



## **HOMECHOICE International plc**

(Registration number C66099)

Share code: HIL

ISIN:MT0000850108

(the “**Company**”)

### **Notice to shareholders**

NOTICE IS HEREBY GIVEN that an extraordinary meeting of shareholders (the “**Shareholders**”) of the Company will be held at 78 Mill Street, Qormi, Republic of Malta, on Tuesday, 27 August 2019, at 10:00 to deal with such business as may lawfully be dealt with at the meeting and to consider and, if deemed fit, pass, with or without modification, the resolutions set out hereunder, which meeting is to be participated in by Shareholders recorded in the Company’s securities register as at the record date.

The record date to receive this notice of the meeting is Friday, 12 July 2019. The record date on which Shareholders must be recorded in the securities register for purposes of being entitled to attend and vote at this meeting is Friday, 16 August 2019. The last date to trade in order to be entitled to vote at the meeting will therefore be Tuesday, 13 August 2019.

The quorum requirement for the extraordinary and special resolutions set out below is sufficient persons being present to exercise, in aggregate, at least 25% of all voting rights that are entitled to be exercised on the resolutions, provided that at least three Shareholders of the Company are present at the extraordinary general meeting.

### **Agenda**

1. Approving the re-domiciliation of the Company from the Republic of Malta (“**Malta**”) to the Republic of Mauritius (“**Mauritius**”).
2. Adopting a new Constitution of the Company, which complies with the laws of Mauritius and the JSE Limited (“**JSE**”) Listings Requirements.
3. To consider any other matters raised by Shareholders which are appropriate to be raised and discussed at the extraordinary general meeting.

### **Electronic Participation**

1. Shareholders are invited to participate in the meeting by means of electronic communication. Accordingly, Shareholders or their proxies may participate in the meeting by way of a teleconference call provided that, if they wish to do so –
  - a. they will be required to provide reasonably satisfactory identification; and
  - b. they will be billed separately by their own telephone service providers for their telephone call to participate in the meeting.
2. Details of the conference call facilities will be provided to each Shareholder upon request.

### **Resolutions**

The Shareholders will be requested to consider and, if deemed fit, to pass, with or without modification, the following resolutions:

#### **Extraordinary and Special Resolution number 1:**

*"It is hereby resolved that the proposed re-domiciliation of the Company from Malta to Mauritius be and is hereby approved."*

The percentage of voting rights required to pass Extraordinary and Special Resolution number 1 is (i) at least 75% in nominal value of the shares represented and entitled to vote at the meeting; (ii) at least 75% of the voting rights exercised on

Extraordinary and Special Resolution number 1; and (iii) at least 51% in nominal value of all the shares entitled to vote in respect of such Extraordinary and Special Resolution number 1.

#### Explanatory information in respect of Extraordinary and Special Resolution number 1

Due to the Group's growing business presence in Mauritius, the board of directors of the Company ("**Board**") is of the view that the management of the Company will be more efficiently conducted from Mauritius, and is recommending to Shareholders that the Company be redomiciled from Malta to Mauritius. The re-domiciliation requires the approval of the Shareholders, and also remains subject to certain other regulatory and third-party approvals. If the requisite approvals have been obtained, the Company will be relocated to Mauritius whilst retaining its legal identity, by written consent from the Registrar of Companies. Such consent shall permit the Company to continue as a company outside Malta and for the Company's domicile to be transferred under the laws of Mauritius.

#### **Extraordinary and Special Resolution number 2:**

*"It is hereby resolved that the current Constitution be repealed in its entirety and replaced with a new Constitution, the salient features of which are attached hereto as 'Annexure A.'"*

The percentage of voting rights required to pass Extraordinary and Special Resolution number 2 is (i) at least 75% in nominal value of the shares represented and entitled to vote at the meeting; (ii) at least 75% of the voting rights exercised on Extraordinary and Special Resolution number 2; and (iii) at least 51% in nominal value of all the shares entitled to vote in respect of such Extraordinary and Special Resolution number 2.

#### Explanatory information in respect of Extraordinary and Special Resolution number 2

Considering the proposed re-domiciliation of the Company from Malta to Mauritius and the continued listing of the Company on the JSE, the proposed amendments to the Constitution ensures compliance with the laws of Mauritius and the JSE Listings Requirements.

#### **Ordinary Resolution number 1:**

*"It is hereby resolved that any one Director or the Company Secretary of the Company –*

- (i) be authorised to issue, execute and file with the Registrar of Companies, a revised and updated copy of the Constitution of the Company;*
- (ii) to request a letter of consent from the Registrar of Companies for the Company to continue as a company outside Malta and for the Company's domicile to be transferred under the laws of Mauritius; and*
- (iii) to generally do everything that is necessary for the implementation of the resolutions contained herein."*

The percentage of voting rights required to pass Ordinary Resolution number 1 is 50% of the voting rights exercised on Ordinary Resolution number 1.

#### **General – Shareholders please take note**

Shareholders are informed that:

- copies of the proposed Constitution, the salient features of which are attached hereto as 'Annexure A', will be available for inspection at the registered office of the Company during normal business hours (Saturdays, Sundays and official public holidays excepted) from the date of issue of this notice of meeting until Tuesday, 27 August 2019;
- a Shareholder entitled to attend and vote at the meeting is entitled to appoint a proxy (or more than one proxy) to attend, participate in and speak and vote at the meeting in the place of the Shareholder, and Shareholders are referred to the attached form of proxy;
- a proxy need not also be a Shareholder of the Company but must be a natural person;
- the proxy may delegate the authority granted to him/her/it as proxy, subject to any restriction in the form of proxy itself;

- a Shareholder entitled to vote may appoint more than 1 (one) proxy to exercise voting rights attached to different shares held by that Shareholder entitled to vote in respect of any shareholders' meeting and may appoint more than 1 (one) proxy to exercise voting rights attached to different shares held by the Shareholder which entitle him/her/it to vote;
- Shareholders who wish to appoint proxies are required to complete and return the form of proxy to reach the registered office of the Company at least 48 hours before the appointed time of the meeting (10:00 on Friday, 23 August 2019) for administrative purposes, but at least before the proxy exercises any right of the appointing Shareholder at the meeting; and
- any person attending or participating in a meeting of Shareholders must present reasonably satisfactory identification and the person presiding at the meeting must be reasonably satisfied that the right of any person to participate in and vote (whether as Shareholder or as proxy for a Shareholder) has been reasonably verified. Forms of identification include valid identity documents, driver's licences and passports.

