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THE VIKING STAFF SHARE TRUST

(IT 2837/97)

AMENDED AND RESTATED DEED OF TRUST AND STAFF SHARE SCHEME

CONSTITUTED BY AN AGREEMENT

between

THE TRUSTEES FOR THE TIME BEING OF THE VIKING STAFF SHARE TRUST

and

VIKING FISHING COMPANY (DEEP SEA) PROPRIETARY LIMITED

and

VIKING FISHING HOLDINGS PROPRIETARY LIMITED
(for purposes of clause 15.2 only)

and

SEA HARVEST CORPORATION PROPRIETARY LIMITED (VIKING FISHING DIVISION)

and

SEA HARVEST GROUP LIMITED



PREAMBLE

WHEREAS:

(a) The Trust was established pursuant to the Original Trust Deed by Viking Fishing Company and the First Trustees to administer the Scheme.

(b) Viking Fishing Company ceded its rights and assigned any obligations reserved for or imposed in terms of the Original Trust Deed (if any) and in terms of the law, in favour of Viking Fishing (Deep Sea) and Viking Fishing (Deep Sea) attained such rights and obligations.

(c) The Trust previously held shares in Holdings to permit its participants to participate in dividends arising therefrom through the Scheme.

(d) The Company acquired the entire fishing business controlled by Holdings (including the employees), the shares previously held by the Trust in Holdings were repurchased and the Trust acquired the Sea Harvest Shares to be held by the Trust for the Participants.

(e) The Company is committed to broad-based black economic empowerment in South Africa and wishes to utilise the Trust to advance the development of Black People in South Africa. Accordingly the Parties wish to amend and restate the Original Trust Deed in order to utilise the Trust as an Employee Share Ownership Programme in terms of the Codes

(f) Accordingly, this Trust Deed amends and restates the Original Trust Deed with effect from the Signature Date.

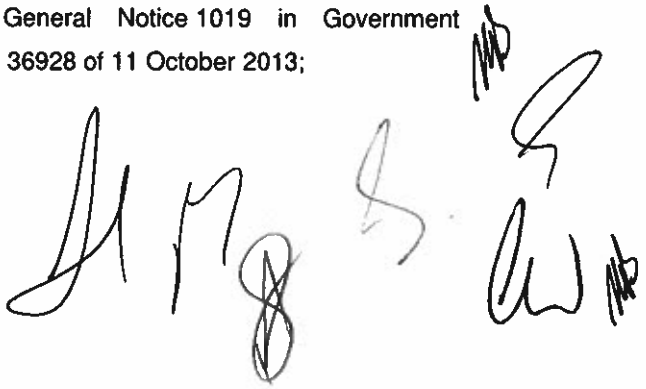
NOW THEREFORE IT IS HEREBY AGREED AS FOLLOWS:

1. **DEFINITIONS**

1.1 In this Trust Deed unless inconsistent with the context, the following words and expressions shall have the meanings assigned to them as set out hereunder:

1.1.1	**"2022 Allocation Date"**	means 1 March 2022;
1.1.2	**"Allocation Date"**	means the first business day of the financial year of the Trust;
1.1.3	**"Auditors"**	means the auditors for the time being of Sea Harvest Group;

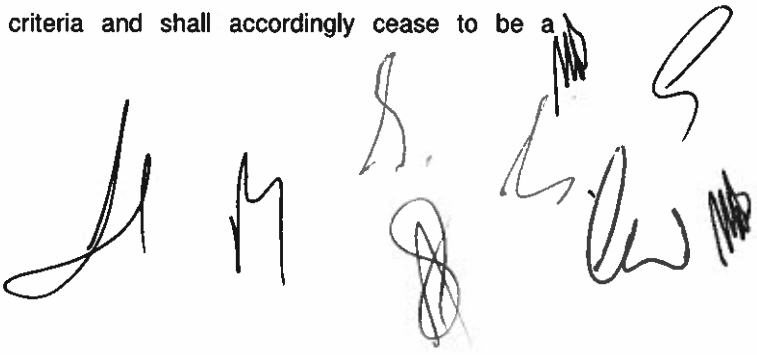
1.1.4	**"B-BBEE"**	means broad-based black economic empowerment in terms of the B-BBEE Act and the Codes;
1.1.5	**"B-BBEE Act"**	means the Broad-Based Black Economic Empowerment Act 53 of 2003, as amended from time to time;
1.1.6	**"Black People"** or **"Black Person/s"**	has the meaning ascribed to it under the B-BBEE Act, being Africans, Coloured, and Indians who are citizens of South Africa by birth or descent or who became citizens of South Africa by naturalisation: (i) before 27 April 1994; or (ii) on or after 27 April 1994 and who would have entitles to acquire citizenship by naturalisation prior to that date;
1.1.7	**"Board"**	means the board of directors of the Company from time to time;
1.1.8	**"Capital"**	has the meaning ascribed to it in clause 17.3.2;
1.1.9	**"Capital Distribution"**	has the meaning ascribed to it in clause 12.3.2;
1.1.10	**"Capital Distribution Date"**	means the date on which the Trustees authorise a Capital Distribution in accordance with clause 12.3.2;
1.1.11	**"Capital Participant"**	means a Participant: (i) recorded in the Participant Register as at the Capital Distribution Date; (ii) who is in the employment of the Company as at the Capital Distribution Date; and (iii) who has been in Continuous Service of the Company between the relevant Allocation Date and the Capital Distribution Date;
1.1.12	**"Codes"**	means the Codes of Good Practice on Broad-Based Black Economic Empowerment published under General Notice 1019 in Government Gazette 36928 of 11 October 2013;



1.1.13	**"Company"**	means Sea Harvest Corporation Proprietary Limited (Viking Fishing Division), registration number 2008/024147/07;
1.1.14	**"Continuous Service"**	means a continued and uninterrupted period in the employ of the Company (it being specifically recorded recorded that the transfer of the employees of Viking to the Company did not interrupt such employees' continuous service);
1.1.15	**"Economic Interest"**	means the Trust's claim against Sea Harvest Group representing a return on ownership of the Sea Harvest Shares similar in nature to a dividend right, measured in accordance with the Codes;
1.1.16	**"Employee"**	means any employee of the Company who, at the relevant Allocation Date: (i) is in the employment of the Company and is permanently employed on a full-time basis, and (ii) has been in Continuous Service for a consecutive period of at least 2 years at the Allocation Date in question, provided that, for the avoidance of doubt, a person shall be classified as an "Employee" for purposes of this Trust Deed only if, and for so long as, they meet all of the above criteria and shall accordingly cease to be an "Employee" for purposes of this Trust Deed if and for so long as any one or more of the above criteria cease to be met;
1.1.17	**"First Trustees"**	means Rory Lionel Williams (identity number 610723 5157 085) and Peter Nicholas Bacon (identity number 300906 5022 087);
1.1.18	**"Governing Documents"**	means the agreements and other documents governing the relationship between the Trust, Sea Harvest Group and the other shareholders of Sea Harvest Group from time to time, being as

		at the Signature Date the memorandum of incorporation of Sea Harvest Group;
1.1.19	**"Holdings"**	means Viking Fishing Holdings Proprietary Limited, registration number 1980/000888/07;
1.1.20	**"Income Distribution"**	has the meaning ascribed to it in clause 12.3.1.2;
1.1.21	**"Income Distribution Date"**	means the date on which the Trustees authorise an Income Distribution in accordance with clause 12.3.1.2;
1.1.22	**"Income Participant"**	means a Participant: (i) recorded in the Participant Register as at the relevant Income Distribution Date; (ii) who is in the employment of the Company as at the relevant Income Distribution Date; and (iii) who has been in Continuous Service of the Company between the relevant Allocation Date and the relevant Income Distribution Date;
1.1.23	**"Manager"**	means an Employee appointed to that position in the Company;
1.1.24	**"Master"**	means the Master, Deputy Master or Assistant Master of the High Court of South Africa appointed under section 2 of the Administration of Estates Act 66 of 1965;
1.1.25	**"Officers"**	means Employees who are mates or second engineers in the Company;
1.1.26	**"Original Trust Deed"**	means the written trust deed in terms of which the Trust was established, dated 17 January 1997, as amended;
1.1.27	**"Participant"**	means an Employee or Remaining Employee to whom Scheme Shares have been allocated pursuant to this Trust Deed and who appears in the Participant Register;

1.1.28	**"Participant Register"**	means the register setting out information relating to the Participants as contemplated in clause 6.1;
1.1.29	**"Parties"**	means the parties to this Trust Deed, being Viking Fishing (Deep Sea), Holdings (for purposes of clause 15.2 only), the Trustees, the Company and Sea Harvest Group;
1.1.30	**"Record Date"**	means, for purposes of determining which:
1.1.30.1		Employees are entitled to Scheme Shares, the Allocation Date;
1.1.30.2		Remaining Employees are entitled to Scheme Shares, the 2022 Allocation Date; and
1.1.30.3		Participants are entitled to receive notice of a meeting of the Participants and participate and vote at such meeting or who are entitled to vote in respect of a written resolution as contemplated in clause 8, shall be the date on which notice of such meeting or written resolution (as the case may be) is sent out to the first Participant;
1.1.31	**"Remaining Employee"**	means any employee of the Company who does not qualify as an "Employee" as contemplated in clause 1.1.16 but who, at the 2022 Allocation Date: (i) is in the employment of the Company and is permanently employed on a full-time basis, and (iii) has been in Continuous Service for at least 1 year at the 2022 Allocation Date, provided that, for the avoidance of doubt, a person shall be classified as a "Remaining Employee" for purposes of this Trust Deed only if, and for so long as, they meet all of the above criteria and shall accordingly cease to be a



		"Remaining Employee" for purposes of this Trust Deed if and for so long as any one or more of the above criteria cease to be met;
1.1.32	**"Scheme"**	means the Viking Staff Share Scheme;
1.1.33	**"Scheme Shares"**	means the notional capital of the Trust which is allocated to Employees and Remaining Employees in accordance with the provisions of this Trust Deed;
1.1.34	**"Sea Harvest Group"**	means Sea Harvest Group Limited, registration number 2008/001066/06;
1.1.35	**"Sea Harvest Shares"**	means 2 923 077 shares in the issued share capital of Sea Harvest Group held in the Trust;
1.1.36	**"Senior Officer"**	means an Employee holding the position of skipper or chief engineer or an executive manager (being an Employee holding an executive position or similar position to an executive as designated by the Board);
1.1.37	**"Signature Date"**	means the latest of the dates on which this Trust Deed was signed by the last Party to do so;
1.1.38	**"Termination Date"**	means the date on which this Trust and the Scheme shall terminate as contemplated in clause 17;
1.1.39	**"Trust"**	means THE VIKING STAFF SHARE TRUST, master's reference number IT 2837/97;
1.1.40	**"Trust Deed"**	means this deed of trust as varied or amended from time to time;
1.1.41	**"Trustees"**	means the trustees of the Trust for the time being and from time to time (which, as at the Signature Date, are the Trustees set out in clause 4.2);



1.1.42	**"Viking Fishing Company"**	means Viking Fishing Company Proprietary Limited, previously registration number 1979/004441/07; and
1.1.43	**"Viking Fishing (Deep Sea")**	means Viking Fishing Company (Deep Sea) Proprietary Limited, registration number 1996/017843/07.

