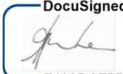


BRR/SM
26012022/ABSA6938.125
MOI_Issuer(2) [Execution]#7270362v1

This is the Memorandum of Incorporation tabled and adopted by way of a special resolution in accordance with section 16(1)(c) of the Companies Act, No 71 of 2008, on 26 January 2022 _____, signed by the Shareholder Representative for purposes of identification.

DocuSigned by:

E420DCE75D5647E

Shareholder Representative

COMPANIES AND INTELLECTUAL PROPERTY COMMISSION

REPUBLIC OF SOUTH AFRICA

MEMORANDUM OF INCORPORATION

of

Sentinel Finco (RF) Limited

(Registration Number 2020/178948/06)

being a profit company which is classified as a ring-fenced public company

("the Company")

The Company has adopted this unique form of Memorandum of Incorporation and, accordingly, the standard form of Memorandum of Incorporation for Profit Companies as contained in the Companies Regulations shall not apply to the Company.

This Memorandum of Incorporation replaces the Memorandum of Incorporation of the Company that was in existence at the time of adoption of this Memorandum of Incorporation.

BRR/SM
26012022/ABSA6938.125
MOI_Issuer(2) [Execution]/#7270362v1

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SCHEDULE 1 – SHARE CAPITAL

PART A – THE MOI AND RULES

1 INTERPRETATION

In this MOI, clause headings are used for convenience only and shall not be used in its interpretation and, unless the context clearly indicates a contrary intention, -

- 1.1 an expression that denotes -
 - 1.1.1 any gender, includes the other genders;
 - 1.1.2 a natural person, includes an artificial or juristic person and *vice versa*; and
 - 1.1.3 the singular, includes the plural and *vice versa*;
- 1.2 the following expressions shall bear the meanings assigned to them below and cognate expressions shall bear corresponding meanings, -
 - 1.2.1 "**Board**" - the board of Directors of the Company from time to time;
 - 1.2.2 "**CFH**" – Combined Finance Holdings Proprietary Limited (registration number 2012/073704/07), a private company duly incorporated and registered in accordance with the laws of the RSA;
 - 1.2.3 "**Business Day**" – any day which is not a Saturday, Sunday or an official public holiday in the RSA;
 - 1.2.4 "**Companies Act**" - the Companies Act No 71 of 2008, as amended or re-enacted and for the time being in force, including any regulations promulgated thereunder and for the time being in force;
 - 1.2.5 "**Company**" - the company defined as such on the front page of this MOI;
 - 1.2.6 "**Director**" – a director of the Company;

- 1.2.7 **"Electronic Communication"** – an electronic communication as defined in section 1 of the Electronic Communications and Transactions Act, 25 of 2002;
- 1.2.8 **"Final Discharge Date"** – the date on which all obligations of the Company owing to the Noteholders are fully and finally discharged;
- 1.2.9 **"Legal Representative"** - any person who has submitted proof (which is satisfactory to the Board) of his appointment (and, to the extent required by the Board, the continuation of that appointment) as -
- 1.2.9.1 an executor of the estate of a deceased Shareholder, or a curator, guardian or trustee of a Shareholder whose estate has been sequestered or who is otherwise under any disability;
- 1.2.9.2 the liquidator of any Shareholder that is a body corporate in the course of being wound-up; or
- 1.2.9.3 the business rescue practitioner of any Shareholder which is a company undergoing business rescue proceedings;
- 1.2.10 **"Memorandum of Incorporation"** or **"MOI"** - the memorandum of incorporation of the Company, being this document (and including any schedules hereto), as amended or replaced from time to time;
- 1.2.11 **"Noteholders"** – the holders of Notes from time to time;
- 1.2.12 **"Notes"** – notes issued or to be issued by the Company under the Programme;
- 1.2.13 **"Ordinary Share"** - an ordinary share in the capital of the Company having the preferences, rights, limitations and other terms contemplated in 11;
- 1.2.14 **"Ordinary Shareholder"** - a holder of an Ordinary Share who is entered as such in the Securities Register;

- 1.2.15 **"Person" or "Entity"** – includes any natural or juristic person, association, business, close corporation, company, enterprise, firm, partnership, trust, body corporate, and any similar entity, in any jurisdiction;
- 1.2.16 **"Preference Share"** – a cumulative redeemable preference share in the capital of the Company, having the preferences, rights, limitations and other terms contemplated in 12;
- 1.2.17 **"Preference Shareholder"** – a holder of a Preference Share who is entered as such in the Securities Register;
- 1.2.18 **"Programme"** – the asset-backed note programme of the Company as described in the Programme Memorandum, pursuant to which the Company may issue Notes from time to time and use the proceeds to acquire assets;
- 1.2.19 **"Programme Memorandum"** – the written programme memorandum issued by the Company in relation to the Programme;
- 1.2.20 **"Regulations"** - the Companies Regulations of 2011 for so long as they remain of force and effect and any other regulations made in terms of the Companies Act;
- 1.2.21 **"RSA"** - the Republic of South Africa;
- 1.2.22 **"Securities"** – collectively –
- 1.2.22.1 shares, debentures, notes, bonds or other instruments, irrespective of their form of title (including options on Shares or debentures, Notes or units, and rights thereto); and
- 1.2.22.2 anything falling within the meaning of the definition of "securities" as defined in section 1 of the Financial Markets Act No 19 of 2012,

and **"Security"** shall be reference to any one of them as the context may require;

- 1.2.23 **"Securities Register"** – the register of issued Securities of the Company established in terms of section 50(1) of the Companies Act;
- 1.2.24 **"Share"** - a share (as defined in the Companies Act) of the Company, which shall include an Ordinary Share;
- 1.2.25 **"Shareholder"** - a holder of a Share who is entered as such in the Securities Register of the Company;
- 1.2.26 **"Terms and Conditions"** – the terms and conditions of the Notes as specified under the section of the Programme Memorandum entitled "*Terms and Conditions of the Notes*"; and
- 1.2.27 **"Transaction Documents"** - the documents defined as such in the Programme Memorandum;
- 1.3 any reference to any statute, regulation or other legislation shall be a reference to that statute, regulation or other legislation as at the date of adoption of this MOI, and as amended or substituted from time to time;
- 1.4 if any provision in a definition is a substantive provision conferring a right or imposing an obligation on any Person, then, notwithstanding that it is only in a definition, effect shall be given to that provision as if it were a substantive provision in the body of this MOI;
- 1.5 where any term is defined within a particular article other than this clause 1, that term shall bear the meaning ascribed to it in that clause wherever it is used in this MOI;
- 1.6 where any number of days is to be calculated from a particular day, such number shall be calculated as excluding such particular day and commencing on the next day. If the last day of such number so calculated falls on a day which is not a Business Day, the last day shall be deemed to be the next succeeding day which is a Business Day;

- 1.7 any reference to days (other than a reference to Business Days), months or years shall be a reference to calendar days, calendar months or calendar years respectively;
- 1.8 the use of the word "**including**", "**includes**" and "**include**", followed by a specific example(s), shall not be construed as limiting the meaning of the general wording preceding it and the *eiusdem generis* rule shall not be applied in the interpretation of that general wording or those specific example(s);
- 1.9 any capitalised word or expression used in this MOI that is defined in the Companies Act and that is not otherwise defined in this MOI shall have the meaning assigned to it in the Companies Act. For the avoidance of doubt, it is recorded that any reference to "**Present at such Meeting**" or "**Present at the Meeting**" shall be construed in accordance with the definition of "**Present at a Meeting**" in the Companies Act;
- 1.10 a reference to a "**section**" refers to the corresponding section of the Companies Act;
- 1.11 this MOI shall be deemed to authorise the Company to do anything which the Companies Act empowers a company to do if so authorised by its memorandum of incorporation, unless that authority is expressly excluded or limited by this MOI; and
- 1.12 the headings of articles in this MOI are for information purposes only and shall not be used in the interpretation of this MOI.

2 CONFLICTS WITH THE MEMORANDUM OF INCORPORATION

In accordance with the Companies Act, in any instance where there is a conflict between a provision (be it express or tacit) of this MOI and -

- 2.1 an alterable or elective provision of the Companies Act, the provision of this MOI shall prevail to the extent of the conflict, provided that such alterable or elective provision of the Companies Act expressly allows for the Company to adopt the conflicting provision; or

- 2.2 an unalterable or non-elective provision of the Companies Act, the unalterable or non-elective provision of the Companies Act shall prevail to the extent of the conflict.

3 AMENDMENTS TO THE MEMORANDUM OF INCORPORATION

- 3.1 Until the Final Discharge Date, no provision of this MOI, including any restrictive conditions and this provision, may be amended or deleted unless -

- 3.1.1 such amendment is of a formal, minor or technical nature or is made to correct a manifest error or to comply with mandatory provisions of any applicable law;
or

- 3.1.2 if the amendment is not one as contemplated in 3.1.1 –

- 3.1.2.1 the Noteholders by Extraordinary Resolution (as defined in the Programme Memorandum) provide their prior consent to the proposed amendment or deletion; and

- 3.1.2.2 the proposed amendment or deletion is sanctioned by a Special Resolution of the Ordinary Shareholders of the Company.