By order of the Board

George Said  
Company secretary

Republic of Malta  
19 July 2019

Registered office:

93 Mill Street  
Qormi  
QRM3012  
Republic of Malta

[governance@homechoiceinternational.com](mailto:governance@homechoiceinternational.com)

Proxies may also be delivered in South Africa via:

c/o the company secretary

Private Bag X150  
Claremont  
7735

78 Main Road  
Wynberg  
7800

**Sponsor**



**South African Legal Advisor**





**HOMECHOICE International plc**

(Registration number C66099)

Share code: HIL

ISIN:MT0000850108

(the “Company”)

**FORM OF PROXY**

For completion by Shareholders unable to attend the meeting of the Company to be held on Tuesday, 27 August 2019, at 10:00 at 78 Mill Street, Qormi, Republic of Malta (the “meeting”).

Shareholders who wish to appoint proxies are required to complete and return the form of proxy to reach the registered office of the Company at least 48 hours before the appointed time of the meeting (10:00 on Friday, 23 August 2019), but at least before the proxy exercises any right of the appointing Shareholder at the meeting.

I/We (full names) \_\_\_\_\_

of (address) \_\_\_\_\_

being a Shareholder of the Company and entitled to \_\_\_\_\_ votes (one per share)

hereby appoint \_\_\_\_\_ or failing him/her \_\_\_\_\_

or failing him/her the chairman of the meeting, as my/our proxy to attend, speak and, on a poll, vote for me/us and on my/our behalf at the meeting, and at any adjournment thereof, and to vote or abstain from voting as follows on the resolutions to be proposed at the meeting, with or without modification, as follows\*:

	Insert “X” in the appropriate box or number of votes		
	For	Against	Abstain
Extraordinary and Special Resolution number 1: Authorise the re-domiciliation of the Company from Malta to Mauritius.			
Extraordinary and Special Resolution number 2: Authorise the replacement of the Constitution of the Company.			
Ordinary Resolution number 1: Authorise any Director or the Company Secretary of the Company to execute Extraordinary and Special Resolutions 1 and 2.			

If any modified resolutions are proposed before the meeting the proxy shall vote:

	Insert “X” in the appropriate box
As indicated above:	
In the proxy’s discretion:	

*\* The Notes to the Form of Proxy overleaf form part of this proxy form and Shareholders are advised to read them. Please see the notice of meeting of Shareholders for the full proposed resolution. If you return this form duly signed with out specifying a proxy you will be deemed to appoint the chairman of the meeting as your proxy.*

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 2019.

Signature \_\_\_\_\_ assisted by \_\_\_\_\_ (where applicable)

**Notes to the form of proxy**

1. A Shareholder entitled to attend and vote at the abovementioned meeting is entitled to appoint a proxy or two alternative proxies of the Shareholder's choice (who need not be a Shareholder of the Company but must be a natural person) to attend, speak and vote thereat in his/her/its stead, by inserting his/her/its name/s in the space/s provided, with or without deleting "the chairman of the meeting" but the Shareholder must initial any such deletion. The person whose name stands first on this form of proxy and who is present at the meeting will be entitled to act as proxy to the exclusion of those whose names follow.
2. This proxy form and power of attorney (if any) under which it is signed must be addressed to the company secretary and reach the registered office of the Company not less than 48 hours before the appointed time of the meeting.
3. A Shareholder's instructions to the proxy regarding voting should be indicated by the insertion of the relevant number of votes exercisable by the Shareholder in the appropriate box provided. Failure to comply with this will be deemed to authorise the proxy to vote or to abstain from voting at the meeting as he/she deems fit in respect of all the Shareholder's votes.
4. A Shareholder is entitled to one vote on a show of hands and, on a poll, one vote in respect of each share held.
5. A vote given in terms of an instrument of proxy shall be valid in relation to the meeting notwithstanding the death, insanity or other legal disability of the person granting it, or the revocation of the proxy, or the transfer of the shares in respect of which the proxy is given, unless a notice of any of the aforementioned matters shall have been received by the Company at its registered office or by the chairperson of the meeting at the venue of the meeting before commencement of the meeting.
6. The chairperson of the meeting may reject or accept any form of proxy which is completed and/or received other than in compliance with these notes.
7. The completion and lodging of this form of proxy will not preclude the relevant Shareholder from attending the meeting and speaking and voting in person thereat to the exclusion of any proxy appointed in terms hereof, should such Shareholder wish to do so.
8. Documentary evidence establishing the authority of a person signing the form of proxy in a representative capacity must be attached to this form of proxy, unless previously recorded with the Company or unless the chairperson of the meeting waives this requirement.
9. Where this form of proxy is signed under power of attorney, such power of attorney must accompany this form of proxy, unless it has been registered by the Company or waived by the chairman of the general meeting.
10. A minor or any other person under legal incapacity must be assisted by his/her parent or guardian, as applicable, unless the relevant documents establishing his/her capacity are produced or have been registered by the Company.
11. Where there are joint holders of shares: (a) all joint holders must sign the form of proxy; and (b) the vote(s) of the senior Shareholders (for that purpose seniority will be determined by the order in which the names of Shareholders appear in the Company's securities register) who tenders a vote (whether in person or by proxy) will be accepted to the exclusion of the vote(s) of the other joint Shareholder(s).

12. Any proxy appointed pursuant to this form of proxy may not delegate his/her authority to act on behalf of the relevant Shareholder.
13. An appointment of a proxy pursuant to this form of proxy remains valid only until the end of the meeting or any adjournment of the meeting.
14. This form of proxy shall be valid at any resumption of an adjourned meeting to which it relates, although this form of proxy shall not be used at the resumption of an adjourned meeting if it could not have been used at the meeting from which it was adjourned for any reason other than it was not lodged timeously for the meeting from which the adjournment took place. This form of proxy shall be deemed to confer the power generally to act at the meeting in question, subject to any specific direction contained in this form of proxy as to the manner of voting.
15. Any alteration or correction made to this form of proxy, other than the deletion of alternatives, must be initialled by the signatory(ies).

## Annexure A

**SALIENT FEATURES OF THE CONSTITUTION OF HOMECHOICE INTERNATIONAL PLC**

Following are extracts of the salient features of the proposed Constitution of Homechoice International Plc. Copies of the proposed Constitution will be available for inspection at the registered office of the Company during normal business hours (Saturdays, Sundays and official public holidays excepted) from the date of issue of this notice of meeting until Tuesday, 27 August 2019.

The capitalised terms contained herein shall bear the meaning ascribed thereto in the Constitution.

**3 STATUS AND REGISTERED OFFICE**

3.1 The Company is a public company, holding a Global Business License issued by the FSC under section 72(6) of the FSA.

3.2 The Office of the Company shall be at C/O Sanlam Trustees International Limited Labourdonnais Village Mapou Mauritius or at any other place in Mauritius as may be designated from time to time by the Board of Directors.

**6 SHARE CAPITAL**

The Stated Capital of the Company is R1,035,009.01 (one million thirty-five thousand and nine Rand and one cent) divided into 103,500,901 (one hundred and three million five hundred thousand nine hundred and one) ordinary shares having a par value of R 0.01 (one cent) each.

