

Republic of South Africa

Companies Act, 2008

MEMORANDUM OF INCORPORATION FOR A PUBLIC COMPANY

Name of company: Investec Bank Limited

Registration No.: 1969/004763/06

This MOI was adopted by Special Resolution passed on 9 July 2013, a copy of which was filed, together with the notice of amendment, in substitution for the Company's existing MOI. This MOI takes effect (in terms of section 16(9)(b)(i) of the Companies Act) on the date of Filing hereof, together with the notice of amendment.

INTERPRETATION

In this MOI, –

- 1.1. words that are defined in the Companies Act (which are contained in **Schedule 1** for easy reference, but which do not form part of this MOI for purposes of interpretation), but not defined in this MOI will bear the same meaning in this MOI as in the Companies Act. For ease of reading, such terms have been capitalised in this MOI;
- 1.2. unless the context otherwise requires –
 - 1.2.1. "**Audit Committee**" means the audit committee of the Company from time to time;
 - 1.2.2. "**Banks Act**" means the Banks Act, 1990;
 - 1.2.3. "**Companies Act**" means the Companies Act, 2008;
 - 1.2.4. "**Company**" means Investec Bank Limited (Registration No. 1969/004763/06);
 - 1.2.5. "**Controlling Company**" means means a controlling company in respect of a bank as contemplated in the Banks Act;
 - 1.2.6. "**Deliver**" means deliver in the manner in which the Company is entitled to give notice or deliver documents in accordance with clause 34 and the Companies Act, and shall, where permitted by the Companies Act, include delivery of an abridged document together with instructions as to how the recipient may obtain an unabridged version of such document;
 - 1.2.7. "**Electronic Address**" means in regard to Electronic Communication, any email or other electronic address furnished to the Company by the Holder;
 - 1.2.8. "**Holders**" means registered holders of Securities in the Company;
 - 1.2.9. "**Ineligible or Disqualified**" means ineligible or disqualified as contemplated in the Companies Act (a list of which is in **Schedule 2** for easy reference but which do not form part of this MOI for purposes of interpretation), which shall apply not only to Directors and Alternate Directors but also to members of Board and statutory committees and Prescribed Officers and the company secretary of the Company;
 - 1.2.10. "**JSE**" means the exchange operated by JSE Limited (Registration No. 2005/022939/06) (or any other name by which it may be known in the future) or its successor body;

- 1.2.11. "**Listings Requirements**" means the listings requirements of the JSE from time to time;
- 1.2.12. "**MOI**" means this Memorandum of Incorporation as now framed or as from time to time altered in accordance with the provisions of the Companies Act;
- 1.2.13. "**Present at a Meeting**" or "**Present at the Meeting**", depending on the context, means to be present in person, or able to participate in the meeting in question by Electronic Communication, or to be represented by a proxy who is present in person or able to participate in the meeting in question by Electronic Communication;
- 1.2.14. "**Registrar of Banks**" means the Registrar of Banks appointed in terms of the Banks Act;
- 1.2.15. "**Regulations**" means regulations published pursuant to the Companies Act from time to time;
- 1.2.16. "**Round Robin Resolution**" means a resolution passed other than at a –
- 1.2.16.1. Shareholders Meeting, which –
- 1.2.16.1.1. was submitted for consideration to the Persons entitled to Exercise Voting Rights in relation to the resolution; and
- 1.2.16.1.2. was voted on by the requisite percentage of the Persons entitled to vote contemplated in clause 19.29 by signing a resolution in counterparts within 20 (twenty) Business Days after the resolution was submitted to them,
- and includes Written polling of Persons entitled to vote regarding the election of Directors;
- 1.2.16.2. meeting of Directors, in respect of which, subject to clause 29.11, all the Directors who may at the time be present in South Africa being not less than a quorum of Directors, voted in favour by signing in Writing a resolution in counterparts, within 20 (twenty) Business Days after the resolution was submitted to the Directors;
- 1.2.17. "**Shares**" means the shares in the share capital of the Company;

- 1.2.18. **“Statutes”** means the Companies Act, the Banks Act, and every other statute for the time being in force in South Africa concerning companies and affecting the Company;
- 1.2.19. **“SS Act”** means the Securities Services Act, 2004;
- 1.2.20. **“Writing”** or **“Written”** includes Electronic Communication and delivery of a data storage device containing Electronic Communication, but as regards any Holder, only to the extent that such Holder has notified the Company of an Electronic Address;
- 1.3. references to Holders represented by proxy shall include Holders entitled to vote represented by an agent appointed under a general or special power of attorney;
- 1.4. references to Holders entitled to vote Present at a Meeting or acting in person shall include Juristic Persons represented by duly authorised representative or acting in the manner prescribed in the Companies Act;
- 1.5. all references to "section/s" in this MOI refer to the sections of the Companies Act unless the context indicates otherwise;
- 1.6. references to an enactment is to that enactment as at the date of Filing of this MOI and as amended, re-enacted or replaced from time to time and includes any subordinate legislation made from time to time under such enactment. Any reference to a particular section in an enactment is to that section as at the date of Filing of this MOI, and as amended or re-enacted from time to time and/or an equivalent measure in an enactment, provided that if as a result of such amendment or re-enactment, the specific requirements of a section referred to in this MOI are changed, the relevant provision of this MOI shall be read also as if it had been amended as necessary, without the necessity for an actual amendment;
- 1.7. the headings are for reference purposes only and shall not affect the interpretation of this MOI;
- 1.8. words –
 - 1.8.1. in the singular number shall include the plural number, and words in the plural number shall include the singular number;
 - 1.8.2. importing the masculine gender shall include the feminine gender; and
 - 1.8.3. importing persons shall include created entities (corporate or not);

- 1.9. if any term is defined within the context of any particular clause in the MOI, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the meaning ascribed to it for all purposes in terms of this MOI, notwithstanding that that term has not been defined in this interpretation provision;
- 1.10. if the provisions of this MOI are in any way inconsistent with the unalterable provisions of the Companies Act, the provisions of the Companies Act shall prevail, and this MOI shall be read in all respects subject to the Companies Act, except to the extent that this MOI imposes on the Company a higher standard, greater restriction, longer period of time or similarly more onerous requirement, as contemplated in section 15(2)(a)(iii) of the Companies Act;
- 1.11. the rule of construction that a contract shall be interpreted against the party responsible for the drafting or preparation of the contract, shall not apply to this MOI;
- 1.12. if and for so long as the Company might be a Wholly-Owned Subsidiary, nothing in this MOI shall be read or interpreted as removing or restricting the rights granted to such a company in terms of section 57(2) of the Companies Act;
- 1.13. notwithstanding any provision of or implication in this MOI to the contrary, this MOI shall not be interpreted to –
 - 1.13.1. frustrate the Company's listed Holding Company from compliance with its obligations in terms of the Listings Requirements, nor
 - 1.13.2. relieve the Company's listed Holding Company from compliance with the Listings Requirements;
- 1.14. in the event that any of the terms and conditions set out in an annexure to this MOI, as relating to any class of preference shares (other than the preference shares contemplated in paragraph 2 of **Schedule 4**, having the terms and conditions set out in **Schedule 5**) may be inconsistent with the provisions of the main body of this MOI, the provisions of the applicable annexure containing such terms and conditions will prevail in respect of the relevant class of preference shares.

2. **CALCULATION OF BUSINESS DAYS**

When a particular number of Business Days is provided for between the happening of one event and another, the number of days must be calculated by –

- 2.1. excluding the day on which the first such event occurs;
- 2.2. including the day on or by which the second event is to occur; and

2.3. excluding any public holiday in South Africa, Saturday or Sunday that falls on or between the days contemplated in clauses 2.1 and 2.2 respectively.

3. **PUBLIC COMPANY**

The Company is a Public Company as it is not a Private Company or a State-Owned Company or a Personal Liability Company.

4. **POWERS AND CAPACITY OF THE COMPANY**

4.1. The Company has the powers and capacity of an Individual and is not subject to any special conditions except to the extent that a Juristic Person is incapable of exercising any such power, or having any such capacity, or that this MOI provides otherwise.

4.2. To the extent that the Companies Act requires a company to be expressly authorised by its MOI to do anything, the Company is, by this provision, conferred with the requisite authority to do so, subject to any limitations set out in this MOI.

5. **AMENDMENTS TO THE MOI**

Subject to the provisions of the Statutes, save for –

5.1. correcting errors substantiated as such from objective evidence or which are self evident errors (including, but without limitation *eiusdem generis*, spelling, punctuation, reference, grammar or similar defects) in the MOI and for complying with any applicable requirements of the Companies Act when –

5.1.1. debentures and other debt instruments are created and/or issued; or

5.1.2. the MOI is amended in the manner contemplated in section 36(4) of the Companies Act, if the board acts pursuant to authority as contemplated in section 36(3) of the Companies Act,

which the Board is empowered to do; and

5.2. amendments of the MOI effected in compliance with a court order in the manner contemplated in section 16(1)(a), read with section 16(4) of the Companies Act,

all other amendments of the MOI shall be effected in accordance with section 16(1)(c) of the Companies Act and any applicable provisions of the Banks Act and must be approved by a Special Resolution passed by the Holders of the Shares entitled to Exercise Voting Rights thereon.

6. THE MAKING OF RULES

The Board shall not have the capacity to make, amend or repeal any rules relating to the governance of the Company in respect of matters that are not addressed in the Companies Act or in this MOI, as contemplated in sections 15(3) to (5) of the Companies Act.

7. AUTHORISED SECURITIES AND ALLOTMENT AND ISSUE

7.1. Until this MOI is amended in accordance with the requirements of the Companies Act to provide otherwise, the Company is authorised to issue no more than the numbers and classes of shares (which includes Shares already issued at any time) as set out in **Schedule 4**.

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

7.3. No rights, privileges or conditions for the time being attached to any class of Securities of the Company may (unless otherwise provided by the terms of issue of the Securities of that class) whether or not the Company is being wound up, be varied in any manner, unless the consent in Writing of the Holders of not less than 75% (seventy five percent) of the issued Securities of that class has been obtained, or a Special Resolution sanctioning the variation has been passed by the Holders of that class of Securities with the support of at least 75% (seventy five percent) of the Voting Rights Exercised on the Special Resolution at a separate meeting of the Holders of that class. The provisions of this MOI relating to Shareholders Meetings shall *mutatis mutandis* apply to any such separate meeting.

7.4. Notwithstanding any implication in this MOI to the contrary, the Board may not authorise any financial assistance by the Company in connection with the subscription for or purchase of its Securities or those of a Related or Inter-Related company without complying with section 44(3) of the Companies Act.

8. AUTHORITY TO ISSUE SECURITIES

8.1. Subject to the provisions of the Banks Act, the Board shall have the power to –

8.1.1. issue authorised equity Securities (including options in respect thereof), except in respect an issue that requires the approval of a Special Resolution, as contemplated in sections 41(1) and (3) of the Companies Act, in which event the Directors shall not have the power to allot or issue same without the prior approval of a Special Resolution;

8.1.2. create and issue debt instruments as contemplated in section 43(1)(a) of the Companies Act, on such terms and conditions and in such manner as the

Company or the Board may from time to time determine, in accordance with the requirements of section 43 of the Companies Act;

8.1.3. issue capitalisation Shares or offer a cash payment in lieu of awarding a capitalisation Share in accordance with section 47 of the Companies Act.

8.2. The Board shall determine the terms of any trust agreement contemplated in section 40(5)(b) of the Companies Act in respect of the issue of Shares which will not be fully paid upon issue.

9. NO PRE-EMPTION ON ISSUE OF SECURITIES

There shall be no rights of pre-emption in respect of the issue of any Securities.

10. CERTIFICATES EVIDENCING ISSUED SECURITIES AND SECURITIES REGISTER

10.1. The Securities issued by the Company shall be evidenced by certificates.

10.2. The Company shall maintain a Securities Register in accordance with the prescribed standards, which shall reflect –

10.2.1. the number of Securities authorised and the number available to be issued and the date of authorisation;

10.2.2. the total number of Securities of a class that have been issued, re-acquired by or surrendered to the Company;

10.2.3. the number of Securities of that class that are the subject of options or conversion rights which, if exercised, would require Securities of that class to be issued.

10.3. The Company must enter or cause to be entered in its Securities Register, in respect of every class of Securities evidenced by certificates that it has issued, as soon as practicable after –

10.3.1. issuing any Securities –

10.3.1.1. the names and addresses and identity numbers of the Persons to whom the Securities were issued;

10.3.1.2. those Persons' Electronic Addresses who have furnished them;

- 10.3.1.3. the number and class of Securities issued to each of them, the date of issue, distinguishing numbers of such certificated Securities and the Consideration for which the Securities were issued;
- 10.3.1.4. the total number of Securities of a class held by any Person;
- 10.3.1.5. the date on which any such Securities were transferred by the Holder or by operation of law to another Person or re-acquired by or surrendered to the Company;
- 10.3.1.6. the number of, and prescribed circumstances relating to, any Securities -
 - 10.3.1.6.1. that have been placed in trust as contemplated in section 40(6)(d) of the Companies Act by reason of not having been fully paid for; or
 - 10.3.1.6.2. whose transfer has been restricted;
- 10.3.1.7. as regards debt instruments as contemplated in section 43 of the Companies Act –
 - 10.3.1.7.1. the number of those Securities still in issue;
 - 10.3.1.7.2. the names and addresses of the Holders of the Securities and any holders of a Beneficial Interest in the Securities;
 - 10.3.1.7.3. whether the relevant debt instruments are secured or unsecured;
- 10.3.2. the re-acquisition or surrender of any Securities –
 - 10.3.2.1. the date on which the Securities were re-acquired by or surrendered to the Company;
 - 10.3.2.2. the distinguishing number or numbers of any certificated Securities re-acquired by or surrendered to the Company;
 - 10.3.2.3. the Consideration for which the Securities were re-acquired by, or surrendered to the Company; and
 - 10.3.2.4. the name of the Person from or by whom the Securities were re-acquired or surrendered, as the case may be;

- 10.3.3. the transfer of any Securities -
- 10.3.3.1. the name and address and identity number of the transferee to whom the Securities were transferred;
 - 10.3.3.2. those transferees' Electronic Addresses who have furnished them;
 - 10.3.3.3. the number and class of Securities transferred, the date of the transfer, distinguishing numbers of such certificated Securities and the Consideration for which the Securities were transferred;
 - 10.3.3.4. the value of any Consideration still to be received by the Company on each Security or interest, in the case of a transfer of Securities the subscription price for which has not been fully paid; and
 - 10.3.3.5. any other information contemplated in clause 10.3.1, any reference to issue being read as a reference to transfer,

provided that such entry may only be made only if the transfer –
 - 10.3.3.6. is evidenced by a proper instrument of transfer that has been delivered to the Company; or
 - 10.3.3.7. was effected by operation of law,

as well as any other information prescribed in terms of the Companies Act and/or the Banks Act from time to time.

- 10.4. The Company shall maintain a register to record all Beneficial Interests disclosures made in terms of section 56 of the Companies Act, including the following information for any Securities in respect of which a disclosure was made –
- 10.4.1. the name and unique identifying number of the Holder of the Securities;
 - 10.4.2. the number, class and the distinguishing numbers of the Securities; and
 - 10.4.3. for each Person who holds a Beneficial Interest in the Securities, the extent of the Person's Beneficial Interest in the Securities, together with that Person's –
 - 10.4.3.1. name and unique identity number;
 - 10.4.3.2. business, residential or postal address;
 - 10.4.3.3. Electronic Address if available.

- 10.5. Securities certificates shall be issued in such manner and form as the Directors shall from time to time prescribe save that they must –
 - 10.5.1. state on the face –
 - 10.5.1.1. the name of the Company;
 - 10.5.1.2. the name of the Person to whom the Securities were issued;
 - 10.5.1.3. the number and class of Shares and the designation of the series, if any, evidenced by that certificate; and
 - 10.5.1.4. any restriction on the transfer of the Securities evidenced by that certificate;
 - 10.5.2. be signed by 2 (two) Persons authorised by the Board by autographic, mechanical or electronic means.
- 10.6. Each class of Shares, and any other Securities, must be distinguished by an appropriate numbering system.
- 10.7. Each Holder shall be entitled to 1 (one) certificate for all the Securities of a particular class registered in its name, or to several certificates, each for a part of such Securities.
- 10.8. A certificate for Securities registered in the names of 2 (two) or more Persons shall be Delivered to the Person first named in the Securities Register and Delivery of a certificate for Securities to that Person shall be a sufficient Delivery to all joint Holders.
- 10.9. If a certificate for Securities is defaced, lost or destroyed, it may be renewed, on such terms, as to evidence and indemnity and payment of such fee as the Directors think fit, and (in case of defacement) on delivery of the old certificate to the Company.
- 10.10. A Person –
 - 10.10.1. acquires the rights associated with any particular Securities of the Company when that Person's name is entered in the Company's Securities Register as a Person to whom those Securities have been issued or transferred; and
 - 10.10.2. ceases to have the rights associated with any particular Securities of the Company when the transfer to another Person, re-acquisition by the Company, or surrender to the Company of those Securities has been entered in the Company's Securities Register.

11. **SECURITIES BEING HELD BY ONE PERSON FOR THE BENEFICIAL INTEREST OF ANOTHER**

11.1. Notwithstanding any provision to the contrary contained in this MOI or the provisions of the Companies Act, the Directors shall not be empowered, without the written approval of the Registrar of Banks, to -

11.1.1. allot or issue any Shares to, or register any Shares in the name of, any Person other than the intended beneficial shareholder;

11.1.2. transfer any Shares in the name of a Person other than the beneficial shareholder; or

11.1.3. allow any Shares to remain registered in the name of a Person other than the beneficial shareholder.

11.2. Subject to the Banks Act, the provisions of clause 11.1 shall not affect the allotment or issue or the registration of the transfer of Shares -

11.2.1. in the name of a trustee or custodian of a collective investment scheme as defined in section 1 of the Collective Investment Schemes Control Act, 2002, or of a nominated company of the trustee approved by the Registrar of Collective Investment Schemes;

11.2.2. *nomine officii*, in the name of any Person who submits proof of his appointment as the executor, administrator, trustee, curator, guardian or liquidator in respect of the estate of a deceased Holder of the Company or of a Holder whose estate has been sequestrated or of a Holder who is otherwise under legal disability or as the liquidator of any Juristic Person in the course of being wound up which is a Holder of the Company;

11.2.3. for a period of not more than 6 (six) months, in the name of a regulated person as defined in the SS Act, or of a company controlled by a banking institution or of an officer of that banking institution, if it is necessary that the Shares be so registered in order to facilitate delivery to the purchaser or to protect the rights of the beneficial owner of those Shares or where the beneficial owner of the Shares is not known;

11.2.4. in the name of a Person, the registration of which has been approved by the Registrar of Banks; or

11.2.5. in the name of a central securities depository as defined in section 1 of the SS Act.

11.3. The Company shall not permit Securities to be voted upon by the holder of a Beneficial Interest who does not hold a proxy appointment from the Holder notwithstanding any agreement permitting the holder of the Beneficial Interest to vote the Securities to the exclusion of the Holder between the Holder and the holder of the Beneficial Interest.

11.4. If any Securities of the Company are registered in the name of a Person who is not the holder of the Beneficial Interests in all such Securities of the Company, that registered Holder of Securities must disclose the identity of –

11.4.1. the Person on whose behalf the Securities are held; and

11.4.2. each Person with a Beneficial Interest in the Securities so held, the number and class of Securities held for each such Person with a Beneficial Interest, and the extent of each such Beneficial Interest,

in accordance with the time periods as stipulated in section 56(4) of the Companies Act.

12. **LIEN**

12.1. The Company shall have a first and paramount lien on every Security (which has not been fully paid upon issue) registered in the name of any Holder either alone or jointly with any other person for all the Holder's debts, liabilities and engagements, whether solely or jointly with any other Person, to or with the Company, whether or not the time for the payment, fulfilment or discharge thereof shall have arrived and such lien shall extend to all Distributions from time to time declared in respect of such Securities. The Directors may, however, at any time declare any Securities to be exempt, wholly or partially, from the provisions of this clause 12.

12.2. The Directors may sell the Securities subject to any such lien at such times and in such manner as they think fit, but no sale shall be made until such time as the moneys or part thereof in respect of which such lien exists shall have become payable or the liability or engagement in respect of which such lien exists shall have become liable to be fulfilled or discharged and until a Written notice stating the amount due or specifying the liability or engagement, demanding payment or fulfilment or discharge thereof and stating an intention to sell in default shall have been Delivered to the Holder, and default in payment, fulfilment or discharge shall have been made by it for 14 (fourteen) days after Delivery of such notice.

12.3. The net proceeds of any sale pursuant to clause 11.3 shall be received by the Company and be applied in or towards the satisfaction of the amount due to the Company, or of the liability or engagement, and the balance, if any, shall be paid to the Holder.

12.4. To give effect to any such sale the Directors may authorise any Person to transfer the Securities sold to the purchaser thereof. The purchaser shall be registered as the Holder of the Securities comprised in any transfer effected as aforesaid, and he shall not be bound to see to the application of the purchase money, nor shall his title to the Securities be affected by any irregularity or invalidity in the proceedings in reference to the sale.

13. **LISTINGS ON SECURITIES EXCHANGES**

The Company may seek listings of its Securities on such securities exchanges as the Directors may consider appropriate from time to time.

14. **COMMISSION**

The Company may pay commission to any Person in consideration of it subscribing or agreeing to subscribe, whether absolutely or conditionally, for any Securities or of it procuring or agreeing to procure subscriptions, whether absolute or conditional, for any Securities provided that such commission shall not exceed 10% (ten percent) of the subscription price at which Securities of the Company are issued to any Person. Subject to the provisions of the Statutes, any such commission may be satisfied by the payment of cash or by the allotment and issue of Shares or partly in one way and partly in the other.

15. **TRANSFER OF SECURITIES**

15.1. Subject to the provisions of the Banks Act, there is no restriction on the transfer of Securities which are listed on a securities exchange.

15.2. All transfers of Securities which are in certificated form may be effected by transfer in Writing in any usual or common form or in any other form acceptable to the Directors and may be under hand only. The instrument of transfer shall be signed by or on behalf of the transferor. The transferor shall remain the Holder of the securities concerned until the name of the transferee is entered in the Securities Register in respect thereof. All instruments of transfer which are registered may be retained by the Company.

15.3. Every instrument of transfer shall be lodged, duly stamped if required, at the transfer office of the Company at which it is presented for registration, accompanied by the certificate of the Securities to be transferred and/or such other evidence as the Company may require to prove the title of the transferor or its rights to transfer the Securities. If the instrument of transfer is executed by some other person on behalf of the transferor, the authority to execute such instrument must also be lodged at the relevant transfer office. As between the Company and the grantor of any such authority, the authority shall 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 relevant transfer office. Even after the giving and lodging of such notices, the Company shall be entitled to give effect to any instruments of transfer executed under the authority and certified by any officer of the Company as being in order before the giving and lodging of such notice. In the case of a transfer of securities in certificated form by a recognised clearing house or a nominee of a recognised clearing house or of a recognised exchange the lodgement of security certificates will only be necessary if and to the extent that certificates have been issued in respect of the securities in question.

- 15.4. All transfers of Securities which are in uncertificated form may be effected by means of a computer-based system, and procedures, which enable title to a security to be evidenced and transferred without a written instrument, pursuant to provisions and regulations relating to uncertificated Securities, including those contained in the Companies Act.

16. **TRANSMISSION OF SECURITIES**

- 16.1. Subject to clause 11.2, in case of the death of a Holder, the survivors or survivor where the deceased was a joint Holder, and his personal representatives where he was a sole or only surviving Holder, shall be the only Persons recognised by the Company as having any title to his interest in the Securities, but nothing in this clause shall release the estate of a deceased Holder, whether a sole or joint Holder, from any liability in respect of any Security held by him.
- 16.2. A Person becoming entitled by transmission to a Security in consequence of the death or insolvency of a Holder or otherwise by operation of law may, subject as hereinafter provided, upon supplying to the Company such evidence as the Directors may reasonably require to show his title to the Security either be registered himself as Holder of the Security upon giving to the Company notice in Writing to that effect or transfer such Security to some other Person. All the limitations, restrictions and provisions of this MOI relating to the right to transfer and the registration of transfers of Securities shall be applicable to any such notice or transfer as aforesaid as if the notice or transfer were a notice or a transfer made by the Holder registered as the holder of any such Security and the event giving rise to the transmission had not occurred.
- 16.3. Save as otherwise provided by or in consequence of the death or insolvency of a Holder or otherwise by operation of law in accordance with this MOI, a Person becoming entitled by transmission to a Security, upon supplying to the Company such evidence as the Directors may reasonably require to show his title to the Security, shall be entitled to the same rights in relation to the Security as those to which he would be entitled if he were the Holder of the Security except that he shall not be entitled, except with the authority of the Directors, to

Exercise any right conferred by his holding of such Security in relation to meetings of Holders until he shall have been registered as a Holder in respect of the Security.

17. ACCOUNTING RECORDS AND FINANCIAL STATEMENTS

- 17.1. Accounting Records sufficient to show and explain the Company's transactions and otherwise complying with the Statutes and, for so long as its Holding Company's Securities are listed on the JSE, the applicable provisions of the Listings Requirements, shall be kept at the Registered Office, or at such other place as the Directors think fit, and shall always be open to inspection by the officers of the Company. Subject as aforesaid no Holder or other Person shall have any right of inspecting any account or book or document of the Company except as conferred by Statute or ordered by a court of competent jurisdiction or authorised by the Directors.
- 17.2. The Company shall have its annual Financial Statements audited and furnish same to the Registrar of Banks as required by the Banks Act.
- 17.3. The Company shall notify the holders of Beneficial Interests of the publication of any annual Financial Statements of the Company, setting out the steps required to obtain a copy of those Financial Statements. If a holder of Beneficial Interests demands a copy of the annual Financial Statements, the Company shall make same available to such Holder or holder of Beneficial Interests free of charge.

18. AUDIT COMMITTEE AND AUDITOR

- 18.1. Except to the extent that the Company has been granted an exemption in terms of section 64(4) of the Banks Act, an Audit Committee shall be appointed in accordance with the provisions of the Banks Act.
- 18.2. The Board must appoint a person to fill any vacancy on the Audit Committee within 40 (forty) Business Days after the vacancy arises.
- 18.3. The Audit Committee has the statutory duties as prescribed in section 94(7) and (8) of the Companies Act and section 64(2) of the Banks Act.
- 18.4. The Company must pay all expenses reasonably incurred by its Audit Committee, including, if the Audit Committee considers it appropriate, the fees of any consultant or specialist engaged by the Audit Committee to assist it in the performance of its functions.
- 18.5. No Person shall be appointed as a member of the Audit Committee, if he is Ineligible or Disqualified and any such appointment shall be a nullity. A Person who is Ineligible or Disqualified must not consent to be appointed as a member of the Audit Committee nor act

as a member of the Audit Committee. A Person placed under probation by a court must not serve as a member of the Audit Committee unless the order of court so permits.

- 18.6. A member of the Audit Committee shall cease to hold office as such immediately when he becomes Ineligible or Disqualified in terms of the Companies Act or the Banks Act.
- 18.7. There are no general qualifications prescribed by the Company for a Person to serve as a member of the Audit Committee in addition to the requirements of the Statutes.
- 18.8. Subject to the provisions of the Banks Act, the Company shall appoint an Auditor each year at its Annual General Meeting, provided that if an Annual General Meeting does not appoint or re-appoint an Auditor or the Registrar of Banks refuses an application under section 61(2) of the Banks Act for his approval of the appointment of the Auditor, the Directors must fill the vacancy in the office in terms of the procedure contemplated in section 91 of the Companies Act within 40 (forty) Business Days after the date of the Annual General Meeting. A retiring Auditor may be automatically re-appointed at an Annual General Meeting without any resolution being passed, unless –
 - 18.8.1. the retiring Auditor is –
 - 18.8.1.1. no longer qualified for appointment;
 - 18.8.1.2. no longer willing to accept the appointment, and has so notified the Company; or
 - 18.8.1.3. required to cease serving as Auditor, in terms of section 92 of the Companies Act or section 61(3)(b) of the Banks Act;
 - 18.8.2. the Audit Committee objects to the re-appointment; or
 - 18.8.3. the Company has notice of an intended resolution to appoint some other Person or Persons in place of the retiring Auditor.
- 18.9. Subject to the provisions of the Statutes, all acts done by any person acting as an Auditor shall, as regards all Persons dealing in good faith with the Company, be valid, notwithstanding that there was some defect in his appointment or that he was at the time of his appointment not qualified for appointment or subsequently became disqualified.
- 18.10. Nothing precludes the appointment by the Company at its Annual General Meeting of an Auditor other than one nominated by the Audit Committee, but if such an Auditor is appointed, the appointment is valid only if the Audit Committee is satisfied that the proposed Auditor is independent of the Company.

18.11. Any firm of Auditors appointed by the Company as the Auditor shall ensure that the Individual responsible for performing the Audit must comply with the requirements of section 90(2) of the Companies Act, provided that –

18.11.1. the same Individual may not serve as the Auditor or designated Auditor for more than 5 (five) consecutive financial years;

18.11.2. if an Individual has served as the Auditor or designated Auditor for 2 (two) or more consecutive financial years and then ceases to be the Auditor or designated Auditor, the Individual may not be appointed again as the Auditor or designated Auditor until after the expiry of at least 2 (two) further financial years;

18.11.3. if the Company has appointed 2 (two) or more Persons as Auditors, the Company must manage the rotation required by section 90 of the Companies Act in such a manner that all of the joint Auditors do not relinquish office in the same year.

