. vest any such assets in trustees upon such trusts for the benefit of the persons entitled to the distribution as the Directors deem expedient.

35. ACCESS TO COMPANY RECORDS

- 35.1. Each person who holds or has a beneficial interest in any Securities issued by the Company is entitled to inspect and copy, upon payment of the prescribed maximum charge for any such copy, the information contained in the records of the Company referred to in section 26(1), being –
- 35.1.1. this Memorandum of Incorporation, and any amendments or alterations thereof, and any Rules of the Company;
 - 35.1.2. a record of the Directors, including the details of any person who has served as a Director, for a period of 7 years after that person has ceased to serve as a Director, and any information relating to such persons referred to in section 24(5);
 - 35.1.3. all –
 - 35.1.3.1. reports presented at an annual general meeting of the Company for a period of 7 years after the date of any such meeting, provided that no such inspection right shall exist if and to the extent that the Company is not required to, and does not, in fact, hold an annual general meeting; and
 - 35.1.3.2. annual financial statements required by the Act for a period of 7 years after the date on which each such particular statements were issued;
 - 35.1.4. notice and minutes of all Shareholders' meetings, including –
 - 35.1.4.1. all resolutions adopted by them, for 7 years after the date each such resolution was adopted; and
 - 35.1.4.2. any document that was made available by the Company to the holders of Securities in relation to each such resolution;
 - 35.1.5. any written communications sent generally by the Company to all holders of any class of the Company's Securities, for a period of 7 years after the date on which each of such communications was issued; and
 - 35.1.6. the Securities Register of the Company.
- 35.2. A person not contemplated in clause 36.1 has a right to inspect the Securities Register and the register of Directors of the Company upon payment of the prescribed maximum fee for any such inspection.

36. NOTICES

- 36.1. All notices intended or required to be given by the Company to any Shareholder of the Company shall be given in writing in any manner authorised by the Regulations and particularly Table CR 3 annexed to the Regulations.
- 36.2. Each Shareholder of the Company –

- 36.2.1. shall notify in writing to the Company an address, which address shall be his registered address for the purposes of receiving written notices from the Company by post; and
- 36.2.2. may notify in writing to the Company an email address and/or facsimile number, which address shall be his address for the purposes of receiving notices by way of Electronic Communication (and by doing so the Shareholder concerned shall be deemed to have confirmed that notices sent to such address can conveniently be printed by that Shareholder within a reasonable time and at a reasonable cost as contemplated in section 6(10)).
- 36.3. Any Shareholder whose address in the Securities Register is an address not within South Africa, and who shall from time to time furnish the Company with an address within South Africa at which notices can be served upon him, shall be entitled to have notices served upon him at such address.
- 36.4. Save as determined in this Memorandum of Incorporation or in the Act, no Shareholder other than a registered Shareholder whose address appears in the Securities Register as being in South Africa, shall be entitled to receive any notice from the Company.
- 36.5. In the case of joint holders of a Share, all notices shall, unless such holders otherwise in writing request and the Directors agree, be given to that Shareholder whose name appears first in the Securities Register and a notice so given shall be deemed sufficient notice to all the joint holders.
- 36.6. Any notice sent by any means permitted in Table CR 3 annexed to the Regulations shall be deemed to have been delivered as provided for that method of delivery in such Table.
- 36.7. Every person who by operation of law, transfer or other means whatsoever becomes entitled to any Share, shall be bound by every notice in respect of that Share which, previously to his name and address being entered in the Securities Register, was given to the person from whom he derives his title to such Share.
- 36.8. Any notice or document delivered or sent by post to or left at the registered address of any Shareholder in pursuance of this Memorandum of Incorporation shall, notwithstanding that such Shareholder was then deceased, and whether or not the Company has notice of his death, be deemed to have been duly served in respect of any Shares, whether held solely or jointly with other persons by such Shareholder, until some other person be registered in his stead as the sole or joint holder thereof, and such service shall for all purposes of this Memorandum of Incorporation be deemed a sufficient service of such notice or document on his heirs, executors or administrators, and all persons (if any) jointly interested with him in any such Shares.

37. AMENDMENT OF MEMORANDUM OF INCORPORATION

- 37.1. Save for the amendments contemplated in clause 38.2, this Memorandum of Incorporation may only be altered or amended in the manner set out in sections 16 (other than 16(1)(b)), 17 or 152(6)(b).
- 37.2. The Board, or any individual authorised by the Board, may alter this Memorandum of Incorporation in any manner necessary to correct a patent error in spelling, punctuation, reference, grammar or similar defect on the face of the document by –
- 37.2.1. publishing a notice of any alteration made by delivering a copy of such amendments to each Shareholder by ordinary mail; and
- 37.2.2. filing a notice of the alteration.
- 37.3. An amendment of this Memorandum of Incorporation will take effect from the later of –
- 37.3.1. the date on, and time at, which the Commission accepts the filing of the notice of amendment contemplated in section 16(7); and
- 37.3.2. the date, if any, set out in the said notice of amendment,

save in the case of an amendment that changes the name of the Company, which will take effect from the date set out in the amended registration certificate issued by the Commission.