**13 ISSUE OF SHARES AND VARIATION OF RIGHTS**

13.1 Subject to the provisions of this Constitution, the Act and the JSE Listings Requirements the Board may issue Ordinary Shares of R0.01 (one cent) each of the same class (in accordance with Sections 52 to 54 of the Act) at any time, to any person, and in any number, it thinks fit.

13.2 Each Ordinary Share will rank *pari passu* in respect of all rights and entitles the holder to –

13.2.1.1 the right to one (1) vote on a poll at a meeting of the Company, in person or by proxy, on any resolution;

13.2.1.2 the right to an equal share in dividends authorized by the Board;

13.2.1.3 the right to an equal share in the distribution of the Surplus Assets of the Company.

13.3 For purposes of Article 13.1, *pari passu* shall have the meaning attributed thereto in terms of the JSE Listings Requirements.

13.4 The Board shall not have the power to –

13.4.1 create any new class or classes of Shares;

13.4.2 consolidate and reduce the number of the Company's Shares of any class;

13.4.3 subdivide its Shares of any class by increasing the number of its Shares of that class without an increase of its capital;

13.4.4 determine the preferences, rights, limitations or other terms of any Shares; or

13.4.5 change the name of the Company,

and such powers shall only be capable of being exercised by the Shareholders by way of a Special Resolution of the Shareholders.

13.5 In addition to Article 13.3, the Board shall not have the power to convert any class of Shares into one or more other classes of Shares and such powers shall only be capable of being exercised by the Shareholders by way of Special Resolution of the Shareholders.

13.6 All Securities of a class shall rank *pari passu* in all respects.

13.7 The Company may only issue Shares which are fully paid up and freely transferable and only within the classes in terms of this Constitution.

13.8 **Variation of rights**

13.8.1 The Company shall not take any action which varies the rights attached to a class of Shares unless that variation is approved by a Special Resolution, or by consent in writing of the holders of 75 (seventy-five) percent of the Shares of that Class ("**Interest Group**").

13.8.2 In addition, no Shares may be authorised in respect of which the preferences, rights, limitations or any other terms may be varied in response to any objectively ascertainable external fact or facts. For the purpose of this Article 13.7 "external fact or facts" includes the occurrence of any event, a variation in any fact, benchmark or other point of reference, a determination or action by the Company, Board, or any other person, an agreement to which the Company is a party, or any other document.

13.8.3 Quorum of Interest Group

13.8.3.1 No business may be transacted at a meeting of an Interest Group if a quorum is not present. If a quorum is not present within 30 minutes after the time appointed for the meeting, the meeting is adjourned to the same day in the following week, at the same time and place, or to such other date, time, and place as the directors may appoint, and if, at the adjourned meeting, a quorum is not present within 30 minutes after the time appointed for the meeting, the members of the Interest Group present or their proxies are a quorum.

13.8.3.2 A quorum for a meeting of an Interest Group is present if members of that Interest Group or their proxies are present or have cast postal votes who between them total 51 (fifty one) percent.



### 13.9 Consideration for issue of Shares

- 13.9.1 Before the Board issues any Shares it must decide the consideration for which the Shares will be issued and the terms on which they will be issued.
- 13.9.2 All issues of Shares for cash and all issues of options and convertible Securities granted or issued for cash must, in addition, be in accordance with the JSE Listings Requirements, unless Shares, options or convertible Securities are issued in terms of an Employee Share Scheme, in which case such issues shall comply with Schedule 14 of the JSE Listings Requirements.
- 13.9.3 All Securities of the Company for which a listing is sought on the JSE and all Securities of the same class as Securities of the Company which are listed on the JSE must only be issued after the Company has received the consideration approved by the Board for the issuance of such Securities.

### 13.10 Pre-emptive rights to new issues

- 13.10.1 Subject to the JSE Listings Requirements, Shares issued or proposed to be issued that rank or would rank as to voting or distribution rights (or both), equally with or prior to Shares already issued by the Company, must be offered for acquisition to the holders of the Shares already issued pro rata to their shareholding in a manner and on terms that would, if accepted, maintain the existing voting or distribution rights (or both) of those holders, unless such Shares are issued for the acquisition of assets by the Company, by way of a vendor consideration placing, or in terms of an Employee Share Scheme which has been approved by way of a Special Resolution and complies with Schedule 14 of the JSE Listings Requirements.
- 13.10.2 Notwithstanding the provisions of Article 13.10.1, the Shareholders may at a special meeting authorise the Directors to issue Shares of the Company at any time and/or grant options to subscribe for Shares as the Directors in their discretion think fit, provided that (i) such transaction(s) comply, *mutatis mutandis*, with the JSE Listings Requirements and (ii) such authorisation shall for as long as the Shares are listed on the JSE, be valid for a maximum period prescribed in terms of the Listings Requirements.
- 13.10.3 The offer must be made by notice specifying the number of Shares to which the Shareholder is entitled and limiting a time within which the offer, if not accepted, is deemed to be declined.
- 13.10.4 The offer must remain open for acceptance for at least 14 (fourteen) days.
- 13.10.5 After the expiration of that time or on the receipt of an intimation from the Shareholder to whom such notice is given that he or she declines to accept the Shares offered, the Board must offer those Shares proportionately to the other then existing Shareholders.
- 13.11 Whenever as a result of a consolidation or subdivision of Shares any Shareholders would become entitled to fractions of a Share, the Directors may, on behalf of and for the benefit of those Shareholders sell the Shares representing the fractions for the best price reasonably obtainable to any person and distribute the net proceeds of sale in due proportion among those Shareholders, and the Directors may authorize some person to transfer

the Shares to, or in accordance with the directions of, the purchaser. The transferee shall not be bound to see to the application of the purchase money nor shall his title to the Shares be affected by any irregularity in or invalidity of the proceedings in reference to the sale.

## 24 ACQUISITION BY THE COMPANY OF ITS OWN SHARES

24.1 Subject to the provisions of the Act, the Company may purchase or may enter into a contract under which it will or may purchase, any of its own Shares of any class (including any redeemable preference Shares), provided that –

24.1.1 the acquisition has been approved by a Special Resolution of the Shareholders, whether in respect of a particular repurchase or generally approved by Shareholders and provided further that such acquisition otherwise complies with sections 5.67 to 5.69 of the JSE Listings Requirements (or such equivalent sections as may be applicable from time to time);

24.1.2 the acquisition complies with the provisions of section 69 of the Act;

24.1.3 in addition to the requirements of Article 24.1.1, if there shall be in issue any shares convertible into equity share capital of the Company of the class proposed to be purchased, then the Company shall not purchase, or enter into a contract under which it will or may purchase, such equity shares unless either:

24.1.3.1 the terms of issue of such convertible Shares include provisions permitting the Company to purchase its own equity Shares; or

24.1.3.2 the purchase, or the contract, has first been approved by a Special Resolution passed at a separate meeting of the Shareholders of such convertible shares.