- 3.2 At any time after the Final Discharge Date, this MOI may be altered or amended in the manner set out in sections 16, 17 or 152(6)(b) of the Companies Act, subject to the provisions contemplated in section 16(1)(c) read with sections 16(2), 17(1)(a) and 15(2) of the Companies Act.

- 3.3 Save as specifically provided for in this clause 3, this MOI is not capable of amendment by any other method. Accordingly, the provisions of section 16(1)(b) of the Companies Act shall not apply, nor shall any other alterable provisions of the Companies Act that allows for a method for the alteration or amendment of the MOI other than those methods contemplated in this clause 3 apply.

4 RULES

The Board is prohibited from making any Rules and the authority of the Board in this regard is hereby excluded.

PART B – STATUS AND POWERS OF THE COMPANY

5 STATUS AS PUBLIC COMPANY

- 5.1 The Company is classified as a public company in terms of section 8(2)(d) of the Companies Act.
- 5.2 The Securities issued by the Company are freely transferable, subject to the provisions contained in this MOI and in the Terms and Conditions.
- 5.3 The Company is entitled to offer its Securities to the public, subject to compliance with this MOI and the Companies Act.

6 POWERS OF THE COMPANY

- 6.1 The Company is governed by –
 - 6.1.1 the unalterable provisions of the Companies Act (subject to any higher standards, greater restrictions, longer periods of time or more onerous requirements set out in this MOI in accordance with the provisions of section 15(2)(a)(iii) of the Companies Act);
 - 6.1.2 the alterable provisions of the Companies Act, subject to the limitations, restrictions, qualification, extension or other alterations set out in this MOI in accordance with the provisions of the Companies Act; and
 - 6.1.3 the provisions of this MOI.
- 6.2 The Company is subject to the restrictive conditions and prohibitions as contemplated in sections 15(2)(b) and 15(2)(c) of the Companies Act, as set out in 8.
- 6.3 The legal powers and capacity of the Company are subject to the restrictions, limitations or qualifications as contemplated in section 19(1)(b)(ii) of the Companies Act, as set out in 9.

7 LIMITATION OF LIABILITY

No Person shall, solely by reason of being an Incorporator, Shareholder or Director of the Company, be liable for any liabilities or obligations of the Company.

PART C – RING-FENCING PROVISIONS

8 GENERAL RING-FENCING PROVISIONS, MAIN PURPOSE AND MAIN BUSINESS OF THE COMPANY

- 8.1 The sole purpose of the Company and main business which the Company is to carry on, is to -
- 8.1.1 issue Notes to investors pursuant to the Programme Memorandum from time to time;
 - 8.1.2 use the proceeds of the issuance of Notes as contemplated in 8.1.1 to acquire the rights, title and interest in and to credit agreements and all related security in respect of such credit agreements ("**Participating Assets**") in accordance with the Programme and as described in the Programme Memorandum;
 - 8.1.3 provide security, directly or indirectly for its obligations to Noteholders and other secured creditors of the Company;
 - 8.1.4 enter into derivative contracts as may be desirable or necessary to manage the risks or to hedge exposures of the Company or as may be contemplated in the Programme;
 - 8.1.5 enter into such agreements, documents, deeds or instruments as may be required to document and conclude any transactions contemplated by 8.1.1 to 8.1.4 (both inclusive), together with any agreements, documents, deeds or instruments which may be incidental or related to those transactions; and
 - 8.1.6 enter into each of the Transaction Documents and exercise and, if necessary, enforce the rights of the Company, and perform its obligations under, each Transaction Document to which it is a party and the Participating Assets.

- 8.2 The Company shall not, and no Director, other officer, body or organ of the Company shall be authorised on behalf of the Company to, enter into any transaction -
- 8.2.1 that contravenes or conflicts with this MOI;
- 8.2.2 that contravenes or conflicts with the obligations of the Company under any agreement, document, deed or instrument to which it is or may become a party in accordance with this MOI;
- 8.2.3 in respect of which the Company has no capacity or power;
- 8.2.4 to the extent to which the capacity or powers of the Company have been qualified; or
- 8.2.5 unless all applicable restrictive conditions which are imposed under this MOI are complied with in full.
- 8.3 Except as permitted or required or contemplated by this MOI or any other of the Transaction Documents or save with the prior written approval of the Noteholders by Extraordinary Resolution, the Company shall not, and no Director, other officer, body or organ of the Company shall be authorised on behalf of the Company to -
- 8.3.1 engage or participate in any activities other than its main business and those activities of the Company (and any activities directly related thereto) which it is required to undertake under, or which are otherwise contemplated by, the Transaction Documents;
- 8.3.2 register any transfer, or issue any Shares, in the capital of the Company;
- 8.3.3 discharge or release any Person from its obligations to the Company if that Person has not performed its obligations in full;
- 8.3.4 enter into any reconstruction, amalgamation, merger or consolidation, or be acquired by another Person;

- 8.3.5 have or acquire any subsidiaries;
- 8.3.6 employ any person as an employee;
- 8.3.7 occupy any premises;
- 8.3.8 raise, incur or permit to be outstanding any indebtedness (other than any statutory costs and expenses, auditing fees and directly related costs and expenses) including but not limited to any indebtedness for borrowed money or cede, pledge, mortgage, hypothecate, assign, charge, encumber or provide any other security or priority of interest, whether real or personal, registered or unregistered, of any nature whatsoever or any option, right of refusal or similar interest over any of its assets to any third party whatsoever;
- 8.3.9 grant any guarantee, suretyship, bond, letter of credit, indemnity or similar assurance against financial loss, or incur or assume any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any Person or to make an investment in or loan to any Person, or to purchase assets of any Person, where, in each case, that obligation is assumed in order to maintain or assist the ability of that Person to meet any of its indebtedness;
- 8.3.10 transfer, sell, lend, part with or otherwise dispose of, or deal with, or grant any option or present or future right to acquire, the whole or any of its assets or undertakings, or any interest, estate, right, title or benefit therein;
- 8.3.11 pay any dividend (whether in cash or in *specie*) other than as contemplated in 12 or make any other distribution (whether by payment or otherwise, and whether in cash or in *specie*) to its Shareholders or issue any further Shares or repurchase any Shares; or
- 8.3.12 undertake or allow any Person to take any action which is likely to adversely affect the enforceability, validity or effectiveness of any Transaction Document or the effectiveness, ranking or priority of any security interests created thereby; or except in accordance with the express terms of the Transaction Documents, amend, terminate or discharge any Transaction Document (or consent to or exercise any powers of consent or waiver thereunder which may

result in such an amendment, termination or discharge), or permit any party to a Transaction Document (or any other Person whose obligations form part of any security interests created thereunder) to be released from its obligations thereunder.

8.4 The Company shall -

8.4.1 conduct business only in its own name;

8.4.2 always hold itself out as an entity which is separate from any other entity or group of entities;

8.4.3 maintain books and records separate from those of any other Person;

8.4.4 maintain bank accounts separate from those of any other Person;

8.4.5 not commingle its assets with the assets of any other Person;

8.4.6 comply with all applicable laws;

8.4.7 not discharge any indebtedness except as expressly permitted under or contemplated by the Transaction Documents;

8.4.8 comply with, perform, observe and discharge in full all of its obligations under the Transaction Documents to which the Company is a party; and

8.4.9 not at any time act or omit to act in any manner which results or would be reasonably likely to result in the Company failing to comply timeously and in full with all its obligations under a Transaction Document. For the purposes of the foregoing the term "obligations" shall include, without limitation, undertakings comprising covenants, representations and warranties.

8.5 Save as set out in 9 below, there are no other restrictive conditions applicable to the Company in terms of section 15(2)(b) or (c) of the Companies Act.

PART D – LIMITING LEGAL CAPACITY AND POWERS

9 GENERAL RESTRICTIONS, LIMITATIONS AND QUALIFICATIONS

9.1 Except as permitted or required or contemplated by the Transaction Documents or as may be necessary or required to achieve the main purpose of the Company and to undertake and carry on its main business, the Company shall not have the power or capacity to, and no Director, other officer, body or organ of the Company shall be authorised on behalf of the Company to -

9.1.1 purchase or acquire in any way stock-in-trade, plant, machinery, land, buildings, agencies, shares, debentures and every other kind or description of movable and immovable property;

9.1.2 manage, insure, sell, lease, mortgage, dispose of, give in exchange, work, develop, build on, improve, turn to account or in any way otherwise deal with its undertaking or all or any part of its property or assets;

9.1.3 apply for, purchase or by any other means acquire, protect, prolong or renew any patents, patent rights, licences, trademarks, concessions or other rights or deal with or alienate them;

9.1.4 borrow money;

9.1.5 secure the payment of moneys borrowed in any manner including the mortgaging or pledging of property and, without detracting from the generality thereof, in particular by the issue of any kind of debenture or debenture stock, with or without security;

9.1.6 lend money to any person or company;

9.1.7 invest money in any manner;

9.1.8 open and operate banking accounts or overdraw such accounts;

- 9.1.9 make, draw, issue, execute, accept, endorse or discount promissory notes, bills of exchange or any other kind of negotiable or transferable instruments;
 - 9.1.10 enter into indemnities, guarantees or suretyships or secure payments thereunder in any way;
 - 9.1.11 amalgamate with other companies;
 - 9.1.12 take part in the management, supervision or control of the business or operations of any other company or business, or enter into partnerships;
 - 9.1.13 make donations;
 - 9.1.14 undertake or execute any trust;
 - 9.1.15 act as principal, agent, contractor or trustee;
 - 9.1.16 distribute *in specie* or in kind any of its assets among its Shareholders;
 - 9.1.17 enter into contracts outside the RSA or execute any contracts, deeds or documents in any foreign country; or
 - 9.1.18 have a seal or use such seal for any purpose in the RSA or in any foreign country.
- 9.2 Save as set out in 9.1, there are no other restrictions, limitations or qualifications applicable to the legal powers and capacity of the Company in terms of section 19(1)(b)(ii) of the Companies Act.

