

**COR15.2**



Companies and Intellectual  
Property Commission

a member of the dsi group

Date: 25/10/2012

Our Reference: 110274083  
Box: 142958  
Sequence: 26

HENZEL DIENSTE (EDMS) BPK HENZEL DIENSTE (EDMS) BP  
Basket: HENZEL

**RE: Amendment to Company Information**

**Company Number: 1998/021121/06**

**Company Name: SANLAM LIFE INSURANCE LTD**

We have received a COR15.2 (Amendment of Memorandum of Incorporation) from you dated 16/08/2012.  
The Amendment of Memorandum of Incorporation (1) was accepted and placed on file.

Yours truly

**Commissioner: CIPC**

SIN

**Please Note:**

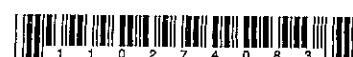
The attached certificate can be validated on the CIPC web site at [www.cipc.co.za](http://www.cipc.co.za).  
The contents of the attached certificate was electronically transmitted to the South African Revenue Services.



The Companies and Intellectual Property Commission  
of South Africa

P.O. BOX 429, PRETORIA, 0001, Republic of South Africa. Docex 256, PRETORIA.

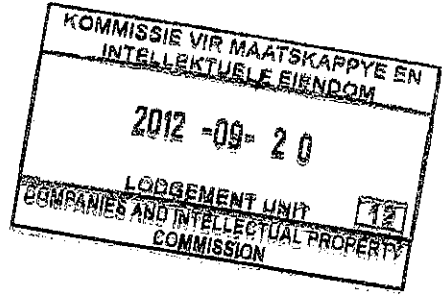
Call Centre Tel 086 100 2472, Website [www.cipc.co.za](http://www.cipc.co.za)



**ANNEXURE TO THE COR15.2 FORM**

**SANLAM LIFE INSURANCE LIMITED**

**REGISTRATION NUMBER: 1998/021121/06**



**Special resolution: 2**

**6. APPROVAL OF  
MEMORANDUM OF  
INCORPORATION  
(MOI)**

The Memorandum of Incorporation (MOI) of the Company was approved in substitution of the Company's existing memorandum and articles of association in terms of section 16(1)(c)(ii) of the Companies Act.

Companies and Intellectual Property Commission  
Republic of South Africa

**Form CoR 15.2**

**About this Notice**

- This notice is issued in terms of Section 16 of the Companies Act, 2008, and Regulation 15 (2) and (3) of the Companies Regulations, 2011.
- A notice of amendment must be filed within 10 business days after the amendment has been effected.
- If the amendment has changed the name of the Company, the provisions of the Act and Regulations applicable to company names apply.
- If the amendment has submitted a new memorandum of incorporation in place of the previous one, a copy of the new memorandum must be appended to this Notice.
- The fee for filing this notice is R 250. See item 3 of Table CR2B. A transitional amendment of a pre-existing company, filed in terms of Schedule 5, item 4 (2) is exempt from the fee.

**Contacting the Commission**

The Companies and Intellectual Property Commission of South Africa

Postal Address  
PO Box 429  
Pretoria  
0001  
Republic of South Africa  
Tel: 086 100 2472

www.cipc.co.za

**Notice of Amendment of Memorandum of Incorporation**

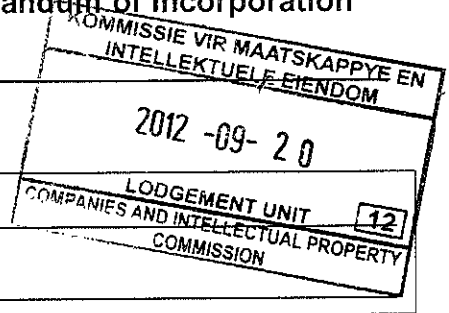
Date: 16 August 2012

Concerning:

(Name and Registration Number of Company)

Name: Sanlam Life Insurance Limited

Registration number: 1998/021121/06



The Memorandum of Incorporation of the above named company has been amended in accordance with section 16 of the Companies Act, 2008. In terms of section 16 (9), this amendment is to take effect on -

- The date that this Notice is filed in the Companies Registry.
- The date of the amended registration certificate to be issued by the Commission.
- \_\_\_\_\_  
(Later Date as shown on Notice of Incorporation)

In support of this Notice, the company has attached a copy of the court order, board resolution or special resolution authorising the amendment and -

- A copy of the amendment to the Memorandum; or
- A copy of the Memorandum of Incorporation, as amended.

As a result of this amendment, the Memorandum of Incorporation:

- Has no provision of the type contemplated in section 15 (2) (b) or (c).
- Has provision of the type contemplated in section 15 (2) (b) or (c) as listed in Annexure A.

(Personal Liability Companies only)

As a result of this amendment, the company:

- Will remain a personal liability company;
- Will no longer be a personal liability company, and has complied with the requirements of section 16 (10) by giving advance notice of this filing

**Name and Title of person signing on behalf of the Company:**

SANA-ULLAH BRAY AS COMPANY SECRETARY

**Authorised Signature:**

 20/08/2012

Republic of South Africa

Companies Act, No. 71 of 2008, as amended

**MEMORANDUM OF INCORPORATION**

Name of company: **SANLAM LIFE INSURANCE LIMITED**

Registration No.: 1998/021121/06

This MOI was adopted by Special Resolution passed on 23 July 2012 in substitution for the existing memorandum and articles of association of the Company.

## 1. INTERPRETATION

In this MOI, -

- 1.1. words that are defined in the Companies Act and/or the Insurance Act and/or the Securities Services Act , as the case may be, but not defined in this MOI will bear the same meaning in this MOI as in such Act, read where necessary with the definitions in the Listings Requirements. For the avoidance of doubt, the requirements of the Insurance Act, the Companies Act and the Securities Services Act shall be read concurrently, provided that in the event of an inconsistency or discrepancy, the provisions of the said statutes shall take precedence in the order in which they appear above. For ease of reading, such terms have been capitalised in this MOI;
- 1.2. unless the context otherwise requires –
  - 1.2.1. "**Applicable Laws**" - in relation to the Company shall include all and any -
    - 1.2.1.1. statutes, including, but not limited to the Companies Act, the Insurance Act, the Securities Services Act, and, any other statutes regulating the conduct of the Long-Term Insurance Business from time to time, and their respective subordinate legislation and common law; and
    - 1.2.1.2. regulations; and
    - 1.2.1.3. ordinances and by-laws; and
    - 1.2.1.4. directives, codes of practice, circulars, guidance notices, judgments and decisions of any competent authority, or any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation, which, for the avoidance of any doubt, shall include directives issued by the Registrar, and any replacement or amendment thereof; and
    - 1.2.1.5. other similar provisions,from time to time, compliance with which is mandatory for the Company;
  - 1.2.2. "**Audit Committee**" means the audit committee elected by the Company in accordance with the provisions of clause 19 (*Audit Committee*) and section 94 of the Companies Act;

- 1.2.3. "**Charter Document**" means any charter document approved by the Board relating to the specific powers, duties, functions and operation of any Board committee and/or statutory committee of the Company;
- 1.2.4. "**Commission**" means the Companies and Intellectual Property Commission, established by section 185 of the Companies Act;
- 1.2.5. "**Commissioner**" means the person appointed as the commissioner of the Commission in terms of section 189 of the Companies Act;
- 1.2.6. "**Companies Act**" means the Companies Act, No. 71 of 2008, as amended or any legislation which replaces it, and includes the Companies Regulations;
- 1.2.7. "**Companies Regulations**" means regulations promulgated under the Companies Act from time to time;
- 1.2.8. "**Company**" means Sanlam Life Insurance Limited (Registration No. 1998/021121/06), a public profit company with limited liability duly incorporated in accordance with the Companies Act, or by whatever other name it may be known as 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 36 (*Notices*) and the Companies Act;
- 1.2.10. "**Effective Date**" means the date on which the Companies Act came into operation, namely 1 May 2011;
- 1.2.11. "**Electronic Address**" means in regard to Electronic Communication, any email address furnished to the Company by the Holder;
- 1.2.12. "**FSB**" means the Financial Services Board, a juristic person with regulatory authority established in terms of section 2 of the Financial Services Board Act No. 97 of 1990, as amended, or its successor body;
- 1.2.13. "**Holders**" means:
- 1.2.13.1. the registered holders of Shares issued by the Company from time to time and who are entered as such in the Securities Register of the Company; and
  - 1.2.13.2. if applicable, the holders of any Securities (other than Shares), issued by the Company from time to time, but only to the extent that

such Securities confer Voting Rights on the holders thereof in respect of any matter to be considered by the holders of Shares contemplated in clause 1.2.13.1;

1.2.14. **"Ineligible or Disqualified"** means:

1.2.14.1. ineligible or disqualified as contemplated in the Companies Act; and/or

1.2.14.2. ineligible or disqualified as contemplated in section 9(3)(b), as read with section 16, 18, 22 of the Insurance Act, and, as articulated in Directives: 101Ai (LT &ST) and 138.A. issued by the FSB on 30 January 2004, respectively, or any replacement, amendment or substitution of such directives; and/or

1.2.14.3. ineligible or disqualified in accordance with any other Applicable Laws,

which shall apply not only to Directors but also to members of Board committees and members of Audit Committees and Prescribed Officers and the secretary of the Company;

1.2.15. **"Insurance Act"** means the Long–Term Insurance Act No. 58 of 1992, as amended or any legislation which replaces it, and includes the Insurance Regulations;

1.2.16. **"Insurance Regulations"** means regulations published pursuant to the Insurance Act from time to time;

1.2.17. **"JSE"** means a company duly registered and incorporated with limited liability under the company laws of the Republic of South Africa under registration number 2005/022939/06, licensed as an exchange under the Securities Services Act;

1.2.18. **"Listings Requirements"** means the listings requirements issued by the JSE in respect of securities listed on the JSE, as amended from time to time;

1.2.19. **"M & A"** means the memorandum and articles of association of the Company, dated June 2009;

1.2.20. **"MOI"** means this Memorandum of Incorporation;