24.2 The Company may not exercise any right in respect of Shares held by it, including any right to attend or vote at meetings, to participate in any offer by the Company to Shareholders or to receive any distributions (including in a winding-up), but without prejudice to its right to sell the Shares (where permissible in law), to receive an allotment of Shares as fully paid bonus Shares in respect of the Shares or to receive any amount payable on redemption of any redeemable preference Shares.

## 25 ODD-LOT OFFERS

25.1 The Company shall be entitled to implement an odd-lot offer in accordance with the provisions of this Article 25 if approved by the Shareholders in special meeting and in accordance with the restrictions and procedures imposed by the JSE Listings Requirements.

25.2 If, upon implementation of any odd-lot offer made by the Company, there are holders of Shares holding in aggregate less than 100 (one hundred) Shares, or such other number of shares as determined by the JSE as amounting to an odd-lot ("**Odd-Lots**") in the Company ("**Odd-Lot Holders**"), then the Company shall, save in respect of Odd-Lot holders who have elected to retain their Odd-Lots in the Company –

- 25.2.1 cause the Odd-Lots to be sold in such manner as the Directors may direct; and
- 25.2.2 procure that the proceeds of such sales are paid to such Odd-Lot Holders.
- 25.3 All unclaimed proceeds of such sales (other than monetary proceeds) may be invested, provided that all monies due to Shareholders must be held by the Company in trust. Subject to the laws of prescription, proceeds of such sales which remain unclaimed for the period required under the applicable laws of prescription) 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.

## 26 RECORD DATE FOR EXERCISE OF SHAREHOLDER RIGHTS

- 26.1 The record date for the purpose of determining which Shareholders are entitled to –
- 26.1.1 receive notice of a Shareholders' meeting;
- 26.1.2 participate in and vote at a Shareholders' meeting;
- 26.1.3 decide any matter by written consent or by Electronic Communication;
- 26.1.4 receive a distribution; or
- 26.1.5 be allotted or exercise any other rights,
- shall be determined by the Board, provided that, for as long as the JSE Listings Requirements apply to the Company and prescribe a record date, such record date shall be the record date so prescribed.
- 26.2 Such record date must be published to the Shareholders in a manner that satisfies the JSE Listings Requirements and any other prescribed requirements.

## 27 SHAREHOLDERS' MEETINGS

- 27.1 **Annual Meeting:** Subject to Article 27.2, the Board shall call an annual meeting of Shareholders to be held -
- 27.1.1 not more than once in each year;
- 27.1.2 not later than 6 (six) months after the Balance Sheet Date of the Company; and
- 27.1.3 not later than 15 (fifteen) months after the previous annual meeting.
- 27.2 The Company may not hold its first annual meeting in the calendar year of its incorporation but shall hold that meeting within 18 (eighteen) months of its incorporation.
- 27.3 The Company shall hold the meeting on the date on which it is called to be held.
- 27.4 The business to be transacted at an annual meeting shall, unless already dealt with by the Company, include -
- 27.5 the consideration and adoption of the financial statements;

- 27.6 the receiving of any auditor's report;
- 27.7 the consideration of the annual report (if any);
- 27.8 the appointment of any auditor pursuant to section 200 of the Act.
- 27.9 Where the financial statements are not approved at the annual meeting, they shall be presented at a further special meeting called by the Board.
- 27.10 **Special Meeting:** a special meeting of Shareholders may be called at any time by:
- 27.10.1 the Board; or
- 27.10.2 on the written request of Shareholders holding shares carrying together not less than 5 (five) percent of the voting rights entitled to be exercised on the issue.
- 27.11 **Notice**
- 27.11.1 A meeting of Shareholders shall be called by at least 15 (fifteen) business days'. The period of notice shall be exclusive of the day on which it is served or deemed to be served and of the day on which the meeting is to be held and shall be given in manner hereinafter mentioned to all Shareholders other than such as are not, under the provisions of this Constitution entitled to receive such notices from the Company and provided that the Company may determine that only those persons entered on the Securities Register at the close of business on a day determined by the Company, such day being no more than 15 (fifteen) business days' before the day that notice of the meeting is sent, shall be entitled to receive such a notice. The Company shall deliver notices of meetings to each Shareholder entitled to vote at such meeting who has elected to receive such documents.
- 27.11.2 Where a non-electronic notice of meeting or annual financial statements, are to be distributed from the Office of the Company, at least 20 (twenty) business days' notice of such meeting must be given to all Shareholders entitled to thereto. Where such notice, or annual financial statements, is distributed electronically, by airmail or otherwise, at least a 15 (fifteen) business days' notice of such meeting must be given to all Shareholders entitled thereto, provided that –
- 27.11.2.1 a general meeting, notwithstanding that it has been called by a shorter notice than that specified above, shall be deemed to have been duly called if it is so agreed by all the Shareholders entitled to attend and vote thereat.
- 27.11.2.2 the accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

## 27.12 **Proceedings at Meetings:**

### 27.12.1 Quorum

27.12.1.1 No business other than the appointment of a chairman shall be transacted at any meeting unless a quorum is present at the time when the meeting proceeds to business. 3 (three) Shareholders present in person or by proxy and entitled to vote and holding at least 25% (twenty-five percent) in nominal value of the issued Shares or class of Shares as the case may be, shall be a quorum for all purposes.

27.12.1.2 After a quorum has been established for a meeting, or for a matter to be considered at a meeting, all the Shareholders forming part of the quorum must be present at the meeting for the matter to be considered at the meeting.

27.13 Other than as set out in Article 27.11, 27.12.1 and 29, meetings of Shareholders shall be conducted in accordance with the Fifth Schedule to the Act.

## 28 **VOTES OF SHAREHOLDERS**

### 28.1 **Votes attaching to Shares**

28.1.1 Subject to any special rights or restrictions as to voting attached by or in accordance with this Constitution to any class of shares on any vote, however conducted, at a meeting of the Company –

28.1.1.1 every Shareholder who is present in person or by proxy shall have one vote for every Share of which he is the holder; and

28.1.1.2 the holders of securities other than Ordinary Shares shall not be entitled to vote on any resolution at a meeting of Shareholders.

### 28.2 **Ratification of ultra vires acts**

A proposal by the Board of any resolution to Shareholders to permit or ratify an act of the Directors that is inconsistent with any limitation or restriction imposed by this Constitution, or the authority of the Directors to perform such an act on behalf of the Company, is prohibited if such a resolution would ratify an act which is contrary to the JSE Listings Requirements.

## 29 **PROXIES AND CORPORATE REPRESENTATIVES**

Procedures relating to proxies and corporate representatives shall be conducted in accordance with the Fifth Schedule to the Act, save that the proxy forms may also be deposited at the branch office of the Company in the Republic.

