

I certify that the amendment to sub-clause 17.1.2 of the existing Memorandum of Incorporation was adopted in terms of a Special Resolution of the sole Shareholder of the Company dated 19 December 2017.


Chairperson



REPUBLIC OF SOUTH AFRICA

COMPANIES ACT, 2008

MEMORANDUM OF INCORPORATION FOR A STATE OWNED COMPANY

Name of Company: **TRANSNET SOC LTD**

Registration number: **1990/000900/30**

which is referred to in the rest of this Memorandum of Incorporation as the 'Company'.

The amended sub-clause 17.1.2 of the existing Memorandum of Incorporation was adopted by Special Resolution passed on 19 December 2017 in substitution of sub-clause 17.1.2 of the existing Memorandum of Incorporation of the Company and signed by the Chairperson for purposes of identification.

Preamble

The Company is a pre-existing company as contemplated in Item 2 of Schedule 5 of the Act and exists in accordance with the Enabling Legislation to carry on business in all aspects and branches of transport and harbour operations, it being recorded that the Company is also subject to the provisions of the PFMA. The Government is the sole Shareholder of the Company and the rights attached to such Shares are exercised by the Minister. The Company now wishes to adopt this Memorandum of Incorporation in order to bring its constitution in line with the Act.

The Annexures attached to this Memorandum of Incorporation are incorporated into, and form an integral part of, this Memorandum of Incorporation.



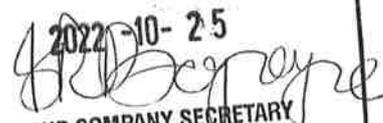
TABLE OF CONTENTS

Clause number and description	Page
1. INTERPRETATION	3
2. PRELIMINARY	9
3. INCORPORATION AND NATURE OF THE COMPANY	9
4. POWERS AND CAPACITY OF THE COMPANY	9
5. AMENDMENTS TO THE MOI	12
6. THE MAKING OF RULES	12
7. AUTHORISED SHARES IN THE CAPITAL OF THE COMPANY	12
8. PRE-EMPTION ON ISSUE OF ORDINARY SHARES	13
9. AUTHORITY TO ALLOT AND ISSUE AUTHORISED SHARES AND SECURITIES	13
10. CERTIFICATES EVIDENCING ISSUED SECURITIES AND SECURITIES REGISTER	14
11. PROHIBITION REGARDING BENEFICIAL INTERESTS	14
12. RESTRICTION ON THE TRANSFER OF SHARES	14
14. RECORD DATE	15
15. SHAREHOLDER'S MEETINGS AND WRITTEN RESOLUTIONS	16
16. APPOINTMENT AND REMOVAL OF THE GROUP CHIEF EXECUTIVE AND THE GROUP CHIEF FINANCIAL OFFICER	24
17. APPOINTMENT OF DIRECTORS	25
18. FINANCIAL ASSISTANCE FOR DIRECTORS AND PRESCRIBED OFFICERS AND THEIR RELATED AND INTER-RELATED PARTIES	36
19. INDEMNITY	38
20. REGISTER OF DISCLOSURES	39
21. BOARD COMMITTEES	39



	2
22. AUDIT COMMITTEE	40
23. REMUNERATION, SOCIAL AND ETHICS COMMITTEE	42
24. REMUNERATION OF DIRECTORS AND MEMBERS OF BOARD AND STATUTORY COMMITTEES	43
25. PRESCRIBED OFFICERS	43
26. APPOINTMENT OF COMPANY SECRETARY	43
27. AUDITORS	45
28. DISTRIBUTIONS TO THE SHAREHOLDER	47
29. LOSS OF DOCUMENTS	49
30. NOTICES	49
31. FINANCIAL YEAR	50
32. CALCULATION OF BUSINESS DAYS	50
33. WINDING UP	51
34. PROTECTION OF WHISTLE-BLOWERS	51
Annexure A – Definitions in the Companies Act	1
Annexure B – Ineligible / disqualified in terms of section 69(7) and (8) of the Act read with Regulation 39(3)	1
Annexure C – Prescribed methods of delivery in the Regulations	3

**CERTIFIED TO BE
A TRUE COPY**

2022-10-25

**GROUP COMPANY SECRETARY
TRANSNET SOC LTD**

1. INTERPRETATION

In this MOI:-

- 1.1. words that are defined in the Act (which are contained in **Annexure A** for ease reference), but not defined in this MOI will bear the same meaning in this MOI as in the Act. For ease of reading, such terms have been capitalised in this MOI;
- 1.2. unless the context provides or requires otherwise:-
- 1.2.1. **"Act"** means the Companies Act, No. 71 of 2008 or any legislation which replaces it;
- 1.2.2. **"APA"** means the Auditing Profession Act, No. 26 of 2005 or any legislation which replaces it;
- 1.2.3. **"Applicable Legislation"** means any legislation, regulation, rules of practice of all the Courts in the Republic, by-law, policy or directive document presently in existence or coming into existence after the Effective Date and during the term of this MOI which is applicable to the Company or its Subsidiaries;
- 1.2.4. **"Board"** means the "board of directors" of the Company from time to time, as defined in the Act, which is also the accounting authority for purposes of the PFMA;
- 1.2.5. **"Chairperson"** means the person who is appointed as the chairperson of the Board and the Company, in accordance with clause 17.2;
- 1.2.6. **"Company"** means Transnet SOC Ltd, registration number 1990/000900/30, or by whatever other name it may be known from time to time;
- 1.2.7. **"Company Secretary"** means the Person who is appointed as the company secretary from time to time, in accordance with the provisions of section 88 and clause 26 of this MOI;
- 1.2.8. **"Corporate Plan"** means the three year plan of the Company as contemplated in the PFMA read with the Treasury Regulations, which plan must include (but is not limited to) –
- 1.2.8.1. strategic objectives and outcomes identified and agreed on by the executive authority in the Shareholder's Compact;
- 1.2.8.2. strategic and business initiatives as embodied in business function strategies;



- 1.2.8.3. key performance measures and indicators for assessing the Company's performance in delivering the desired outcomes and objectives;
- 1.2.8.4. a risk management plan;
- 1.2.8.5. a fraud prevention plan;
- 1.2.8.6. the SMF;
- 1.2.8.7. a financial plan addressing –
- 1.2.8.7.1. quarterly projections for the first year of revenue, expenditure and borrowings against annual targets;
- 1.2.8.7.2. asset and liability management;
- 1.2.8.7.3. cash flow projections;
- 1.2.8.7.4. capital expenditure programmes;
- 1.2.8.7.5. dividend policies; and
- 1.2.8.7.6. such other issues as may be required in terms of the PFMA from time to time;
- 1.2.9. "Deliver" means deliver in the manner in which the Company is entitled to give notice or deliver documents in accordance with clause 30 and the Act, including Table CR3 of the Regulations, which is attached hereto as Annexure C and 'Delivered' and 'Delivering' shall have the corresponding meaning as the context may indicate;
- 1.2.10. "DoA" means the Delegation of Authority Framework approved by the Board from time to time;
- 1.2.11. "Electronic Address" means in regard to Electronic Communication, any email address furnished to the Company by the Shareholder;
- 1.2.12. "Enabling Legislation" means the Legal Succession to the South African Transport Services Act, No. 9 of 1989, or any legislation which replaces it;
- 1.2.13. "Gazette" means the Government Gazette of the Republic;
- 1.2.14. "Government" means the Government of the Republic, which includes for the purposes of this MOI, the "State" being the Republic;



- 1.2.15. **"Group Chief Executive"** means the group chief executive of the Company;
- 1.2.16. **"Group Chief Financial Officer"** means the group chief financial officer of the Company;
- 1.2.17. **"Guidelines"** means the 'guidelines for the appointment of a Chief Executive Officer for a State Owned Enterprise' as Issued by the Shareholder from time to time;
- 1.2.18. **"Ineligible or Disqualified"** means ineligible or disqualified as contemplated in the Act (a list of which is in Annexure B for ease of reference but which does not form part of this MOI for purposes of interpretation) or as contemplated in clause 17.9.3.1 which shall apply not only to Directors but also to Prescribed Officers, members of Board and statutory committees and the Company Secretary;
- 1.2.19. **"Minister"** means the Minister of Public Enterprises in his capacity as the representative of the Government and the executive authority (as defined in the PFMA) of the Company, or if any other Minister is designated as being the representative of the Government or the executive authority with respect to the Company, then that Minister acting in such capacity;
- 1.2.20. **"MOI"** means this Memorandum of Incorporation;
- 1.2.21. **"Month"** means a calendar month;
- 1.2.22. **"Ordinary Resolution"** means a resolution adopted with the support of more than 50% (fifty per cent) of the Voting Rights Exercised on the resolution at a Shareholder's Meeting, or by the Shareholder acting other than at a meeting, as contemplated in section 60;
- 1.2.23. **"PAA"** means the Public Audit Act, No. 25 of 2004 or any legislation which replaces it;
- 1.2.24. **"PFMA"** means the Public Finance Management Act, No. 1 of 1999, or any legislation which replaces it;
- 1.2.25. **"Prescribed Officer"** means a Person who, within a company, performs any function that has been designated by the Minister of Trade and Industry in terms of section 66(10), read with Regulation 38;
- 1.2.26. **"Present"** shall have the meaning ascribed to the terms "present at a meeting" in the Act;



- 1.2.27 **"Remuneration Policy"** means the remuneration policy of the Company which will include and incorporate "Remuneration Guidelines" and/or "Standards" on remuneration issued by the Minister from time to time as confirmed by the Company on an annual or biannual basis as contemplated in clause 15.1.1.3;
- 1.2.28. **"Remuneration, Social and Ethics Committee"** means the Board committee, appointed in accordance with the provisions of clause 23 of the MOI, sections 72(1), 72(4) to 72(10) and Regulation 43;
- 1.2.29. **"Republic"** means the Republic of South Africa;
- 1.2.30. **"Securities Services Act"** means the Securities Services Act, No. 36 of 2004, or any legislation which replaces it;
- 1.2.31. **"Shareholder"** means the Government represented by the Minister;
- 1.2.32. **"Shareholder's Meeting"** means with respect to any particular matter concerning the Company, a meeting of the Shareholder who is entitled to Exercise Voting Rights in relation to that matter;
- 1.2.33. **"Shareholder's Compact"** means the shareholder's compact, being an agreement entered into in terms of the Treasury Regulations, between the Shareholder and the Board, on an annual basis;
- 1.2.34. **"Sign"** and **"Signature"** include, respectively, lithography, printing, electronic signature or signing by a mechanical or electronic process or means;
- 1.2.35. **"SMF"** means the significance and materiality framework applicable to the Company, developed under Treasury Regulations;
- 1.2.36. **"Special Resolution"** means a resolution adopted with the support of at least 75% (seventy five per cent) of the Voting Rights Exercised on the resolution at a Shareholder's Meeting or by the Shareholder acting other than at a meeting, as contemplated in section 60;
- 1.2.37 **"Strategic Intent Statement"** means the primary tool used by the Shareholder to communicate its expectations of the Company strategy and which contains the Company's strategic purpose, scope of business, core business, consultation thresholds or investment strategy developed by the Shareholder in consultation with sector departments, National Treasury and the Presidency of the Republic and taking into account an assessment of the interaction between the policy and regulatory environment with the financial and operational goals of the Company



to ensure shareholder value optimisation and achievement of wider socio-economic objectives;

- 1.2.38. **"Strict Liability"** means a legal responsibility imposed by the Enabling Legislation and Applicable Legislation or incurred without the necessity to prove that a Director was negligent or directly at fault or criminally intent, regardless of culpability, in respect of damages and/or loss caused by a Director's acts and/or omissions;
- 1.2.39. **"Treasury Regulations"** means the regulations issued by the National Treasury in terms of section 76 of the PFMA and any amendment thereof or substitution therefor from time to time;
- 1.2.40. **"Voting Rights"**, with respect to any matter to be decided by the Company, means the rights of the Shareholder to vote in connection with that matter;
- 1.2.41. **"Writing"** and **"Written"** includes Electronic Communication but as regards any Shareholder entitled to vote, only to the extent that such Shareholder has notified the Company of an Electronic Address; and
- 1.2.42. **"Written Resolution"** means a resolution passed other than at a –
- 1.2.42.1. Shareholder's Meeting, which –
- 1.2.42.1.1 was submitted for consideration to the Persons entitled to Exercise Voting Rights in relation to the resolution; and
- 1.2.42.1.2 was voted on by the Shareholder or by a duly authorised representative at least 75% (seventy five percent) of the Persons entitled to vote contemplated in clause 16 by signing a resolution in counterparts within 10 (ten) Business Days after the resolution was submitted to them;
- 1.2.42.2. meeting of the Board, in respect of which, subject to clause 17.6.10, 75% (seventy per cent) of all of the Directors voted in favour by signing in Writing a resolution in counterparts, within 10 (ten) Business Days after the resolution was submitted to them.
- 1.3. Words importing the singular number shall include the plural number and vice versa.
- 1.4. Words importing any one gender shall include the other two genders.



- 1.5. Words importing natural persons shall include Juristic Persons (whether corporate or not and including partnerships and trusts) and *vice versa*.
- 1.6. Any reference to a section by number in this MOI shall be a reference to the corresponding section in the Act, unless otherwise stated.
- 1.7. Reference to any provision of the Act, and the Applicable Legislation shall include such provision as amended or re-enacted from time to time and includes any subordinate legislation made from time to time under the Act, or the Applicable Legislation. Any reference to a particular section in the Act, and the Applicable Legislation is to that section as at the date of adoption of this MOI, and as amended or re-enacted from time to time and/or an equivalent measure in the Act, and the Applicable Legislation, 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.
- 1.8. Reference to a Shareholder represented by proxy shall include a Shareholder, entitled to vote, represented by an agent appointed under a general or special power of attorney and reference to a Shareholder, entitled to vote, Present at a Shareholder's Meeting or acting in person and shall include Juristic Persons or corporations represented by a duly authorised representative or acting in the manner prescribed by the Act, or the Applicable Legislation.
- 1.9. Subject to the preceding clause, any term or words or expressions defined in the Act, the Enabling Legislation, or the Applicable Legislation shall, unless the context otherwise requires, bear the same meaning in this MOI ascribed to it in the Act, the Enabling Legislation, or the Applicable Legislation in which they are defined. 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 provisions of the Act, the provisions of the Act shall prevail, and this MOI shall be read in all respects subject to the 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. Headings are intended for reference purposes only and shall not be taken into account in the interpretation of this MOI.
- 1.13. The words "include", "including" and "in particular" shall be construed as being by way of example or emphasis only and shall not be construed, nor shall they take effect, as limiting the generality of any preceding word/s.



1.14. Any reference in this MOI to any other agreement or document shall be construed as a reference to such other agreement or document as same may have been, or may from time to time be, amended, varied, novated or supplemented.

1.15. The words "other" and "otherwise" shall not be construed *eiusdem generis* with any preceding words where a wider construction is possible.

2. PRELIMINARY

Subject to section 5(4) and notwithstanding the omission from this MOI of any provisions to that effect, the Company may do anything that the Act and/or the PFMA and/or Applicable Legislation empowers it to do, even if not specifically so authorised by the MOI.

3. INCORPORATION AND NATURE OF THE COMPANY

3.1 The Company is a pre-existing Company incorporated on 19 February 1990 and is a State-Owned Company as defined in the Act.

3.2 The Company is incorporated in accordance with and governed by:-

3.2.1. the Enabling Legislation;

3.2.2. the PFMA;

3.2.3. the unalterable provisions of the Act;

3.2.4. the alterable provisions of the Act, subject to the limitations, extensions and variations set out in this MOI;

3.2.5. the provisions of this MOI; and

3.2.6. any other Applicable Legislation.

4. POWERS AND CAPACITY OF THE COMPANY

4.1. The Company has the powers and capacity of an individual, unless otherwise provided in this MOI.

4.2. The Shareholder may ratify any action by the Company or the Board which is inconsistent with any limit, restriction or qualification.

4.3. To the extent that the Company has wholly-owned Subsidiaries, the applicable principles contained in this MOI which apply to the Company by virtue of it being a State-Owned Company under the portfolio of the Department of Public Enterprises shall apply to such Subsidiaries of the Company for the same reason.



Financial

- 4.4. The Company shall not, without the prior Written approval of the Shareholder:-
- 4.4.1. enter into any transaction which exceeds or falls outside of the limits prescribed by the Shareholder's Compact or the SMF; or
 - 4.4.2. establish or participate in –
 - 4.4.2.1. the establishment of a company; or
 - 4.4.2.2. a significant partnership, trust, unincorporated joint venture or similar arrangement; or
 - 4.4.3. acquire or dispose of a significant shareholding in a company or a significant asset; or
 - 4.4.4. dispose of movable assets (excluding sale of scrap) of a value exceeding the limits prescribed by the Shareholder's Compact or the SMF; or
 - 4.4.5. commence or cease a significant business activity; or
 - 4.4.6. commit the Company or its Subsidiaries to borrowings which confer rights to a lender to convert debt into shares of any kind; or
 - 4.4.7. undertake or agree to a significant change in the nature or extent of the Company's interest in a significant partnership, trust, unincorporated joint venture or similar arrangement; or
 - 4.4.8. increase, reduce or alter the Share capital of the Company and the allotment, issue or other disposal of Shares (except for Shares allotted under the group share incentive scheme of the Company, if any); or
 - 4.4.9. declare dividends, or make any Distributions, subject to and in accordance with the provisions of clause 15.1.1.13; or
 - 4.4.10. approve the strategic objectives of the Company and any subsequent material changes in the strategic direction;

The Board's power to affect borrowing

- 4.5. Subject to the provisions of the PFMA (and, in particular, section 66 of the PFMA), the Board may raise or borrow from time to time for the purposes of the Company, or secure the payment of, such sums as is in accordance with its Corporate Plan and the borrowing programme



submitted to the Shareholder, unless otherwise determined by the Shareholder under clause 4.5

4.5.1. The Board may not –

4.5.1.1. issue a guarantee, indemnity or security; or

4.5.1.2. enter into any other transactions that bind, or may bind, the Company or the Revenue Fund as defined in the PFMA to any future financial commitment,

unless –

4.5.1.3. the provisions of the PFMA, in particular, section 66 thereof, are complied with; and

4.5.1.4. if the guarantee, indemnity, security or transaction exceeds the financial limits as prescribed by the Shareholder under clause 4.5, the prior Written consent of the Shareholder is obtained.

4.5.2. Subject, at all times to the PFMA, the Shareholder may, from time to time:-

4.5.2.1. specify any limitations regarding the general authority of the Company to raise or borrow funds, from time to time, for the purposes of the Company, or secure the payment of, such sums; and/or

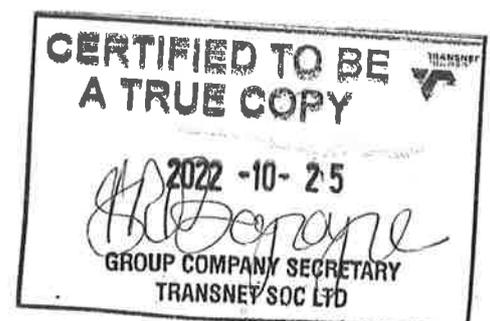
4.5.2.2. prescribe a financial limit for the issue of guarantees, indemnities, Securities or the entering into of other transactions, in terms of which specific Shareholder approval is not required where such transactions are not as contemplated in the borrowing programme submitted.

4.5.3. The Board shall, in accordance with the PFMA and the Applicable Legislation, consider and determine the funding structures of the Company having regard to the funding requirements of the Company from time to time.

Regulatory

4.6. The Company shall not, without the prior Written approval of the Shareholder:-

4.6.1. approve the terms and conditions of the Company's rights issues, public offers, capital issues or issues of convertible Securities including Shares or convertible Securities issued for acquisitions; or



- 4.6.2 authorise the issue prospectuses for Shares, placing documents, listing particulars, rights offers or takeover or merger documents; or
- 4.6.3 decide to list the Company's Shares on any stock exchange or to terminate any such listing.
- 4.7. In addition to the limitations and restrictions set out in clause 4.3, 4.4, 0 and 4.6 –
- 4.7.1. the Board shall ensure that –
- 4.7.1.1. the proposed Shareholder's Compact for the following Financial Year be submitted to the Shareholder by 30 September each year;
- 4.7.1.2. the annual budget and the Corporate Plan of the Company shall be presented and/or submitted to the Shareholder, prior to 28 February each year; and
- 4.7.1.3. the Company discloses to the Shareholder all changes to terms and conditions of trade which may result in a Material impact on the Company.
- 4.8. The Shareholder may, after consultation with the Board, issue directives to the Board regarding the mandate and objectives of the Company if it is reasonably necessary to do so.

5. AMENDMENTS TO THE MOI

- 5.1. Save for 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, which the Board is empowered to do, all other amendments of the MOI shall be effected in accordance with sections 16(1) and 16(4), and to the extent necessary, the Applicable Legislation and the provisions of this MOI.
- 5.2. The Board shall publish a notice of any such correction effected by the Board on the Company's website.

6. THE MAKING OF RULES

The Board of the Company shall not be entitled to make any Rules, as defined in the Act.

7. AUTHORISED SHARES IN THE CAPITAL OF THE COMPANY

- 7.1. It is recorded that as at the date of this MOI, the Company has an authorised share capital of 30 000 000 000 (thirty billion) ordinary Shares with a par value of R1.00 (one rand) each and 12 680 986 310 (twelve billion, six hundred and sixty million, nine hundred and eighty six



thousand, three hundred ten) ordinary Shares with a par value of R1.00 (one rand) each in issue.

7.2. The issued and unissued Shares shall:

7.2.1 have ordinary Voting Rights attached to such shares in respect of every matter that may be decided by voting; and

7.2.2 shall 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.

7.3. The Board shall not have the power to amend the authorised share capital (including increasing or decreasing the number) and the classification of such shares (including determining rights and preferences) as contemplated in section 36(2)(b) or 36(3).

7.4. To the extent that the Company immediately before the Effective Date has authorised but unissued par value Shares in its capital of a class of which there are issued Shares, the unissued Shares of that class may be issued at par or at a premium or at a discount.

7.5. All or any of the 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 with the sanction of a Special Resolution at a separate meeting of the Shareholder. The provisions of this MOI relating to Shareholder's Meetings shall *mutatis mutandis* apply to any such separate meeting except that –

7.5.1 the necessary quorum shall be 50% (fifty per cent) of all Voting Rights that are entitled to be exercised in respect of that class of Shares;

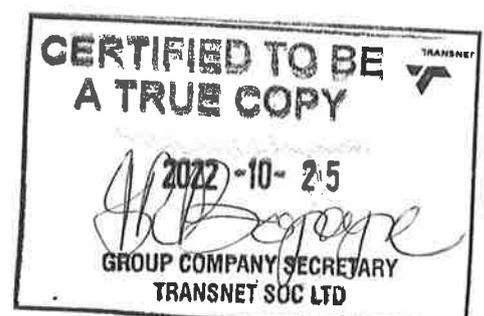
7.5.2 if at any adjourned or postponed meeting of the Shareholders, the required quorum contemplated in clause 7.5.1 is not present, those Persons entitled to vote who are Present shall be a quorum.

8. **PRE-EMPTION ON ISSUE OF ORDINARY SHARES**

There shall be no rights of pre-emption in respect of the issue of ordinary Shares.

9. **AUTHORITY TO ALLOT AND ISSUE AUTHORISED SHARES AND SECURITIES**

9.1. The Board shall not have the power to allot or issue Shares, options relating to such Shares and secured and unsecured debt Instruments as contemplated in section 43.



9.2. The Board may not issue capitalisation Shares or offer a cash payment in lieu of awarding a capitalisation Share as contemplated in section 47.

9.3. As regards the Issue of –

9.3.1 Shares contemplated in sections 41(1) and (3), the Board shall not have the power to allot or issue same without the prior approval by a Special Resolution;

9.3.2 secured and unsecured debt instruments to which special privileges are to be granted as contemplated in section 43(3), the Board shall not have the power to allot or issue same without the prior approval of an Ordinary Resolution; or

9.3.3 other Securities, the Board shall not have the power to allot or issue same without the prior approval of an Ordinary Resolution.

9.4. Any such approval may be in the form of a general authority to the Board, whether conditional or unconditional, to allot or issue any such Securities contemplated in clauses 9.3.1 and 9.3.3 in their discretion, or in the form of a specific authority in respect of any particular allotment or issue of such Securities contemplated in clauses 9.3.1 and 9.3.3. Such authority shall endure for the period provided in the Ordinary Resolution or Special Resolution in question but may be revoked by Ordinary Resolution or Special Resolution, as the case may be, at any time.

9.5. The Board shall determine the terms of any trust agreement contemplated in section 40(5)(b) in respect of the issue of any Shares by reason of not having been fully paid for upon the issuing thereof.

10. CERTIFICATES EVIDENCING ISSUED SECURITIES AND SECURITIES REGISTER

10.1. The Securities issued by the Company shall be evidenced by certificates, which shall contain the information specified in section 51(1), and which shall be issued in the manner prescribed in section 51.

10.2. The Company shall establish and keep a register of its issued Shares at its Registered Office in the manner specified in section 50 and the Regulations.

11. PROHIBITION REGARDING BENEFICIAL INTERESTS

The Company shall not permit Shares to be held by, and registered in the name of, one Person for the Beneficial Interest of another, as contemplated in section 56(1).

12. RESTRICTION ON THE TRANSFER OF SHARES

In addition to any prescribed obligations which the Shareholder may agree to, the Company shall not transfer Shares without the prior Written consent of the Shareholder.



13. SHAREHOLDER'S AND DIRECTORS' RIGHT TO INFORMATION

- 13.1 Save as contemplated in clauses 13.2 and 13.3, the Shareholder does not have any additional rights to access to information other than the rights to access to information as contemplated section 26 read with Regulation 24 and the Applicable Legislation.
- 13.2 The Board shall procure that detailed management accounts of the Company and its Subsidiaries, inclusive of progress made against the Corporate Plan, shall be prepared on a quarterly basis and submitted to the Shareholder within the Month after the end of the quarter in respect of which such accounts are being prepared. Such management accounts shall be circulated on a quarterly basis to each Director of the Board and the Shareholder.
- 13.3 Any Director or the Shareholder shall be entitled to request from time to time such accounting and other information as may be reasonably required by such Director or the Shareholder.

14. RECORD DATE

- 14.1 If, at any time, the Board fails to determine a Record Date as contemplated in section 59 the Record Date for the relevant action or event is as determined in accordance with section 59(3).
- 14.2 Notwithstanding the provisions of clause 14.1 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.
- 14.3 If, at any time, the Board fails to determine a Record Date, the Record Date for the relevant matter is –
- 14.3.1 in the case of a Shareholder's Meeting, the latest date by which the Company is required to Deliver to Shareholders entitled to vote, notice of that Shareholder's Meeting; or
- 14.3.2 in any other case, the date of the action or event.
- 14.4 The Company must publish a notice of a Record Date for any matter by –
- 14.4.1 Delivering a copy to the Shareholder (and clause 30.3 shall not apply); and
- 14.4.2 posting a conspicuous copy of the notice –
- 14.4.2.1 at its Registered Office; or
- 14.4.2.2 on its website, if it has one.



15. **SHAREHOLDER'S MEETINGS AND WRITTEN RESOLUTIONS**15.1. Convening of Shareholder's Meetings and Annual General Meetings

15.1.1 The Company or, for so long as the Government is the sole Shareholder, the Minister shall convene an Annual General Meeting once in every calendar year, but not 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 –

15.1.1.1. presentation of the Integrated Annual Report, comprising of –

15.1.1.1.1. the Directors' report;

15.1.1.1.2. audited Financial Statements for the immediately preceding Financial Year;

15.1.1.1.3. an audit committee report;

15.1.1.1.4. the external Auditors' report;

15.1.1.1.5. Remuneration, Social and Ethics Committee report;

15.1.1.2. appointment of Directors, to the extent required by the Act or the MOI;

15.1.1.3. consideration of the Remuneration Policy of the Company and confirmation that such Remuneration Policy is in accordance with the standards and/or guidelines issued by the Minister;

15.1.1.4. approval of the remuneration payable to Directors (both executive and non-executive) and members of the executive committee of the Company, by Special Resolution (except where Directors remuneration has been approved by the Shareholder by Special Resolution within the previous 2 (two) years) although this may be reviewed on an annual basis if so required by the Shareholder;

15.1.1.5. approval of the Auditor for the current Financial Year (subject to the provisions of section 84(3) of the Act);

15.1.1.6. noting of the audit fees for the previous Financial Year under review;

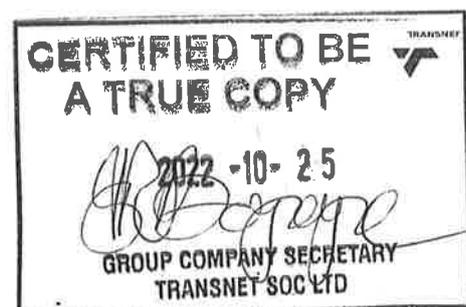
15.1.1.7. authorising the audit committee to determine the audit fees for the current Financial Year;



- 15.1.1.8. appointing the audit committee subject to clause 22;
 - 15.1.1.9. consideration of the Strategic Intent Statement;
 - 15.1.1.10. noting of the Shareholder's Compact for the current Financial Year;
 - 15.1.1.11. the approval and/or consideration of the Shareholder's Compact for the following Financial Year;
 - 15.1.1.12. the approval and/or consideration of the SMF;
 - 15.1.1.13. approval, of the Shareholder, of a Distribution (if applicable), which shall have been approved by the Board prior to the Annual General Meeting in accordance with any Distribution policies applicable to the Company, from time to time and the provisions of clause 28;
 - 15.1.1.14. consideration of the performance of the Board through the Board Performance Appraisal report; and
 - 15.1.1.15. any matters raised by the Shareholder, with or without advance notice to the Company; and
 - 15.1.1.16. confirmation of the Remuneration, Social and Ethics Committee members.
- 15.1.2. The Company shall, as determined by the Board, either –
- 15.1.2.1 hold a Shareholder's Meeting in order to consider one or more resolutions; or
 - 15.1.2.2. as regards such resolution/s that could be voted on at a Shareholder's Meeting, other than an Annual General Meeting, instead require them to be dealt with by Written Resolution contemplated in clause 1.2.42.1.
- 15.1.3. Within 10 (ten) Business Days after a Written Resolution is adopted, the Company must Deliver a statement describing the results of the vote, consent process, or election to every Shareholder who was entitled to vote on or consent to the Written Resolution.
- 15.1.4. A Company must hold a Shareholder's Meeting or put the proposed resolution by way of a Written Resolution contemplated in clause 1.2.42:-
- 15.1.4.1 at any time that the Board is required by the Act or the MOI to refer a matter to Shareholders entitled to vote for decision;



- 15.1.4.2. whenever required to fill a vacancy on the Board.
- 15.1.5. Each proposed 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 Shareholder's 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.
- 15.1.6. The Board or, for as long as the Government is the sole Shareholder, the Minister may, whenever she/he thinks fit, convene a Shareholder's Meeting or put a proposed resolution by way of a Written Resolution contemplated in clause 1.2.42.1. A Shareholder's Meeting must be convened or the Board must put the proposed resolution by way of a Written Resolution contemplated in clause 1.2.42.1 if one or more Written and signed demands for such a Shareholder's Meeting or Written Resolution is/are delivered to the Company, and —
- 15.1.6.1. each such demand describes the specific purpose for which the Shareholder's Meeting is proposed; and
- 15.1.6.2. in aggregate, demands for substantially the same purpose are made and signed by the Shareholders at the earliest time specified in any of those demands, of at least 100% (one hundred percent) of the Voting Rights entitled to be exercised in relation to the matter proposed to be considered at the Shareholder's Meeting.
- 15.1.7. Written Resolutions contemplated in clause 1.2.42.1, will be passed if signed by a majority of at least 75% (seventy five percent) of the 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 Shareholder's Meeting.
- 15.1.8. The authority of the Company to conduct a Shareholder's Meeting entirely by Electronic Communication, or to provide for participation in a Shareholder's Meeting by Electronic Communication so long as the Electronic Communication employed ordinarily enables all Persons participating in that Shareholder's Meeting to communicate concurrently with each other without an intermediary, and to participate reasonably effectively in the Shareholder's Meeting, as set out in section 63(2), is not limited or restricted.



15.2. Notice of Shareholder's Meetings

- 15.2.1 A Shareholder's Meeting shall be called by at least 15 (fifteen) Business Days' notice Delivered by the Board (and for this purpose clause 30.3 shall not apply) to all Shareholders entitled to vote or otherwise entitled to receive notice.
- 15.2.2 The Company or, for as long as the Government is the sole Shareholder, the Minister may call a Shareholder's Meeting with less notice than required by clause 15.2.1, but such a Shareholder's Meeting may proceed only if every Person who is entitled to Exercise Voting Rights in respect of any item on the meeting agenda:-
- 15.2.2.1. acknowledges actual receipt of the notice;
- 15.2.2.2. Is Present at the Shareholder's Meeting; and
- 15.2.2.3. votes to waive the required minimum notice of the Shareholder's Meeting.
- 15.2.3. A Shareholder entitled to vote, who Is Present at a Shareholder's Meeting –
- 15.2.3.1 Is regarded as having received or waived notice of the Shareholder's Meeting;
- 15.2.3.2. has a right to –
- 15.2.3.2.1 allege a Material defect in the form of notice for a particular item on the agenda for the Shareholder's Meeting; and
- 15.2.3.2.2. participate in the determination whether to waive the requirements for notice, if at least the required minimum notice was given, or to ratify a defective notice; and
- 15.2.3.3. except to the extent set out in clause 15.2.4.2 is regarded to have waived any right based on an actual or alleged Material defect in the notice of the Shareholder's Meeting.
- 15.2.4. A notice of a Shareholder's Meeting must be in Writing, in plain language and must include:-
- 15.2.4.1. the date, time and place for the Shareholder's Meeting, and the Record Date for the Shareholder's Meeting;



- 15.2.4.2. the general purpose of the Shareholder's Meeting, and any specific purpose contemplated in clause 15.1.1, if applicable;
- 15.2.4.3. 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;
- 15.2.4.4. a copy of any proposed resolution of which the Company has received notice, and which is to be considered at the Shareholder's Meeting, and a notice of the percentage of Voting Rights that will be required for that resolution to be adopted;
- 15.2.4.5. a reasonably prominent statement:-
- 15.2.4.5.1 that a Shareholder entitled to attend and vote at the Shareholder's Meeting shall be entitled to appoint a proxy to attend, participate in, speak and vote at the Shareholder's Meeting in the place of the Shareholder entitled to vote or give or withhold Written consent on behalf of the Shareholder entitled to vote to a decision by Written Resolution contemplated in clause 1.2.42.1;
- 15.2.4.5.2. that a proxy need not be a Shareholder;
- 15.2.4.5.3. that a Shareholder entitled to vote may appoint more than 1 (one) proxy to exercise Voting Rights attached to different Shares held by that Shareholder entitled to vote in respect of any Shareholder's Meeting and may appoint more than 1 (one) proxy to exercise Voting Rights attached to different Shares held by the Shareholder which entitle her/him/it to vote;
- 15.2.4.5.4. that the proxy may delegate the authority granted to her/him/it as proxy, subject to any restriction in the proxy itself;
- 15.2.4.5.5. that participants in a Shareholder's Meeting are required to furnish satisfactory identification in terms of section 63(1) in order to reasonably satisfy the Person presiding at the Shareholder's Meeting that



the right of that person to participate and vote, either as the Shareholder, or as a proxy for the Shareholder, has been reasonably verified;

15.2.4.5.6. of the availability of that participation in the Shareholder's Meeting by Electronic Communication, and provide any necessary information to enable 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 Shareholder entitled to vote or proxy, except to the extent that the Company determines otherwise.

15.2.5. A Shareholder's Meeting may proceed notwithstanding a Material defect in the giving of the notice, subject to clause 15.2.7, only if every Person who is entitled to Exercise Voting Rights in respect of each item on the agenda of the Shareholder's Meeting is Present at the Shareholder's Meeting and votes to approve the ratification of the defective notice.

15.2.6. If a Material defect in the form or manner of giving notice of a Shareholder's Meeting relates only to one or more particular matters on the agenda for the Shareholder's Meeting:-

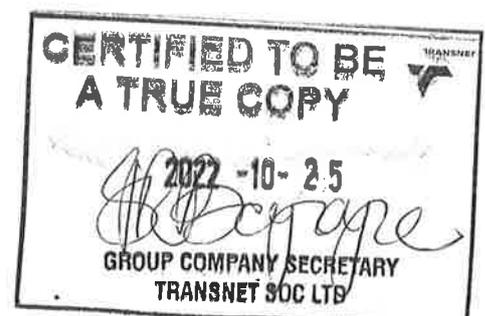
15.2.6.1. any such matter may be removed from the agenda, and the notice remains valid with respect to any remaining matters on the agenda; and

15.2.6.2. the Shareholder's Meeting may proceed to consider a removed matter, if the defective notice in respect of that matter has been ratified.

15.2.7. An Immaterial defect in the form or manner of Delivering notice of a Shareholder's Meeting, or an accidental or inadvertent failure in the Delivery of the notice to any particular Shareholder to whom it was addressed, if the Company elects to do so, does not invalidate any action taken at the Shareholder's Meeting.

15.3. Meeting quorum and adjournment and postponement

15.3.1 Business may be transacted at any Shareholder's Meeting only while a quorum is Present.



- 15.3.2 The quorum necessary for the commencement of a Shareholder's Meeting or for a matter to be considered at a Shareholder's meeting shall be the Minister Present in person or represented by proxy.
- 15.3.3 If within 30 (thirty) minutes from the time appointed for the Shareholder's Meeting to commence, a quorum is not Present, the Shareholders Meeting shall be postponed, without motion, vote or further notice, subject to clause 15.4.1, to the date, time and place as agreed to by the Shareholder as soon as reasonably practicable, after the date of such postponed or adjourned meeting.
- 15.3.4 A Shareholder's Meeting, or the consideration of any matter being debated at the Shareholder's Meeting, may be adjourned or postponed from time to time without further notice on a motion supported by Persons entitled to Exercise, in aggregate, a majority of the Voting Rights —
- 15.3.4.1 held by all of the Persons who are Present at the Shareholder's Meeting at the time; and
- 15.3.4.2 that are entitled to be Exercised on at least one matter remaining on the agenda of the Shareholder's Meeting, or on the matter under debate, as the case may be.
- 15.3.5 Such adjournment or postponement 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 Shareholder) as agreed at the Shareholder's Meeting.
- 15.3.6 A Shareholder's Meeting may not be adjourned or postponed beyond the earlier of:-
- 15.3.6.1 the date that is 120 (one hundred and twenty) Business Days after the Record Date; or
- 15.3.6.2 the date that is 60 (sixty) Business Days after the date on which the adjournment or postponement occurred.
- 15.3.7 No further notice is required to be Delivered by the Company of a Shareholder's Meeting that is postponed or adjourned as contemplated in clause 15.3.6, unless the location for the Shareholder's Meeting is different from:-
- 15.3.7.1 the location of the postponed or adjourned Shareholder's Meeting; or
- 15.3.7.2 a location announced at the time of adjournment, in the case of an adjourned Shareholder's Meeting.



15.3.8. After a quorum has been established for a Shareholder's Meeting, or for a matter to be considered at a Shareholder's Meeting, the Shareholder's Meeting may continue, or the matter may be considered, so long as at least 1 (one) Persons with Voting Rights entitled to be exercised at the Shareholder's Meeting, or on that matter, is Present at the Shareholder's Meeting.

15.4. Conduct of Shareholder's meetings and Shareholder resolutions

15.4.1 The Chairperson of the Board shall preside as chairperson at every Shareholder's Meeting of the Company. If there is no such Chairperson, or if at any Shareholder's Meeting she/he is not Present within 30 (thirty) minutes after the time appointed for holding the Shareholder's Meeting or is unwilling to act as Chairperson, the Persons entitled to vote which are Present shall appoint a non-executive Director Present at the Shareholder's Meeting, or if no Director be Present at the Shareholder's Meeting, or if all the Directors Present decline to take the chair, the Persons entitled to vote shall appoint a Chairperson from amongst themselves to act as such at the relevant Shareholder's Meeting. In the exceptional circumstances that no other non-executive Director be available to chair the Shareholder's Meeting, the Shareholder (or a duly authorised representative thereof) shall chair the Shareholder's Meeting.

15.4.2. Every resolution of the Shareholder is either an Ordinary Resolution or a Special Resolution.

15.4.3 Subject to any rights or restrictions attaching to any class or classes of Shares, a Person entitled to vote Present at the Shareholder's Meeting shall have only 1 (one) vote, irrespective of the number of Shares she/he holds or represents. A proxy shall irrespective of the number of holders of Shares entitled to vote she/he represents have only 1 (one) vote. On a poll every Person entitled to vote who is Present at the Shareholder's Meeting shall have the number of votes determined in accordance with the Voting Rights associated with the Shares in question.

15.4.4. 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 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 Shareholder entitled to vote chooses to act directly and in person in the Exercise of any rights as a Shareholder entitled to vote.



- 15.4.5. 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 or authority shall be delivered to the Company immediately prior to the Shareholder's Meeting, before the proxy or holder of the power of attorney or other authority Exercises any rights of the Shareholder entitled to vote at a Shareholder's Meeting.
- 15.4.6. 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 proxy or of the authority under which the proxy was executed, or the transfer of the Shares in respect of which the 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 Shareholder's Meeting or adjourned or postponed Shareholder's Meeting at which the proxy is used.
- 15.4.7. Subject to the provisions of the Act, a form appointing a proxy may be in any usual or common form. The Company shall supply a generally accepted standard form of proxy upon request by a Shareholder entitled to vote.
- 15.4.8. If 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 sees fit unless the proxy indicates otherwise.

16. APPOINTMENT AND REMOVAL OF THE GROUP CHIEF EXECUTIVE AND THE GROUP CHIEF FINANCIAL OFFICER

- 16.1. The Board shall identify, nominate and evaluate potential candidates for appointment as the Group Chief Executive in accordance with the Guidelines.
- 16.2. The Shareholder shall appoint the Group Chief Executive from the shortlist of candidates provided by the Board, in accordance with the Guidelines.
- 16.3. The Board shall identify, nominate, evaluate and appoint a candidate as the Group Chief Financial Officer, provided that the Shareholder shall approve such appointment in Writing.
- 16.4. If the Shareholder does not approve the appointment of the Group Chief Financial Officer identified by the Board in Writing, the Shareholder shall be required to provide a written substantive motivation to the Board as to why the Shareholder does not approve the candidate nominated by the Board. Provided the Shareholder provides such Written substantive motivation to the Board, such candidate shall not be appointed as the Group Chief Financial Officer and the Board shall identify and nominate an alternative candidate for appointment as



the Group Chief Financial Officer and the process contemplated in clauses 16.3 and 16.4 shall apply.

- 16.5. The Group Chief Executive and the Group Chief Financial Officer shall be subject to the same provisions as to removal as the other Directors (as contemplated in clause 17.9), and if he ceases to be or is suspended from being an employee of the Company respectively, his appointment as a Director shall *ipso facto* terminate, without prejudice to any claims or damages which may accrue to him as a result of such termination.

17. APPOINTMENT OF DIRECTORS

- 17.1.1. The Shareholder shall appoint the Directors, and designate one of the non-executive Directors as the Chairperson, of the Company from time to time and in doing so shall endeavour to ensure that the Board shall:-
- 17.1.1.1. be appropriately balanced in terms of executive and non-executive Directors, including Independent Directors;
 - 17.1.1.2. be representative of the gender and race demographics of the Republic;
 - 17.1.1.3. be appointed on the grounds of their knowledge and experience which, when considered collectively, should enable the Board to attain the objects of the Company;
 - 17.1.1.4. when viewed collectively, possess appropriate skills and experience relevant to the business of the Company;
 - 17.1.1.5. include a Group Chief Executive and Group Chief Financial Officer of the Company as contemplated in clause 16.
- 17.1.2. The Board shall consist of a minimum of 6 (six) Directors and a maximum of 14 (fourteen) Directors, comprising:-
- 17.1.2.1. not less than 4 (four) non-executive Directors, from whom shall be appointed the Chairperson of the Company. A non-executive Director shall hold office for a term of 3 (three) years, from the date of his appointment, subject to confirmation of his appointment at the Annual General Meeting; provided that no person is appointed as a non-executive Director for longer than 3 (three) consecutive terms;
 - 17.1.2.2. not less than 2 (two) executive Directors, whom shall include the Group Chief Executive and the Group Chief Financial Officer, respectively, of the Company.



provided that the Board shall at all times consist of a majority of non-executive Directors.

17.2. Chairperson of the Board

- 17.2.1. The Chairperson of the Board shall be appointed by the Shareholder in terms of clause 17.1.1.
- 17.2.2. A Shareholder's Meeting shall be entitled to designate an acting Chairperson (from any of the non-executive Directors) and determine the period for which such acting Chairperson is to hold office and any other terms and conditions applicable to such appointment.
- 17.2.3. The Chairperson of the Board shall chair all the meetings of the Shareholder and the Board.
- 17.2.4. If the Chairperson is not Present at any meeting of the Board or if he is not Present within 30 (thirty) minutes after the time appointed for holding the meeting, the Directors Present shall choose any non-executive Director to be Chairperson of the meeting.
- 17.2.5. The Director appointed as Chairperson of the meeting in terms of clause 17.2.4 (or the acting chairperson) shall act as Chairperson:-
- 17.2.5.1 for the duration of the meeting or until the meeting is adjourned or postponed; or
- 17.2.5.2 for such a period of time after the adjournment or postponement of the meeting at which such Director was appointed as Chairperson until the Chairperson of the Board becomes available; or
- 17.2.5.3 until the Shareholder appoints the Chairperson.
- 17.2.6. The Chairperson of the Board shall not be appointed or serve as the chairperson of a:
- 17.2.6.1. Board committee (save that the Chairperson shall be entitled to chair the corporate governance and nominations committee of the Company); nor
- 17.2.6.2. Subsidiary board.



17.3. Appointment of Directors to the boards of the wholly-owned Subsidiaries of the Company

For so long as the State is the sole Shareholder, it is recorded that the boards of the wholly-owned Subsidiaries of the Company shall comprise employees of such Subsidiaries or the Company.

17.4. Powers of Directors

- 17.4.1. The management and control of the Company shall be vested in the Board who, in addition to the powers and authorities expressly conferred upon them by this MOI, the Enabling Legislation and the Applicable Legislation, may exercise all such powers, and do all such acts and things, as may be exercised or done by the Company and are not, in terms of this MOI, the Enabling Legislation and the Applicable Legislation, expressly directed or required to be exercised in a Shareholder's Meeting or with the prior Written consent of the Shareholder.
- 17.4.2. The powers and authorities of the Board, as contemplated in clause 17.4.1, shall be subject to any limitations in terms of the Act, Enabling Legislation and the Applicable Legislation.
- 17.4.3. Notwithstanding any provision to the contrary contained in this MOI, the Company shall not agree to or approve any matters reserved for Shareholder approval, without the same being approved in Writing by a resolution passed by a Shareholder's Meeting.
- 17.4.4. The Board may delegate any of the powers, functions, or duties and discretion to an employee(s) of the Company and/or to a committee of the Board. The delegation shall be exercised lawfully, within prescribed powers and authorisation levels and in terms of the Companies policies, directives and procedures.
- 17.4.5. The delegation:-
- 17.4.5.1. may be made on and subject to any conditions determined by the Board;
- 17.4.5.2. may be given together with the power to sub-delegate subject to the provisions of the PFMA, the Act, the Applicable Legislation and further subject to any conditions so determined (if any); and
- 17.4.5.3. shall be communicated to the delegatee in Writing and such Written communication must contain full particulars of the matters being delegated and of the conditions determined under clauses 17.4.5.1 and 17.4.5.2 above, if any, and where the power of sub-delegation is



also conferred, must state that fact, as well as any conditions determined under this clause 17.4.5.3 if any; and

17.4.5.4. shall be reviewed on a regular basis.

17.4.6. Subject to the Written approval of the Shareholder, the Board may approve or note any Share scheme, the rules applicable to any such scheme and any amendment to such rules as recommended by the Remuneration, Social and Ethics Committee; provided that the rules and/or any amendment to such rules, shall be in accordance with the Remuneration Policy.

17.4.7 The Board shall have the powers to pay all taxes, duties, fees, expenses or other amounts that may be payable.

17.5. Recognition of the DoA

It is recorded that the Board shall delegate certain of its powers and functions to an employee(s) of the Company as contemplated in the DoA by passing a resolution of the Board adopting the DoA in accordance with the principles set out in clause 17.4 above.

17.6. Proceedings at Meetings of Directors

17.6.1. The Board may meet for the dispatch of business, adjourn or postpone and otherwise regulate its meetings as it thinks fit. The Company Secretary or a Director may at any time:-

17.6.1.1. when authorised by the Board; or

17.6.1.2. if requested by at least 1 (one) Director which request shall also be approved by the Chairperson of the Board; or

17.6.1.3. if requested by at least 2 (two) Directors of the Company,

convene a meeting of the Board.

17.6.2. The Board shall determine what period of notice shall be given for meetings of the Board and may determine the means of giving such notice, which may include Electronic Communication. It shall be necessary to give notice of a meeting of the Board to all Directors, even those for the time being absent from the Republic.

17.6.3. A meeting of the Board shall proceed even if the Company has not given the required notice of such meeting in accordance with clause 17.6.2 or if there was a defect in the giving of the notice, provided that all Directors:-

17.6.3.1. acknowledge actual receipt of the notice of the meeting concerned;



- 17.6.3.2. are Present at the meeting; or
- 17.6.3.3. waive notice of the meeting.
- 17.6.4. Unless otherwise resolved by the Board, all their meetings shall be held in the city or town where the Company's Registered Office is for the time being situated.
- 17.6.5. A meeting of the Board may be conducted by Electronic Communication facility and/or by 1 (one) or more Directors participating in the meeting 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.
- 17.6.6. The quorum necessary for the transaction of business of the Board shall be 51% (fifty one percent) of the Directors, provided that such quorum shall always include a majority of non-executive Directors Present in person or through Electronic Communication facility.
- 17.6.7. The provisions of clause 17.2 shall *mutatis mutandis* apply to this clause 17.6 in relation to the appointment of the Chairperson of the meetings of the Board.
- 17.6.8. Each Director shall have 1 (one) vote on a matter before the Board.
- 17.6.9. Resolutions of the Directors shall be decided by more than 50% (fifty per cent) of the votes and in the case of an equality of votes, the Chairperson shall not have a casting vote in addition to his/ her vote as a Director of the Board and the matter being voted on fails.
- 17.6.10. Subject to the Act
- 17.6.10.1 a Written Resolution, including through the medium of Electronic Communication, signed and approved by more than 75% (seventy five per cent) of the Directors shall be as valid and effective as if it had been passed at a meeting of the Board duly called and constituted: provided that each Director has received notice of the matter to be decided upon.
- 17.6.10.2. resolutions adopted by the Board –
- 17.6.10.2.1. must be dated and sequentially numbered; and
- 17.6.10.2.2. are effective as of the date of the resolution, unless the resolution states otherwise;



17.6.10.2.3. In the case of matters requiring urgent resolution or, if for any reason it is impracticable to meet or pass a resolution as contemplated in clause 17.6.10.1 above, proceedings may be conducted by using conference facilities (including telephone and/or video facilities), provided that the required quorum is met. A resolution agreed to by more than 75% (seventy five per cent) of the Directors participating during the course of such proceedings shall be as valid and effective as if it had been passed at a meeting of the Board duly called and constituted.

17.6.11 The Company Secretary or her designate shall attend meetings and record the minutes of the meetings. Where it is not at all possible for the Company Secretary to attend any such meeting, the Directors shall ensure that minutes are recorded, kept and prepared for that meeting. The Director elected by the Board to record and keep minutes of a meeting held by making use of conference facilities shall, as soon as is reasonably possible after such meeting has been held, provide the Company Secretary with a copy of the minutes of the meeting. The Company Secretary shall circulate the minutes of the meeting to the Directors for their consideration and comment and shall, after the minutes have been approved by the Board, keep the minutes in the minute book of the Company.

17.7. Absence from Directors Meeting

17.7.1. If any Director is unable to attend a meeting of Directors, such Director shall notify the Chairman and/or the Company Secretary of his/her inability to attend as soon as such Director becomes aware of that fact.

17.7.2. Any Director who fails to attend any meeting of Directors without notifying the Chairman and/or Company Secretary shall be recorded in the minutes of such meeting as absent.

17.8. Conflicts of Interest and Declaration by Directors

17.8.1. For the purposes of this clause 17.7, "Director" includes 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.

17.8.2. The Company has a policy that deals with Personal Financial Interests and conflicts of interest of Directors and employees of the Company, which shall be consistent with the provisions of the Act and the PFMA.



- 17.8.3. If a Director has a Personal Financial Interest or Knows that a Person Related to the Director, as described in section 2 ("Related Person") has a Personal Financial Interest in respect of a matter to be considered by the Board, the Director:-
- 17.8.3.1. must disclose the interest and its general nature in Writing before the matter is considered at the meeting;
 - 17.8.3.2. must disclose to the meeting any Material information relating to the matter, and that is Known to the Director;
 - 17.8.3.3. may disclose any observations or pertinent insights relating to the matter if requested to do so by the other Directors;
 - 17.8.3.4. if Present at the meeting of the Board, must recuse himself from the meeting when the matter is being decided upon after making any disclosure contemplated in clause 17.8.3.2 or 17.8.3.3;
 - 17.8.3.5. must not take part in the consideration of the matter, except to the extent of the disclosures contemplated in clause 17.8.3.2 or 17.8.3.3;
 - 17.8.3.6. while absent from the meeting as provided in clause 17.8.3.4:-
 - 17.8.3.6.1. shall be regarded as being Present at the meeting for the purpose of determining whether sufficient Directors are Present to constitute a quorum of the meeting;
 - 17.8.3.6.2. shall not be regarded as being Present at the meeting for the purpose of determining whether a resolution has sufficient support to be adopted; and
 - 17.8.3.7. 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.
- 17.8.4. If a Director of the Company acquires, or Knows that a Related Person has acquired, a Personal Financial Interest in an agreement or other matter in which the Company has a Material Interest, after the agreement or other matter has been approved by the Company, the Director shall promptly disclose to the Board, the nature and extent of that interest, and the Material circumstances relating to the Director or Related Person's acquisition of that interest, as the case may be.



- 17.8.5. 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.
- 17.8.6. A decision by the Board, or a transaction or agreement approved by the Board, is valid despite any Personal Financial Interest of a Director or a Related Person to the Director, if it:-
- 17.8.6.1. was approved following the disclosure of the Personal Financial Interest in the manner contemplated in section 75 and this clause 17.7; or
- 17.8.6.2. 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 court.
- 17.8.7. A Director may at any time disclose any general Personal Financial Interest in advance by delivering a Written notice to the Board, 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.
- 17.8.8. Directors have a duty to avoid a conflict of interest in terms of *Inter alia* the common law, the PFMA and the Act. Accordingly, a Director must, in addition to making the requisite disclosures set out in clauses 17.8.3 to 17.8.7, disclose any conflict of interest in accordance with the policy referred to in clause 17.8.2, as may be amended from time to time.
- 17.8.9. A court, on application by any interested person, may declare valid a transaction or agreement that had been approved by the Board, or Shareholder as the case may be, despite the failure of the Director to satisfy the requirements of this clause 17.7 and section 75.
- 17.8.10. The provisions of this clause 17.7 do not derogate from those Directors duties prescribed by the PFMA and the Directors shall be required to comply both with the provisions of this clause 17.7 and the provisions of the PFMA.



17.9. Removal of Directors

- 17.9.1 Despite anything to the contrary in this MOI, or any agreement between the Company and a Director, or between any Shareholder and a Director, the Shareholder shall be entitled to remove any Director of the Company by an Ordinary Resolution adopted at a Shareholder's Meeting.
- 17.9.2. The Shareholder shall, prior to considering the Ordinary Resolution for the removal of any Director:-
- 17.9.2.1 provide the Director concerned with a notice of a meeting and the resolution proposed to be passed at such meeting at least equivalent to that which a Shareholder is entitled to receive, irrespective of whether or not the Director is a Shareholder of the Company; and
- 17.9.2.2. afford the Director concerned reasonable opportunity to make a presentation, in person or through a representative, at the meeting prior to the resolution being put to the vote.
- 17.9.3. The Board shall be entitled, after consultation with the Shareholder, by a resolution of the Board, to remove a Director whom the Board has determined to have:
- 17.9.3.1. become ineligible or disqualified to be a Director of the Company in terms of the Act;
- 17.9.3.2. 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
- 17.9.3.3. neglected or been derelict in the performance of, the functions of a Director.
- 17.9.4. The Board shall, prior to approving the resolution for the removal of a Director in terms of clause 17.9.3:
- 17.9.4.1 provide the Director concerned with a notice of a meeting and the resolution proposed to be passed at such meeting setting out reasons for the resolution, with sufficient specificity to reasonably permit the Director to prepare and present a response; and
- 17.9.4.2. afford the Director concerned reasonable opportunity to make presentations, in person or through a representative, at the meeting prior to the resolution being put to the vote.



17.10. Rotation of Directors and filling of vacancies

- 17.10.1 If a Director ceases to hold office or a term of office of any Director is due to expire, the Shareholder shall, in compliance with the provisions of section 70, ensure that necessary steps are taken to appoint the requisite number of eligible persons as Directors in the place of the retiring Director/s as soon as possible. In this regard the Board shall advise the Shareholder within a reasonable time of such impending vacancy.
- 17.10.2 The Shareholder shall fill in any vacancy that arose on the Board at its next Annual General Meeting or within a period of 6 (six) Months after the vacancy arose.
- 17.10.3 A person shall cease to be a Director and a vacancy on the Board shall arise:
- 17.10.3.1 when the Director's term of office expires or is due for retirement;
- 17.10.3.2 if any of the circumstances referred to in section 70(1)(b) occur, which include the following, if the Director:
- 17.10.3.2.1 resigns by Written notice to the Shareholder and the Company;
- 17.10.3.2.2 dies;
- 17.10.3.2.3 ceases to hold the office, title, designation or similar status that entitled such a person to be a Director of the Company;
- 17.10.3.2.4 becomes incapacitated to the extent that the person is unable to perform the functions of a Director and is unlikely to regain that capacity within a reasonable period subject to section 71(3);
- 17.10.3.2.5 is declared delinquent by the court or placed on probation under conditions that are inconsistent with continuing to be a Director of the Company, in terms of section 162;
- 17.10.3.2.6 becomes Ineligible or Disqualified to be a Director in terms of section 69, or the Applicable Legislation and this MOI and the Board has determined the matter and has resolved to remove that Director from the Board for reasons of his Ineligibility and/or



Disqualification; provided the Director so removed has not applied to court for review of the determination of the Board to remove him or, if has applied to court, such application has not been finalised during the period before the court has confirmed the removal, the Director shall be suspended;

17.10.3.2.7. is removed as a Director by:

17.10.3.2.7.1. a resolution of the Shareholders in terms of section 71(1) (and in accordance with clause 17.9); or

17.10.3.2.7.2. resolution of the Board in terms of section 71(3) (and in accordance with clause 17.9), provided the Director so removed has not applied to court for review of the determination of the Board to remove him or if has applied to court such application has been finalised; or

17.10.3.2.7.3. an order of the court in terms of section 71(5) or (6); or

17.10.3.3. if he/she is absent from meetings of the Directors for 3 (three) consecutive meetings whether or not he/she has notified the Chairperson and/or Company Secretary) in terms of 17.7 and the Shareholder resolves that such Director's office be vacated.

17.10.4. In the case of non-executive Directors, a person shall cease to be a Director and a vacancy on the Board shall arise:

17.10.4.1. a Director's appointment is reviewed and his term is terminated prematurely to the 3 (three) year term;

17.10.4.2. a Director has served for 2 (two) consecutive 3 (three) year terms, and fails to be re-appointed as a Director for a 3rd (third) term;

17.10.4.3. a Director has served for a 3 (three) year term as a Director, and fails to be re-appointed as Director for a 2nd (second) term; or



17.10.4.4. a Director has been appointed as a Director for 3 (three) consecutive 3 (three) year terms, which 3rd (third) term has now expired.

17.10.5. Unless the Shareholder resolves otherwise, a Director shall also cease to hold office if he:-

17.10.5.1. is Knowingly interested in any contract or proposed contract with the Company and fails to declare his interest and its nature in the manner required by the Act and the PFMA; or

17.10.5.2. assigns his estate for the benefit of his creditors, or suspends payment or files a petition for the liquidation of his affairs, or compounds generally with his creditors; or

17.10.5.3. ceases to be an employee and/or is suspended as an employee of the Company.

17.10.6. In addition if the Group Chief Financial Officer or Group Chief Executive ceases to hold office as a Director for any reason whatsoever, his appointment as the Group Chief Financial Officer or Group Chief Executive (as the case may be) shall *ipso facto* terminate, without prejudice to any claims for damages which may accrue to him as a result of such termination in accordance with applicable employment laws; provided however, that he shall not be precluded from being employed in any other position of the Company by virtue of the fact that he is no longer a Director.

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

18.1. Financial Assistance

18.1.1. The Board is prohibited from and shall not have the power to –

18.1.1.1. authorise the provision by the Company of Financial Assistance to any person for the purpose of, or in connection with, the subscription of any option, or any Securities, issued or to be issued by the Company or a Related Person or Inter-Related company, or for the purchase of any Securities of the Company or a Related or Inter-Related company;

18.1.1.2. provide any direct or indirect Financial Assistance to a Related or Inter-Related company, or to a Related or Inter-Related company or



corporation, or to a member of a Related or Inter-Related corporation or to a person Related to any such company, corporation,

except, in each case, where –

- 18.1.1.3. the Shareholder has approved such Financial Assistance, either for the specific recipient or generally for a category of potential recipients (and the specific recipient falls within that category), by Special Resolution adopted within the previous 2 (two) years; provided that where the Shareholder is requested to approve the provision of specific Financial Assistance, the Board shall, at the request of the Shareholder, provide such information to the Shareholder as the Shareholder may require, to satisfy the Shareholder that the conditions set out in clauses 18.1.1.4, 18.1.1.5 and 18.1.1.6 of this MOI have been met, or will be met; and
- 18.1.1.4. the provisions of the PFMA have been met; and
- 18.1.1.5. the provisions of section 44 and/or 45 (as the case may be) have been met; and
- 18.1.1.6. the Board is satisfied that –
 - 18.1.1.6.1 immediately after providing the Financial Assistance, the Company would satisfy the solvency and liquidity test prescribed in section 4; and
 - 18.1.1.6.2 the terms under which the Financial Assistance is proposed to be given are fair and reasonable to the Company.
- 18.1.2. The Company shall be prohibited from providing any direct or indirect Financial Assistance to any Director or Prescribed Officer of the Company or to a person Related or Inter-Related to any such Director or Prescribed Officer under any circumstances whatsoever.
- 18.1.3. 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 Shares or those of a Related or Inter-Related company without complying with section 44(3).



19. INDEMNITY

- 19.1. For the purposes of this clause 19, "Director" includes a former 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 the Audit committee.
- 19.2. Subject to the provisions of the PFMA, the Company may:-
- 19.2.1. not directly or indirectly pay any fine that may be imposed on a Director, or on a Director of a Related company, as a consequence of that Director having been convicted of an offence in terms of any national legislation, unless the conviction is based on Strict Liability;
- 19.2.2. advance expenses to a Director to defend litigation in any proceedings arising out of the Director's service to the Company. For purposes of this clause 19 "service to the Company" includes services which are directly linked to the activities of the Company, and services which the Company consents to or acknowledges; and
- 19.2.3. directly or indirectly indemnify a Director for -
- 19.2.3.1. any liability, other than in respect of-
- 19.2.3.1.1. any liability arising in terms of section 77(3)(a), (b) or (c) or sections 86(2) or (3) of the PFMA, or from wilful misconduct or wilful breach of trust on the part of the Director; or
- 19.2.3.1.2. any fine contemplated in clause 19.2.1;
- 19.2.3.2. any expenses contemplated in clause 19.2.2, irrespective of whether it has advanced those expenses, if the proceedings:-
- 19.2.3.2.1. are abandoned or exculpate the Director; or
- 19.2.3.2.2. arise in respect of any other liability for which the Company may indemnify the Director in terms of clause 19.2.3.1.
- 19.3. Subject to the provisions of the PFMA, the Company may purchase insurance to protect:-
- 19.3.1. a Director against any liability or expenses contemplated in clause 19.2.2 or 19.2.3; or
- 19.3.2. the Company against any contingency including but not limited to:-



19.3.2.1. any expenses:-

19.3.2.1.1. that the Company is permitted to advance in accordance with clause 19.2.2; or

19.3.2.1.2. for which the Company is permitted to indemnify a Director in accordance with clause 19.2.3; or

19.3.2.2. any liability for which the Company is permitted to indemnify a Director in accordance with clause 19.2.3.

19.4. The Company is entitled to claim restitution from a Director or of a Related company for any money paid directly or indirectly by the Company to or on behalf of that Director in any manner inconsistent with section 78.

20. REGISTER OF DISCLOSURES

The Company must establish and maintain a register of the disclosures made in terms of section 58(7).

21. BOARD COMMITTEES

21.1 The Shareholder takes cognisance of the main committees appointed by the Board as set out in clause 21.4.

21.2. If the Board seeks to establish a new committee, such establishment may only be made with the prior Written consent of the Minister,

21.3. In the application for new Board committees to the Minister, the Board must submit Written terms of reference including *inter alia* the need for such a committee, the functioning of such a committee, the functions of the committee, and any other relevant information required by the Minister. The number of the Board members appointed to sit on the committee will be at the discretion of the Minister

21.4. Recognised committees at date of this MOI (inclusive of those required by the Act) include:-

21.4.1. audit committee;

21.4.2. Remuneration, Social and Ethics committee;

21.4.3. acquisitions and disposals committee;

21.4.4. risk committee; and

21.4.5. corporate governance and nominations committee.



- 21.5. 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.
- 21.6. 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 or the Regulations.
- 21.7. A member of a Board committee shall cease to hold office as such immediately he becomes Ineligible or Disqualified.
- 21.8. Committees of the Board may consult with or receive advice from any person.
- 21.9. 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.
- 21.10. The quorum for the transaction of business of the Board committees shall be 50% (fifty percent) of the Board committee members Present in person.

22. AUDIT COMMITTEE

- 22.1. The Board shall propose, and the Shareholder shall appoint, an audit committee. In the event that the Shareholder elects not to appoint any person proposed by the Board to the audit committee, the Board shall propose an alternate person for appointment by the Shareholder.
- 22.2. The audit committee shall comprise at least 3 (three) members, all of whom shall be non-executive Directors of the Company and whose appointment shall comply with:
- 22.2.1. section 77 of the PFMA read with the Treasury Regulations; and
- 22.2.2. to the extent that the provisions of section 95 and Regulation 42 do not conflict with section 77 of the PFMA read with the Treasury Regulations, section 95 and Regulation 42.
- 22.3. The audit committee shall meet at least 4 (four) times a year to execute its duties.
- 22.4. The chairperson of the audit Committee shall be appointed by the Shareholder at the Annual General Meeting.
- 22.5. Nothing precludes the election 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 elected, the



appointment is valid only if the audit committee is satisfied that the proposed Auditor is independent of the Company.

22.6. Each member of the audit committee must –

22.6.1 be a non-executive Director, who satisfies any applicable requirements prescribed by the Minister of Trade and Industry;

22.6.2. not be –

22.6.2.1 involved in the day-to-day management of the Company's business or have been so involved at any time during the previous Financial Year;

22.6.2.2. a Prescribed Officer, or full-time employee, of the Company or another Related or inter-related company, or have been such an Officer or employee at any time during the previous 3 (three) Financial Years; or

22.6.2.3. a material supplier or customer of the Company, such that a reasonable and informed third party would conclude in the circumstances that the integrity, impartiality or objectivity of that Director is compromised by that relationship; and

22.6.2.4. nor be Related to any Person who falls within the criteria in clauses 22.6.2.1 to 22.6.2.3. In addition at least one third of the members of the audit committee at any particular time must have academic qualifications, or experience, in economics, law, corporate governance, finance, accounting, commerce, industry, public affairs or human resource management.

22.7. The Board must propose, and the Shareholder must appoint, a person to fill any vacancy on the audit committee within 40 (forty) Business Days after the vacancy arises.

22.8. The audit committee shall execute all the functions as may be prescribed from time to time in terms of the Act (as read with the Regulations) and the PFMA (as read with Treasury Regulations).

22.9. 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.

22.10. No Person shall be elected as a member of the audit committee, if he is Ineligible or Disqualified and any such election shall be a nullity. A Person who is Ineligible or Disqualified



must not consent to be elected 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.

- 22.11. A member of the audit committee shall cease to hold office as such immediately he becomes ineligible or Disqualified in terms of the Act.
- 22.12. 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 Act.
- 22.13. In accordance with the Treasury Regulations the chairperson of the audit committee shall be independent, be knowledgeable of the status of the position, have the requisite business, financial and leadership skills and may not be the chairperson of the Board or a person who fulfils an executive function in the Company

23. REMUNERATION, SOCIAL AND ETHICS COMMITTEE

- 23.1. The Board must appoint a Remuneration, Social and Ethics Committee.
- 23.2. The Company may determine that its Remuneration, Social and Ethics Committee will perform the functions required by Regulation 43 on behalf of its Subsidiaries.
- 23.3. The Remuneration, Social and Ethics Committee must comprise not less than 3 (three) independent Directors or Prescribed Officers, at least 1 (one) of whom must be a Director who is not involved in the day-to-day management of the Company's business, and must not have been so involved within the previous 3 (three) Financial Years and whose appointment shall be in compliance with the Act and any regulation published thereunder.
- 23.4. The Remuneration, Social and Ethics Committee shall meet at least once a year to deal with and attend to all functions and matters that are required to be dealt with by the committee in terms and any regulations published thereunder.
- 23.5. The Remuneration, Social and Ethics Committee shall execute all the functions as may be prescribed from time to time by the Act (as read with the Regulations) in addition to such duties as may be determined by the Board from time to time.
- 23.6. The Remuneration, Social and Ethics Committee of the Company is entitled to –
- 23.6.1 require from any Director or Prescribed Officer any information or explanation necessary for the performance of the committee's functions;
- 23.6.2 request from any employee of the Company any information or explanation necessary for the performance of the committee's functions;



- 23.6.3. attend any Shareholder's Meeting;
- 23.6.4. receive all notices of and other communications relating to any Shareholder's Meeting; and
- 23.6.5. be heard at any Shareholder's Meeting on any part of the business of the meeting that concerns the committee's functions.
- 23.7. The Company must pay all the expenses reasonably incurred by its Remuneration, Social and Ethics Committee, including, if the Remuneration, Social and Ethics Committee considers it appropriate, the costs or the fees of any consultant or specialist engaged by the Remuneration, Social and Ethics Committee in the performance of its functions, as prescribed in the committee's mandate.
24. **REMUNERATION OF DIRECTORS AND MEMBERS OF BOARD AND STATUTORY COMMITTEES**
- 24.1. The Directors and the members of the statutory and Board committees shall be entitled to such remuneration for their services as Directors or members of Board or statutory committees as may have been determined, in accordance with a Special Resolution (as contemplated in clause 15.1.1.4) and the Remuneration Policy.
- 24.2. Directors may be paid all reasonable expenses in respect of travelling, accommodation and other expenses properly incurred by them in or about the performance of their duties as Directors and members of statutory and Board committees, including those of attending and travelling to and from meetings of the Board or any Board or statutory committee or any Shareholder's Meeting.
25. **PRESCRIBED OFFICERS**
- 25.1. No Person shall hold office as a Prescribed Officer, if he is ineligible or Disqualified. 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.
- 25.2. A Prescribed Officer shall cease to hold office as such immediately he becomes ineligible or Disqualified in terms of the Act.
26. **APPOINTMENT OF COMPANY SECRETARY**
- 26.1. The Board must appoint the Company Secretary from time to time, who –



- 26.1.1 shall be a permanent resident of South Africa and remain so while serving as a Company Secretary; and
- 26.1.2 shall have the requisite knowledge of, or experience in, relevant laws; and
- 26.1.3 may be a Juristic Person subject to the following:-
- 26.1.3.1 every employee of that Juristic Person who provides company secretarial services, or partner and employee of that partnership, as the case may be, is not Ineligible or Disqualified;
- 26.1.3.2 at least 1 (one) employee of that juristic person, or one partner or employee of that partnership, as the case may be, satisfies the requirements in clauses 26.1.1 and 26.1.2;
- 26.2. The Company Secretary shall not be a Director.
- 26.3. Within 60 (sixty) Business Days after a vacancy arises in the office of the Company Secretary, the Board must fill the vacancy by appointing a Person whom the Board consider to have the requisite knowledge and experience. A change in the membership of a Juristic Person or partnership that holds office as Company Secretary does not constitute a casual vacancy in the office of Company Secretary, if the Juristic Person or partnership continues to satisfy the requirements of clause 26.1.3.
- 26.4. If at any time a Juristic Person or partnership holds office as Company Secretary of the Company –
- 26.4.1. the Juristic Person or partnership must immediately notify the Board if the Juristic Person or partnership no longer satisfies the requirements of clause 26.1.3, and is regarded to have resigned as Company Secretary upon giving that notice to the Company;
- 26.4.2. the Company is entitled to assume that the Juristic Person or partnership satisfies the requirements of clause 26.1.3, until the Company has received a notice contemplated in clause 26.4.1; and
- 26.4.3. any action taken by the Juristic Person or partnership in performance of its functions as Company Secretary is not invalidated merely because the Juristic Person or partnership had ceased to satisfy the requirements of clause 26.1.3 at the time of that action.
- 26.5. The Company Secretary may resign from office by giving Written notice, as stipulated in his contract of employment, or less than that stipulated with the prior Written approval of the Board.



26.6 If the Company Secretary is removed from office by the Board, the Company Secretary 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 Company Secretary'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.

27. AUDITORS

27.1 The Company shall appoint an Auditor at its Annual General Meeting provided that if an Annual General Meeting does not appoint or reappoint an Auditor, the Directors must fill the vacancy in the office in terms of the procedure contemplated in section 91 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 –

27.1.1. the retiring Auditor is –

27.1.1.1. no longer qualified for appointment;

27.1.1.2. no longer willing to accept the appointment, and has so notified the company; or

27.1.1.3. required to cease serving as Auditor, in terms of section 92;

27.1.2. the audit committee objects to the re-appointment; or

27.1.3. the Company has notice of an intended resolution to appoint some other person or persons in place of the retiring Auditor.

27.2. 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), provided that –

27.2.1. the same individual may not serve as the Auditor or designated Auditor for more than 5 (five) consecutive Financial Years;

27.2.2. 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.



27.3. In considering whether, for the purposes of this clause 27, a registered Auditor is independent of the Company, the audit committee must –

27.3.1 ascertain that the auditor does not receive any direct or indirect remuneration or other benefit from the Company, except –

27.3.1.1. as Auditor; or

27.3.1.2. for rendering other services to the company, to the extent permitted in terms of this MOI;

27.3.2. consider whether the Auditor's independence may have been prejudiced –

27.3.2.1. as a result of any previous appointment as Auditor; or

27.3.2.2. having regard to the extent of any consultancy, advisory or other work undertaken by the auditor for the Company; and

27.3.3. consider compliance with other criteria relating to independence or conflict of interest as prescribed by the Independent Regulatory Board for Auditors established by the APA,

in relation to the Company, and if the Company is a member of a Group of Companies, any other company within that Group.

27.4. The Auditor –

27.4.1. 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 Board or Prescribed Officers any information and explanations necessary for the performance of the Auditor's duties;

27.4.2. 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 Board 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

27.4.3. is entitled to –

27.4.3.1. attend any Shareholder's Meeting;

27.4.3.2. receive all notices of and other communications relating to any Shareholder's Meeting; and



- 27.4.3.3. be heard at any Shareholder's Meeting on any part of the business of the meeting that concerns the Auditor's duties or functions;
- 27.4.4. may not perform any services for the Company –
- 27.4.4.1. 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 APA; or
- 27.4.4.2. as may be prescribed by the Audit committee.
- 27.5. If a vacancy arises in the office of Auditor, the Audit Committee –
- 27.5.1. shall propose and the Shareholder must appoint a new Auditor within 40 (forty) Business Days, if there was only 1 (one) incumbent Auditor; and
- 27.5.2. 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.
- 27.6. If, by comparison with the membership of an Auditor firm at the time of its latest appointment, less than ½ (one half) of the members remain after a change in the composition of the members of the Auditor firm, that change constitutes the resignation of the firm as Auditor of the company, giving rise to a vacancy.
- 27.7. Before making an appointment in terms of clause 27.5 the Board –
- 27.7.1. 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
- 27.7.2. may proceed to make an appointment of a Person proposed in terms of clause 27.7.1 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.
- 27.8. The provisions of clauses 26.5 and 26.6 apply *mutatis mutandis* to the Auditor
- 28. DISTRIBUTIONS TO THE SHAREHOLDER**
- 28.1. The Company may –
- 28.1.1. make Distributions from time to time in accordance with the Enabling Legislation and the Distributions or similar policy of the Company from time to time, subject



to the provisions of clause 15.1.1.13 above, this clause 28, the provisions of section 46 and Shareholder approval, and provided that:-

28.1.1.1. any such Distribution:-

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

28.1.1.1.2. the Board, by resolution, has authorised the Distribution;

28.1.1.2. it reasonably appears that the Company will satisfy the solvency and liquidity test in the Act immediately after completing the proposed Distribution; and

28.1.1.3. the Board, by resolution, has acknowledged that it has applied the solvency and liquidity test in the Act and reasonably concluded that the Company will satisfy the solvency and liquidity test immediately after completing the proposed Distribution;

28.1.2. must before incurring any debt or other obligation for the benefit of the Shareholder, comply with the requirements in clause 28.1.1,

and must complete any such Distribution fully within 120 (one hundred and twenty) Business Days after the acknowledgement referred to in clause 28.1.1.3, failing which it must again comply with the foregoing.

- 28.2. The Board, after consultation with the Shareholder, shall develop an appropriate Distribution or similar policy and framework for the Company taking into account, *inter alia*, the Corporate Plan and strategic objectives which shall be reviewed on a regular basis. Any capitalisation or investment, and expenditure incurred in respect of industry restructuring, delivery of universal services or any other socio-economic activities carried out by the Company upon the request of the Shareholder shall be taken into account in calculating any dividends or Distributions and other payments payable to the Shareholder.
- 28.3. 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 28.1.1.1, 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.
- 28.4. All unclaimed dividends or other Distributions as contemplated in this clause may be invested or otherwise be made use of by the Board 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.

- 28.5. 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.

29. **LOSS OF DOCUMENTS**

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

30. **NOTICES**

- 30.1 The Company may give notices, documents, records or statements or notices of availability of the foregoing by personal delivery to the Shareholder or by sending them prepaid through the post or by transmitting them by Electronic Communication.
- 30.2 The Shareholder has after having furnished an Electronic Address to the Company, by doing so –
- 30.2.1. authorises the Company to use Electronic Communication to give notices, documents, records or statements or notices of availability of the foregoing to it; and
- 30.2.2 confirms that same can conveniently be printed by the Shareholder within a reasonable time and at a reasonable cost.
- 30.3 Any notice required to be given by the Company to the Shareholders or the holder of a security warrant to bearer, and not expressly prohibiting the provisions of this clause from applying, shall be sufficiently given (subject to giving a notice of availability in accordance with clause 30.1 or 30.2), if given by posting it on the Company's web site until at least the date when the event to which the notice refers occurs.
- 30.4 Any notice, document, record or statement or notice of availability of the foregoing sent by the Company shall be deemed to have been Delivered on the date and time determined in accordance with **Annexure C**.
- 30.5 A Shareholder (or his executor) shall be bound by every notice in respect of the Shares 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 Shareholder, notwithstanding that the Shareholder may then have been dead or may subsequently have died or have been or become otherwise incapable of acting in respect of



the Shares, and notwithstanding any transfer of the Shares was not registered at that date. The Company shall not be bound to enter any Person in the Securities Register as entitled to any Shares until that Person gives the Company an address for entry on the Securities Register.

- 30.6. If joint Shareholders are registered in respect of any Shares or if more than 1 (one) Person is entitled to Shares, all notices shall be given to the Person named first in the Securities Register in respect of the Shares, and notice so Delivered shall be sufficient notice to all the Shareholders of Shares.
- 30.7. 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. 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 31), the provisions of clause 31 shall also be applied.
- 30.8. As regards the signature of an Electronic Communication by the Shareholder, 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 Shareholder indicating in the Electronic Communication that it is the Shareholder's intention to use the Electronic Communication as the medium to indicate the Shareholder's approval of the information in, or the Shareholder's signature of the document in or attached to, the Electronic Communication which contains the name of the Shareholder sending it in the body of the Electronic Communication.

31. FINANCIAL YEAR

The Financial Year of the Company is the 12 (twelve) Month period ending on 31 March of each year. The Financial Year may not be changed by the Board without the prior Written consent or approval of the Shareholder and subject to the PFMA and the requirements of section 27(4).

32. 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 —

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



32.3. excluding any public holiday, Saturday or Sunday that falls on or between the days contemplated in clauses 32.1 and 32.2 respectively.

33. WINDING UP

Subject to the provisions of the Act, the Company shall not be wound up or placed into "business rescue" as contemplated in the Act without the prior Written consent of the Shareholder.

34. SUBSIDIARIES

The Company may, from time to time, form or acquire further Subsidiaries, subject to the PFMA and the Enabling Legislation and the provisions of this MOI.

35. PROTECTION OF WHISTLE-BLOWERS

The Company shall establish and maintain a system to receive disclosures contemplated in section 159.



Annexure A – 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

"**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);

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

"**Banks Act**" means the Banks Act, 1990 (Act No. 1194 of 1990);

"**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);

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

"**business days**" has the meaning determined in accordance with section 6(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;

"**Commissioner**" means the person appointed to or acting in the office of that name, as contemplated in section 189;

"**company**" means a juristic person incorporated in terms of this Act, a domesticated company, or a juristic person that, immediately before the effective date —

- (a) was registered in terms of the —
 - (i) Companies Act, 1973 (Act No. 61 of 1973), other than as an external company as defined in that Act; or
 - (ii) Close Corporations Act, 1984 (Act No. 69 of 1984), if it has subsequently been converted in terms of Schedule B;
- (b) was in existence and recognised as an 'existing company' in terms of the Companies Act, 1973 (Act No. 61 of 1973); or

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



(c) was deregistered in terms of the Companies Act, 1973 (Act No. 61 of 1973), and has subsequently been re-registered in terms of this Act;

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

"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);

"creditor" means a person to whom a company is or may become obligated in terms of any liability or other obligation that would be required to be considered by the company if it were applying the solvency and liquidity test set out in section 4;

"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—

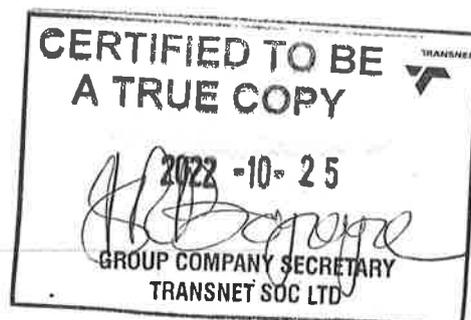
- (a) transfer by a company of money or other property of the company, other than its own shares, to or for the benefit of one or more holders of any of the shares or to the holder of a beneficial interest in any such shares, of that company or of another company within the same group of companies, whether—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

"effective date", with reference to any particular provision of this Act, means the date on which that provision came into operation in terms of section 225;

"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);



"employee share scheme" has the meaning set out in section 95(1)(c);

"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;

"ex officio director" means a person who holds office as a director of a particular company solely as a consequence of that person holding some other office, title, designation or similar status specified in the company's Memorandum of Incorporation;

"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);

"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);

"incorporator", when used—

- (a) with respect to a company incorporated in terms of this Act, means a person who incorporated that company, as contemplated in section 13; or
- (b) with respect to a pre-existing company, means a person who took the relevant actions comparable to those contemplated in section 13 to bring about the incorporation of that company;

"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;

"**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);

"**present at a meeting**" means to be present in person, or able to participate in the meeting by electronic communication, or to be represented by a proxy who is present in person or able to participate in the meeting by electronic communication;

"**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 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);

"**rules**" and "**rules of a company**" means any rules made by a company as contemplated in section 15(3) to (5);

"**securities**" means any shares, notes, bonds, debentures or other instruments, irrespective of their form or title, issued or authorised to be issued by a profit for the purposes of raising capital;

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



"share" means one of the units into which the proprietary interest in a profit company is divided;

"shareholder", subject to, 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;

"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 authorized 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 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; and

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



Annexure B – Ineligible / disqualified in terms of section 69(7) and (8) of the 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).



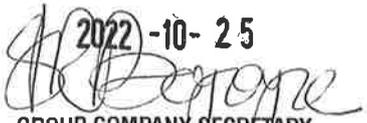
Annexure C – Prescribed methods of delivery in the Regulations

Person to whom the document is to be delivered	Method of delivery	Date and Time of Deemed delivery
Any Person	By faxing the notice or a certified copy of the document to the Person, if the Person has a fax number;	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.
	By sending the notice or a copy of the document by electronic mail, if the Person has an Electronic Address;	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.
	By sending the notice or a certified copy of the document by registered post to the Person's last known address;	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.
	By any other means authorised by the High Court; or	In accordance with the order of the High Court.
	By any other method allowed for that Person in terms of the following rows of this Table.	As provided for that method of delivery.
Any natural Person	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;	On the date and at the time recorded on a receipt for the delivery.
	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;	On the date and at the time recorded on a receipt for the 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;	On the date and at the time recorded on a receipt for the delivery.
	If there is no employee willing to accept service, by affixing the notice or a certified copy of the	On the date and at the time sworn to by affidavit of the Person who affixed the document, unless there is conclusive

**CERTIFIED TO BE
A TRUE COPY**

TRANSNET 

2022-10-25



GROUP COMPANY SECRETARY
TRANSNET SOC LTD

Person to whom the document is to be delivered	Method of delivery	Date and Time of Deemed delivery
	document to the main door of the office or place of business.	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's 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.	On the date and at the time recorded on a receipt for the delivery.
	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 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.
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	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;	On the date and at the time recorded on a receipt for the delivery.
	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.	On the date and at the time recorded on a receipt for the delivery.