18.12. The Auditor –

18.12.1. has the right of access at all times to the Accounting Records and all books and documents of the Company, and is entitled to require from the Directors or Prescribed Officers any information and explanations necessary for the performance of the Auditor's duties;

18.12.2. if the Company is a Holding Company, has the right of access to all current and former Financial Statements of any Subsidiary and is entitled to require from the Directors or Prescribed Officers of the Company or Subsidiary any information and explanations in connection with any such statements and in connection with the Accounting Records, books and documents of the Subsidiary as necessary for the performance of the Auditor's duties; and

18.12.3. is entitled to –

18.12.3.1. attend any Shareholders Meeting;

18.12.3.2. receive all notices of and other communications relating to any Shareholders Meeting; and

18.12.3.3. be heard at any Shareholders Meeting on any part of the business of the meeting that concerns the Auditor's duties or functions;

18.12.4. may not perform any services for the Company –

18.12.4.1. that would place the Auditor in a conflict of interest as prescribed or determined by the Independent Regulatory Board for Auditors in terms of section 44(6) of the Auditing Profession Act; or

18.12.4.2. as may be prescribed by the Audit Committee.

18.13. If a vacancy arises in the office of Auditor, the Board –

18.13.1. must appoint a new Auditor within 40 (forty) Business Days, if there was only 1 (one) incumbent Auditor; and

18.13.2. may appoint a new Auditor at any time, if there was more than 1 (one) incumbent, but while any such vacancy continues, the surviving or continuing Auditor may act as auditor of the Company.

18.14. If, by comparison with the membership of a firm at the time of its latest appointment, less than $\frac{1}{2}$ (one half) of the members remain after a change in the composition of the members, that change constitutes the resignation of the firm as Auditor of the Company, giving rise to a vacancy.

18.15. Before making an appointment in terms of clause 18.13 the Board –

18.15.1. must propose to the Audit Committee, within 15 (fifteen) Business Days after the vacancy occurs, the name of at least one Registered Auditor to be considered for appointment as the new Auditor; and

18.15.2. may proceed to make an appointment of a Person proposed in terms of clause 18.15.1 if, within 5 (five) Business Days after delivering the proposal, the Audit Committee does not give notice in writing to the Board rejecting the proposed Auditor.

18.16. The Auditor may resign from office by giving the Company 1 (one) month's Written notice or less than that with the prior Written approval of the Board.

18.17. If the Auditor is removed from office by the Board, the Auditor may, by giving Written notice to that effect to the Company by not later than the end of the financial year in which the removal took place, require the Company to include a statement in its annual Financial Statements relating to that financial year, not exceeding a reasonable length, setting out the Auditor's contention as to the circumstances that resulted in the removal. The Company must include this statement in the Directors' report in its annual Financial Statements.

19. **SHAREHOLDERS MEETINGS AND ROUND ROBIN RESOLUTIONS CONTEMPLATED IN CLAUSE 1.2.16.1**

19.1. The Company shall convene an Annual General Meeting once in every calendar year within a period of not more than 6 (six) months from the day following the Company's financial year end, but no more than 15 (fifteen) months after the date of the previous Annual General Meeting, or within an extended time allowed by the Companies Tribunal, on good cause shown, which must, at a minimum, provide for the following business to be transacted –

19.1.1. presentation of –

19.1.1.1. the Directors' report;

19.1.1.2. Audited Financial Statements for the immediately preceding financial year;

19.1.1.3. an Audit Committee report;

19.1.2. election of Directors, to the extent required by the Companies Act or the MOI;

19.1.3. appointment of –

19.1.3.1. an Auditor for the ensuing year;

19.1.3.2. an Audit Committee;

19.1.4. any matters raised by Holders, with or without advance notice to the Company.

19.2. The Company shall, as determined by the Board, either –

19.2.1. hold a Shareholders Meeting in order to consider one or more resolutions; or

19.2.2. as regards such resolution/s that could be voted on at a Shareholders Meeting, other than an Annual General Meeting, instead require them to be dealt with by Round Robin Resolution contemplated in clause 1.2.16.1.

Within 10 (ten) Business Days after a Round Robin Resolution is adopted, the Company must Deliver a statement describing the results of the vote, consent process, or election to every Holder who was entitled to vote on or consent to the Round Robin Resolution.

19.3. The Company must hold a Shareholders Meeting or put the proposed resolution by way of a Round Robin Resolution contemplated in clause 1.2.16.1 –

19.3.1. at any time that the Board is required by the Companies Act or the MOI to refer a matter to Holders entitled to vote for decision;

- 19.3.2. whenever required in terms of section 70(3) of the Companies Act to fill a vacancy on the Board.
- 19.4. Unless the Company has only 1 (one) Holder, each resolution shall be expressed with sufficient clarity and specificity and accompanied by sufficient information / explanatory material to enable a Person who is entitled to vote on the resolution to determine whether to participate in the Shareholders Meeting, if applicable, and to seek to influence the outcome of the vote on the resolution. Once a resolution has been approved, it may not be challenged or impugned on the ground that it did not comply with the foregoing.
- 19.5. The Board, if the Company has no Directors, any single Holder entitled to vote, may, whenever it thinks fit, convene a Shareholders Meeting or put the proposed resolution to a vote by way of a Round Robin Resolution contemplated in clause 1.2.16.1. The Board shall convene a Shareholders Meeting or put the proposed resolution to a vote by way of a Round Robin Resolution contemplated in clause 1.2.16.1 if one or more Written and signed demands for such a Shareholders Meeting or Round Robin Resolution is/are delivered to the Company, and –
- 19.5.1. each such demand describes the specific purpose for which the Shareholders Meeting is proposed; and
- 19.5.2. in aggregate, demands for substantially the same purpose are made and signed by the Holders at the earliest time specified in any of those demands, of at least 10% (ten percent) of the Voting Rights entitled to be Exercised in relation to the matter proposed to be considered at the Shareholders Meeting.
- 19.6. Round Robin Resolutions contemplated in clause 1.2.16.1 will be passed if signed by Persons entitled to Exercise sufficient Voting Rights for it to have been adopted as an Ordinary or Special Resolution, as the case may be, at a properly constituted Shareholders Meeting.
- 19.7. Every Shareholders Meeting shall be held where the Board determines from time to time. The authority of the Company to conduct a Shareholders Meeting entirely by Electronic Communication, or to provide for participation in a Shareholders Meeting by Electronic Communication so long as the Electronic Communication employed ordinarily enables all Persons participating in that Shareholders Meeting to communicate concurrently with each other without an intermediary, and to participate reasonably effectively in the Shareholders Meeting, as set out in section 63(2) of the Companies Act, is not limited or restricted. Nothing in this clause shall however detract from the exemption set out in section 57(2)(b) of the Companies Act, should the Company have only 1 (one) Holder.

- 19.8. The Holder of any Securities in which any Person has a Beneficial Interest must deliver to each such Person –
- 19.8.1. a notice of any Shareholders Meeting of the Company at which those Securities may be voted within 2 (two) Business Days after receiving such a notice from the Company; and
 - 19.8.2. a proxy appointment to the extent of that Person's Beneficial Interest, if the Person so demands in compliance with section 56(11) of the Companies Act.
- 19.9. A Shareholders Meeting shall be called by at least 15 (fifteen) Business Days' notice in Writing Delivered by the Company to all Holders entitled to vote or otherwise entitled to receive notice and simultaneously to the Registrar of Banks.
- 19.10. The Company may call a Shareholders Meeting with less notice than required by clause 19.9, but such a Shareholders Meeting may proceed only if every Person who is entitled to Exercise Voting Rights in respect of any item on the meeting agenda –
- 19.10.1. is Present at the Meeting; and
 - 19.10.2. votes to waive the required minimum notice of the Shareholders Meeting.
- 19.11. A Holder entitled to vote, who is Present at a Meeting –
- 19.11.1. is regarded as having received or waived notice of the Shareholders Meeting if at least the required minimum notice was given;
 - 19.11.2. has a right to –
 - 19.11.2.1. allege a Material defect in the form of notice for a particular item on the agenda for the Shareholders Meeting; and
 - 19.11.2.2. participate in the determination whether to waive the requirements for notice, if less than the required minimum notice was given, or to ratify a defective notice; and
 - 19.11.3. except to the extent set out in clause 19.11.2 is regarded to have waived any right based on an actual or alleged Material defect in the notice of the Shareholders Meeting.
- 19.12. Unless the Company has only 1 (one) Holder, a notice of a Shareholders Meeting must be in writing, in plain language and must include, in addition to any other information prescribed by the Statutes –

- 19.12.1. the date, time and place for the Shareholders Meeting, and the Record Date for determining the Holders entitled to participate in and vote at the Shareholders Meeting;
- 19.12.2. the general purpose of the Shareholders Meeting, and any specific purpose contemplated in clause 19.2, if applicable;
- 19.12.3. in the case of the Annual General Meeting, a summarised form of the Financial Statements to be presented and directions for obtaining a copy of the complete annual Financial Statements for the preceding financial year;
- 19.12.4. a copy of any proposed resolution of which the Company has received notice in terms of section 61(3) of the Companies Act, and which is to be considered at the Shareholders Meeting, and a notice of the percentage of Voting Rights that will be required for that resolution to be adopted;
- 19.12.5. a reasonably prominent statement that –
 - 19.12.5.1. a holder entitled to attend and vote at the Shareholders Meeting shall be entitled to appoint a proxy to attend, participate in, speak and vote at the Shareholders Meeting in the place of the Holder entitled to vote or give or withhold written consent on behalf of the Holder entitled to vote to a decision by Round Robin Resolution contemplated in clause 1.2.16.1;
 - 19.12.5.2. a proxy need not be a Holder;
 - 19.12.5.3. a Holder entitled to vote may appoint more than 1 (one) proxy to exercise Voting Rights attached to different Securities held by that Holder entitled to vote in respect of any Shareholders Meeting;
 - 19.12.5.4. the proxy may delegate the authority granted to it as proxy, subject to any restriction in the instrument of proxy itself;
 - 19.12.5.5. participants in a Shareholders Meeting are required to furnish satisfactory identification in terms of section 63(1) of the Companies Act in order to reasonably satisfy the Person presiding at the Shareholders Meeting that the right of that Person to participate and vote either as a Holder or as a proxy, has been reasonably verified;
 - 19.12.5.6. participation in the Shareholders Meeting by Electronic Communication is available, where applicable, and in such event provide any necessary information to enable Holders entitled to vote

or their proxies to access the available medium or means of Electronic Communication and advise that access to the medium or means of Electronic Communication is at the expense of the Holder entitled to vote or proxy, except to the extent that the Company determines otherwise.

- 19.13. A Shareholders Meeting may proceed notwithstanding a Material defect in the giving of the notice, subject to clause 19.14, only if every Person who is entitled to Exercise Voting Rights in respect of each item on the agenda of the Shareholders Meeting is Present at the Meeting and votes to approve the ratification of the defective notice.
- 19.14. If a Material defect in the form or manner of giving notice of a Shareholders Meeting relates only to one or more particular matters on the agenda for the Shareholders Meeting –
- 19.14.1. any such matter may be severed from the agenda, and the notice remains valid with respect to any remaining matters on the agenda; and
 - 19.14.2. the Shareholders Meeting may proceed to consider a severed matter, if the defective notice in respect of that matter has been ratified in terms of clause 19.13.
- 19.15. An immaterial defect in the form or manner of Delivering notice of a Shareholders Meeting, or an accidental or inadvertent failure in the Delivery of the notice to any particular Holder to whom it was addressed if the Company elects to do so, does not invalidate any action taken at the Shareholders Meeting.
- 19.16. Business may be transacted at any Shareholders Meeting only while a quorum is present.
- 19.17. The quorum necessary for the commencement of a Shareholders Meeting shall be sufficient Persons Present at the Meeting to Exercise, in aggregate, at least 25% (twenty five percent) of all of the Voting Rights that are entitled to be Exercised in respect of at least one matter to be decided at the Shareholders Meeting, but if the Company –
- 19.17.1. has more than 2 (two) Persons entitled to vote, the Shareholders Meeting may not begin unless in addition at least 3 (three) Persons entitled to vote are Present;
 - 19.17.2. is a Subsidiary of a company, those constituting the quorum must include its Holding Company Present at the Meeting;
 - 19.17.3. is a Wholly-Owned Subsidiary, the quorum shall be its Holding Company.

- 19.18. A matter to be decided at the Shareholders Meeting may not begin to be considered unless those who fulfilled the quorum requirements of clause 19.17 continue to be Present at the Meeting.
- 19.19. If within 10 (ten) minutes from the time appointed for the Shareholders Meeting to commence, a quorum is not present or if the quorum requirements in clause 19.17 cannot be achieved for any one or more matters or if during the Shareholders Meeting a quorum ceases to be Present at the Meeting, the Shareholders Meeting shall be dissolved if convened upon the requisition of Holders, but in any other case it shall be postponed, without motion, vote or further notice, for 1 (one) week to the same time on the same day in the next week or, if that day is not a Business Day, to the next succeeding Business Day, and if at such adjourned Shareholders Meeting a quorum is not present within 10 (ten) minutes from the time appointed for the Shareholders Meeting then, the Person/s entitled to vote Present at the Meeting shall be deemed to be the requisite quorum.
- 19.20. A Shareholders' Meeting, or the consideration of any matter being debated at the Shareholders' Meeting, may be adjourned from time to time without further notice on a motion supported by Persons entitled to Exercise, in aggregate, a majority of the Voting Rights –
- 19.20.1. held by all of the Persons who are Present at the Meeting at the time; and
- 19.20.2. that are entitled to be Exercised on at least one matter remaining on the agenda of the Shareholders' Meeting, or on the matter under debate, as the case may be.
- Such adjournment may be either to a fixed time and place or until further notice (in which latter case a further notice shall be Delivered to Holders), as agreed at the Shareholders' Meeting.
- 19.21. A Shareholders' Meeting may not be adjourned beyond the earlier of –
- 19.21.1. the date that is 120 (one hundred and twenty) Business Days after the Record Date; or
- 19.21.2. the date that is 60 (sixty) Business Days after the date on which the adjournment occurred.
- 19.22. No further notice is required to be Delivered by the Company of a Shareholders' Meeting that is postponed or adjourned as contemplated in clause 19.19, unless the location or time of the Shareholders' Meeting is different from –
- 19.22.1. the location or time of the postponed or adjourned Shareholders' Meeting; or

- 19.22.2. a location or time announced at the time of adjournment, in the case of an adjourned Shareholders' Meeting.
- 19.23. The chairperson, if any, of the Board failing whom, a deputy chairperson) shall preside as chairperson at every Shareholders Meeting. If there is no such chairperson (or deputy chairperson), or if at any Shareholders Meeting he is not present within 10 (ten) minutes after the time appointed for holding the Shareholders Meeting or is unwilling to act as chairperson, the Persons entitled to vote which are Present at the Meeting shall select a Director present at the Shareholders Meeting, or if no Director be present at the Shareholders Meeting, or if all the Directors present decline to take the chair, the Persons entitled to vote shall select one of their number which is Present at the Meeting to be chairperson of the Shareholders Meeting.
- 19.24. At any Shareholders Meeting a resolution put to the vote shall be decided on a show of hands, unless before or on the declaration of the result of the show of hands a poll shall be demanded by –
- 19.24.1. not less than 5 (five) Persons having the right to vote on that matter;
- 19.24.2. a Person/s entitled to Exercise not less than 1/10th (one tenth) of the total Voting Rights entitled to vote on that matter; or
- 19.24.3. the chairperson,
- and, unless a poll is so demanded, a declaration by the chairperson that a resolution has, on a show of hands been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the minute book of the Company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, such resolution. No objection shall be raised as to the admissibility of any vote except at the Shareholders Meeting or adjourned Shareholders Meeting at which the vote objected to is or may be given or tendered and every vote not disallowed at such Shareholders Meeting shall be valid for all purposes. Any such objection shall be referred to the chairperson of the Shareholders Meeting, whose decision shall be final and conclusive.
- 19.25. If a poll is duly demanded it shall be taken in such manner, including the use of ballot or voting papers or tickets, as the chairperson directs save that it shall be taken forthwith, and the result of the poll shall be deemed to be the resolution of the Shareholders Meeting at which the poll was demanded. Scrutineers may be appointed by the chairperson to count the votes and to declare the result of the poll, and if appointed their decision, which shall be given by the chairperson of the Shareholders Meeting, shall be deemed to be the resolution of the Shareholders Meeting at which the poll is demanded. The demand for a poll shall not prevent the continuation of a Shareholders Meeting for the transaction of any business other

than the question upon which the poll has been demanded. The demand for a poll may, before the poll is taken, be withdrawn but only with the consent of the chairperson. A demand so withdrawn shall not be taken to have invalidated the result of a show of hands declared before the demand was made.

- 19.26. In case of any dispute as to the admission or rejection of a vote, the chairperson of the Shareholders Meeting shall determine the dispute and the determination of the chairperson made in good faith shall be final and conclusive.
- 19.27. In the case of an equality of votes, whether on a show of hands or on a poll, the chairperson of the Shareholders Meeting at which the show of hands takes place, or at which the poll is demanded, shall be entitled to a second or casting vote.
- 19.28. Every resolution of Shareholders is either an Ordinary Resolution or a Special Resolution. An Ordinary Resolution, save to the extent expressly provided in respect of a particular matter contemplated in this MOI, shall require to be adopted with the support of more than 50% (fifty per cent) of the Voting Rights Exercised on the resolution. A Special Resolution, save to the extent expressly provided in respect of a particular matter contemplated in this MOI, shall require to be adopted with the support of at least 75% (seventy five per cent) of the Voting Rights Exercised on the resolution.
- 19.29. Subject to any rights or restrictions attaching to any class or classes of Securities which are not ordinary Shares (as no voting restrictions shall be permitted as regards ordinary Shares) and the provisions of the Banks Act, on a show of hands a Person entitled to vote Present at the Meeting shall have only 1 (one) vote, irrespective of the number of Voting Rights that Person would otherwise be entitled to Exercise. A proxy shall irrespective of the number of Holders entitled to vote it represents have only 1 (one) vote on a show of hands. On a poll every Person entitled to vote who is Present at the Meeting shall have the number of votes determined in accordance with the Voting Rights associated with the Securities in question.
- 19.30. Where any Share is allotted or issued to, or registered in the name of, a Person in contravention of the provisions of the Banks Act ("**Contravening Shares**"), the Voting Rights attached to the Contravening Shares shall, from the date on which the such Shares became Contravening Shares, be incapable of being Exercised until such time as the Registrar of Banks or the Minister of Finance, as the case may be, has approved the acquisition or registration of the Contravening Shares
- 19.31. In the case of joint Holders of a Security, the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint Holders and for this purpose seniority shall be determined by the order in which the names stand in the Securities Register.

- 19.32. Where in South Africa or elsewhere a guardian, curator or other Person, by whatever name called, has been appointed by any court claiming jurisdiction in that behalf to exercise powers with respect to the property or affairs of any Holder on the ground, however formulated, of mental disorder, the Directors may in their absolute discretion, upon or subject to production of such evidence of the appointment as the Directors may require, permit such guardian, curator or other Person on behalf of such Holder to vote in person or by proxy at any General Meeting or to Exercise any other right conferred by the holding of such Security in relation to General Meetings.
- 19.33. No form appointing a proxy shall be valid after the expiration of 1 (one) year from the date when it was signed unless the proxy form itself provides for a longer or shorter duration but it may be revoked at any time. The appointment is revocable unless the proxy appointment expressly states otherwise, and may be revoked by cancelling it in writing, or making a later inconsistent appointment of a proxy, and delivering a copy of the revocation instrument to the proxy, and to the Company. The appointment is suspended at any time and to the extent that the Holder entitled to vote chooses to act directly and in person in the Exercise of any rights as a Holder entitled to vote.
- 19.34. The form appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of such power of attorney or authority shall be delivered to the Company or any Person which it has identified in the notice of meeting as being a Person to whom instruments of proxy may be delivered on behalf of the Company, immediately prior to the Shareholders Meeting, before the proxy Exercises any rights of the Holder entitled to vote at a Shareholders Meeting.
- 19.35. A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the death or mental disorder of the principal or revocation of the instrument of proxy or of the authority under which the instrument of proxy was executed, or the transfer of the Securities in respect of which the instrument of proxy is given, provided that no intimation in writing of such death, insanity, revocation or transfer as aforesaid shall have been received by the Company at its Registered Office before the commencement of the Shareholders Meeting or adjourned Shareholders Meeting at which the instrument of proxy is used.
- 19.36. Subject to the provisions of the Companies Act, a form appointing a proxy may be in any usual or common form provided that it is in Writing. The Company shall supply a generally standard form of proxy upon request by a Holder entitled to vote.
- 19.37. If a form appointing a proxy is received duly signed but with no indication as to how the Person named therein should vote on any issue, the proxy may vote or abstain from voting as it sees fit unless the form appointing the proxy indicates otherwise.

20. **RECORD DATE**

Unless the Company has only 1 (one) Holder –

- 20.1. if the Board determines the Record Date, it may not be earlier than the date on which the Record Date is determined or more than 10 (ten) Business Days before the date on which the event or action, for which the Record Date is being set, is scheduled to occur;
- 20.2. if, at any time, the Board fails to determine a Record Date, the Record Date for the relevant matter is –
 - 20.2.1. in the case of a Shareholders Meeting, the latest date by which the Company is required to Deliver to Holders entitled to vote, notice of that Shareholders Meeting; or
 - 20.2.2. in the case of dividends a date subsequent to the declaration date or confirmation date of the dividend, whichever is the later; or
 - 20.2.3. the date of the action or event, in any other case;
- 20.3. the Company must publish a notice of a Record Date for any matter by –
 - 20.3.1. Delivering a copy to each Holder; and
 - 20.3.2. posting a conspicuous copy of the notice –
 - 20.3.2.1. at its principal office; and
 - 20.3.2.2. on its web-site, if it has one.

21. **ELECTION OF DIRECTORS AND ALTERNATE DIRECTORS AND VACANCIES**

- 21.1. The minimum number of Directors shall be 4 (four).
- 21.2. Subject to the provisions of the Banks Act, each of the Directors and the Alternate Directors, other than a Director contemplated in clause 21.8, shall be elected (which in the case of a vacancy arising shall take place at the next annual general meeting or by Round Robin Resolution contemplated in clause 1.2.16.1, held or taken within 6 (six) months of the vacancy arising), in accordance with clause 21.5, to serve as a Director or Alternate Director. No Alternate Director may be appointed from the ranks of the Directors. An Alternate Director shall serve in the place of 1 (one) or more Director/s named in the resolution electing him during the Director's/s' absence or inability to act as Director. If a Person is an Alternate Director to more than 1 (one) Director or if an Alternate Director is also a Director, he shall have a separate vote, on behalf of each Director he is representing in addition to his own vote, if any.

- 21.3. There are no general qualifications prescribed by the Company for a Person to serve as a Director or an Alternate Director in addition to the requirements of the Statutes.
- 21.4. No Director shall be entitled to appoint any Person as an Alternate Director to himself.
- 21.5. Unless the Company has only 1 (one) Holder, in any election of Directors and Alternate Directors, the election is to be conducted as follows –
- 21.5.1. a series of votes of those entitled to Exercise Voting Rights regarding such election, each of which is on the candidacy of a single individual to fill a single vacancy, with the series of votes continuing until all vacancies on the Board at that time have been filled; and
- 21.5.2. in each vote to fill a vacancy –
- 21.5.2.1. each Voting Right entitled to be Exercised may be Exercised once; and
- 21.5.2.2. the vacancy is filled only if a majority of the Voting Rights Exercised support the candidate.
- 21.6. No Person shall be elected as a Director or Alternate Director, if he is Ineligible or Disqualified, or if the Registrar of Banks has delivered written notice to the Company of his objection to the appointment of that Person, which objection has not been set aside as contemplated in the Banks Act, and any such election shall be a nullity. No such Person should consent to be elected as a Director or Alternate Director, nor act as a Director or Alternate Director. A Person placed under probation by a court must not serve as a Director or an Alternate Director, unless the order of court so permits.
- 21.7. Subject to the provisions of clause 21.6, no election of a Director shall take effect until he has delivered to the Company a Written consent to serve.
- 21.8. Any vacancy occurring on the Board may be filled by the Board (whether it is a casual vacancy or an additional appointment to the Board), but the Individual so appointed shall cease to hold office at the termination of the first Shareholders Meeting to be held after the appointment of such Individual as a Director unless he is elected at such Shareholders Meeting or by Round Robin Resolution contemplated in clause 1.2.16.1.
- 21.9. Subject to any provisions of the Banks Act to the contrary, the continuing Directors may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by or in accordance with this MOI, the continuing Directors or Director may act only for the purpose of filling such vacancies or summoning a Shareholders Meeting for the purpose of filling vacancies (which the continuing Directors shall do as soon

as possible and, in any event, not later than 3 (three) months from the date that the number of Directors is reduced below the minimum), but not for any other purpose. A failure by the Company at any time to have the minimum number of Directors during the 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 or the Company.

21.10. If there is no Director able and willing to act, then any Holder entitled to Exercise Voting Rights in the election of a Director may convene a Shareholders Meeting for the purpose of electing Directors.

22. **CESSATION OF OFFICE AS DIRECTOR OR ALTERNATE DIRECTOR**

A Director or Alternate Director shall cease to hold office as such –

- 22.1. immediately when he becomes Ineligible or Disqualified or the Board resolves to remove him on such basis, and in the latter case the Director / Alternate Director has not within the permitted period filed an application for review or has filed such an application but the court has not yet confirmed the removal (during which period he shall be suspended);
- 22.2. when any term fixed for him to hold office expires;
- 22.3. when he dies;
- 22.4. when he resigns by Written notice to the Company;
- 22.5. if there are more than 3 (three) Directors in office and if the Board (other than the Director concerned) determines that he has become incapacitated to the extent that such Director is unable to perform the functions of a director, and is unlikely to regain that capacity within a reasonable time, and the Director/Alternate Director has not within the permitted period filed an application for review or has filed such an application but the court has not yet confirmed the removal (during which period he shall be suspended);
- 22.6. if he is declared delinquent by a court, or placed on probation under conditions that are inconsistent with continuing to be a Director of the Company
- 22.7. if he is removed by Ordinary Resolution;
- 22.8. if there are more than 3 (three) Directors in office and if he is removed by resolution of the Board (other than the Director concerned) for being negligent or derelict in performing the functions of a Director, and the Director / Alternate Director has not within the permitted period filed an application for review or has filed such an application but the court has not yet confirmed the removal (during which period he shall be suspended);

- 22.9. he files a petition for the surrender of his estate or an application for an administration order, or if he commits an act of insolvency as defined in the insolvency law for the time being in force, or if he makes any arrangement or composition with his creditors generally;
- 22.10. if he is removed at the instance of the Registrar of Banks in accordance with the provisions of the Banks Act; or
- 22.11. he is otherwise removed in accordance with any provisions of this MOI.

The office of a Director who is an employee of the Controlling Company or any of its Subsidiaries (including the Company) shall be vacated if such Director ceases to be employed within such group provided that the Person concerned shall be eligible for re-appointment or re-election as a Director.

23. REMUNERATION OF DIRECTORS AND MEMBERS OF COMMITTEES

- 23.1. The Directors or members of Board or statutory committees shall be entitled to such remuneration for their services as Directors and/or members of such committees as may have been determined from time to time by Special Resolution, authorising the basis for such compensation, within the previous 2 (two) years. The amount of remuneration shall from time to time be proposed for Shareholder approval by the Controlling Company (or should the Controlling Company elect not to make such proposal or should there be no Controlling Company, by a disinterested quorum of Directors), provided 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 a proportion of remuneration related to the period during which he has held office. Any remuneration payable under this clause 23.1 shall be distinct from any remuneration or other amounts payable to a Director under other provisions of this MOI.
- 23.2. Subject to the Statutes, any Director who holds any executive office with the Company, including for this purpose the office of Chairman or Deputy Chairman whether or not such office is held in an executive capacity, or who is employed as a Director or employee of a company controlled by, or itself a Subsidiary or associated company of, the Company, or who otherwise performs services in relation to the business of the Controlling Company and its Subsidiaries (including the Company) and associated companies from time to time which are outside the scope of the ordinary duties of a Director, may, subject to clause 23.1, be paid such extra remuneration by way of salary, commission or otherwise or may receive such other benefits, including, without limitation, costs associated with residing overseas, as may be reasonably determined by the Controlling Company (or should the Controlling Company elect not to make such determination or should there be no Controlling Company, by a disinterested quorum of Directors).

- 23.3. The Company may repay to any Director and member of a Board committee all such reasonable expenses as determined by the Controlling Company (or should the Controlling Company elect not to make such determination or should there be no Controlling Company, by a disinterested quorum of Directors), as he may incur in attending and returning from meetings of the Directors or of Board or statutory committees thereof or general meetings or otherwise in connection with the business of the Company.
- 23.4. The Directors shall have power to pay and agree to pay gratuities, pensions or other retirement, superannuation, death or disability benefits to or to any Person in respect of any Director or ex-Director and for the purpose of providing any such gratuities, pensions or other benefits to contribute to any scheme or fund or to pay premiums.
- 23.5. The remuneration of any Director appointed to any executive office shall be determined by the Controlling Company (or should the Controlling Company elect not to make such determination or should there be no Controlling Company, by a disinterested quorum of Directors) and may be by way of salary, commission, participation in profits or otherwise and either in addition to or inclusive of his remuneration for his service as a Director.
- 23.6. For the purposes of this clause 23 -
- 23.6.1. an “associated company” means any Person which would have been a Subsidiary had it been a company, or which would have been a Subsidiary but for the fact that it is incorporated outside of South Africa, or -
- 23.6.1.1. in which the Company or any of its Subsidiaries holds a long term investment; and
- 23.6.1.2. over which the Company or any of its Subsidiaries has the ability to exercise a significant influence; and
- 23.6.2. a “disinterested quorum of Directors” shall comprise a quorum of Directors excluding any Director whose remuneration would or may be affected by the relevant resolution.

24. **FINANCIAL ASSISTANCE FOR DIRECTORS AND PRESCRIBED OFFICERS AND THEIR RELATED AND INTER-RELATED PARTIES**

- 24.1. The Board’s powers to provide direct or indirect financial assistance as contemplated in section 45(2) of the Companies Act are not limited in any manner.
- 24.2. If the Board adopts a resolution as contemplated in section 45(2) of the Companies Act regarding financial assistance to the Directors / Prescribed Officers and others contemplated in that section, the Company shall Deliver to all Shareholders, notice in Writing of that

resolution unless every Shareholder is also a Director, and to any trade union representing its employees –

24.2.1. within 10 (ten) Business Days after the Board adopts the resolution, if the total value of all loans, debts, obligations or assistance contemplated in that resolution, together with any previous such resolution during the financial year, exceeds 1/10th (one tenth) of 1% (one per cent) of the Company's net worth at the time of the resolution; or

24.2.2. within 30 (thirty) Business Days after the end of the financial year, in any other case.

25. **GENERAL POWERS AND DUTIES OF DIRECTORS**

Subject to the provisions of the Banks Act, the powers of management granted to the Directors in terms of section 66(1) of the Companies Act are not limited in any manner.

26. **EXECUTIVE DIRECTORS AND MANAGEMENT**

26.1. Subject to the provisions of the Banks Act, the Directors may from time to time appoint one or more of their body to be the holder of any executive office on such terms and for such period as they may, subject to the provisions of the Statutes, determine and, without prejudice to the terms of any contract entered into in any particular case, may revoke or vary the terms of any such appointment.

26.2. The Directors may entrust to and confer upon any Director holding any executive office any of the powers exercisable by them as Directors upon such terms and conditions and with such restrictions as they think fit, and either collaterally with, or to the exclusion of their own powers, and may from time to time revoke, withdraw, alter or vary all or any of such powers.

27. **BOARD COMMITTEES**

27.1. The Directors may appoint any number of Board committees and delegate to such committees any authority of the Board. Except to the extent that this MOI, the Banks Act or a resolution establishing a committee provides otherwise, the members of such committees may include Persons who are not Directors as long as they are not Ineligible or Disqualified to be Directors who shall not be able to vote.

27.2. No Person shall be appointed as a member of a Board committee, if he is Ineligible or Disqualified and any such appointment shall be a nullity. A Person who is Ineligible or Disqualified must not consent to be appointed as a member of a Board committee nor act as such a member. A Person placed under probation by a court must not serve as a member of a Board committee unless the order of court so permits.

- 27.3. There are no general qualifications prescribed by the Company for a Person to serve as a member of a Board committee in addition to the requirements of the Statutes.
- 27.4. A member of a Board committee shall cease to hold office as such immediately when he becomes Ineligible or Disqualified in terms of the Companies Act.
- 27.5. Committees of the Board may consult with or receive advice from any Person.
- 27.6. Meetings and other proceedings of a committee of the Board consisting of more than 1 (one) member shall be governed by the provisions of this MOI regulating the meetings and proceedings of Directors.

28. **PERSONAL FINANCIAL AND OTHER INTERESTS OF DIRECTORS, PRESCRIBED OFFICERS AND MEMBERS OF COMMITTEES**

- 28.1. Subject to the provisions of the Statutes, and provided that he has disclosed to the Directors the nature and extent of any interest of his, a Director of the Company, notwithstanding his office –
- 28.1.1. may be a party to, or otherwise interested in, any contract, transaction or arrangement with the Company or in which the Company is otherwise interested;
- 28.1.2. may be a Director or other officer of, or employed by, or a party to any contract, transaction or arrangement with, or otherwise interested in, any body corporate promoted by the Company or in which the Company is otherwise interested, provided that a Director may not accept such office or employment, enter into any such contract, transaction or arrangement or take such interest or receive remuneration in relation to any of the foregoing without the prior approval of the Controlling Company (or should the Controlling Company elect not to decide on the matter or should there be no Controlling Company, a disinterested quorum of Directors as contemplated in clause 23.5);
- 28.1.3. may (or any firm of which he is a partner, employee or member may) act in a professional capacity for the Company (other than as Auditor) and be remunerated therefor, provided that any appointment so to act and the remuneration for such appointment shall require the prior approval of the Controlling Company (or should the Controlling Company elect not to decide on the matter or should there be no Controlling Company, a disinterested quorum of Directors as contemplated in clause 23.5); and

- 28.1.4. shall not, save as otherwise agreed by him, be accountable to the Company for any benefit which he derives from any such contract, transaction or arrangement or from any such office or employment or from any interest in any such body corporate or for such remuneration and no such contract, transaction or arrangement shall be liable to be avoided on the grounds of any such interest or benefit.
- 28.2. For the purposes of the remainder of this clause 28 -
- 28.2.1. "**Director**" includes an Alternate Director, a Prescribed Officer, and a person who is a member of a statutory committee or a committee of the Board, irrespective of whether or not the Person is also a member of the Board; and
- 28.2.2. "**Related Person**" includes a company, other than the Company, of which the Director or a Person Related to the Director is also a Director, or a close corporation of which the Director or a Person Related to the Director is a member.
- 28.3. The remainder of this clause 28 shall not apply to a Director in respect of a decision that may generally affect –
- 28.3.1. all of the Directors in their capacity as Directors; or
- 28.3.2. a class of Persons, despite the fact that the Director is one member of that class of Persons, unless the only members of the class are the Director or Persons Related or Inter-Related to the Director. In such event the Director shall be treated as not having a Personal Financial Interest, unless the class is predominantly made up of Directors and Persons Related or Inter-Related to such Directors and in the circumstances the conflict of the Director requires the provisions of this clause 28 to apply.
- 28.4. At any time, a Director may disclose any Personal Financial Interest in advance, by delivering to the Board, or Holders (if he is the only Director of the Company), a notice in Writing setting out the nature and extent of that Personal Financial Interest, to be used generally by the Company until changed or withdrawn by further Written notice from that Director.
- 28.5. If, in the reasonable view of the other non conflicted Directors, a Director or the Related Person in respect of such Director acts in competition with the Company relating to the matter to be considered at the meeting of the Board, the Director shall only be entitled to such information concerning the matter to be considered at the meeting of the Board as shall

be necessary to enable the Director to identify that such Personal Financial Interest exists or continues to exist.

- 28.6. If a Director has a Personal Financial Interest in respect of a matter to be considered at a meeting of the Board, or Knows that a Related Person has a Personal Financial Interest in the matter, the Director –
- 28.6.1. must disclose the Personal Financial Interest and its general nature before the matter is considered at the meeting;
 - 28.6.2. must disclose to the meeting any Material information relating to the matter, and Known to the Director;
 - 28.6.3. may disclose any observations or pertinent insights relating to the matter if requested to do so by the other Directors;
 - 28.6.4. if present at the meeting, must leave the meeting immediately after making any disclosure contemplated in clauses 28.6.2 and 28.6.3;
 - 28.6.5. must not take part in the consideration of the matter, except to the extent contemplated in clauses 28.6.2 and 28.6.3;
 - 28.6.6. while absent from the meeting in terms of this clause 28.6:
 - 28.6.6.1. is to be regarded as being present at the meeting for the purpose of determining whether sufficient Directors are present to constitute a quorum; and
 - 28.6.6.2. is not to be regarded as being present at the meeting for the purpose of determining whether a resolution has sufficient support to be adopted; and
 - 28.6.7. must not execute any document on behalf of the Company in relation to the matter unless specifically requested or directed to do so by the Board.
- 28.7. If a Director acquires a Personal Financial Interest in an agreement or other matter in which the Company has a Material interest, or Knows that a Related Person has acquired a Personal Financial Interest in the matter, after the agreement or other matter has been approved by the Company, the Director must promptly disclose to the Board, or to the Holders entitled to vote (if he is the only Director of the Company), the nature and extent of that Personal Financial Interest, and the material circumstances relating to the Director or Related Person's acquisition of that Personal Financial Interest.

- 28.8. A decision by the Board, or a transaction or agreement approved by the Board, or by the Holders (if he is the only Director of the Company), is valid despite any Personal Financial Interest of a Director or Person Related to the Director, only if –
- 28.8.1. it was approved following the disclosure of the Personal Financial Interest in the manner contemplated in this clause 28; or
- 28.8.2. despite having been approved without disclosure of that Personal Financial Interest, it has been ratified by an Ordinary Resolution following disclosure of that Personal Financial Interest or so declared by a court.

29. **PROCEEDINGS OF DIRECTORS**

- 29.1. A Director authorised by the Board –
- 29.1.1. may, at any time, summon a meeting of the Board; and
- 29.1.2. must call a meeting of the Board if required to do so by at least 2 (two) Directors.
- 29.2. The Directors may determine what period of notice shall be given of meetings of Directors and may determine the means of giving such notice which may include telephone, telefax or Electronic Communication. It shall be necessary to give notice of a meeting of Directors to all Directors even those for the time being absent from South Africa.
- 29.3. If all of the Directors –
- 29.3.1. acknowledge actual receipt of the notice;
- 29.3.2. are present at a meeting of the Board; or
- 29.3.3. waive notice of the meeting,
- the meeting may proceed even if the Company failed to give the required notice of that meeting, or there was a defect in the giving of the notice.
- 29.4. Subject to the provisions of this MOI, the Directors may meet together for the despatch of business, adjourn and otherwise regulate their proceedings as they think fit.
- 29.5. Unless otherwise resolved by the Directors, all their meetings shall be held in the city or town where the Company's Registered Office is for the time being situated. A meeting of Directors may be conducted by Electronic Communication and/or one or more Directors may participate in a meeting of Directors by Electronic Communication so long as the Electronic Communication facility employed ordinarily enables all Persons participating in that meeting

to communicate concurrently with each other without an intermediary, and to participate effectively in the meeting.

- 29.6. The quorum for a Directors' meeting is at least one-third of the Directors. 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. Any Director who ceases to be a Director at a board meeting may continue to be present and to act as a Director and be counted in the quorum until the termination of the board meeting if no Director objects.
- 29.7. The Directors may elect from their number a chairperson of their meetings and determine the period for which is to hold office; but if no such chairperson is elected, or if at any meeting the chairperson is not present by the time appointed for holding it, the Directors present may choose one of their number to be chairperson of the meeting.
- 29.8. Subject to the provisions of the Banks Act, each Director has 1 (one) vote on a matter before the Board and a majority of the votes cast on a resolution is sufficient to approve that resolution.
- 29.9. In the case of a tied vote, the chairperson may cast a deciding vote even if the chairperson did initially have or cast a vote, except if only 2 (two) Directors are present at a meeting of Directors.
- 29.10. A Director who is unable to attend any meeting of the Directors may authorise any other Director to vote for him at that meeting and in that event the Director so authorised shall at such meeting have a vote for each absent Director by whom he is so authorised in addition to his own vote. Any such authority must be in writing or by cable, facsimile or telex message delivered to or lodged with the Secretary prior to or at the meeting.
- 29.11. The Company must keep minutes of the meetings of the Board, and any of its Board and statutory committees, and include in the minutes –
- 29.11.1. any declaration given by notice or made by a Director as required by clause 28;
 - 29.11.2. every resolution adopted by the Board.
- 29.12. Resolutions adopted by the Board –
- 29.12.1. must be dated and sequentially numbered; and
 - 29.12.2. are effective as of the date of the resolution, unless the resolution states otherwise.

29.13. Any minutes of a meeting, or a resolution, signed by the chair of the meeting, or by the chair of the next meeting of the Board, are/is evidence of the proceedings of that meeting, or adoption of that resolution, as the case may be, without the necessity for further proof of the facts stated.

29.14. A Round Robin Resolution of Directors shall be as valid and effectual as if it had been passed at a meeting of the Directors duly called and constituted, provided that each Director has received notice of the matter to be decided upon. One or more Alternate Directors shall be entitled to sign a Round Robin Resolution if one or more Directors are not present in South Africa to sign, and without his vote/s the requisite majority cannot be achieved.

30. **PRESCRIBED OFFICERS**

30.1. No Person who is Ineligible or Disqualified shall perform any function that has been designated by the Minister in terms of section 66(10) of the Companies Act to constitute a prescribed office. A Person who is Ineligible or Disqualified must not consent to be appointed to an office or undertake any functions which would result in him being a Prescribed Officer nor act in such office nor undertake any such functions. A Person placed under probation by a court must not consent to be appointed to an office or undertake any functions which would result in him being a Prescribed Officer nor act in such office nor undertake any such functions unless the order of court so permits.

30.2. A Prescribed Officer shall cease to perform any function that has been designated by the Minister in terms of section 66(10) of the Companies Act to constitute a prescribed office immediately when he becomes Ineligible or Disqualified in terms of the Companies Act.

31. **COMPANY SECRETARY**

Subject to the Statutes, the company secretary shall be appointed by the Directors on such terms and for such period as they may think fit. Any company secretary so appointed may at any time be removed from office by the Directors, but without prejudice to any claim for damages for breach of any contract of service between him and the Company. If thought fit, two or more persons may be appointed as joint company secretaries. The Directors may also appoint from time to time on such terms as they may think fit one or more deputy and/or assistant company secretaries.

32. **DISTRIBUTIONS**

32.1. Subject to the provisions of the Banks Act, the Company –

32.1.1. may make Distributions from time to time, provided that –

32.1.1.1. any such Distribution -

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

32.1.1.1.2. has been authorised by the Board, by resolution;

32.1.1.2. it reasonably appears that the Company will satisfy the Solvency and Liquidity Test immediately after completing the proposed Distribution;

32.1.1.3. the Board, by resolution, has acknowledged that it has applied the Solvency and Liquidity Test and reasonably concluded that the Company will satisfy the Solvency and Liquidity Test immediately after completing the proposed Distribution; and

32.1.1.4. no obligation is imposed, if it is a distribution of capital, that the Company is entitled to require it to be subscribed again;

32.1.2. must before incurring any debt or other obligation for the benefit of any Holders, comply with the requirements in clause 32.1.1,

and must complete any such Distribution fully within 120 (one hundred and twenty) Business Days after the acknowledgement referred to in clause 32.1.1.3, failing which it must again comply with the foregoing.

32.2. No notice of change of address or instructions as to payment given after the determination of a dividend or other Distribution by the Company in terms of clause 32.1.1.1, shall become effective until after the dividend or other Distribution has been made, unless the Board so determines at the time the dividend or other Distribution is approved.

32.3. Where any Share is allotted or issued to, or registered in the name of, a Person in contravention of the provisions of the Banks Act, it shall not carry any right to Distributions.

32.4. All unclaimed dividends or other Distributions as contemplated in this clause may be invested or otherwise be made use of by the Directors for the benefit of the Company until claimed, provided that any dividend or other Distribution remaining unclaimed for a period of not less than 3 (three) years from the date on which it became payable may be forfeited by resolution of the Directors for the benefit of the Company. No such monies shall bear interest as against the Company.

32.5. The Company shall be entitled at any time to delegate its obligations in respect of unclaimed dividends or other unclaimed Distributions, to any one of the Company's bankers from time to time.

33. **LOSS OF DOCUMENTS**

The Company shall not be responsible for the loss in transmission of any cheque, warrant, certificate or (without any limitation *eiusdem generis*) other document sent through the post either to the registered address of any Holder or to any other address requested by the Holder.

34. **NOTICES**

34.1. The Company may give notices, documents, records or statements or notices of availability of the foregoing by personal delivery to the Holder or holder of Beneficial Interests or by sending them prepaid through the post or by transmitting them by telegram, telex or fax or by Electronic Communication to such Person's last known address. A copy of any such notices and documents shall, to the extent required in terms of the Banks Act, be forwarded to the Registrar of Banks.

34.2. Any Holder or holder of Beneficial Interests who/which has furnished an Electronic Address to the Company, by doing so –

34.2.1. authorises the Company to use Electronic Communication to give notices, documents, records or statements or notices of availability of the foregoing to it; and

34.2.2. confirms that same can conveniently be printed by the Holder or holder of the Beneficial Interests within a reasonable time and at a reasonable cost.

34.3. If joint Holders are registered in respect of any Securities or if more than 1 (one) Person is entitled to Securities, all notices shall be given to the Person named first in the Securities Register in respect of the Securities, and notice so Delivered shall be sufficient notice to all the Holders of or Persons entitled to or otherwise interested in the Securities.

34.4. A Holder or Person entitled to Securities (or his executor) shall be bound by every notice in respect of the Securities Delivered to the Person who was, at the date on which that notice was Delivered, shown in the Securities Register or established to the satisfaction of the Directors (as the case may be) as the Holder of or Person entitled to the Securities, notwithstanding that the Holder or Person entitled to Securities may then have been dead or may subsequently have died or have been or become otherwise incapable of acting in respect of the Securities, and notwithstanding any transfer of the Securities was not registered at that date. The Company shall not be bound to enter any Person in the Securities Register as entitled to any Securities until that Person gives the Company an address for entry on the Securities Register.

- 34.5. The Company shall not be bound to use any method of giving notice, documents, records or statements or notices of availability of the foregoing, contemplated in the Regulations in respect of which provision is made for deemed delivery, but if the Company does use such a method, the notice, document, record or statement or notice of availability of the foregoing shall be deemed to be delivered on the day determined in accordance with the Regulations (of which Table CR 3 is included as **Schedule 3** for easy reference but which does not form part of this MOI for purposes of interpretation). In any other case, when a given number of days' notice or notice extending over any period is required to be given (which are not Business Days which shall be calculated in accordance with clause 2), the provisions of clause 2 shall also be applied.
- 34.6. As regards the signature of an Electronic Communication by a Holder, it shall be in such form as the Directors may specify to demonstrate that the Electronic Communication is genuine, or failing any such specification by the Directors, it shall be constituted by the Holder indicating in the Electronic Communication that it is the Holder's intention to use the Electronic Communication as the medium to indicate the Holder's approval of the information in, or the Holder's signature of the document in or attached to, the Electronic Communication which contains the name of the Holder sending it in the body of the Electronic Communication.
- 34.7. To the extent permitted by the Companies Act, where the Company is required to provide a Person with the annual Financial Statements of the Company, it shall be sufficient if the Company provides an abridged version of such annual Financial Statements, provided that the notice shall also include instructions as to how that Person may obtain the complete version of such annual Financial statements.
- 34.8. A person entitled to a Security in consequence of the death or insolvency of a Holder or otherwise by operation of law, upon supplying to the Company such evidence as the Directors may reasonably require to show his title to the Security, and upon supplying also an address within South Africa for the service of notices, shall be entitled to have served upon or Delivered to him at such address any notice or document to which the said Holder would have been entitled, and such service or Delivery shall for all purposes be deemed a sufficient service or Delivery of such notice or document on all Persons interested, whether jointly with or as claiming through or under him, in the Security. Save as aforesaid any notice or document Delivered or sent by post to or left at the address of any Holder in pursuance of this MOI shall, notwithstanding that such Holder be then dead or insolvent or in liquidation, and whether or not the Company has notice of his death or insolvency or liquidation, be deemed to have been duly served or Delivered in respect of any Security registered in the name of such Holder as sole or first-named joint Holder.

35. **INDEMNITY**

35.1. For the purposes of this clause 35 -

35.1.1. "**Director**" includes a former Director, an Alternate Director, a Prescribed Officer, a person who is a member of a committee of the Board, irrespective of whether or not the person is also a member of the Board, and a member of a statutory committee; and

35.1.2. "**Relevant Company**" means the Company, the Controlling Company and any other body, whether or not incorporated, in which the Company the Controlling Company or any of the predecessors of the Company or the Controlling Company has or had any interest whether direct or indirect or which is in any way allied to or associated with the Company, the Controlling Company, or any Subsidiary or associated company (as such term is defined in clause 23.6.1) of the Company, the Controlling Company or of such other body.

35.2. Subject to the provisions of and so far as may be consistent with the Statutes but without prejudice to any indemnity to which a Director may otherwise be entitled, every Director, company secretary or other officer of the Company shall be indemnified by the Company out of its own assets or funds against and/or exempted by the Company from all costs, charges, losses, expenses and liabilities incurred by him in the actual or purported execution and/or discharge of his duties and/or the exercise or purported exercise of his powers and/or otherwise in relation to or in connection with his duties, powers or office including, without prejudice to the generality of the foregoing, any liability incurred by him in defending any proceedings, civil or criminal, which relate to anything done or omitted or alleged to have been done or omitted by him as an officer or employee of the Company and in which judgment is given in his favour or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part or in which he is acquitted or in connection with any application under any statute for relief from liability in respect of any such act or omission in which relief is granted to him by the court.

35.3. Without prejudice to clause 35.2 but subject to the provisions of and so far as may be consistent with the Statutes, the Directors shall have power to purchase and maintain insurance for or for the benefit of any person who is or was at any time a Director or officer of any Relevant Company, or who is or was at any time a trustee of any pension fund or employees' share scheme in which employees of any Relevant Company are interested, including, without prejudice to the generality of the foregoing, insurance against any liability incurred by him in respect of any act or omission in the actual or purported execution and/or discharge of his duties and/or in the exercise or purported exercise of his powers and/or

otherwise in relation to his duties, powers or offices in relation to any Relevant Company, or any such pension fund or employees' share scheme.

36. REPURCHASES OF SECURITIES

Subject to the provisions of the Statutes and the requirements of any securities exchange on which Securities may be listed, and without prejudice to any relevant special rights attached to any class of Securities, the Company and/or any of its Subsidiaries may purchase, or may enter into a contract under which it will or may purchase, any of the Securities of the Company of any class in any way and at any price (whether at par or above or below par).

37. REGISTER OF DISCLOSURES

The Company must –

- 37.1. establish and maintain a register of the disclosures made in terms of section 56(7) of the Companies Act, in accordance with clause 10.4;
- 37.2. file a copy of a notification in respect of the acquisition of any Beneficial Interest constituting 5% (five per cent) or a multiple thereof of the issued Securities of that class or disposal so that the Person no longer holds a multiple of 5% (five per cent) of the issued Securities of that class, with the Panel;
- 37.3. report the information to the Holders of the relevant class of Securities in respect of which the Company has received a notification of the type referred to in clause 37.2 unless it relates to the disposal of any Beneficial Interest of less than 1% (one per cent) of the class.

38. AUTHENTICATION OF DOCUMENTS

- 38.1. Any Director or the company secretary or any Person appointed by the Directors for this purpose shall have power to authenticate any documents affecting the constitution of the Company and any resolutions passed by the Company or the Directors, and any books, records, documents and accounts relating to the business of the Company, and to certify copies thereof or extracts therefrom as true copies or extracts. Where any books, records, documents or accounts are elsewhere than at the Company's Registered Office, the local manager or other officer of the Company having the custody thereof shall be deemed to be the Person appointed by the Directors aforesaid.
- 38.2. A document purporting to be a copy of a resolution of the Directors or an extract from the minutes of a meeting of the Directors which is certified as such in accordance with the provisions of clause 38.1 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 such extract is a true and accurate record of a duly constituted meeting of the Directors.

Schedule 1 – Definitions in the Companies Act

"accounting records" means information in written or electronic form concerning the financial affairs of a company as required in terms of this Act including, but not limited to, purchase and sales records, general and subsidiary ledgers and other documents and books used in the preparation of financial statements;¹

"alternate director" means a person elected or appointed to serve, as the occasion requires, as a member of the board of a company in substitution for a particular elected or appointed director of that company;

"amalgamation or merger" means a transaction, or series of transactions, pursuant to an agreement between two or more companies, resulting in –

- (a) the formation of one or more new companies, which together hold all of the assets and liabilities that were held by any of the amalgamating or merging companies immediately before the implementation of the agreement, and the dissolution of each of the amalgamation or merging companies; or
- (b) the survival of at least one of the amalgamating or merging companies, with or without the formation of one or more new companies, and the vesting in the surviving company or companies, together with such new company or companies, of all of the assets and liabilities that were held by any of the amalgamating or merging companies immediately before the implementation of the agreement;

"annual general meeting" means the meeting of a public company required by section 61(7);

"audit" has the meaning set out in the Auditing Profession Act, but does not include an "independent review" of annual financial statements, as contemplated in section 30(2)(b)(ii)(bb);

"Auditing Profession Act" means the Auditing Profession Act, 2005 (Act No. 26 of 2005);

"auditor" has the meaning set out in the Auditing Profession Act;

"beneficial interest", when used in relation to a company's securities, means the right or entitlement of a person, through ownership, agreement, relationship or otherwise, alone or together with another person to –

- (a) receive or participate in any distribution in respect of the company's securities;
- (b) exercise or cause to be exercised, in the ordinary course, any or all of the rights attaching to the company's securities; or
- (c) dispose or direct the disposition of the company's securities, or any part of a distribution in respect of the securities,

but does not include any interest held by a person in a unit trust or collective investment scheme in terms of the Collective Investment Schemes Act, 2002 (Act No. 45 of 2002);

¹ Regulation 25(3) contains requirements as to what the accounting records must include.

"**board**" means the board of directors of a company;

"**business days**" has the meaning determined in accordance with section 5(3);

"**central securities depository**" has the meaning set out in section 1 of the Securities Services Act, 2004 (Act No. 36 of 2004);

"**Commission**" means the Companies and Intellectual Property Commission established by section 185;

"**Competition Act**", means the Competition Act, 1998 (Act No. 89 of 1998);

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

- (a) any money, property, negotiable instrument, securities, investment credit facility, token or ticket;
- (b) any labour, barter or similar exchange of one thing for another; or
- (c) any other thing, undertaking, promise, agreement or assurance, irrespective of its apparent or intrinsic value, or whether it is transferred directly or indirectly;

"**convertible**" when used in relation to any securities of a company, means securities that may, by their terms, be converted into other securities of the company, including –

- (a) any non-voting securities issued by the company and which will become voting securities –
 - (i) on the happening of a designated event; or
 - (ii) if the holder of those securities so elects at some time after acquiring them; and
- (b) options to acquire securities to be issued by the company, irrespective of whether those securities may be voting securities, or non-voting securities contemplated in paragraph (a);

"**director**" means a member of the board of a company, as contemplated in section 66, or an alternate director of a company and includes any person occupying the position of a director or alternative director, by whatever name designated;

"**distribution**" means a direct or indirect –

- (a) transfer by a company of money or other property of the company, other than its own shares, to or for the benefit of one or more holders of any of the shares or to the holder of a beneficial interest in any such shares, of that company or of another company within the same group of companies, whether –
 - (i) in the form of a dividend;

- (ii) as a payment in lieu of a capitalisation share, as contemplated in section 47;
 - (iii) as consideration for the acquisition –
 - (aa) by the company of any of its shares, as contemplated in section 48; or
 - (bb) by any company within the same group of companies, of any shares of a company within that group of companies; or
 - (iv) otherwise in respect of any of the shares of that company or of another company within the same group of companies, subject to section 164(19);
- (b) incurrence of a debt or other obligation by a company for the benefit of one or more holders of any of the shares of that company or of another company within the same group of companies; or
- (c) forgiveness or waiver by a company of a debt or other obligation owed to the company by one or more holders of any of the shares of that company or of another company within the same group of companies,

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

"electronic communication" has the meaning set out in section 1 of the Electronic Communications and Transactions Act;

"Electronic Communications and Transactions Act" means the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002);

"exchange" when used as a noun, has the meaning set out in section 1 of the Securities Services Act, 2004 (Act No. 36 of 2004);

"exercise", when used in relation to voting rights, includes voting by proxy, nominee, trustee or other person in a similar capacity;

"external company" means a foreign company that is carrying on business, or non-profit activities, as the case may be, within the Republic, subject to section 23(2);

"file" when used as a verb, means to deliver a document to the Commission in the manner and form, if any, prescribed for that document;

"financial statement" includes –

- (a) annual financial statements and provisional annual financial statements;
- (b) interim or preliminary reports;
- (c) group and consolidated financial statements in the case of a group of companies; and

- (d) financial information in a circular, prospectus or provisional announcement of results, that an actual or prospective creditor or holder of the company's securities, or the Commission, Panel or other regulatory authority, may reasonably be expected to rely on;

"group of companies" means a holding company and all of its subsidiaries;

"holding company", in relation to a subsidiary, means a juristic person that controls that subsidiary as a result of any circumstances contemplated in section 2(2)(a) or 3(1)(a);

"individual" means a natural person;

"inter-related", when used in respect of three or more persons, means persons who are related to one another in a linked series of relationships, such that two of the persons are related in a manner contemplated in section 2(1) and one of them is related to the third in any such manner, and so forth in an unbroken series;

"juristic person" includes –

- (a) a foreign company; and
- (b) a trust, irrespective of whether or not it was established within or outside the Republic;

"knowing", **"knowingly"** or **"knows"**, when used with respect to a person, and in relation to a particular matter, means that the person either –

- (a) Had actual knowledge of the matter; or
- (b) Was in a position in which the person reasonably ought to have –
 - (i) had actual knowledge;
 - (ii) investigated the matter to an extent that would have provided the person with actual knowledge; or
 - (iii) taken other measures which, if taken, could reasonably be expected to have provided the person with actual knowledge of the matter;

"material", when used as an adjective, means significant in the circumstances of a particular matter, to a degree that is –

- (a) of consequence in determining the matter; or
- (b) might reasonably affect a person's judgement or decision-making in the matter;

"Minister" means the member of the Cabinet responsible for companies;

"nominee" has the meaning set out in section 1 of the Securities Services Act, 2004 (Act No. 36 of 2004);

"ordinary resolution" means a resolution adopted with the support of more than 50% of the voting rights exercised on the resolution, or a higher percentage as contemplated in section 65(8) –

- (a) at a shareholders meeting; or
- (b) by holders of the company's securities acting other than at a meeting, as contemplated in section 60;

"person" includes a juristic person;

"personal financial interest", when used with respect to any person –

- (a) means a direct material interest of that person, of a financial, monetary or economic nature, or to which a monetary value may be attributed; but
- (b) does not include any interest held by a person in a unit trust or collective investment scheme in terms of the Collective Investment Schemes Act, 2002 (Act No. 45 of 2002), unless that person has direct control over the investment decisions of that fund or investment;

"prescribed officer" means a person who, within a company, performs any function that has been designated by the Minister in terms of section 66(10);

"private company" means a profit company that –

- (a) is not a public, personal liability or state-owned company; and
- (b) satisfies the criteria set out in section 8(2)(b);

"profit company" means a company incorporated for the purpose of financial gain for its shareholders;

"public company" means a profit company that is not a state-owned company, a private company or a personal liability company;

"record date" means the date established under section 59 on which a company determines the identity of its shareholders and their shareholdings for the purposes of this Act;

"registered auditor" has the meaning set out in the Auditing Profession Act;

"registered office" means the office of a company, or of an external company, that is registered as required by section 23;

"related", when used in respect of two persons, means persons who are connected to one another in any manner contemplated in section 2(1)(a) to section (c);

"securities" means any shares, debentures or other instruments, irrespective of their form or title, issued or authorised to be issued by a profit company;

"securities register" means the register required to be established by a profit company in terms of section 50(1);

"shareholder", subject to section 57(1), means the holder of a share issued by a company and who is entered as such in the certificated or uncertificated securities register, as the case may be;

"shareholders meeting", with respect to any particular matter concerning a company, means a meeting of those holders of that company's issued securities who are entitled to exercise voting rights in relation to that matter;

"solvency and liquidity test" means the test set out in section 4 (1);

"special resolution" means –

- (a) in the case of a company, a resolution adopted with the support of at least 75% of the voting rights exercised on the resolution, or a different percentage as contemplated in section 65(10) –
 - (i) at a shareholders meeting; or
 - (ii) by holders of the company's securities acting other than at a meeting, as contemplated in section 60; or
- (b) in the case of any other juristic person, a decision by the owner or owners of that person, or by another authorised person, that requires the highest level of support in order to be adopted, in terms of the relevant law under which that juristic person was incorporated;

"subsidiary" has the meaning determined in accordance with section 3;

"voting power", with respect to any matter to be decided by a company, means the voting rights that may be exercised in connection with that matter by a particular person, as a percentage of all such voting rights;

"voting rights", with respect to any matter to be decided by a company, means –

- (a) the rights of any holder of the company's securities to vote in connection with that matter, in the case of a profit company; or
- (b) the rights of a member to vote in connection with the matter, in the case of a non-profit company;

"voting securities", with respect to any particular matter, means securities that –

- (a) carry voting rights with respect to that matter; or
- (b) are presently convertible to securities that carry voting rights with respect to that matter;

"wholly-owned subsidiary" has the meaning determined in accordance with section 3(1)(b).

Schedule 2 – Ineligible / disqualified in terms of section 69(7) and (8) of the Companies Act read with Regulation 39(3)

1. A person is ineligible to be a Director if the person –
 - 1.1. is a Juristic Person;
 - 1.2. is an unemancipated minor, or is under a similar legal disability; or
 - 1.3. does not satisfy any qualification set out in the MOI.

2. A person is disqualified to be a Director if –
 - 2.1. a court has prohibited that person to be a Director, or declared the person to be delinquent in terms of section 162, or in terms of section 47 of the Close Corporations Act, 1984 (Act No. 69 of 1984); or

 - 2.2. the person –
 - 2.2.1. is an unrehabilitated insolvent;

 - 2.2.2. is prohibited in terms of any public regulation to be a Director;

 - 2.2.3. has been removed from an office of trust, on the grounds of misconduct involving dishonesty; or

 - 2.2.4. has been convicted, in the Republic or elsewhere, and imprisoned without the option of a fine, or fined more than R1 000,00 (one thousand rand), for theft, fraud, forgery, perjury or an offence –
 - 2.2.4.1. involving fraud, misrepresentation or dishonesty;

 - 2.2.4.2. in connection with the promotion, formation or management of a company, or in connection with any act contemplated in subsection (2) or (5); or

 - 2.2.4.3. under the Companies Act, the Insolvency Act, 1936 (Act No. 24 of 1936), the Close Corporations Act, 1984, the Competition Act, the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001), the Securities Services Act, 2004 (Act No. 36 of 2004), or Chapter 2 of the Prevention and Combating of Corruption Activities Act, 2004 (Act No. 12 of 2004).

Schedule 3 – Prescribed methods of delivery in the Regulations

Person to whom the document is to be delivered	Method of delivery	Date and Time of Deemed delivery
Any Person	<p>By faxing the notice or a certified copy of the document to the Person, if the Person has a fax number;</p> <p>By sending the notice or a copy of the document by electronic mail, if the Person has an Electronic Address;</p> <p>By sending the notice or a certified copy of the document by registered post to the Person's last known address;</p> <p>By any other means authorised by the High Court; or</p> <p>By any other method allowed for that Person in terms of the following rows of this Table.</p>	<p>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.</p> <p>On the date and at the time recorded by the computer used by the Company, unless there is conclusive evidence that it was delivered on a different date or at a different time.</p> <p>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.</p> <p>In accordance with the order of the High Court.</p> <p>As provided for that method of delivery.</p>
Any natural Person	<p>By handing the notice or a certified copy of the document to the Person, or to any representative authorised in writing to accept service on behalf of the Person;</p> <p>By leaving the notice or a certified copy of the document at the Person's place of residence or business with any other Person who is apparently at least 16 (sixteen) years old and in charge of the premises at the time;</p>	<p>On the date and at the time recorded on a receipt for the delivery.</p> <p>On the date and at the time recorded on a receipt for the delivery.</p>

Person to whom the document is to be delivered	Method of delivery	Date and Time of Deemed delivery
	By leaving the notice or a certified copy of the document at the Person's place of employment with any Person who is apparently at least 16 (sixteen) years old and apparently in authority.	On the date and at the time recorded on a receipt for the delivery.
A company or similar body corporate	By handing the notice or a certified copy of the document to a responsible employee of the company or body corporate at its registered office or its principal place of business within South Africa; If there is no employee willing to accept service, by affixing the notice or a certified copy of the document to the main door of the office or place of business.	On the date and at the time recorded on a receipt for the delivery. On the date and at the time sworn to by affidavit of the Person who affixed the document, unless there is conclusive evidence that the document was affixed on a different date or at a different time.
The state or a province	By handing the notice or a certified copy of the document to a responsible employee in any office of the State Attorney.	On the date and at the time recorded on a receipt for the delivery.
A municipality	By handing the notice or a certified copy of the document to the town clerk, assistant town clerk or any Person acting on behalf of that Person.	On the date and at the time recorded on a receipt for the delivery.
A trade union	By handing the notice or a certified copy of the document to a responsible employee who is apparently in charge of the main office of the union. If there is no person willing to accept service, by affixing a certified copy of the notice or document to the main door of that office.	On the date and at the time recorded on a receipt for the delivery. On the date and at the time sworn to by affidavit of the Person who affixed the document, unless there is conclusive evidence that the document was affixed

Person to whom the document is to be delivered	Method of delivery	Date and Time of Deemed delivery
		on a different date or at a different time.
Employees of the Company	By fixing the notice or certified copy of the document, in a prominent place in the workplace where it can be easily read by employees.	On the date and at the time sworn to by affidavit of the Person who affixed the document, unless there is conclusive evidence that the document was affixed on a different date or at a different time.
A partnership, firm or association	<p>By handing the notice or a certified copy of the document to a Person who is apparently in charge of the premises and apparently at least 16 (sixteen) years of age, at the place of business of the partnership, firm or association;</p> <p>If the partnership, firm or association has no place of business, by handing the notice or a certified copy of the document to a partner, the owner of the firm, or the chairman or secretary of the managing or other controlling body of the association, as the case may be.</p>	<p>On the date and at the time recorded on a receipt for the delivery.</p> <p>On the date and at the time recorded on a receipt for the delivery.</p>

Schedule 4 - Authorised Shares

The Company is authorised to issue the following numbers and classes of Shares (which includes Shares already issued at any time) –

1. 105 000 000 (one hundred and five million) ordinary Shares with a par value of R0,50 (fifty cents) each, which –
 - 1.1. have voting rights in respect of every matter that may be decided by voting (for which purposes, on a vote by poll, every Person entitled to vote who is Present at the Meeting shall have 1 (one) vote per issued ordinary Share);
 - 1.2. rank after all other classes of Shares in the Company which do not rank *pari passu* with the ordinary Shares as regards Distributions and returns of capital, but save as aforesaid shall be entitled to receive the net assets of the Company upon its liquidation;
 - 1.3. have the rights, preferences and limitations set forth in the MOI;
2. 70 000 000 (seventy million) non-redeemable, non-cumulative, non-participating preference Shares with a par value of R0,01 (one cent) each, which have the rights, preferences and limitations set forth in **Schedule 5** to the MOI and elsewhere in the MOI; and
3. 50 000 000 (fifty million) redeemable, non-participating preference Shares with a par value of R0.01 (one cent) each ("**Redeemable Programme Preference Shares**"), ranking in priority to the preference Shares referred to in clause 2 of this **Schedule 4** with regards to the rights to dividends and repayment of capital on the winding-up of the Company, having the associated preferences, rights, limitations and other terms determined by the Board from time to time prior to the issue thereof in accordance with section 36(3) of the Companies Act (the Board being specifically authorised to determine dissimilar rights, limitations and/or other terms for different tranches of Redeemable Programme Preference Shares), with reference to and in accordance with the Programme Preference Shares Terms and Conditions set out in **Schedule 6** and the provisions of the applicable pricing supplement (to which reference is made in the Programme Preference Share Terms and Conditions as the "**Applicable Pricing Supplement (Preference Shares)**"), to be read in conjunction with the Programme Preference Shares Terms and Conditions.
4. 20 000 000 (twenty million) non-redeemable, non-cumulative, non-participating preference shares with a par value of R0.01 (one cent) each ("**Non-Redeemable Programme Preference Shares**"), ranking *pari passu* with the existing preference shares set out in paragraph 2 of this Schedule 4, with regards to the rights to dividends and repayment of capital on the winding-up of the Company, and having the associated preferences, rights, limitations and other terms as determined by the board of directors of Investec Bank Limited from time to time and prior to the issue thereof in accordance with section 36(3) of the Act (the board being specifically authorised to determine dissimilar rights,

limitations and/or other terms for different tranches of Non-Redeemable Programme Preference Shares), with reference to and in accordance with the Programme Preference Share Terms and Conditions set out in Schedule 6 and the provisions of the applicable pricing supplement (to which reference is made in the Programme Preference Share Terms and Conditions as the “Applicable Pricing Supplement (Preference Shares)”), to be read in conjunction with the Programme Preference Share Terms and Conditions.

Schedule 5 - Non-Redeemable, Non-Cumulative, Non-Participating, Preference Shares

1. For the purposes of this **Schedule 5** –
 - 1.1. "**Deemed Value**" means the deemed value of each Preference Share for the purposes of calculation of the Preference Dividend, being an amount of R100,00 (one hundred rand), notwithstanding the actual issue price of a Preference Share (that is the par value of the Preference Share plus a premium thereon) which may vary because of the difference in the premium at which the Preference Share may be issued from time to time;
 - 1.2. "**INL**" means Investec Limited (Registration No.: 1925/002833/06);
 - 1.3. "**ITA**" means the Income Tax Act, 1962;
 - 1.4. "**Prime Rate**" means the publicly quoted basic rate of interest (per centum, per annum), compounded monthly in arrear and calculated on a 365 (three hundred and sixty five) day year factor (irrespective of whether or not the year is a leap year) from time to time quoted by the Company as being its prime overdraft rate as certified by any manager of the Company whose appointment and/or designation need not be proved;
 - 1.5. "**Preference Dividend**" means a non-cumulative, non-participating, preference cash dividend;
 - 1.6. "**Preference Dividend Accrual Date**" means 31 March and 30 September of each year;
 - 1.7. "**Preference Dividend Payment Date**" means a date at least 7 (seven) Business Days prior to the date on which INL pays its ordinary dividends, if any, in respect of the same period, but in any event, if declared, shall be payable not later than 120 (one hundred and twenty) days after 31 March and 30 September, respectively;
 - 1.8. "**Preference Dividend Rate**" means a rate that will not exceed 75% (seventy five per cent) of the Prime Rate, the latter rate being used as a rate of reference; and
 - 1.9. "**Preference Shares**" means the non-redeemable, non-cumulative, non-participating, preference shares in the authorised capital of the Company, as contemplated in clause 2 of **Schedule 4**.
2. The following are the rights, privileges, restrictions and conditions which attach to the Preference Shares –
 - 2.1. the issue price for each tranche of Preference Shares to be issued will be determined by the Directors;

- 2.2. each Preference Share will rank as regards to dividends and a repayment of capital on the winding-up of the Company prior to the ordinary Shares and any other class of Shares in the capital of the Company not ranking prior to or *pari passu* with the Preference Shares. The Preference Shares shall confer on the holders on a per Preference Share and equal basis the right of a return of capital on the winding-up of the Company an amount equal to the aggregate of the nominal value and premiums in respect of Preference Shares issued divided by the number of Preference Shares in issue, in priority to any payment in respect of any other class of Shares in the capital of the Company not ranking prior to or *pari passu* with the Preference Shares;
- 2.3. each Preference Share will confer upon the Holder thereof the right to receive out of the profits of the Company which it shall determine to distribute, in priority to any payment of dividends to the capital of the Company not ranking prior to or *pari passu* with the Preference Shares, the Preference Dividend calculated in terms of clause 2.4 of this **Schedule 5**;
- 2.4. the Preference Dividend shall be calculated -
- 2.4.1. by multiplying the deemed value of the Preference Shares by the applicable Preference Dividend Rate (determined on a 365 (three hundred and sixty five) day year factor, irrespective of whether the year is a leap year or not), on a daily basis, in arrear, but never compounded, for the appropriate period referred to in clause 2.4.2 of this **Schedule 5**; and
- 2.4.2. from the date following a Preference Dividend Accrual Date until and including the Preference Dividend Accrual Date immediately following, provided that the first dividend payment, in respect of the first tranche of Preference Shares issued, shall be calculated from the issue date up to and including the first Preference Dividend Accrual Date;
- 2.5. the Preference Dividend shall, if declared:
- 2.5.1. accrue on the Preference Dividend Accrual Date, calculated in accordance with clause 2.4.2 of this **Schedule 5**;
- 2.5.2. be payable on the Preference Dividend Payment Date; and
- 2.5.3. failing payment by the relevant Preference Dividend Payment Date, be considered to be in arrear.
- 2.6. if a Preference Dividend is not declared by the Company in respect of the period to which such Preference Dividend Accrual Date relates, the Preference Dividend will not accumulate, and will accordingly never become payable by the Company whether in

preference to payments to any other class of Shares or otherwise. Notwithstanding the foregoing, the Company shall, if it elects not to declare a Preference Dividend in respect of any applicable period, be obliged to retain in reserve an amount equivalent to the aggregate amount of profits generated by the Company during such applicable period;

- 2.7. if there is an amendment, or amendments, to the ITA that results in the Preference Dividends being taxable in the hands of the Holders of Preference Shares and which results in payment of the Preference Dividends becoming a deductible expense of the Company, provided such amendment is uniformly applicable to all corporate tax payers and not only because of the particular circumstances of the Company or any Preference Shareholder, the percentage of the Prime Rate referred to in clause 1.8 of this **Schedule 5** will be increased by the Company. Such increase will be limited to the extent that the Company incurs less cost in servicing the Preference Shares, which cost savings it would not have obtained, but for such amendments to the ITA. If such amendment to the ITA do not result in the Company incurring lesser costs in servicing the Preference Shares, then, notwithstanding that such amendment may result in a decrease in the after tax returns of any Holder of Preference Shares on its holding of Preference Shares, no amendment shall be made to the percentage of the Prime Rate contemplated in clause 1.8 of this **Schedule 5**. The Company shall require its Auditors to verify whether it is obliged to increase the percentage of the Prime Rate referred to in clause 1.8 of this **Schedule 5** in accordance with this item clause 2.7. The Auditors, in deciding whether such increase is required in terms of this item clause 2.7 shall act as experts and not as arbitrators and their decision shall be final and binding on the Company and all Preference Shareholders. The costs of such Auditors shall be borne and paid by the Company;
- 2.8. save as set out in clause 2.2, 2.3, 2.6 and 2.7 of this **Schedule 5**, the Preference Shares shall not be entitled to any further participation in the profits or assets of the Company nor on a winding-up to any surplus assets of the Company;
- 2.9. the Holders of the Preference Shares shall not be entitled to be present or to vote, either in person or by proxy, at any meeting of the Company, by virtue of or in respect of the Preference Shares, unless either or both of the following circumstances prevail at the date of the meeting –
 - 2.9.1. the Preference Dividend or any part thereof remains in arrear and unpaid as determined in accordance with clause 2.5.3 of this **Schedule 5** after 6 (six) months from the due date thereof; and
 - 2.9.2. a resolution of the Company is proposed which resolution directly affects the rights attached to the Preference Shares or the interests of the Holders thereof, including a resolution for the winding-up of the Company or for the reduction of

its capital, in which event the Holders of the Preference Shares shall be entitled to vote only on such resolution.

- 2.9.3. at every general meeting of the Company at which Holders of Preference Shares as well as other classes of Shares are present and entitled to vote, a Holder of Preference Shares shall be entitled to that proportion of the total votes in the Company which the aggregate amount of the nominal value of the Shares held by him bear to the aggregate amount of the nominal value of all Shares issued by the Company;
- 2.9.4. notwithstanding the provisions of clause 2.2 of this **Schedule 5**, no Shares ranking, as regards rights to dividends or, on a winding-up as regards return of capital, in priority to the Preference Shares, shall be created or issued, without the prior sanction of a resolution passed at a separate class meeting of the Holders of the Preference Shares in the same manner *mutatis mutandis* as a Special Resolution. At every meeting of the Holders of the Preference Shares, the provisions of this MOI relating to general meetings of Holders of ordinary Shares shall apply, *mutatis mutandis*, except that a quorum at any such general meeting shall be any person or person holding or representing by proxy at least 2 (two) of the Preference Shares, provided that if at any adjournment of such meeting a quorum is not so present, the provisions of the MOI relating to adjourned general meetings shall apply, *mutatis mutandis*.

PROGRAMME PREFERENCE SHARE TERMS AND CONDITIONS

The following are the terms and conditions (the “**Programme Preference Share Terms and Conditions**”) of the Programme Preference Shares to be issued by the Issuer. Programme Preference Shares will be issued in individual Tranches which, together with other Tranches, may form a Class of Programme Preference Shares. Before the Issuer issues any Tranche of Programme Preference Shares, the Issuer shall complete and sign the Applicable Pricing Supplement (Preference Shares), based on the Pro Forma Applicable Pricing Supplement (Preference Shares) included in Programme Memorandum, setting out the terms and conditions of such Programme Preference Shares. The Applicable Pricing Supplement (Preference Shares) in relation to any Tranche of Programme Preference Shares may specify other terms and conditions which shall, to the extent so specified or to the extent inconsistent with the following Programme Preference Share Terms and Conditions, replace or modify the following Programme Preference Share Terms and Conditions for the purpose of such Tranche of Programme Preference Shares.

Any reference in these Programme Preference Share Terms and Conditions to any statute, regulation or other legislation shall be a reference to that statute, regulation or other legislation at the Programme Date, as amended or substituted from time to time.

1. DEFINITIONS AND INTERPRETATION

In these Programme Preference Share Terms and Conditions, unless inconsistent with the context or separately defined in the Applicable Pricing Supplement (Preference Shares), the following expressions shall have the following meanings:

“Accumulated Preference Dividends” has the meaning specified in Condition 7.6.1 (*Accumulated Preference Dividends*);

“Additional Business Centre(s)” in relation to a Tranche of Programme Preference Shares, the city or cities specified as such in the Applicable Pricing Supplement (Preference Shares) relating to that Tranche;

“Applicable Law” any law (including statutory, common or customary law), statute, constitution, decree, treaty, regulation, judgment, directive, by-law, order, other legislative measure, requirement, request or guideline (whether or not having the force of law but, if not having the force of law, is generally complied with by the person to whom it is addressed or applied) of any government, supranational, local government, statutory or regulatory or self-regulatory or similar

	body or authority or court;
“Applicable Procedures”	the rules, listing requirements and operating procedures from time to time of the CSD, Settlement Agents, JSE and/or any Financial Exchange, as the case may be;
“Applicable Pricing Supplement (Preference Shares)”	the pricing supplement relating to a Tranche of Programme Preference Shares, based upon the <i>pro forma</i> Applicable Pricing Supplement (Preference Shares) which is attached as Annex A to these Programme Preference Share Terms and Conditions and headed “ <i>Pro Forma Applicable Pricing Supplement (Preference Shares)</i> ”;
“Applicable Redemption Amount”	in relation to a Tranche of Redeemable Programme Preference Shares, the Final Redemption Amount, the Early Redemption Amount or such other amount in the nature of a redemption amount, as appropriate, as may be specified in, or determined in accordance with the provisions of, the relevant Applicable Pricing Supplement (Preference Shares) relating to that Tranche;
“Applicable Redemption Date”	in relation to a Tranche of Redeemable Programme Preference Shares, the Final Redemption Date or the relevant Early Redemption Date, as applicable;
“Authorising Resolution”	in respect of each Tranche of Programme Preference Shares, a resolution of the Board (i) determining the preferences, rights, limitations and other terms of that Tranche of Programme Preference Shares in accordance with section 36(3)(d) of the Companies Act (being the terms set out in these Programme Preference Share Terms and Conditions as amended and/or supplemented by the Applicable Pricing Supplement (Preference Shares) relating to such Tranche) and (ii) authorising the issue of that Tranche of Programme Preference Shares;
“Banks Act”	the Banks Act, 1990;
“Beneficial Interest”	in relation to a Tranche of Programme Preference Shares which is held in the CSD, the beneficial interest as a co-owner of an undivided share of all of the Programme Preference Shares in that Tranche, as contemplated in section 41(1) of the Securities Services Act, the nominal value of which beneficial interest, in relation to any number of Programme Preference Shares in that

Tranche, is determined by reference to the proportion that the aggregate Calculation Amount of such number of Programme Preference Shares bears to the aggregate Calculation Amount of all of the Programme Preference Shares in that Tranche, as provided in section 41(3) of the Securities Services Act;

“BESA Guarantee Fund Trust” the guarantee fund trust operated by the JSE as a separate guarantee fund, in terms of sections 9(1)(e) and 18(2)(x) of the Securities Services Act or any successor fund;

“Board” the board of directors of the Issuer from time to time;

“Books Closed Period” in relation to a Tranche of Programme Preference Shares, the period, as specified in the Applicable Pricing Supplement (Preference Shares) relating to that Tranche, commencing after the Last Day to Register, during which transfers of that Tranche of Programme Preference Shares will not be registered;

“Business Day” a day (other than a Saturday or Sunday or public holiday within the meaning of the Public Holidays Act, 1994) which is a day on which commercial banks settle ZAR payments in Johannesburg or any Additional Business Centre specified in the Applicable Pricing Supplement (Preference Shares) save that if the Specified Currency is not ZAR, “Business Day” shall mean a day (other than a Saturday or Sunday) which is a day on which commercial banks and foreign exchange markets settle payments in the principal financial centre of the Specified Currency and in each (if any) Additional Business Centre, save further that if the Applicable Pricing Supplement (Preference Shares) so provides, “Business Day” shall include a Saturday;

“Calculation Agent” the Issuer, unless the Issuer elects to appoint, in relation to a particular Tranche or Class of Programme Preference Shares, another entity as Calculation Agent, in which event that other entity shall act as Calculation Agent in respect of that Tranche or Class of Programme Preference Shares;

“Calculation Amount” in relation to a Tranche of Programme Preference Shares, the meaning ascribed thereto in the Applicable Pricing Supplement (Preference Shares) relating to that Tranche;

“Class”	a Tranche of Programme Preference Shares together with any further Tranche or Tranches of Programme Preference Shares which are (a) expressed in the Authorising Resolution to form part of the same Class as another Tranche of Programme Preference Shares, and (b) identical in all respects (including as to listing) except for their respective Issue Dates and/or Issue Prices;
“Class of Programme Preference Shareholder(s)”	the holders of a Class of Programme Preference Shares or, where appropriate, the holders of different Classes of Programme Preference Shares;
“Companies Act”	the Companies Act, 2008;
“Companies Regulations”	the Companies Regulations, 2011;
“CSD”	Strate Limited (Registration number 1998/022242/06), or its nominee, a public company registered as a central securities depository in terms of the Securities Services Act (or any successor legislation thereto), or any additional or alternate depository approved by the Issuer;
“CSD’s Nominee”	a wholly owned subsidiary of the CSD approved by the Registrar of Securities Services in terms of the Securities Services Act, and any reference to “CSD’s Nominee” shall, whenever the context permits, be deemed to include any successor nominee operating in terms of the Securities Services Act;
“Day Count Fraction”	<p>in respect of the calculation of an amount for any period of time (the “Calculation Period”), such day count fraction as may be specified in these Programme Preference Share Terms and Conditions or the Applicable Pricing Supplement (Preference Shares):</p> <p>(a) if “Actual/Actual (ICMA)” is so specified, means:</p> <p style="padding-left: 40px;">(i) where the Calculation Period is equal to or shorter than the Regular Period during which it falls, the actual number of days in the Calculation Period divided by the product of (1) the actual number of days in such Regular Period and (2)</p>

the number of Regular Periods in any year; and

(ii) where the Calculation Period is longer than one Regular Period, the sum of:

(1) the actual number of days in such Calculation Period falling in the Regular Period in which it begins divided by the product of (1) the actual number of days in such Regular Period and (2) the number of Regular Periods in any year; and

(2) the actual number of days in such Calculation Period falling in the next Regular Period divided by the product of (1) the actual number of days in such Regular Period and (2) the number of Regular Periods in any year;

(b) if “Actual/365” or “Actual/Actual (ISDA)” is so specified, means the actual number of days in the Calculation Period divided by 365 (or, if any portion of the Calculation Period falls in a leap year, the sum of (A) the actual number of days in that portion of the Calculation Period falling in a leap year divided by 366 and (B) the actual number of days in that portion of the Calculation Period falling in a non leap year divided by 365);

(c) if “Actual/365 (Fixed)” is so specified, means the actual number of days in the Calculation Period divided by 365;

(d) “Actual/360” is so specified, means the number of days in the Calculation Period divided by 360;

(e) if “30/360” is so specified, means the number of days in the Calculation Period divided by 360 (the number of days to be calculated on the basis of a year of 360 days with 12 30 day months (unless (i) the last day of the Calculation Period is the 31st day of a month but the first day of the Calculation Period is a day other than the 30th or 31st day of a month, in which case the month that

included the last day shall not be considered to be shortened to a 30 day month, or (ii) the last day of the Calculation Period is the last day of the month of February, in which case the month of February shall not be considered to be lengthened to a 30 day month)); and

- (f) if “30E/360” or “Eurobond Basis” is so specified means, the number of days in the Calculation Period divided by 360 (the number of days to be calculated on the basis of a year of 360 days with 12 30 day months, without regard to the date of the first day or last day of the Calculation Period unless, in the case of the final Calculation Period, the date of final maturity is the last day of the month of February, in which case the month of February shall not be considered to be lengthened to a 30 day month;

“Dealer(s)”

the Issuer and/or any other additional Dealer appointed under the Programme from time to time by the Issuer, which appointment may be for a specific issue or on an ongoing basis, subject to the Issuer’s right to terminate the appointment of any Dealer;

“Deliver”

deliver in the manner in which the Issuer is entitled to give notice or deliver documents in accordance with Conditions 19 (*Notices*), the Companies Act and the Companies Regulations, and shall, where permitted by the Companies Act and the JSE Listings Requirements, include delivery of an abridged document together with instructions as to how the recipient may obtain an unabridged version of such document;

“Designated Maturity”

in relation to a Tranche of Floating Rate Programme Preference Shares, has the meaning ascribed thereto in the Applicable Pricing Supplement (Preference Shares) relating to that Tranche;

“Dividend Amount”

in relation to a Tranche of Programme Preference Shares and a Dividend Period, the amount of dividend payable on the Calculation Amount of each Programme Preference Share in that Tranche, on each Dividend Payment Date in respect of such Dividend Period, determined by the Calculation Agent in accordance with Condition 7 (*Dividend Rights of the Programme Preference Shares*);

“Dividend Commencement Date”	in relation to a Tranche of Programme Preference Shares, the first date from which dividends on such Tranche will accrue, as specified in the Applicable Pricing Supplement (Preference Shares) relating to that Tranche;
“Dividend Payment Date”	in respect of a Tranche of Programme Preference Shares, the date(s) specified in the Applicable Pricing Supplement (Preference Shares) relating to that Tranche;
“Dividend Period”	each successive period beginning on (and including) a Dividend Payment Date and ending on (but excluding) the following Dividend Payment Date; provided that the first Dividend Period shall begin on (and include) the Dividend Commencement Date and, in respect of any Redeemable Programme Preference Share, the last Dividend Period in respect of such Programme Preference Share shall end on (but exclude) the Applicable Redemption Date;
“Dividend Rate”	in respect of a Tranche of Programme Preference Shares, the dividend rate(s) specified in the Applicable Pricing Supplement (Preference Shares) relating to that Tranche;
“Dividend Rate Determination Date”	in respect of a Tranche of Programme Preference Shares, the date(s) specified in the Applicable Pricing Supplement (Preference Shares);
“Dividends Tax”	“ <i>dividends tax</i> ” as contemplated in Part VIII of Chapter 2 of the Income Tax Act;
“Dividends Tax Rate”	the rate at which the Dividends Tax is levied under the Income Tax Act from time to time;
“Early Redemption Amount”	in respect of any Redeemable Programme Preference Share, the amount at which such Programme Preference Share will be redeemed by the Issuer pursuant to the provisions of Conditions 10.2 (<i>Early Redemption following a Regulatory Event</i>) and/or Condition 10.4 (<i>Early Redemption following a Redemption Event</i>), determined in accordance with Condition 10.5 (<i>Early Redemption Amounts</i>) or as set out in the Applicable Pricing Supplement (Preference Shares);

“Early Redemption Date”	<p>in relation to a Tranche of Redeemable Programme Preference Shares:</p> <p>(a) the date on which the Issuer elects to redeem that Tranche of Programme Preference Shares as contemplated in Condition 10.2 (<i>Early Redemption following a Regulatory Event</i>); or</p> <p>(b) the Optional Redemption Date on which the Issuer elects to exercise its right to redeem that Tranche of Programme Preference Shares in accordance with Condition 10.3 (<i>Early Redemption at the option of the Issuer</i>), if applicable; or</p> <p>the date on which the Issuer is obliged to redeem that Tranche of Programme Preference Shares in accordance with Condition 10.4 (<i>Early Redemption following a Redemption Event</i>);</p>
“Extraordinary Resolution”	<p>a resolution passed at a meeting (duly convened) of the Programme Preference Shareholders by a majority consisting of not less than 66.67% (sixty-six point six sevenpercent) of the persons voting thereat upon a show of hands or if a poll be duly demanded then by a majority consisting of not less than 66.67% (sixty-six point six seven percent) of the votes given on such poll;</p>
“Final Redemption Amount”	<p>in relation to a Tranche of Redeemable Programme Preference Share, the amount payable in respect of each Programme Preference Share in the Tranche upon final redemption thereof, as specified in the Applicable Pricing Supplement (Preference Shares) relating to that Tranche;</p>
“Final Redemption Date”	<p>in relation to a Tranche of Redeemable Programme Preference Shares, the date specified as such in the Applicable Pricing Supplement (Preference Shares);</p>
“Financial Exchange”	<p>the JSE and/or such other or further financial exchange(s) as may be selected by the Issuer and the relevant Dealer, subject to Applicable Law;</p>
“Financial Indebtedness”	<p>any indebtedness of any Person for money borrowed or raised</p>

including (without limitation) any indebtedness for or in respect of:

- (a) amounts raised by acceptance under any acceptance credit facility;
- (b) amount raised under any note purchase facility;
- (c) the amount of any liability in respect of leases or hire purchase contracts which would, in accordance with the Applicable Law and generally accepted accounting principles, be treated as finance and capital leases;
- (d) the amount of any liability in respect of any purchase price for assets or services the payment of which is deferred for a period in excess of 90 (ninety) days; and

amounts raised under any other transaction (including, without limitation, any forward sale or purchase agreement) having the commercial effect of a borrowing;

“Fixed Dividend Amount”

the fixed dividend amount specified as such in the Applicable Pricing Supplement (Preference Shares);

“Fixed Rate Programme Preference Shares”

Programme Preference Shares which will bear dividends at a fixed dividend rate, as specified in the Applicable Pricing Supplement (Preference Shares) and more fully described in Condition 7.2 (*Dividend on Fixed Rate Programme Preference Shares*);

“Floating Rate Programme Preference Shares”

Programme Preference Shares which will bear dividends at a floating dividend rate, as specified in the Applicable Pricing Supplement (Preference Shares) and more fully described in Condition 7.3 (*Dividend on Floating Rate Programme Preference Shares and Indexed Programme Preference Shares*);

“Hedging Transaction”

any transaction or trading position entered into or held by the Issuer and/or any of its Affiliates to hedge, directly or indirectly, the Issuer’s obligations or positions (whether in whole or in part) in respect of the Programme Preference Shares;

“Higher Redemption Amount”

in relation to a Tranche of Redeemable Programme Preference Shares, the meaning ascribed thereto in the Applicable Pricing Supplement (Preference Shares) relating to that Tranche relating

	to that Tranche;
“Increased Costs”	<p>(a) a reduction in the Issuer’s or its holding company’s return on capital;</p> <p>(b) an additional or increased cost, liability or expense to the Issuer or its holding company; or</p> <p>(c) an increase of any amount payable by the Issuer under the Programme Preference Shares,</p> <p>which is incurred or suffered by the Issuer or its holding company, as the case may be, as a consequence of issuing and/or maintaining in issue, or in performing its obligations under any Programme Preference Shares;</p>
“Indexed Dividend Amount Programme Preference Shares”	Programme Preference Shares in respect of which the Preference Dividend is calculated by reference to such index and/or formula as specified in the Applicable Pricing Supplement (Preference Shares);
“Indexed Programme Preference Shares”	an Indexed Dividend Amount Programme Preference Share and/or an Indexed Redemption Amount Programme Preference Share, as applicable;
“Indexed Redemption Amount Programme Preference Shares”	Programme Preference Shares in respect of which the Final Redemption Amount is calculated by reference to an index and/or a formula as specified in the Applicable Pricing Supplement (Preference Shares);
“Individual Certificate”	a Programme Preference Share in the definitive registered form of a single certificate and, in respect of Programme Preference Shares issued in uncertificated form, a certificate exchanged for a Beneficial Interest in the Programme Preference Shares in accordance with Condition 15 (<i>Exchange of Beneficial Interests and Replacement of Individual Certificates</i>) and any further certificate issued in consequence of a transfer thereof;
“ISDA Definitions”	the 2006 ISDA Definitions as published by the International Swaps and Derivatives Association Inc.;
“Issue Date”	in relation to a Tranche of Programme Preference Shares, the date specified as such in the Applicable Pricing Supplement

(Preference Shares), being the date upon which such Tranche of Programme Preference Shares is issued by the Issuer;

“Issue Price”

in relation to a Tranche of Programme Preference Shares, the price specified as such in the Applicable Pricing Supplement (Preference Shares), being the consideration for which the each Programme Preference Share in that Tranche is issued by the Issuer;

“Issuer”

Investec Bank Limited (registration number 1969/004763/06), a public company with limited liability and a registered bank duly incorporated in accordance with the company and banking laws of South Africa;

“JSE”

JSE Limited (registration number 2005/022939/06), a public company incorporated in accordance with the laws of South Africa, licensed as an exchange under the Securities Services Act;

“JSE Guarantee Fund”

the Guarantee Fund established and operated by the JSE as a separate guarantee fund, in terms of the rules of the JSE, as required by sections 9(1)(e) and 18(2)(x) of the South African Securities Services Act or such other fund of any successor exchange, as the case may be;

“JSE Listings Requirements”

the listings requirements of the JSE in force from time to time;

“Last Day to Register”

with respect to a particular Class of Programme Preference Shares (as specified in the Applicable Pricing Supplement (Preference Shares)), the last date or dates preceding a Books Closed Period on which the Transfer Agent will accept Transfer Forms and record the transfer of Programme Preference Shares in the Register for that particular Class of Programme Preference Shares and whereafter, the Register is closed for further transfers or entries until the Payment Day and in the case of Programme Preference Shares listed on the JSE, shall mean “*Last Day to Trade*” as set out in the relevant listing requirements of the JSE;

“Margin”

in relation to a Tranche of Floating Rate Programme Preference Shares, has the meaning ascribed thereto in the Applicable Pricing Supplement (Preference Shares) relating to that Tranche;

“Minimum Redemption Amount”	in relation to a Tranche of Redeemable Programme Preference Shares, the meaning ascribed thereto in the Applicable Pricing Supplement (Preference Shares) relating to that Tranche;
“Mixed Rate Programme Preference Shares”	Programme Preference Shares which will bear dividends over respective periods at differing dividend rates applicable to any combination of Fixed Rate Programme Preference Shares, Floating Rate Programme Preference Shares or Indexed Programme Preference Shares, each as specified in the Applicable Pricing Supplement (Preference Shares) and as more fully described in Condition 7.4 (<i>Dividends on Mixed Rate Programme Preference Shares</i>);
“Memorandum of Incorporation”	the memorandum of incorporation of the Issuer, including its annexures and/or schedules, as the case may be;
“Non-Redeemable Programme Preference Shares”	a Programme Preference Share which is expressed to be non-redeemable in accordance with the Issuer’s Memorandum of Incorporation and as specified in the Applicable Pricing Supplement (Preference Shares) relating to that Tranche;
“Note Terms and Conditions”	the terms and conditions of the Notes as set out in the section of the Programme Memorandum headed “ <i>Note Terms and Conditions</i> ”;
“Notes”	the notes issued or to be issued by the Issuer under the Programme from time to time;
“Optional Redemption Amount”	in relation to a Tranche of Redeemable Programme Preference Shares, the Calculation Amount of a Redeemable Programme Preference Share together with the accrued but unpaid Preference Dividends and any other amount due and payable but unpaid by the Issuer on the Optional Redemption Date on that Redeemable Programme Share in accordance with the Programme Preference Share Terms and Conditions at that time, or such other amount as may be specified in, or determined in accordance with, the Applicable Pricing Supplement (Preference Shares) relating to that Tranche;

“Optional Redemption Date(s)”	in relation to a Tranche of Redeemable Programme Preference Shares, the date(s) specified as such in the Applicable Pricing Supplement (Preference Shares) in relation to that Tranche pursuant to which the Issuer is specified as having an option to redeem the Redeemable Programme Preference Shares in that Tranche in accordance with Condition 10.3 (<i>Early Redemption at the option of the Issuer</i>). If no such date(s) is/are specified in the Applicable Pricing Supplement (Preference Shares) relating to that Tranche, the Optional Redemption Date(s) shall be the Dividend Payment Date(s);
“Participants”	depository institutions accepted by the CSD as participants in terms of the Securities Services Act;
“Paying Agent”	the Issuer, unless the Issuer elects to appoint, in relation to a particular Tranche or Class of Programme Preference Shares, another entity as Paying Agent, in which event that other entity shall act as a Paying Agent in respect of that particular Tranche or Class of Programme Preference Shares;
“Payment Day”	any day which is a Business Day and upon which a payment is due by the Issuer in respect of a Tranche of Programme Preference Shares;
“Penalty Preference Dividends”	the cumulative cash dividends which are payable in respect of the Programme Preference Shares in accordance with the Programme Preference Share Terms and Conditions and the relevant Applicable Pricing Supplement (Preference Shares);
“Person”	any individual, company, corporation, firm, partnership, joint venture, association, organisation, state or agency of a state or other entity, whether or not having separate legal personality;
“Preference Dividend”	any Scheduled Preference Dividends, Accumulated Preference Dividends and Penalty Preference Dividends;
“Prime Rate”	the publicly quoted basic rate of interest (percent, per annum, compounded monthly in arrear and calculated on a 365 (three hundred and sixty-five) day year (irrespective of whether or not the year is a leap year)) from time to time of Investec Bank Limited as being its prime overdraft rate as certified by any authorised official of such bank, whose appointment, designation

or authority need not be proved;

“Programme”	Investec Bank Limited ZAR40,000,000,000 Domestic Medium Term Note and Preference Share Programme;
“Programme Amount”	the maximum aggregate Nominal Amount of all Notes Outstanding (including Notes issued under the Programme pursuant to the Previous Programme Memorandum) and the aggregate Calculation Amount of all Programme Preference Shares that may be issued under the Programme at any one point in time being as at the Programme Date, ZAR40,000,000,000 (or its equivalent in other currencies) or such increased amount as is determined by the Issuer from time to time, subject to the Applicable Procedures and Applicable Law as set out in the section of the Programme Memorandum headed “ <i>General Description of the Programme</i> ”);
“Programme Date”	[●] 2013;
“Programme Memorandum”	the programme memorandum dated [●] 2013 which will apply to all Notes and Programme Preference Shares issued under the Programme on or after the Programme Date;
“Programme Preference Shareholders”	the holders of the Programme Preference Shares (as recorded in the Register);
“Programme Preference Shares”	the preference shares issued or to be issued by the Issuer under the Programme, which may be Redeemable Programme Preference Shares or Non-Redeemable Programme Preference Shares;
“Redeemable Programme Preference Shares”	a Programme Preference Share which is expressed to be redeemable in accordance with the Issuer’s Memorandum of Incorporation and as specified in the Applicable Pricing Supplement (Preference Shares) relating to that Tranche;
“Redemption Event”	a redemption event as set out in Condition 14 (<i>Redemption Events</i>);
“Reference Banks”	in relation to a Tranche of Programme Preference Shares, the meaning ascribed thereto in the Applicable Pricing Supplement (Preference Shares) relating to that Tranche;

“Reference Rate”	in relation to a Tranche of Floating Rate Programme Preference Shares, the meaning ascribed thereto in the Applicable Pricing Supplement (Preference Shares) relating to that Tranche;
“Register”	the register of Programme Preference Shareholders maintained by the Transfer Agent in terms of Condition 17 (<i>Register</i>);
“Registrar of Banks”	the Registrar of Banks designated under section 4 of the Banks Act;
“Registrar of Securities Services”	the Registrar of Securities Services designated under the Securities Services Act;
“Regular Period”	<p>(a) in the case of Programme Preference Shares where dividend is scheduled to be paid only by means of regular payments, each period from and including the Dividend Commencement Date to but excluding the first Dividend Payment Date and each successive period from and including one Dividend Payment Date to but excluding the next Dividend Payment Date;</p> <p>(b) in the case of Programme Preference Shares where, apart from the first Dividend Period, dividend is scheduled to be paid only by means of regular payments, each period from and including a Regular Date, where “<i>Regular Date</i>” means the day and month (but not the year) on which any Dividend Payment Date falls; and</p> <p>in the case of Programme Preference Shares where, apart from one Dividend Period other than the first Dividend Period, dividend is scheduled to be paid only by means of regular payments, each period from and including a Regular Date to but excluding the next Regular Date, where “<i>Regular Date</i>” means the day and the month (but not the year) on which any Dividend Payment Date falls other than the Dividend Payment Date falling at the end of the irregular Dividend Period;</p>
“Regulatory Capital”	“ <i>primary share capital</i> ” or “ <i>secondary share capital</i> ”, each as defined in the Banks Act;
“Regulatory Capital	at any time, any legislation, regulations, requirements, guidelines and policies relating to capital adequacy then in effect in South

Requirements”

Africa in relation to banks registered under the Banks Act and licensed to conduct the business of a bank in South Africa or the controlling companies of such banks;

“Regulatory Event”

- (a) any implementation, introduction, abolition, withdrawal, or variation of any Applicable Law or regulation (including, without limitation, any tax law); or
- (b) the promulgation of or any change in the interpretation by any court, tribunal or regulatory authority with competent jurisdiction of any Applicable Law or regulation (including any action taken by a taxing authority), the Issuer determines in good faith that it will incur an Increased Cost in performing its obligations under such Programme Preference Shares, including without limitation:
 - (i) any change in the listings requirements of the applicable Financial Exchange;
 - (ii) any change in the exchange control regulations of South Africa;
 - (iii) any change in the Income Tax Act or any other legislation which (i) imposes any taxation of any nature whatsoever on the Issuer, in relation to the Programme Preference Shares, in South Africa; or (ii) in any other way impacts adversely on the Programme Preference Shares;
 - (iv) any change in the Banks Act and/or the regulations relating to banks promulgated under the Banks Act; or
 - (v) any change in the Companies Act and any other legislation which deals with companies generally;

“Relevant Date”

in respect of any payment relating to the Programme Preference Shares, the date on which such payment first becomes due, except that, in relation to monies payable to the CSD in accordance with these Programme Preference Share Terms and Conditions, it means the first date on which:

- (a) the full amount of such monies have been received by the CSD;
- (b) such monies are available for payment to the holders of Beneficial Interests; and
- (c) notice to that effect has been duly given to such holders in accordance with the Applicable Procedures;

“Relevant Screen Page”

the page, section or other part of a particular information service (including, without limitation, Reuters) specified as the Relevant Screen Page in the Applicable Pricing Supplement (Preference Shares), or such other page, section or other part as may replace it on that information service or such other information service, in each case, as may be nominated by the Person providing or sponsoring the information appearing there for the purpose of displaying rates or prices comparable to the Reference Rate;

“Relevant Time”

in relation to a Tranche of Floating Rate Programme Preference Shares, the meaning ascribed thereto in the Applicable Pricing Supplement (Preference Shares) relating to that Tranche;

“Representative”

a Person duly authorised to act on behalf of a Programme Preference Shareholder, who may be regarded by the Issuer, the Transfer Agent and the Paying Agent (all acting in good faith) as being duly authorised based upon the tacit or express representation thereof by such Representative, in the absence of express notice to the contrary from such Programme Preference Shareholder;

“Round Robin Resolution”

a resolution passed other than at a meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders, as the case may be, which:

- (a) was submitted for consideration to Programme Preference Shareholders entitled to exercise voting rights in relation to the resolution; and
- (b) was voted on by the requisite percentage of Programme Preference Shareholders entitled to vote by signing a resolution in counterparts within 20 (twenty) Business Days

after the resolution was submitted to them;

“Scheduled Preference Dividend”	the cumulative or non-cumulative (as specified in the Applicable Pricing Supplement (Preference Shares)) cash dividends which are payable in respect of a Programme Preference Share (whether it be a Fixed Rate Programme Preference Share, Floating Rate Programme Preference Share, Mixed Rate Programme Preference Shares, Indexed Programme Preference Share or such other type of Programme Preference Share determined by the Issuer and the relevant Dealer and specified in the Applicable Pricing Supplement (Preference Shares)) in accordance with the Programme Preference Share Terms and Conditions and the relevant Applicable Pricing Supplement (Preference Shares);
“Securities Services Act”	the Securities Services Act, 2004;
“Settlement Agent”	a Participant, approved by the JSE or any other Financial Exchange to perform electronic net settlement of both funds and scrip on behalf of market participants;
“South Africa”	the Republic of South Africa;
“Specified Currency”	in relation to a Tranche of Programme Preference Shares, has the meaning ascribed thereto in the Applicable Pricing Supplement (Preference Shares) relating to that Tranche;
“Specified Office”	the registered address of the Issuer or the relevant agent, as the case may be, as specified in the Applicable Pricing Supplement (Preference Shares) or such other address as the Issuer or the relevant agent, as the case may be, may specify by notice to the Programme Preference Shareholders which change of address shall in each case be notified to the Programme Preference Shareholders in accordance with Condition 19 (<i>Notices</i>);
“Special Resolution”	a resolution adopted with the support of at least 75% (seventy five percent) by the voting rights exercised on that resolution;
“Taxes”	all present and future taxes, duties, imposts, levies, charges, fees withholdings or deductions of whatever nature imposed, levied, collected, withheld or assessed by, or on behalf of, any governmental, fiscal or other competent authority in South Africa

(including any penalty payable in connection with any failure to pay, or delay in paying, any of the same) and “**Tax**” and “**Taxation**” will be construed accordingly;

“Tranche” in relation to any particular Class of Programme Preference Shares, all Programme Preference Shares which are identical in all respects (including as to listing) and in respect of which the same Applicable Pricing Supplement (Preference Shares) applies;

“Transfer Agent” the Issuer, unless the Issuer elects to appoint, in relation to a particular Tranche or Class of Programme Preference Shares, another entity as Transfer Agent, in which event that other entity shall act as Transfer Agent in respect of that particular Tranche or Class of Programme Preference Shares;

“Transfer Form” the written form for the transfer of a Programme Preference Share represented by an Individual Certificate, in the form approved by the Transfer Agent and signed by the transferor and transferee;

“Unredeemed Programme Preference Shares” at any time, any Redeemable Programme Preference Shares which have not been redeemed by the Issuer at that time in accordance with the Programme Preference Share Terms and Conditions;

“Unwind Costs” in respect of any Tranche of Programme Preference Shares in which “*Hedge Unwind Adjustment*” is specified as being applicable, the amount specified or, if “*Standard Unwind Costs*” are specified, an amount determined by the Calculation Agent equal to the sum of (without duplication) all costs, expenses (including loss of funding), Tax and duties incurred by the Issuer in connection with the redemption of the Programme Preference Shares and the related termination, settlement or re-establishment of any Hedging Transaction following an early redemption of the Programme Preference Shares in accordance with the provisions of Conditions 10.2 (*Early Redemption following a Regulatory Event*) and/or Condition 10.4 (*Early Redemption following a Redemption Event*);

“ZAR” the lawful currency of South Africa, being South African Rand, or any successor currency;

“ZAR-JIBAR-SAFEX”

the mid-market rate for deposits in ZAR for a period of the Designated Maturity which appears on the Reuters Screen SAFEY Page as at 12h00, Johannesburg time on the relevant date, or any successor rate.

2. INTERPRETATION

2.1 In these Programme Preference Share Terms and Conditions:

2.1.1 if an expression is stated in Condition 1 (*Definitions*) to have the meaning given in the Applicable Pricing Supplement (Preference Shares), but the Applicable Pricing Supplement (Preference Shares) gives no such meaning or specifies that such expression is “*not applicable*” then such expression is not applicable to the relevant Tranche of Programme Preference Shares;

2.1.2 any reference to any statute, regulation or other legislation will be a reference to that statute, regulation or other legislation as at the Programme Date and as amended, re-enacted or replaced and substituted from time to time;

2.1.3 any reference to “*Currency*” or “*currency*” means the lawful currency from time to time of a country.

2.2 Unless inconsistent with the context or save where the contrary is expressly specified in the Programme Preference Share Terms and Conditions:

2.2.1 references to any Condition are to that Condition of the Programme Preference Share Terms and Conditions;

2.2.2 words denoting the singular only will include the plural also and vice versa, words denoting one gender

2.2.3 only will include the other genders and words denoting persons only will include firms and corporations and vice versa;

2.2.4 the use of the word “*including*” followed by a specific example/s will not be construed as limiting the meaning of the general wording preceding it and the *eiusdem generis* rule will not be applied in the interpretation of such general wording or such specific example/s. Such references to “*including*” and “*in particular*” will not be construed restrictively but will mean “*including, without prejudice to the generality of the foregoing*” and “*in particular, but without prejudice to the generality of the foregoing*” respectively;

- 2.2.5 any reference to days (other than a reference to Business Days), months or years will be a reference to calendar days, months or years, as the case may be;
- 2.2.6 where any number of days is to be calculated from a particular day, such number shall be calculated as inclusive of the first day and exclusive of the last day. If the last day of such number so calculated falls on a day which is not a Business Day, the last day shall be deemed to be the immediately preceding day which is a Business Day.
- 2.3 If any provision in a definition in the Programme Preference Share Terms and Conditions is a substantive provision conferring a right or imposing an obligation on any party then, notwithstanding that it is only in a definition, effect shall be given to that provision as if it were a substantive provision in the body of the Programme Preference Share Terms and Conditions.
- 2.4 Headings and sub-headings in the Programme Preference Share Terms and Conditions are inserted for convenience only.
- 2.5 Where any term is defined within a particular Condition, that term shall bear the meaning ascribed to it in that Condition wherever it is used in the Programme Preference Share Terms and Conditions.
- 2.6 The rule of construction that, in the event of ambiguity, a contract shall be interpreted against the party responsible for the drafting thereof shall not be applied in the interpretation of the Programme Preference Share Terms and Conditions.

3. **ISSUE**

- 3.1 The Issuer may, at any time and from time to time (without the consent of any Programme Preference Shareholder), subject to the provisions of the applicable Authorising Resolution and the prior written approval of the Registrar of Banks (to the extent applicable), issue one or more Tranche(s) of Programme Preference Shares pursuant to the Programme; provided that the aggregate Outstanding Nominal Amount (as defined in the Note Terms and Conditions) of all of the Notes and the aggregate Calculation Amount of all the Programme Preference Shares issued under the Programme from time to time does not exceed the Programme Amount.
- 3.2 Programme Preference Shares will be issued in individual Tranches which, together with other Tranches, may form a Class of Programme Preference Shares. A Tranche of Programme Preference Shares will be issued on, and subject to, the applicable Programme Preference Share Terms and Conditions as determined by the Board from time to time at the

time of issuance in accordance with section 36(3)(d) of the Companies Act pursuant to the applicable Authorising Resolution; provided that, the Programme Preference Shares in all cases shall be subject to these Programme Preference Share Terms and Conditions, as replaced, amended and/or supplemented by the terms and conditions of that Tranche of Programme Preference Shares set out in the Applicable Pricing Supplement (Preference Shares) relating to that Tranche of Programme Preference Shares.

- 3.3 Copies of the Applicable Pricing Supplements (Preference Shares) and Authorising Resolutions are available for inspection at the Specified Office of the Issuer.

4. FORM

4.1 General

4.1.1 A Tranche of Programme Preference Shares may be issued in the form of listed or unlisted Programme Preference Shares as specified in the Applicable Pricing Supplement (Preference Shares).

4.1.2 A Tranche of Programme Preference Shares may be listed on the JSE or on such other or further Financial Exchange(s) as may be determined by the Issuer, subject to any Applicable Law. Unlisted Programme Preference Shares may also be issued under the Programme. Unlisted Programme Preference Shares are not regulated by the JSE. The Applicable Pricing Supplement (Preference Shares) will specify whether or not a Tranche of Programme Preference Shares will be listed, on which Financial Exchange(s) they are to be listed (if applicable) and, if such Tranche of Programme Preference Shares is to be listed on the JSE, the relevant platform or sub-market of the JSE such Tranche of Programme Preference Shares is to be listed.

4.2 Registered Programme Preference Shares

A Tranche of Programme Preference Shares will be issued in certificated form, as contemplated in Condition 4.2.1 (*Programme Preference Shares issued in certificated form*), or in uncertificated form, as contemplated in Condition 4.2.2 (*Programme Preference Shares issued in uncertificated form*), as specified in the Applicable Pricing Supplement (Preference Shares). Each Tranche of Programme Preference Shares which is listed on the JSE whether issued in certificated form or in uncertificated form, will be held in the CSD, as contemplated in Condition 4.2.1 (*Programme Preference Shares issued in certificated form*) and Condition 4.2.2 (*Programme Preference Shares issued in uncertificated form*). A Tranche of unlisted Programme Preference Shares may also be held in the CSD, as contemplated in Condition 4.2.3 (*Beneficial Interests of Programme Preference Shares held in the CSD*).

4.2.1 *Programme Preference Shares issued in certificated form*

Each Tranche of Programme Preference Shares which is not listed on the JSE and lodged and immobilised in the CSD will, subject to Applicable Law and the Applicable Procedures, be issued in certificated form.

All Programme Preference Shares issued in certificated form will be represented by Individual Certificates.

4.2.2 *Programme Preference Shares issued in uncertificated form*

A Tranche of Programme Preference Shares may, subject to Applicable Law and Applicable Procedures, be issued in uncertificated form in terms of section 37 of the Securities Services Act. Programme Preference Shares issued in uncertificated form will be held in the CSD. Programme Preference Shares issued in uncertificated form will not be represented by any certificate or written instrument. A Programme Preference Share which is represented by an Individual Certificate may be replaced by uncertificated securities in terms of section 37 of the Securities Services Act.

4.2.3 *Beneficial Interests in Programme Preference Shares held in the CSD*

The CSD will hold Programme Preference Shares issued in uncertificated form, subject to the Securities Services Act and the Applicable Procedures.

All amounts to be paid and all rights to be exercised in respect of Programme Preference Shares held in the CSD will be paid to and may be exercised only by the CSD's Nominee for the holders of Beneficial Interests in such Programme Preference Shares.

A holder of a Beneficial Interest shall only be entitled to exchange such Beneficial Interest for Programme Preference Shares represented by an Individual Certificate in accordance with Condition 15 (*Exchange of Beneficial Interests and Replacement of Individual Certificates*).

4.2.4 *Final Redemption Amount and Specified Currency*

The Final Redemption Amount and Specified Currency of a Tranche of Redeemable Programme Preference Shares will be specified in the Applicable Pricing Supplement (Preference Shares).

4.2.5 *Recourse to the BESA Guarantee Fund Trust and/or the JSE Guarantee Fund*

The holders of Programme Preference Shares that are not listed on the JSE will have no recourse against the JSE, the BESA Guarantee Fund Trust and/or the JSE Guarantee Fund, as applicable. Claims against the BESA Guarantee Fund Trust or the JSE Guarantee Fund, as applicable, may only be made in respect of the trading of Programme Preference Shares listed on the JSE and can in no way relate to a default by the Issuer of its obligations under the Programme Preference Shares listed on the JSE. Any claims against the BESA Guarantee Fund Trust or the JSE Guarantee Fund, as applicable, may only be made in accordance with the rules of the BESA Guarantee Fund Trust or the JSE Guarantee Fund, as the case may be.

4.3 **Programme Preference Shares**

Each Tranche of Programme Preference Shares will, subject to Condition 25 (*Programme Preference Shares and the Companies Act*):

- 4.3.1 be redeemable or non-redeemable Programme Preference Shares as specified in the Applicable Pricing Supplement (Preference Shares);
- 4.3.2 in relation to a Tranche of Redeemable Programme Preference Shares, be redeemable and be issued with an Applicable Redemption Date which falls more than three years after the Issue Date, as indicated in the Applicable Pricing Supplement (Preference Shares);
- 4.3.3 if such Tranche of Programme Preference Shares is specified to be listed on the JSE in the Applicable Pricing Supplement (Preference Shares), be issued as fully paid up shares in the Issuer;
- 4.3.4 be issued in accordance with the Companies Act and the Issuer's Memorandum of Incorporation;
- 4.3.5 be issued at such Issue Price as is specified in the Applicable Pricing Supplement (Preference Shares);
- 4.3.6 be a Fixed Rate Programme Preference Share, a Floating Rate Programme Preference Share, a Mixed Rate Programme Preference Share or an Indexed Programme Preference Share, or such combination of any of the foregoing, or such other type of Programme Preference Share, as may be determined by the Issuer (subject to the provisions of the applicable Authorising Resolution) and specified in the Applicable Pricing Supplement (Preference Shares);

4.3.7 be cumulative or non-cumulative, non-participating Programme Preference Shares as specified in the Applicable Pricing Supplement (Preference Shares); and

4.3.8 have the status set out in Condition 6 (*Status of Programme Preference Shares*).

5. TITLE

5.1 Programme Preference Shares issued in certificated form

5.1.1 Each holder of Programme Preference Shares represented by an Individual Certificate will be named in the Register as the registered holder of such Programme Preference Shares.

5.1.2 Title to Programme Preference Shares represented by an Individual Certificate will pass upon registration of transfer in the Register in accordance with Condition 16.2 (*Transfer of Programme Preference Shares represented by Individual Certificates*).

5.1.3 The Issuer, the Transfer Agent and the Paying Agent shall recognise a holder of Programme Preference Shares represented by an Individual Certificate as the sole and absolute owner of the Programme Preference Shares registered in that Programme Preference Shareholder's name in the Register (notwithstanding any notice of ownership or writing thereon or notice of any previous loss or theft thereof) and neither the Issuer nor the Transfer Agent shall be bound to enter any trust in the Register or to take notice of or to accede to the execution of any trust, express, implied or constructive, to which any Programme Preference Share may be subject.

5.2 Programme Preference Shares issued in uncertificated form

5.2.1 The CSD's Nominee will be named in the Register as the registered holder of each Tranche of Programme Preference Shares which is issued in uncertificated form and held in the CSD.

5.2.2 Title to Programme Preference Shares issued in uncertificated form will pass upon registration of transfer in the Register in accordance with Condition 16.1 (*Transfer of Beneficial Interests in Programme Preference Shares held by the CSD*).

5.2.3 The CSD's Nominee (as the registered holder of such Programme Preference Shares issued in uncertificated form named in the Register) will be treated by

the Issuer, the Paying Agent, the Transfer Agent and the relevant Participant as the holder of that aggregate Calculation Amount of such Registered uncertificated Programme Preference Shares for all purposes.

5.3 **Beneficial Interests in Programme Preference Shares held in the CSD**

5.3.1 Beneficial Interests which are held by clients of Participants will be held indirectly through such Participants, and such Participants will hold such Beneficial Interests, on behalf of such clients, through the securities accounts maintained by such Participants for such clients. The clients of Participants may include the holders of Beneficial Interests or their custodians. The clients of Participants, as the holders of Beneficial Interests or as custodians for such holders, may exercise their rights in respect of the Programme Preference Shares held by them in the CSD only through their Participants.

5.3.2 In relation to each Person shown in the records of the CSD or the relevant Participant, as the case may be, as the holder of a Beneficial Interest in a particular number of Programme Preference Shares, a certificate or other document issued by the CSD or the relevant Participant, as the case may be, as to the aggregate number of such Programme Preference Shares and the aggregate Calculation Amount standing to the account of such Person shall be *prima facie* proof of such Beneficial Interest.

5.3.3 Beneficial Interests in Programme Preference Shares may be transferred only in accordance with the Applicable Procedures. Transfer of Beneficial Interests in Programme Preference Shares issued in uncertificated form will not be recorded in the Register and the CSD's Nominee will continue to be reflected in the Register as the registered holder of such Registered Notes, notwithstanding such transfers.

5.3.4 Any reference in the Programme Preference Share Terms and Conditions to the relevant Participant shall, in respect of a Beneficial Interest, be a reference to the Participant appointed to act as such by the holder of such Beneficial Interest.

6. **STATUS OF PROGRAMME PREFERENCE SHARES**

6.1 **Ranking**

Each Programme Preference Share will rank as regards to the payment of dividends and a return of capital on the winding-up of the Issuer in accordance with the Issuer's Memorandum of Incorporation.

6.2 **Capital Regulations**

In order for the proceeds of the issuance of Programme Preference Shares to qualify as Regulatory Capital, such Programme Preference Shares must comply with the applicable Regulatory Capital Requirements. The Issuer will specify in the relevant Applicable Pricing Supplement (Preference Shares) whether any issue of Programme Preference Shares is an issue of Programme Preference Shares the proceeds of which are intended to qualify as Regulatory Capital.

7. **DIVIDEND RIGHTS OF THE PROGRAMME PREFERENCE SHARES**

7.1 **Right to Preference Dividends**

7.1.1 Subject to Condition 7.1.2, each Tranche of Programme Preference Shares will confer on the Programme Preference Shareholders of that Tranche of Programme Preference Shares a right to receive, in priority to any payments of dividends to the holders of any lower ranking shares in the Issuer, a cumulative or non-cumulative (as specified in the Applicable Pricing Supplement (Preference Shares)) preferential cash dividend, determined and payable in accordance with this Condition 7 and the Applicable Pricing Supplement (Preference Shares).

7.1.2 If the Issuer is specified in the Applicable Pricing Supplement (Preference Shares) as having a discretion to declare and pay Preference Dividends, no Preference Dividend shall accrue or be payable to the Programme Preference Shareholders or Class of Programme Preference Shareholders, as the case may be, if the Issuer does not declare such Preference Dividends.

7.2 **Dividend on Fixed Rate Programme Preference Shares**

7.2.1 *Accrual of Dividend*

Each Fixed Rate Programme Preference Share will have associated with it the right of the holder of such Fixed Rate Programme Preference Share to receive a cumulative or non-cumulative (as specified in the Applicable Pricing Supplement (Preference Shares)) preferential cash dividend during each Dividend Period commencing on (and including) the Dividend Commencement Date to (but excluding), if applicable, the Applicable Redemption Date in an amount calculated in accordance with this Condition 7.2. Subject to Condition 7.8 (*Business Day Convention*), such dividend shall fall due for payment in arrear on each Dividend Payment Date and, if applicable, on the Applicable Redemption

Date (if the Applicable Redemption Date does not fall on a Dividend Payment Date).

7.2.2 *Fixed Dividend Amount*

The dividend payable in respect of each Fixed Rate Programme Preference Share for any Dividend Period shall be the relevant Fixed Dividend Amount.

7.2.3 *Calculation of Dividend Amounts*

Unless otherwise specified in the Applicable Pricing Supplement (Preference Shares), the dividend payable in respect of each Fixed Rate Programme Preference Share for any period for which a Fixed Dividend Amount is not specified shall be calculated by applying the Dividend Rate to the Calculation Amount, multiplying the product by the relevant Day Count Fraction and rounding the resulting figure to the nearest sub-unit of the Specified Currency (half a sub-unit being rounded upwards), provided that:

- (a) if an Initial Broken Amount is specified in the Applicable Pricing Supplement (Preference Shares), then the first Dividend Amount shall equal the Initial Broken Amount specified in the Applicable Pricing Supplement (Preference Shares); and
- (b) if a Final Broken Amount is specified in the Applicable Pricing Supplement (Preference Shares), then the final Dividend Amount shall equal the Final Broken Amount specified in the Applicable Pricing Supplement (Preference Shares).

7.3 **Dividend on Floating Rate Programme Preference Shares and Indexed Programme Preference Shares**

7.3.1 *Accrual of Dividend*

Each Floating Rate Programme Preference Share and each Indexed Programme Preference Share will have associated with it the right of the holder of such Floating Rate Programme Preference Share and each Indexed Programme Preference Share to receive a cumulative or non-cumulative (as specified in the Applicable Pricing Supplement (Preference Shares)) preferential cash dividend during each Dividend Period commencing on (and including) the Dividend Commencement Date to (but excluding), if applicable, the Applicable Redemption Date in an amount calculated in accordance with this Condition 7.3. Subject to Condition 7.8 (*Business Day Convention*), such dividend shall fall due

for payment in arrear on each Dividend Payment Date and, if applicable, on the Applicable Redemption Date (if the Applicable Redemption Date does not fall on a Dividend Payment Date).

7.3.2 *Dividend Rate in respect of Floating Rate Programme Preference Shares*

The Dividend Rate which is applicable to a Tranche of Floating Rate Programme Preference Shares for a Dividend Period will be determined on the basis of Screen Rate Determination or on the basis of ISDA Determination; or on such other basis as may be determined by the Issuer, all as specified in the Applicable Pricing Supplement (Preference Shares).

7.3.3 *ISDA Determination including fallback provisions*

If ISDA Determination is specified in the Applicable Pricing Supplement (Preference Shares) as the manner in which the Dividend Rate is to be determined, the Dividend Rate for each Dividend Period will be the sum of the Margin and the relevant ISDA Rate where “ISDA Rate” for a Dividend Period means a rate equal to the Floating Rate (as defined in the ISDA Definitions) that would be determined by the Calculation Agent as is specified in the Applicable Pricing Supplement (Preference Shares) under an interest rate swap transaction if that Calculation Agent were acting as Calculation Agent for that interest swap transaction under the terms of an agreement incorporating the ISDA Definitions and under which:

- (a) the Floating Rate Option is as specified in the Applicable Pricing Supplement (Preference Shares);
- (b) the Designated Maturity is the period specified in the Applicable Pricing Supplement (Preference Shares); and
- (c) the relevant Reset Date is either: (i) if the applicable Floating Rate Option is based on the ZAR-JIBAR-SAFEX on the first day of that Dividend Period; or (ii) in any other case, as specified in the Applicable Pricing Supplement (Preference Shares).

“**Floating Rate**”, “**Floating Rate Option**”, “**Designated Maturity**” and “**Reset Date**” have the meanings given to those expressions in the ISDA Definitions and “**JIBAR**” means the average mid-market yield rate per annum for a period of the Designated Maturity which appears on the Reuters Screen SAFEX page at or about 11h00 (South Africa time) on the relevant date (or any successor rate).

7.3.4 **Screen Rate Determination including fallback provisions**

If Screen Rate Determination is specified in the Applicable Pricing Supplement (Preference Shares) as the manner in which the Dividend Rate it to be determined, the Dividend Rate applicable to the Floating Rate Programme Preference Shares for each Dividend Period will be determined by the Calculation Agent on the following basis:

- (a) if the Reference Rate is a composite quotation or customarily supplied by one entity, the Calculation Agent will determine the Reference Rate which appears on the Relevant Screen Page as of the Relevant Time on the relevant Dividend Rate Determination Date); or
- (b) in any other case, the Calculation Agent will determine the arithmetic mean of the Reference Rates which appear on the Relevant Screen Page as of the Relevant Time on the relevant Dividend Rate Determination Date;
- (c) if, in the case of (a) above, such rate does not appear on that page or, in the case of (b) above, fewer than two such rates appear on that page or if, in either case, the Relevant Screen Page is unavailable, the Calculation Agent will:
 - (A) request the principal Johannesburg office of each of the Reference Banks to provide the Calculation Agent with its offered quotation (expressed as a percentage rate per annum) for the Reference Rate at approximately 12h00 (South Africa time) on the Dividend Rate Determination Date in question; and
 - (B) determine the arithmetic mean of such quotations; and
- (d) if fewer than 3 (three) such offered quotations are provided as requested, the Calculation Agent will determine the arithmetic mean of the rates (being the nearest Reference Rate, as determined by the Calculation Agent) quoted by major banks in the Johannesburg inter-bank market, selected by the Calculation Agent, at approximately 12h00 (South Africa time) on the first day of the relevant Dividend Period for deposits in the Specified Currency to leading banks in the Johannesburg inter-bank market for a period

equal to the relevant Dividend Period and in an amount approximately equal to the Calculation Amount of the Programme Preference Shares of the relevant Class;

(and the Dividend Rate for such Dividend Period shall be the sum of the Margin and the rate or (as the case may be) the arithmetic mean so determined; provided, however, that if the Calculation Agent is unable to determine a rate or (as the case may be) an arithmetic mean in accordance with the above provisions in relation to any Dividend Period, the Dividend Rate applicable to the Programme Preference Shares during such Dividend Period will be the sum of the Margin and the rate or (as the case may be) the arithmetic mean last determined in relation to the Programme Preference Shares in respect of a preceding Dividend Period.

7.3.5 *Dividend Rate in respect of Indexed Programme Preference Shares*

The Dividend Rate which is applicable to a Tranche of Indexed Programme Preference Shares for each Dividend Period will be determined in the manner specified in the Applicable Pricing Supplement (Preference Shares).

7.3.6 *Maximum and/or Minimum Dividend Rate*

If the Applicable Pricing Supplement (Preference Shares) specifies a Maximum Dividend Rate for any Dividend Period, then the Dividend Rate for such Dividend Period shall in no event be greater than such Maximum Dividend Rate and/or if it specifies a Minimum Dividend Rate for any Dividend Period, then the Dividend Rate for such Dividend Period shall in no event be less than such Minimum Dividend Rate.

7.3.7 *Determination of Dividend Rate and calculation of Dividend Amount*

The Calculation Agent, in the case of Floating Rate Programme Preference Shares will, at or as soon as practicable after each time at which the Dividend Rate is to be determined in relation to each Dividend Period, calculate the Dividend Amount payable in respect of each Floating Rate Programme Preference Share for such Dividend Period. The Dividend Amount will be calculated by applying the Dividend Rate for such Dividend Period to the Calculation Amount and multiplying the product by the relevant Day Count Fraction, rounding the resultant product to the nearest sub-unit being rounded upwards).

7.3.8 *Calculation of Other Amounts*

If the Applicable Pricing Supplement (Preference Shares) specifies that any other amount is to be calculated by the Calculation Agent, the Calculation Agent will, as soon as practicable after the time or times at which any such amount is to be determined, calculate the relevant amount. The relevant amount will be calculated by the Calculation Agent in the manner specified in the Applicable Pricing Supplement (Preference Shares).

7.3.9 *Publication*

7.3.9.1 The Calculation Agent will cause each Dividend Rate and Dividend Amount determined by it, together with the relevant Dividend Payment Date, and any other amount(s) required to be determined by it, together with any relevant payment date(s) to be notified to the Issuer, the Paying Agent, the Transfer Agent, any Financial Exchange on which the relevant Floating Rate Programme Preference Shares or the Indexed Programme Preference Shares, as the case may be, are for the time being listed and any central securities depository in which Individual Certificates in respect of the Programme Preference Shares are immobilised, as soon as practicable after their determination but (in the case of each Dividend Rate, Dividend Amount and Dividend Payment Date) in any event not later than (i) where the Dividend Rate is determined with reference to the Prime Rate, the last day of the relevant Dividend Period; (ii) in respect of Indexed Programme Preference Shares, the date specified in the Applicable Pricing Supplement (Preference Shares), and (iii) in all other circumstances, the first day of the relevant Dividend Period. Notice thereof shall also promptly be given to the Programme Preference Shareholders in accordance with Condition 19 (*Notices*).

7.3.9.2 The Calculation Agent will be entitled to recalculate any Dividend Amount (on the basis of the foregoing provisions) without notice in the event of an extension or shortening of the relevant Dividend Period. Any such amendment will be promptly notified to the Issuer and to the Programme Preference Shareholders in accordance with Condition 19 (*Notices*) and, if the relevant Tranche of Programme Preference Shares is listed on the JSE, the JSE and the CSD.

7.3.10 *Notifications etc. to be final*

All notifications, opinions, determinations, certificates, calculations, quotations and decisions given, expressed, made or obtained for the purposes of the Condition 7.3 (*Dividend on Floating Rate Programme Preference Shares and Indexed Programme Preference Shares*) by the Calculation Agent will (in the absence of wilful default, bad faith or manifest error) be binding on the Issuer, the Paying Agent and the Programme Preference Shareholders and (subject as aforesaid) no liability to any such Person will attach to the Calculation Agent in connection with the exercise or non exercise by it of its powers, duties and discretions for such purposes.

7.4 Dividends on Mixed Rate Programme Preference Shares

The dividend rate payable from time to time on Mixed Rate Programme Preference Shares shall be the dividend rate payable on any combination of Fixed Rate Programme Preference Shares, Floating Rate Programme Preference Shares or Indexed Programme Preference Shares for respective periods, each as specified in the Applicable Pricing Supplement (Preference Shares). During each such applicable period, the dividend rate on the Mixed Rate Programme Preference Shares shall be determined and fall due for payment on the basis that and to the extent that such Mixed Rate Programme Preference Shares are Fixed Rate Programme Preference Shares, Floating Rate Programme Preference Shares or Indexed Programme Preference Shares, as the case may be.

7.5 Penalty Preference Dividends

If specified as being applicable in the Applicable Pricing Supplement (Preference Shares) and if the Issuer fails to pay a Scheduled Preference Dividend (whether declared or not) on the relevant Dividend Payment Date, the Issuer shall, in addition to the unpaid Scheduled Preference Dividends, declare and pay the Penalty Preference Dividend to the Programme Preference Shareholder calculated at the Penalty Rate calculated with effect from the due date thereof to the earlier of the date of payment by the Issuer of such unpaid amount or the Applicable Redemption Date (if applicable).

7.6 Accumulated Preference Dividends

7.6.1 If the Preference Dividends are specified in the Applicable Pricing Supplement (Preference Shares) as being cumulative, then to the extent that all or any part of a Preference Dividend has accrued or has become payable in accordance with these Programme Preference Share Terms and Conditions, the Issuer shall

be liable to pay, and the Programme Preference Shareholders shall be entitled to be paid, by no later than the Applicable Redemption Date all Preference Dividends that have accrued or become payable in relation to the Programme Preference Shares in accordance with these Programme Preference Share Terms and Conditions and which have not been paid on the applicable Dividend Payment Dates (“**Accumulated Preference Dividends**”).

7.6.2 If the Preference Dividends are specified in the Applicable Pricing Supplement (Preference Shares) as being non-cumulative, then to the extent that all or any part of a Preference Dividend has accrued or has become payable in accordance with these Programme Preference Share Terms and Conditions but is not paid by the Issuer on a relevant Dividend Payment Date, the Programme Preference Shareholders shall not be entitled to payment of such Preference Dividends thereafter.

7.7 Regulatory Event

7.7.1 If specified as being applicable in the Applicable Pricing Supplement (Preference Shares) and subject to the provisions of Condition 10.2 (*Early Redemption following a Regulatory Event*), if a Regulatory Event occurs and as a consequence of that Regulatory Event, the Issuer suffers or incurs an Increased Cost, the Issuer shall be entitled (but not obliged), by delivery of an announcement (an “**Adjustment Notice**”), in accordance with the listings requirements of the Financial Exchange on which such Programme Preference Shares are listed (if applicable), to propose to decrease the Dividend Rate by such a margin specified by the Issuer in such Adjustment Notice as may be necessary to place the Issuer in the same position as it would have been in had the Regulatory Event not occurred in respect of the Programme Preference Shares to which the Adjustment Notice applies and/or ensure that the Issuer will receive the same return, in either case as if the relevant Regulatory Event had not occurred, provided that the Issuer shall be required to deliver to the Programme Preference Shareholders written confirmation signed by two directors setting out the amount and the calculation of the Increased Cost and/or reduced return.

7.7.2 Upon the occurrence of a Regulatory Event and simultaneously with the delivery of an Adjustment Notice, the Issuer shall deliver a notice convening a meeting of Programme Preference Shareholder or of holders of a Class of Programme Preference Shares in accordance with Condition 21 (*Meetings of Programme Preference Shareholders*) at which meeting Programme Preference Shareholders or holders of a Class of Programme Preference Shares, as the

case may be, shall be required to consider whether or not to accept the proposed decrease in the Dividend Rate as set out in the Adjustment Notice. No adjustment in the Dividend Rate in accordance with this Condition 7.7 may be effected unless:

7.7.2.1 sanctioned in writing and signed by or on behalf of Programme Preference Shareholders or holders of the relevant Class of Programme Preference Shares, as the case may be, holding not less than 75% of the aggregate Calculation Amount of Programme Preference Shares in that Class; or

7.7.2.2 sanctioned by Special Resolution of the relevant Class of Programme Preference Shareholders.

7.7.3 If a decrease in the Dividend Rate is not sanctioned by the Programme Preference Shareholders or the relevant Class of Programme Preference Shareholders, the Issuer may redeem the relevant Programme Preference Shares or Class of Programme Preference Shares in accordance with Condition 10.2 (*Early Redemption following a Regulatory Event*).

7.7.4 Any Adjustment Notice delivered by the Issuer pursuant to this Condition 7.7 will set out (i) the details and date of the Regulatory Event which has occurred, (ii) the Programme Preference Shares or Class of Programme Preference Shares affected by such Regulatory Event and accordingly, to which such Adjustment Notice applies, and (iii) the proposed adjusted Dividend Rate(s).

7.8 **Business Day Convention**

If any Dividend Payment Date (or other date) which is specified in the Applicable Pricing Supplement (Preference Shares) to be subject to adjustment in accordance with a Business Day Convention would otherwise fall on a day which is not a Business Day, then, if the Business Day Convention specified is:

(a) the “**Floating Rate Business Day Convention**”, such Dividend Payment Date (or other date) shall in any case where Dividend Periods are specified in accordance with Condition 7.3 (*Dividend on Floating Rate Programme Preference Shares and Indexed Programme Preference Shares*), be postponed to the next day which is a Business Day unless it would thereby fall into the next calendar month, in which event: (i) such Dividend Payment Date (or other date) shall be brought forward to the first preceding Business Day; and (ii) each subsequent Dividend Payment Date (or other date) shall be the last Business Day in the month which falls the number of months or other period specified as

the Dividend Period in the Applicable Pricing Supplement (Preference Shares) after the preceding applicable Dividend Payment Date (or other date) has occurred; or

- (b) the “**Following Business Day Convention**”, such Dividend Payment Date (or other date) shall be postponed to the next day which is a Business Day; or
- (c) the “**Modified Following Business Day Convention**”, such Dividend Payment Date (or other date) shall be postponed to the next day which is a Business Day unless it would thereby fall into the next calendar month, in which event such Dividend Payment Date (or other such date) shall be brought forward to the first preceding Business Day; or
- (d) the “**Preceding Business Day Convention**”, such Dividend Payment Date (or other date) shall be brought forward to the first preceding Business Day.

7.9 **Payment of Preference Dividends**

- 7.9.1 Each Preference Dividend that is due and payable shall be paid on its Dividend Payment Date in accordance with the provisions of Condition 11 (*Payments*).
- 7.9.2 The Issuer and the Board shall each comply with the requirements of section 46 of the Companies Act in respect of the declaration and payment of each Preference Dividend.

8. **ADDITIONAL AMOUNTS**

If specified in the Applicable Pricing Supplement (Preference Shares) to be applicable, should a Redemption Event occur and only as a direct result of the Redemption Event a Programme Preference Shareholder is required to pay an amount of South African income tax (calculated at the rate of normal tax payable by South African companies at the relevant time) on any Preference Dividend, the Issuer shall pay to each Programme Preference Shareholder of Programme Preference Shares in that Tranche an amount equal to such income tax (the “**Additional Amount**”), such that the affected Programme Preference Shareholder will receive after such income tax, an amount equal to that Preference Dividend, provided that:

- 8.1 the affected Programme Preference Shareholder is required to deliver to the Issuer a copy of its tax assessment showing that an amount of income tax is payable on the Preference Dividend that would not otherwise be payable other than as a result of the occurrence of the Redemption Event;
- 8.2 the affected Programme Preference Shareholder claims the Additional Amount and delivers the assessment referred in Condition 8.1 within one year from the occurrence of the

Redemption Event.

9. **TRANSFER TAXES**

The Issuer is not liable for any Taxes that may arise as a result of the transfer of any Programme Preference Share or any Beneficial Interest therein.

10. **REDEMPTION AND PURCHASE**

A Class of Redeemable Programme Preference Shares shall be redeemed on the Final Redemption Date in accordance with Condition 10.1 (Final Redemption Date). If “Early Redemption at the option of the Issuer” is specified as being applicable in the Applicable Pricing Supplement (Preference Shares), a Tranche of Programme Preference Shares may, or upon the occurrence of an Redemption Event as set out in Condition 14 (Redemption Events) will, be redeemed prior to the Final Redemption Date in accordance with this Condition 10 (Redemption and Purchase).

10.1 **Final Redemption Date**

Unless previously redeemed or purchased and cancelled as specified below, the Issuer shall redeem Programme Preference Shares without penalty on the Final Redemption Date at the Final Redemption Amount, or in the manner specified in the Applicable Pricing Supplement (Preference Shares), subject to Condition 11 (*Payments*).

10.2 **Early Redemption following a Regulatory Event**

10.2.1 If a Regulatory Event occurs and as a consequence of that Regulatory Event, the Issuer or its holding company, as the case may be, suffers or incurs an Increased Cost and to the extent the Issuer delivers an Adjustment Notice but such decrease in the Dividend Rate is not sanctioned by the relevant Class of Programme Preference Shareholders as contemplated by Condition 7.7.2, the Issuer shall be entitled (but not obliged) to redeem the relevant Programme Preference Shares of any Class of Programme Preference Shares affected by such Regulatory Event in whole, but not in part:

10.2.1.1 at any time (if neither the Floating Rate Programme Preference Share provisions nor the Indexed Programme Preference Share provisions are specified in the Applicable Pricing Supplement (Preference Shares) as being applicable or, if they are, such provisions are not applicable at the time of redemption); or

10.2.1.2 on any Dividend Payment Date (if the Floating Rate Programme Preference Share Provisions or the Indexed Programme Preference Share provisions are specified in the Applicable Pricing Supplement

(Preference Shares) as being applicable and are applicable at the time of redemption),

on giving not less than 30 (thirty) nor more than 60 (sixty) days' notice to the Programme Preference Shareholders and to the Transfer Agent and the Paying Agent (which notice shall be revocable), at their Early Redemption Amount together with dividends (if any) to the date fixed for redemption, provided, however, that no such notice of redemption shall be given earlier than:

10.2.1.3 where the Programme Preference Shares may be redeemed at any time, 90 (ninety) days prior to the earliest date on which the Issuer would be obliged to pay such additional amounts; or

10.2.1.4 where the Programme Preference Shares may be redeemed only on a Dividend Payment Date, 60 (sixty) days prior to the Dividend Payment Date occurring immediately before the earliest date on which the Issuer would be obliged to pay such additional amounts.

10.2.2 Prior to the publication of any notice of redemption pursuant to this Condition 10.2, the Issuer shall deliver to the Paying Agent (A) a certificate signed by two authorised officers of the Issuer stating that the Issuer is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Issuer so to redeem have occurred and (B) an opinion of independent legal advisers of recognised standing to the effect that a Regulatory Event has occurred. Upon the expiry of any such notice as is referred to in this Condition 10.2, the Issuer shall be bound to redeem the Programme Preference Shares in accordance with this Condition 10.2.

10.3 **Early Redemption at the option of the Issuer**

10.3.1 If the Issuer is specified in the Applicable Pricing Supplement (Preference Shares) as having an option to redeem, the Programme Preference Shares may be redeemed at the option of the Issuer in whole or, if so specified in the Applicable Pricing Supplement (Preference Shares), in part upon the Issuer having given:

(a) not less than 30 (thirty) and not more than 60 (sixty) days' notice to the Programme Preference Shareholders in accordance with Condition 19 (*Notices*); and

- (b) not less than 7 (seven) days before giving the notice referred to in (a) above, notice to the Transfer Agent,

(both of which notices shall be revocable) to redeem all or some of the Unredeemed Programme Preference Shares on the Optional Redemption Date(s) and at the Optional Redemption Amount(s) specified in, or determined in the manner specified in, the Applicable Pricing Supplement (Preference Shares) together, if appropriate, with dividends accrued up to (but excluding) the Optional Redemption Date(s).

10.3.2 Any such redemption amount must be equal to or greater than the Minimum Redemption Amount or equal to or less than a Higher Redemption Amount, both as specified in the Applicable Pricing Supplement (Preference Shares), if applicable. In the case of a partial redemption of Programme Preference Shares, the Programme Preference Shares to be redeemed ("**Relevant Redeemable Programme Preference Shares**") will be selected:

- (a) in the case of Relevant Redeemable Programme Preference Shares represented by Individual Certificates, individually by lot; and

- (b) in the case of Relevant Redeemable Programme Preference Shares issued in uncertificated form, in accordance with the Applicable Procedures,

and in each such case not more than 30 (thirty) days prior to the date fixed for redemption (such date of selection being hereinafter called the "**Selection Date**").

10.3.3 A list of the serial numbers of the Individual Certificates will be published in accordance with Condition 19 (*Notices*) not less than 15 (fifteen) days prior to the date fixed for redemption.

10.3.4 The proportion which the aggregate Calculation Amount of Relevant Redeemable Programme Preference Shares represented by Individual Certificates bears on the Selection Date to the aggregate Calculation Amount of all Relevant Redeemable Programme Preference Shares shall be the same as the proportion which the aggregate Calculation Amount of Programme Preference Shares represented by Individual Certificates bears on the Selection Date to the aggregate Calculation Amount of the Unredeemed Programme Preference Shares and the aggregate Calculation Amount of Relevant Redeemable Programme Preference Shares issued in uncertificated form shall

be equal to the balance of the Relevant Redeemable Programme Preference Shares.

10.3.5 No exchange of Beneficial Interests in uncertificated Programme Preference Shares for Individual Certificates will be permitted during the period from and including the Selection Date to and including the date fixed for redemption pursuant to this Condition 10.3 (*Early Redemption at the option of the Issuer*) and notice to that effect shall be given by the Issuer to the Programme Preference Shareholders in accordance with Condition 19 (*Notices*) at least 5 (five) days prior to the Selection Date.

10.3.6 Holders of Relevant Redeemable Programme Preference Shares shall surrender the Individual Certificates (if any) relating to the Programme Preference Shares in accordance with the provisions of the notice given to them by the Issuer as contemplated above. Where only a portion of the Programme Preference Shares represented by such Individual Certificates (as applicable) are redeemed, the Transfer Agent shall deliver new Individual Certificates (as applicable) to such Programme Preference Shareholders in respect of the balance of the Programme Preference Shares.

10.4 **Early Redemption following a Redemption Event**

Upon the occurrence of a Redemption Event and receipt by the Issuer of (i) a resolution of Programme Preference Shareholders pursuant to Conditions 14.2 and 14.3, or (ii) a written notice delivered by a Programme Preference Shareholders pursuant to Condition 14.4, requiring the Programme Preference Shares held by the relevant Programme Preference Shareholder(s) to be forthwith redeemable in accordance with Condition 14 (*Redemption Events*), such Programme Preference Shares shall become forthwith redeemable at the Early Redemption Amount in the manner set out in Condition 10.5 (*Early Redemption Amounts*) or the amount as specified in the Applicable Pricing Supplement (Preference Shares), together with dividends (if any) to the date of payment, in accordance with Condition 14 (*Redemption Events*).

10.5 **Early Redemption Amounts**

10.5.1 For the purpose of Condition 10.2 (*Early Redemption following a Regulatory Event*) and Condition 10.4 (*Early Redemption following a Redemption Events*) (and otherwise as stated herein), the Programme Preference Shares will be redeemed at the Early Redemption Amount calculated as follows:

- (a) in the case of Programme Preference Shares with a Final Redemption Amount equal to the Calculation Amount, at the Final Redemption Amount thereof; or
- (b) in the case of Programme Preference Shares with a Final Redemption Amount which is or may be less or greater than the Issue Price (to be determined in the manner specified in the Applicable Pricing Supplement (Preference Shares)), at that Final Redemption Amount or, if no such amount or manner is so specified in the Applicable Pricing Supplement (Preference Shares), at their Calculation Amount,

less, in respect of the redemption of Programme Preference Shares pursuant to Condition 10.2 (*Early Redemption following a Regulatory Event*) and only to the extent the Applicable Pricing Supplement (Preference Shares) specifies "*Hedge Unwind Adjustment*" as being applicable, Unwind Costs (if any).

10.5.2 Where such calculation is to be made for a period which is not a whole number of years, it shall be calculated on the basis of actual days elapsed divided by 365, or such other calculation basis as may be specified in the Applicable Pricing Supplement (Preference Shares).

10.6 Purchases

10.6.1 The Issuer or any of its subsidiaries or any subsidiaries of its holding company may, at any time, subject to the Companies Act, purchase Programme Preference Shares at any price in the open market or otherwise.

10.6.2 The Issuer is not obliged to undertake any market making in respect of the Programme Preference Shares save to the extent required by the applicable Financial Exchange or the listings requirements of such Financial Exchange.

10.7 Cancellation

All Programme Preference Shares which are redeemed or purchased by the Issuer or any of its subsidiaries or any subsidiaries of its holding company may, at its option, be cancelled and may, if cancelled, not be reissued or resold. Where only a portion of Programme Preference Shares represented by a Certificate are cancelled, the Transfer Agent shall deliver an Individual Certificate to such Programme Preference Shareholder in respect of the balance of the Programme Preference Shares. Upon receipt of the Redemption Amount, the Programme Preference Shareholder shall have no further rights against the Issuer in respect of the Programme Preference Shares so redeemed or arising out of any subscription

agreement entered into between the Issuer and that Programme Preference Shareholder in respect of such Programme Preference Shares, save as provided for in Condition 8 (*Additional Amounts*).

10.8 **Cessation of Preference Dividends**

To the extent applicable, each Programme Preference Share will cease to bear dividends from the Applicable Redemption Date unless, upon due presentation thereof, payment of the Applicable Redemption Amount, or any portion thereof, due and payable on the Applicable Redemption Date or payment of dividends, or any portion thereof, due and payable on a Dividend Payment Date, as the case may be, is improperly withheld or refused or such payment may not, in terms of the Companies Act, be made. In circumstances where such non-payment does not constitute a Redemption Event contemplated in Condition 14 (*Redemption Events*), dividends will continue to accrue on the outstanding amount due and payable in respect of such Programme Preference Share, at the Dividend Rate, from and including the Applicable Redemption Date or the relevant Dividend Payment Date, as the case may be, to but excluding the date on which such amounts are paid.

10.9 **Applicable Procedures**

The redemption and partial redemption of Beneficial Interests shall take place in accordance with the Applicable Procedures and the Securities Services Act.

11. **REDEMPTION OR PURCHASE OF PROGRAMME PREFERENCE SHARES THE PROCEEDS OF WHICH ARE INTENDED TO QUALIFY AS REGULATORY CAPITAL**

Subject to the applicable Regulatory Capital Requirements, Programme Preference Shares, the proceeds of which are intended to qualify as Regulatory Capital may be redeemed or purchased and cancelled at the option of the Issuer at their Calculation Amount pursuant to this Condition 11 only and provided that:

- 11.1 the Issuer has notified the Registrar of Banks of its intention to redeem or purchase and cancel such Programme Preference Shares at least one month (or such other period, longer or shorter, as the Registrar of Banks may then require or accept) prior to the date scheduled for such redemption or such purchase and cancellation, as the case may be, and (if required pursuant to the Regulatory Capital Requirements in force at the relevant time) written approval of the same has been received from the Registrar of Banks; and
- 11.2 such redemption or purchase and cancellation (as applicable) is effected in accordance with conditions (if any) approved by the Registrar of Banks in writing.

12. PAYMENTS

12.1 General

- 12.1.1 Only Programme Preference Shareholders named in the Register at 17h00 (South Africa time) on the relevant Last Day to Register shall be entitled to payment of amounts due and payable in respect of Registered Programme Preference Shares.
- 12.1.2 All payments of all amounts (whether in respect of dividends or otherwise) due and payable in respect of any Programme Preference Shares shall be made by the Issuer (where the Issuer itself acts as Paying Agent) or the Paying Agent on behalf of the Issuer (where the Issuer has appointed a third party to act as Paying Agent), as the case may be, on the terms and conditions of an agency agreement (if any) and this Condition 12.
- 12.1.3 All references in this Condition 12 to "*Paying Agent*" shall be construed as references to the Issuer (where the Issuer itself acts as Paying Agent) or the Paying Agent on behalf of the Issuer (where the Issuer has appointed a third party entity to act as Paying Agent), as the case may be.
- 12.1.4 Payments will be subject in all cases to any fiscal or other laws, directives and regulations applicable thereto in the place of payment, but without prejudice to the provisions of Condition 9 (*Transfer Taxes*).

12.2 Payment of all amounts due and payable in respect of Programme Preference Shares

- 12.2.1 The Paying Agent shall pay all amounts due and payable in respect of any Registered Programme Preference Shares:
- 12.2.1.1 in the case of Programme Preference Shares which are held in the CSD, in immediately available and freely transferable funds, in the Specified Currency, by electronic funds transfer to the bank account of the CSD's Nominee, as the registered Programme Preference Shareholder of such Programme Preference Shares, which in turn will transfer such funds, via the Participants, to the holders of Beneficial Interests in such Programme Preference Shares.
- 12.2.1.2 in the case of Programme Preference Share(s) which are represented by an Individual Certificate, in immediately available and freely transferable funds, in the Specified Currency, by electronic funds transfer, to the bank account of the Person named

as the registered Programme Preference Shareholder of such Programme Preference Shares in the Register or, in the case of joint registered Programme Preference Shareholders, the bank account of the first one of them named in the Register in respect of such Programme Preference Shares; provided that if several persons are entered into the Register as joint registered Programme Preference Shareholders of such Programme Preference Shares then, without affecting the previous provisions of this Condition 12, payment to any one of them shall be an effective and complete discharge by the Issuer of the amount so paid, notwithstanding any notice (express or otherwise) which the Paying Agent and/or the Issuer may have of the right, title, dividend or claim of any other Person to or in any such Programme Preference Shares.

12.2.2 Neither the Issuer nor the Paying Agent shall be responsible for the loss in transmission of any such funds, and payment of any amount into the bank accounts referred to above, in accordance with this Condition 12, shall be satisfaction *pro tanto*, to the extent of such amount, of the Issuer's obligations to the Programme Preference Shareholders under the relevant Registered Programme Preference Shares and the applicable Programme Preference Share Terms and Conditions.

12.3 **Beneficial Interest**

12.3.1 Following payment to the CSD's Nominee of amounts due and payable in respect of Programme Preference Shares which are held in the CSD, the relevant funds will be transferred by the CSD's Nominee, via the Participants, to the holders of Beneficial Interest in such Programme Preference Shares.

12.3.2 Each of the persons reflected in the records of the CSD or the relevant Participant, as the case may be, as the holders of Beneficial Interests in Programme Preference Shares, will look solely to the CSD or the relevant Participants, as the case may be, for such Person's share of each payment so made by the Paying Agent, on behalf of the Issuer, to or for the order of the CSD's Nominee, as the registered Programme Preference Shareholder of such Programme Preference Shares.

12.3.3 Neither the Paying Agent nor the Issuer will have any responsibility or liability for any aspect of the records relating to, or payments made on account of, Beneficial Interests or for maintaining, supervising or reviewing any records relating to Beneficial Interests.

12.3.4 Payments of amounts due and payable in respect of Beneficial Interests in Programme Preference Shares will be recorded by the CSD's Nominee, as the registered holder of such Programme Preference Shares, distinguishing between dividends and the Applicable Redemption Amount, and such record of payments by the CSD's Nominee, as the registered Programme Preference Shareholder of such Programme Preference Shares, will be *prima facie* proof of such payments.

12.4 **Surrender of Individual Certificates**

12.4.1 Payments of the Applicable Redemption Amount in respect of any Registered Programme Preference Share(s) which is/are represented by Individual Certificate(s) shall be made to the Programme Preference Shareholder(s) of such Registered Programme Preference Share(s) only if, prior to the date on which the relevant Tranche of Programme Preference Shares are redeemed, such Individual Certificate(s) shall have been surrendered to the Transfer Agent at its Specified Office.

12.4.2 If the relevant Individual Certificate is not surrendered to the Transfer Agent at its Specified Office in accordance with this Condition 12.4, the Applicable Redemption Amount payable to the Programme Preference Shareholder of the Programme Preference Share(s) represented by that Individual Certificate shall be retained by the Paying Agent for such Programme Preference Shareholder, at the latter's risk, until that Individual Certificate shall have been surrendered to the Transfer Agent at its Specified Office, and such Programme Preference Shareholder will not be entitled to any dividends and/or other payments in respect of any delay in payment occasioned as a result of such failure to surrender such Individual Certificate.

12.5 **Method of Payment**

12.5.1 Payments of dividends and the Applicable Redemption Amount will be made in the Specified Currency by electronic funds transfer.

12.5.2 If the Issuer is prevented or restricted directly or indirectly from making any payment by electronic funds transfer in accordance with the preceding Condition (whether by reason of strike, lockout, fire, explosion, floods, riot, war, accident, act of God, embargo, legislation, shortage of or breakdown in facilities, civil commotion, unrest or disturbances, cessation of labour, Government interference or control or any other cause or contingency beyond the control of the Issuer), the Issuer shall make such payment by cheque (or by such number of cheques as may be required in accordance with applicable banking law and

practice) of any such amounts. Such payments by cheque shall be sent by post to the address of the Programme Preference Shareholder as set forth in the Register or, in the case of joint Programme Preference Shareholders, the address set forth in the Register of that one of them who is first named in the Register in respect of that Programme Preference Share.

12.5.3 Each such cheque shall be made payable to the relevant Programme Preference Shareholder or, in the case of joint Programme Preference Shareholders, the first one of them named in the Register. Cheques may be posted by ordinary post, provided that neither the Issuer nor the Paying Agent shall be responsible for any loss in transmission and the postal authorities shall be deemed to be the agent of the Programme Preference Shareholders for the purposes of all cheques posted in terms of this Condition 12.5.

12.5.4 In the case of joint Programme Preference Shareholders payment by electronic funds transfer will be made to the account of the Programme Preference Shareholder first named in the Register. Payment by electronic transfer to the Programme Preference Shareholder first named in the Register shall discharge the Issuer of its relevant payment obligations under the Programme Preference Shares.

12.5.5 Payments will be subject in all cases to any taxation or other laws, directives and regulations applicable thereto in the place of payment, but subject to the provisions of Condition 9 (*Transfer Taxes*).

12.6 **Surrender of Individual Certificates**

12.6.1 No payment in respect of the final redemption of a Programme Preference Share shall be made until 10 (ten) days after the date on which the Individual Certificate (if applicable) in respect of the Programme Preference Share to be redeemed has been surrendered to the Paying Agent.

12.6.2 Documents required to be presented and/or surrendered to the Paying Agent in accordance with these Programme Preference Share Terms and Conditions shall be so presented and/or surrendered at the office of the Paying Agent specified in the Applicable Pricing Supplement (Preference Shares).

12.6.3 Holders of Uncertificated Programme Preference Shares are not required to present and/or surrender any documents of title.

12.7 **Payment Day**

If the date for payment of any amount in respect of any Programme Preference Share is not a Business Day and is not subject to adjustment in accordance with a Business Day Convention, the holder thereof shall not be entitled to payment until the next following Payment Day in the relevant place for payment and shall not be entitled to further dividends or other payment in respect of any such delay.

13. **PRESCRIPTION**

Subject to Condition 8 (*Additional Amounts*), any claim for payment of any amount in respect of the Programme Preference Shares and the applicable Programme Preference Share Terms and Conditions will prescribe three years after the date on which such amount first becomes due and payable under the applicable Programme Preference Share Terms and Conditions, provided that if payment of such amount is required, in accordance with the applicable Programme Preference Share Terms and Conditions, to be made to the CSD's Nominee, any claim for payment of such amount will prescribe three years after the date on which such amount has been received by the CSD's Nominee.

14. **REDEMPTION EVENTS**

This Condition 14 only applies to Redeemable Programme Preference Shares.

14.1 Unless otherwise specified in the Applicable Pricing Supplement (Preference Shares), a Redemption Event in respect of a Class of Redeemable Programme Preference Shares shall arise if any one or more of the following events have occurred and be continuing:

14.1.1 the Issuer fails to pay any amount due under the Programme Preference Shares on its due date for payment and any such failure has continued for a period of 10 (ten) Business Days following the service on the Issuer of a written notice requiring that breach to be remedied unless such non-payment is caused by an administrative error or technical difficulties affecting the transfer of funds and is remedied within 3 (three) Business Days after the due date;

14.1.2 the Issuer fails to, for any reason whatsoever, either redeem the Programme Preference Shares thereon on the Applicable Redemption Date or pay the Applicable Redemption Amount per Programme Preference Share on the date on which such payment is to be made and such failure is not remedied within 10 (ten) Business Days of receipt of written notice from any of the Programme Preference Shareholders calling upon the Issuer to remedy such failure; or

- 14.1.3 the Issuer fails to perform or observe any of its other obligations under any of the Programme Preference Shares and such failure has continued for the period of 30 (thirty) days following the service of the Issuer of a written notice requiring that breach to be remedied. (For these purposes, a failure to perform or observe an obligation shall be deemed to be remediable notwithstanding that the failure results from not doing an act or thing by a particular time); or
- 14.1.4 the Issuer fails to obtain any consent, license, approval or authorisation now or hereafter necessary to enable the Issuer to comply with its obligations under the Programme or any such consent, license, approval or authorisation ceases to remain in full force and effect, resulting in the Issuer being unable to perform any of its obligations under the Programme Preference Shares or the Programme, and such failure or cessation continues for more than 10 (ten) Business Days after the Issuer becomes aware of such event; or
- 14.1.5 the granting of an order by any competent court or authority for the liquidation winding-up, dissolution of, or commencement of business rescue proceedings in respect of, the Issuer, whether provisionally (and not dismissed or withdrawn within 30 (thirty) days thereof) or finally, or the placing of the Issuer under voluntary liquidation or curatorship, provided that no liquidation, curatorship, winding-up dissolution or business rescue is for purposes of effecting an amalgamation, merger, demerger, consolidation, reorganisation or other similar arrangement within the Investec Group, the terms of which were approved by Extraordinary Resolution of Programme Preference Shareholders before the date of the liquidation, winding-up, dissolution or business rescue; or
- 14.1.6 in respect of any Financial Indebtedness of the Issuer:
- (a) any such Financial Indebtedness is not paid when due or within any originally applicable grace period;
 - (b) any such Financial Indebtedness becomes (or becomes capable of being declared) due and payable prior to its stated maturity otherwise than at the option of the Issuer or (provided that no event of default, howsoever described, has occurred) any Person entitled to such Financial Indebtedness; or
 - (c) the Issuer fails to pay when due any amount payable by it under any guarantee of any Financial Indebtedness;

provided that the amount of Financial Indebtedness referred to in sub-paragraph (a) and/or sub-paragraph (b) above and/or the amount payable under any

guarantee referred to in sub-paragraph (c) above individually or in the aggregate exceeds 5% (five percent) of the total assets of the Issuer as reflected in its latest audited financial statements (or its equivalent in any other currency or currencies).

- 14.2 Subject to Condition 14.5, upon the occurrence of a Redemption Event (other than the Redemption Event specified in Condition 14.1.5) which is continuing, then, if so specified in the Applicable Pricing Supplement (Preference Shares) relating to any Class of Programme Preference Shares, Programme Preference Shareholders in such Class holding not less than 10% (ten percent) of the aggregate Calculation Amount of all Unredeemed Programme Preference Shares in that Class, may, by written notice to the Issuer as its registered office, effective upon the date of receipt thereof by the Issuer, require the Issuer to convene a meeting of that Class of Programme Preference Shareholders within 7 (seven) days of such request for purposes of considering whether or not a Redemption Event has occurred and whether or not such Class of Programme Preference Shareholders require the Programme Preference Shares held by such Class to be redeemed prior to the Final Redemption Date in accordance with Condition 10.4 (*Redemption following the occurrence of a Redemption Event*). A quorum for such meeting shall be determined in accordance with Condition 21.5 (*Quorum*).
- 14.3 If at such duly convened and quorated meeting, Programme Preference Shareholders present, by Representative or by proxy, holding or representing in the aggregate not less than 50.1% (fifty point one percent) in Calculation Amount of the Unredeemed Programme Preference Shares of that Class resolve that (i) a Redemption Event has occurred and is continuing; and (ii) the Issuer shall be required to redeem such Class of Programme Preference Shares, such Class of Programme Preference Shares shall immediately become forthwith redeemable in accordance with Condition 10.4 (*Redemption following the occurrence of a Redemption Event*).
- 14.4 Upon the occurrence of a Redemption Event specified in Condition 14.1.5 which is continuing, then, if so specified in the Applicable Pricing Supplement (Preference Shares) relating to any Class of Programme Preference Shares, any Programme Preference Shareholders in such Class may, by written notice to the Issuer as its registered office, effective upon the date of receipt thereof by the Issuer, require the Programme Preference Shares held by such Programme Preference Shareholder to be redeemed forthwith whereupon those Programme Preference Shares shall immediately become redeemable in accordance with Condition 10.4 (*Redemption following the occurrence of a Redemption Event*).
- 14.5 No action may be taken by a holder of Programme Preference Shares pursuant to Condition 14.2 if the Issuer withholds or refuses to make any such payment in order to comply with any

law or regulation of the Republic of South Africa or to comply with any order of a court of competent jurisdiction.

15. EXCHANGE OF BENEFICIAL INTERESTS AND REPLACEMENT OF INDIVIDUAL CERTIFICATES

15.1 Exchange of Beneficial Interests

15.1.1 The holder of a Beneficial Interest in Programme Preference Shares may, in terms of the Applicable Procedures and subject to section 44 of the Securities Services Act, by written notice to the holder's nominated Participant (or, if such holder is a Participant, the CSD), request that such Beneficial Interest be exchanged for Programme Preference Shares in definitive form represented by an Individual Certificate (the **Exchange Notice**). The Exchange Notice shall specify (a) the name, address and bank account details of the holder of the Beneficial Interest and (b) the day on which such Beneficial Interest is to be exchanged for an Individual Certificate; provided that such day shall be a Business Day and shall fall not less than 30 (thirty) days after the day on which such Exchange Notice is given.

15.1.2 The holder's nominated Participant will, following receipt of the Exchange Notice, through the CSD, notify the Transfer Agent that it is required to exchange such Beneficial Interest for Programme Preference Shares represented by an Individual Certificate. The Transfer Agent will, as soon as is practicable but within 14 (fourteen) days after receiving such notice, in accordance with the Applicable Procedures, procure that an Individual Certificate is prepared, authenticated and made available for delivery, on a Business Day falling within the aforementioned 14 (fourteen) day period, to the Participant acting on behalf of the holder of the Beneficial Interest in respect of the conversion at the Specified Office of the Transfer Agent; provided that joint holders of a Beneficial Interest shall be entitled to receive only one Individual Certificate in respect of that joint holding, and the delivery to one of those joint holders shall be delivery to all of them.

15.1.3 In the case of the exchange of a Beneficial Interest in Programme Preference Shares issued in uncertificated form:

- (a) the CSD's Nominee shall, prior to the Exchange Date, surrender (through the CSD system) such uncertificated Programme Preference Shares to the Transfer Agent at its Specified Office;

(b) the Transfer Agent will obtain the release of such uncertificated Programme Preference Shares from the CSD in accordance with the Applicable Procedures.

15.1.4 An Individual Certificate shall, in relation to a Beneficial Interest in any number of Programme Preference Shares of a particular aggregate Issue Price standing to the account of the holder thereof, represent that number of Programme Preference Shares of that aggregate Issue Price, and shall otherwise be in such form as may be agreed between the Issuer and the Transfer Agent.

15.2 **Replacement**

If any Individual Certificate is worn out, mutilated, defaced, stolen, destroyed or lost it may be replaced at the Specified Office of the Transfer Agent, on payment by the claimant of such costs and expenses as may be incurred in connection therewith and the provision of such indemnity as the issuer and the Transfer Agent may reasonably require. Mutilated or defaced Individual Certificates must be surrendered at the Specified Office of the Transfer Agent before replacements will be issued.

15.3 **Death and sequestration or liquidation of Programme Preference Shareholder**

Any Person becoming entitled to Programme Preference Shares in consequence of the death, sequestration or liquidation of the holder of such Programme Preference Shares may, upon producing evidence to the satisfaction of the Issuer that he holds the position in respect of which he proposes to act under this Condition 15.3 or of his title as the Issuer and the Transfer Agent shall require, be registered himself as the holder of such Programme Preference Shares or, subject to the Applicable Procedures, this Condition 15.3 and Condition 16 (*Transfer of Programme Preference Shares*), may transfer such Programme Preference Shares. The Issuer and (if applicable) the CSD and the relevant Participant shall be entitled to retain any amount payable upon the Programme Preference Shares to which any Person is so entitled until such Person shall be registered as aforesaid or shall duly transfer the Programme Preference Shares.

15.4 **Costs**

The costs and expenses of the printing, issue and delivery of each Individual Certificate and all Taxes and governmental charges or insurance charges that may be imposed in relation to such Individual Certificate and/or the printing, issue and delivery of such Individual Certificate shall be borne by the holder of the Programme Preference Shares represented by that Individual Certificate. Separate costs and expenses relating to the provision of Individual Certificates and/or the transfer of Programme Preference Shares may be levied by other

Persons, such as a Participant, under the Applicable Procedures, and such costs and expenses shall not be borne by the Issuer.

16. **TRANSFER OF PROGRAMME PREFERENCE SHARES**

16.1 **Transfer of Beneficial Interests in Programme Preference Shares held by the CSD**

16.1.1 Beneficial Interests may be transferred only in accordance with the Applicable Procedures through the CSD.

16.1.2 Transfers of Beneficial Interests to and from clients of Participants occur by way of electronic book entry in the securities accounts maintained by the Participants for their clients, in accordance with the Applicable Procedures.

16.1.3 Transfers of Beneficial Interests among Participants occur through electronic book entry in the central securities accounts maintained by the CSD for the Participants, in accordance with the Applicable Procedures.

16.1.4 Transfers of Beneficial Interests in Programme Preference Shares will not be recorded in the Register and the LSD's Nominee will continue to be reflected in the Register as the Programme Preference Shareholder of such Programme Preference Shares notwithstanding such transfers.

16.2 **Transfer of Programme Preference Shares represented by Individual Certificates**

16.2.1 In order for any transfer of Programme Preference Shares represented by an Individual Certificate to be recorded in the Register, and for such transfer to be recognised by the Issuer:

(a) the transfer of such Programme Preference Shares must be embodied in a Transfer Form;

(b) the Transfer Form must be signed by the registered Programme Preference Shareholder of such Programme Preference Shares and the transferee, or any authorised representatives of that registered Programme Preference Shareholder or transferee;

(c) the Transfer Form must be delivered to the Transfer Agent at its Specified Office together with the Individual Certificate representing such Programme Preference Shares for cancellation.

16.2.2 Subject to this Condition 16.2, the Transfer Agent will, within 3 (three) Business Days of receipt by it of a valid Transfer Form (or such longer period as may be

- required to comply with any Applicable Law and/or Applicable Procedures), record the transfer of Programme Preference Shares represented by an Individual Certificate (or the relevant portion of such Programme Preference Shares) in the Register, and authenticate and deliver to the transferee at the Transfer Agent's Specified Office or, at the risk of the transferee, send by mail to such address as the transferee may request, a new Individual Certificate in respect of the Programme Preference Shares transferred reflecting the aggregate Calculation Amount of the Programme Preference Shares transferred.
- 16.2.3 Where a Programme Preference Shareholder has transferred a portion only of Programme Preference Shares represented by an Individual Certificate, the Transfer Agent will authenticate and deliver to such Programme Preference Shareholder at the Transfer Agent's Specified Office or, at the risk of such Programme Preference Shareholder, send by mail to such address as such Programme Preference Shareholder may request, at the risk of such Programme Preference Shareholder, a new Individual Certificate representing the balance of the Programme Preference Shares held by such Programme Preference Shareholder.
- 16.2.4 The transferor of any Programme Preference Shares represented by an Individual Certificate will be deemed to remain the owner thereof until the transferee is registered in the Register as the holder thereof.
- 16.2.5 Before any transfer of Programme Preference Shares represented by an Individual Certificate is registered in the Register, all relevant transfer Taxes (if any) must have been paid by the transferor and/or the transferee and such evidence must be furnished as the Issuer and the Transfer Agent may reasonably require as to the identity and title of the transferor and the transferee.
- 16.2.6 No transfer of any Programme Preference Shares represented by an Individual Certificate will be registered during the Books Closed Period.
- 16.2.7 If a transfer of any Programme Preference Shares represented by an Individual Certificate is registered in the Register, the Transfer Form and cancelled Individual Certificate will be retained by the Transfer Agent.
- 16.2.8 The Transfer Agent will, within 3 (three) Business Days of receipt by it of a valid Transfer Form (or such longer period as may be required to comply with any applicable taxation or other laws, regulations or Applicable Procedures),

authenticate and deliver to the transferee (at the risk of the transferee) a new Certificate in respect of the Programme Preference Shares transferred.

17. REGISTER

The Register shall be kept at the Specified Offices of the Transfer Agent. The Register shall reflect the number of Programme Preference Shares at any given time and the date upon which each of the Programme Preference Shareholders was registered as such. The Register shall contain the name, address, and bank account details of the Programme Preference Shareholders of Programme Preference Shares. The Register shall set out the Issue Price of the Programme Preference Shares issued to such Programme Preference Shareholders and shall show the date of such issue. The Register shall show the serial number of Individual Certificates issued in respect of any Programme Preference Shares. The Register shall be open for inspection during the normal business hours of the Issuer to any Programme Preference Shareholder or any Person authorised in writing by any Programme Preference Shareholder. The Transfer Agent shall not be obliged to record any transfer while the Register is closed. The Transfer Agent shall not be bound to enter any trust into the Register or to take notice of any or to accede to any trust executed, whether express or implied, to which any Programme Preference Share may be subject. The Register shall be closed from the Last Day to Register until each payment date of the Applicable Redemption Amount (if applicable and/or dividends in respect of the Programme Preference Shares, as the case may be.

The Transfer Agent shall alter the Register in respect of any change of name, address or bank account number of any of the Programme Preference Shareholders of which it is notified in accordance with these Programme Preference Share Terms and Conditions.

Except as provided for in these Programme Preference Share Terms and Conditions or as required by law, in respect of Programme Preference Shares, the Issuer will only recognise a Programme Preference Shareholder as the owner of the Programme Preference Shares registered in that Programme Preference Shareholder's name as per the Register.

18. TRANSFER AGENT, CALCULATION AGENT AND PAYING AGENT

18.1 Any third party appointed by the Issuer as Transfer Agent, Calculation Agent and/or Paying Agent shall act solely as the agent of the Issuer and does not assume any obligation towards or relationship of agency or trust for or with any Programme Preference Shareholders.

18.2 If the Issuer elects to appoint another entity (not being the Issuer) as Transfer Agent, Calculation Agent and/or Paying Agent, that other entity, on execution of an appropriate agency agreement or an appropriate accession letter to any agency agreement, as the case may be, shall serve in that capacity in respect of the Programme Preference Shares. The Issuer shall notify the Programme Preference Shareholders (in the manner set out in

Condition 19 (*Notices*) of any such appointment and, if any Programme Preference Shares are listed on the JSE, the Issuer shall notify the JSE of any such appointment.

18.3 The Issuer is entitled to vary or terminate the appointment of the Transfer Agent, the Calculation Agent and/or the Paying Agent and/or appoint additional or other agents and/or approve any change in the specified office through which any such agent acts, provided that there will at all times be a Transfer Agent, Calculation Agent and a Paying Agent with an office in such place as may be required by the Applicable Procedures. The Transfer Agent, Paying Agent and Calculation Agent act solely as the agents of the Issuer and do not assume any obligation towards or relationship of agency or trust for or with any Programme Preference Shareholders.