## 30 SHAREHOLDERS' MEETINGS BY ELECTRONIC COMMUNICATION

30.1 Subject to the provisions of the JSE Listings Requirements, the Company may conduct a Shareholders' meeting entirely by Electronic Communication or provide for participation in a meeting by Electronic Communication, and the power of the Company to do so is not limited or restricted by this Constitution. Accordingly –

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

30.1.2 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.

30.2 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.

## 31 SHAREHOLDERS' RESOLUTIONS

31.1 For an Ordinary Resolution to be approved it must be approved by a simple majority of the votes of those shareholders entitled to vote and voting on the matter which is the subject of the resolution. Notwithstanding anything to the contrary contained in this Constitution, to the extent that the JSE Listings Requirements require a higher percentage in respect of any particular ordinary resolution, the Company shall not implement such Ordinary Resolution unless the Company has obtained the support of the applicable percentage prescribed in terms of the JSE Listings Requirements.

31.2 For a Special Resolution to be approved it must be approved by a majority of 75 per cent of the votes of those shareholders entitled to vote and voting on the question.

### 31.3 Powers reserved to Shareholders

31.3.1 Powers reserved to the Shareholders by the Act may be exercised only:

31.3.1.1 At a meeting of Shareholders pursuant to Article 27.1 or Article 27.10;

31.3.1.2 By a unanimous resolution; or

31.3.1.3 By a resolution in lieu of a meeting pursuant to section 117 of the Act.

#### 31.4 **Ordinary resolutions**

Unless otherwise specified in the Act or this Constitution, a power reserved to Shareholders may be exercised by an Ordinary Resolution.

#### 31.5 **Special resolutions**

31.5.1 When Shareholders exercise a power to:

31.5.1.1 adopt a constitution, or alter or revoke the constitution;

31.5.1.2 reduce the stated capital of the Company under section 62 of the Act;

31.5.1.3 approve a major transaction;

31.5.1.4 approve an amalgamation of the Company under section 246 of the Act;

31.5.1.5 put the Company into liquidation;

the power must be exercised by Special Resolution.

31.6 A Special Resolution under Article 31.5.1.1 to 31.5.1.4 can be rescinded only by a Special Resolution.

31.7 A Special Resolution under Article 31.5.1.5 cannot be rescinded.

31.8 Any power which the Act or this Constitution requires to be exercised by an Ordinary Resolution or a Special Resolution may be exercised by way of unanimous resolution.

### 32 **SHAREHOLDERS ACTING OTHER THAN AT A MEETING**

32.1 Subject to Article 32.3, a resolution that could be voted on at a Shareholders' meeting (other than in respect of the election of Directors) may instead be –

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

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

32.2 A resolution contemplated in Article 32.1 –

32.2.1 shall, notwithstanding anything to the contrary in this Constitution, be competent in respect of the following matters –

32.2.1.1 change of name of the Company;

32.2.1.2 odd lot offers;

- 32.2.1.3 increase in the authorised share capital of the Company; and
- 32.2.1.4 approval of amendments to the Constitution.
- 32.2.2 will if it is signed by Shareholders, be valid as if it has been passed at a meeting of those Shareholders, where the resolution is signed by Shareholders who –
  - 32.2.2.1 are entitled to vote on that resolution at a meeting of Shareholders; and
  - 32.2.2.2 hold not less than 75 (seventy-five) percent of the votes entitled to be cast on that resolution.
- 32.3 The provisions of this Article 32 shall not apply to –
  - 32.3.1 any Shareholder meetings that are called for in terms of the JSE Listings Requirements, which Shareholder meetings must be held in person, save as otherwise provided for in Article 32.2.1); or
  - 32.3.2 the passing of any resolution in terms of Article 34.1.2; or
  - 32.3.3 to any annual meeting of the Company.

### 33 **BOARD OF DIRECTORS**

The affairs of the Company shall be managed and administered by a Board of Directors consisting of not less than 4 (four) and not more than 12 (twelve) in number, of which 2 (two) directors must be ordinarily resident in Mauritius.

### 34 **COMPOSITION AND POWERS OF THE BOARD OF DIRECTORS**

#### 34.1 **Number of Directors**

- 34.1.1 The Board must comprise at least 4 (four) Directors and not more than 12 (twelve) in number, provided that the Shareholders shall be entitled, by Ordinary Resolution, to determine such maximum number of Directors as they from time to time shall consider appropriate.
- 34.1.2 All Directors shall be elected by an Ordinary Resolution of the Shareholders at a special or annual meeting of the Company and no appointment of a Director in accordance with a written resolution passed other than at a meeting shall be competent.
- 34.1.3 The Shareholders may vote on a resolution to appoint multiple Directors, despite the provisions of section 137 of the Act.

#### 34.2 **Share qualification**

A Director shall not be required to hold any shares of the Company by way of qualification. A Director who is not a Shareholder of the Company shall nevertheless be entitled to attend and speak at Shareholders' meetings.



### 34.3 **Appointment of executive Directors**

- 34.3.1 The Directors may from time to time appoint one or more of their body to be the holder of any executive office (including, where considered appropriate, the office of Chairman or Deputy Chairman) on such terms and for such period as they may (subject to the provisions of the Act) determine and, without prejudice to the terms of any contract entered into in any particular case, may at any time revoke or vary the terms of any such appointment.
- 34.3.2 The appointment of any Director to the office of Chairman or Deputy Chairman or Managing or Joint Managing or Deputy or Assistant Managing Director shall automatically determine if he ceases to be a Director but without prejudice to any claim for damages for breach of any contract of service between him and the Company.
- 34.3.3 The appointment of any Director to any other executive office shall not automatically determine if he ceases from any cause to be a Director, unless the contract or resolution under which he holds office shall expressly state otherwise, in which event such determination shall be without prejudice to any claim for damages for breach of any contract of service between him and the Company.

### 34.4 **Appointment and Retirement of Directors**

#### 34.4.1 Retirement at Annual Meetings

- 34.4.1.1 No Director shall be appointed for life or for an indefinite period.
- 34.4.1.2 All Directors shall retire at the 1st (first) annual meeting.
- 34.4.1.3 Directors shall rotate in accordance with the following provisions of this Article 34.4.1.3 –
- 34.4.1.3.1 at each annual meeting 1/3 (one third) of the nonexecutive Directors for the time being, or if their number is not 3 (three) or a multiple of 3 (three), the number nearest to 1/3 (one third), but not less than 1/3 (one third), shall retire from office, provided that if an Director is appointed as managing Director or as an employee of the Company in any other capacity, he or she shall not, while he or she continues to hold that position or office, be subject to retirement by rotation and he or she shall not, in such case, be taken into account in determining the rotation or retirement of Directors;
- 34.4.1.3.2 the Directors to retire in every year shall be those who have been longest in office since their last election, but as between persons who were elected as Directors on the same day, those to retire shall, unless they otherwise agree among themselves, be determined by lot;
- 34.4.1.3.3 a retiring Director shall be eligible for re-election;
- 34.4.1.3.4 the Company, at the special meeting at which a Director retires in the above manner, or at any other special meeting, may fill the vacancy by electing a person thereto, provided that the Company shall

not be entitled to fill the vacancy by means of a resolution passed by shareholders other than at a meeting;

34.4.1.3.5 if at any meeting at which an election of Directors ought to take place the offices of the retiring Directors are not filled, unless it is expressly resolved not to fill such vacancies, the meeting shall stand adjourned and the further provisions of this Constitution, will apply *mutatis mutandis* to such adjournment, and if at such adjourned meeting the vacancies are not filled, the retiring Directors, or such of them as have not had their offices filled, shall be deemed to have been re-elected at such adjourned meeting.