- 1.2.21. **"Present"** means, in relation to any Holder entitled to exercise any Voting Rights at Shareholders Meetings, that such Holder is:
  - 1.2.21.1. present in person; or
  - 1.2.21.2. represented by:
    - 1.2.21.2.1. proxy; or
    - 1.2.21.2.2. a letter of representation (in respect of a Holder which is a juristic person); or
    - 1.2.21.2.3. an agent appointed under a general or special power of attorney (in respect of any individual);
- 1.2.22. **"Registrar"** means the Registrar of Long-Term Insurance referred to in section 2 of the Insurance Act;
- 1.2.23. **"Securities Services Act"** means the Securities Services Act, No. 36 of 2004, as amended or substituted from time to time;
- 1.2.24. **"Writing"** includes Electronic Communication but as regards any Holder entitled to vote, only to the extent that such Holder has notified the Company of an Electronic Address;
- 1.3. all references to "section/s" in this MOI refer to the sections of the Companies Act unless the context indicates otherwise;
- 1.4. reference to sections or paragraph numbers of any Applicable Laws shall include any amendment, alteration or modification of any such section and/or any new section or paragraph of the Applicable Law which substitutes an existing section or paragraph in whole or in part;
- 1.5. all references to any statutory provision is to such statutory provision as at date of adoption of this MOI and as amended and/or re-enacted and/or consolidated and/or replaced from time to time, and includes all statutory instruments or orders made pursuant to any such statutory provision (as amended and/or re-enacted and/or consolidated and/or replaced);
- 1.6. the headings are for reference purposes only and shall not affect the interpretation of this MOI;
- 1.7. words in the singular number shall include the plural, and words in the plural number shall include the singular, words importing the masculine gender shall include the female gender, and words importing persons shall include created entities (corporate or not);



- 1.8. 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;
- 1.9. save during the period contemplated in item 4(4) of Schedule 5 of the Companies Act when this MOI shall prevail, if the provisions of this MOI are in any way inconsistent with the provisions of the Companies Act, the provisions of the Companies Act shall prevail, and this MOI shall be read in all respects subject to the Companies Act;
- 1.10. 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.

## 2. **CALCULATION OF BUSINESS DAYS**

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

- 2.1. excluding the day on which the first such event occurs;
- 2.2. including the day on or by which the second event is to occur; and
- 2.3. excluding any public holiday, Saturday or Sunday that falls on or between the days contemplated in clauses 2.1 and 2.2 respectively.

## 3. **PUBLIC COMPANY**

The Company is a Public Company as it is not a Private Company or a State-Owned Company or a Personal Liability Company.<sup>1</sup>

## 4. **OBJECTS**

The Company’s primary object is to carry on Long-Term Insurance Business in accordance with the Insurance Act, and, all other Applicable Laws<sup>2</sup>, and all such ancillary and/or incidental activities as may be determined by the Board from time to time.

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<sup>1</sup> Section 8(2)(d)

<sup>2</sup> Para 3 M & A.

## 5. POWERS AND CAPACITY OF THE COMPANY

- 5.1. The Company has the powers and capacity of an Individual except to the extent that a Juristic Person is incapable of exercising any such power or having any such capacity. Without limiting the generality of the foregoing, but subject to any prohibition contained in this MOI and/or the Insurance Act, the Company may do anything which the Companies Act empowers a company to do.
- 5.2. Save to the extent otherwise permitted by the Companies Act and/or the Listings Requirements, the Holders may not ratify any action by the Company or the Board that is inconsistent with any limit, restriction or qualification applicable to such action.
- 5.3. The Company may sue or be sued in any court of law by its corporate name. All powers of attorney, bonds, deeds, contracts and other documents which may have to be executed on behalf of the Company shall be signed by any person or persons and/or official or officials authorised in general or specifically to do so by resolution of the Board.

## 6. AMENDMENTS TO THE MOI

- 6.1. The Board is hereby empowered to correct errors substantiated as such from objective evidence or which are self evident errors<sup>3</sup> (including, but without limitation ejusdem generis, spelling, punctuation, reference, grammar or similar defects) in the MOI. All other amendments of and/or to the MOI shall be effected in accordance with section 16(1) and a Special Resolution passed by the Holders.
- 6.2. For the avoidance of doubt, an amendment to the MOI shall be deemed to include, but not be limited to, the actions listed in Schedule 10.5(d) of the Listings Requirements.
- 6.3. No amendments to the provisions of this MOI relating to the provisions of the Insurance Act shall be made without prior:
  - 6.3.1. Shareholder approval;
  - 6.3.2. written approval of the JSE (to the extent legally required); and
  - 6.3.3. written consent of the Registrar (to the extent legally required).

## 7. THE MAKING OF RULES

The Board shall not make, amend or repeal Rules.<sup>4</sup>

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<sup>3</sup> Section 17(1)

<sup>4</sup> Section 15(3) (altered), JSE LR 10.4, Schedule 10.

## 8. AUTHORISED SHARES AND ALLOTMENT AND ISSUE

8.1. The Company is authorised to issue the following number and classes of Shares (which includes Shares already issued at any time), namely 100,000,000 (one hundred million) ordinary Shares with a par value of R0.01 (one cent) each, which shall:

8.1.1. have identical Voting Rights, on the basis that each Share shall entitle the Holder thereof to one vote in respect of every matter that may be decided by voting at a Shareholders Meeting; and

8.1.2. be entitled to receive the net assets of the Company upon its liquidation<sup>5</sup>.

8.2. The Board shall not have the power to amend the authorisation (including increasing or decreasing the number) and classification of Shares (including determining rights and preferences) as contemplated in section 36(2)(b) or 36(3).

8.3. 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.<sup>6</sup>

8.4. No rights, privileges or conditions for the time being attached to any class of Shares of the Company nor any interests of that class of Shares may (unless otherwise provided by the terms of issue of the Shares of that class) whether or not the Company is being wound up, be varied in any manner, nor may any variations be made to the rights, privileges or conditions of any class of Shares, such that the interest of another class of Shares is affected, unless a Special Resolution has been passed by the Holders of that affected class of Shares with the support of more than 75% (seventy five percent) of the Voting Rights exercised on the Special Resolution at a separate meeting of the Holders of that class of Shares, and such variation has been approved by the Registrar. The provisions of this MOI relating to Shareholders Meetings shall *mutatis mutandis* apply to any such separate meeting except that –

8.4.1. the necessary quorum shall be a Shareholder or Shareholders of the class present in person, or represented by proxy and holding at least 51% (fifty one percent) of the capital paid or credited as paid on the issued shares of that class;

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<sup>5</sup> Section 37(3)(b)(ii)

<sup>6</sup> Regulation 31

8.4.2. if at any adjourned meeting of such Holders, the required quorum contemplated in clause 8.4.1 is not present, those Persons entitled to vote who are Present shall be a quorum.

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

## 9. **AUTHORITY TO ISSUE SHARES**

9.1. The Board shall not have the power to issue authorised Shares<sup>7</sup> without the prior approval contemplated in clause 9.2, the approval of the Registrar (to the extent legally necessary), and the approval of the JSE (to the extent legally necessary).

9.2. As regards the issue of Shares –

9.2.1. the Board shall not have the power to allot or issue Shares as contemplated in sections 41(1) and (3) or as contemplated in section 5.50 of the Listings Requirements without the prior approval of a Special Resolution;

9.2.2. the Board shall not have the power to allot or issue Shares and/or to grant options to subscribe for unissued Shares, other than those contemplated in clause 9.2.1, without the prior approval of an Ordinary Resolution.

9.3. Any approval contemplated in clause 9.2 may be in the form of a general authority to the Board, whether conditional or unconditional, to allot or issue any Shares contemplated in clause 9.2 in their discretion, or in the form of a specific authority in respect of any particular allotment or issue of such Shares. Such authority shall endure for the period provided in the Ordinary or Special Resolution in question but may be revoked by Ordinary Resolution or Special Resolution, as the case may be, at any time and shall lapse at the next Annual General Meeting, unless revoked prior thereto.

9.4. Notwithstanding anything to the contrary contained in this MOI, the Board shall not issue any class of Shares other than that set out in clause 8.1 above and/or any debentures without the prior written consent of the Registrar and the JSE (to the extent legally necessary).

9.5. No Shares of a class which is to be listed on the JSE (if applicable) may be issued other than as fully paid.<sup>8</sup>

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<sup>7</sup> Section 38(1), article 3.2 M & A

<sup>8</sup> JSE LR 10.2(a)

10. **DEBT INSTRUMENTS**

No special privileges may be granted to secured and unsecured debt instruments as contemplated in section 43(3)(a).

11. **PRE-EMPTION ON ISSUE OF EQUITY SECURITIES**

11.1. For purposes of this clause 11, the term “*Equity Security*” shall mean a Share of the Company and other Securities which confer general Voting Rights on the holders thereof.

11.2. Subject to clause 11.3, Equity Securities of a particular class in the Company which are authorised but unissued and which are intended to be issued for cash, shall be offered to the existing Holders of that class of Equity Securities by way of a rights offer *pro rata* to their holding in that class of Equity Securities immediately before the offer was made, with a reasonable time (as determined by the Board) allowed to subscribe for such Equity Securities. If any fraction of an Equity Security will have to be issued, that fraction may be sold for the benefit of the Holder of the Equity Security in question in such manner as the Board may determine. After the expiration of the time within which an offer may be accepted, or on the receipt of an intimation from the Person to whom the offer is made that he declines to accept the Equity Securities offered, the Board may issue such Equity Securities in such manner as it thinks most beneficial to the Company.

11.3. The provisions of clause 11.2 shall not apply to:

11.3.1. any issue of Shares approved in accordance with clause 9.1; or

11.3.2. Equity Securities which are to be specifically issued in terms of option or Conversion rights.

11.4. Notwithstanding anything to the contrary contained in this MOI, the Company may exclude from any rights offer any Holder or category of Holders:

11.4.1. in accordance with section 99(7) and with the approval of the JSE (to the extent necessary); or

11.4.2. if the Company is precluded by any Applicable Law (including but not limited to anti-money laundering legislation) from extending such rights offer to such Holder or category of Holders.