19. **NOTICES**

19.1 **By the Issuer**

19.1.1 Subject to Condition 19.1.2, the Issuer may give notices, documents, records or statements or notices of availability of the foregoing by personal delivery to a Programme Preference Shareholder or holder of Beneficial Interests in a Programme Preference Share or by sending such notices, documents, records or statements or notices of availability of the foregoing prepaid through the post or by transmitting them by telegram, telex or fax or by electronic communication within the meaning of the Companies Act to such Person's last known address. A copy of any such notices and documents shall, to the extent required in terms of the Banks Act, be forwarded to the Registrar of Banks.

19.1.2 For so long as any of the Programme Preference Shares are issued in uncertificated form and are held in their entirety in the CSD, all notices in respect of such Programme Preference Shares shall be by way of delivery by the Issuer via the relevant Participant of the relevant notice to the CSD's Nominee (as the registered holder of such Programme Preference Shares) and the JSE or such other Financial Exchange on which the Programme Preference Shares are listed for communication by them to holders of Beneficial Interests in such Programme Preference Shares. Each such notice shall be deemed to have been received by the holders of Beneficial Interests on the day of delivery of such notice to the CSD's Nominee.

19.1.3 Any Programme Preference Shareholder or holder of Beneficial Interests in a Programme Preference Share who/which has furnished an electronic address to the Issuer, by doing so:

- 19.1.3.1 authorises the Issuer to use electronic communication to give notices, documents, records or statements or notices of availability of the foregoing to her/him/it; and
- 19.1.3.2 confirms that same can conveniently be printed by that Programme Preference Shareholder or holder of the Beneficial Interests in such Programme Preference Share within a reasonable time and at a reasonable cost.
- 19.1.4 In the case of joint Programme Preference Shareholders, any notice given to that one of the joint Programme Preference Shareholders who is first named in the Register in respect of that Programme Preference shall be sufficient notice to all the Programme Preference Shareholders of or Persons entitled to or otherwise interested in the Programme Preference Shares.
- 19.1.5 A Programme Preference Shareholder (or his/her executor) shall be bound by every notice in respect of the Programme Preference Shares Delivered to the Person who was, at the date on which that notice was Delivered, shown in the Register or established to the satisfaction of the directors of the Issuer from time to time (as the case may be) as the Programme Preference Shareholder of that Programme Preference Share(s), notwithstanding that the Programme Preference Shareholder may then have been dead or may subsequently have died or have been or become otherwise incapable of acting in respect of the Programme Preference Shares, and notwithstanding any transfer of the Programme Preference Shares was not registered at that date. The Issuer shall not be bound to enter any Person in the Register as entitled to any Programme Preference Shares until that Person gives the Issuer an address for entry in the Register.
- 19.1.6 The Issuer shall not be bound to use any method of giving notice, documents, records or statements or notices of availability of the foregoing, contemplated in the Companies Regulations in respect of which provision is made for deemed delivery, but if the Issuer does use such a method, the notice, document, record or statement or notice of availability of the foregoing shall be deemed to be delivered on the day determined in accordance with the Companies Regulations. In any other case, when a given number of days' (including Business Days) notice or notice extending over any period is required to be given, such number shall be calculated exclusive of the first day and any public holiday within the meaning of the Public Holidays Act, 1994 and inclusive of the last day.

19.1.7 As regards the signature of an electronic communication by a Programme Preference Shareholder, it shall be in such form as the Board may specify to demonstrate that the electronic communication is genuine, or failing any such specification by the Board, it shall be constituted by a Programme Preference Shareholder indicating in the electronic communication that it is that Programme Preference Shareholder's intention to use the electronic communication as the medium to indicate that Programme Preference Shareholder's approval of the information in, or that Programme Preference Shareholder's signature of the document in or attached to, the electronic communication which contains the name of the Programme Preference Shareholder sending it in the body of the electronic communication.

19.2 Notice by the Programme Preference Shareholders

A notice to be given by any Programme Preference Shareholder to the Issuer shall be in writing and given by lodging (either by hand delivery or posting by registered mail) that notice, together with a certified copy of the relevant Individual Certificate at the office of the Transfer Agent specified in the Applicable Pricing Supplement (Preference Shares). For so long as any of the Programme Preference Shares are issued in uncertificated form, notice may be given by any holder of a Beneficial Interest in such Programme Preference Shares to the Issuer via the relevant Settlement Agent in accordance with the Applicable Procedures, in such manner as the Issuer and the relevant Settlement Agent may approve for this purpose. Such notices shall be deemed to have been received by the Issuer on the date and at the time determined in accordance with Table CR3 in the Companies Regulations.

19.3 Notice in relation to Programme Preference Shares listed on the JSE

In addition to the provisions of Conditions 19.1 and 19.2, for so long as any Programme Preference Shares are listed on the JSE all notices in respect of such JSE-listed Programme Preference Shares, shall be made by way of an announcement on the Securities Exchange News Service.

20. VOTING RIGHTS

20.1 No Programme Preference Share shall have associated with it any general voting right at any shareholders meeting of the Issuer other than an irrevocable right of the Programme Preference Shareholders of any Class of Programme Preference Shares to vote on any proposal to amend the Programme Preference Share Terms and Conditions associated with that Class of Programme Preference Shares.

20.2 Provided that where any amendment to the Programme Preference Share Terms and Conditions is a proposed amendment to the Programme Preference Share Terms and Conditions and/or the Issuer's Memorandum of Incorporation which affects or relates to all Programme Preference Shares in issue under the Programme at that time, then such amendment shall not be effective unless it is approved by Special Resolution of all Programme Preference Shareholders and for such purpose all of the holders of Programme Preference Shares shall be treated as a single class and each Programme Preference Share shall have associated with it one general voting right for the purposes of such Special Resolution. Where any proposed amendment to the Programme Preference Share Terms and Conditions is a proposed amendment to the Programme Preference Share Terms and Conditions or the Issuer's Memorandum of Incorporation, which affects or relates to a Class of Programme Preference Shareholders only, then such amendment shall not be effective unless it is approved by Special Resolution of the affected Class of Programme Preference Shareholders.

21. **MEETINGS OF PROGRAMME PREFERENCE SHAREHOLDERS**

21.1 **Convening of meetings**

The Board may at any time convene a meeting of all Programme Preference Shareholders or holders of any Class of Programme Preference Shares, as the case may be, or put a proposed resolution to vote by way of a Round Robin Resolution. The Board shall be obliged to convene a meeting of all Programme Preference Shareholders or holders of any Class of Programme Preference Shares, as the case may be, or put a proposed resolution to vote by way of a Round Robin Resolution if (i) at any time it is required by the Companies Act or the Issuer's Memorandum of Incorporation to refer a matter to Programme Preference Shareholders entitled to vote for decision; or (ii) one or more written and signed demands for such a meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders, as the case may be, or Round Robin Resolution is/are delivered to the Issuer in accordance with Condition 19 (*Notices*), and:

21.1.1 each such demand describes the specific purpose for which such meeting is proposed; and

21.1.2 in aggregate, demands for substantially the same purpose are made and signed by Programme Preference Shareholders at the earliest time specified in any of those demands, of at least 10 percent of the aggregate Calculation Amount of all Programme Preference Shares or Programme Preference Shares in that Class, as the case may be.

21.2 Notice of meetings

- 21.2.1 A meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders, as the case may be, shall be called by at least 15 (fifteen) Business Days' notice after Delivery by the Issuer to all Programme Preference Shareholders entitled to vote or otherwise entitled to receive notice and simultaneously to the Registrar of Banks and the Transfer Agent.
- 21.2.2 The Issuer may call a meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders with less notice than required by Condition 21.2.1, but such a meeting may proceed only if every Person who is entitled to exercise voting rights in respect of any item on the meeting agenda (i) is present in person or by proxy or represented by proxy or Representative at such meeting; and (ii) votes to waive the required minimum notice for such meeting.
- 21.2.3 A requisition notice by Programme Preference Shareholders requesting a meeting of Programme Preference Shareholders pursuant to Condition 21.1.2 above may consist of several documents in like form, each signed by one or more requisitioning Programme Preference Shareholders. Such a requisition notice will be delivered to the Specified Offices of the Issuer.

21.3 Contents of notice of meetings of Programme Preference Shareholders

- 21.3.1 A notice of a meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders, as the case may be, must be in writing, in plain language and must include, in addition to any other information prescribed by the Companies Act and the Banks Act:
- (a) the date, time and place for the meeting, and the record date for determining the Programme Preference Shareholders entitled to participate in and vote at the meeting;
 - (b) the general purpose of the meeting, and any specific purpose contemplated in Condition 21.1.1, if applicable;
 - (c) a copy of any proposed resolution of which the Issuer has received notice in terms of Condition 21.2.2, and which is to be considered at the meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders, as the case may be, and a notice of the percentage of voting rights that will be required for that resolution to be adopted;

- (d) a reasonably prominent statement that:
- (i) a entitled to attend and vote at a meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders, as the case may be, shall be entitled to appoint a proxy to attend, participate in, speak and vote at such meeting in the place of the Programme Preference Shareholder entitled to vote or give or withhold written consent on behalf of the Programme Preference Shareholder entitled to vote to a decision by Round Robin Resolution;
 - (ii) a proxy need not be a Programme Preference Shareholder;
 - (iii) a Programme Preference Shareholder entitled to vote may appoint more than 1 (one) proxy to exercise voting rights attached to different Programme Preference Shares held by that Programme Preference Shareholder entitled to vote in respect of any such meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders, as the case may be;
 - (iv) the proxy may delegate the authority granted to her/him/it as proxy, subject to any restriction in the instrument of proxy itself;
 - (v) participants in a meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders, as the case may be, are required to furnish satisfactory identification in terms of section 63(1) of the Companies Act in order to reasonably satisfy the Person presiding at such meeting of Programme Preference Shareholders that the right of that Person to participate and vote either as a Programme Preference Shareholder or as a proxy, has been reasonably verified;

- (vi) participation in the meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders, as the case may be, by electronic communication within the meaning of the Companies Act is available, where applicable, and in such event provide any necessary information to enable Programme Preference Shareholders entitled to vote or their proxies to access the available medium or means of electronic communication and advise that access to the medium or means of electronic communication is at the expense of the Programme Preference Shareholder entitled to vote or proxy, except to the extent that the Issuer determines otherwise.

21.3.2 A Programme Preference Shareholder entitled to vote, who is present in person or represented by proxy or Representative at a meeting:

- (a) is regarded as having received or waived notice of the meeting if at least the required minimum notice was given;
- (b) has a right to:
 - (i) allege a material defect in the form of notice for a particular item on the agenda for the meeting; and
 - (ii) participate in the determination whether to waive the requirements for notice, if less than the required minimum notice was given, or to ratify a defective notice; and
- (c) except to the extent set out in sub-paragraph 19.11.2 above is regarded to have waived any right based on an actual or alleged material defect in the notice of the meeting.

21.3.3 A meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders, as the case may be, may proceed notwithstanding a material defect in the giving of the notice, subject to Condition 21.3.4, only if every Programme Preference Shareholder who is entitled to exercise voting rights in respect of each item on the agenda of the meeting is present at the meeting and votes to approve the ratification of the defective notice.

21.3.4 If a material defect in the form or manner of giving notice of a meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders, as the case may be, relates only to one or more particular matters on the agenda for the meeting:

- (a) any such matter may be severed from the agenda, and the notice remains valid with respect to any remaining matters on the agenda; and
- (b) the meeting may proceed to consider a severed matter, if the defective notice in respect of that matter has been ratified in terms of Condition 21.3.2.

21.3.5 An immaterial defect in the form or manner of Delivering notice of a meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders, as the case may be, or an accidental or inadvertent failure in the Delivery of the notice to any particular Programme Preference Shareholder to whom it was addressed if the Issuer elects to do so, does not invalidate any action taken at such meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders, as applicable.

21.3.6 For the purposes of determining which persons are entitled to attend or vote at a meeting and how many votes such person may cast, the Issuer or the Transfer Agent, as the case may be, shall specify in the notice of the meeting, the record date by which a person must be entered on the Register in order to have the right to participate in and vote at such meeting.

21.4 **Chairperson**

The chairperson, if any, of the Board shall preside as chairperson at every meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders, as applicable. If there is no such chairperson, or if at any meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders, as the case may be, s/he is not present within 15 (fifteen) minutes after the time appointed for holding the meeting or is unwilling to act as chairperson, the Programme Preference Shareholders entitled to vote which are present in person or represented by proxy or Representative at the meeting shall select a director of the Issuer present at such meeting, or if no director be present at such meeting, or if all the directors present decline to take the chair, the Persons entitled to vote shall select one of their number which is present at the meeting to be chairperson of the meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders, as applicable.

21.5 **Quorum**

21.5.1 Business may be transacted at any meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders, as the case may be, only while a quorum is present.

21.5.2 The quorum necessary for the commencement of a meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders, as the case may be, shall be sufficient Programme Preference Shareholders present in person or represented by proxy or Representative at the meeting to exercise, in aggregate, at least 25% (twenty five percent) of the aggregate Calculation Amount of all Programme Preference Shares or Programme Preference Shares in the relevant Class of Programme Preference Shares, as the case may be, provided that a minimum number of three such persons must be present at the meeting if the Company has more than 2 (two) shareholders in that Class.

21.5.3 A matter to be decided at the meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders, as the case may be, may not begin to be considered unless those who fulfilled the quorum requirements of Condition 21.5.1 continue to be present at the meeting.

21.5.4 If within 30 (thirty) minutes from the time appointed for the meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders, as the case may be, to commence, a quorum is not present or if the quorum requirements in Condition 21.5.1 cannot be achieved for any one or more matters, the meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders, as applicable, shall be postponed, without motion, vote or further notice, for 1 (one) week to the same time on the same day in the next week or, if that day is not a Business Day, to the next succeeding Business Day, and if at such adjourned meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders, as the case may be, a quorum is not present within 30 (thirty) minutes from the time appointed for the meeting then, the Programme Preference Shareholders entitled to vote present in person or represented by proxy or Representative at the meeting shall be deemed to be the requisite quorum.

21.6 **Quorum at any meeting for passing an Extraordinary Resolution or Special Resolution**

The quorum at any meeting for passing an Extraordinary Resolution or Special Resolution, as the case may be, shall be three or more Programme Preference Shareholders of that Class present or represented by proxies or Representatives and holding or representing in

the aggregate a clear majority of the aggregate Calculation Amount of the Programme Preference Shares held by the applicable Class, provided that a minimum number of three such persons must be present at the meeting if the Company has more than 2 (two) shareholders in that Class.

A Special Resolution passed at any meeting of the holders of Programme Preference Shares of that Class will be binding on all holders of Programme Preference Shares, whether or not they are present at the meeting. No amendment to or modification of the Programme Preference Share Terms and Conditions may be effected without the written agreement of the Issuer.

21.7 Adjournment of meetings

21.7.1 A meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders, as the case may be, or the consideration of any matter being debated at the meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders, as applicable, may be adjourned from time to time without further notice on a motion supported by Programme Preference Shareholders present in person or represented by proxy or Representative entitled to exercise, in aggregate, a majority of the Calculation Amount of all the Programme Preference Shares or Programme Preference Shares held by the applicable Class, as the case may be.

21.7.2 Such adjournment may be either to a fixed time and place or until further notice (in which latter case a further notice shall be Delivered to the Programme Preference Shareholders), as agreed at the meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders, as the case may be.

21.7.3 A meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders, as the case may be, may not be adjourned beyond the earlier of the date that is 60 (sixty) Business Days after the date on which the adjournment occurred.

21.7.4 No further notice is required to be Delivered by the Issuer of a meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders, as the case may be, that is postponed or adjourned as contemplated in Condition 21.5.1, unless the location or time of the meeting is different from: (i) the location or time of the postponed or adjourned meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders, as applicable; (ii) a location or time announced at the time of

adjournment, in the case of an adjourned meeting; or (iii) notice of such postponed or adjourned meeting is required in terms of the Banks Act.

21.8 **Participation**

The following may attend and speak at a meeting:

- (a) Programme Preference Shareholders present, by Representative or by proxy provided that no such Person shall be entitled to attend and speak (or vote) unless he provides proof acceptable to the Issuer that he is a Programme Preference Shareholder, its Representative or proxy if so required by the Issuer to do so;
- (b) any officer or duly appointed representative of the Issuer and every other Person authorised in writing by the provided that such Person shall not be entitled to vote, other than as a proxy or Representative;
- (c) the legal counsel to the Issuer;
- (d) the Transfer Agent;
- (e) any other Person approved by the Programme Preference Shareholders at such meeting; and
- (f) every director or duly appointed representative of the Issuer and every other Person authorised in writing by the Issuer may attend and speak at a meeting of Programme Preference Shareholders, but shall not be entitled to vote, other than as a proxy or Representative.

21.9 **Poll**

21.9.1 At any meeting a resolution put to the vote shall be decided on a show of hands, unless before or on the declaration of the result of the show of hands a poll shall be demanded by:

- (a) not less than 5 (five) Programme Preference Shareholders present in person or represented by proxy or Representative having the right to vote on that matter;
- (b) a Programme Preference Shareholder/s entitled to exercise not less than 1/10th (one tenth) of the aggregate Calculation Amount of the Programme Preference Shares of all Programme Preference Shareholders entitled to vote on that matter; or

(c) the chairperson.

21.9.2 The demand for a poll shall not prevent the continuation of a meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders, as applicable, for the transaction of any business other than the question upon which the poll has been demanded. The demand for a poll may be withdrawn.

21.10 Proxy

21.10.1 Subject to the provisions of the Companies Act, a form appointing a proxy may be in any usual or common form provided that it is in writing. The Issuer shall supply a generally standard form of proxy upon request by a Programme Preference Shareholder entitled to vote.

21.10.2 The form appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of such power of attorney or authority shall be delivered to the Issuer, the Transfer Agent or any Person which it has identified in the notice of meeting as being a Person to whom instruments of proxy may be delivered on behalf of the Issuer, immediately prior to the meeting, before the proxy exercises any rights of the Programme Preference Shareholder entitled to vote at a meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders, as the case may be.

21.10.3 A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the death or mental disorder of the principal or revocation of the instrument of proxy or of the authority under which the instrument of proxy was executed, or the transfer of the Programme Preference Shares in respect of which the instrument of proxy is given, provided that no intimation in writing of such death, insanity, revocation or transfer as aforesaid shall have been received by the Issuer or the Transfer Agent, as the case may be, at its Specified Office before the commencement of the meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders, as applicable, or adjourned meeting at which the instrument of proxy is used.

21.10.4 No form appointing a proxy shall be valid after the expiration of 1 (one) year from the date when it was signed unless the proxy form

itself provides for a longer or shorter duration but it may be revoked at any time. The appointment is revocable unless the proxy appointment expressly states otherwise, and may be revoked by cancelling it in writing, or making a later inconsistent appointment of a proxy, and delivering a copy of the revocation instrument to the proxy, and to the Issuer. The appointment is suspended at any time and to the extent that the Programme Preference Shareholder entitled to vote chooses to act directly and in person in the exercise of any rights as a Programme Preference Shareholder entitled to vote.

21.11 **Beneficial Interests**

The holder of any Programme Preference Shares in which any Person has a Beneficial Interest must deliver to each such Person:

- 21.11.1 a notice of any meeting of the Issuer at which those Programme Preference Shares may be voted within 2 (two) Business Days after receiving such a notice from the Issuer; and
- 21.11.2 a proxy appointment to the extent of that Person's Beneficial Interest, if the Person so demands in compliance with section 56(11) of the Companies Act.

21.12 **Votes**

- 21.12.1 Subject to any rights or restrictions attaching to any Class or Classes of Programme Preference Shares and the provisions of the Banks Act, on a show of hands Programme Preference Shareholders entitled to vote present in person or represented by proxy or Representative at the meeting shall have only 1 (one) vote, irrespective of the number of voting rights that Programme Preference Shareholders would otherwise be entitled to exercise. A proxy shall irrespective of the number of the Programme Preference Shareholders entitled to vote she/he/it represents have only 1 (one) vote on a show of hands. On a poll every Person entitled to vote who is present at the meeting shall have the number of votes determined in accordance with the voting rights associated with the Programme Preference Shares in question.
- 21.12.2 Notwithstanding any other provision contained in this Condition 21, the CSD's Nominee shall vote on behalf of holders of Beneficial Interests of uncertificated Programme Preference Shares in accordance with the Applicable Procedures.

- 21.12.3 If a form appointing a proxy is received duly signed but with no indication as to how the Person named therein should vote on any issue, the proxy may vote or abstain from voting as she/he/it sees fit unless the form appointing the proxy indicates otherwise.
- 21.12.4 Unless the form of proxy states otherwise, a Representative or proxy shall not be obliged to exercise all the votes which he is entitled or cast all the votes which he exercises in the same way.
- 21.12.5 In the case of joint Programme Preference Shareholders the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint Programme Preference Shareholders; and for this purpose seniority shall be determined by the order in which the names stand in the Register.
- 21.12.6 A majority of the voting exercised thereon shall be required to ordinarily pass a resolution of Programme Preference Shareholders.

21.13 Validity of votes by proxies

Any vote by a proxy in accordance with the form of proxy shall be valid even if such form of proxy or any instruction pursuant to which it was given has been amended or revoked, provided that the Transfer Agent or the Issuer at its Specified Office has not been notified in writing of such amendment or revocation by the time which is 24 hours before the time fixed for the relevant meeting. Unless revoked, any appointment of a proxy under a form of proxy in relation to a meeting shall remain in force in relation to any resumption of such meeting following an adjournment.

21.14 Powers

A meeting of Programme Preference Shareholders will have the power (exercisable by Extraordinary Resolution or Special Resolution, as applicable), without prejudice to any other powers conferred on it or any other Person:

- (a) to sanction any compromise or arrangement proposed to be made between the Issuer and the Class of Programme Preference Shareholders or any of them;
- (b) to approve the substitution of any entity for the Issuer which shall be proposed by the Issuer;
- (c) to sanction any abrogation, modification, compromise or arrangement in respect of the rights of the Class of Programme Preference Shareholders against the

Issuer or against any of its property whether such rights shall arise under the Programme Preference Shares or otherwise;

- (d) to assent to any modification of the provisions contained in the Programme Preference Share Terms and Conditions which shall be proposed by the Issuer;
- (e) to give any authority or sanction which under the Programme Preference Share Terms and Conditions is required to be given by Extraordinary Resolution or Special Resolution, as the case may be;
- (f) to appoint any persons (whether Programme Preference Shareholders or not) as a committee or committees to represent the interests of the Programme Preference Shareholders of that Class and to confer upon such committee or committees any powers or discretions which the Programme Preference Shareholders could themselves exercise by Extraordinary Resolution;
- (g) to sanction any scheme or proposal for the exchange or sale of the Programme Preference Shares for, or the conversion of the Programme Preference Shares into or the cancellation of the Programme Preference Shares in consideration of, shares, stocks, notes, bonds, debentures, debenture stock and/or other obligations and/or securities of the Issuer or any entity (corporate or otherwise) formed or to be formed, or for or into or in consideration of cash, or partly for or into or in consideration of such shares, stock, notes, bonds, debentures, debenture stock and/or other obligations and/or securities as aforesaid and partly for or into or in consideration for cash.

21.15 Validity and result of vote

- 21.15.1 No objection shall be raised as to the admissibility of any vote except at the meeting or adjourned meeting or poll at which the vote objected to is or may be given or tendered and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection shall be referred to the chairperson of the meeting whose decision shall be final and conclusive.
- 21.15.2 In case of any dispute as to the admission or rejection of a vote, the chairperson of the meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders, as the case may be, shall determine the dispute and the determination of the chairperson made in good faith shall be final and conclusive.
- 21.15.3 In the case of an equality of votes, whether on a show of hands or on a poll, the chairperson of the meeting of Programme Preference Shareholders or Class of

Programme Preference Shareholders, as the case may be, at which the show of hands takes place, or at which the poll is demanded, shall not be entitled to a second or casting vote.

21.15.4 Unless a poll is so demanded, a declaration by the chairperson that a resolution has, on a show of hands been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the minute book of the Issuer, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, such resolution. No objection shall be raised as to the admissibility of any vote except at the meeting or adjourned meeting at which the vote objected to is, or may be, given or tendered and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection shall be referred to the chairperson of the meeting, whose decision shall be final and conclusive.

21.15.5 If a poll is duly demanded it shall be taken in such manner as the chairperson directs save that it shall be taken forthwith, and the result of the poll shall be deemed to be the resolution of the meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders, as the case may be, at which the poll was demanded. Scrutineers may be appointed by the chairperson to count the votes and to declare the result of the poll, and if appointed their decision, which shall be given by the chairperson of the meeting, shall be deemed to be the resolution of the meeting of Programme Preference Shareholders or Class of Programme Preference Shareholders, as the case may be, at which the poll is demanded.

21.16 **Binding effect of resolutions**

Any resolution passed at a meeting of a Class of Programme Preference Shareholders duly convened shall be binding upon all Programme Preference Shareholders of that Class whether or not present at such meeting and whether or not voting, and each Programme Preference Shareholder of that Class shall be bound to give effect to it accordingly.

An Extraordinary Resolution and a Special Resolution shall be binding upon all Programme Preference Shareholders whether or not present at such meeting and whether or not voting, and each of the Programme Preference Shareholders shall be bound to give effect to it accordingly. A Round Robin Resolution will be passed if signed by Programme Preference Shareholders entitled to exercise sufficient voting rights for it to have been adopted as an Extraordinary or Special Resolution, as the case may be, at a properly constituted meeting.

21.17 **Notice of the result of voting on any resolution**

21.17.1 Within 10 (ten) Business Days of a Round Robin Resolution being adopted, the Issuer must deliver a notice in accordance with Condition 19 (*Notices*) describing the results of the vote, consent process, or election to every Programme Preference Shareholder who was entitled to vote on or consent to the Round Robin Resolution.

21.17.2 Notice of the result of the voting on any resolution (including any Extraordinary Resolution or Special Resolution) duly considered by the Programme Preference Shareholders shall be given to the Programme Preference Shareholders within 14 (fourteen) days of the conclusion of the meeting in accordance with Condition 19 (*Notices*). Non-publication shall not invalidate any such resolution.

22. **MODIFICATION**

22.1 Subject to the Companies Act, the Companies Regulations, the JSE Listings Requirements and the listings requirements of any other applicable Financial Exchange, as the case may be, the Issuer may effect, without the consent of the relevant Class of Programme Preference Shareholders, any modification of the Programme Preference Share Terms and Conditions in any manner necessary to correct a patent error in spelling, punctuation, reference, grammar or similar defect on the face of the Programme Preference Share Terms and Conditions, by publishing a notice of the alteration, in any manner required or permitted by the Issuer's Memorandum of Incorporation or the rules of the Issuer and filing a notice of the alteration with the Companies and Intellectual Property Commission. Any such modification shall be binding on the relevant Class of Programme Preference Shareholders. For the avoidance of doubt, the exercise by the Issuer of its rights under Condition 18 (*Transfer Agent, Calculation Agent and Paying Agent*) shall not constitute a modification of these Programme Preference Share Terms and Conditions.

22.2 Save as provided in Condition 22.1, no modification of these Programme Preference Share Terms and Conditions may be effected unless:

- (a) in writing and signed by or on behalf of the Issuer and by or on behalf of the members of the relevant Class of Programme Preference Shareholders holding not less than 75% (seventy-five percent) of the aggregate Calculation Amount of the Programme Preference Shares in that Class; or
- (b) sanctioned by a Special Resolution of the relevant Class of Programme Preference Shareholders.

23. **FURTHER ISSUES**

The Issuer shall be at liberty from time to time without the consent of the Programme Preference Shareholders to create and issue further Programme Preference Shares (the “**Additional Programme Preference Shares**”) having terms and conditions which are identical as any of the other Programme Preference Shares already issued under the Programme (the “**Existing Programme Preference Shares**”) or the same in all respects save for their respective Issue Prices and Issue Dates, so that the Additional Programme Preference Shares shall be (i) consolidated to form a single Class with the Existing Programme Preference Shares and (ii) rank *pari passu* in all respects with the Existing Programme Preference Shares.

24. **GOVERNING LAW**

Unless otherwise specified in the Applicable Pricing Supplement (Preference Shares), the provisions of the Programme Preference Share Terms and Conditions and the Programme Preference Shares are governed by, and shall be construed in accordance with, the laws of South Africa.

25. **PROGRAMME PREFERENCE SHARES AND THE COMPANIES ACT**

25.1 Notwithstanding anything to the contrary contained in these Programme Preference Share Terms and Conditions or the Programme Memorandum, (i) the Issuer, (ii) each Tranche of Programme Preference Shares, and (iii) each of the Programme Preference Shareholders, shall be subject to all of the applicable provisions of the Companies Act including, without limiting the generality of the foregoing, sections 37 and 46 of the Companies Act (the “Applicable Provisions”).

25.2 For the purpose of the Programme Preference Shares and in relation to (i) the Issuer, (ii) each Tranche of Programme Preference Shares, and (iii) each of the Programme Preference Shareholders:

25.2.1 the Applicable Provisions are deemed to be incorporated by reference into these Programme Preference Share Terms and Conditions; and

25.2.2 to the extent that there is any conflict or inconsistency between the Applicable Provisions and any of these Programme Preference Share Terms and Conditions, the Applicable Provisions shall prevail; and

25.2.3 to the extent that, in consequence of such conflict, the Applicable Provisions replace, amend, or supplement any of these Programme Preference Share Terms and Conditions, any reference to “*Programme Preference Share Terms and Conditions*” in the Programme Memorandum and/or the Applicable Pricing

Supplement (Preference Shares) shall be deemed to include these Programme Preference Share Terms and Conditions as so replaced, amended or supplemented.

26. **SEVERABILITY**

Should any of the applicable Programme Preference Share Terms and Conditions be, or become, invalid, the validity of the remaining applicable Programme Preference Share Terms and Conditions shall not be affected in any way.

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