PART E - SECURITIES OF THE COMPANY

10 SHARE CAPITAL

The numbers and classes of Shares which the Company is authorised to issue are set out in Schedule 1 to this MOI.

11 RIGHTS OF THE ORDINARY SHARES

Each Ordinary Share ranks *pari passu* with all other Ordinary Shares in respect of all rights, and entitles its holder to -

- 11.1 the right to be entered into the Securities Register as the registered holder of an Ordinary Share;
- 11.2 exercise one vote on any matter to be decided by Ordinary Shareholders (other than matters which are in terms of this MOI or the Companies Act, to be decided solely by the holders of any other class of share);
- 11.3 the rights to attend, participate in, speak at and vote on any matter to be considered at, any meeting of Ordinary Shareholders;
- 11.4 the right to receive any distribution by the Company, if and when declared on the Ordinary Shares, to be made in proportion to the number of Ordinary Shares held by each Ordinary Shareholder;
- 11.5 subject to the rights of the Preference Shares, the right to receive the net assets of the Company remaining upon its liquidation; and
- 11.6 any other rights attaching to the Ordinary Shares in terms of the Companies Act or any other law.

12 RIGHTS, PRIVILEGES AND CONDITIONS ATTACHING TO THE CUMULATIVE REDEEMABLE PREFERENCE SHARES

- 12.1 The Preference Shares shall rank *pari passu* with each other and shall confer the right to receive a cumulative preferential dividend (referred to hereafter as the "**Preferential Dividend**") out of the Company's statutory net profits after taxation available for distribution by way of dividends, as determined by the Directors from time to time, in priority to any payments of dividends to the holders of the Ordinary Shares in the capital of the Company, calculated as follows -
 - 12.1.1 the Preferential Dividend shall be paid in cash only unless the holders of the Preference Shares unanimously agree otherwise;

- 12.1.2 the Preferential Dividend shall be calculated on the number of Preference Shares in issue at the date of declaration of the Preference Dividend;
- 12.1.3 the Preferential Dividend will be due and, if declared, payable on such date(s) as determined by the Board, in an amount equal to the cash that is available for this purpose in the applicable Priority of Payments (as such term is defined in the Programme Memorandum) on such day, after the payment of all higher-ranking items in the applicable Priority of Payments (subject to the provisions of the Companies Act, including section 46).
- 12.2 If in any given year no Preferential Dividends are declared, no right to claim an arrear Preferential Dividend will arise.
- 12.3 If on any date on which a Preferential Dividend ought to have been declared, the Preferential Dividend, or part thereof, is not declared, then no dividend may be declared in respect of the Ordinary Shares until such arrear Preferential Dividends have been declared and paid.
- 12.4 The Preference Shares shall confer the right, on a winding-up of the Company, to receive, in priority to any payment in respect of the Ordinary Shares then issued -
- 12.4.1 a return of the consideration paid for which the Preference Shares were issued; and
- 12.4.2 the then current Preferential Dividend which has been declared but not paid, calculated to the date of winding-up.
- 12.5 Save as set out in 12.4.1 and 12.4.2 above, the holders of the Preference Shares shall not be entitled to any participation in the profits or assets of the Company or, upon a winding up, in any of the surplus funds of the Company.
- 12.6 Subject to the provisions of the Companies Act, the Preference Shares shall be liable to be redeemed at the option of the Company, at any time, provided that upon the Company having given the holders of the Preference Shares not less than 30 days' prior written notice, the amount payable on such redemption shall be -

- 12.6.1 a return of the consideration paid for which the Preference Shares were issued; and
- 12.6.2 the then current Preferential Dividend which has been declared but not paid, calculated to the date of redemption.
- 12.7 The Company shall not be liable to a holder of Preference Shares for interest on any unclaimed redemption by such holder.
- 12.8 A holder of Preference Shares shall be entitled to receive notice of, and to attend any general meeting of the Company, but shall not be entitled to vote at such meeting -
- 12.8.1 unless the Preferential Dividend actually declared on the Preference Shares is, or any redemption payment in respect of such Preference Shares is, at the date of holding of that meeting, six months or more in arrears; or
- 12.8.2 save upon any resolution proposed at any such general meeting for the winding up or reduction of capital of the Company or directly affecting the rights attached to that Preference Share or the interests of the holder thereof.
- 12.9 The rights attaching to the Preference Shares and the interests of the holders of the Preference Shares shall not be regarded as being directly affected or modified by the creation by the Company of any further shares of any class (including any other class of Preference Shares), unless those new shares rank in some or all respects in priority to or *pari passu* with the Preference Shares.
- 12.10 The provisions of this MOI relating to general meetings of Ordinary Shareholders voting thereat, and the appointment of proxies to act thereat, shall apply *mutatis mutandis* to every meeting of the holders of the Preference Shares except that a quorum at any such general meeting shall be such person(s) holding, or representing by proxy, at least one quarter of the Preference Shares then in issue; provided that if at any adjournment of such meeting a quorum is not so present, then the provisions of the clauses relating to adjourned general meetings shall apply *mutatis mutandis*. At every general meeting of the Company at which both the

holders of the Ordinary Shares and Preference Shares are present and entitled to vote, upon a poll a holder of a Preference Share shall be entitled to one vote per Preference Share.

- 12.11 The Company shall give not less than 30 days' prior written notice of the redemption of the Preference Shares to the registered holders of the Preference Shares, which notice shall specify the time and place for the payment of the amount payable on redemption, and an address for the surrender to the Company of the Preference Share certificate(s) which relate thereto. On such surrender the Company shall pay the redemption proceeds to the registered holders.

13 VARIATION OF SHARE CAPITAL

Notwithstanding the provisions of section 36(3) of the Companies Act, the Board shall not have the power to -

- 13.1 increase or decrease the number of authorised Shares of any class of the Shares;
- 13.2 reclassify any classified Shares that have been authorised but not issued;
- 13.3 classify any unclassified Shares that have been authorised but not issued; or
- 13.4 determine the preferences, rights, limitations or other terms of any Shares,

which powers shall only be capable of being exercised by the Shareholders by way of a Special Resolution and after having obtained the prior approval of the Noteholders by Extraordinary Resolution.

14 REGISTER AND CERTIFICATES

- 14.1 The Securities issued by the Company shall be issued in certificated or uncertificated form.
- 14.2 The Company shall establish or cause to be established, and shall maintain, a Securities Register in accordance with the Companies Act and the Regulations and,

to the extent that the form of and the manner of maintaining the Securities Register is not prescribed, the Board shall determine the form and manner thereof.

- 14.3 The Company shall enter into its Securities Register the transfer of any certificated Securities which is effected in accordance with 15 and shall include in such entry the information required by section 51(5) of the Companies Act.
- 14.4 The certificates evidencing any certificated Securities of the Company shall comply with the requirements set out in section 51(1) of the Companies Act and shall otherwise be in such form as may be determined by the Board.
- 14.5 If a certificate is defaced, lost or destroyed, it may be replaced with a duplicate certificate on payment of a fee, if any, and on such terms as the Board may determine.

15 TRANSFER OF SECURITIES

- 15.1 For purposes of section 51(6)(a) of the Companies Act, a "proper instrument of transfer" means an instrument in writing, in any form, specifying –
- 15.1.1 the full name of the transferor (being the name of a Person entered in the Securities Register as the registered holder of the Securities being transferred);
- 15.1.2 the full name of the transferee; and
- 15.1.3 the number of the class of Shares being transferred,
- which has been signed by or on behalf of the registered securities holder as transferor and signed by or on behalf of the transferee.
- 15.2 The Board may not decline to register the transfer of any Shares in terms of a proper instrument of transfer unless (and for so long as) the transfer in question is not in accordance with the requirements set out in this clause 15.

15.3 Any Person wishing the Company to register the transfer of any Shares shall deliver to the Company –

15.3.1 a copy of a proper instrument of transfer, certified as a true copy of the original; and

15.3.2 the original certificate (or a duplicate certificate issued pursuant to 14.5) of the Shares being transferred or, in the absence of such original or duplicate certificate, such other evidence as the Company may require to prove the title of the transferor or his rights to transfer the Shares.

16 CAPITALISATION SHARES

The Board shall not have the power or the authority to -

16.1 approve the issuing of any authorised Shares as capitalisation shares; or

16.2 issue Shares of one class as capitalisation shares in respect of the Shares of another class; or

16.3 resolve to permit the Shareholders to elect to receive a cash payment in lieu of a capitalisation share.

