

THE COMPANIES ACT 2001 OF MAURITIUS

CONSTITUTION

OF

HOMECHOICE INTERNATIONAL P.L.C.

A PUBLIC COMPANY

REGISTRATION NUMBER: [NUMBER]



CLIFFE DEKKER HOFMEYR

TABLE OF CONTENTS

1	INTERPRETATION	1
2	NAME	5
3	STATUS AND REGISTERED OFFICE.....	5
4	OBJECTS.....	5
5	LIMITED LIABILITY	7
6	SHARE CAPITAL	7
7	COMPANY SECRETARY	7
8	ADMINISTRATOR	7
9	LEGAL AND JUDICIAL REPRESENTATION	7
10	DURATION.....	8
11	POWERS OF THE COMPANY	8
12	SOLVENCY	8
13	ISSUE OF SHARES AND VARIATION OF RIGHTS	8
14	REDEEMABLE SHARES	11
15	TRUST AND OTHER INTERESTS NOT RECOGNISED.....	11
16	REDUCTION OF CAPITAL	11
17	CERTIFICATED AND UNCERTIFICATED SECURITIES.....	11
18	SECURITIES REGISTER	12
19	TRANSFER OF SECURITIES	13
20	NO LIEN	15
21	TRANSMISSION OF SECURITIES	15
22	DEBT INSTRUMENTS.....	16
23	CAPITALISATION SHARES	16
24	ACQUISITION BY THE COMPANY OF ITS OWN SHARES.....	17
25	ODD-LOT OFFERS.....	18
26	RECORD DATE FOR EXERCISE OF SHAREHOLDER RIGHTS	18
27	SHAREHOLDERS' MEETINGS.....	18
28	VOTES OF SHAREHOLDERS	20
29	PROXIES AND CORPORATE REPRESENTATIVES	21
30	SHAREHOLDERS' MEETINGS BY ELECTRONIC COMMUNICATION	21
31	SHAREHOLDERS' RESOLUTIONS	21
32	SHAREHOLDERS ACTING OTHER THAN AT A MEETING.....	22
33	BOARD OF DIRECTORS	23
34	COMPOSITION AND POWERS OF THE BOARD OF DIRECTORS	23
35	DIRECTORS' MEETINGS.....	27
36	DIRECTORS' COMPENSATION	28
37	MANAGING DIRECTOR.....	28
38	ALTERNATE DIRECTORS	29
39	SELF-INTEREST TRANSACTIONS.....	30

40	INDEMNITY AND INSURANCE	32
41	BORROWING POWERS	33
42	COMMITTEES OF THE BOARD	33
43	ANNUAL FINANCIAL STATEMENTS	34
44	ACCOUNTING AND COMPANY RECORDS.....	34
45	AUDIT	35
46	BANK ACCOUNT	35
47	DISTRIBUTIONS.....	35
48	PAYMENT OF COMMISSION	36
49	AUTHENTICATION OF DOCUMENTS	37
50	NOTICES.....	37
51	AMENDMENT OF CONSTITUTION	39
52	COMPANY RULES	39
53	WINDING UP.....	39
54	TRANSFER BY WAY OF CONTINUATION.....	40
55	ARBITRATION	40
56	DATA PROTECTION	41

1 INTERPRETATION

- 1.1 The terms of the Act are negated, modified, adopted and extended as provided by this Constitution.
- 1.2 In this Constitution, 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 –
- 1.2.1 "**Act**" means the Mauritius Companies Act 2001 of Mauritius;
- 1.2.2 "**Administrator**" the Management Company appointed to act as administrator of the Company under Article 8.
- 1.2.3 "**Auditors**" the auditors for the time being of the Company;
- 1.2.4 "**Balance Sheet Date**" each accounting reference period of the Company determined from time to time in accordance with section 216 of the Act;
- 1.2.5 "**Board**" means the Board of Directors from time to time of the Company;
- 1.2.6 "**Certificated Securities**" means Securities issued by the Company that are not Uncertificated Securities;
- 1.2.7 "**Central Securities Depository**" has the meaning set out in section 1 of the Financial Markets Act of South Africa;
- 1.2.8 "**Company**" means the company named on the first page of this document, duly incorporated under the registration number endorsed thereon;
- 1.2.9 "**Constitution**" means the constitution of the Company as from time to time altered;
- 1.2.10 "**Director**" means a member of the Board, or an alternate director, and includes any person occupying the position of a director or alternate director, by whatever name designated;
- 1.2.11 "**Electronic Communication**" means a communication by means of data (electronic representations of information in any form) generated, sent, received or stored by electronic means and includes (i) voice, where the voice is used in an automated transaction and (ii) a stored record;
- 1.2.12 "**Employee Share Scheme**" means a scheme established by the Company, whether by means of a trust or otherwise, for the purpose of offering participation therein solely to employees, executives officers and other persons closely involved in the business of the Company or a subsidiary of the Company, either (i) by means of the issue of Shares; or (ii) by the grant of options for Shares;
- 1.2.13 "**Financial Markets Act**" means the South African Financial Markets Act, No 19 of 2012, including any amendment, consolidation or re-enactment thereof;