34.4.1.4 The Board shall, through its nomination committee if such committee has been constituted, provide the shareholders with a recommendation in the notice of the meeting at which the re-election of a retiring Director is proposed, as to which retiring Directors are eligible for re-election, taking into account that Director's past performance and contribution.

#### 34.4.2 Vacation of office

34.4.2.1 The office of a Director shall be vacated in any of the following events, namely:

34.4.2.1.1 if he shall become prohibited by law from acting as a Director;

34.4.2.1.2 if he shall resign by writing under his hand left at the Office or if he shall in writing offer to resign and the Directors shall resolve to accept such offer;

34.4.2.1.3 if a bankruptcy or insolvency order is made against him in any jurisdiction or shall compound with his creditors generally;

34.4.2.1.4 if an order shall be made by any court claiming jurisdiction in that behalf on the ground (however formulated) of mental disorder for his detention or for the appointment of a curator/guardian or for the appointment of a receiver or other person (by whatever name called) to exercise powers with respect to his property or affairs;

34.4.2.1.5 if he shall be absent from meetings of the Directors for six months without leave and the Directors shall resolve that his office be vacated;

34.4.2.1.6 if a notice in writing is served upon him, signed by not less than three- quarters of the Directors for the time being, to the effect that his office as Director shall on or receipt of such notice ipso facto be vacated, but so that if he holds an appointment to an executive office which thereby automatically determines such removal shall be deemed an act of the Company and shall have effect without prejudice to any claim for damages for breach of any contract of service between him and the Company.

34.4.2.2 The Board has the power, at any time and from time to time, to appoint any person as a Director, either to fill any vacancy on the Board or as an addition to the Board on a temporary basis, provided that the

appointment of a Director to fill a casual vacancy or as an addition to the Board must be confirmed by the shareholders at the next annual meeting of the Company.

#### 34.4.3 Removal of Director

The Company may in accordance with and subject to the provisions of the Act by Ordinary Resolution remove any Director from office (notwithstanding any provision of this Constitution or of any agreement between the Company and such Director, but without prejudice to any claim he may have for damages for breach of any such agreement) and elect another person in place of a Director so removed from office.

#### 34.5 **Powers of the Directors**

34.5.1 The Board has the power to –

34.5.1.1 fill any vacancy on the Board on a temporary basis, provided that such appointment must be confirmed by the Shareholders, in accordance with Article 34.1.2, at the next annual meeting of the Company; and

34.5.1.2 exercise all of the powers and perform any of the functions of the Company that are not by the Act, by this Constitution or by the JSE Listings Requirements required to be exercised by the Company in a special meeting,

and the powers of the Board in this regard are only limited and restricted as contemplated in this Article 34.

34.5.2 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 Constitution) 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.

34.5.3 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.

34.5.4 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.

34.5.5 If the number of Directors falls below the minimum number fixed in accordance with this Constitution, the remaining Directors must as soon as possible and in any event not later than 3 (three) months from the date that the number falls below such minimum, fill the vacancy/ies in accordance with Article 34.5.1.1 or convene a special meeting for the purpose of filling the vacancies, and the failure by the Company to have the minimum number of Directors during the said 3 (three) month period does not limit or negate the authority of the Board of Directors or invalidate anything done by the Board of Directors while their number is below the minimum number fixed in accordance with this Constitution.

34.5.6 The Directors in office may act notwithstanding any vacancy in their body, but if after the expiry of the 3 (three) month period contemplated in Article 34.5.5, their number remains below the minimum number fixed in accordance with this Constitution, they may, for as long as their number is reduced below such minimum, act only for the purpose of filling vacancies in their body or of summoning special meetings of the Company, but not for any other purpose.

#### 34.6 **Directors' office**

34.6.1 A Director may hold any other office or place of profit under the Company 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.

34.6.2 A Director of the Company may be or become a director or other officer of, or otherwise interested in, any company promoted by the Company or in which the Company may be interested as shareholder or otherwise, provided that the appointment and remuneration in respect of such other office must be determined by a disinterested quorum of Directors.

### 35 **DIRECTORS' MEETINGS**

#### 35.1 **Quorum**

The quorum necessary for the transaction of business of the Directors may be fixed from time to time by the Directors and unless so fixed at any other number shall be three (provided that any meeting shall only be quorate if a majority of the Directors present are non-executive). A meeting of the Directors at which a quorum is present shall be competent to exercise all powers and discretions for the time being exercisable by the Directors.

## 35.2 **Notice**

35.2.1 A notice of a meeting of the Board shall be sent to every Director at least 7 (seven) days before the proposed meeting, and the notice shall include the date, time, and place of the meeting and the matters to be discussed.

35.2.2 An irregularity in the notice of a meeting is waived where all Directors entitled to receive notice of the meeting attend the meeting without protest as to the irregularity or where all Directors entitled to receive notice of the meeting agree to the waiver.

35.3 **Proceedings:** Except as provided in Article 35.1 and Article 35.2 the Directors meetings shall be held in accordance with the Eighth Schedule to the Act.

35.4 **Written resolutions:** A resolution in writing signed by all the Directors shall be as valid and effective for all purposes as a resolution passed by the Directors at a meeting duly convened, held and constituted. The resolution will be deemed to have been passed at the time at which the resolution is signed by the last Director to sign.

## 36 **DIRECTORS' COMPENSATION**

### 36.1 **Directors' fees**

The ordinary remuneration of the Directors shall from time to time be determined by the Directors except that such remuneration shall not exceed an aggregate amount per annum as may from time to time be determined by Ordinary Resolution of the Company and shall be divisible among the Directors as they may agree, or, failing agreement, equally, except that any Director who shall hold office for part only of the period in respect of which such remuneration is payable shall be entitled only to rank in such division for a proportion of remuneration related to the period during which he has held office.

### 36.2 **Other remuneration of Directors**

A Chairperson or Deputy Chairperson, whether or not such office is held in an executive capacity, or who serves on any committee of the Directors, or who otherwise performs services which in the opinion of the Directors are outside the scope of the ordinary duties of a Director, may be paid such extra remuneration by way of salary, commission or otherwise or may receive such other benefits as a disinterested quorum of Directors may determine.

### 36.3 **Directors' expenses**

The Directors may repay to any Director all such reasonable expenses as he may incur in attending and returning from meetings of the Directors or of any committee of the Directors or shareholders' meetings or otherwise in connection with the business of the Company.

## 39 SELF-INTEREST TRANSACTIONS

- 39.1 The Directors must comply with sections 147 (Meaning of “interested”) to 157 (Restrictions on Share dealing by Directors) of the Act.
- 39.2 Subject to Article 39.3, a Director of the Company shall be interested in a transaction to which the Company is a party where the Director -
- 39.2.1 is a party to, or shall or may derive a material financial benefit from the transaction;
- 39.2.2 has a material financial interest in or with another party to the transaction;
- 39.2.3 is a Director, officer, or trustee of another party to, or person who shall or may derive a material financial benefit from, the transaction, not being a party or person that is -
- 39.2.3.1 the Company's holding company being a holding company of which the Company is a wholly-owned subsidiary;
- 39.2.3.2 a wholly-owned subsidiary of the Company; or
- 39.2.3.3 a wholly-owned subsidiary of a holding company of which the Company is also a wholly-owned subsidiary;
- 39.2.4 is the parent, child or spouse of another party to, or person who shall or may derive a material financial benefit from, the transaction; or
- 39.2.5 is otherwise directly or indirectly materially interested in the transaction.
- 39.3 A Director of the Company shall not be deemed to be interested in a transaction to which the Company is a party if the transaction comprises only the giving by the Company of security to a third party and at the request of that third party which has no connection with the Director and in respect of a debt or obligation of the Company for which the Director or another person has personally assumed responsibility in whole or in part under a guarantee, indemnity, or by the deposit of a security.
- 39.4 **Disclosure of interest**
- 39.4.1 A Director of the Company shall, immediately after becoming aware of the fact that he is interested in a transaction or proposed transaction with the Company, cause to be entered in the interests register where it has one, and disclose to the Board -
- 39.4.1.1 where the monetary value of the Director's interest can be quantified, the nature and monetary value of that interest; or
- 39.4.1.2 where the monetary value of the Director's interest cannot be quantified, the nature and extent of that interest.
- 39.4.2 A Director of the Company shall not be required to comply with Article 39.4.1 where -

- 39.4.2.1 the transaction or proposed transaction is between the Director and the Company; and
- 39.4.2.2 the transaction or proposed transaction is or is to be entered in the ordinary course of the Company's business and on usual terms and conditions.
- 39.4.3 For the purposes of Article 39.4.1, a general notice entered in the interests register or disclosed to the Board to the effect that a Director is a Shareholder, Director, officer or trustee of another named company or other person and is to be regarded as interested in any transaction which may, after the date of the entry or disclosure, be entered with that company or person, is a sufficient disclosure of interest in relation to that transaction.
- 39.4.4 A failure by a Director to comply with Article 39.4.1 shall not affect the validity of a transaction entered by the Company or the Director.

39.5 **Avoidance of transactions**

- 39.5.1 A transaction entered by the Company in which a Director of the Company is interested may be avoided by the Company at any time before the expiration of 6 (six) months after the transaction is disclosed to all the Shareholders whether by means of the Company's annual report or otherwise.
- 39.5.2 A transaction shall not be avoided where the Company receives fair value under it.

39.6 **Effect on third parties**

The avoidance of a transaction under Article 39.5 shall not affect the title or interest of a person in or to property which that person has acquired where the property was acquired -

- 39.6.1 from a person other than the Company; and
- 39.6.2 for valuable consideration.

39.7 **Application of Avoidance of Transactions in certain cases**

- 39.7.1 Articles 39.5 and 39.6 shall not apply in relation to -
- 39.7.1.1 remuneration or any other benefit given to a Director in accordance with this Constitution; or
- 39.7.1.2 an indemnity given or insurance provided in accordance with this Constitution.

39.8 **Interested Director may not vote**

- 39.8.1 A Director of the Company who is interested in a transaction entered, or to be entered into, by the Company, may -
- 39.8.1.1 not vote on any matter relating to the transaction, and if he does vote, his vote shall not be counted;

- 39.8.1.2 attend a meeting of Directors at which a matter relating to the transaction arises and be included among the Directors present at the meeting for the purpose of a quorum;
- 39.8.1.3 sign a document relating to the transaction on behalf of the Company; and
- 39.8.1.4 do any other thing in his capacity as a Director in relation to the transaction, as if the Director were not interested in the transaction.

## 40 INDEMNITY AND INSURANCE

### 40.1 Power to Indemnify for Costs:

- 40.1.1 The Company may indemnify a Director, any manager, or employee of the Company or a related company for any costs incurred by him or her in any proceeding:
  - 40.1.1.1 **Capacity as Director, manager or employee:** that relates to liability for any act or omission in his or her capacity as a Director, the manager, or employee; and
  - 40.1.1.2 **Acquittal or Discontinued Proceedings:** in which judgment is given in his or her favour, or in which he or she is acquitted, or which is discontinued.

### 40.2 Indemnities in Relation to Liability:

- 40.2.1 The Company may indemnify a Director, any manager, or employee of the Company or a related company in respect of:
  - 40.2.1.1 **Capacity as Director, manager or employee:** liability to any person other than the Company or a related company for any act or omission in his or her capacity as a Director, any manager, or employee; or
  - 40.2.1.2 **Defending or Settling Claim:** costs incurred by that Director, any manager, or employee in defending or settling any claim or proceeding relating to any such liability; not being criminal liability or liability in respect of a breach, in a case of a Director, of the duty specified in section 143(1)(c) of the Act or, in the case of any manager or an employee, of any fiduciary duty owed to the Company or related company.

### 40.3 Power to Insure Against Liability or Costs:

- 40.3.1 The Company may, with the prior approval of the Board and to the extent permitted by law, effect insurance for a Director, any manager, or employee of the Company or a related company in respect of:
  - 40.3.1.1 **Capacity as Director, manager or employee:** liability, not being criminal liability, for any act or omission in his or her capacity as a Director, any manager or employee; or
  - 40.3.1.2 **Defending or Settling Claim:** costs incurred by that Director, any manager or employee in defending or settling any claim or proceeding relating to any such liability; or



40.3.1.3 **Defending Criminal Proceedings:** costs incurred by that Director, any manager or employee in defending any criminal proceedings in which he or she is acquitted.

40.4 This Article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Act or by any other provision of law.

#### 41 **BORROWING POWERS**

The Directors may from time to time —

41.1 exercise the borrowing powers of the Company for any purpose and in such sums as they think fit; and

41.2 secure the payment or repayment of any such sums, or any other sum, as they think fit, whether by the creation and issue of Securities, mortgage or charge upon all or any of the property or assets of the Company.