1.2 The headings to the clauses are inserted for the purpose of reference only and shall not affect or be used in the interpretation of this Trust Deed.

1.3 A reference to any one gender, whether masculine, feminine or neuter, includes the other two and the singular includes the plural and *vice versa*; and natural persons include juristic persons and *vice versa*.

1.4 If any provision in the Preamble to this Trust Deed or a definition in clause 1 is a substantive provision conferring a right or imposing an obligation on any person then, notwithstanding that it is only in the Preamble or a definition, effect shall be given to that provision as if it were a substantive provision in the body of this Trust Deed.

1.5 References to statute or a statutory provision include any subordinate legislation made from time to time under that statute or provision and also includes that statute or provision as from time to time modified, replaced or re-enacted.

2. CONSTITUTION OF THE SCHEME

2.1 The Scheme, which is administered by the Trust, was constituted in terms of the Original Trust Deed.

2.2 The Scheme shall be administered by the Trustees for the benefit of the Participants and in the manner and upon the terms and conditions set out in this Trust Deed with effect from registration of this Trust Deed with the Master.

3. CONSTITUTION OF THE TRUST AND OBJECTS

3.1 In order to implement and give effect to the Scheme, the Trust was established in terms of the Original Trust Deed. The Trust and the Scheme shall continue until the Termination Date.

3.2 The objects of the Trust shall be to:

3.2.1 acquire and hold the Sea Harvest Shares and to conduct all activities in relation thereto;

3.2.2 apply dividends received from the Sea Harvest Shares for the benefit of the Participants so as to enable the Participants to participate in the growth of Sea Harvest Group by way of dividend income derived from the profits of Sea Harvest Group, on the terms and conditions set out in this Trust Deed;

3.2.3 administer the Scheme for the purposes and in the manner set out herein;

3.2.4 distribute all accumulated Economic Interest to the participants in the manner contemplated in this Trust Deed; and

3.2.5 make Income Distributions and Capital Distributions in the manner contemplated in this Trust Deed.

3.3 The Trust is an Employee Share Ownership Programme in terms of the Codes.

3.4 The name of the Trust is the VIKING STAFF SHARE TRUST.

3.5 The notional authorised capital of the Trust is 17 000 000 Scheme Shares divided into 10 000 000 "A" Scheme Shares, 5 000 000 "B" Scheme Shares and 2 000 000 "C" Scheme Shares.

4. TRUSTEES

4.1 The number of Trustees shall not be less than 2 Trustees and not more than 6 Trustees, it being the intention that the Trustees shall at all times compromise an equal number of whom have been appointed by the Board and by the Participants respectively.

4.2 It is recorded that as at the Signature Date the Trustees of the Trust, who have been issued with letters of authority by the Master, are:

4.2.1 the First Trustees, being Rory Lionel Williams (identity number 610723 5157 085) and Peter Nicholas Bacon (identity number 300906 5022 087); and

4.2.2 Steven James Hendricks (identity number 601202 5090 084) and Achmat Simpson (identity number 600106 5141 089), who were appointed as Trustees by the Participants pursuant to the Original Trust Deed.

4.3 The Participants shall at all times be entitled to appoint at least 50% of the Trustees (provided that any Trustees appointed by the Participants shall themselves be: (i) Participants; and (ii) Black Persons) and terminate the appointment of any Trustee appointed by them by a simple majority vote of the Participants taken either at a meeting of Participants or by written resolution, and the Trustees shall procure such appointment and termination.

4.4 Subject to clauses 4.3, the Board shall at all times be entitled, by way of written notice delivered to the Trust, to appoint 50% of the Trustees and terminate any appointment of the Trustees which it appointed, and the Trustees shall procure such appointment and termination.

4.5 The Board and/or the Participants, as the case may be, shall be entitled at any time to appoint another Trustee in the place of a Trustee previously appointed by them, who has died or resigned or been removed or disqualified from holding office as a Trustee.

4.6 Should the number of Trustees for any reason at any time be less than 2, then the remaining Trustee shall be entitled to act alone until additional Trustees are appointed by the Board and by the Participants as the case may be.

4.7 The Trustees for the time being and/or their successors and/or any additional Trustees which may at any time hereafter be appointed, shall not be required to furnish security for the due performance by them of their duties as Trustees.

4.8 The appointment of any person as a Trustee under this clause 4 is subject to and shall take effect on the date upon which the Master issues a letter of authority in respect of that person. In the event that the Master refuses to grant a letter of authority to such Trustee, or requires that the Trustee provides security, the Trustee shall not be appointed as a Trustee and an alternative person may be appointed as Trustee in accordance with the provisions of this clause 4.

4.9 The Master shall, save for such power as may be conferred by law, have no control over the Trust or any of the assets of the Trust.

5. POWERS OF TRUSTEES

5.1 The Trustees shall have all such powers as may be necessary to give effect to the purposes of the Trust and the Scheme, which powers shall include but shall not be limited to the following:

5.1.1 to acquire and hold the Sea Harvest Shares;

5.1.2 to deal with the trust assets in accordance with this Trust Deed;

5.1.3 make payments or distributions to the Participants in accordance with the provisions of this Trust Deed;

5.1.4 administer the Scheme;

5.1.5 to borrow or raise money, with the prior written consent of the Company, whether from the Company or from any other source to enable the Trust to carry on the activities contemplated in this Trust Deed;

5.1.6 to hold, allocate and deal with the Scheme Shares in accordance with the provisions of this Trust Deed;

5.1.7 to open and operate an account with a bank or building society or any other similar financial institution, in the name of the Trust;

5.1.8 to invest surplus funds of the Trust in such manner as they may deem fit;

5.1.9 to perform such duties and fulfil such functions as may from time to time be prescribed by resolution of the Board;

5.1.10 to exercise all voting powers attaching to any shares and other securities in any company forming part of the assets of the Trust (including, without limitation, all voting powers attaching to the Sea Harvest Shares held in the Trust) on such terms and conditions as they deem appropriate;

5.1.11 employ any experienced professional advisors or other person to provide professional services to the Trust;

5.1.12 engage employees in a part time or full time capacity for the administration of the Trust's affairs, determine their remuneration and terms of employment, delegate to them such duties as the Trustees may determine, and dismiss them;

5.1.13 delegate any of the powers or duties of the Trustees to any third person, representative or agent of the Trustees and to appoint any person to perform the day to day administration of the Trust upon such terms and conditions as the Company or such other entity and the Trustees may agree upon;

5.1.14 adopt such further procedures and do such further things, with the prior written consent of the Company, as the Trustees deem necessary or advisable for the due and proper administration of this Trust; and

5.1.15 do whatever is required to be done from time to time to give effect to the provisions of this Trust Deed and to ensure compliance with all applicable laws, the Codes and the B-BBEE Act.

5.2 No remuneration shall be payable to any Trustee in his capacity as such.

5.3 None of the Trustees shall be liable for any loss sustained by the Trust or by any Participant arising from their administration of the Trust, save and except loss caused by the gross negligence or dishonesty of the Trustees.

5.4 Save as otherwise provided in this Trust Deed or pursuant to applicable laws, decisions of the Trustees shall take place by majority vote (with each Trustee having one vote) and the decision of the majority shall be deemed to be the decision of all of the Trustees. In the event of there being an equality of voting, then should any of the Trustees so decide, the matter shall be referred for decision to an Advocate practising at the Cape Bar for not less than ten years, who shall act as an expert and not as an arbitrator, and whose decision shall be final. Should the Trustees not be able to agree as to who the Advocate should be, then the Advocate shall be a person appointed by the Chairman (for the time being) of the Cape Bar Council. The procedure to be followed shall be determined by the said Advocate.

5.5 The Trustees shall hold meetings to take resolutions for the conduct of the affairs of the Trust as often as they deem necessary. Each resolution taken by the Trustees or the majority of them, where a majority is sufficient, shall be reduced to writing and signed by all the Trustees then holding office who voted in favour of such resolution. The Trustees shall always be at liberty to validate an act by resolution properly taken after such act has already been performed. The quorum necessary for the transaction of business at any meeting of the Trustees shall be as follows:

5.5.1 if the total number of Trustees is 2, the quorum shall be 2;

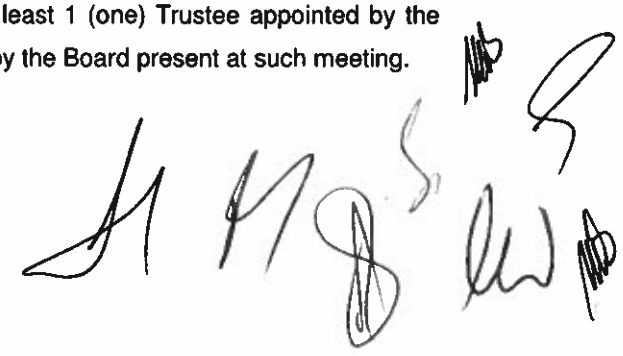
5.5.2 if the total number of Trustees is 3, the quorum shall be 2;

5.5.3 if the total number of Trustees is 4, the quorum shall be 3;

5.5.4 if the total number of Trustees is 5, the quorum shall be 4;

5.5.5 if the total number of Trustees is 6, the quorum shall be 4.

5.6 Notwithstanding any provision to the contrary herein, there shall be no quorum for any meeting of Trustees unless there is at least 1 (one) Trustee appointed by the Participants and 1 (one) Trustee appointed by the Board present at such meeting.