- 1.2.14 **"FSA"** the Financial Services Act 2007 of Mauritius as amended from time to time;
- 1.2.15 **"FSC"** the Financial Services Commission established under the FSA;
- 1.2.16 **"Global Business"** has the meaning assigned to it in section 2 of the FSA;
- 1.2.17 **"International Accounting Standards"** has the meaning set out in section 2 of the Act;
- 1.2.18 **"JSE"** means the exchange, licensed under the Financial Markets Act operated by JSE Limited (Registration number 2005/022939/06), a public company duly incorporated in South Africa;
- 1.2.19 **"JSE Listings Requirements"** means the Listings Requirements of the JSE applicable from time to time;
- 1.2.20 **"Management Company"** a company holding a management license issued under section 77 of the FSA;
- 1.2.21 **"Mauritius"** means the Republic of Mauritius;
- 1.2.22 **"Office"** means the registered office of the Company for the time being;
- 1.2.23 **"Ordinary Resolution"** means a resolution of the Company passed in accordance with Article 31.1;
- 1.2.24 **"Ordinary Shares"** means Shares in an ordinary class of shares of the Company;
- 1.2.25 **"Participant"** has the meaning set out in section 1 of the Financial Markets Act of South Africa;
- 1.2.26 **"Republic"** or **"South Africa"** means the Republic of South Africa;
- 1.2.27 **"Securities"** means any Shares, notes, bonds, debentures or other instruments, irrespective of their form or title, issued, or authorised to be issued, by the Company;
- 1.2.28 **"Securities Register"** means the register of issued Securities of the Company;
- 1.2.29 **"SENS"** means the Securities Exchange News Service established and operated by the Issuer Regulation Division of the JSE;
- 1.2.30 **"Share"** means one of the units into which the proprietary interest in the Company is divided;
- 1.2.31 **"Shareholder"** means the holder of a Share who is entered as such in the Securities Register, subject to the provisions of the Act;
- 1.2.32 **"Solvency Test"** has the meaning attributed thereto in Article 12;
- 1.2.33 **"Special Resolution"** means a resolution of the Company passed in accordance with Article 31.2;
- 1.2.34 **"Stated Capital"**: has the meaning assigned to it in section 7 of the Act;

- 1.2.35 **“Surplus Assets”** the assets of the Company remaining after the payment of creditors' claims and available for distribution in accordance with Part XI of the Act 1984 prior to its removal from the register of companies.
- 1.2.36 **"Uncertificated Securities"** means Securities that are not evidenced by a certificate or written instrument; and are held in collective custody by a Central Securities Depository or its nominee in a separate central securities account, and are transferable by entry without a certificate or written instrument, in accordance with the provisions of the Mauritius law; and
- 1.2.37 **"Uncertificated Securities Register"** means the record of uncertificated securities administered and maintained by a Participant or Central Securities Depository, as determined in accordance with the rules of the Central Securities Depository.
- 1.2.38 **“ZAR” and “R”** means the lawful currency of the Republic of South Africa.
- 1.3 In this Constitution, unless the context clearly indicates otherwise –
- 1.3.1 words and expressions defined in the Act and which are not defined herein shall have the meanings given to them in the Act; and
- 1.3.2 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 Constitution is adopted,
- 1.4 The expressions "debenture" and "debenture holder" shall respectively include "debenture stock" and "debenture stockholder".
- 1.5 The expression "Secretary" shall include any person appointed by the Directors to perform any of the duties of the Secretary including, but not limited to, a joint, assistant or deputy Secretary.
- 1.6 The expression "officer" shall include a Director, manager and the Secretary but shall not include an auditor.
- 1.7 The expression "shareholders meeting" shall include both a special meeting and a meeting of the holders of any class of shares of the Company.
- 1.8 All such of the provisions of this Constitution as are applicable to Shares shall apply to stock, and the words "Share" and "Shareholder" shall be construed accordingly.
- 1.9 In any instance where there is a conflict between a provision (be it expressed, implied or tacit) of this Constitution and any provision of the Act and/or JSE Listings Requirements applicable to the Company by law from time to time, the provisions of the Act and/or JSE Listings Requirements, as the case may be, shall prevail to the extent of the conflict, unless this Constitution impose on the Company a higher standard, greater restriction, longer period of time or similarly more onerous requirement which are not prohibited by the Act and/or JSE Listings Requirements, in which case the relevant provision of this Constitution shall prevail to the extent of the conflict.

- 1.10 In this Constitution, unless the context clearly indicates otherwise –
- 1.10.1 Article headings are for convenience only and are not to be used in its interpretation;
- 1.10.2 an expression which denotes —
- 1.10.2.1 any gender includes the other genders;
- 1.10.2.2 a natural person includes a body of persons, a juristic person and *vice versa*; and
- 1.10.2.3 the singular includes the plural and *vice versa*;
- 1.10.3 if the due date for performance of any obligation in terms of this Constitution 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;
- 1.10.4 any words or expressions defined in any Article shall, unless the application of any such word or expression is specifically limited to that Article, bear the meaning assigned to such word or expression throughout the whole of this Constitution;
- 1.10.5 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
- 1.10.6 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.
- 1.11 Any reference in this Constitution to –
- 1.11.1 "**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 of Mauritius from time to time;
- 1.11.2 "**law**" means any law of general application, as amended and re-enacted from time to time, 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
- 1.11.3 "**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.
- 1.12 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.