38. COMPANY RULES

- 38.1. The Board is authorised to make, amend or repeal any necessary or incidental rules relating to the governance of the Company in respect of matters that are not addressed in the Act or in this Memorandum of Incorporation by -
- 38.1.1. publishing a copy of any Rules or amendments to such Rules made in terms of section 15(3) to 15(5) by delivering a copy of such Rules or amendments to each Shareholder by ordinary mail; *and*
- 38.1.2. filing a copy of those Rules.
- 38.2. Any Rules so made shall take effect and become binding in the manner contemplated in section 15(4).
- 38.3. The Board, or any individual authorised by the Board, may alter the Rules, in any manner necessary to correct a patent error in spelling, punctuation, reference, grammar or similar defect on the face of the document by –
- 38.3.1. publishing a notice of any alteration made by delivering a copy of such amendments to each Shareholder by ordinary mail; and
- 38.3.2. filing a notice of the alteration.

39. RESOLUTION OF DISPUTES

39.1. In the event of there being any dispute or difference between any persons bound by this Memorandum of Incorporation, including any dispute or difference arising out of or in respect of –

39.1.1. any of the provisions of this Memorandum of Incorporation; and/or

39.1.2. any relationship between any two or more persons in their capacities as Shareholders; and/or

39.1.3. any relationship between any person, in his or her capacity as a Shareholder, on the one hand, and the Company on the other hand; and/or

39.1.4. any relationship between any person, in his or her capacity as a Director, on the one hand, and the Company on the other hand; and/or

39.1.5. any relationship between any person, in his or her capacity as a member of a committee of the Board, on the one hand, and the Company on the other hand; and/or

39.1.6. any right and/or obligation of any Shareholder, in his or her capacity as a Shareholder, against or to the Company and/or any other Shareholder; and/or

39.1.7. any right and/or obligation of the Company against or to any Shareholder (in his or her capacity as a Shareholder), and/or any Director (in his or her capacity as a Director), and/or any prescribed officer of the Company (in his or her capacity as a prescribed officer of the Company), and/or any other person serving the Company as a member of a committee of the Board with reference to such service; and/or

39.1.8. any right and/or obligation of any Director (in his or her capacity as Director) against or to the Company; and/or

39.1.9. any right and/or obligation of any prescribed officer of the Company (in his or her capacity as a prescribed officer of the Company) against or to the Company; and/or

39.1.10. any right or obligation of any other person serving the Company as a member of the committee of the Board with reference to such service,

and to the extent that such dispute cannot be resolved by negotiation between the parties thereto, such dispute or difference shall, except to the extent that provision is made elsewhere in this Memorandum of Incorporation for the final resolution of the dispute or difference in question, on written demand by any such person be submitted to arbitration at Johannesburg before a single arbitrator in accordance with the rules of the Arbitration Foundation of Southern Africa ("**AFSA**"), which arbitration shall be administered by AFSA.

39.2. Should AFSA, as an institution, not be operating at that time or not be accepting requests for arbitration for any reason, then the arbitration shall be conducted in accordance with the AFSA rules for commercial arbitration (as last applied by AFSA) before a single

arbitrator appointed by agreement between the parties to the dispute or difference or failing agreement within 10 business days of the demand for arbitration, then any party to the dispute or difference shall be entitled to forthwith call upon the chairperson of the Johannesburg Bar Council to nominate the arbitrator, provided that the person so nominated shall be an advocate or attorney of not less than 15 years standing as such. The person so nominated shall be the duly appointed arbitrator in respect of the dispute or difference. In the event of the attorneys of the parties to the dispute or difference failing to agree on any matter relating to the administration of the arbitration, such matter shall be referred to and decided by the arbitrator whose decision shall be final and binding on the parties to the dispute.

- 39.3. Nothing herein contained shall be deemed to prevent or prohibit a party to the arbitration from applying to the appropriate court for urgent relief or for judgment in relation to a liquidated claim.
- 39.4. Any arbitration in terms of this clause 40 (including any appeal proceedings) shall be conducted *in camera* and the parties to the arbitration shall treat as confidential details of the dispute or difference submitted to arbitration, the conduct of the arbitration proceedings and the outcome of the arbitration.
- 39.5. This clause 40 will continue to be binding notwithstanding any liquidation of the Company, the commencement of any business rescue proceedings in respect of the Company or the sale by any person of any Shares held by that person in the Company, to the extent that the implementation of the provisions of this clause will not give rise to any contravention of any provision of the Act or of any other applicable legislation.
- 39.6. The written demand by a party to the dispute in terms of clause 40.1 that the dispute or difference be submitted to arbitration, shall be deemed to be a legal process for the purpose of interrupting extinctive prescription in terms of the Prescription Act, 1969.