**12. CERTIFICATES EVIDENCING ISSUED SECURITIES, UNCERTIFICATED SECURITIES AND SECURITIES REGISTER**

- 12.1. Any Shares issued by the Company from time to time shall be certificated (that is evidenced by a certificate). For every subsequent certificate issued in respect of the same Shares to the same Holder, the Directors shall be entitled, as they may deem fit, to require a charge in settlement of the reasonable costs included in such issue.
- 12.2. Securities, other than Shares, issued by the Company may either be certificated or uncertificated, in which case the Company must not issue certificates evidencing or purporting to evidence title to those Securities.
- 12.3. The Company shall convert its share register into a Securities Register with effect from the Effective Date, which shall reflect all such information in relation to the Securities of the Company as the case may be, as may be required in terms of sections 49 and 50.
- 12.4. The Company shall, in relation to the issue, re-acquisition, surrender or transfer of any of its uncertificated Securities, enter or cause to be entered the information prescribed in terms of the Companies Act into the Company's Securities Register
- 12.5. Certificates in respect of certificated securities shall be issued in such manner and form as the Directors shall from time to time prescribe save that they must -
- 12.5.1. state on the face –<sup>9</sup>
- 12.5.1.1. the name of the Company;
- 12.5.1.2. the name of the Person to whom the Securities were issued;
- 12.5.1.3. the number and class of Shares and the designation of the series, if any, evidenced by that certificate; and
- 12.5.1.4. any restriction on the transfer of the Securities (which are not listed on the JSE) evidenced by that certificate;
- 12.5.2. be signed by two Persons authorised by the Board by autographic, mechanical or electronic means.<sup>10</sup>
- 12.6. Each class of Securities must be distinguished by an appropriate numbering system.<sup>11</sup>

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<sup>9</sup> Section 50(1)(a)

<sup>10</sup> Section 50(1)(b)

<sup>11</sup> Section 51(4)

- 12.7. A certificate for Securities registered in the names of 2 (two) or more Persons shall be Delivered to the Person first named in the Securities Register and Delivery of a certificate for Securities to that Person shall be a sufficient Delivery to all joint Holders.
- 12.8. If a certificate for Securities or share warrant to bearer is defaced, lost or destroyed, it may be renewed, on such terms, as to evidence and indemnity and payment of such fee as the Directors think fit, and (in case of defacement) on delivery of the old certificate or share warrant to bearer to the Company.
- 12.9. A Person –
- 12.9.1. acquires the rights associated with any particular Securities of the Company when that Person's name is entered in the Company's Securities Register as a Person to whom those Securities have been issued or transferred; and
- 12.9.2. ceases to have the rights associated with any particular Securities of the Company when the transfer to another Person, re-acquisition by the Company, or surrender to the Company of those Securities has been entered in the Company's Securities Register.
- 12.10. The Company shall furnish, from time to time, all such information as the Registrar may require as contemplated in section 27 of the Insurance Act.

### 13. REGISTER OF DISCLOSURES AND NOTIFICATION

The Company must –

- 13.1. establish and maintain a register of the disclosures made in terms of section 56(7)<sup>12</sup>; and
- 13.2. publish in its annual Financial Statements a list of the Persons who hold Beneficial Interests equal to or in excess of 5% (five per cent) of the total number of Securities of that class issued by the Company, together with the extent of those Beneficial Interests;<sup>13</sup>
- 13.3. file a copy of a notification with the Panel of the acquisition or disposal of any Beneficial Interest in respect of the issued Securities of a class which results in the holding of the Person making such acquisition or disposal falling within a higher or lower multiple of 5% (five per cent) of the issued Securities of that class than the multiple held by such person immediately prior to such acquisition or disposal;<sup>14</sup>

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<sup>12</sup> Section 56(7)(a)

<sup>13</sup> Section 57(7)(b)

<sup>14</sup> Section 122(1)

13.4. report the information to the Holders of the relevant class of Securities in respect of which the Company has received a notification of the type referred to in clause 13.3 unless it relates to the disposal of any Beneficial Interest of less than 1% (one per cent) of the class.<sup>15</sup>

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

If any Securities are registered in the name of a Person (other than a person contemplated in section 25(2) of the Insurance Act) who is not the Holder of the Beneficial Interest in all of the Securities in the Company, that registered Holder of Security must disclose –

14.1. the identity of the person on whose behalf that Security is held;<sup>16</sup>

14.2. the identity of each Person with a Beneficial Interest in the Securities so held, the number and class of Securities held for each such Person with a Beneficial Interest, and the extent of each such Beneficial Interest,<sup>17</sup>

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

**15. PROHIBITION AGAINST THE COMPANY TAKING LIEN**

The Company shall not be entitled to take any lien over any Securities issued by it.

**16. TRANSFER OF SECURITIES**

16.1. Save as provided for in section 26 of the Insurance Act:

16.1.1. there is no restriction on the transfer of Shares; and

16.1.2. there is no restriction on the transfer of Securities other than Shares, save to the extent provided in the specific terms of issue (if any) upon which the Securities were issued.

16.2. The transfer of any Securities which are certificated shall be implemented in accordance using the then common form of transfer. Every instrument of transfer shall be left at the transfer office of the Company at which it is presented for registration, accompanied by the certificate of the Securities to be transferred, and or such other evidence as the Company may require to prove the title of the transferor or his rights to transfer the Securities.<sup>18</sup>

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<sup>15</sup> Section 122(3)(b)

<sup>16</sup> Section 56(3)(a)

<sup>17</sup> Section 56(3)(b)

<sup>18</sup> Article 7.4 M & A.



16.3. All authorities to sign transfer deeds granted by Holders for the purpose of transferring Securities that may be lodged, produced or exhibited with or to the Company at any of its transfer offices shall as between the Company and the grantor of such authorities, be taken and deemed to continue and remain in full force and effect, and the Company may allow the same to be acted upon until such time as express notice in writing of the revocation of the same shall have been given and lodged at the Company's registered office. Even after the giving and lodging of such notices the Company shall be entitled to give effect to any instruments signed under the authority to sign, and certified by any officer of the Company, as being in order before the giving and lodging of such notice.<sup>19</sup>

16.4. The Company must enter in its Securities Register regarding every transfer of any certificated Securities the information contemplated in section 51, provided that such entry may be made only if the transfer is evidenced by a proper instrument of transfer that has been delivered to the Company<sup>20</sup> or was effected by operation of law.<sup>21</sup>

#### 17. **TRANSMISSION OF SECURITIES BY OPERATION OF LAW**

Subject to the laws relating to securities transfer upon or in respect of the estates of deceased Persons and the administration of the estates of insolvent and deceased Persons and Persons under disability, any Person becoming entitled to any Securities held by a Holder by any lawful means other than transfer in terms of this MOI shall, upon production of such evidence as may be required by the Directors, have the right either -

17.1. to exercise the same rights and to receive the same Distributions and other advantages to which he would be entitled if she/he/it were the Holder of the Securities registered in the name of the Holder concerned; or

17.2. himself to be registered as the Holder in respect of those Securities and to make such transfer of those Securities as the Holder concerned could have made, but the Directors shall have the same right to decline or suspend registration as they would have had in the case of a transfer of the Securities by the Holder.

#### 18. **ACCOUNTING RECORDS AND FINANCIAL STATEMENTS<sup>22</sup>**

18.1. The Company shall:

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<sup>19</sup> Article 7.4 M & A.

<sup>20</sup> Section 51(6)(a)

<sup>21</sup> Section 51(6)(b)

<sup>22</sup> Article 23.1.1 M & A

- 18.1.1. keep accurate and complete Accounting Records in one of the official languages of the Republic of South Africa to enable the Company to satisfy its obligations in terms of the Companies Act, Insurance Act, or any other Applicable Laws;
  - 18.1.2. adhere to and maintain the asset and liability requirements contemplated and contained in Financial Arrangements - Chapter IV of the Insurance Act; and
  - 18.1.3. prepare its Financial Statements in accordance with the International Financial Reporting Standards and the requirements of the Insurance Act (to the extent applicable), and shall have its annual Financial Statements audited.
- 18.2. The Directors shall from time to time determine at what times and places and under what conditions, subject to the requirements of the Companies Regulations, the Holders and holders of Beneficial Interests are entitled to inspect and take copies of –
- 18.2.1. the MOI;<sup>23</sup>
  - 18.2.2. amendments to the MOI;<sup>24</sup>
  - 18.2.3. records in respect of Directors;<sup>25</sup>
  - 18.2.4. reports to Annual General Meetings;<sup>26</sup>
  - 18.2.5. annual Financial Statements;<sup>27</sup>
  - 18.2.6. notices and minutes of Shareholders Meetings;<sup>28</sup>
  - 18.2.7. communications generally to Holders;<sup>29</sup>
  - 18.2.8. the Securities Register.<sup>30</sup>
- 18.3. Apart from the Holders and holders of Beneficial Interests and save as may be expressly provided to the contrary in Applicable Laws, no other Person shall be entitled to inspect any

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<sup>23</sup> Section 26(1)(a)

<sup>24</sup> Section 26(1)(a)

<sup>25</sup> Section 16(1)(a)

<sup>26</sup> Section 26(1)(c)

<sup>27</sup> Section 26(1)(c)

<sup>28</sup> Section 26(1)(d)

<sup>29</sup> Section 26(1)(d)

<sup>30</sup> Section 26(6)

of the documents of the Company (other than the Securities Register) unless expressly authorised by the Board or by Ordinary Resolution.

- 18.4. The Company shall notify the Holders and the holders of Beneficial Interests of the publication of any annual Financial Statements of the Company, setting out the steps required to obtain a copy of those Financial Statements.<sup>31</sup> If a Holder or holder of Beneficial Interests demands a copy of the annual Financial Statements, the Company shall make same available to such Holder / holder of Beneficial Interests free of charge.<sup>32</sup>

## 19. **AUDIT COMMITTEE**

- 19.1. At each Annual General Meeting, the Company must elect an Audit Committee, in accordance with the requirements of the Insurance Act and the Companies Act (reading the requirements of the two statutes concurrently; provided that in the event of an inconsistency or discrepancy, the provisions of the Insurance Act shall prevail and take precedence), and, comprising at least 3 (three) members,<sup>33</sup> unless –
- 19.1.1. the Company is a subsidiary of another company that has an Audit committee<sup>34</sup>; and
- 19.1.2. the Audit Committee of that other company will perform the functions required in terms of the Companies Act on behalf of the Company.<sup>35</sup>
- 19.2. Subject to the Insurance Act, each member of the Audit Committee must comply with the requirements set out in section 94(4) and the requirements of the Board (as set out in the Charter Document of the Audit Committee) and shall be nominated by the Board for election at the relevant annual general meeting.
- 19.3. In addition, the majority of the members of the Audit Committee at any particular time must have academic qualifications, or experience, in economics, law, corporate governance, finance, actuarial, accounting, commerce, industry, public affairs or human resource management.
- 19.4. The duties of the Audit Committee shall be those set out in section 94(7), section 23(3) of the Insurance Act, and such additional duties as may be set out in its Charter Document.