- 1.13 Unless otherwise provided, defined terms appearing in this Constitution in title case shall be given their meaning as defined, while the same terms appearing in lower case shall be interpreted in accordance with their plain English meaning.
- 1.14 Unless specifically otherwise provided, any number of days prescribed shall be determined by excluding the first and including the last day or, where the last day falls on a day that is not a business day, the next succeeding business day.
- 1.15 Where figures are referred to in numerals and in words, and there is any conflict between the two, the words shall prevail, unless the context indicates a contrary intention.
- 1.16 Any reference herein to "**this Constitution**" shall be construed as a reference to this Constitution as amended from time to time.

2 **NAME**

The name of the company is HomeChoice International p.l.c. ("**the Company**").

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.

4 **OBJECTS**

- 4.1 The objects of the Company are:
- 4.1.1 to carry on the business of a holding company, owning, buying and/ or selling, holding and managing in the most ample manner assets of any kind, movable or immovable, including shares, stock, bonds and debentures and other types of investments in other partnerships and entities;
- 4.1.2 to borrow or raise money from time to time without limitations in such manner as the Company may think fit and in particular by the issue of debentures or other rights and to secure the repayment of any money borrowed or raised and interest thereon as may be considered fit, including hypothecation, charge or lien upon the whole or any part of the Company's property and assets; and also by a similar hypothecation, charge or lien, to secure and guarantee the performance of any debt, liability or obligation of the Company or any other party;
- 4.1.3 to lend and advance money, give credit (on such terms as it may deem appropriate), grant or provide guarantees, hypothecs, privileges, charges, security interests or other security to companies forming part of the same group of companies as the Company or where the so doing does not give rise to any licensing requirements;

- 4.1.4 to own, manage, administer and dispose of property of any kind, whether movable or immovable, personal or real, and wherever situated;
 - 4.1.5 to invest and deal with monies of the Company in any manner deemed profitable by the Company;
 - 4.1.6 to receive capital contributions in whatever form or manner as the directors of the Company may agree on;
 - 4.1.7 to participate in share issues of all kinds and to provide services relating to such issues;
 - 4.1.8 to purchase, take on lease, or acquire by any title any immovable property, which may be required for the purpose of conducting its business;
 - 4.1.9 to sell, lease, hypothecate or otherwise dispose of the whole or any part of the property, assets and undertakings of the Company;
 - 4.1.10 to apply for and register as a company with any one or more stock exchange and to list all or any part of its share capital on one or more stock exchange subject to the rules and regulations governing the listing of shares applicable in the relevant jurisdiction;
 - 4.1.11 to receive from the investments and assets mentioned in the foregoing clauses dividends, capital gains, interests and any other income including income or gains on their disposal, rents, royalties and similar income whether arising in or outside Mauritius and profits or gains attributable to a permanent establishment whether situated in or outside Mauritius;
 - 4.1.12 to enter into or agree to enter into any joint venture, partnership or agreement or other venture for the sharing of profits or assets;
 - 4.1.13 to enter into or agree to enter into any death, retirement, profit-sharing, bonus, share option, share incentive or other scheme for the benefit of any of its employees or make any variation to any such existing scheme or effect any keyman insurance;
 - 4.1.14 declare or pay any dividends or make any other distribution (including the repayment of loan accounts);
 - 4.1.15 to do all such other things as are incidental or conducive to the attainment of the abovementioned objects.
- 4.2 The objects set forth in each sub-Article of this Article 4 shall not be restrictively construed but the widest interpretation shall be given thereto, and they shall not, except where the context expressly or so requires, be in any way limited or restricted by reference to or inference from any other object or objects set forth in such sub-Article or from the terms of any other sub-Article or by the name of the Company. None of such sub-clauses nor the object or objects therein specified nor the powers thereby conferred shall be deemed subsidiary or ancillary to the objects or powers mentioned in any other Article, but the Company shall have as full a power to exercise all or any of the objects conferred

by and provided in each of the said sub-Article as if each sub-Article contained the objects of a separate company.

- 4.3 Furthermore, nothing in the foregoing shall be construed as empowering or enabling the Company to carry out any activity or service which requires a licence by law or is otherwise regulated by law, without a licence or other appropriate authorisation from the respective competent authority.

5 LIMITED 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.

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.

7 COMPANY SECRETARY

- 7.1 The Directors shall appoint one or more secretaries to be the secretary of the Company subject to Article 7.3.
- 7.2 If the office of the secretary is vacant then any of the secretary's functions may be done by any assistant or deputy secretary, or if there is no assistant or deputy secretary capable of acting, by any officer of the Company, subject to Article 7.3.
- 7.3 No person shall be appointed as the secretary of the Company unless that person has consented to be a secretary and has the qualifications specified under section 165 of the Act.