#### 45 **AUDIT**

45.1 The Company shall, at each annual meeting, appoint an auditor to-

45.1.1 hold office from the conclusion of the meeting until the conclusion of the next annual meeting; and

45.1.2 audit the financial statements of the Company and if the Company is required to complete group financial statements, those group financial statements, for the accounting period next after the meeting.

45.2 The Board may fill any casual vacancy in the office of auditor, but while the vacancy remains, the surviving or continuing auditor, if any, may continue to act as auditor.

45.3 A Director or officer of the Company shall not be capable of being appointed as an Auditor of the Company.

#### 47 **DISTRIBUTIONS**

47.1 The Company may make a proposed distribution if such distribution is in compliance with the JSE Listings Requirements and the provisions of the Act, provided that if such distribution is a repayment of capital, the Company shall not be entitled to make such distribution on the basis that it may be called up again.

47.2 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.

47.3 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.

47.4 The Directors may from time to time declare and pay to the Shareholders such interim distributions as the Directors consider to be appropriate.

47.5 All distributions are to be declared by the Directors in accordance with the provisions of the Act.

47.6 All unclaimed distributions (other than monetary 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 (three) years (or such longer or shorter period as the law may prescribe for the prescription of a claim) 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. All unclaimed monies due to any Shareholder/s shall be held by the Company in trust until lawfully claimed by such Shareholder/s, provided that such unclaimed monies shall be subject to the laws of prescription.

47.7 Any distribution must be made payable to Shareholders registered as at a date subsequent to the date of declaration thereof or the date of confirmation thereof, whichever is the later date.

47.8 **Distribution in specie**

The Company may, subject to the JSE Listings Requirements, direct payment of a dividend in whole or in part by the distribution of specific assets (and in particular of paid-up shares or debentures of any other company). Where any difficulty arises in regard to such distribution, the Directors may settle the same as they think expedient and in particular may fix the value for distribution of such specific assets or any part thereof, may determine that cash shall be paid to any Shareholder upon the footing of the value so fixed in order to adjust the rights of Shareholders and may vest any assets in trustees.

47.9 **No dividend except out of profits**

No dividend shall be paid otherwise than out of retained earnings after having made good any accumulated losses at the beginning of the accounting period and available for distribution under the provisions of the Act.

47.10 **Record date for dividends**

47.10.1 The record date shall be determined by the Board, provided that, for as long as the JSE Listings Requirements prescribe a record date, such record date shall be the record date so prescribed.

47.10.2 Any resolution for the declaration or payment of a dividend on Shares of any class, whether a resolution of the Company in special meeting or a resolution of the Directors, may specify that the same shall be payable to the persons registered as the holders of such Shares at the close of business on the record date.

47.10.3 Any distribution must be made payable to Shareholders registered as at a date subsequent to the date of declaration thereof or the date of confirmation thereof, whichever is the later date.

48 **PAYMENT OF COMMISSION**

48.1 The Company may pay a commission at a rate not exceeding 10% (ten percent) of the issue price of a Share to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any Shares of the Company or for procuring or agreeing to procure, whether absolutely or conditionally, subscriptions for any Shares of the Company.

- 48.2 Commission may be paid out of share premium or profits, whether current or accumulated, or partly out of the one and partly out of the other.
- 48.3 Such commission may be paid in cash or, if authorised by the Company in special meeting, by the allotment of fully or partly paid-up Shares, or partly in one way and partly in the other.
- 48.4 The Company may, on any issue of Shares, pay such brokerage as may be lawful.

## 50 NOTICES

- 50.1 All notices delivered by the Company to each Shareholder of the Company shall be –
- 50.1.1 simultaneously given to the Issuer Services Division of the JSE;
- 50.1.2 given in writing in any manner authorised by the JSE Listings Requirements;
- 50.1.3 released through SENS provided that, in the event that the Shares or other Securities of the Company are not listed on the JSE, all the provisions of this Constitution relating to the publication of notices via SENS shall no longer apply and such notices shall thereafter only be published in accordance with the provisions of the Act.
- 50.2 Each Shareholder of the Company –
- 50.2.1 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
- 50.2.2 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.
- 50.3 Any document or notice which, in accordance with this Constitution, may be sent by the Company by electronic communication shall, if so sent, be deemed to be received on the date and at the time recorded by the computer used by the sender, unless there is conclusive evidence that it was delivered on a different date or at a different time.
- 50.4 Any document or notice which, in accordance with this Constitution, may be sent by the Company by fax shall, if so sent, be deemed to be received on the date and at the time recorded by the fax receiver, unless there is conclusive evidence that it was delivered on a different date or at a different time.
- 50.5 Where a notice or other document is served or sent by post, service or delivery shall be deemed to be effected on the 7th (seventh) day following the day on which the notice or document was posted as recorded by a post office, unless there is conclusive evidence that it was delivered on a different day.

- 50.6 The accidental failure to send, or the non-receipt by any person entitled to, any notice of or other document relating to any meeting or other proceeding shall not invalidate the relevant meeting or other proceeding.
- 50.7 Any Shareholder whose address in the Securities Register is an address not within South Africa, shall be entitled to have notices served upon him at such address.
- 50.8 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.
- 50.9 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.
- 50.10 Any notice or document delivered or sent by post to or left at the registered address of any Shareholder in pursuance of this Constitution 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 Constitution 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.
- 50.11 **Electronic Communication**
- 50.11.1 As provided in Article 50.2.2, any Shareholder may notify the Company of an address for the purpose of his receiving Electronic Communications from the Company, and having done so shall be deemed to have agreed to receive notices and other documents from the Company by Electronic Communication of the kind to which the address relates. In addition, if a Shareholder notifies the Company of his e-mail address, the Company may satisfy its obligation to send him any notice or other document by:
- 50.11.1.1 publishing such notice or document on a web site; and
- 50.11.1.2 notifying him by e-mail to that e-mail address that such notice or document has been so published, specifying the address of the web site on which it has been published, the place on the web site where it may be accessed, how it may be accessed and (if it is a notice relating to a Shareholders' meeting) stating (i) that the notice concerns a notice of a Company meeting served in accordance with the Act, (ii) the place, date and time of the meeting, (iii) whether the meeting is to be an annual general or special meeting and (iv) such other information as the Act may prescribe.
- 50.11.1.3 Any amendment or revocation of a notification given to the Company under this Article 50.11 shall only take effect if in writing, signed by the Shareholder and on actual receipt by the Company thereof.

50.11.1.4 An electronic communication shall not be treated as received by the Company if it is rejected by computer virus protection arrangements.

50.12 Nothing in any of the preceding articles shall affect any requirement of the Act that any particular offer, notice or other document be served in any particular manner.

## 51 **AMENDMENT OF CONSTITUTION**

Subject to the provisions of Article 13, this Constitution may only be amended by way of a Special Resolution of the Ordinary Shareholders in accordance, except if such amendment is in compliance with an order of a court of competent jurisdiction.

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