5.7 A resolution in writing signed and passed by the Trustees sufficient to form a quorum and holding the requisite number of votes, shall be valid and effectual as if it had been passed at a meeting of the Trustees duly called and constituted and such resolution may be signed in counterparts, provided that notice of the written resolution was duly given to each of the Trustees. Any resolution referred to in this clause 5.7 shall be deemed to have been passed on the date it was signed by the Trustee signing last in time. A fax or other form of electronic copy of a Trustee's signed resolution in terms of this clause 5.7 shall be acceptable evidence that such resolution has been signed by the Trustee whose signature appears on the fax or other form of electronic copy.

5.8 A Trustee shall vacate his office as such if:

5.8.1 he is found to be of unsound mind or is declared incapable of managing his own affairs;

5.8.2 he resigns his office by notice in writing to the Board;

5.8.3 he becomes insolvent or assigns his estate for the benefit of or compounds with his creditors;

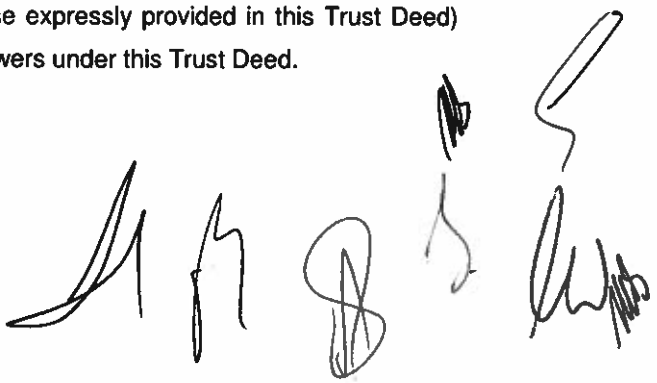
5.8.4 he is convicted of any crime involving dishonesty and the Board in its sole and absolute discretion requires him to resign;

5.8.5 he is a Trustee appointed by the Participants and he is not a Black Person;

5.8.6 he is a Trustee appointed by the Participants and he no longer holds any Scheme Shares.

5.9 The Trustees shall not be entitled to (and the Trustee's powers shall be limited accordingly) dispose (including by distribution) of or encumber any of the Sea Harvest Shares unless such disposal or encumbrance (i) is effected with the prior written consent of Sea Harvest Group; (ii) is pursuant to and in accordance with the Governing Documents, read with this Trust Deed; (iii) is in pursuance of the winding up of the Trust, in accordance with the provisions of clause 17.2; or (iv) is pursuant to mandatory operation of law.

5.10 The Trustees may, in writing, authorise any one or more of their number or any other person/s to act on behalf of the Trustees in giving effect to any resolution of the Trustees and are not (unless otherwise expressly provided in this Trust Deed) required to act jointly in exercising their powers under this Trust Deed.



6. DUTIES OF THE TRUSTEES

6.1 It is recorded that the Trust has a rich history, spanning over two decades, and a track-record of operating and administering the Scheme for the benefit of its participants since its establishment in 1997. The Trustees shall ensure that they can demonstrate that the Trust has full operational capacity to operate as an Employee Share Ownership Programme by ensuring that the Trust has suitably qualified and experienced staff in sufficient numbers, experienced professional advisors, operating premises and all other necessary requirements for operating the Trust.

6.2 The Trustees shall establish and maintain the Participant Register, which shall be updated by the Trustees at least annually and by the date/s contemplated in clause 10, in which they shall record the following information in relation to each Participant:

6.2.1 full name;

6.2.2 South African identity number (or passport number if Participant is not South African);

6.2.3 racial classification;

6.2.4 gender;

6.2.5 total number of years or months (as the case may be) of Continuous Service with the Company; and

6.2.6 the total number of Scheme Shares which are held by such Participant.

6.3 The Trustees shall use their best endeavours to procure that, in the event that any of the information contemplated in clause 6.2 changes, the relevant Participant shall be required to inform the Trustees by written notice of such change, and the Trustees shall update the Participant Register accordingly. The Board undertakes to use its best endeavours to procure that, in the event that any Participant ceases to be employed by the Company, retires or dies, the Company shall inform the Trustees thereof as soon as reasonably practicable, and the Trustees shall update the Participant Register accordingly.

6.4 The Trustees shall provide a copy of the latest Participant Register to the Board upon request.



6.5 The Trustees shall make this Trust Deed available, upon request, to a Participant, in an official language of South Africa with which such Participant is familiar.

7. FINANCIAL STATEMENTS, BOOKS OF ACCOUNT, AUDITORS

7.1 The Trustees shall ensure that annual financial statements are prepared for the Trust in accordance with a suitable accounting basis selected by the Trustees, which statements shall be reported on by the Auditors. The Auditors shall have the right of access at all times to the records and books of account of the Trust.

7.2 The Trustees shall, to the extent legally required, keep true and accurate records and books of account of their administration of the Trust in such manner and form as is necessary in order that the records and books shall at all times reflect the financial position of the Trust.

7.3 Such records and books of account, together with all other papers and documents connected with or relating to this Trust, shall be kept at such place as the Trustees may determine from time to time for such minimum period as required by the South African Revenue Services or such other applicable regulatory body, and such documentation shall at all times be accessible to the Trustees.

7.4 The Trustees shall, following request by the Board or Sea Harvest Group from time to time, make available to the Board or Sea Harvest Group for inspection by it all information pertaining to the management of the Trust by the Trustees, including but not limited to, minutes of the meetings of the Trustees, records and books of account, evidence of the Trust's compliance with any reporting requirements of the Company or Sea Harvest Group from time to time, as well as evidence of the Trust's compliance with the reporting requirements as may be determined by the Commissioner of South African Revenue Service.

8. MEETINGS OF PARTICIPANTS

8.1 The Trustees may from time to time convene meetings of the Participants, and the Trustees must annually convene a general meeting of the Participants, which may be called, convened and held as the Trustees in their sole and absolute discretion may decide (including by way of electronic communication), with due regard to the provisions of the Codes, and in particular Annexes 100 (C) and 100 (D) of Statement 100 of the Codes, and this Trust Deed.

8.2 Each Participant shall receive notice of every meeting of the Participants from the Trustees, which the Participants shall be entitled to attend, speak and vote at or appoint a proxy to attend, speak and vote in his stead.

8.3 At each annual general meeting of the Participants:

8.3.1 the Trustees shall present the audited financial statements of the Trust to the Participants for consideration; and

8.3.2 the Participants shall consider and, to the extent necessary, adopt resolutions on such matters as may be required in the notice of the meeting, including but not limited to the appointment of Trustees and termination of the appointment of Trustees appointed by the Participants in terms of clause 4.

8.4 Voting at any meeting of the Participants shall be conducted by show of hands and each Participant shall be entitled to exercise one vote. Decisions of the Participants present at a meeting shall take place by majority vote, and the decision of the majority shall be deemed to be the decision of all the Participants.

8.5 The quorum for any meeting of the Participants shall be 25% of the aggregate Participants, rounded up to the higher number, present in person or by proxy. If, within 30 minutes after the scheduled time for the commencement of the meeting, a quorum is not present, the meeting will stand adjourned to the same day of the following week at the same time and venue. If at such adjourned meeting a quorum is not present within 30 minutes after the scheduled time for the commencement of such meeting, the Participants then present will constitute a quorum. Any Participant who participates (whether in person or by proxy) at the commencement and for the duration of a meeting by way of electronic means shall be deemed to be present at the meeting and counted towards the quorum.

8.6 A decision that could be voted on at a meeting of the Participants may instead be adopted by written consent of the majority of the Participants, given in person, or by electronic communication, provided that each Participant has received notice of the matter to be decided upon.

9. ELIGIBILITY

9.1 On each Allocation Date, "A" Scheme Shares must be allocated by the Trustees to Employees, as follows:

9.1.1 Employees:

An Employee (other than a Senior Officer or Manager) who, as at the Allocation Date in question, has been in Continuous Service for:

9.1.1.1 2 years or more but less than 5 years, must be allocated 3 000 "A" Scheme Shares (provided that no such Employee who has been in Continuous Service for 2 years or more but less than 5 years, shall be allocated or entitled to hold more than 3 000 "A" Scheme Shares);

9.1.1.2 5 years or more but less than 10 years, must be allocated an additional 5 000 "A" Scheme Shares (such that the total number of "A" Scheme Shares held by an Employee who has been in Continuous Service for 5 years or more but less than 10 years, is increased to 8 000 "A" Scheme Shares);

9.1.1.3 10 years or more, must be allocated an additional 12 000 "A" Scheme Shares (such that the total number of "A" Scheme Shares held by an Employee who has been in Continuous Service for 10 years or more, is increased to 20 000 "A" Scheme Shares),

it being recorded that no such individual Employee shall be allocated or be entitled to hold more than 20 000 "A" Scheme Shares;

9.1.2 Senior Officers and Managers:

A Senior Officer or Manager who, as at the Allocation Date in question, has been in Continuous Service for:

9.1.2.1 2 years or more but less than 5 years, must be allocated 6 000 "A" Scheme Shares (provided that no such Senior Officer or Manager who has been in Continuous Service for 2 years or more but less than 5 years, shall be allocated or entitled to hold more than 6 000 "A" Scheme Shares);

9.1.2.2 5 years or more but less than 10 years, must be allocated an additional 10 000 "A" Scheme Shares (such that the total number of "A" Scheme Shares held by any such Senior Officer or Manager who has been in Continuous Service for 5 years or more but less than 10 years, is increased to 16 000 "A" Scheme Shares);

9.1.2.3 10 years or more, must be allocated an additional 24 000 "A" Scheme Shares (such that the total number of "A" Scheme Shares held by any such Senior Officer or Manager who has been in Continuous Service for 10 years or more, is increased to 40 000 "A" Scheme Shares),

it being recorded that no such individual Senior Officer or Manager shall be allocated or be entitled to hold more than 40 000 "A" Scheme Shares;

9.2 On each Allocation Date, "B" Scheme Shares must be allocated by the Trustees to Employees, as follows:

9.2.1 Officers:

An Officer who, as at the Allocation Date in question, has been in Continuous Service for:

9.2.1.1 2 years or more but less than 5 years, must be allocated 3 000 "B" Scheme Shares (provided that no such Officer who has been in Continuous Service for 2 years or more but less than 5 years, shall be allocated or entitled to hold more than 3 000 "B" Scheme Shares);

9.2.1.2 5 years or more but less than 10 years, must be allocated an additional 5 000 "B" Scheme Shares (such that the total number of "B" Scheme Shares held by such Officer who has been in Continuous Service for 5 years or more but less than 10 years, is increased to 8 000 "B" Scheme Shares);

9.2.1.3 10 years or more, must be allocated an additional 12 000 "B" Scheme Shares (such that the total number of "B" Scheme Shares held by such Officer who has been in Continuous Service for 10 years or more, is increased to 20 000 "B" Scheme Shares),

it being recorded that no such individual Officer shall be allocated or be entitled to hold more than 20 000 "B" Scheme Shares;

9.2.2 Senior Officers:

A Senior Officer who, as at the Allocation Date in question, has been in Continuous Service for:

9.2.2.1 2 years or more but less than 5 years, must be allocated 6 000 "B" Scheme Shares (provided that no such Senior Officer who has been in

Continuous Service for 2 years or more but less than 5 years, shall be allocated or entitled to hold more than 6 000 "B" Scheme Shares);

9.2.2.2 5 years or more but less than 10 years, must be allocated an additional 10 000 "B" Scheme Shares (such that the total number of "B" Scheme Shares held by such Senior Officer who has been in Continuous Service for 5 years or more but less than 10 years, is increased to 16 000 "B" Scheme Shares);

9.2.2.3 10 years or more, must be allocated an additional 24 000 "B" Scheme Shares (such that the total number of "B" Scheme Shares held by such Senior Officer who has been in Continuous Service for 10 years or more, is increased to 40 000 "B" Scheme Shares),

it being recorded that no such individual Senior Officer shall be allocated or be entitled to hold more than 40 000 "B" Scheme Shares.

9.3 On the 2022 Allocation Date, the "C" Scheme Shares must be allocated by the Trustees to the Remaining Employees, as follows:

9.3.1 a Remaining Employee who, as at the 2022 Allocation Date, has been in Continuous Service for 18 months or more but less than 2 years, must be allocated 2 000 "C" Scheme Shares; and

9.3.2 a Remaining Employee who, as at the 2022 Allocation Date, has been in Continuous Service for 1 year or more but less than 18 months, must be allocated 1 000 "C" Scheme Shares.

9.4 The Trustees shall have no discretion to amend or vary the proportions set out in this clause 9, or the number of Scheme Shares allocated to any particular Employee or Remaining Employee pursuant to this clause 9.

10. RECORDAL OF ALLOCATION OF SCHEME SHARES

The Trustees shall, as soon as reasonably practicable following an Allocation Date and/or the 2022 Allocation Date (as the case may be) and, in any event by no later than 10 business days following such date/s, update the Participant Register to record the allocation of Scheme Shares to Employees and/or Remaining Employees in accordance with clause 9, and the number of Scheme Shares so allocated to such Employees and/or Remaining Employees.

11. TERMINATION OF ELIGIBILITY

11.1 Upon the death of a Participant, he or she shall cease to be a Participant and the Trustees shall remove his or her name from the Participant Register. That former Participant shall:

11.1.1 forfeit any Scheme Shares held by him or her as at the date of death, which Scheme Shares shall be cancelled and be deemed to form part of the notional authorised capital of the Trust from such date;

11.1.2 have no right, entitlement or expectation to participate in a distribution authorised and/or paid on or after the date of such person ceasing to be a Participant.

11.2 Should the employment of the Participant with the Company be terminated by the Company or by the Participant at any time for any reason whatsoever other than by death or retirement as referred to in clause 11.3, such person shall cease to be a Participant upon termination of his or her employment, the Trustees shall remove his or her name from the Participant Register, and that former Participant shall:

11.2.1 forfeit any Scheme Shares held by him or her as at the date of termination of employment, which Scheme Shares shall be cancelled and be deemed to form part of the notional authorised capital of the Trust from such date; and

11.2.2 have no right, entitlement or expectation to participate in a distribution authorised and/or paid on or after the date of such person ceasing to be a Participant.

11.3 Notwithstanding the above, in the event of the Participant's employment being terminated by virtue of the Participant having retired:

11.3.1 such a person shall remain a Participant, but only in respect of 50% of the Scheme Shares held by the Participant at retirement. The remaining 50% of the Scheme Shares held by the Participant at retirement shall be forfeit by the Participant at retirement, which Scheme Shares shall be cancelled and deemed to form part of the notional authorised capital of the Trust from such date; and

11.3.2 upon the death of that Participant, the provisions of clause 11.1 above shall apply to the Scheme Shares still held by the Participant as at the date of his or her death.

11.4 Notwithstanding anything contained herein, a Participant shall not be entitled to sell or dispose of his or her Scheme Shares or to pledge, offer as security or encumber them in any manner whatsoever to any person, firm or entity.

11.5 In the event of the Participant's employment with the Company being terminated for any reason and in circumstances not already dealt with above, or in the event of the estate of the Participant being sequestrated, or in the event of him or her surrendering his or her estate, then the provisions of clause 11.2 shall apply.

11.6 Notwithstanding anything to the contrary in this Trust Deed (including, without limitation, clauses 11.1, 11.2, 11.3 and 11.5), any distributions from the Trust:

11.6.1 which have been authorised by the Trustees in accordance with clause 12 in respect of Scheme Shares prior to the date on which the Participant (or former Participant) forfeited such Scheme Shares pursuant to this clause 11;

11.6.2 and which have not yet been paid to such Participant (or former Participant) on or prior to the date on which such Participant (or former Participant) forfeited such Scheme Shares pursuant to this clause 11,

must be paid by the Trustees to such Participant (or former Participant) on the date that the relevant distribution is paid by the Trustees pursuant to clause 12.

12. DISTRIBUTIONS

12.1 Income Participants shall be entitled to receive Income Distributions from the Trust, and Capital Participants shall be entitled to receive Capital Distributions from the Trust, on the terms and conditions set out in this clause 12.

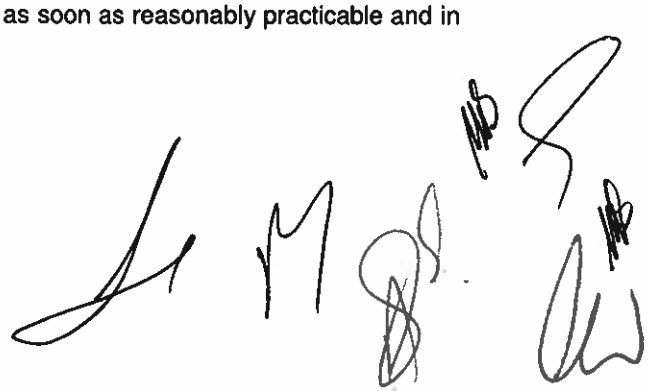
12.2 The Trustees shall not make any income or capital distribution without first satisfying themselves that such distribution will not place the Trust in a financial position in terms of which it would be unable:

12.2.1 to pay any interest on monies borrowed by the Trust;

12.2.2 to pay tax of any kind whatsoever for which the Trust may be liable; or

12.2.3 to pay the capital of any loans obtained by the Trust from any source.

12.3 Subject to clause 12.2, the Trustees shall, as soon as reasonably practicable and in any event within 90 days after receiving:



12.3.1 a dividend or other income paid to the Trustees in respect of the Sea Harvest Shares or any other assets of the Trust:

12.3.1.1 deduct therefrom such amount as the Trustees shall determine to provide for the reasonable costs and expenses of the Trust (including the costs and expenses under clause 12.2); and

12.3.1.2 the Trustees shall authorise the distribution (by way of a resolution passed by the Trustees in accordance with clause 5), and distribute the balance thereof (the "**Income Distribution**"), to the Income Participants in the following proportions:

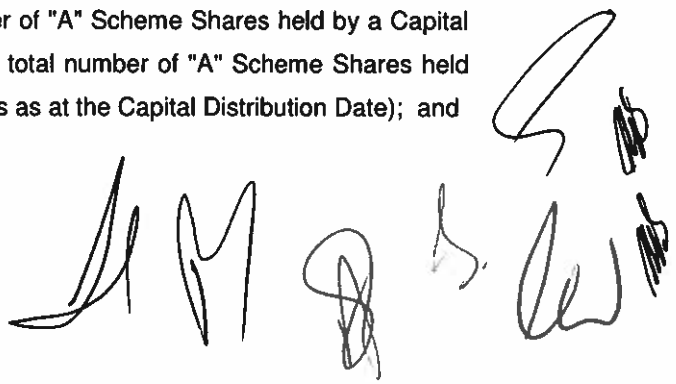
12.3.1.2.1 as to the "A" Scheme Shares - 75% of any Income Distribution made shall be paid to and shared *pro rata* amongst the Income Participants holding "A" Scheme Shares (ie in such proportion as the number of "A" Scheme Shares held by an Income Participant, bears to the total number of "A" Scheme Shares held by all Income Participants as at the relevant Income Distribution Date); and

12.3.1.2.2 as to the "B" Scheme Shares - 25% of any Income Distribution made shall be paid to and shared *pro rata* amongst the Income Participants holding "B" Scheme Shares (ie in such proportion as the number of "B" Scheme Shares held by an Income Participant, bears to the total number of "B" Scheme Shares held by all Income Participants as at the relevant Income Distribution Date);

12.3.2 any Capital, the Trustees shall authorise the distribution (by way of a resolution passed by the Trustees in accordance with clause 5) of, and distribute such Capital ("**Capital Distribution**") to the Capital Participants as follows:

12.3.2.1 98% of the Capital Distribution (the "**A and B Capital Distribution**") shall be distributed to the Capital Participants in the following proportions:

12.3.2.1.1 as to the "A" Scheme Shares - 75% of any A and B Capital Distribution made shall be paid to and shared *pro rata* amongst the Capital Participants holding "A" Scheme Shares (ie in such proportion as the number of "A" Scheme Shares held by a Capital Participant, bears to the total number of "A" Scheme Shares held by all Capital Participants as at the Capital Distribution Date); and



12.3.2.1.2 as to the "B" Scheme Shares - 25% of any A and B Capital Distribution made shall be paid to and shared *pro rata* amongst the Capital Participants holding "B" Scheme Shares (ie in such proportion as the number of "B" Scheme Shares held by a Capital Participant, bears to the total number of "B" Scheme Shares held by all Capital Participants as at the Capital Distribution Date); and

12.3.2.2 the remaining 2% of the Capital Distribution shall be distributed, paid to and shared *pro rata* amongst the Capital Participants holding "C" Scheme Shares (ie in such proportion as the number of "C" Scheme Shares held by a Capital Participant, bears to the total number of "C" Scheme Shares held by all Capital Participants as at the Capital Distribution Date).