8 ADMINISTRATOR

- 8.1 The Directors shall appoint as Administrator a Management Company, to manage the Company's administrative affairs.
- 8.2 The Directors may bestow to the Administrator any of the relevant functions, duties, powers and discretion exercisable by them as Directors, (other than its powers under any section specified in the Seventh Schedule to the Act), upon such terms and conditions, including the right to remuneration payable by the Company and with such powers of delegation and sub-delegation and such restrictions as they think fit, either collaterally with or to the exclusion of their own powers.

9 LEGAL AND JUDICIAL REPRESENTATION

- 9.1 Deeds of whatever nature engaging the Company and all other documents purporting to bind the Company, as well as cheques, bills of exchange, promissory notes and other negotiable instruments shall be signed, made, executed, drawn, accepted and endorsed, as the case may be, on behalf of the Company, by two (2) Directors acting jointly.

9.2 Any Director may represent the Company in judicial proceedings; provided that no proceedings may be instituted by the Company without the Board's authority. Nothing herein contained shall prevent the Board from validating any judicial action taken by any Director in anticipation of its approval.

9.3 Notwithstanding the above and in addition to the aforesaid, the Board may from time to time by resolution delegate such powers for a specific purpose or transaction/class of transactions to any Director and/or other person or persons, whether jointly or severally.

10 DURATION

The Company is incorporated for an indefinite duration.

11 POWERS OF THE COMPANY

The Company has all of the legal powers and capacity contemplated in the Act, and no provision contained in this Constitution should be interpreted or construed as negating, limiting, or restricting those powers in any way whatsoever.

12 SOLVENCY

12.1 For any purpose of this Constitution, a Company satisfies the Solvency Test at a particular time where—

12.1.1 the Company is able to pay its debts as they become due in the normal course of business; and

12.1.2 the value of the Company's assets is greater than the sum of -

12.1.2.1 the value of its liabilities; and

12.1.2.2 the Company's Stated Capital.

12.2 For the purposes of this Article in determining whether the value of the Company's assets is greater than the value of its liabilities, the Board may take into account the most recent financial statements of the Company prepared in accordance with International Accounting Standards

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.

14 REDEEMABLE SHARES

Subject to the provisions of article 76 of the Act, any redeemable shares may, be issued on the terms that they are, or at the option of the Company, are liable to be redeemed on such terms and in such manner as the Company before the issue of the shares may by Special Resolution determine.

15 TRUST AND OTHER INTERESTS NOT RECOGNISED

In accordance with the relevant provisions of Mauritius law and save as provided for in the JSE Listings Requirements, the Company shall not recognise any nominee relationship or trust in respect of any Security issued by it, and the Company shall not recognise, even when having notice thereof, any interest or other right in such Security, but shall only recognise the registered holder thereof.

16 REDUCTION OF CAPITAL

Subject to the provisions of the Act, the Company may by Special Resolution reduce its share capital, share premium account, capital redemption reserve or other undistributable reserve in any way.

17 CERTIFICATED AND UNCERTIFICATED SECURITIES

17.1 Securities of the Company are to be issued in certificated or uncertificated form, as shall be determined by the Board from time to time in accordance with the relevant provisions of Mauritius law or as may be provided for in terms of the JSE Listings Requirements (to the extent such permission is not in conflict with Mauritius Law). Except to the extent otherwise provided in the Act, the rights and obligations of Security holders shall not be different solely on the basis of their Securities being Certificated Securities or Uncertificated Securities and each provision of this Constitution applies with respect to any Uncertificated Securities in the same manner as it applies to Certificated Securities, unless otherwise stated or indicated by the context.

17.2 Subject to the relevant provisions of Mauritius law, any Certificated Securities may cease to be evidenced by certificates and thereafter become Uncertificated Securities.

- 17.3 Any Uncertificated Securities may be withdrawn from the Uncertificated Securities Register, and certificates issued evidencing those Securities at the election of the holder of those Uncertificated Securities. A holder of Uncertificated Securities who elects to withdraw all or part of the Uncertificated Securities held by it in an Uncertificated Securities Register and obtain a certificate in respect of those withdrawn Securities, may so notify the relevant Participant or Central Securities Depository as required by the rules of the Central Securities Depository.
- 17.4 After receiving notice from a Participant or Central Securities Depository, as the case may be, that the holder of Uncertificated Securities wishes to withdraw all or part of the Uncertificated Securities held by it in an Uncertificated Securities Register, and obtain a certificate in respect thereof, the Company shall –
- 17.4.1 immediately enter the relevant Security holder's name and details of its holding of Securities in the Securities Register and indicate on the Securities Register that the securities so withdrawn are no longer held in uncertificated form; and
- 17.4.2 within 10 (ten) business days (or 20 (twenty) business days in the case of a holder of Securities who is not resident within the Republic) prepare and deliver to the relevant person a certificate in respect of the Securities and notify the Central Securities Depository that the Securities are no longer held in uncertificated form.
- 17.5 Notwithstanding any other provision of this Constitution, for as long as any of the Securities issued by the Company are dematerialised —
- 17.5.1 terms and conditions relating to such Securities, including without prejudice to the generality of the foregoing, their issuance, transfer, exchange, redemption and/or cancellation, shall be governed in accordance with the applicable rules and procedures set out by the relevant Central Securities Depository providing dematerialisation and any other provisions of this Constitution shall apply only to the extent that they are not inconsistent with such rules and procedures; and
- 17.5.2 any amendment, variation or deletion of this Article shall be subject to the express written approval of the relevant Central Securities Depository providing dematerialisation which shall be obtained prior to the convening of an extraordinary special meeting at which such proposed amendment shall be put to the vote.

18 SECURITIES REGISTER

- 18.1 The Company must establish or cause to be established a Securities Register in the form prescribed by the Act and maintain the Securities Register in accordance with the prescribed standards.
- 18.2 If the Company has issued Uncertificated Securities, or has issued Securities that have ceased to be Certificated Securities as contemplated in Article 17.2, a record must be administered and maintained by a Participant or Central Securities Depository, in the prescribed form, as the Uncertificated Securities Register, which –

- 18.2.1 forms part of the Securities Register; and
- 18.2.2 must contain, with respect to all Uncertificated Securities contemplated in this Article 18, any details as determined by the rules of the Central Securities Depository.
- 18.3 Every Share certificate shall specify the number and class of Shares to which it related and the amount paid up thereon. No certificate shall be issued representing Shares of more than 1 (one) class.

19 TRANSFER OF SECURITIES

19.1 General

- 19.1.1 Subject to such restrictions as may be applicable, (whether by virtue of the preferences, rights, limitations or other terms associated with the Securities in question), any Shareholder or holder of other Securities may transfer all or any of its Certificated Securities by instrument in writing in any usual or common form or any other form which the Directors may approve.
- 19.1.2 All authorities to sign transfer deeds or other instruments of transfer granted by holders of Securities for the purpose of transferring Certificated Securities which may be lodged, produced or exhibited with or to the Company at its Office or at its transfer office shall, as between the Company and the grantor of such authorities, be taken and deemed to continue and remain in full force and effect, and the Company may allow the same to be acted upon until such time as express notice in writing of the revocation of the same shall have been given and lodged at the Company's Office or transfer office at which the authority was first lodged, produced or exhibited. Even after the giving and lodging of such notice, the Company shall be entitled to give effect to any instruments signed under the authority to sign and certified by any officer of the Company as being in order before the giving and lodging of such notice.
- 19.1.3 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.
- 19.1.4 The transfer of Uncertificated Securities may be effected only –
- 19.1.4.1 by a Participant or Central Securities Depository;
- 19.1.4.2 on receipt of an instruction to transfer sent and properly authenticated in terms of the rules of a Central Securities Depository or an order of a court of competent jurisdiction; and
- 19.1.4.3 in accordance with the rules of the Central Securities Depository.
- 19.1.5 Transfer of ownership in any Uncertificated Securities must be effected by debiting the account in the Uncertificated Securities Register from which the transfer is effected and crediting the

account in the Uncertificated Securities Register to which the transfer is effected, in accordance with the rules of the Central Securities Depository.

- 19.1.6 Securities transfer tax and other legal costs payable in respect of any transfer of Securities pursuant to this Constitution 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.

19.2 **Right to refuse registration**

- 19.2.1 The Board may refuse or delay the registration of any transfer of any Share to any person whether an existing shareholder or not, where:

19.2.1.1 the holder of the Shares has failed to pay money owing to the Company in respect of those Shares, whether by way of consideration for the issue of the Shares or in respect of sums payable by the holder of the Shares in accordance with this Constitution; or

19.2.1.2 the Board has notice of any agreement by the Shareholder to transfer only to some specified person or persons or subject to some specified condition or conditions; or

19.2.1.3 the transferee is mentally disordered or a minor; or

19.2.1.4 the Board believes effecting the transfer would be a breach of the law; or

19.2.1.5 the instrument of transfer is in respect of more than one Class of Share; or

19.2.1.6 the pre-emptive provisions contained in Article 13.10 have not been complied with;

19.2.1.7 the Board considers that it would not be in the best interests of the Company to register the transfer of the Shares; or

19.2.1.8 the instrument of transfer is not valid or is not accompanied by such other evidence as the Board reasonably requires to show the right of the transferor to make the transfer.

19.2.2 **Where Share certificate issued**

19.2.2.1 Notwithstanding Article 19.1.1, where a Share certificate has been issued, a transfer of the Shares to which it relates must not be registered by the Company unless the form of transfer is accompanied by the Share certificate relating to the Shares, or by evidence as to its loss or destruction and, if required, an indemnity in a form required by the Board.

19.2.2.2 Where Shares to which a Share certificate relates are to be transferred, and the Share certificate is sent to the Company to enable the registration of the transfer, the Share certificate must be cancelled and no further Share certificate issued except at the request of the transferee.