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<sup>31</sup> Section 31(1)(a)

<sup>32</sup> Section 31(1)(b)

<sup>33</sup> Section 94(2)

<sup>34</sup> Section 94(2)(a)

<sup>35</sup> Section 94(2)(b)

- 19.5. 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.<sup>36</sup>
- 19.6. No Person shall be elected as a member of the Audit Committee, if she/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.
- 19.7. A member of the Audit Committee shall cease to hold office as such immediately she/he becomes Ineligible or Disqualified.

20. **APPOINTMENT OF AUDITOR**

- 20.1. The Company shall appoint as Auditor a JSE accredited audit firm, registered with the Independent Regulatory Board for Auditors, at its Annual General Meeting, provided that such Auditor shall comply with the provisions of section 90(2).
- 20.2. 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.<sup>37</sup>
- 20.3. If an Annual General Meeting does not appoint or reappoint an Auditor, the Board must fill the vacancy in the office in accordance with section 91. A retiring Auditor may be automatically re-appointed at an Annual General Meeting without any resolution being passed, unless any of the circumstances contemplated in section 90(6) are present.
- 20.4. Any Auditor appointed by the Company shall ensure that the designated Individual auditor responsible for performing the Audit must comply with the requirements of section 90(2), provided that the provisions of section 92 shall at all times apply.
- 20.5. The Auditor's rights and functions shall be regulated in accordance with section 93.
- 20.6. If a vacancy arises in the office of Auditor (including in the circumstances contemplated in section 91(5)), the Board shall comply with the provisions of sections 91(2) and 91(3).
- 20.7. The provisions of clauses 33.4 and 33.6 apply *mutatis mutandis* to the Auditor.

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<sup>36</sup> Section 94(11)

<sup>37</sup> Section 94(9)

## 21. SHAREHOLDERS MEETINGS<sup>38</sup>

- 21.1. The Company shall convene an Annual General Meeting once in every calendar year, but no more than 15 (fifteen) months after the date of the previous Annual General Meeting, or within an extended time allowed by the Companies Tribunal, on good cause shown<sup>39</sup>, which must, at a minimum, provide for the following business to be transacted –<sup>40</sup>
- 21.1.1. presentation of –
    - 21.1.1.1. the Directors' report;
    - 21.1.1.2. Audited Financial Statements for the immediately preceding financial year;
    - 21.1.1.3. an Audit Committee report;
  - 21.1.2. election of Directors, to the extent required by the Companies Act or the MOI;
  - 21.1.3. appointment of –
    - 21.1.3.1. an Auditor for the ensuing year;
    - 21.1.3.2. an Audit Committee;
  - 21.1.4. any matters (other than proposed resolutions) raised by Holders for discussion, with or without advance notice to the Company. Should a Holder wish to raise a matter which requires the passing of a resolution, such resolution shall be subject to the provisions of clause 21.5; and
  - 21.1.5. the declaration or sanction of an annual dividend.
- 21.2. The Company may permit resolution/s that could be voted on at a Shareholders Meeting to be dealt with by round robin resolutions of those Persons entitled to vote.
- 21.3. The Board or the Company secretary, if there are no Directors, may convene a Shareholders Meeting whenever it deems fit.
- 21.4. The Company must hold a Shareholders Meeting –

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<sup>38</sup> Article 9.1 M & A

<sup>39</sup> Section 61(7)

<sup>40</sup> Section 61(8)

- 21.4.1. at any time that the Board is required by the Companies Act or the MOI to refer a matter to Holders entitled to vote for decision;<sup>41</sup>
- 21.4.2. whenever required to fill a vacancy on the Board, where such vacancy gives rise to the number of Directors falling below the minimum number of Directors stipulated in clause 23.1; and<sup>42</sup>
- 21.4.3. if one or more Written and signed demands for such a Shareholders Meeting is/are delivered to the Company, and -
- 21.4.3.1. each such demand describes the specific purpose for which the Shareholders Meeting is proposed; and
- 21.4.3.2. in aggregate, demands for substantially the same purpose are made and signed by the Holders of at least 10% (ten per cent) of the Voting Rights entitled to be exercised in relation to the matter proposed to be considered at the Shareholders Meeting,
- within 30 (thirty) days after the date upon which the first such demand is delivered to the Company.
- 21.5. Each resolution shall be expressed with sufficient clarity and specificity<sup>43</sup> and accompanied by sufficient information / explanatory material<sup>44</sup> to enable a Person who is entitled to vote on the resolution to determine whether to participate in the Shareholders Meeting, if applicable, and to seek to influence the outcome of the vote on the resolution. Once a resolution has been approved, it may not be challenged or impugned on the ground that it did not comply with the foregoing.<sup>45</sup>
- 21.6. Every Shareholders Meeting shall be held where the Board determines from time to time.<sup>46</sup> A Shareholders Meeting may be held entirely by Electronic Communication, or the Company may provide for participation in a Shareholders Meeting by Electronic Communication, so long as the Electronic Communication employed ordinarily enables all Persons participating in that Shareholders Meeting to communicate concurrently with each other without an intermediary, and to participate reasonably effectively in the Shareholders Meeting, as set out in section 63(2).

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<sup>41</sup> Section 61(2)(a)

<sup>42</sup> Section 61(2)(b)

<sup>43</sup> Section 65(4)(a)

<sup>44</sup> Section 65(4)(b)

<sup>45</sup> Section 65(6)

<sup>46</sup> Section 61(9)

- 21.7. A Shareholders Meeting shall be called by at least 15 (fifteen) Business Days' notice<sup>47</sup> Delivered by the Company to all Holders entitled to vote or otherwise entitled to receive notice.
- 21.8. A Holder entitled to vote, who is Present at a Shareholders Meeting –
- 21.8.1. is regarded as having received or waived notice of the Shareholders Meeting if at least the required minimum notice was given,<sup>48</sup>
- 21.8.2. has a right to –
- 21.8.2.1. allege a Material defect in the form of notice for a particular item on the agenda for the Shareholders Meeting; and
- 21.8.2.2. 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,<sup>49</sup> and
- 21.8.3. except to the extent set out in clause 21.8.2 is regarded to have waived any right based on an actual or alleged Material defect in the notice of the Shareholders Meeting.<sup>50</sup>
- 21.9. The chairperson of the Shareholders Meeting shall be entitled, in his sole and absolute discretion, to determine the materiality of any alleged defect contemplated in clause 21.8.2. Should the chairperson deem the alleged defect to be immaterial, the item on the agenda for the Shareholders Meeting shall be discussed and voted on in the normal course.
- 21.10. A notice of a Shareholders Meeting must be in writing, in plain language and must include<sup>51</sup>–
- 21.10.1. the date, time and place for the Shareholders Meeting, and the Record Date for the Shareholders Meeting;
- 21.10.2. the general purpose of the Shareholders Meeting, and any specific purpose contemplated in clause 21.1, if applicable;

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<sup>47</sup> Article 9.3 M & A altered by Section 62(1)(a) and JSE LR 10.11(a), Schedule 10

<sup>48</sup> Section 62(7)(a)

<sup>49</sup> Section 62(7)(b)

<sup>50</sup> Section 62(7)(c)

<sup>51</sup> Section 62(3)

- 21.10.3. in the case of the Annual General Meeting a summary of the annual financial statements of the Company, together with directions for obtaining a copy of the annual financial statements of the Company;<sup>52</sup>
- 21.10.4. a copy of any proposed resolution of which the Company has received notice, and which is to be considered at the Shareholders Meeting, and a notice of the percentage of Voting Rights that will be required for that resolution to be adopted;
- 21.10.5. a reasonably prominent statement that –
  - 21.10.5.1. a Holder entitled to attend and vote at the Shareholders Meeting shall be entitled to appoint a proxy to attend, participate in, speak and vote at the Shareholders Meeting in the place of the Holder entitled to vote;
  - 21.10.5.2. a proxy need not be a Holder;<sup>53</sup>
  - 21.10.5.3. the proxy may not delegate the authority granted to him as proxy;
  - 21.10.5.4. participants in a Shareholders Meeting are required to furnish satisfactory identification in terms of section 63(1) in order to reasonably satisfy the Person presiding at the Shareholders Meeting;
  - 21.10.5.5. participation in the Shareholders Meeting by Electronic Communication is available, and provide any necessary information to enable Holders entitled to vote or their proxies to access the available medium or means of Electronic Communication and advise that access to the medium or means of Electronic Communication is at the expense of the Holder entitled to vote or proxy, except to the extent that the Company determines otherwise.

21.11. A Shareholders Meeting may proceed notwithstanding a Material defect in the giving of the notice, subject to clause 21.12, only if every Person who is entitled to exercise Voting Rights in respect of each item on the agenda of the Shareholders Meeting is present at the Shareholders Meeting and votes to approve the ratification of the defective notice.<sup>54</sup>

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<sup>53</sup> Article 11.4 M & A

<sup>54</sup> Section 62(4)



- 21.12. If a Material defect in the form or manner of giving notice of a Shareholders Meeting relates only to one or more particular matters on the agenda for the Shareholders Meeting –
- 21.12.1. any such matter may be severed from the agenda, and the notice remains valid with respect to any remaining matters on the agenda;<sup>55</sup> and
  - 21.12.2. the Shareholders Meeting may proceed to consider a severed matter, if the defective notice in respect of that matter has been ratified.<sup>56</sup>
- 21.13. An immaterial defect in the form or manner of Delivering notice of a Shareholders Meeting, or an accidental or inadvertent failure in the Delivery of the notice to any particular Holder to whom it was addressed if the Company elects to do so, does not invalidate any action taken at the Shareholders Meeting.<sup>57</sup>
- 21.14. A Person who holds a Beneficial Interest in any Securities may vote in a matter at a Shareholders Meeting if:
- 21.14.1. the Beneficial Interest includes the right to vote on the matter and the Person's name is on the Company's register of disclosures as the holder of a Beneficial Interest; or
  - 21.14.2. the Person holds a proxy form from the Holder in respect of such Securities.
- 21.15. Business may be transacted at any Shareholders Meeting only while a quorum is present.<sup>58</sup>
- 21.16. The quorum necessary for the commencement of a Shareholders Meeting shall be sufficient Persons Present at the Shareholders Meeting to exercise, in aggregate, at least 51% (fifty one percent) of all of the Voting Rights that are entitled to be exercised in respect of at least one matter to be decided at the Shareholders Meeting, having regard to the provisions of section 28(1) of the Insurance Act, but if the Company<sup>59</sup>:
- 21.16.1. has more than 2 (two) Holders, the Shareholders Meeting may not begin unless, in addition, at least 3 (three) Persons entitled to vote are Present;
  - 21.16.2. is a subsidiary of a company, those constituting the quorum must include its holding company (or its nominee) present in person.

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<sup>55</sup> Section 62(5)(a)

<sup>56</sup> Section 62(5)(b)

<sup>57</sup> Section 62(6)

<sup>58</sup> Section 64(1), 64(2)

<sup>59</sup> Section 64(2)

21.17. A matter to be decided at the Shareholders Meeting may not begin to be considered unless those who fulfilled the quorum requirements of clause 21.16 continue to be Present. If a resolution is proposed to meet the Listings Requirements, notwithstanding that the Holders of Securities not listed on the JSE shall be entitled to be counted in the quorum as a matter of law, they shall not be taken into account for the purposes of determining whether or not the quorum requirements of the JSE have been attained.<sup>60</sup>

21.18. If a quorum is not Present within 30 (thirty) minutes<sup>61</sup> from the time appointed for the Shareholders Meeting to commence, or if the quorum requirements in clause 21.16 cannot be achieved for any one or more matters, the Shareholders Meeting shall be postponed, without motion, vote or further notice, subject to clause 21.21, for 1 (one) week to the same day<sup>62</sup> in the next week or, if that day be a public holiday, to the next succeeding day which is not a public holiday. If a quorum is not Present at such postponed Shareholders Meeting within 30 (thirty) minutes from the time appointed for the Shareholders Meeting, the Person/s entitled to vote Present shall be deemed to be the requisite quorum.<sup>63</sup>

21.19. A Shareholders Meeting, or the consideration of any matter being debated at the Shareholders Meeting, may be adjourned from time to time without further notice on a motion supported by Persons entitled to exercise, in aggregate, a majority of the Voting Rights –

21.19.1. held by all of the Persons who are present at the Shareholders Meeting at the time; and

21.19.2. that are entitled to be exercised on at least one matter remaining on the agenda of the Shareholders Meeting, or on the matter under debate, as the case may be.<sup>64</sup>

Such adjournment may be either to a fixed time and place or until further notice (in which latter case a further notice shall be Delivered to Holders), as agreed at the Shareholders Meeting.

21.20. A Shareholders Meeting may not be adjourned beyond the earlier of<sup>65</sup>–

21.20.1. the date that is 120 (one hundred and twenty) Business Days after the Record Date; or

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<sup>60</sup> JSE LR 10.24, Schedule 10

<sup>61</sup> Section 64(6)

<sup>62</sup> Section 64(4)

<sup>63</sup> Section 64(8)

<sup>64</sup> Section 64(10)

<sup>65</sup> Section 64(12)

- 21.20.2. the date that is 60 (sixty) Business Days after the date on which the adjournment occurred.
- 21.21. No further notice is required to be Delivered by the Company of a Shareholders Meeting that is postponed or adjourned as contemplated in clause 21.18, unless the location for the Shareholders Meeting is different from<sup>66</sup> –
- 21.21.1. the location of the postponed or adjourned Shareholders Meeting; or
- 21.21.2. a location announced at the time of adjournment, in the case of an adjourned Shareholders Meeting.
- 21.22. After a quorum has been established for a Shareholders Meeting, or for a matter to be considered at a Shareholders Meeting, the Shareholders Meeting may continue, or the matter may be considered, so long as all of the Holders required to maintain the quorum at the Shareholders Meeting, or on that matter, is Present at the Shareholders Meeting.<sup>67</sup>
- 21.23. The chairperson, if any, of the Board shall preside as chairperson at every Shareholders Meeting. If there is no such chairperson, or if at any Shareholders Meeting he is not present within 15 (fifteen) minutes after the time appointed for holding the Shareholders Meeting or is unwilling to act as chairperson, the Persons entitled to vote who are Present shall select a Director present at the Shareholders Meeting, or if no Director be present at the Shareholders Meeting, or if all the Directors present decline to take the chair, the Persons entitled to vote shall select one of their number which is Present to be chairperson of the Shareholders Meeting.
- 21.24. At any Shareholders Meeting a resolution put to the vote (excluding resolutions regarding administrative matters or the order of proceedings, which may proceed by way of a show of hands) shall be decided on a poll.
- 21.25. A poll shall be taken in such manner as the chairperson directs, which may include electronic voting, and the result of the poll shall be deemed to be the resolution of the Shareholders Meeting at which the poll was demanded. Scrutineers may be appointed by the chairperson to calculate and declare the result of the poll, and if appointed their decision, which shall be given by the chairperson of the Shareholders Meeting, shall be deemed to be the resolution of the Shareholders Meeting at which the poll is demanded.
- 21.26. In the case of an equality of votes the chairperson of the Shareholders Meeting shall be entitled to a second or casting vote.

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<sup>66</sup> Section 64(7)

<sup>67</sup> Section 64(9)

- 21.27. Any person entitled to a Share in terms of clause 17 may vote at any Shareholders Meeting in respect thereof in the same manner as if he were the Holder of that Security: provided that (except where the Directors have previously accepted his right to vote in respect of that Security) 24 (twenty four) hours at least before the time of holding the Shareholders Meeting at which he proposes to vote, he shall have satisfied the Directors that he is entitled to exercise the right referred to in clause 17.<sup>68</sup>
- 21.28. Every resolution of Shareholders is either an Ordinary Resolution or a Special Resolution. An Ordinary Resolution, save to the extent expressly provided in respect of an particular matter contemplated in this MOI, shall require to be adopted with the support of more than 50% (fifty per cent) of the Voting Rights exercised on the resolution. A Special Resolution shall require to be adopted with the support of at least 75% (seventy five per cent) of the Voting Rights exercised on the resolution.
- 21.29. Every Person entitled to vote who is Present at the Meeting shall have the number of votes determined in accordance with the Voting Rights associated with the Securities in question. Where the Holders of all Securities, other than ordinary Shares and any special or deferred Shares created for the purposes of Black Economic Empowerment are entitled to vote on any resolution in accordance with this MOI, the total Voting Rights of such Holders shall not exceed 24,99% (twenty four comma ninety nine percent) of the total Voting Rights of all Persons entitled to vote in respect of such resolution. If a resolution is proposed to meet the requirements of the JSE, the votes of Holders of Securities not listed on the JSE shall not be taken into account for the purposes of determining whether or not the requirements of the JSE have been attained.<sup>69</sup>
- 21.30. In the case of joint Holders the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint Holders; and for this purpose seniority shall be determined by the order in which the names stand in the Register.<sup>70</sup>
- 21.31. 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.<sup>71</sup> 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<sup>72</sup>, and delivering a copy of the revocation instrument to

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<sup>68</sup> Article 11.3 M & A

<sup>69</sup> JSE LR 10.5(b)(c), Schedule 10

<sup>70</sup> Article 11.2 M & A

<sup>71</sup> Section 58(2)(b)

<sup>72</sup> Section 58(4)(c)(i)

the proxy, and to the Company.<sup>73</sup> The appointment is suspended at any time and to the extent that the Holder entitled to vote chooses to act directly and in person in the exercise of any rights as a Holder entitled to vote.<sup>74</sup>

- 21.32. The form appointing a proxy and the power of attorney, if any, under which it is signed shall be delivered to the Company or any Person which it has identified in the notice of meeting as being a Person to whom proxies may be delivered on behalf of the Company, no later than 48 (forty eight) hours prior to the time scheduled for the commencement of the Shareholders Meeting, provided that the Chairperson of the Shareholders Meeting shall be entitled, in his sole and absolute discretion, to accept or reject any proxies delivered to the Company (or the Person authorised to receive the proxies as aforesaid) less than 48 (forty eight) hours prior to the time scheduled for the commencement of the Shareholders Meeting.
- 21.33. 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 Securities in respect of which the proxy is given, unless the Company is informed in writing of such death, insanity, revocation or transfer as aforesaid shall have been received by the Company at its Registered Office before the commencement of the Shareholders Meeting or adjourned Shareholders Meeting at which the proxy is used.<sup>75</sup>
- 21.34. Subject to the provisions of the Companies Act, a form appointing a proxy may be in any usual or common form, and may also be provided by means of Electronic Communication if approved by the Board. The Company shall supply a generally standard form of proxy upon request by a Holder entitled to vote.
- 21.35. 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/it sees fit unless the proxy indicates otherwise.<sup>76</sup>
- 21.36. The Company must keep minutes of the meetings of the Shareholders, and include in such minutes every resolution adopted by the Shareholders.
- 21.37. Resolutions adopted by the Shareholders—
- 21.37.1. must be dated and sequentially numbered; and

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<sup>73</sup> Section 58(4)(c)(ii)

<sup>74</sup> Section 58(4)(a)

<sup>75</sup> Section 58(7)

<sup>76</sup> Section 58(7)

21.37.2. are effective as of the date of the resolution, unless the resolution or any regulatory requirement states otherwise.

21.38. Any minutes of a meeting, or a resolution, signed by Chairperson of the Shareholders Meeting, or by the Chairperson of the next Shareholders Meeting, are/is evidence of the proceedings of that meeting, or adoption of that resolution, as the case may be.

21.39. Any extract from such minutes or extract from any resolution in writing, if signed by any Shareholder or by the Company secretary, or by any duly authorised person acting in the place of the Company secretary, shall be receivable as evidence of the matters stated in such minutes or resolution.

## 22. RECORD DATE

22.1. The Board shall determine each Record Date and inform each Holder thereof in accordance with the requirements of the Companies Act.

22.2. If, at any time, the Board fails to determine a Record Date, the Record Date for the relevant matter is<sup>77</sup> –

22.2.1. in the case of a Shareholders Meeting, the latest date by which the Company is required to Deliver to Holders entitled to vote, notice of that Shareholders Meeting;

22.2.2. in the case of dividends, the day immediately following the declaration date or the date of confirmation of the dividend, whichever is the later;

22.2.3. the date of the action or event, in any other case.

## 23. ELECTION OF DIRECTORS AND VACANCIES

23.1. Subject to the requirements of the Insurance Act, the minimum number of Directors shall be 4 (four) and the maximum 20 (twenty).<sup>78</sup> Any failure by the Company at any time to have the minimum number of Directors does not limit or negate the authority of the Board, or invalidate anything done by the Board or the Company.<sup>79</sup>

23.2. <sup>80</sup>At the Annual General Meeting held in each year 1/3 (one third) of the Directors, or if their number is not a multiple of 3 (three), then the number nearest to, but not less than 1/3 (one

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<sup>77</sup> Section 59(3)

<sup>78</sup> Article 13.1 M & A, Section 66(3)

<sup>79</sup> Section 66(11)

<sup>80</sup> Article 14.1 M & A.

third) shall retire from office, provided that in determining the number of Directors to retire no account shall be taken of any Director who has been appointed as an executive Director. The Directors so to retire at each Annual General Meeting shall be those who have been longest in office since their last election. As between Directors of equal seniority, the Directors to retire shall, in the absence of agreement, be selected from among them by lot. Notwithstanding anything herein contained, if:

- 23.2.1. at the date of any Annual General Meeting any Director will have held office for a period of 3 (three) years since his last election or appointment he shall retire at such Annual General Meeting, either as one of the Directors to retire in pursuance of the foregoing or additionally thereto; and
  - 23.2.2. a Director is also a director of the Holding Company of the Company, such Director shall retire by rotation at the Annual General Meeting, on the same year during which he is required to retire at the annual general meeting of the Holding Company.
- 23.3. A retiring Director shall act as a Director throughout the Annual General Meeting at which he retires. The length of time a Director has been in office shall be computed from the date of her/his last election. Retiring Directors shall be eligible for re-election.
- 23.4. No Person other than a Director retiring at the Meeting shall, unless recommended by the Board for election, be eligible for election to the office of Director at any Annual General Meeting unless:
- 23.4.1. not less than 7 (seven) days nor more than 14 (fourteen) days before the day appointed for the Annual General Meeting, a Holder entitled to be present and vote at the Annual General Meeting for which such notice is given notifies the Company secretary in Writing of its intention to propose such Person for election; and
  - 23.4.2. the Person to be proposed notifies the Company secretary of his willingness to be elected.
- 23.5. If at any Annual General Meeting, the place of any retiring Director is not filled, he shall if willing continue in office until the dissolution of the Annual General Meeting in the next year, and so on from year to year until his place is filled, unless it shall, on the recommendation of the Board, be determined at such Annual General Meeting not to fill such vacancy.
- 23.6. Each of the Directors, other than a Director contemplated in clause 23.11, shall be elected (which in the case of a vacancy arising shall take place at the next Annual General Meeting), in accordance with clause 23.8 as a Director.

- 23.7. There are no general qualifications prescribed by the Company for a Person to serve as a Director in addition to the requirements of the Companies Act and the Insurance Act, provided always that Directors shall be required to adhere to the requirements imposed on them in terms of any Applicable Laws.
- 23.8. In any election of Directors, the election is to be conducted as follows –
- 23.8.1. a series of votes of those entitled to exercise votes regarding such election, each of which is on the candidacy of a single individual to fill a single vacancy, with the series of votes continuing until all vacancies on the Board at that time have been filled; and
- 23.8.2. in each vote to fill a vacancy –
- 23.8.2.1. each Voting Right entitled to be exercised may be exercised once; and
- 23.8.2.2. the vacancy is filled only if a majority of the Voting Rights exercised support the candidate.
- 23.9. No Person shall be elected as a Director, if he is Ineligible or Disqualified<sup>81</sup> and any such election shall be a nullity. A Person who is Ineligible or Disqualified must not consent to be elected as a Director<sup>82</sup> nor act as a Director.<sup>83</sup> A Person placed under probation by a court must not serve as a Director unless the order of court so permits.
- 23.10. The election of a Director shall take effect<sup>84</sup> as at the date upon which he has complied with the provisions of section 66(7).<sup>85</sup>
- 23.11. Any vacancy occurring on the Board may be filled by the Board, but so that the total number of the Directors shall not at any time exceed the maximum number fixed,<sup>86</sup> if any, but the Individual so appointed shall cease to hold office at the termination of the first Shareholders Meeting to be held after the appointment of such Individual as a Director unless he is elected at such Shareholders Meeting.<sup>87</sup>

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<sup>81</sup> Section 69(2)(a)

<sup>82</sup> Section 69(2)(a)

<sup>83</sup> Section 69(2)(b)

<sup>84</sup> Article 13.3 M & A

<sup>85</sup> Section 66(7)(b)

<sup>86</sup> Article 13.2 M & A

<sup>87</sup> JSE LR 10.16(c), Schedule 10.



23.12. The continuing Directors (or sole continuing Director) may act notwithstanding any vacancy in their body. Should the number of Directors be reduced below the number fixed by or pursuant to this MOI as the minimum, the continuing Directors or Director shall as soon as possible, but in any event not later than 3 (three) months from the date that the number falls below the minimum, fill the vacancy or call a Shareholders Meeting for the purpose of filling the vacancy.<sup>88</sup>

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

23.14. The Company shall not have any Alternate Directors.

23.15. Life directorships and directorships for an indefinite period are not permissible.

## 24. CESSATION OF OFFICE AS DIRECTOR

24.1. A Director shall cease to hold office as such –

24.1.1. immediately he becomes Ineligible or Disqualified or the Board resolves to remove him on such basis, and in the latter case the Director has not within the permitted period filed an application for review or has filed such an application but the court has not yet confirmed the removal (during which period he shall be suspended);<sup>89</sup>

24.1.2. when his term of office contemplated in clauses 23.2 and 23.6 expires;<sup>90</sup>

24.1.3. when he dies;<sup>91</sup>

24.1.4. when he resigns by Written notice to the Company;<sup>92</sup>

24.1.5. if the Board determines that he has become 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 time, and the Director has not within the permitted period filed an application for review or has filed such an application

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<sup>88</sup> JSE LR 10.16(d), Schedule 10

<sup>89</sup> Section 70(3)(b)(i)

<sup>90</sup> Section 69(4)

<sup>91</sup> Section

<sup>92</sup> Section 70(1)(b)(i)

but the court has not yet confirmed the removal (during which period she/he shall be suspended),<sup>93</sup>

- 24.1.6. if he is declared delinquent by a court, or placed on probation under conditions that are inconsistent with continuing to be a director of the Company<sup>94</sup>
  - 24.1.7. if he is removed by Ordinary Resolution;<sup>95</sup>
  - 24.1.8. if he is removed by a resolution passed by 75% (seventy five percent) of the Board for being negligent or derelict in performing the functions of a director, and the Director has not within the permitted period filed an application for review or has filed such an application but the court has not yet confirmed the removal (during which period she/he shall be suspended);<sup>96</sup>
  - 24.1.9. he files a petition for the surrender of his estate or an application for an administration order, or if he commits an act of insolvency as defined in the insolvency law for the time being in force, or if he makes any arrangement or composition with his creditors generally<sup>97</sup>; or
  - 24.1.10. he is otherwise removed in accordance with any provisions of the Companies Act and/or the Insurance Act and/or this MOI; or
  - 24.1.11. if he is absent from meetings of the Directors for 6 (six) consecutive months without leave of the Directors and the Directors resolve that the office be vacated, provided that the Directors shall have the power to grant any Director leave of absence for any or an indefinite period<sup>98</sup>; or
  - 24.1.12. on the day of his 70<sup>th</sup> (seventieth) birthday.<sup>99</sup>
- 24.2. The Company shall from time to time, as soon as practical, notify the Registrar of any alterations to the constitution of the Board as required in terms of the Insurance Act.

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<sup>93</sup> Section 70(1)(b)(i)

<sup>94</sup> Section 10(1)(b)(3), 71(3)(a)

<sup>95</sup> Section 70(1)(b)(iv)

<sup>96</sup> Section 71(3)(b), Section 70(1)(b)(vi)(bb)

<sup>97</sup> Article 13.8.1 M & A

<sup>98</sup> Article 13.8.4 M & A

<sup>99</sup> Article 13.8 .9 M & A

25. **REMUNERATION<sup>100</sup> OF DIRECTORS**

25.1. The Directors or members of Board committees shall be entitled to such remuneration for their services as Directors or members of Board Committees as may have been determined from time to time by Special Resolution within the previous 2 (two) years. In addition, the Directors shall be entitled to all reasonable expenses in travelling (including accommodation) to and from meetings of the Directors and Holders, and the members of the Board committees shall be entitled to all reasonable expenses in travelling (including accommodation) to and from meetings of the Board and Holders, and the members of the Board committees shall be entitled to all reasonable expenses in travelling (including accommodation) to and from meetings of the members of the Board committees as determined by a disinterested quorum of Directors.<sup>101</sup> The Company may pay or grant any type of remuneration contemplated in sections 30(6)(b) to (g) of the Companies Act to any executive Directors.

25.2. A Director may be employed in any other capacity in the Company or as a director or employee of a company controlled by, or itself a subsidiary of, the Company and in that event, his appointment and remuneration in respect of such other office must be determined by a disinterested quorum of Directors.<sup>102</sup>

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

26.1. The Board's powers to provide direct or indirect financial assistance as contemplated in section 45(2) are not limited in any manner.<sup>103</sup>

26.2. If the Board adopts a resolution as contemplated in section 45(2) regarding financial assistance to the Directors / Prescribed Officers and others contemplated in that section, the Company shall Deliver to all Shareholders notice in Writing of that resolution and to any trade union representing its employees –

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

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<sup>100</sup> Article 13.5 M & A

<sup>101</sup> Article 13.6 M & A, JSE LR 10.16(f), Schedule 10

<sup>102</sup> Article 15.3 M & A, JSE LR 10.16(e), Schedule 10

<sup>103</sup> Article 12.2 M & A

- 26.2.2. within 30 (thirty) Business Days after the end of the financial year, in any other case.<sup>104</sup>

## 27. GENERAL POWERS AND DUTIES OF DIRECTORS

- 27.1. The powers of management granted to the Directors in terms of section 66(1) of the Companies Act are limited as follows –
- 27.1.1. the business and affairs of the Company shall be managed by or under the direction of the Board, which has the authority to exercise all of the powers and perform any of the functions of the Company, except to the extent that the Companies Act or this MOI provides otherwise;
- 27.1.2. the Board must adopt and implement, in accordance with Applicable Laws, an effective governance framework that provides for the prudent management, control and oversight of the Company's Long-Term Insurance Business and adequately protects the interests of its policyholders and the Holders;
- 27.1.3. the Board shall have the power to delegate to any person or persons any of its powers and discretions and to give to any such person or persons the power of sub-delegation. The delegation of such powers and discretions may be reduced or withdrawn at any time by the Board.
- 27.2. The Board must appoint a chief executive officer, an executive financial Director and a public officer (in accordance with the Insurance Act), and may from time to time appoint further executive Directors (provided always that the number of executive Directors, shall at all times be less than ½ (one half) of the number of Directors in office) for such period and at such remuneration and generally on such terms they may think fit, and it may be made a term of his appointment that he be paid a pension, gratuity or other benefit on his retirement from office.
- 27.3. The Board may from time to time entrust to and confer upon an executive Director such of the powers vested in the Directors as they may think fit, and may confer such powers for such time and to be exercised for such objects and upon such terms and with such restrictions as they may think expedient; and they may confer such powers either collaterally or to the exclusion of, and in substitution for, all or any of the powers of the Directors, and may from time to time revoke or vary all or any of such powers. An executive Director appointed pursuant to the provisions hereof shall not be regarded as an agent or delegate of

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<sup>104</sup> Section 45(5)

the Directors and after powers have been conferred upon him by the Board in terms hereof he shall be deemed to derive such powers directly from this clause.<sup>105</sup>

27.4. The directors may, from time to time, at their discretion, raise or borrow or secure the payment of any sum or sums of money for the purposes of the Company, provided that the total amount owing by the Company in respect of monies so raised, borrowed or secured shall not exceed the amount authorised by its listed Holding Company

## 28. **BOARD COMMITTEES**

28.1. Subject to the requirements of Applicable Laws, the Board may appoint any number of Board committees and delegate to such committees any authority of the Board in accordance with the applicable Charter Documents.