12.4 The Trustees shall have no discretion to amend or vary the proportions set out in this clause 12.

13. SHARES OTHER THAN SCHEME SHARES

13.1 A Participant shall not have any rights to or in respect of the Sea Harvest Shares save by virtue of the Participant's holding of Scheme Shares.

13.2 For avoidance of doubt, the Trust shall at all times hold the Sea Harvest Shares for the benefit of the Participants on the terms and conditions set out in this Trust Deed, and the Participants shall never be entitled to have any Sea Harvest Shares registered in their names.

14. ASSIGNMENT OF RIGHTS OR OBLIGATIONS

14.1 No Participant shall cede, transfer or assign or alienate or in any way dispose of any rights afforded to such Participant in terms of this Trust Deed, and the rights otherwise provided herein shall be personal to the Participant.

14.2 Without derogating from the foregoing, no Participant shall be entitled to encumber or dispose of such Participant's Scheme Shares or its rights in respect of such Scheme Shares, or enter into any contract to do so.

14.3 Any purported encumbrance or disposal by a Participant of Scheme Shares or its rights in respect of such Scheme Shares in contravention of this Trust Deed shall be void.

15. AMENDMENTS TO TRUST DEED

15.1 The Trustees may (by way of a resolution passed by the Trustees in accordance with clause 5) revise or amend this Trust Deed, provided that they may not do so without the prior written consent of the Company. It is specifically recorded that the consent of the Participants will not be required in respect of any revisions of, or amendments to, this Trust Deed.

15.2 It is recorded that Holdings, by its signature hereto, consents to the amendment and restatement of the Original Trust Deed, as set out in this Trust Deed, and shall cease to be bound by this Trust Deed with effect from the Signature Date.

15.3 The Trustees (by way of a resolution passed by the Trustees in accordance with clause 5) and the Company shall amend or revise this Trust Deed in the event of any legislation, or any applicable B-BBEE law, policy or requirements, necessitating such amendment or revision to comply therewith.

15.4 It is the intention of the Parties that the Trust shall at all times qualify as an Employee Share Ownership Programme as envisaged in Annexe 100 (C) of the Codes. If, at any time after the Signature Date:

15.4.1 the B-BBEE Act (or the interpretation thereof) is amended; and/or

15.4.2 the Codes (or the interpretation thereof) is amended; and/or

15.4.3 any legislation or regulations pertaining to B-BBEE which are applicable to the Trust is promulgated or amended; and/or

15.4.4 any legislations and/or regulations is introduced and/or amended which override the B-BBEE Act or the Codes; and/or

15.4.5 the Income Tax Act (or the interpretation thereof) is amended or any legislation and/or regulations be introduced or amended which override the Income Tax Act,

which results in or is likely to result in negative tax consequences or is likely to have an adverse impact on Sea Harvest Group or the Company or on the Company's or Sea Harvest Group's B-BBEE status in terms of the Codes ("**B-BBEE Score**") and/or results in or is likely to result in the Trust, the Company or Sea Harvest Group no longer being able to comply with the B-BBEE requirements in terms of the B-BBEE Act (collectively, a "**Defect**"), then the Trustees and the Company undertake to negotiate in good faith to amend the Trust Deed so as to remedy the

Defect so that the Company and/or the Trust and/or Sea Harvest Group maintains its B-BBEE Score and B-BBEE recognition and/or complies with the B-BBEE requirements at materially the same level at which it would have been had the Defect not occurred, but on the basis that the Company and Sea Harvest Group, as far as reasonably possible, will not dilute or lose economic value created up to that date.

16. DISPUTES

16.1 Any disputes arising under this Trust Deed out of the allocation of any Scheme Shares hereunder shall be referred for a decision to the Auditors, or should they be unwilling or unable to act, then an independent Chartered Accountant nominated for this purpose by the President for the time being of the Cape Society of Chartered Accountants or the equivalent body as constituted from time to time.

16.2 Auditors or accountants acting in terms hereof shall act as experts and not as arbitrators and their decisions shall, in the absence of fraud or manifest error, be final and binding on the parties.

16.3 All other disputes arising pursuant to the Trust Deed shall be referred to arbitration and shall be finally settled in accordance with the Commercial Arbitration Rules of the Arbitration Foundation of Southern Africa ("**AFSA**").

16.4 The parties to the dispute will agree on the arbitrator who shall be an attorney or senior advocate (with at least 15 years' experience) on the panel of arbitrators of AFSA. If agreement is not reached within 2 business days after any party calls in writing for such agreement, the arbitrator shall be an attorney or senior advocate (with at least 15 years' experience in) nominated by the Chairman of AFSA for the time being.

16.5 The arbitration shall be held in Cape Town and the parties to the dispute shall endeavour to ensure that it is completed within 90 days after notice requiring the claim to be referred to arbitration is given. Any decisions and awards of the arbitrator shall be binding on the parties, be carried into effect and may be made an order of any court of competent jurisdiction.

16.6 Nothing contained in this clause 16 shall prohibit a Party from approaching any court of competent jurisdiction for urgent interim relief pending the determination of the dispute by arbitration. In respect of such proceedings, each of the Parties specifically consents to the non-exclusive jurisdiction of the High Court of South Africa (Western Cape Division, Cape Town).

17. TERMINATION OF TRUST

17.1 The Trust and Scheme shall terminate on 31 March 2022 or on such other date if:

17.1.1 the Company and Sea Harvest Group agrees thereto and all of the Trustees unanimously so resolve; or

17.1.2 if the Company and Sea Harvest Group so resolves; or

17.1.3 the Trust no longer holds any assets or funds and the Company and Sea Harvest Group confirms in writing that the Trust should be wound up,

it being specifically recorded that the consent of the Participants will not be required in respect of the termination of the Trust or the Scheme.

17.2 In pursuance of the termination of the Trust and/or the Scheme, Sea Harvest Group shall, at its discretion, be entitled to require the Trustees (who, in turn, shall be obliged), subject to the provisions of the Governing Documents, to sell, transfer or otherwise dispose of all (or such portion as Sea Harvest Group may direct) of the Sea Harvest Shares at market value to a person nominated by Sea Harvest Group in writing.

17.3 Upon termination of the Trust, the Trustees shall realise the remaining assets of the Trust, wind up the affairs of the Trust and, after settlement of all the liabilities of the Trust:

17.3.1 all accumulated Economic Interest must, on the Capital Distribution Date, be distributed by the Trustees to the Capital Participants in the same manner as and proportions contemplated in clause 12.3.2; and

17.3.2 any remaining capital received by the Trust pursuant to the disposal by the Trust of (i) the Sea Harvest Shares (or such portion thereof as directed by Sea Harvest Group) in terms of clause 17.2, and (ii) the remaining assets of the Trust in terms of this clause 17.3 ("**Capital**"), must be distributed by the Trustees as contemplated in clause 12.3.2.

18. PROVISIONS OF THIS AGREEMENT BINDING

The terms and provisions of this Trust Deed shall be binding upon the heirs, executors, trustees and assigns of all the Parties hereto.

19. **Signature**

This Trust Deed is signed by, or on behalf of, the Parties as set out below, with each signatory hereto warranting that he or she has due authority to do so.

Signed at Cape Town on 21 August 2019

Witness

M. GREY

.....

for **SEA HARVEST GROUP LIMITED**

.....

duly authorised and warranting such authority

Signed at Cape Town on 21 August 2019

Witness

M. GREY

.....

for **SEA HARVEST CORPORATION PROPRIETARY LIMITED**

.....

duly authorised and warranting such authority

Signed at Cape Town on 19 August 2019

Witness

.....

for **VIKING FISHING COMPANY (DEEP SEA) PROPRIETARY LIMITED**

.....

duly authorised and warranting such authority

Signed at Cape Town on 19 August 2019

Witness

.....

for **VIKING FISHING HOLDINGS PROPRIETARY LIMITED (for purposes of clause 15.2 only)**

.....

duly authorised and warranting such authority

Signed at Cape Town on 19 August 2019
Witness

.....

.....
RORY LIONEL WILLIAMS
as Trustee

Signed at Cape Town on 19 August 2019
Witness

.....

.....
PETER NICHOLAS BACON
as Trustee

Signed at Cape Town on 19 August 2019
Witness

.....

.....
ACHMAT SIMPSON
as Trustee

Signed at Cape Town on 19 August 2019
Witness

.....

.....
STEVEN JAMES HENDRICKS
as Trustee

THE COMPANIES ACT, NO. 71 OF 2008
(AS AMENDED)

MEMORANDUM OF INCORPORATION

OF

SEA HARVEST GROUP LIMITED

A PUBLIC COMPANY

REGISTRATION NUMBER: 2008/001066/06

REGISTRATION DATE: 18 January 2008

CDH
CLIFFE DEKKER HOFMEYR

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1 INTERPRETATION

1.1 In this Memorandum of Incorporation, unless the context clearly indicates a contrary intention, the following words and expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings –

1.1.1 "**Act**" means the Companies Act, No. 71 of 2008, as amended, consolidated or re-enacted from time to time, and includes all schedules to such Act;

1.1.2 "**Board**" means the board of Directors from time to time of the Company;

1.1.3 "**Certificated Securities**" means Securities evidenced by a certificate, as contemplated in section 1 of the Financial Markets Act;

1.1.4 "**Central Securities Depositary**" has the meaning as defined in the Financial Markets Act;

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

1.1.6 "**Company**" means the company named on the first page of this document, duly incorporated under the registration number endorsed thereon;

1.1.7 "**Deliver**" or "**Delivered**" means deliver or delivered in the manner in which the Company is entitled to give notice or deliver documents in accordance with clauses 38.5 and 38.7 and the Act, and shall, where permitted by the Act and the JSE Listings Requirements, include delivery of an abridged document together with instructions as to how the recipient may obtain an unabridged version of such document;

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

1.1.9 "**Electronic Communication**" has the meaning set out in section 1 of the Electronic Communications and Transactions Act, No 25 of 2002;

1.1.10 "**Financial Markets Act**" means the Financial Markets Act, No 19 of 2012, including any amendment, consolidation or re-enactment thereof;

1.1.11 ""**IFRS**" means the International Financial Reporting Standards, as adopted from time to time by the International Accounting Standards Board, or its successor body, and approved for use in South Africa from time to time by the Financial Reporting Standards Council established in terms of section 203;

1.1.12 "**JSE**" means the exchange, licensed under the Financial Markets Act operated by JSE Limited (Registration number 2005/022939/06), a public company duly incorporated in South Africa;

1.1.13 "**JSE Listings Requirements**" means the Listings Requirements of the JSE applicable from time to time;

1.1.14 "**Ordinary Resolution**" has the meaning set out in section 1 of the Act and clause 24.1;

1.1.15 "**Ordinary Share**" means an ordinary share of no par value in the share capital of the Company, having the rights and privileges set out in clause 6;

1.1.16 "**Ordinary Shareholder**" means the holder of an Ordinary Share who is entered as such in the Securities Register, subject to the provisions of section 57 of the Act;

1.1.17 "**Participant**" has the meaning set out in section 1 of the Financial Markets Act;

1.1.18 "**Present at any Meeting**" or "**Present at the Meeting**", depending on the context, means to be present in person, or able to participate in the meeting in question by Electronic Communication, or to be represented by a proxy who is present in person or able to participate in the meeting in question by Electronic Communication;

1.1.19 "**Regulations**" means the regulations published in terms of the Act from time to time;

1.1.20 "**Republic**" or "**South Africa**" means the Republic of South Africa;

1.1.21 "**Scrip Dividend**" means scrip dividend as such term is defined in the JSE Listings Requirements;

1.1.22 "**Securities**" means any shares, notes, bonds, debentures or other instruments, irrespective of their form or title, issued, or authorised to be issued, by the Company;

1.1.23 "**Securities Register**" means the register of issued Securities of the Company required to be established in terms of sections 50(1) and referred to in clause 8 hereof, which for the avoidance of doubt includes the Uncertificated Securities Register;

1.1.24 "**SENS**" means the Stock Exchange News Service established and operated by the JSE;

1.1.25 "**Share**" means one of the units into which the proprietary interest in the Company is divided, and includes an Ordinary Share;

1.1.26 "**Shareholder**" means the holder of a Share who is entered as such in the Securities Register, subject to the provisions of section 57(1), and includes an Ordinary Shareholder;

1.1.27 "**Shareholders Agreement**" means any signed written agreement or agreements in force from time to time between all or some of the Shareholders and the Company in terms of which the rights and obligations of the Shareholders amongst themselves (in their capacities as Shareholders) are regulated and in terms of which the relationship between each Shareholder and the Company is regulated;

1.1.28 "**Solvency and Liquidity Test**" has the meaning attributed thereto in section 4;

1.1.29 "**Special Resolution**" has the meaning set out in section 1 of the Act and clause 24.2;

1.1.30 "**Sub-register**" means the record of Uncertificated Securities administered and maintained by a Participant, which forms part of the

Securities Register in terms of the Act;

1.1.31 "**Uncertificated Securities**" has the meaning set out in section 1 of the Financial Markets Act; and

1.1.32 "**Uncertificated Securities Register**" means the record of uncertificated securities administered and maintained by a Participant or Central Securities Depositary, as determined in accordance with the rules of the Central Securities Depositary and, in respect of securities issued in terms of the Act, has the meaning assigned to it in section 1 of the Act.

1.2 In this Memorandum of Incorporation, unless the context clearly indicates otherwise –

1.2.1 words and expressions defined in the Act and which are not defined herein shall have the meanings given to them in the Act;

1.2.2 a reference to the Act shall include reference to the Regulations;

1.2.3 a reference to a section by number refers to the corresponding section of the Act notwithstanding the renumbering of such section after the date on which this Memorandum of Incorporation is lodged with the Commission for filing;

1.2.4 a reference to a clause by number refers to a corresponding provision of this Memorandum of Incorporation;

1.2.5 in any instance where there is a conflict between a provision (be it expressed, implied or tacit) of this Memorandum of Incorporation and –

1.2.5.1 a provision of any Shareholders Agreement, the provision of this Memorandum of Incorporation shall prevail to the extent of the conflict;

1.2.5.2 an alterable or elective provision of the Act, the provision of this Memorandum of Incorporation shall prevail to the extent of the conflict; and

1.2.5.3 an unalterable or non-elective provision of the Act, the unalterable or

non-elective provision of the Act shall prevail to the extent of the conflict unless the Memorandum of Incorporation imposes on the Company a higher standard, greater restriction, longer period of time or similarly more onerous requirement, in which event the relevant provision of this Memorandum of Incorporation shall prevail to the extent of the conflict;

1.2.6 clause headings are for convenience only and are not to be used in its interpretation;

1.2.7 an expression which denotes -

1.2.7.1 any gender includes the other genders;

1.2.7.2 a natural person includes a juristic person and *vice versa*; and

1.2.7.3 the singular includes the plural and *vice versa*;

1.2.8 if the due date for performance of any obligation in terms of this Memorandum of Incorporation is a day which is not a business day then (unless otherwise stipulated), the due date for performance of the relevant obligation shall be the immediately succeeding business day;

1.2.9 any words or expressions defined in any clause shall, unless the application of any such word or expression is specifically limited to that clause, bear the meaning assigned to such word or expression throughout the whole of this Memorandum of Incorporation;

1.2.10 a reference to a consecutive series of two or more clauses is deemed to be inclusive of both the first and last mentioned clauses; and

1.2.11 any reference to a notice shall be construed as a reference to a written notice, and shall include a notice which is transmitted electronically in a manner and form permitted in terms of the Act and/or the Regulations.

1.3 Any reference in this Memorandum of Incorporation to –

1.3.1 "**days**" shall be construed as calendar days unless qualified by the word "business", in which instance a "business day" will be any day other than

a Saturday, Sunday or public holiday as gazetted by the government of the Republic from time to time;

1.3.2 "**law**" means any law of general application, as amended and re-enacted from time to time, and includes the common law and any statute, constitution, decree, treaty, regulation, directive, ordinance, by-law, order or any other enactment of legislative measure of government (including local and provincial government) statutory or regulatory body which has the force of law;

1.3.3 "**writing**" means legible writing and in English and includes printing, typewriting, lithography or any other mechanical process, as well as any Electronic Communication in a manner and a form permitted in terms of the Act and/or the Regulations;

1.3.4 "**Series of Integrated Transactions**" shall have the meaning set out in section 41(4)(b) of the Act; and

1.3.5 "**Shareholders**" or holders represented by proxy shall include Shareholders and holders entitled to vote represented by an agent appointed under a general or special power of attorney.

1.4 The words "**include**" and "**including**" mean "include without limitation" and "including without limitation". The use of the words "**include**" and "**including**" followed by a specific example or examples shall not be construed as limiting the meaning of the general wording preceding it.

1.5 Unless otherwise provided, defined terms appearing in this Memorandum of Incorporation in title case shall be given their meaning as defined, while the same terms appearing in lower case shall be interpreted in accordance with their plain English meaning.

1.6 Unless specifically otherwise provided, any number of days prescribed shall be determined by excluding the first and including the last day or, where the last day falls on a day that is not a business day, the next succeeding business day.

1.7 Where figures are referred to in numerals and in words, and there is any

conflict between the two, the words shall prevail, unless the context indicates a contrary intention.

1.8 The rule of construction that a contract shall be interpreted against the party responsible for drafting or preparation of the contract shall not apply to this MOI.

1.9 To the extent that any provisions of this MOI are based on any unalterable provisions of the Act or the Regulations and any of these provisions are amended, the Directors are authorised to amend this MOI, subject to the approval thereof by the JSE, to reflect such amendments (which amendments will apply to the Company by operation of law).

1.10 If any provision of this MOI has been inserted to comply with a then applicable provision of the JSE Listings Requirements, which is subsequently removed or modified, the provision in question shall no longer apply if the relevant provision has been removed or shall apply as modified in the JSE Listings Requirements. The Directors are authorised to amend this MOI to reflect such amendments, subject to the approval thereof by the JSE.

1.11 Any reference herein to "**this Memorandum of Incorporation**" or "**this MOI**" or any to other agreement or document shall be construed as a reference to this Memorandum of Incorporation or, as the case may be, such other agreement or document, as amended, varied, novated or supplemented from time to time.

2 JURISTIC PERSONALITY

2.1 The Company is incorporated as a public company, as defined in the Act, and has juristic personality from the date and time that the incorporation of the Company is registered, as stated in its registration certificate and as contemplated in section 19(1) of the Act.

2.2 The Company is incorporated in accordance with and governed by –

2.2.1 the unalterable provisions of the Act, subject only to such higher standards, greater restrictions, longer periods of time or similarly more

onerous requirements as may be imposed on the Company by this Memorandum of Incorporation in relation to such unalterable provisions;

2.2.2 the alterable provisions of the Act, subject to the limitations, extensions, variations or substitutions set out in this Memorandum of Incorporation; and

2.2.3 the other provisions of this Memorandum of Incorporation.

3 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.

4 POWERS OF THE COMPANY

4.1 The Company has all of the legal powers and capacity contemplated in the Act, and no provision contained in this Memorandum of Incorporation should be interpreted or construed as negating, limiting, or restricting those powers in any way whatsoever.

4.2 Furthermore, the legal powers and capacity of the Company are not subject to any restrictions, limitations or qualifications, as contemplated in section 19(1)(b)(ii).

4.3 To the extent that the Act or the JSE Listings Requirements require a company to be expressly authorized by its MOI to do anything, the Company is, by this provision, conferred with the requisite authority to do so, subject to any express limitations set out in this MOI.

5 RESTRICTIVE CONDITIONS

This Memorandum of Incorporation does not contain any restrictive conditions applicable to the Company as contemplated in section 15(2)(b) or prohibit the amendment of any particular provision hereof as contemplated in section 15(2)(c).

6 ISSUE OF SHARES AND VARIATION OF RIGHTS

6.1 The Company is authorised to issue –

6.1.1 10,000,000,000 (ten billion) Ordinary Shares of no par value, of the same class, each of which ranks *pari passu* (which shall have the meaning ascribed thereto in paragraph 3.29 of the JSE Listings Requirements or any amendments or substitute paragraph in the JSE Listings Requirements) in respect of all rights and entitles the Ordinary Shareholder to – **[LR10.5(a)]**

6.1.1.1 attend, participate in, speak at and vote on any matter to be decided by the Shareholders of the Company, in person or by proxy, and to 1 (one) vote in the case of a vote by means of a poll; **[LR10.5(b)]**

6.1.1.2 participate proportionally in any distribution made by the Company and which is not made to the holders of another class of Shares in accordance with the preference and rights of such class of Shares (and except for the payment in lieu of a capitalisation share as contemplated in section 47(1)(c) and any consideration payable by the Company for any of its own Shares or for any shares of another company within the same group as contemplated in paragraph a(iii)(aa) and a(iii)(bb) of the definition of "distribution" in the Act); and

6.1.1.3 receive proportionally the net assets of the Company upon its liquidation; and

6.1.1.4 any other rights attaching to the Ordinary Shares in terms of the Act or any other law; and

6.1.2 such number of each of such further classes of Shares, if any, as are set out in Schedule 1 hereto subject to the preferences, rights, limitations and other terms associated with each such class set out in the schedules hereto.

6.2 The Board shall not have the power to –

6.2.1 create any class of Shares;

6.2.2 increase or decrease the number of authorised Shares of any class of the Company's Shares;

6.2.3 consolidate and reduce the number of the Company's issued and authorised Shares of any class;

6.2.4 subdivide its Shares of any class by increasing the number of its issued and authorised Shares of that class without an increase of its capital;

6.2.5 convert one class of Shares into one or more other classes, save where a right of conversion attaches to the class of Shares created;

6.2.6 reclassify any classified Shares that have been authorised but not issued;

6.2.7 classify any unclassified Shares that have been authorised but not issued;

6.2.8 vary any preference rights, limitations or other terms attaching to any class of shares; or

and such powers shall only be capable of being exercised by the Shareholders by way of a Special Resolution adopted by the Shareholders and (to the extent required) an amendment to the Memorandum of Incorporation. **[LR10.5(d) & LR10.9(c)]]**

6.3 The Company has the power, subject to the authority of a Special Resolution as contemplated in clause 6.2 to subdivide its Shares of any class. Such subdivision may be effected through a mere splitting of, and consequential increase in, the authorised and issued Shares of the relevant class, and without an issue of new shares and an increase of its capital.

6.4 Each Share issued by the Company has associated with it an irrevocable right of the Shareholder to vote on any proposal to amend the preferences, rights, limitations and other terms associated with that Share. The variation of any preferences, rights, limitations and other terms associated with any class of Shares as set out in this Memorandum of Incorporation may be enacted only by an amendment of this Memorandum of Incorporation by Special Resolution of the Ordinary Shareholders. If any amendment of the

Memorandum of Incorporation relates to the variation of any preferences, rights, limitation or any other terms attaching to any other class of Shares already in issue, that amendment must not be implemented without a Special Resolution adopted by the holders of Shares of that class at a separate meeting. In such instances, the holders of such Shares will be allowed to vote at the combined general meeting of all Shareholders, subject to clause 22.2. No resolution of Shareholders in respect of such amendment shall be proposed or passed, unless a Special Resolution of the holders of the Shares of that class approve the amendment. **[LR10.5(d), LR10.5(e) & LR10.9(c)]**

6.5 The authorisation and classification of Shares, the creation of any class of Shares, the conversion of one class of Shares into one or more other classes, the consolidation of Securities, the sub-division of Securities, the change of the name of the Company, the increase of the number of authorised Securities, and the variation of any preferences, rights, limitations and other terms associated with each class of Shares as set out in this Memorandum of Incorporation may be changed only by an amendment of this Memorandum of Incorporation by Special Resolution of the Shareholders and in accordance with the JSE Listings Requirements, to the extent required, save if such an amendment is ordered by a court in terms of sections 16(1)(a) and 16(4) of the Act. **[LR10.9(c)]**

6.6 No Shares may be authorised in respect of which the preferences, rights, limitations or any other terms of any class of Shares may be varied and no such resolution may be proposed to Shareholders for rights to include such variation in response to any objectively ascertainable external fact or facts as provided for in sections 37(6) and 37(7). **[LR10.5(g)]**.

6.7 The Company may only issue Shares which are fully paid up and freely transferable and only within the classes and to the extent that those Shares have been authorised by or in terms of this Memorandum of Incorporation. **[LR10.2(a)]**

6.8 The Board may, subject to clauses 6.9 and 6.13**,** resolve to issue Shares of the Company, Securities convertible into Shares and/or grant options to subscribe for Shares, at any time, but only within the classes and to the

extent that those Shares have been authorised by or in terms of this Memorandum of Incorporation and provided that such transaction(s) has/have been approved by the JSE and comply with the JSE Listings Requirements. **[LR10.1]**

6.9 Subject to clauses 6.8 and 6.14, the Board may not issue unissued Ordinary Shares unless such Ordinary Shares have first been offered to existing Ordinary Shareholders in proportion to their shareholding of that class of Shares (on such terms and in accordance with such procedures as the Board may determine), unless the relevant issue of Ordinary Shares **[LR10.1]**–

6.9.1 is a Scrip Dividend; or

6.9.2 is a capitalisation issue in accordance with clause 14, on a *pro rata* basis; or

6.9.3 is for the acquisition of assets, is a vendor consideration placing related to an acquisition of assets, or is an issue for the purposes of an amalgamation or merger; or

6.9.4 is an issue pursuant to options or conversion rights; or

6.9.5 is an issue in terms of an approved share incentive scheme; or

6.9.6 is an issue of shares for cash (as contemplated in the JSE Listings Requirements), which has been approved by the Shareholders by Ordinary Resolution, either by way of a general authority (which may be either conditional or unconditional) to issue Shares in its discretion or a specific authority in respect of any particular issue of Shares in accordance with the JSE Listings Requirements, provided that, if such approval is in the form of a general authority to the Directors, it shall be valid only until the next annual general meeting of the Company or for 15 months from the date of the passing of the Ordinary Resolution, whichever is the earlier and it may be varied or revoked by any general meeting of the Shareholders prior to such annual general meeting; or

6.9.7 otherwise falls within a category in respect of which it is not, in terms of the JSE Listings Requirements, a requirement for the relevant Ordinary Shares to be so offered to existing Shareholders; or

6.9.8 is otherwise undertaken in accordance with an authority approved by Ordinary Shareholders in general meeting,

provided that if any entitlement to a fraction of a Share arises pursuant to such an offer, all allocations of securities will be calculated in accordance with the prevailing JSE Listings Requirements. 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 Shares offered, the Directors may, subject to the aforegoing provisions, issue such Shares in such manner as they consider most beneficial to the Company. The Directors may exclude any Shareholders or category of Shareholders from an offer contemplated in clause 6.9 if and to the extent that they consider it necessary or expedient to do so because of legal impediments or compliance with the laws or the requirements of any regulatory body of any territory, outside of South Africa, that may be applicable to the offer.

6.10 Alterations of share capital, authorised shares and rights attaching to a class/es of Shares, all issues of Shares for cash, and all issues of options and convertible securities granted or issued for cash must, in addition, be in accordance with the JSE Listings Requirements. **[LR10.9(a)]**

6.11 All Securities of the Company for which a listing is sought on the JSE and all Securities of the same class as Securities of the Company which are listed on the JSE must, notwithstanding the provisions of section 40(5), but unless otherwise required by the Act, only be issued after the Company has received the consideration approved by the Company for the issuance of such Securities. **[LR10.2(a)]**

6.12 Subject to sections 40(5) to 40(7) of the Act, when the Company has received the consideration approved by the Board for the issuance of any Shares -

6.12.1 those Shares are fully paid up; and

6.12.2 the Company must issue those Shares and cause the name of the holder to be entered onto the Company's Securities Register in accordance with sections 49 to 56 of the Act.

6.13 Notwithstanding anything to the contrary contained in this Memorandum of Incorporation, any issue of Shares, Securities convertible into Shares, or rights exercisable for Shares in a transaction, or a Series of Integrated Transactions shall, if and to the extent that this may be required in terms of the provisions of section 41(3), require the approval of the Shareholders by Special Resolution if the voting power of the class of Shares that are issued or are issuable as a result of the transaction or Series of Integrated Transactions will be equal to or exceed 30% (thirty percent) of the voting power of all the Shares of that class held by Shareholders immediately before that transaction or Series of Integrated Transactions.

6.14 Except to the extent that any such right is specifically included as one of the rights, preferences or other terms upon which any class of Shares is issued or as may otherwise be provided in this Memorandum of Incorporation (as is set out in clause 6.9), no Shareholder shall have any pre-emptive or other similar preferential right to be offered or to subscribe for any additional Shares issued by the Company.

6.15 As regards the issue of Shares or Securities convertible into Shares, including options in respect thereof –

6.15.1 that require the approval of a Special Resolution as contemplated in sections 41(1) and (3) of the Companies Act or as contemplated in the JSE Listings Requirements, the Directors shall not have the power to allot or issue same without the prior approval of a Special Resolution;

6.15.2 that require the approval of an Ordinary Resolution in terms of the Companies Act or the Listings Requirements, the Directors shall not have the power to allot or issue same, without the prior approval of an Ordinary Resolution;

6.15.3 other than as contemplated in clauses 6.15.1 and 6.15.2, the Directors

shall have the power to allot or issue same, without any Shareholder approval, provided that the JSE has granted the requisite consent to the listing of such Securities and such issue is made subject to the JSE Listings Requirements, where applicable. **[LR10.1]**

7 CERTIFICATED AND UNCERTIFICATED SECURITIES

7.1 Securities of the Company are to be issued in uncertificated form in accordance with the Financial Markets Act.

7.2 Any Certificated Securities may cease to be evidenced by certificates and thereafter become Uncertificated Securities.

7.3 Any Uncertificated Securities may be withdrawn from the Uncertificated Securities Register, and certificates issued evidencing those Securities at the election of the holder of those Uncertificated Securities. A holder of Uncertificated Securities who elects to withdraw all or part of the Uncertificated Securities held by it in an Uncertificated Securities Register, and obtain a certificate in respect of those withdrawn Securities, may so notify the relevant Participant or Central Securities Depository as required by the rules of the Central Securities Depository.

7.4 Except to the extent otherwise provided in the Act, the rights and obligations of Security holders shall not be different solely on the basis of their Securities being Certificated Securities or Uncertificated Securities and each provision of this Memorandum of Incorporation applies with respect to any Uncertificated Securities in the same manner as it applies to Certificated Securities, unless otherwise stated or indicated by the context.