19.2.3 **Notice of refusal to register**

Where the Company refuses to register a transfer of any Share, it shall, within 28 (twenty-eight) days of the date on which the transfer was delivered to it, send to the transferor and to the transferee notice of the refusal and the reasons for the refusal.

19.3 **No fee on registration**

No fee will be charged by the Company in respect of the registration of any transfer or other document relating to or affecting the title to any Shares or otherwise for making any entry in the Securities Register affecting the title to any Shares.

19.4 **Closure of Register**

19.4.1 Without prejudice to the provisions of the Act, the registration of transfers may be suspended at such times and for such periods (not exceeding 30 (thirty) days in any year) as the Directors may from time to time determine and either generally or in respect of any class of Shares.

19.4.2 Article 19.4.1 shall only be applicable for so long as the Shares of the Company are not listed on the JSE.

19.5 **Branch Register**

19.5.1 The Securities Register may be divided into two or more registers kept in different places. The principal register shall be kept in Mauritius, "**principal register**" shall mean in relation to the Company:

19.5.1.1 when the Securities Register is not divided, the Securities Register; and

19.5.1.2 when the Securities Register is divided into two or more registers, the register described as the principal register in the last notice sent to the Registrar.

20 **NO LIEN**

It is recorded for the avoidance of doubt that fully paid Securities shall not be subject to any lien in favour of the Company and shall be freely transferable.

21 **TRANSMISSION OF SECURITIES**

21.1 The successors or the executor of the estate of a deceased sole holder of a Security shall be the only person recognised by the Company as having any title to such Security. In the case of a Security registered in the names of 2 (two) or more holders, the survivor or survivors, the successors or the executor of the estate of any deceased Shareholder, as determined by the Board, shall be the only person recognised by the Company as having any title to the Security. Any person who submits proof of his right as a heir or 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 sequestrated or of a Security Holder who is otherwise under a disability or as the liquidator of any body corporate which is a Security

Holder of the Company, shall be entered in the Securities Register *nomine officii*, and shall thereafter, for all purposes, be deemed to be a Securities Holder.

- 21.2 Subject to the provisions of Article 21.1, any person becoming entitled to any Security by virtue of the death or bankruptcy of a Security Holder or otherwise by operation of law 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 –
- 21.2.1 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
- 21.2.2 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.

22 DEBT INSTRUMENTS

The Board may authorise the Company to issue secured or unsecured debt instruments, but no special privileges, such as attending and voting at special meetings and the appointment of directors, shall be associated with any such debt instruments, and the authority of the Board in such regard is accordingly limited by this Constitution.

23 CAPITALISATION SHARES

- 23.1 With the sanction of an Ordinary Resolution of the Shareholders, the Board shall have the power and authority to –
- 23.1.1 approve the issuing of any Shares as capitalisation Shares on a pro rata basis to the Shareholders of or more classes of Shares;
- 23.1.2 capitalise any sum standing to the credit of any of the Company's reserve accounts (including any Share premium account, capital redemption reserve or other undistributable reserve) or any sum standing to the credit of profit and loss account;
- 23.1.3 issue Shares of one class as capitalisation Shares in respect of Shares of another class; and
- 23.1.4 resolve to permit Shareholders to elect to receive a cash payment in lieu of a capitalisation Share, provided that such issue is effected in accordance with the following requirements –
- 23.1.4.1 The issue must be approved by the JSE to the extent required under the JSE Listings Requirements and that the JSE Listings Requirements have otherwise been complied with;
- 23.1.4.2 The Board may not resolve to offer a cash payment in lieu of awarding a capitalisation share, as contemplated in Article 23.1.4, unless the Board—

- 23.1.4.2.1 has considered the Solvency Test, on the assumption that every such Shareholder would elect to receive cash; and
- 23.1.4.2.2 is satisfied that the Company would satisfy the Solvency Test immediately upon the completion of the distribution
- 23.2 A capitalisation as contemplated in Article 23.1.1 shall be effected by appropriating such sum to the holders of Ordinary Shares on the Securities Register at the close of business on the date of the resolution (or such other date as may be specified therein or determined as therein provided) in proportion to their then holdings of Ordinary Shares and applying such sum on their behalf in paying up in full unissued Ordinary Shares (or, subject to any special rights previously conferred on any shares or class of shares for the time being issued, unissued Shares of any other class) for allotment and distribution credited as fully paid up to and amongst them as bonus shares in the proportion aforesaid.

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.

37 MANAGING DIRECTOR

- 37.1 The Directors may from time to time appoint 1 (one) or more of their body to the office of managing Director for such term and at such remuneration as they may think fit 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 (five) 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.

- 37.2 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.
- 37.3 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 Constitution 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.