A.

Schedule: Allocation of Share Blocks

Shares numbered	No. of Shares	Share Block No.	Site No.	Co-ordinates
1 - 100	100	1	1	S24 22 35.4 E30 57 17.6
101 - 200	100	2	2	S24 22 37.7 E30 57 19.2
201 - 300	100	3	3	S24 22 40.0 E30 57 21.0
301 - 400	100	4	4	S24 22 42.6 E30 57 23.6
401 - 500	100	5	5	S24 22 44.7 E30 57 26.2
501 - 600	100	6	6	S24 22 47.2 E30 57 28.0
601 - 700	100	7	7	S24 22 48.3 E30 57 29.9
701 - 800	100	8	8	S24 22 52.2 E30 57 31.8
801 - 900	100	9	9	S24 22 55.7 E30 57 33.3
901 - 1000	100	10	10	S24 22 58.3 E30 57 33.8
1001 - 1100	100	11	11	S24 23 13.9 E30 57 35.2
1101 - 1200	100	12	12	S24 23 16.2 E30 57 37.4
1201 - 1300	100	13	13	S24 23 16.7 E30 57 41.4
1301 - 1400	100	14	14	S24 23 16.2 E30 57 44.3
1401 - 1500	100	15	15	S24 23 15.8 E30 57 47.4
1501 - 1600	100	16	16	S24 23 14.3 E30 57 49.6
1601 - 1700	100	17	17	S24 23 11.3 E30 57 49.6
1701 - 1800	100	18	18	S24 23 08.4 E30 57 49.5
1801 - 1900	100	19	19	S24 23 06.1 E30 57 48.2
1901 - 2000	100	20	20	S24 23 03.3 E30 57 47.5
2001 - 2100	100	21	21	S24 22 59.6 E30 57 46.2
2101 - 2200	100	22	22	S24 22 57.5 E30 57 45.0
2201 - 2300	100	23	23	S24 22 57.8 E30 57 48.5
2301 - 2400	100	24	24	S24 22 54.3 E30 57 45.8
2401 - 2500	100	25	25	S24 22 55.4 E30 57 50.0
2501 - 2600	100	26	26	S24 22 53.0 E30 57 50.1
2601 - 2700	100	27	27	S24 22 51.1 E30 57 45.5
2701 - 2800	100	28	28	S24 22 50.7 E30 57 49.0
2801 - 2900	100	29	29	S24 22 47.7 E30 57 52.5
2901 - 3000	100	30	30	S24 22 46.5 E30 57 55.1
3001 - 3100	100	31	31	S24 22 45.9 E30 57 58.3
3101 - 3200	100	32	32	S24 22 46.3 E30 58 01.7

3201 - 3300	100	33	33	S24 22 46.4 E30 58 04.5
3301 - 3400	100	34	34	S24 22 47.7 E30 58 08.6
3401 - 3500	100	35	35	S24 22 48.6 E30 58 11.9
	3500			

B.

Specimen Deed of Adherence

I/We, the undersigned;

[Full Names]

(Identity/Registration Number/Master's Reference Number)

In consequence of my/our acquisition of [100] ordinary shares in Welverdiend Properties Share Block Proprietary Limited, registration number 2004/008708/07 ("**Company**"), comprising Share Block No. , hereby:

1. Confirm that this Deed of Adherence constitutes the Deed of Adherence referred to in the Memorandum of Incorporation of the Company;
2. Confirm that I/we are aware of the terms and conditions of the Company's Memorandum of Incorporation ("**MOI**") and as a shareholder of the Company undertake to comply with and abide by the MOI at all times;
3. Confirm that: (i) I/we are aware of the terms and conditions of the Use Agreement between the Company and its Shareholders (as annexed to the said MOI) and agree to comply with and abide by all such terms and conditions in all respects as if I/we had been a signatory to the Use Agreement; and (ii) following execution of this document we will become party to the Use Agreement, having adhered to it in terms of this Deed of Adherence; and
4. Appoint as my/our *domicilium* for purposes of clause [8] of the Use Agreement, the following address:

[specify physical address]

For the attention of: [specify].

Signed at _____ on this _____ day of _____ 20

For: [SPECIFY]

(who warrants that he/she is duly authorised to sign this Deed of Adherence)

Name:

Designation: