



REPUBLIC OF SOUTH AFRICA

COMPANIES ACT, 2008

MEMORANDUM OF INCORPORATION

**Name of Company: OLIFANTS RIVER GAME RESERVE SHARE BLOCK
(PROPRIETARY) LIMITED**

Registration Number: 1970/012498/06

("the Company")

Incorporation

- (1) The Company is incorporated as a Share Block Profit Company, as defined in the Companies Act, 2008.
- (2) The Company is incorporated in accordance with, and governed by-
 - (a) The unalterable provisions of the Companies Act, 2008 that are applicable to Profit companies;
 - (b) The alterable provisions of the Companies Act, 2008 that are applicable to Profit companies, subject to any limitation, extension, variation or substitution set out in this Memorandum; and
 - (c) The provisions of this Memorandum of Incorporation.



NOTE 1

This Memorandum of Incorporation contains statutory provisions of the Share Blocks Act in **Annexure 1** that shall apply to the Company.

NOTE 2

The Memorandum of Incorporation contained in Form CoR 15.1 B of the Companies Regulations, 2011 shall not apply to the Company.

NOTE 3

The Company does not elect, in terms of section 118 (1)(C)(ii), to submit voluntarily to the provisions of Parts B and C of Chapter 5 of the Companies Act 2008, and to the Takeover Regulations provided for in that Act.

This MOI was adopted in accordance with a proposal by the Board issued on 2013 and adopted by a special resolution taken by the voting Members at a general meeting of the Company held on 2013.



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ANNEXURE 1 – SHARE BLOCKS ACT STATUTORY PROVISIONS

ANNEXURE 2 – SHARE REGISTERS AND ALLOCATED LOANS

ANNEXURE 3 – USE AGREEMENT (ORIGINAL FORM)

ANNEXURE 4 - USE AGREEMENT (UPDATED VERSION)



1. INTERPRETATION

In the interpretation of this MOI and unless contrary to or excluded by the subject or context:

1.1 any word herein signifying:

1.1.1 the singular shall include the plural and vice versa;

1.1.2 the masculine shall include the feminine and the neuter;

1.2 any word herein which is defined in the Act and is not defined in article 1.6 shall bear that statutory meaning in this MOI;

1.3 any word, phrase or sentence herein which is not defined in the Act or in article 1.6 shall bear its usual meaning;

1.4 each term, power or authority herein shall be given the widest possible interpretation;

1.5 phrases as defined in the Share Blocks Act shall have the meanings so assigned and words importing Persons shall include those legal entities defined in article 1.6.15;

1.6 each of the following words and expression herein shall have the meaning stated opposite it and, where applicable, shall include the word or expression stated opposite it:

1.6.1 "Act" shall mean the Companies Act, 71 of 2008, as amended from time to time;

1.6.2 "Board" shall mean the Board of Directors for the time being of the Company elected in terms of article 17;

1.6.3 "Company" shall mean this Company;



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- 1.6.4 "Chairman" shall mean the Chairman of the Board for the time being of the Company elected in terms of article 17.13;
- 1.6.5 "Director" shall mean a director for the time being of the Company elected in terms of article 17;
- 1.6.6 "Electronic Communication" shall bear the same meaning as set out in section 1 of the Electronic Communication and Transaction Act, 25 of 2002;
- 1.6.7 "General Meeting" shall mean any general meeting of the Company or any adjournment thereof, including an annual general meeting convened in terms of article 10.1 as the case be;
- 1.6.8 "Income Tax Act" shall mean the Income Tax Act, 58 of 1962, as amended from time to time;
- 1.6.9 "Land" means the immovable property described below, together with the chalets, buildings and improvements thereon, and known as "Olifants River Game Reserve":
- (i) Remaining extent of the farm Grootdraai No. 38, Registration Division KU, situate in the Province of Limpopo, in extent 1279,9088 hectares.
 - (ii) Portion 1 of the farm Madrid No. 39, Registration Division KU, situate in the Province of Limpopo, in extent 1682,9089 hectares.
 - (iii) 0,166666 and 0,066666 individual shares of portion 1 of the farm Grootdraai No. 38, Registration Division KU, situate in



- the Province of Limpopo, in extent 630,9596 hectares.
- (iv) Remaining extent of the farm Lisbon No. 37, Registration Division KU, situate in the Province of Limpopo, in extent 1239,1479 hectares.
- (v) Portion 2 of the farm Lisbon No. 37, Registration Division KU, situate in the Province of Limpopo, in extent 1246,3511 hectares.
- 1.6.10 "Member" shall mean the holder of Shares being Members of the Company referred to in article 6.11;
- 1.6.11 "MOI" shall mean the Memorandum of Incorporation of the Company as contained in this document, as duly amended from time to time;
- 1.6.12 "Month" means a calendar month;
- 1.6.13 "Olifants North" shall mean Olifants North Game Reserve Share Block Limited (Registration Number 1973/014136/06);
- 1.6.14 "Office" shall mean the registered office for the time being of the Company;
- 1.6.15 "Person" shall include any natural person, company or body corporate, a statutory body, a partnership or an association of persons, as the case may be, having the legal capacity required in terms of the laws of the Republic;
- 1.6.16 "Republic" shall mean the Republic of South Africa;



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- 1.6.17 "Share" shall mean that set out in Section 1 of the Share Blocks Act and relates to the share block granting a right of use to the holder thereof;
- 1.6.18 "Share Blocks Act" shall mean the Share Blocks Control Act No.59 of 1980, as amended, and the regulations promulgated from time to time in regard thereto;
- 1.6.19 "Sign" shall include the reproduction of signature lithography, printing with a rubber stamp or any other electronic communication process partly the one and partly the other process and "signature" has the corresponding meaning;
- 1.6.20 "the Statutes" means the Companies Act and the Share Block Act, as may be applicable, and every other Act for the time being in force concerning companies and affecting the Company;
- 1.6.21 "Use Agreement" shall mean any agreement conferring a right to, or an interest in, the use of immovable property in respect of which a share block scheme is operated, and are **Annexure 3** and **Annexure 4** attached hereto;
- 1.6.22 "Writing" shall include printing, typewriting, lithography or any electronic communication process, or partly one and partly the other;
- 1.6.23 "Year" means the financial year of the Company.



2. PURPOSE AND OBJECTS OF THE COMPANY

- 2.1 The main purpose and object of the Company is to operate a share block scheme in respect of the Land in accordance with the Share Blocks Act entitling a Member to use specified parts of the Buildings in accordance with the Use Agreement entered into between the Member and the Company.

3. POWERS AND CAPACITY OF THE COMPANY

- 3.1 The Company has the powers and capacity of a Person.
- 3.2 Notwithstanding the omission from this MOI of any provision to that effect, the Company may do anything which the Act and the Share Blocks Act empowers a Company to do.
- 3.3 The Company is restricted in its powers and capacity in terms of the provisions of the Share Blocks Act and other provisions for the control of the business of the Company, and these are recorded in **Annexure 1** hereto.

4. CONDITIONS

- 4.1 The Company shall ensure that the whole of its activities are directed to the furtherance of its main and stated objects.
- 4.2 The Company shall utilise its assets and income to advance its stated objects for which it has been established.

5. MEMORANDUM OF INCORPORATION AND COMPANY RULES

- 5.1 Save for correcting patent errors in spelling, punctuation, reference, grammar or similar defects, which the Board is empowered to do in terms of Section 17(1) of the Act, all other amendments of the MOI shall be effected in accordance with Section 16(1) of the Act.



- 5.2 This MOI does not restrict, limit or qualify the power of the Board to make, amend or repeal any necessary or incidental rules relating to the governance of the Company in respect of matters that are not addressed in the Act or this MOI, in accordance with the provisions of sections 15(3) to 15(5) of the Act.
- 5.3 If the Board makes any rules, it must file and publish a copy of those rules in the manner prescribed in the Act.
- 5.4 If the Board alters the MOI or any rules made by it, in terms of Section 17(1) of this Act, it must publish a notice of such alteration in the manner prescribed by the Act.

6. SHARE CAPITAL

- 6.1 The authorized and issued share capital of the Company is R510.00 (Five Hundred and Ten Rand) divided into 510 (Five Hundred and Ten) ordinary par value Shares of R1.00 (One Rand) each. The issued Shares are apportioned among 85 (Eighty Five) share blocks in accordance with **Annexure 2** hereto.

It is recorded that the Members owning the share capital of the Company, hold an equivalent number of 'C' Class Shares in Olifants North.

- 6.2 The Shares comprising each share block:
 - 6.2.1 Shall confer on the holder thereof from time to time the right to use and occupy that portion of the Company's land as specified in the Use Agreement entered into between the Company and such holder, being **Annexure 3** and **Annexure 4** hereto and subject to the terms and conditions of said **Annexures 3** and **4**;
 - 6.2.2 Shall oblige the holder thereof from time to time to lend to the Company as a fixed loan, on the terms and conditions set out in the Use Agreement, the amount specified in **Annexure 2**.



- 6.2.3 The Company shall be entitled to raise compulsory loans on the Members for the purpose of capital acquisitions, provided that such compulsory loans are approved by the Members of the Company pursuant to the provisions of Section 14(1) of the Share Blocks Act.
- 6.3 Upon acquisition of Shares, the Member acquired the right to, and usage interest as referred to in the Use Agreement.
- 6.4 All Shares of the Company shall:
- 6.4.1 Confer a right to vote at any meeting of the Company;
 - 6.4.2 Confer the same vote as every other Share in the Company;
 - 6.4.3 Confer a right to an interest in the use of the Land in accordance with the provisions of **Annexures 3** and **Annexure 4** hereto.
- 6.5 Save as is otherwise hereinafter provided for and subject to the provisions of the Share Blocks Act and without prejudice to any special rights previously conferred on the holder of existing Shares in the Company, any Share may be issued with such special rights or subject to such restriction as the Company may from time to time determine.
- 6.6 If at any time the share capital is divided into different classes of Shares, the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class but always subject to the conditions of article 6.4 above) may be varied with the consent in writing of the holders of three-fourths of the issued Shares of that class or with the sanction of a resolution passed at a separate General Meeting of the holders of the Shares of the class, and the provisions of Section 65 of the Act shall *mutatis mutandis* apply to the said resolution and meeting as if the resolution were a special resolution. To every such separate General Meeting the provisions of this MOI relating to General Meetings shall *mutatis mutandis* apply save that the necessary **quorum shall be Thirty Three and One Third percent (33.3%) of the voting rights** that are entitled to be exercised by Members present in person or by proxy of all the issued Shares of the class. This article does not curtail the power of the Company to vary the rights attached to any



Share which has not been issued, subject to the provisions of article 6.4 above being adhered to.

- 6.7 The Company may from time to time by special resolution increase the share capital by such sum divided into Shares of such amount, or may increase the number of its Shares of no par value to such number, as the resolution shall prescribe.
- 6.8 New Shares shall be subject to the same provisions as to transfer, transmission and otherwise as the Shares in the original share capital.
- 6.9 The Company may by special resolution:
- 6.9.1 consolidate and divide all or any of its share capital into Shares of larger amount than its existing Shares or consolidate and reduce the number of the issued Shares of no par value;
 - 6.9.2 increase the number of its issued no par value Shares of smaller amount than is fixed by this MOI;
 - 6.9.3 sub-divide its existing Shares or any of them into Shares of smaller amount than is fixed by this MOI;
 - 6.9.4 cancel any Shares which at the date of the passing of the resolution, have not been taken by any Person, or which no Person has agreed to take;
 - 6.9.5 reduce its share capital, stated capital, any capital redemption fund or any share premium account in any manner and with, and subject to, any incident authorized and consent required by law;
 - 6.9.6 convert any of its Shares whether issued or not into Shares of another class.
- 6.10 The Company shall maintain at its registered office a Share register of the Members of the Company and the registration, transfer, issue and certification of Shares shall be in accordance with the provisions of Sections 50 and 51 of the Act.



- 6.11 Every Person whose name is entered in the Share register shall be entitled to one certified copy of a certificate for all the Shares attached to the share block/s and use rights registered in his name or to several certified certificates in respect of each of the share blocks. Every original Member shall be entitled to one certified copy of a Share certificate free of charge but for every subsequent certificate the Directors may make such charge as from time to time they may think fit; provided that if a Share certificate is defaced, lost or destroyed, it may be renewed on the payment of such fee, and on such terms, if any, as to the evidence and indemnity as the Directors may think fit.
- 6.12 Share certificates shall be issued under the authority of the Directors and as prescribed by the Act.

7. LIEN ON SHARES

- 7.1 The Company has a first and paramount lien and a pledge on every Share for the amounts due to it by the holder of such Share whether payment has become due or not. The amounts so due to the Company shall include the costs of any acts performed or proceedings instituted by the Company in its efforts to recover such amounts.
- 7.2 The Company shall not be obliged to recognise the pledge by a Member of any Share in the Company to a third party but as soon as an amount becomes due and payable by a Member to the Company, all Shares held by such Member shall from that moment become pledged by such Member to the Company.
- 7.3 In the event of such Member holding the original Share certificate, then in such event, the Member shall hold the certificate relating to the pledged Share as agent for the Company. A Share shall remain so pledged until the amount due has been settled or the Share has been realised as provided in article 7.5.



- 7.4 Notwithstanding anything to the contrary contained in this MOI the Company shall, upon the issue or replacement of a Share certificate to a Member, retain possession of the Member's original Share certificate/s and shall hold the same in pledge as security for all and any amounts which may be or become owing by the Member to the Company.
- 7.5 The Company shall be entitled to realise any Share on which it has a lien in terms of article 7.1 and any Share becoming pledged to it in terms of article 7.2 and or article 7.3 and/or article 7.4 by realising such Share in the following manner:
- 7.5.1 the holder of the Share shall be given 15 business days notice in writing in accordance with article 22;
- 7.5.2 the notice shall state the amount of the claim, demand payment thereof within the said period of notice and advise the Member that if the amount due remains unpaid the Share shall be sold to recover so much of the debts as may be realised by the sale;
- 7.5.3 the sale shall be by way of a tender process or in such other duly publicised manner as in the *bona fide* opinion of Directors would realise a more favourable price in the circumstances.
- 7.6 The net return of any such sale shall be applied in respect of the amounts due to the Company and the Member shall remain liable for any shortfall. In the event of an over recovery the credit balance, if any, shall be paid to the Member upon demand.
- 7.7 On any sale as aforementioned the Directors may enter the name of the purchaser in the Share register of the Company.
- 7.8 Except as herein further provided, an affidavit by a Director or the secretary of the Company that the Share has been duly sold in accordance with the provisions of the preceding sub-article shall be conclusive evidence of the facts therein stated as against all Persons laying claim to such Shares or the proceeds thereof, and such affidavit and the receipt by the Company of the purchase price of Shares shall be conclusive proof of the rights to such Shares.



8. TRANSFER AND TRANSMISSION OF SHARES

- 8.1 No Share in the capital of the Company shall be capable of being transferred except simultaneously and together with the transfer, cession and assignment of:
- 8.1.1 the relevant portion of the loan obligation allocated to the share block in question, and
 - 8.1.2 the Use Agreement pertaining to the share block in question and the assumption by the transferee of all the transferor's obligations thereunder.
 - 8.1.3 the simultaneous transfer of the 'C' Class Shares in Olifants North and the cession of the relevant Loan Obligation allocated to the share block in Olifants North (if any) and the cession of the Use Agreement pertaining to the share block in Olifants North and the assumption by the transferee of all the Transferor's obligation thereunder.
- 8.2 Save as otherwise provided in this MOI or in the terms of the issue of any class of Shares:
- 8.2.1 Prior to the transfer of Shares to any transferee, the levies and any other amounts due and payable to the Company by the Member must be settled in full, unless otherwise resolved by the Directors.
 - 8.2.2 Save for the transfer of Shares by a Member or by his executors or administrators or other legal representatives to the spouse or any descendant or ascendant of such Member, no Shares may be transferred without the prior written consent and approval of the Directors of the Company, which consent shall not be unreasonably withheld.



- 8.3 No Share may be transferred until the transferee has provided proof, to the satisfaction of the Company, that the provisions of the Income Tax Act have been complied with.
- 8.4 Where the Shares in the Company are held by a corporate body and a change in ownership of the corporate body takes place, resulting in the nomination of a new user/s, the new use/s shall not be recognised by the Company and shall not be entitled to any rights of use of the share block until:
- the new nominated user has been approved and accepted by the Board;
 - the Use Agreement and the Use Agreement of Olifants North is entered into between the nominated user and the Company;
 - the transferee has paid to the Company a fee equal to 2% (two per centum) of the total value of the transaction as declared for transfer duty purposes, plus VAT thereon, for the secretarial and related administration services rendered in respect of the change of User/s."

9. MEMBERSHIP LEVIES

- 9.1 It is recorded that substantially the whole of the Company's funding shall be derived from Member levies contribution in accordance with the provisions of Section 13 of the Share Blocks Act and the Use Agreement, the levies being currently exempt from taxation in terms of Section 10(1)(e) of the Income Tax Act.
- 9.2 Every Member of the Company shall contribute levies monthly:
- 9.2.1. in respect of fixed costs comprising the levy fund, in the proportion of the number of his Shares to the total number of issued Shares of the Company; and
 - 9.2.2 in respect of variable costs comprising the levy fund, in proportion to usage.

Provided that the fixed and variable costs, and the method of determining the



Usage for the purposes of this sub Article, shall be determined by the Directors of the Company.

10. GENERAL MEETINGS

- 10.1 The Company shall in each year hold an annual General Meeting; provided that:
- 10.1.1 not more than 15 (fifteen) months shall elapse between the date of one annual General Meeting and that of the next; and
 - 10.1.2 not more than 6 (six) months shall elapse between the date of the end of the Company's financial year and the date of the annual General Meeting.
- 10.2 The Directors shall have the power to convene other General Meetings of the Company at such time and place as the Directors determine.
- 10.3 The Directors shall also convene other General Meetings where a requisition is made by the number of Members of the Company as required by the Act, failing which such a meeting may be convened by the requisitionists themselves in accordance with the Act.
- 10.4 General Meetings convened in accordance with Sections 61 and 64 of the Act shall be held at such time and at such place as is determined in terms of those sections.

11. NOTICE OF GENERAL MEETINGS

- 11.1 Subject to the provisions of the Act:
- 11.1.1 not less than 15 business days notice in Writing shall be given to all Members;
- 11.2 The notice period as provided for in article 11.1 shall be exclusive of the day on which the notice is served or deemed to be served and inclusive of the date of the meeting.



- 11.3 The notice of a General Meeting shall state-
- 11.3.1 the place, day and hour of that meeting; and
 - 11.3.2 the matters which will be considered, and may be voted on, at such meeting.
- 11.4 A meeting of the Company shall, notwithstanding the fact that it is called by shorter notice than that specified in this article, be deemed to have been duly called if it is so agreed by all of the Members present having a right to attend and vote at the meeting.
- 11.5 The inadvertent omission to give notice of a meeting to, or the non-receipt of a notice of a meeting by any Person entitled to receive such notice, shall not invalidate the proceedings at that meeting.
- 11.6 As may be appropriate at the discretion of the Directors, and available, the Company may provide for participation by Members by electronic communication.

12. PROCEEDINGS AT GENERAL MEETINGS

- 12.1 Members must present reasonably satisfactory identification before attending and participating in the meeting.
- 12.2 The annual General Meeting shall deal with and dispose of all matters prescribed by the Act, including the presentation of the Directors' report, annual audited financial statements, the audit committee report, if applicable, the election of Directors, the appointment or reappointment of an auditor, and may deal with any other business laid before it.
- 12.3 Subject to the provisions of the Act, no business shall be transacted at any General Meeting unless a quorum of Members is present at the time when the meeting proceeds to business. Save as herein otherwise provided, subject to the provisions of Section 64 (3) of the Act, **a quorum at any General**



Meeting shall be no less than 3 (three) Persons representing at least 3% (three percent) of the share capital, and who are entitled to vote and who are present in Person or by proxy at the commencement and throughout the meeting.

- 12.4 If within half-an-hour after the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of Members, shall be dissolved, in any other case it shall stand adjourned to a date 7 (seven) business days later and if at such adjourned meeting a quorum is not present within half-an-hour after the time appointed for the meeting, the Members present in Person and by proxy shall be a quorum.
- 12.5 The Chairman shall preside as Chairman at every General Meeting of the Company.
- 12.6 If at a General Meeting there is no Chairman or the Chairman is not willing to act or is not present within 15 (fifteen) minutes after the time appointed for holding the meeting, 1 (one) of the Directors present shall be Chairman of the meeting.
- 12.7 Subject to the provisions of the Act, the Chairman of the meeting may, with the consent of the majority of Members present at any meeting at which a quorum is present (and shall if so directed by the meeting) adjourn the meeting, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting at which the adjournment took place.

13.VOTES OF MEMBERS AT GENERAL MEETINGS

- 13.1 Every Member who is represented either in Person or by proxy at a General Meeting shall have 1 (one) vote per Share held by such Member.
- 13.2 At a General Meeting a resolution put to the vote of the meeting shall be decided on a show of hands, in which case the Members or their proxy shall



have one vote for all Shares held, and in the event of a poll the Member or his proxy shall have one vote for every Share held.

A poll may be called or demanded (before or after the declaration of the result of the show of hands) by:

13.2.1 the Chairman of the meeting; or

13.2.2 by at least 5 (five) Members present in Person or by proxy having the right to vote at meetings; or

13.2.3 by any Member or Members present in Person or by proxy having the right to vote at the meeting and representing not less than 10% (ten percent) of the total voting rights of all Members having the right to vote at the meeting.

13.3 Any demand for a poll may be withdrawn.

13.4 The poll shall be taken in such a manner as the Chairman of the meeting directs and the results of the poll shall be deemed to be the result of the meeting.

13.5 Where a poll is not demanded a declaration by the Chairman of the meeting that a resolution has been passed as well as the making of an entry to that effect in the book containing the minutes of the proceedings of General Meetings, 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, that the resolution was so passed.

13.6 In the case of an equality of votes, the Chairman of the meeting shall not have a second casting vote unless the Members otherwise determine in the General Meeting.

13.7 For an ordinary resolution to be adopted at a Members meeting, it must be supported by more than 50% of the Members who voted on the resolution, as provided in Section 65 (7) of the Act.



- 13.8 For a special resolution to be adopted at a Members meeting, it must be supported by at least 75% of the Members who voted on the resolution, as provided in Section 65 (9) of the Act.
- 13.9 A special resolution adopted at a Members meeting is required in addition for;
- 13.9.1 Issue of Shares.
 - 13.9.2 Variation of rights attached to the Shares when the share capital is divided into different classes.
 - 13.9.3 Alienation of the Company's immovable property.
 - 13.9.4 Alteration of the share capital.
 - 13.9.5 As may be required in terms of the Act, the Share Blocks Act, and this MOI.
 - 13.9.6 The dissolution or winding up of the Company.
- 13.10 In the case of joint holders, the vote of the Person whose name appears first in the register of Members and tenders a vote, whether in Person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders.

14. RESOLUTION PASSED BY SIGNATURE OF ALL MEMBERS

- 14.1 Subject to the provisions of Section 65 (7) of the Act, an ordinary resolution in Writing signed by the majority of Members of the Company entitled to attend and vote at a General Meeting shall be as valid and effective as if it had been passed at a General Meeting properly held on the date on which the last signature is affixed.
- 14.2 Such resolution may consist of several documents in the same form, each of which is signed in terms of this article, by sufficient Members to constitute a quorum and shall be deemed (unless a statement to the contrary is made on that resolution) to have been passed on the closing date stated in the notice which shall be no less than 20 (twenty) business days after the posting date.



15. RECORDS OF GENERAL MEETINGS

- 15.1 The Directors shall cause a record to be made of the proceedings at every General Meeting, including all resolutions passed at such meetings and shall cause such record and all resolutions passed to be inserted in a book provided for that purpose, or in electronic format.
- 15.2 Any copy of any record or resolution referred to in article 15.1, which purports to be signed by any Director or the Chairman, shall be *prima facie* evidence of the matters stated herein.

16. PROXIES

- 16.1 A Member may appoint a proxy to attend a General Meeting on the Members behalf.
- 16.2 The instrument appointing a proxy shall be in Writing in the usual format available from the registered office or the Company Secretary and signed by the appointer or by his agent duly authorised in writing or, if the appointer is a Person other than a natural person, accompanied by a resolution of its Directors or other governing body authorising the Person named in the proxy to act as its representative at any meeting of the Company.
- 16.3 The holder of a general or special power of attorney, whether he is himself a Member or not, given by a Member, shall be entitled to attend meetings and to vote, if duly authorised under the power to attend and take part in the meeting.
- 16.4 The instrument appointing a proxy to vote at a meeting of the Company shall be deemed also to confer authority to demand or join in demanding a poll, and for the purpose of Section 63 (7) of the Act, a demand by a proxy shall be the same as a demand by a Member.
- 16.5 The instrument appointing a proxy and the power of attorney or the other authority, if any, under which it is signed, shall be deposited at the Office **not**



less than 48 (forty-eight) hours before the time for holding the meeting at which the Person named in the instrument proposes to vote and in default of complying herewith, the instrument of proxy shall not be treated as valid.

- 16.6 No instrument appointing a proxy shall be valid after the expiration of 12 (twelve) months from the date when it was signed, unless so specifically stated in the proxy itself and no proxy shall be used at an adjourned meeting which could not have been used at the original meeting.

17. ELECTION OF DIRECTORS

- 17.1 Not less than three (3) nor more than nine (9) Directors shall be appointed and at each annual General Meeting one third (1/3) of the Directors shall retire from office.
- 17.2 The process for the nomination of Directors shall be in accordance with the following:
- 17.2.1 The Board shall indicate to Members by notice a date, giving 30 business days notice on which the annual General Meeting is to be held and calling for nominations as Directors.
- 17.2.2 Any person shall, subject to Article 18, be eligible for nomination as a candidate for election to the Board.
- 17.2.3 Such written nominations shall reach the secretary of the Company at the Office of the company 30 business days before the day nominated by the Board as being the day on which the annual General Meeting is to be held.
- 17.2.4 Every such nomination shall be proposed and seconded by four Members supported by an acceptance of nomination by the nominee.
- 17.2.5 The names of all the candidates properly nominated shall be included in and form part of the notice convening the annual General Meeting.
- 17.2.6 Every such nominee shall personally submit a short written presentation setting out his or her qualifications for making him or her a suitable candidate and what he or she could contribute to the



company. These presentation summaries shall also accompany the notice convening the annual General Meeting.

- 17.3 The Directors to retire every year shall be those who have been longest in office since their last election, but as between Persons who become Directors in the same day, those to retire shall, unless they otherwise agree among themselves, be determined by lot. A retiring Director shall be eligible for nomination and re-election.
- 17.4 In the event of there being an uneven number of Directors on the Board, the Directors shall determine which Directors in longest office since their last election shall retire.
- 17.5 Subject to the provisions of Section 66 (2)(a), the Company may from time to time in a General Meeting increase or reduce the number of Directors.
- 17.6 Provided that the Board of Directors shall comprise not less than three (3) Directors, any casual vacancy occurring on the Board of Directors may be filled by the Directors, but the Director so appointed shall be subject to retirement at the same time as if he had become a Director on the day on which the Director in whose stead he is appointed was last elected as Director.
- 17.7 The appointment of 2 (two) or more Persons as Directors of the Company by a single resolution shall not be moved unless a resolution that it shall be so moved has first been agreed to by the meeting without any vote against it.
- 17.8 In the event that the resolution referred to in article 17.7 is not moved each Person nominated as a Director shall be voted in individually.
- 17.9 The Directors may elect a Chairman of their meeting and determine the period for which he is to hold office, but if no such Chairman is elected, or if at any meeting the Chairman is not present within five (5) minutes after the time appointed for holding the same, the Directors may elect one of the other Directors to be Chairman of the meeting.



17.10 Each Director shall have the power to nominate with the approval of the Board, any Person whether he is a Member or not, to act as alternate Director in his place during his absence or inability to act as such Director, and on such appointment being made, the alternate Director shall, in all respects, be subject to the terms, qualifications and conditions existing with reference to the other Directors of the Company. A Director, whilst also acting as an alternate Director, shall at any meeting of the Directors be entitled to two (2) votes.

17.11 The alternate Directors, whilst acting in the stead of the Directors who appointed them, shall exercise and discharge all the powers, duties and functions of the Directors they represent. The appointment of an alternate Director shall be revoked, and the alternate Director shall cease to hold office, whenever the Director who appointed him ceases to be a Director or gives notice to the secretary of the Company that the alternate Director representing him has ceased to do so.

18. DISQUALIFICATION AND REMOVAL OF DIRECTORS AND ALTERNATE DIRECTORS

18.1 In addition to the provisions of Section 69 of the Act any Director or alternate Director shall cease to be a Director of the Company on the happening of any of the following events:

18.1.1 his estate is finally sequestrated;

18.1.2 he files a petition for the surrender of his estate as insolvent;

18.1.3 he is placed under curatorship by any court of competent jurisdiction;

18.1.4 he delivers a notice of his resignation at the Office with effect from:

18.1.4.1 the date on which that notice is delivered; or

18.1.4.2 any later date stated in that notice to which the Directors agree;

18.1.5 if he fails to attend meetings of Directors, without prior apology and/or without good cause for 6 (six) consecutive Months without appointing an alternate to represent him;



- 18.1.6 if he is directly or indirectly interested in any contract or proposed contract with the Company and fails to declare his interest and the nature thereof in the manner required by the Act;
- 18.1.7 passes, publishes or causes to be published any information to the press or media, directly or indirectly, which information is confidential or which information will bring the reputation of the Company in disrepute and/or intends to be detrimental to the Company in any way;
- 18.1.8 if, the Director is removed by an ordinary resolution in a General Meeting of Members in accordance with Section 71 of the Act.
- 18.2 A Director and an alternate Director shall be disqualified from acting as such if he is not a Member of the Company, or a nominee of a corporate member of the Company.

19. POWERS AND DUTIES OF DIRECTORS

- 19.1 The business of the Company shall be managed by the Directors who may pay all expenses of the Company, and may exercise all such powers of the Company as are required by the Share Blocks Act, or by this MOI, to be exercised by the Company in a General Meeting.
- 19.2 A Director may himself act, or any firm of which he is a Member be appointed by the Board to act, in a professional capacity (other than as auditor) for the Company, or any other Company in which the Company is interested, and he or his firm shall be entitled to reasonable remuneration for those professional services.
- 19.3 A Director may be employed by or hold any office of profit under the Company or under any subsidiary or holding Company in conjunction with the office of Director, other than that of auditor of the Company or of any subsidiary Company, and any remuneration paid to him shall be in addition to any Director's fees paid by the Company.



- 19.4 The Directors may exercise the voting powers conferred by the Shares held by the Company in any other Company or exercisable by them as Directors of that other Company in any manner they deem fit, notwithstanding any financial interest which they may have in the exercise of those voting powers.
- 19.5 A Director, including a Person who is to become a Director, shall not be disqualified by his office from entering into contracts, arrangements or dealings with the Company, nor shall any contract, arrangement or dealing with the Company be voided, nor shall a Director be liable to account to the Company for any profit arising out of any contract, arrangement or dealing with the Company by reason of such Director being a party to or interested in or deriving profit from any such contract, arrangement or dealing and being at the same time a Director of the Company or by reason of the fiduciary relationship thereby established, but the nature of his interest shall be declared by him in accordance with the provisions of the Act.
- 19.6 A Director shall not be deemed to be interested in any contract or arrangement merely because his alternate or a Director for whom he is an alternate is so interested.
- 19.7 A Director shall not be disqualified by his office from holding any financial interest or office in any other Company or business which has similar interests to those of the Company or any of its subsidiaries or which is engaged in a business of a similar nature to the business carried on by the Company or by any of its subsidiaries.
- 19.8 In terms of the Act, the Directors will be paid reasonable reimbursement for expenses incurred in advancing the objects of the Company and may receive Directors remuneration as determined in a General Meeting of shareholders by special resolution.
- 19.9 The Directors may subject to the provisions of the Statues, from time to time, in their discretion, raise or borrow from the Members or other Persons any sum or sums of money for the purposes of the Company, provided that the amounts in the aggregate so raised or borrowed from time to time shall not



exceed such amount as may be determined by the Company in a General Meeting from time to time.

19.10 The Directors may raise or secure the repayment of such monies in such manner and upon such terms and conditions in all respects as they think fit.

20. PROCEEDINGS OF DIRECTORS

20.1 At the commencement of each year, the Directors shall determine the number of Directors' meetings to be held in that year.

20.2 Any Director is at all times entitled to convene a meeting of the Directors by giving ten (10) business days notice to all Directors, or such shorter notice as may be agreed to by all the Directors.

20.3 The quorum necessary for the transaction of any business of Directors:

20.3.1 shall not be less than two (2) Directors, if there are three (3) Directors in office, and three (3) if there are more than three (3) Directors in Office.

20.3.2 If any Director has or any Directors have been appointed in terms of the provisions of article 17.5, the number of Directors required for a quorum at any meeting of the Directors of the Company, shall include that Director or at least one of those Directors, as the case may be.

20.4 The Directors may participate in a meeting of the Directors by means of conference telephone or similar equipment by means of which all Persons participating in the meeting can hear each other at the same time and any such participation in a meeting shall constitute presence in Person at the meeting.

20.5 All resolutions and actions of the Directors shall be by way of a majority of votes. In the event of an equality of votes, the Chairman shall not have a second or casting vote and the resolution shall be deemed not to have been passed.



- 20.6 Subject to the provisions of Section 75(5) of the Act, a Director may not vote in respect of any contract or proposed contract with the Company in which he is interested, or any matter arising there from.
- 20.7 Subject to the provisions of the Act, a resolution in Writing signed by a majority of Directors, shall be as valid and effective as if it had been passed at a meeting of the Directors duly called and constituted. Any such resolution may consist of several documents in a like form, each signed by one or more of the signatories to the resolution. A resolution of Directors passed in terms of this article shall be placed in the minute book of the Company and shall be noted at the next succeeding meeting of Directors and shall be signed by the Chairman of that meeting, whereupon the provisions of Section 73(8) of the Act shall be deemed to apply to the resolution.
- 20.8 All acts done by any meeting of the Directors or a committee of Directors or by any person acting as a Director shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such Directors or Person acting as aforesaid or that they are or any of them were disqualified, be as valid as if every such Person had been duly appointed and were qualified to be a Director.
- 20.9 If within half an hour after the time appointed for a meeting, a quorum of Directors is not present, then the meeting shall stand adjourned to a day not earlier than five (5) working days, and not later than ten (10) working days after the date of the meeting, as may be decided, and if at such adjourned meeting a quorum is not present within half an hour after the time appointed for the meeting, the Directors present shall form a quorum.

21. RECORDS OF DIRECTORS' MEETINGS

- 21.1 The Directors shall cause minutes to be made of all appointments of officers made by the Directors, the names of the Directors present at each meeting of the Directors and all resolutions passed by the Directors at all meetings of the Directors.



21.2 Minutes of any resolution and proceedings mentioned in article 20.7 appearing in one of the minute books of the Company shall be proof of the facts therein stated if signed by-

21.2.1 the Chairman of the meeting to which it relates; or

21.2.2 any Person present at the meeting and appointed by the Directors to sign in the Chairman's place; or

21.2.3 the Chairman of a subsequent meeting of the Directors.

21.3 Any extracts from or copy of those minutes purporting to be signed by the Chairman of that meeting or any Director shall be *prima facie* proof of the facts therein stated.

22.NOTICES

22.1 A notice may be given by the Company to any Member in accordance with Regulation 7 of the Companies Act.

22.2 Notice of every General Meeting shall be given to the auditor, for the time being, of the Company.

22.3 Any notice shall be deemed to be served in accordance with Annexure 3 (Table CR3) of the Regulations of the Companies Act.

23.WINDING-UP

23.1 Upon dissolution of the Company, the assets which remain after payment of the debts and liabilities of the Company and the costs of liquidation, shall be applied as follows:

23.1.1 To repay to the Members the amount paid up on the Shares respectively held by the Members.

23.1.2 To repay to the Members all amounts paid in respect of the Company's loan obligation, providing that such refund shall be



reduced by the amount that any such Member is in arrear with any debt due to the Company as at the date of winding up of the Company.

23.1.3 The balance remaining after the payments referred to in sub-articles 23.1.1 and 23.1.2 shall be paid to the Members in proportion to the number of Shares held by each Member to the total issued share capital.

24. INDEMNITY

Subject to the provisions of Section 77 of the Act, the members of the Board and officers of the Company shall be indemnified by the Company against all proceedings, costs and expenses incurred by reason of any claim made against them in connection with their conduct of the affairs of the Company.

25. LIMITATION OF LIABILITY OF DIRECTORS

Each Director, alternate Director, manager, executive officer and other officer of the Company, and person employed by the Company as its auditor, shall be indemnified by the Company against any liability incurred by him from time to time in that capacity in defending any proceedings (whether civil or criminal) in which judgement is given in his favour or in which he is acquitted or in respect of any of those proceedings which are abandoned or in connection with any application made under Section 78 of the Act in which relief is granted to him by a Court of competent jurisdiction.

26. ARBITRATION

26.1 In the event of any dispute or difference arising between the Company and/or Directors and/or the Members (hereinafter referred to as "the parties") as to the interpretation of the Use Agreement and/or any other agreement between the parties and/or the Statutes and/or the rights and/or obligations of the parties arising from the MOI, such dispute or difference shall be referred to an arbitrator who shall settle the dispute in terms of and subject



to the principles and conditions of the Arbitration Act No. 42 of 1965 as amended.

- 26.2 The arbitrator shall be appointed by agreement between the parties, provided that in the event of the parties failing to agree on the appointment of an arbitrator within 14 (fourteen) days after receipt of the notice to do so, the party requesting arbitration proceedings may request the Chairperson, for the time being, of the Society of Advocates of the High Court of South Africa of the High Court Division in which the land are situate, to appoint an arbitrator.
- 26.3 The decision of the arbitrator shall be final and binding and may be made an order by any court to whose jurisdiction the parties to the dispute are subject.

27. RESERVES

- 27.1 The Directors may set aside such sum or sums as they think proper as a reserve fund or an addition to any reserve fund. The Directors may divide any reserve fund into such special funds as they think fit with power from time to time to revise such division. The Directors may also transfer funds from one reserve or special fund to another, or others and may also close any one or more of the said reserve or special funds. The Directors may also invest the assets contained in any such fund in such investment (other than shares of the Company) as they may select, without being liable for any depreciation of, or loss in consequence of, any such investment, whether the same be a usual or authorised investment for trust funds or not.
- 27.2 Every reserve fund or special fund created under Article 27.1 may at the discretion of the Directors be applied to making provision for exceptional losses, expenses or contingencies, or to writing down the value of any of the assets of the Company, or to repairing, improving, maintaining or extending any building, plant, machinery or works connected with the business of the Company, or to covering the loss in wear or tear or other depreciation in value of any property of the Company.



28.PRIVATE COMPANY CLAUSES

28.1 The Company is a private company and accordingly:

28.1.1 the company shall not offer any of its shares or debentures to the public for subscription;

28.1.2 the right to transfer its shares is restricted in that the directors may at any time in their absolute discretion, without giving any reason therefore, refuse to register the transfer of any share to any person not approved by them;

28.1.3 the company shall not have power to issue share warrants to bearer.