38 ALTERNATE DIRECTORS

- 38.1 Any Director may at any time by writing under his hand and deposited at the Office, or delivered at a meeting of the Directors, appoint any person (including another Director) to be his alternate Director and may in like manner at any time terminate such appointment. Such appointment, unless previously approved by the Directors or unless the appointee is another Director, shall have effect only upon and subject to being so approved.
- 38.2 The appointment of an alternate Director shall determine on the happening of any event which if he were a Director would cause him to vacate such office or if his appointor ceases to be a Director, otherwise than by retirement at a special meeting at which he is re-elected.
- 38.3 An alternate Director shall (except when absent from Mauritius) be entitled to receive notices of meetings of the Directors and shall be entitled to attend and vote as a Director at any such meeting at which the Director appointing him is not personally present and generally at such meeting to perform all functions of his appointor as a Director and for the purposes of the proceedings at such meeting the provisions of this Constitution shall apply as if he (instead of his appointor) were a Director. If he shall be himself a Director or shall attend any such meeting as an alternate for more than one Director, his voting rights shall be cumulative but he shall not be counted more than once for the purposes of the quorum. If his appointor is for the time being absent from Mauritius or temporarily unable to act through ill health or disability his signature to any resolution in writing of the Directors shall be as effective as the signature of his appointor. To such extent as the Directors may from time to time determine in relation to any committees of the Directors the foregoing provisions of this Article shall also apply *mutatis mutandis* to any meeting of any such committee of which his appointor is a member. An alternate Director shall not (save as aforesaid) have power to act as a

Director, nor shall he be deemed to be a Director for the purposes of this Constitution, nor shall he be deemed to be the agent of his appointor.

38.4 An alternate Director shall be entitled to contract and be interested in and benefit from contracts or arrangements or transactions and to be repaid expenses and to be indemnified to the same extent *mutatis mutandis* as if he were a Director but he shall not be entitled to receive from the Company in respect of his appointment as alternate Director any remuneration except only such part (if any) of the remuneration otherwise payable to his appointor as such appointor may by notice in writing to the Company from time to time direct.

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.

42 **COMMITTEES OF THE BOARD**

42.1 **Appointment and constitution of committees**

The Directors may delegate any of their powers or discretions (including without prejudice to the generality of the foregoing all powers and discretions whose exercise involves or may involve the payment of remuneration to or the conferring of any other benefit on all or any of the Directors) to committees. Any such committee shall, unless the Directors otherwise resolve, have power to sub-delegate to subcommittees any of the powers or discretions delegated to it. Any such committee or sub-committee shall consist of one or more Directors and (if thought fit) one or more other named person or persons to be co-opted as hereinafter provided. Insofar as any such power or discretion is delegated to a committee or subcommittee, any reference in this Constitution to the exercise by the Directors of the power or discretion so delegated shall be read and construed as if it were a reference to the exercise thereof by such committee or sub-committee. Any committee or sub-committee so formed shall in the exercise of the powers so delegated conform to any regulations which may from time to time be imposed by the Directors. Any such regulations may provide for or authorise the co-

option to the committee or sub-committee of persons other than Directors and may provide for members who are not Directors to have voting rights as members of the committee or sub-committee.

42.2 **Proceedings of committee meetings**

The meetings and proceedings of any such committee or sub-committee consisting of two or more persons shall be governed *mutatis mutandis* by the provisions of this Constitution regulating the meetings and proceedings of the Directors, so far as the same are not superseded by any regulations made by the Directors under the last preceding Article.

42.3 If and for as long as any of the Company's Securities are listed on the JSE, the Board shall appoint such Board committees as are required by the JSE Listings Requirements, having such functions and powers as are prescribed by or in terms of the JSE Listings Requirements.

43 **ANNUAL FINANCIAL STATEMENTS**

43.1 The Balance Sheet Date of the Company is [31 December].

43.2 The Board shall, within 4 (four) months of its Balance Sheet Date, prepare audited financial statements in accordance with International Financial Reporting Standards or in accordance with such internationally recognised accounting standards as may be agreed with the FSC from time to time.

44 **ACCOUNTING AND COMPANY RECORDS**

44.1 **Accounting Records**

44.1.1 The Board must keep accounting records that:

44.1.1.1 correctly record and explain the transactions of the Company;

44.1.1.2 shall at any time enable the financial position of the Company to be determined with reasonable accuracy;

44.1.1.3 shall enable the directors to prepare financial statements; and

44.1.1.4 shall enable the financial statements of the Company to be readily and properly audited.

44.2 **Copies of accounts for Shareholders**

44.2.1 A copy of the annual financial statements must be sent to shareholders at least 15 (fifteen) business days before the date of the annual meeting of the Company at which such annual financial statements will be considered.

44.2.2 In addition to Article 44.2.1, a copy of every balance sheet and profit and loss account which is to be laid before a special meeting of the Company (including every document required by law to be comprised therein or attached or annexed thereto) shall not less than 15 (fifteen) business days before the date of the meeting be sent to every Shareholder of, and every holder of debentures

of, the Company and to every other person who is entitled to receive notices of special meetings from the Company under the provisions of the Act or of this Constitution. Provided that this Article shall not require a copy of these documents to be sent to more than one of joint holders nor to any person of whose postal address the Company is not aware, but any Shareholder or holder of debentures to whom a copy of these documents has not been sent shall be entitled to receive a copy free of charge on application at the Office. To the extent permitted by the Act and agreed by the Shareholder, the documents referred to in this Article may be sent by electronic communication.