28.2. The members of any committees appointed pursuant to clause 28.1 may include Persons who are not Directors as long as they are not Ineligible or Disqualified to be Directors, but such Persons shall not be able to vote.<sup>106</sup>

28.3. No Person shall be appointed as a member of a Board committee, if he is Ineligible or Disqualified<sup>107</sup> 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.

28.4. In addition to the requirements of the Companies Act, a Person shall comply with such qualifications or requirements as may be stipulated in the relevant Charter Document in order to serve as a member of the Board committee.

28.5. A member of a Board committee shall cease to hold office as such immediately he becomes Ineligible or Disqualified.

28.6. Subject to the provisions of its Charter Document, a Board committee may consult with or receive advice from any person.

28.7. 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.

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<sup>105</sup> Article 15.4 M & A

<sup>106</sup> Section 77(2)

<sup>107</sup> Section 72(2)(a)(1)

- 28.8. The composition of such committees, a brief description of their mandates, the number of meetings held and other relevant information must be disclosed in the annual report of the Company.
- 28.9. The Board and committees of the Board shall in adhering to its stated purpose of effective and prudent governance of the Company, (pro) actively comply with the principles and any specific requirements imposed by the Insurance Act in regard to governance, management of policyholder interests, and risk management, including in particular (but without limitation), any specific requirements in regard to:
- 28.9.1. risk-based supervision in regard to the Long-Term Insurance Business;
  - 28.9.2. risk and governance as a member, controller or otherwise, a part of a financial conglomerate or a greater insurance group;
  - 28.9.3. financial soundness, prudential investment, resource and risk management; and
  - 28.9.4. governance and control (internally and externally),
- in terms of any Applicable Laws from time to time.

## 29. **SOCIAL AND ETHICS COMMITTEE**

- 29.1. The Board shall appoint a social and ethics committee unless it is a Subsidiary of another company that has a social and ethics committee, and the social and ethics committee of that other company will perform the functions required on behalf of the Company, or the Company has been exempted in terms of the Companies Act from having to have a social and ethics committee.<sup>108</sup>
- 29.2. The social and ethics committee must comprise not less than 3 (three) 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.<sup>109</sup>
- 29.3. The social and ethics committee shall have the functions set out in regulation 43(5) and shall be entitled to exercise the rights set out in section 72(8), subject to the requirements of and stipulations contained in the applicable Charter Document.

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<sup>108</sup> Regulation 43(2)

<sup>109</sup> Regulation 43(4)

29.4. The Company must pay all the expenses reasonably incurred by its social and ethics committee, including, if the social and ethics committee considers it appropriate, the costs or the fees of any consultant or specialist engaged by the social and ethics committee in the performance of its functions.<sup>110</sup>

30. **PERSONAL FINANCIAL INTERESTS OF DIRECTORS AND PRESCRIBED OFFICERS AND MEMBERS OF BOARD COMMITTEES**

30.1. For the purposes of this clause 30, "Director" includes a Prescribed Officer, and 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.<sup>111</sup>

30.2. This clause 30 shall not apply to a Director in respect of a decision that may generally affect –

30.2.1. all of the Directors in their capacity as Directors, but in that case all the Directors shall act in accordance with and as if section 75(3) were applicable unless the Directors are acting pursuant to an authorisation given by the Holders for the Board to make a decision within certain thresholds, relating to their capacity as Directors; or

30.2.2. a class of Persons, despite the fact that the Director is one member of that class of Persons, unless the only members of the class are the Director or Persons Related or Inter-related to the Director.

30.3. If there is only 1 (one) Director in office at any time, that Director must comply with the requirements of section 75(3).

30.4. A Director may at any time disclose any Personal Financial Interest in advance by delivering to the Board, or Holders (if the circumstances contemplated in clause 30.3 prevail), a notice in Writing setting out the nature and extent of that Personal Financial Interest, to be used generally by the Company until changed or withdrawn by further Written notice from that Director.<sup>112</sup>

30.5. 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

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<sup>110</sup> Section 72(9)

<sup>111</sup> Section 75(1)(a)

<sup>112</sup> Section 75(4)

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

- 30.6. If a Director (whilst the circumstances contemplated in clause 30.3 are not applicable), has a Personal Financial Interest in respect of a matter to be considered at a meeting of the Board, or Knows that a Related Person has a Personal Financial Interest in the matter, the Director<sup>113</sup> -
- 30.6.1. must disclose the Personal Financial Interest and its general nature before the matter is considered at the meeting;
  - 30.6.2. must disclose to the meeting any Material information relating to the matter, and Known to the Director;
  - 30.6.3. may disclose any observations or pertinent insights relating to the matter if requested to do so by the other Directors;
  - 30.6.4. if present at the meeting, must leave the meeting immediately after making any disclosure contemplated in clauses 30.6.2 or 30.6.3;
  - 30.6.5. must not take part in the consideration of the matter, except to the extent contemplated in clauses 30.6.2 or 30.6.3;
  - 30.6.6. while absent from the meeting in terms of this clause 30.6 –
    - 30.6.6.1. is to be regarded as being present at the meeting for the purpose of determining whether sufficient Directors are present to constitute a quorum; and
    - 30.6.6.2. is not to be regarded as being present at the meeting for the purpose of determining whether a resolution has sufficient support to be adopted; and
  - 30.6.7. must not execute any document on behalf of the Company in relation to the matter unless specifically requested or directed to do so by the Board.
- 30.7. If a Director acquires a Personal Financial Interest in an agreement or other matter in which the Company has a Material interest, or Knows that a Related Person has acquired a Personal Financial Interest in the matter, after the agreement or other matter has been approved by the Company, the Director must promptly disclose to the Board, or to the Holders entitled to vote (if the Company is a company contemplated in clause 30.3), the

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<sup>113</sup> Section 75(5)



nature and extent of that Personal Financial Interest, and the material circumstances relating to the Director or Related Person's acquisition of that Personal Financial Interest.<sup>114</sup>

- 30.8. A decision by the Board, or a transaction or agreement approved by the Board, or by the Holders (if the Company is a company contemplated in clause 30.3), is valid despite any Personal Financial Interest of a Director or Person Related to the Director, only if <sup>115</sup>–
- 30.8.1. it was approved following the disclosure of the Personal Financial Interest in the manner contemplated in this clause 29; or
- 30.8.2. despite having been approved without disclosure of that Personal Financial Interest, it has been ratified by an Ordinary Resolution following disclosure of that Personal Financial Interest or so declared by a court.

### 31. **PROCEEDINGS OF THE BOARD**

- 31.1. The chairperson of the Board or a Director authorised by the Board –
- 31.1.1. may, at any time, summon a meeting of the Board,<sup>116</sup> and
- 31.1.2. must call a meeting of the Board if required to do so by at least 2 (two) Directors.<sup>117</sup>
- 31.2. The Board may determine what period of notice shall be given of meetings of the Board and may determine the means of giving such notice<sup>118</sup> which may include telephone, telefax or Electronic Communication.<sup>119</sup> It shall be necessary to give notice of a meeting of the Board to all Directors even those for the time being absent from South Africa.<sup>120</sup>
- 31.3. If all of the Directors –
- 31.3.1. acknowledge actual receipt of the notice;
- 31.3.2. are present at a meeting of the Board; or
- 31.3.3. waive notice of the meeting,

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<sup>114</sup> Section 75(6)

<sup>115</sup> Section 75(7)

<sup>116</sup> Section 73(1)

<sup>117</sup> Section 73(2)

<sup>118</sup> Section 73(4)

<sup>119</sup> Section 73(3)

<sup>120</sup> Section 73(4)(b)

the meeting may proceed even if the Company failed to give the required notice of that meeting, or there was a defect in the giving of the notice.<sup>121</sup>

- 31.4. The Board may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit.
- 31.5. Unless otherwise resolved by the Board, all its meetings shall be held in the city or town where the Company's Registered Office is for the time being situated. A meeting of the Board may be conducted by Electronic Communication and/or one or more Directors may participate in a meeting of the Board 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.<sup>122</sup>
- 31.6. The quorum for a Board meeting is 50% (fifty percent) of the appointed Directors plus 1 (one) Director to the higher integer (of whom at least 50% (fifty percent) shall comprise non-executive Directors).
- 31.7. The Board may elect a chairperson, deputy chairperson of the Company from amongst the non-executive Directors and determine the period for which he is to hold office; but if no such chairperson is elected, or if at any meeting the chairperson is not present within 15 (fifteen) minutes after the time appointed for holding it, the Directors present may choose one of their number to be chairperson of the meeting.
- 31.8. Each Director has 1 (one) vote on a matter before the Board and a majority of the votes cast on a resolution is sufficient to approve that resolution.
- 31.9. In the case of a tied vote, the chairperson shall be entitled to cast a deciding vote.
- 31.10. The Company must keep minutes of the meetings of the Board, and any of its committees, and include in the minutes<sup>123</sup> –
- 31.10.1. any declaration given by notice or made by a Director as required by clause 29;
- 31.10.2. every resolution adopted by the Board.
- 31.11. Resolutions adopted by the Board<sup>124</sup> –

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<sup>121</sup> Section 73(5)(a)

<sup>122</sup> Section 73(3)

<sup>123</sup> Section 73(6)

<sup>124</sup> Section 73(7)