17 DEBT INSTRUMENTS

The Board may authorise the Company to issue secured or unsecured debt instruments, as set out in section 43(2) of the Companies Act, provided that any borrowing, guarantee, security or similar restrictions in 8 and 9 are complied with.

18 BENEFICIAL INTERESTS

Securities issued by the Company may be held by a nominee on behalf of a beneficial security holder undisclosed to the Company.

19 JOINT HOLDERS OF SECURITIES

- 19.1 In the case of any Security registered in the names of two or more Persons as joint holders, the Person first-named in the Securities Register shall, save as is provided in this MOI, be the only Person recognised by the Company as having any title to such Security and to the related certificate of title.
- 19.2 Upon the death, insolvency or placing under curatorship by reason of insanity or prodigality of any joint holder of any Security, the sole remaining holder or the first-named of two or more remaining joint holders, as the case may be, shall be the only Person recognised by the Company as having any title to such Security.
- 19.3 A certificate registered in the names of two or more Persons shall be delivered to the Person first-named in the Securities Register as a holder thereof, and delivery of a certificate to that Person shall be a sufficient delivery to all joint holders of that Security.

20 LEGAL REPRESENTATIVES

A Legal Representative of the holder of any Security issued by the Company ("**Security Holder**") shall –

- 20.1 be the only person recognised by the Company as having any rights in respect of or title to a Security registered in the name of the Security Holder whom he represents; and
- 20.2 if so required by that Legal Representative or by the Board, be entered into the Securities Register of the Company *nomine officio* in the place and on behalf of that Security Holder,

provided that if the Legal Representative so entered into the Securities Register ceases to be the Legal Representative of that Security Holder, the Board shall, pending transfer of that Security Holder or another Legal Representative of that Security Holder or any other Person who is entitled to become the holder of that Security, be entitled to suspend the rights of the holder of that Security to vote and shall be entitled to withhold (and retain until such transfer has occurred) all Distributions payable to the holder of that Security.

PART F – SECURITIES HOLDERS' RIGHTS AND PROCEEDINGS

21 SECURITIES HOLDERS' RIGHT TO INFORMATION

Each Shareholder and each Person who is the registered holder of, or holds a beneficial interest in, any Securities issued by the Company shall have the information rights set out in section 26(1) of the Companies Act.

22 SOLE SHAREHOLDER'S AUTHORITY TO ACT

Notwithstanding anything to the contrary contained in this MOI, if, at any time, as contemplated in section 57(2) of the Companies Act, the Company has only one Shareholder –

- 22.1 that Shareholder may exercise any and all of the voting rights pertaining to the Company, at any time, without notice or compliance with any other internal formalities as set out in that section, and such power is not limited or restricted by this MOI;
- 22.2 sections 59 to 65 of the Companies Act shall not apply to the governance of the Company; and
- 22.3 the provisions of 24 (*Record Dates*), 26 (*Shareholders Meetings*), 27 (*Notice of Shareholders Meetings*), 28 (*Conduct of Meetings*), 29 (*Shareholders Meeting Quorum and Adjournment*), 31 (*Shareholders Resolutions*) and 32 (*Written Resolution by Shareholders*) shall not apply.

23 PROXY REPRESENTATION

- 23.1 A Shareholder may, at any time by written proxy appointment ("**Proxy Instrument**"), appoint any individual including an individual who is not a Shareholder of the Company, as a proxy to -
 - 23.1.1 participate in, and speak and vote at, a Shareholders' meeting on behalf of the Shareholder; or

23.1.2 give or withhold written consent on behalf of the Shareholder to a decision contemplated in 32,

and any such proxy appointment (and any invitation by the Company to appoint a proxy and any form supplied by the Company for use as a Proxy Instrument) shall be governed by section 58 of the Companies Act and this clause 23.

23.2 The Board may determine a standard form of Proxy Instrument and make it available to Shareholders on request.

23.3 Subject to the provisions of the Companies Act, a Proxy Instrument may be an instrument created or transmitted by electronic or other means, including electronic mail or facsimile.

23.4 Unless the contrary is stated herein, a Proxy Instrument which complies with the Companies Act and this MOI shall, if a meeting to which it relates is adjourned or postponed, be valid at that meeting when it resumes after such adjournment or commences after such postponement.

23.5 A Shareholder may not appoint two or more persons concurrently as proxies, and may not appoint more than one proxy to exercise Voting Rights attached to different Securities held by the Shareholder.

23.6 A proxy may not delegate the proxy's authority to act on behalf of the Shareholder to another Person, unless the right to delegate is specifically contained in the Proxy Instrument and the delegation occurs by way of a further Proxy Instrument which itself complies with the requirements of the Companies Act and this MOI.

23.7 A proxy shall, as contemplated in section 58(7) of the Companies Act, be entitled, in the proxy's own discretion, to exercise, or abstain from exercising, any Voting Right of the Shareholder, provided that if the Proxy Instrument specifically provides otherwise, then the specific provisions of the Proxy Instrument shall prevail.

23.8 If a proxy appointment is revocable, the revocation of such appointment in accordance with the Companies Act constitutes a complete and final cancellation of the proxy's authority to act on behalf of the Shareholder as of the later of –

23.8.1 the date stated in the instrument revoking the appointment ("**Revocation Instrument**"), if any; and

23.8.2 the date on which the Revocation Instrument was delivered as required by the Companies Act.

23.9 Each Proxy Instrument and Revocation Instrument shall be accompanied by such proof of the identity and authority of the signatory as may be reasonably required by the Board or the chairperson of any meeting at which the proxy wishes to exercise any rights of the Shareholder.

24 RECORD DATES

The Board may, in accordance with section 59 of the Companies Act and the Regulations, determine and publish a Record Date for the purposes of determining which Shareholders are entitled to -

24.1 receive a notice of a Shareholders' meeting;

24.2 participate in and vote at a Shareholders' meeting;

24.3 decide any matter by written consent or by Electronic Communication;

24.4 receive a Distribution; or

24.5 be allotted or exercise any other rights,

provided that if the Board does not determine a Record Date for any action or event, as contemplated in this clause 24, the Record Date shall be as determined in accordance with section 59(3) of the Companies Act.

25 MEETINGS IN RESPECT OF THE SECURITIES OTHER THAN SHARES

Notwithstanding anything to the contrary contained in this Part F, the requirements for convening and holding meetings in respect of Notes, including notices, notice periods, requisition rights, quorum provisions, adjournment, proxies, voting rights and voting percentages for adoption of resolutions, shall be in accordance with the Terms and Conditions, insofar as such terms and conditions amend the relevant provisions of the Companies Act and to the extent such amendments are permissible in terms of the Companies Act.

26 SHAREHOLDERS MEETINGS

- 26.1 The Company shall not be required to hold any meetings of Shareholders other than those required by the Companies Act.
- 26.2 The Company shall hold a Shareholders' meeting in the circumstances contemplated in section 61(2) of the Companies Act.
- 26.3 The Board or any Prescribed Officer of the Company shall be entitled to call a Shareholders' meeting at any time.
- 26.4 The Board may determine the location for any Shareholders' meeting of the Company (including the location of any meeting which has been adjourned).
- 26.5 The Company shall convene and hold Annual General Meetings of its Shareholders in accordance with the provisions of sections 61(7) and 61(8) of the Companies Act.

27 NOTICE OF SHAREHOLDERS MEETINGS

- 27.1 The minimum number of days for the Company to deliver a notice of a Shareholders' meeting to the Shareholders, is as provided for in section 62(1)(b) of the Companies Act.
- 27.2 The notice of a Shareholders' meeting shall be in writing and shall include the items set out in section 62(3) of the Companies Act.

27.3 The notice of a Shareholders' meeting must be delivered in accordance with the provisions of 48.

28 CONDUCT OF MEETINGS

28.1 The Company -

28.1.1 may provide for a Shareholders' meeting to be conducted in whole or in part by Electronic Communication; and

28.1.2 must always make provision for any Shareholder, or proxy for a Shareholder, to participate by Electronic Communication in every Shareholders' meeting that is being held in person, irrespective of whether such meeting is held in the RSA or elsewhere,

and any Electronic Communication facility so employed must ordinarily enable all persons participating in the meeting to at least speak and hear each other at approximately the same time and to participate reasonably effectively in the meeting. The authority of the Company in this regard is not limited or restricted by this MOI.

28.2 Subject to 28.1, the responsibility for the expense of gaining access to the medium or means of Electronic Communication employed for any Shareholders' meeting shall be that of the Shareholder or proxy. If a provision has been made for a Shareholders' meeting to be conducted by Electronic Communication or for participation in a Shareholders' meeting by Electronic Communication and the medium or means of such Electronic Communication is available, functioning and reasonably accessible, then the Shareholders' meeting shall be entitled to proceed even if a Shareholder or proxy is not able to gain access to the medium or means of Electronic Communication so employed.

28.3 The Company shall ensure that any notice of any meeting of Shareholders, at which it will be possible for Shareholders to participate by way of Electronic Communication, shall inform Shareholders of that form of participation and shall provide any necessary information to enable Shareholders or their proxies to access the available medium or means of Electronic Communication.

28.4 A resolution passed at any meeting that employs Electronic Communication shall, notwithstanding that the Shareholders are not present together in one place at the time of the meeting, be deemed to have been passed at a meeting duly called and constituted on the day on which, and at the time at which, the meeting was so held. For the avoidance of doubt, it is recorded that all of the provisions of 23, 28.5 and 29 to 31 (both inclusive) shall apply to these meetings.

28.5 At a meeting of Shareholders, voting shall be conducted by way of a poll. The poll shall be conducted in such manner as the chairperson of the meeting directs.

29 SHAREHOLDER MEETING QUORUM AND ADJOURNMENT

29.1 The quorum requirements for meetings of Shareholders shall, subject to 29.5, be that –

29.1.1 such a meeting shall not begin until sufficient Persons are Present at such meeting to exercise, in aggregate, at least 25% of all Voting Rights that are entitled to be exercised in respect of at least one matter to be decided at the meeting;

29.1.2 the consideration of a matter to be decided at the meeting shall not begin unless sufficient Persons are Present at such meeting at the time when that matter is called for consideration to exercise, in aggregate, at least 25% of all Voting Rights that are entitled to be exercised on that matter; and

29.1.3 in terms of section 64(2) of the Companies Act, in the case of Noteholder meetings, to such higher or lower percentage in substitution for the 25% required by section 64(1) of the Companies Act as may be specified in the Terms and Conditions of the Notes.

29.2 Notwithstanding the provisions of section 64(4) of the Companies Act and 29.1, if, within 30 minutes after the appointed time for a Shareholders meeting -

29.2.1 the quorum requirements for a meeting to begin have not been satisfied, the meeting shall automatically be postponed without motion or vote to the same

day (or if that day is not a Business Day, the next Business Day) in the following week; or

29.2.2 at such later time during the meeting that a particular matter is to be considered, the quorum requirements for consideration of that matter to begin or continue have not been satisfied, then, -

29.2.2.1 if there is other business on the agenda of the meeting, consideration of that matter may be postponed to a later time in the meeting without motion or vote; or

29.2.2.2 if there is no other business on the agenda of the meeting, the meeting is adjourned, without motion or vote, to the same day (or if that day is a public holiday, the next Business Day) in the following week.

29.3 The adjourned or postponed meeting may only deal with the matters that were on the agenda of the meeting that was adjourned or postponed.

29.4 The chairperson of the meeting shall be entitled to extend the 30-minute limit referred to in 29.2 in the circumstances contemplated in section 64(5) of the Companies Act.

29.5 If, at the time appointed in terms of this clause 29 for an adjourned meeting to resume, or for a postponed meeting to begin, the quorum requirements have not been satisfied, the Shareholders present in person or by proxy will be deemed to constitute a quorum.

29.6 A Shareholders' meeting, or the consideration of any matter being debated at a Shareholders' meeting, may be adjourned as contemplated in sections 64(10), 64(11) and 64(12) of the Companies Act, it being recorded that the periods of adjournment set out in section 64(12) shall apply without variation.

29.7 The Board may, at any time after notice of a Shareholders' meeting (other than a Shareholders' meeting required to be held in terms of section 61(3)) has been given but prior to the commencement of that meeting, postpone that meeting to such later date as may be determined by the Board at the time of determining to postpone the

meeting, or may be postponed to an unspecified date to be decided by the Board at a later stage; provided that the Board may not so postpone the date of any such meeting beyond that date (if any) by which that meeting is required by the Companies Act or this MOI to be held.

29.8 If a Shareholders' meeting is postponed or adjourned, whether in terms of 29.2, 29.6 or 29.7 or otherwise, the Company must within 48 hours thereafter give notice to all Shareholders who were entitled to receive notice of the meeting of the postponement or adjournment and that notice must contain the time and date of, and the location for, the continuation or resumption of the meeting and any other information which the Board may decide to include therein.

29.9 Subject to the Companies Act and this MOI, the chairman of any general meeting shall determine the procedure to be followed at that meeting.

29.10 Even if he is not a Shareholder –

29.10.1 any Director; or

29.10.2 any other person admitted and permitted to speak by the chairperson of the meeting,

may attend and speak at any Shareholders' meeting, but may not vote, unless he is a Shareholder or the proxy or representative of a Shareholder.

30 CHAIRPERSON OF SHAREHOLDERS MEETINGS

The chairperson of the Board shall be entitled to chair Shareholders' meetings. If, however, there is no chairperson or if he has notified his inability to attend a meeting or if at any meeting he is not present within ten minutes of the time appointed for the meeting, the Shareholders present and represented shall choose another Director to chair the meeting. If no Director is present or if none of the Directors present are willing

to chair the meeting, then the Shareholders shall choose one of their own to be the chairperson of the meeting.

The Terms and Conditions of any Notes issued by the Company may specify provisions for the appointment of a person to chair Noteholder meetings.

31 SHAREHOLDERS RESOLUTIONS

31.1 At any meeting of Shareholders, any Person who is present at the meeting, whether as a Shareholder or as a proxy for a Shareholder, shall be entitled to exercise one vote for each Ordinary Share held by that Ordinary Shareholder.

31.2 In order for -

31.2.1 an Ordinary Resolution to be approved, it must be supported by the holders of more than 50% of the Voting Rights exercised on the resolution, as contemplated in section 65(7) of the Companies Act;

31.2.2 a Special Resolution to be approved, it must be supported by the holders of at least 75% of the Voting Rights exercised on the resolution, as contemplated in section 65(9) of the Companies Act,

at a quorate meeting of Shareholders which is quorate in relation to that resolution; provided that this clause 31.2 shall not detract from the Shareholders' ability to adopt resolutions by written vote as referred to in 32.

32 WRITTEN RESOLUTIONS BY SHAREHOLDERS

32.1 A resolution that could be voted on at a Shareholders' meeting may instead be adopted by written vote of the Shareholders, as contemplated in section 60 of the Companies Act, if it is –

32.1.1 submitted to Shareholders entitled to exercise Voting Rights in relation to the resolution; and

32.1.2 supported by Persons entitled to exercise sufficient Voting Rights for it to have been adopted as an Ordinary or Special Resolution, as the case may be, at a properly constituted Shareholders' meeting.

32.2 Unless the contrary is stated in the resolution, any such resolution shall be deemed to have been adopted on the date on which the Company received the written vote of the Shareholder or the proxy of the Shareholder whose vote resulted in the resolution by being supported by sufficient votes for its adoption, irrespective of any votes received thereafter, provided that such date falls within the 20 Business Day period referred to in section 60(1)(b) of the Companies Act.

PART G – DIRECTORS POWERS AND PROCEEDINGS

33 AUTHORITY OF THE BOARD OF DIRECTORS

33.1 The business and affairs of the Company shall be managed by or under the direction of the Board, which shall have the authority to exercise all of the powers and perform all of the functions of the Company, except to the extent that the Companies Act or this MOI provides otherwise.

33.2 The Board may delegate to any one or more Persons any of its powers, authority and functions (including the power to sub-delegate).

34 APPOINTMENT OF DIRECTORS

34.1 The Board shall comprise of not less than four Directors, in addition to the minimum number of directors necessary to satisfy any committee requirements in terms of the Companies Act or this MOI.

34.2 Subject to 34.6, all of the Directors and Alternate Directors shall be elected by Ordinary Resolution of the Shareholders, on the basis that section 68(2) of the Companies Act (and if such election is not conducted at an Annual General Meeting of the Company but is to be conducted by written vote, section 60(3) and clause 32) shall apply to such election.

34.3 There shall be no *ex officio* directors, as contemplated in section 66(4)(a)(ii) of the Companies Act.

- 34.4 In addition to the elected Directors, in terms of section 66(4)(a)(i) of the Companies Act, for so long as there are Notes in issue, CFH may appoint, remove and replace, one (and no more than one) Director of the Company and his or her alternate, by way of written notice to the Company, such appointment, removal or replacement taking effect on the date of receipt by the Company of such notice, subject to such person delivering written consent to serve as a Director.
- 34.5 For so long as there are Notes in issue, all the elected and appointed Directors (other than any Director appointed in terms of 34.4) must be independent of CFH and of any subsidiary or holding company of CFH or any subsidiary of CFH's holding company or any person acting in a primary role (as defined in Government Notice No 2 published in Government Gazette No 30628 of 1 January 2008, issued by the Registrar of Banks under the Banks Act, No 94 of 1990 (the "**Securitisation Regulations**"). A person shall be regarded as being independent for these purposes, provided that he is not a director, officer, employee or consultant of CFH or any subsidiary or holding company of CFH or any subsidiary of CFH's holding company or any person acting in a primary role (as defined in the Securitisation Regulations).
- 34.6 The Board may appoint a Person who satisfies the requirements for election as a Director to fill any vacancy and serve as a Director of the Company on a temporary basis until the vacancy has been filled by election in terms of 34.2, and during that period any Person so appointed has all of the powers, functions and duties, and is subject to all of the liabilities, of any other Director of the Company. The authority of the Board in this regard shall not be limited or restricted by this MOI.
- 34.7 Each Director shall serve for an indefinite term, as contemplated in section 68(1) of the Companies Act.
- 34.8 The Company may not permit a person to serve as Director if that person is ineligible or disqualified in terms of the Companies Act.
- 34.9 In addition to the grounds of ineligibility and disqualification of Directors as contained in section 69 of the Companies Act, a Director shall cease to be eligible to continue to act as a Director if he absents himself from all meetings of the Board

occurring within a period of six consecutive months without the leave of the Board, and the Board resolves that his office shall be vacated; provided that this clause 34.9 shall not apply to a Director who is represented by an Alternate Director who does not so absent himself.

34.10 This MOI does not impose any minimum shareholding or other qualifications to be met by the Directors of the Company in addition to the ineligibility and disqualification provisions of the Companies Act and 34.9.

34.11 Section 70 of the Companies Act shall apply to any vacancy on the Board which may arise from time to time.

35 ALTERNATE DIRECTOR

35.1 Each Director may, by notice to the Company at any time -

35.1.1 nominate any one or more than one person in the alternative (including any of his co-Directors) to be his Alternate Director, for election in terms of 34.6;

35.1.2 terminate any such appointment.

35.2 The appointment of an Alternate Director shall terminate –

35.2.1 when the Director to whom he is an Alternate Director ceases to be a Director;
or

35.2.2 upon the removal of that Alternate Director from his office as such.

35.3 An Alternate Director shall subject to this MOI -

35.3.1 act as a Director and generally exercise all the rights of the Director to whom he is an Alternate Director, but only during the absence or incapacity of that Director; and

35.3.2 in all respects be subject to the terms and conditions existing with reference to the appointment, rights and duties and the holding of office of the Director

to whom he is an Alternate Director, but shall not have any claim of any nature whatsoever against the Company for any remuneration of any nature whatsoever.

36 BOARD COMMITTEES

36.1 The Board shall appoint such committees, with such powers and duties as may be required by the Companies Act, and may in addition, -

36.1.1 appoint any number of committees of Directors;

36.1.2 delegate to any committee any of the authority of the Board (including the authority to sub-delegate);

36.1.3 include any person who is not a Director of the Company in such committees,

and, accordingly, the authority of the Board in this regard is not limited or restricted by this MOI.

36.2 The authority and power of any committees established by the Board, as contemplated in section 72(2) of the Companies Act, is not limited or restricted by this MOI, but may be restricted by the Board when establishing one committee or by subsequent resolution.

37 AUDIT COMMITTEE AND AUDITOR

37.1 At each Annual General Meeting, the Company must elect an Audit committee comprising at least three members, unless -

37.1.1 the Company is a subsidiary of another company that has an Audit committee; and

37.1.2 the audit committee of that other company will perform the functions required in terms of the Companies Act on behalf of the Company.

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.

37.2 Each member of the Audit committee must -

37.2.1 be a Director, who satisfies any applicable requirements prescribed by the Minister;

37.2.2 not be —

37.2.2.1 involved in the day-to-day management of the Company's business or have been so involved at any time during the previous financial year,

37.2.2.2 a Prescribed Officer: or full-time employee of the Company another Related or inter-related company, Officer or employee at any time during the previous three financial years; or

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

and not be related to any Person who falls within the criteria in clauses 37.2.2.1 to 37.2.2.3. In addition, at least one third of the members of the Audit committee at any particular time must have academic qualifications, or experience, in economics, law, corporate governance, finance, accounting, commerce, industry, public affairs or human resource management.

37.3 The Board must appoint a person to fill any vacancy on the Audit committee within 40 Business Days after the vacancy arises.

- 37.4 The Audit committee has the following duties —
- 37.4.1 to nominate, for appointment as Auditor, a Registered Auditor who, in the opinion of the Audit committee, is independent of the Company;
 - 37.4.2 to determine the fees to be paid to the Auditor and the Auditor's terms of engagement;
 - 37.4.3 to ensure that the appointment of the Auditor complies with the provisions of the Companies Act and any other legislation relating to the appointment of auditors;
 - 37.4.4 to determine the nature and extent of any non-audit services that the Auditor may provide to the Company subject to compliance with the Companies Act, or that the Auditor must not provide to the Company, or a Related company;
 - 37.4.5 to pre-approve any proposed agreement with the Auditor for the provision of non-audit services to the Company;
 - 37.4.6 to prepare a report, to be included in the annual Financial Statements for that financial year —
 - 37.4.6.1 describing how the Audit committee carried out its functions;
 - 37.4.6.2 stating whether the Audit committee is satisfied that the Auditor was independent of the Company; and
 - 37.4.6.3 commenting in any way the Audit committee considers appropriate on the Financial Statements, the accounting practices and the internal financial control of the Company;
 - 37.4.7 to receive and deal appropriately with any concerns or complaints, whether from within or outside the Company, or on its own initiative, relating to —
 - 37.4.7.1 the accounting practices and internal audit of the Company;

- 37.4.7.2 the content or auditing of the Company's Financial Statements;
- 37.4.7.3 the internal financial controls of the Company; or
- 37.4.7.4 any related matter;
- 37.4.8 to make submissions to the Board on any matter concerning the Company's accounting policies, financial control, records and reporting; and
- 37.4.9 to perform other oversight functions as may be determined by the Board.

In considering whether, for the purposes of this clause 37.4, a Registered Auditor is independent of the Company, the Audit committee must —

- 37.4.10 ascertain that the auditor does not receive any direct or indirect remuneration or other benefit from the Company, except —
 - 37.4.10.1 as Auditor, or
 - 37.4.10.2 for rendering other services to the company, to the extent permitted in terms of the Companies Act;
- 37.4.11 consider whether the auditor's independence may have been prejudiced —
 - 37.4.11.1 as a result of any previous appointment as Auditor; or
 - 37.4.11.2 having regard to the extent of any consultancy, advisory or other work undertaken by the auditor for the Company; and
- 37.4.12 consider compliance with other criteria relating to independence or conflict of interest as prescribed by the Independent Regulatory Board for Auditors established by the Auditing Profession Act,

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

- 37.5 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.
- 37.6 No Person shall be elected as a member of the Audit committee, if he is ineligible or Disqualified and any such election shall be a nullity. A Person who is Ineligible or Disqualified must not consent to be elected as a member of the Audit committee nor act as a member of the Audit committee. A Person placed under probation by a court must not serve as a member of the Audit committee unless the order of court so permits.
- 37.7 A member of the Audit committee shall cease to hold office as such immediately he becomes ineligible or Disqualified in terms of the Companies Act.
- 37.8 There are no general qualifications prescribed by the Company for a Person to serve as a member of the Audit committee in addition to the requirements of the Companies Act.
- 37.9 The Company shall appoint an Auditor at its Annual General Meeting provided that if an Annual General Meeting does not appoint or reappoint an Auditor, the Directors must fill the vacancy in the office in terms of the procedure contemplated in section 91 of the Companies Act within 40 Business Days after the date of the Annual General Meeting. A retiring Auditor may be automatically re-appointed at an Annual General Meeting without any resolution being passed, unless —
- 37.9.1 the retiring Auditor is —
- 37.9.1.1 no longer qualified for appointment;
- 37.9.1.2 no longer willing to accept the appointment, and has so notified the company; or
- 37.9.1.3 required to cease serving as auditor, in terms of section 92;
- 37.9.2 the Audit committee objects to the re-appointment; or

- 37.9.3 the Company has notice of an intended resolution to appoint some other person or persons in place of the retiring Auditor.
- 37.10 Any firm of auditors appointed by the Company as the Auditor shall ensure that the Individual responsible for performing the Audit must comply with the requirements of section 90(2) of the Companies Act, provided that —
- 37.10.1 the same Individual may not serve as the Auditor or designated Auditor for more than five consecutive financial years;
- 37.10.2 if an Individual has served as the Auditor or designated auditor for two or more consecutive financial years and then ceases to be the auditor or designated auditor, the Individual may not be appointed again as the Auditor or designated auditor until after the expiry of at least two further financial years.
- 37.11 The Auditor —
- 37.11.1 has the right of access at all times to the accounting records and all books and documents of the Company, and is entitled to require from the Directors or Prescribed Officers any information and explanations necessary for the performance of the Auditor's duties;
- 37.11.2 if the Company is a Holding Company, has the right of access to all current and former financial statements of any Subsidiary and is entitled to require from the Directors or Prescribed Officers of the Company or Subsidiary any information and explanations in connection with any such statements and in connection with the Accounting Records, books and documents of the Subsidiary as necessary for the performance of the Auditor's duties; and
- 37.11.3 is entitled to —
- 37.11.3.1 attend any Shareholders Meeting;
- 37.11.3.2 receive all notices of and- other communications relating to any Shareholders Meeting; and

37.11.3.3 be heard at any Shareholders Meeting on any part of the business of the meeting that concerns the Auditors duties or functions.

37.11.4 may not perform any services for the Company —

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

37.11.4.2 as may be prescribed by the Audit committee.

37.12 If a vacancy arises in the office of Auditor, the Board —

37.12.1 must appoint a new Auditor within 40 Business Days, if there was only one incumbent Auditor; and

37.12.2 may appoint a new Auditor at any time, if there was more than incumbent, but while any such vacancy continues, the Surviving or continuing Auditor may act as auditor of the Company.

If, by comparison with the membership of a firm at the time of its latest appointment, less than one-half of the members remain after a change in the composition of the members, that change constitutes the resignation of the firm as Auditor of the company, giving rise to a vacancy.

37.13 Before making an appointment in terms of 37.12 the Board -

37.13.1 must propose to the Audit committee, within 15 Business Days after the vacancy occurs, the name of at least one Registered Auditor to be considered for appointment as the new Auditor; and

37.13.2 may proceed to make an appointment of a Person proposed in terms of 37.13.1 if, within five Business Days after delivering the proposal, the Audit committee does not give notice in Writing to the Board rejecting the proposed auditor.

38 SOCIAL AND ETHICS COMMITTEE

38.1 If the Company in any two of the previous five years, scored above 500 Public interest Score or would have so scored if the Companies Act had been in effect at that time, the Board shall appoint a social and ethics committee with the first such committee, if one is required, being appointed within 12 months after the Effective Date 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.

38.2 The social and ethics committee must comprise not less than three Directors or Prescribed Officers, at least 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 three financial years.

38.3 The social and ethics committee has the following functions -

38.3.1 to monitor the Company's activities, having regard to any relevant legislation, other legal requirements or prevailing codes of best practice, with regard to matters relating to -

38.3.1.1 social and economic development, including the Company's standing in terms of the goals and purposes of -

38.3.1.1.1 the 10 principles set out in the United Nations Global Compact Principles;

38.3.1.1.2 the OECD recommendations regarding corruption;

38.3.1.1.3 the Employment Equity Act; and

38.3.1.1.4 the Broad-Based Black Economic Empowerment Act;

- 38.3.1.2 good corporate citizenship, including the Company's -
 - 38.3.1.2.1 promotion of equality, prevention of unfair discrimination, and reduction of corruption;
 - 38.3.1.2.2 contribution to development of the communities in which its activities are predominantly conducted or within which its products or services are predominantly marketed; and
 - 38.3.1.2.3 record of sponsorship, donations and charitable giving;
- 38.3.1.3 the environment, health and public safety, including the impact of the Company's activities and of its products or services;
- 38.3.1.4 consumer relationships, including the Company's advertising, public relations and compliance with consumer protection laws; and
- 38.3.1.5 labour and employment, including—
 - 38.3.1.5.1 the Company's standing in terms of the international Labour Organisation Protocol on decent work and working conditions; and
 - 38.3.1.5.2 the Company's employment relationships, and its contribution toward the educational development of its employees;
- 38.3.2 to draw matters within its mandate to the attention of the Board as occasion requires;
- 38.3.3 to report, through one of its members, to the Shareholders at the Annual General Meeting on the matters within its mandate.
- 38.4 A social and ethics committee of a company is entitled to –
 - 38.4.1 require from any Director or Prescribed Officer any information or explanation necessary for the performance of the committee's functions;

- 38.4.2 request from any employee of the Company any information or explanation necessary for the performance of the committee's functions;
 - 38.4.3 attend any Shareholders Meeting;
 - 38.4.4 receive all notices of and other communications relating to any Shareholders Meeting; and
 - 38.4.5 be heard at any Shareholders Meeting on any part of the business of the meeting that concerns the committee's functions.
- 38.5 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.

39 CHAIRPERSON OF THE BOARD

- 39.1 The chairperson of the Board shall be elected by the Directors annually at the first Board meeting of the Company's financial year, provided that if the chairperson is absent from a meeting for any reason, the Directors shall elect one of their number to be chairperson of that meeting.
- 39.2 The chairperson of the Board or, failing him, the deputy chairperson of the Board (or if more than one of them is present and willing to act, the most senior of them) shall preside as the chairperson of each meeting of the Board; provided that, if no chairperson or deputy chairperson is present and willing to act, the Board present shall elect one of the Directors to be the chairperson of that meeting of the Board.
- 39.3 The chairperson shall, subject to the Companies Act and this MOI and any decision of the Board, determine the procedure to be followed at all meetings of the Board.
- 39.4 Notwithstanding the provisions of section 73(5)(e) of the Companies Act, the chairperson shall not have a second or casting vote in addition to his deliberative vote in any matter referred to the Board.

40 COMPANY SECRETARY

The Board shall appoint a company secretary in accordance with section 86 of the Companies Act.

41 DIRECTORS MEETINGS

41.1 The Board may -

41.1.1 meet, adjourn and otherwise regulate its meetings as it thinks fit; provided that, in accordance with section 73(2) of the Companies Act, any Director shall be entitled to convene or direct the Person so authorised by the Board to convene a meeting of the Board; and

41.1.2 from time to time determine the form and time of the notice that shall be given of its meetings and the means of giving that notice, as contemplated in section 73(4) of the Companies Act; provided that -

41.1.2.1 no meeting may be convened without notice to all of the Directors; and

41.1.2.2 any such prior determination may be varied, depending on the circumstances and reasons for the Board meeting in question,

and the authority of the Board in this regard is not limited or restricted by this MOI.

41.2 If each of the Directors of the Company -

41.2.1 acknowledges actual receipt of the notice and agree that the meeting should proceed;

41.2.2 is present at a meeting; or

41.2.3 waive notice of the meeting,

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

41.3 The Board -

41.3.1 may provide for a meeting of the Board to be conducted in whole or in part by Electronic Communication; and

41.3.2 must always make provision for any Director to participate by Electronic Communication in every Board meeting that is held in person,

and any Electronic Communication facility so employed must ordinarily enable all persons participating in that meeting to at least speak and hear each other at approximately the same time, and to participate reasonably effectively in the meeting. The authority of the Board in this regard is not limited or restricted by this MOI.

41.4 The quorum for meetings of the Board shall be a majority in number of the Directors (or their Alternate Directors) then in office; provided that unless the Board decides otherwise -

41.4.1 if a quorum is not present within 30 minutes after the time appointed for the commencement of any meeting of the Board, that meeting shall automatically be postponed without motion or vote to the same day in the following week (or if that day is not a Business Day, the next Business Day), at the same time and place. The postponed meeting may only deal with the matters that were on the agenda of the meeting that was postponed; and

41.4.2 if at any such postponed meeting a quorum is not present within 30 minutes after the time appointed for the commencement of that meeting, then, notwithstanding the provisions of section 73(5)(b) of the Companies Act, the Directors present shall be deemed to constitute a quorum and shall be sufficient to vote on any resolution which is tabled at that meeting.

- 41.5 At any meeting of the Board, -
- 41.5.1 an Alternate Director shall only be entitled to attend, speak or vote in accordance with 35.3;
- 41.5.2 each Director shall have one vote only on every matter to be decided by the Board; and
- 41.5.3 a resolution of the Board shall be passed by a majority of the votes cast in the manner set out in 41.5.2 at a quorate meeting of the Board and there is no casting vote, so in the case of a tied vote on a resolution, that resolution is not adopted. This clause 41.5.3 shall not detract from the Board's ability to adopt resolutions as set out in 42.
- 41.6 The Company shall keep minutes of the meetings of the Board, and any of its committees, and include in those minutes -
- 41.6.1 any declaration given by notice or made by a Director, as required by section 75 of the Companies Act; and
- 41.6.2 every resolution adopted by the Board.
- 41.7 Resolutions adopted by the Board -
- 41.7.1 must be dated and sequentially numbered; and
- 41.7.2 are effective as of the date of the resolution, unless the resolution states otherwise.
- 41.8 Any minutes of a meeting, or a resolution, signed by the chairperson of the meeting, or by the chairperson of the next meeting of the Board, is evidence of the proceedings of that meeting, or adoption of that resolution, as the case may be.

42 WRITTEN RESOLUTIONS BY DIRECTORS

- 42.1 A decision that could be voted on at a meeting of the Board may instead be adopted by a written resolution that has been submitted to all of the Directors and signed by at least that number of the Directors (or their Alternate Directors) having a majority of the Voting Rights that could be exercised upon that resolution if it were considered by a meeting of the Board.
- 42.2 Any such resolution shall be as valid and effective as if it had been adopted by a duly convened and constituted meeting of Directors.
- 42.3 Unless the contrary is stated in the resolution, any such resolution shall be deemed to have been passed on the date on which it was signed by or on behalf of the Director (or Alternate Director) who signed it last.
- 42.4 The resolution may consist of one or more counterpart documents, each signed by one or more Directors (or their Alternate Directors).

43 PAYMENTS TO DIRECTORS

- 43.1 The Company may pay remuneration to its Directors or Alternate Directors for those services as such; provided that such remuneration must be approved by a Special Resolution passed by the Shareholders within the two previous years and the authority of the Board in this regard is not restricted or limited by this MOI.
- 43.2 Each Director shall be entitled to all reasonable travelling, subsistence and other expenses properly incurred by him in the execution of his duties as a Director; provided that such expenses shall first have been authorised or ratified by the Board.

44 INDEMNIFICATION AND INSURANCE FOR DIRECTORS

- 44.1 For the purposes of this clause 44, a Director includes -
- 44.1.1 a former Director and an Alternate Director;
- 44.1.2 a Prescribed Officer; and

- 44.1.3 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.
- 44.2 The Board may, on behalf of the Company, as contemplated in sections 78(4), 78(5) and 78(7) of the Companies Act -
- 44.2.1 advance expenses to a Director to defend litigation in any proceedings arising out of the Director's service to the Company;
- 44.2.2 directly or indirectly indemnify a Director for expenses contemplated in 44.2.1, irrespective of whether or not it has advanced those expenses, if the proceedings -
- 44.2.2.1 are abandoned or exculpate that Director; or
- 44.2.2.2 arise in respect of any liability for which the Company may indemnify the Director, in terms of 44.2.3;
- 44.2.3 indemnify a Director against any liability arising from the conduct of that Director, other than a liability set out in section 78(6) of the Companies Act; and
- 44.2.4 purchase or pay insurance to protect -
- 44.2.4.1 a Director against any liability or expense for which the Company is permitted to indemnify the Director in accordance with 44.2.3; or
- 44.2.4.2 the Company against any contingency, including -
- 44.2.4.2.1 any expenses -
- 44.2.4.2.1.1 that the Company is permitted to advance in accordance with 44.2.1; or

44.2.4.2.1.2 for which the Company is permitted to indemnify a Director in accordance with 44.2.2; or

44.2.4.2.2 any liability for which the Company is permitted to indemnify a Director in accordance with 44.2.3,

and the authority of the Board in this regard is not limited or restricted by this MOI.

44.3 The Company shall and is hereby obliged to indemnify each Director against (and pay to each Director, on demand by that Director, the amount of) any loss, liability, damage, cost (including all legal costs reasonably incurred by the Director in dealing with or defending any claim) or expense ("**Loss**") which that Director may suffer as a result of any act or omission of that Director in his capacity as a Director; provided that –

44.3.1 this indemnity shall not extend to any Loss –

44.3.1.1 against which the Company is not permitted to indemnify a Director by section 78(6) of the Companies Act; or

44.3.1.2 arising from any gross negligence or recklessness on the part of that Director; or

44.3.1.3 of or damage to reputation; or

44.3.1.4 in the event and to the extent that the Director has recovered or is entitled and able to recover the amount of that Loss in terms of any insurance policy (whether taken out or paid for by the Company or otherwise),

and Directors shall not be entitled to recover the Losses referred to in this clause 44.3.1 from the Company. All losses other than those referred to in this clause 44.3.1 are referred to herein as "**Indemnified Losses**";

44.3.2 each Director's right to be indemnified by the Company in terms of this indemnity shall exist automatically upon his/her becoming a Director and shall

endure even after he(s)he ceases to be a Director until he(s)he can no longer suffer or incur any Indemnified Loss;

44.3.3 then –

44.3.3.1 if any claim is made against a Director in respect of any Indemnified Loss, the Director shall not admit any liability in respect thereof and the Director shall notify the Company of any such claim within a reasonable time after the Director becomes aware of such claim, in order to enable the Company to contest such claim. Notwithstanding the foregoing provisions of this clause 44.3.3, the Company's liability in terms of this indemnity shall not be affected by any failure of the Director to comply with this clause 44.3.3, save in the event and to the extent that the Company proves that such failure has resulted in the Indemnified Loss being greater than it would have been had the Director complied with this clause 44.3.3;

44.3.3.2 the Company shall, at its own expense and with the assistance of its own legal advisers, be entitled to contest any such claim in the name of the Director until finally determined by the highest court to which appeal may be made (or which may review any decision or judgment made or given in relation thereto) or to settle any such claim and shall be entitled to control the proceedings in regard thereto; provided that -

44.3.3.2.1 the Director shall (at the expense of the Company and, if the Director so requires, with the involvement of the Director's own legal advisers) render to the Company such assistance as the Company may reasonably require of the Director in order to contest such claim;

44.3.3.2.2 the Company shall regularly, and in any event on demand by the Director, inform the Director fully of the status of the contested claim and furnish the Director with all documents and information relating thereto which may reasonably be requested by the Director; and

- 44.3.3.2.3 the Company shall consult with the Director prior to taking any major steps in relation to or settling such contested claim and, in particular, before making or agreeing to any announcement or other publicity in relation to such claim;
- 44.3.4 to the extent that any Loss consists of or arises from a claim or potential claim that the Company might otherwise have had against the Director, then the effect of this indemnity shall be to prevent the Company from making such claim against the Director, who shall be immune to such claim, and such claim shall therefore be deemed not to arise;
- 44.3.5 if this clause 44 is amended at any time, no such amendment shall detract from the rights of the Directors in terms of this clause 44 in respect of any period prior to the date on which the resolution effecting such amendment is adopted by the Shareholders;
- 44.3.6 all provisions of this clause 44.3 are, notwithstanding the manner in which they have been grouped together or linked grammatically, severable from each other. Any provision of this clause 44.3 which is or becomes unenforceable, whether due to voidness, invalidity, illegality, unlawfulness or for any other reason whatever, shall, only to the extent that it is so unenforceable, be treated as *pro non scripto* and the remaining provisions of this agreement shall remain of full force and effect; and
- 44.3.7 this indemnity shall not detract from any separate indemnity that the Company may sign in favour of the Director.

PART H – GENERAL PROVISIONS

45 FINANCIAL STATEMENTS AND ACCESS TO COMPANY INFORMATION

- 45.1 The Company shall prepare annual Financial Statements in accordance with the Companies Act and the Regulations and shall, only to the extent required by the Companies Act or the Regulations, have those annual Financial Statements audited or reviewed.

45.2 A copy of the annual Financial Statements of the Company shall be delivered to all Shareholders in accordance with 47 as soon as possible after those annual Financial Statements have been approved by the Board.

45.3 Except as set out in this clause 45, no information rights are established by this MOI in favour of a Person who holds or has a beneficial interest in any Securities issued by the Company in addition to those rights created by section 26 of the Companies Act.

46 FINANCIAL ASSISTANCE

The Board may authorise the Company to provide financial assistance by way of a loan, guarantee, the provision of security or otherwise to any person for the purpose of, or in connection with, the subscription of any option, or any Securities, issued or to be issued by the Company or a related or inter-related company, or for the purchase of any such Securities, as set out in section 44 of the Companies Act, provided that such financial assistance complies with the relevant provisions of the Companies Act and provided further that any borrowing, guarantee, security or similar restrictions set out in 8 and 9 are complied with.

47 DISTRIBUTIONS

47.1 The Company may transmit any Distribution or amount payable in respect of a Share by -

47.1.1 ordinary post to the postal address of the Shareholder thereof (or, where two or more Persons are registered as the joint Shareholders of any Share, to the address of the joint holder whose name stands first in the Securities Register) recorded in the Securities Register or such other address as the holder thereof may previously have notified to the Company in writing for this purpose; or

47.1.2 electronic bank transfer to such bank account as the holder thereof may have notified to the Company in writing for this purpose,

and the Company shall not be responsible for any loss in transmission.

- 47.2 Any Distribution or other money payable on or in respect of a Share, -
- 47.2.1 which is unclaimed, may be retained by the Company and may be invested or used as the Board may deem fit for the benefit of the Company until claimed by the Shareholder concerned. All unclaimed moneys, other than Distributions, that are due to a Shareholder(s) shall be held by the Company in trust indefinitely until lawfully claimed by such Shareholder(s);
- 47.2.2 which is unclaimed for a period of three years from the date on which they were declared may be declared forfeited by the Board for the benefit of the Company. The Directors shall be entitled at any time to annul such forfeiture upon such conditions (if any) as the Board deems fit; or
- 47.2.3 which is retained and unclaimed for three years, should the Company be wound-up or deregistered, after the payment date of the Distribution or money in question, shall be forfeited and revert to the Company or its assigns and may be dealt with by the Directors or such assigns as they deem fit; and
- 47.2.4 shall not bear interest against the Company,
- and the Board shall, for the purpose of facilitating the winding-up or deregistration of the Company before the date of any such forfeit, be entitled to delegate to any bank, registered as such in accordance with the laws of the RSA, the liability for payment of any such Distribution or other money, payment of which has not been forfeited in terms of the foregoing.
- 47.3 Distributions (in the form of a dividend or otherwise) shall be paid to Shareholders registered as at a Record Date subsequent to the date of declaration or date of confirmation of the Distribution, whichever is the later date.
- 47.4 For the purposes of this clause 47, the Company shall apply the solvency and liquidity test in terms of section 4 of the Companies Act in respect of any Distribution to be made by the Company.

48 NOTICES

- 48.1 Any notice that is required to be given to Shareholders or Directors may be given in any manner prescribed in the Table CR3 to the Regulations and that notice shall be deemed to have been delivered as provided for in the Regulations as a result of the relevant method of delivery.
- 48.2 Each Shareholder and Director shall -
- 48.2.1 notify the Company in writing of a postal address, which address shall be his registered address for the purposes of receiving written notices from the Company by post; and
- 48.2.2 unless otherwise agreed with the Company in writing, notify in writing to the Company an e-mail address and facsimile number, which address shall be his address for the purposes of receiving notices by way of Electronic Communication.
- 48.3 Notwithstanding anything to the contrary contained in this clause 48, the requirements and the procedure for the giving of notices to the holders of Notes shall be in accordance with the Terms and Conditions, insofar as such Terms and Conditions amend the relevant provisions of the Companies Act and to the extent such amendments are permissible in terms of the Companies Act.

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SCHEDULE 1 – SHARE CAPITAL

The numbers and classes of Shares which the Company is authorised to issue are set out below -

- 1 5,000 Ordinary Shares of no par value each, having the rights and limitations set out in the MOI; and
- 2 5,000 cumulative redeemable Preference Shares of no par value each, having the preferences, rights, limitations and other terms set out in the MOI.