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.

46 **BANK ACCOUNT**

The Company shall always maintain its principal bank account in Mauritius.

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.

49 AUTHENTICATION OF DOCUMENTS

Any Director or the Secretary or any person appointed by the Directors for the purpose shall have power to authenticate any document affecting the constitution of the Company and any resolution passed at a shareholders' meeting or at a meeting of the Directors or any committee, and any book, record, document or account relating to the business of the Company, and to certify copies thereof or extracts therefrom as true copies or extracts; and where any book, record, document or account is elsewhere than at the Office the local manager or other officer of the Company having the custody thereof shall be deemed to be a person appointed by the Directors as aforesaid. A document purporting to be a copy of any such resolution, or an extract from the minutes of any such meeting, which is certified as aforesaid shall be conclusive evidence in favour of all persons dealing with the Company upon the faith thereof that such resolution has been duly passed or, as the case may be, that any minute so extracted is a true and accurate record of proceedings at a duly constituted meeting.

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.

52 **COMPANY RULES**

The Board is prohibited from making, amending or repealing any rules relating to the governance of the Company in respect of matters that are not addressed in the Act or the Constitution and the Board's capacity to make such rules is hereby excluded.

53 **WINDING UP**

53.1 The Company may commence to wind up and dissolve by a Special Resolution of the Shareholders.

- 53.2 Subject to Article 53.3 and 53.4 and to the terms of issue of any Shares in the Company, upon the winding up of the Company, the assets, if any, remaining after payment of the debts and liabilities of the Company and the costs of winding up (the Surplus Assets), shall be distributed among the Shareholders in proportion to their shareholding.
- 53.3 The holders of Shares not fully paid up shall only receive a proportionate share of their entitlement being an amount paid to the Company in satisfaction of the liability of the shareholder to the Company in respect of the Shares pursuant to the terms of issue of the Shares.
- 53.4 Where the Company is wound up, the liquidator may, with the sanction of a Special Resolution, divide in kind amongst the Shareholders the assets of the Company, whether they consist of property of the same kind or not, and may for that purpose set such value as he deems fair upon any property to be divided and may determine how the division is to be carried out as between the Shareholders or different Class of Shareholders.

54 **TRANSFER BY WAY OF CONTINUATION**

The Company may by Special Resolution resolve to be registered by way of continuation in a jurisdiction outside Mauritius or such other jurisdiction in which it is for the time being incorporated, registered or existing. In furtherance of a resolution adopted pursuant to this Article, the Directors may cause an application to be made to the Registrar of Companies to deregister the Company in Mauritius or such other jurisdiction in which it is for the time being incorporated, registered or existing and may cause all such further steps as they consider appropriate to be taken to effect the transfer by way of continuation of the Company.

55 **ARBITRATION**

- 55.1 Any dispute arising out of or in connection with this Constitution, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration under the Mauritius International Arbitration Centre (MIAC) Arbitration Rules, which Rules are deemed to be incorporated by reference into this Article.
- 55.2 The number of arbitrators shall be one.
- 55.3 The juridical seat of arbitration shall be Mauritius, and the International Arbitration Act 2008 shall apply to the arbitration.
- 55.4 The language to be used in the arbitral proceedings shall be the English language.
- 55.5 The parties agree to keep confidential all awards in their arbitration, together with all materials in the proceedings created for the purpose of the arbitration and all other documents produced by another party in the proceedings not otherwise in the public domain, save and to the extent that disclosure may be required of a party by legal duty, to protect or pursue a legal right or to enforce or challenge an award in bona fide legal proceedings before a court or other judicial authority.

56 DATA PROTECTION

- 56.1 Each of the Shareholders and Directors (from time to time) consents to the processing of his personal data by the Company, its Shareholders and Directors (each a Recipient) for the purposes of conducting the business of the Company, due diligence exercises, compliance with applicable laws, regulations and procedures and exchange of information amongst themselves. A Recipient may process such personal data either electronically or manually.
- 56.2 The personal data that may be processed for such purposes under this Article 56 shall include any information which may have a bearing on the prudence or commercial merits of investing in, or disposing of any Shares (or other investment or security) in, the Company. Save as required by law, court order or any regulatory authority, that personal data shall not be disclosed by a Recipient or any other person except to:
- 56.3 A Member of the Same Group as the Recipient (each a Recipient Group Company); and
- 56.4 Employees, directors and professional advisers of that Recipient or any Recipient Group Company.
- 56.5 Each of the Shareholders and Directors consent (from time to time) to the transfer of such personal data to persons acting on behalf of any Recipient and to the offices of any Recipient, both within and outside the Republic of Mauritius for the purposes stated above, where it is necessary or desirable to do so.

This Constitution has been executed on the date stated in the Certification of Constitution below.

CERTIFICATION OF CONSTITUTION

The undersigned applicant for registration hereby certify that the above document is the constitution of:

Homechoice International P.L.C

Signature of applicant:	Full name of applicant:	Date:
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