- 31.11.1. must be dated and sequentially numbered; and
- 31.11.2. are effective as of the date of the resolution, unless the resolution states otherwise.
- 31.12. Any minutes of a meeting, or a resolution, signed by the chair of the meeting, or by the chair of the next meeting of the Board, are/is evidence of the proceedings of that meeting, or adoption of that resolution, as the case may be.<sup>125</sup>
- 31.13. Any extract from such minutes or extract from any resolution in writing, if signed by any Director or by the Company secretary, or by any duly authorised person acting in the place of the Company secretary, shall be receivable as evidence of the matters stated in such minutes or resolution.
- 31.14. A round robin resolution shall, once inserted in the minutes of the Board kept in accordance with clause 31.10, be as valid and effectual as if it had been passed at a meeting of the Board duly called and constituted, provided that each Director who is able to receive notice, has received notice of the matter to be decided upon. Such resolution shall be deemed to have been passed on the date on which it was signed by the last Director who signed it (unless a statement to the contrary is made in that resolution). For the purposes hereof a round robin resolution means a resolution passed other than at a meeting of the Board, in respect of which, subject to clause 31.10, not less than a majority of Directors voted in favour by signing in Writing a resolution in counterparts, within 20 (twenty) Business Days after the resolution was submitted to them.<sup>126</sup>

## 32. **PRESCRIBED OFFICERS**

- 32.1. 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 her/him being a Prescribed Officer nor act in such office nor undertake any such functions unless the order of court so permits.<sup>127</sup>

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<sup>125</sup> Section 73(8)

<sup>126</sup> Section 74

<sup>127</sup> Section 69(2)

32.2. A Prescribed Officer shall cease to hold office as such immediately he becomes Ineligible or Disqualified in terms of the Companies Act.<sup>128</sup>

### 33. APPOINTMENT OF THE COMPANY SECRETARY

33.1. The Board must appoint the Company secretary from time to time, who –

33.1.1. shall be a permanent resident of South Africa who is not Ineligible or Disqualified and who shall remain so while serving as the Company secretary; and

33.1.2. shall have the requisite knowledge of, or experience in, relevant laws<sup>129</sup>; and

33.1.3. may be a juristic Person subject to the following<sup>130</sup> –

33.1.3.1. every employee of that juristic person who provides company secretary services, or partner and employee of that partnership, as the case may be, is not Ineligible or Disqualified;

33.1.3.2. 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 33.1.1 and 33.1.2;

33.2. Within 60 (sixty) Business Days after a vacancy arises in the office of Company secretary, the Board must fill the vacancy by appointing a Person whom the Directors 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 vacancy in the office of Company secretary, if the juristic person or partnership continues to satisfy the requirements of clause 33.1.3.<sup>131</sup>

33.3. If at any time a juristic person or partnership holds office as Company secretary of the Company<sup>132</sup>–

33.3.1. the juristic person or partnership must immediately notify the Directors if the juristic person or partnership no longer satisfies the requirements of clause 33.1.3, and is regarded to have resigned as Company secretary upon giving that notice to the Company;

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<sup>128</sup> Section 69(3)

<sup>129</sup> Section 86(2)

<sup>130</sup> Section 87(1)

<sup>131</sup> Section 86(4)

<sup>132</sup> Section 87(3)

- 33.3.2. the Company is entitled to assume that the juristic person or partnership satisfies the requirements of clause 33.1.3, until the Company has received a notice contemplated in clause 33.3.1; and
- 33.3.3. 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 33.1.3 at the time of that action.
- 33.4. The Company secretary may resign from office by giving the Company 1 (one) month's Written notice or less than that with the prior Written approval of the Board.<sup>133</sup>
- 33.5. The Company secretary may be removed from office by way of a resolution of the Board.
- 33.6. 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.<sup>134</sup>

#### 34. **DISTRIBUTIONS**

- 34.1. The Company may make Distributions from time to time, provided that it shall comply with section 46 of the Companies Act and the requirements of the Insurance Act (if any) in respect of each Distribution to be made.
- 34.2. To the extent that any distributable profits of the Company arise from profit sharing policies, at least 90% (ninety percent) of the profits so arising shall be allocated towards increasing the benefits payable under such policies.
- 34.3. A dividend may be declared by the Board or by the Company in general meeting, provided that the Company in general meeting shall not be entitled to declare a dividend greater than that recommended by the Board.
- 34.4. A dividend or other Distribution payable in cash relating to a Share may be paid by such method as the Board may in its absolute discretion determine. Different methods of payment may apply to different Holders or groups of Holders.

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<sup>133</sup> Section 89(1)

<sup>134</sup> Section 89(2)

- 34.5. No notice of change of address or instructions as to payment given after the determination of a dividend or other Distribution of the Company in terms of clause 34.1, 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.
- 34.6. All unclaimed dividends as contemplated in this clause may be invested for the benefit of the Company until claimed, provided that any dividend (but not any other Distribution, which shall be held by the Company until lawfully claimed) 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.<sup>135</sup>
- 34.7. The Company shall not pay interest on any dividend or other Distribution due to any Holder.
- 34.8. The Company shall be entitled to terminate the payment of dividends to any Holder if the correspondence enclosing a dividend cheque is returned undelivered and/or such cheque remains uncashed and/or any payment made by electronic transfer is unsuccessful due to invalid or incorrect bank account details provided by the Holder on 3 (three) or more consecutive occasions. Pending receipt by the Company of a notice of change of address and/or valid bank account details from the Holder concerned, all further dividends payable to such Holder shall be regarded as unclaimed dividends and be subject to the provisions of clause 34.6.

35. **LOSS OF DOCUMENTS**

The Company shall not be responsible for the loss in transmission of any cheque, warrant, certificate or (without any limitation *eiusdem generis*) other document sent through the post either to the registered address of any Holder or to any other address requested by the Holder.<sup>136</sup>

36. **NOTICES**

- 36.1. The Company may give notices, documents, records or statements or notices of availability of the foregoing by personal delivery to the Holder or holder of Beneficial Interests through any of the methods set out in the Companies Regulations and, without limitation, by sending them prepaid through the post or by transmitting them by any form of Electronic Communication, subject to clause 36.3. The Company must give notice of any Meeting to each Holder.
- 36.2. Any Holder or holder of Beneficial Interests who/which has furnished an Electronic Address to the Company, by doing so –

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<sup>135</sup> JSE LR 10.17(c)

<sup>136</sup> Article 26 M & A

- 36.2.1. authorises the Company to use Electronic Communication to give notices, documents, records or statements or notices of availability of the foregoing to her/him/it; and
- 36.2.2. confirms that same can conveniently be printed by the Holder / holder of the Beneficial Interests within a reasonable time and at a reasonable cost.<sup>137</sup>
- 36.3. 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 Table CR3 in the Companies Regulations.
- 36.4. A Holder or Person entitled to Securities (or his/her executor) shall be bound by every notice in respect of the Securities Delivered to the Person who was, at the date on which that notice was Delivered, shown in the Securities Register or established to the satisfaction of the Board (as the case may be) as the Holder of or Person entitled to the Securities, notwithstanding that the Holder or Person entitled to Securities may then have been dead or may subsequently have died or have been or become otherwise incapable of acting in respect of the Securities, and notwithstanding any transfer of the Securities was not registered at that date. The Company shall not be bound to enter any Person in the Securities Register as entitled to any Securities until that Person gives the Company an address for entry on the Securities Register.
- 36.5. If joint Holders are registered in respect of any Securities or if more than 1 (one) Person is entitled to Securities, all notices shall be given to the Person named first in the Register in respect of the Securities, and notice so Delivered shall be sufficient notice to all the Holders of or Persons entitled to or otherwise interested in the Securities.
- 36.6. 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 Companies 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 Companies 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 2 (*Calculation of Business Days*)), the provisions of clause 2 (*Calculation of Business Days*) shall also be applied.

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<sup>137</sup> Section 6(10)

- 36.7. The holder of a Share warrant issued to bearer shall not, unless it be otherwise expressed in the warrant, be entitled in respect thereof to notice of any Shareholders Meeting or otherwise.
- 36.8. As regards the signature of an Electronic Communication by a Holder, it shall be in such form as the Directors may specify to demonstrate that the Electronic Communication is genuine, or failing any such specification by the Directors, it shall be constituted by the Holder indicating in the Electronic Communication that it is the Holder's intention to use the Electronic Communication as the medium to indicate the Holder's approval of the information in, or the Holder's signature of the document in or attached to, the Electronic Communication which contains the name of the Holder sending it in the body of the Electronic Communication.

37. **INDEMNITY**<sup>138</sup>

- 37.1. For the purposes of this clause 37, "Director" includes current and former Directors, Prescribed Officers, and/or members of a committee of the Board, irrespective of whether or not such persons are or were also members of the Board and/or members of the Audit Committee.<sup>139</sup>
- 37.2. Subject to any limitation placed on the Company in this regard in terms of the Companies Act and/or the Listings Requirements and/or the Insurance Act, the Company shall be entitled to indemnify any Director against any liability which such Director may incur in exercising his duties, to advance expenses to a Director in the circumstances contemplated in section 78(4), and to purchase insurance in this regard in accordance with section 78(7). 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.<sup>140</sup>
- 37.3. Subject to the provisions set out in this MOI, the Companies Act and/or the Listings Requirements, any current or former officer or servant of the Company (other than a Director) shall be indemnified by the Company against all costs, losses and expenses which any such officer or servant may incur or become liable to by reason of any contract entered into or act or deed done by him as such officer or servant or in any way in the discharge of his duties, save where such costs, losses and expenses arise from such officer or servant's negligence or dishonesty.

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<sup>138</sup> Article 34 M & A altered by section 77

<sup>139</sup> Section 77(1)

<sup>140</sup> Section 78(8)



37.4. This MOI, or any part hereof, does not constitute a stipulation in favour of a third party, nor does it confer benefits upon any third party.

38. **ACQUISITION OF SECURITIES**

38.1. The Company is authorised to acquire its own Securities, subject to compliance with the Companies Act and the Insurance Act.

38.2. The Company shall not reduce its capital, share premium and/or any capital reduction fund without the prior written consent of the Registrar.

39. **JUDICIAL MANAGEMENT, BUSINESS RESCUE AND WINDING – UP**

Should the Company:

39.1. be liquidated, wound up or placed under judicial management; and/or

39.2. initiate business rescue proceedings as contemplated in terms of Chapter 6 of the Companies Act,

the relevant proceedings shall be implemented in accordance with the provisions of the Insurance Act.