7.5 After receiving notice from a Participant or Central Securities Depository, as the case may be, that the holder of Uncertificated Securities wishes to withdraw all or part of the Uncertificated Securities held by it in an Uncertificated Securities Register, and obtain a certificate in respect thereof, the Company shall –

7.5.1 immediately enter the relevant Security holder's name and details of its holding of Securities in the Securities Register and indicate on the Securities Register that the securities so withdrawn are no longer held in

uncertificated form; and

7.5.2 within 10 (ten) business days (or 20 (twenty) business days in the case of a holder of Securities who is not resident within the Republic) prepare and Deliver to the relevant person a certificate in respect of the Securities and notify the Central Securities Depository that the Securities are no longer held in uncertificated form.

7.6 The Company may charge a holder of its Securities a reasonable fee to cover the actual cost of issuing any certificate as contemplated in this clause.

8 SECURITIES REGISTER

8.1 The Company must establish or cause to be established a Securities Register in the form prescribed by the Act and the Regulations and maintain the Securities Register in accordance with the prescribed standards.

8.2 As soon as practicable after the issue or transfer of any Securities, as the case may be, the Company must enter or cause to be entered in the Securities Register, in respect of every class of Securities it has issued or which have been transferred –

8.2.1 the total number of Uncertificated Securities;

8.2.2 with respect to Certificated Securities –

8.2.2.1 the names and addresses of the persons to whom the Certificated Securities were issued or transferred;

8.2.2.2 the number of Certificated Securities issued or transferred to each of them;

8.2.2.3 in the case of Securities other than Shares as contemplated in section 43, the number of those Securities issued and outstanding and the names and addresses of the registered owners of the Securities and any holders of beneficial interests therein; and

8.2.2.4 any other prescribed information.

8.3 If the Company has issued Uncertificated Securities, or has issued Securities that have ceased to be Certificated Securities as contemplated in clause 7.2, a record must be administered and maintained by a Participant or Central Securities Depository, in the prescribed form, as the Uncertificated Securities Register, which –

8.3.1 forms part of the Securities Register; and

8.3.2 must contain, with respect to all Uncertificated Securities contemplated in this clause 8, any details referred to in clause 8.2.2, read with the changes required by the context or as determined by the rules of the Central Securities Depository.

8.4 The Securities Register or Uncertificated Securities Register maintained in accordance with the Act shall be sufficient proof of the facts recorded in it, in the absence of evidence to the contrary.

8.5 Unless all the Shares rank equally for all purposes, the Shares, or each class of Shares, and any other Securities, must be distinguished by an appropriate numbering system.

8.6 A certificate evidencing any Certificated Securities of the Company –

8.6.1 must state on its face –

8.6.1.1 the name of the Company;

8.6.1.2 the name of the person to whom the Securities were issued or transferred; and

8.6.1.3 the number and class of Shares and designation of the series, if any, evidenced by that certificate;

8.6.2 must be signed by 2 (two) persons authorised by the Board, which signatures may be affixed or placed on the certificate by autographic, mechanical or electronic means; and

8.6.3 is proof that the named Security holder owns the Securities, in the

absence of evidence to the contrary.

8.7 A certificate remains valid despite the subsequent departure from office of any person who signed it.

8.8 If, as contemplated in clause 8.5, all of the Shares rank equally for all purposes, and are therefore not distinguished by a numbering system –

8.8.1 each certificate issued in respect of those Shares must be distinguished by a numbering system; and

8.8.2 if the Share has been transferred, the certificate must be endorsed with a reference number or similar device that will enable each preceding holder of the Share in succession to be identified,

provided that in terms of Schedule 5 of the Act, if the Company is a pre-existing company (as defined in the Act), the failure of any Share certificate to satisfy the provisions of clauses 8.6 to 8.8 is not a contravention of the Act and does not invalidate that certificate.

9 TRANSFER OF SECURITIES

9.1 The instrument of transfer of any Certificated Securities which are not listed on the JSE shall be signed by both the transferor and the transferee and the transferor shall be deemed to remain the holder of such Certificated Securities until the name of the transferee is entered in the Securities Register. The Directors may, however, in their discretion in such cases as they deem fit, dispense with requiring the signature of the transferee on the instrument of transfer.

9.2 Subject to such restrictions as may be applicable (whether by virtue of the preferences, rights, limitations or other terms associated with the Securities in question), any Shareholder or holder of other Securities may transfer all or any of its Certificated Securities by instrument in writing in any usual or common form or any other form which the Directors may approve.

9.3 Every instrument of transfer shall be Delivered to the principal place of business of the Company, alternatively the offices of the Company's transfer secretaries, as appointed from time to time, accompanied by –

9.3.1 the certificate issued in respect of the Certificated Securities to be transferred; and/or

9.3.2 such other evidence as the Company may require to prove the title of the transferor, or his or her right to transfer the Certificated Securities.

9.4 All authorities to sign transfer deeds or other instruments of transfer granted by holders of Securities for the purpose of transferring Certificated Securities which may be lodged, produced or exhibited with or to the Company at its registered office or at its transfer office 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 or transfer office at which the authority was first lodged, produced or exhibited. Even after the giving and lodging of such notice, 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. **[LR10.2(b)]**

9.5 All instruments of transfer, when registered, shall either be retained by the Company or disposed of in such manner as the Directors shall from time to time decide. Any instrument of transfer which the Directors may decline to register shall (unless the Directors shall resolve otherwise) be returned on demand to the person who lodged it.

9.6 The transfer of Uncertificated Securities may be effected only –

9.6.1 by a Participant or Central Securities Depository;

9.6.2 on receipt of an instruction to transfer sent and properly authenticated in terms of the rules of a Central Securities Depository or an order of a Court; and

9.6.3 in accordance with section 53 and the rules of the Central Securities Depository.

9.7 Transfer of ownership in any Uncertificated Securities must be effected by debiting the account in the Uncertificated Securities Register from which the transfer is effected and crediting the account in the Uncertificated Securities Register to which the transfer is effected, in accordance with the rules of the Central Securities Depository.

9.8 Securities transfer tax and other legal costs payable in respect of any transfer of Securities pursuant to this Memorandum of Incorporation will be paid by the Company to the extent that the Company is liable therefor in law, but shall, to that extent, be recoverable from the person acquiring such Securities.

10 NO LIEN

It is recorded for the avoidance of doubt that fully paid Securities shall not be subject to any lien in favour of the Company and shall be freely transferable. **[LR10.12]**

11 TRANSMISSION OF SECURITIES

11.1 Subject to the provisions of this Memorandum of Incorporation dealing with the restrictions on the transfer of Securities, the executor of the estate of a deceased sole holder of a Security shall be the only person recognised by the Company as having any title to such Security. In the case of a Security registered in the names of 2 (two) or more holders, the survivor or survivors, or the executor of the estate of any deceased Shareholder, as determined by the Board, shall be the only person recognised by the Company as having any title to the Security. Any person who submits proof of his appointment as the executor, administrator, trustee, curator, or guardian in respect of the estate of a deceased Shareholder or holder of other Securities ("**Security Holder**") of the Company, or of a Security Holder whose estate has been sequestrated or of a Security Holder who is otherwise under a disability or as the liquidator of any body corporate which is a Security Holder of the Company, shall be entered in the Securities Register *nomine officii*, and shall thereafter, for all purposes, be deemed to be a Securities Holder. **[LR10.13]**

11.2 Subject to the provisions of clause 11.1, any person becoming entitled to any Security by virtue of the death of a Security Holder shall, upon producing such evidence that he has such title or rights as the Directors think sufficient, have the right either to have such Security transferred to himself or to make such other transfer of the Security as such Security Holder could have made, provided that in respect of a transfer other than to himself –

11.2.1 the Directors shall have the same right to refuse or suspend registration as they would have had in the case of a proposed transfer of such Security by such Security Holder before his death; and

11.2.2 a person becoming entitled to any Security shall not, unless and until he is himself registered as a Security Holder in respect of such Security, be entitled to exercise any voting or other right attaching to such Security or any other right relating to meetings of the Company.

12 SHARE WARRANTS

12.1 Subject to the provisions of the Act, the JSE Listings Requirements and any other provisions of this Memorandum of Incorporation, the Company may issue Share warrants.

12.2 For the purpose referred to in clause 12.1, the Directors may –

12.3 issue warrants in respect of fully paid-up Shares, stating that the bearer is entitled to the Shares therein specified; and

12.3.1 provide for the payment, by coupons or otherwise, of future dividends on the Shares included in such warrants.

12.4 The Directors may, subject only to the JSE Listings Requirements, determine and from time to time vary –

12.4.1 the form, terms and conditions upon which the warrants shall be issued;

12.4.2 the conditions upon which -

12.4.2.1 the bearer of a warrant shall be entitled to attend and vote at general

meetings; and/or

12.4.2.2 a warrant may be surrendered; and/or

12.4.2.3 the name of the holder may be entered in the Securities Register in respect of the Shares specified therein.

12.5 Subject to the provisions of this Memorandum of Incorporation, the bearer of a warrant shall be a full Shareholder of the Company.

12.6 The holder of a warrant shall be subject to the provisions from time to time in force relating thereto, whether made before or after the issue of such warrant.

12.7 The Directors may, on such terms and conditions as they think fit, authorise the issue of a new warrant or coupon in substitution for one proved to their satisfaction to have been destroyed, but not otherwise.

13 DEBT INSTRUMENTS

The Board may authorise the Company to issue secured or unsecured debt instruments as set out in section 43(2), but no special privileges associated with any such debt instruments as contemplated in section 43(3) of the Act may be granted, and the authority of the Board in such regard is accordingly limited by this Memorandum of Incorporation. **[LR10.10]**

14 CAPITALISATION SHARES

14.1 The Board shall have the power and authority to –

14.1.1 approve the issuing of any authorised Shares as capitalisation Shares;

14.1.2 issue Shares of one class as capitalisation Shares in respect of Shares of another class; and

14.1.3 resolve to permit Shareholders to elect to receive a cash payment in lieu of a capitalisation Share, **[LR10.7]**

provided that such issue is effected in accordance with the requirements of section 47 of the Act and has been approved by the JSE to the extent

required under the JSE Listings Requirements and that the JSE Listings Requirements have otherwise been complied with. **[LR10.6]**

14.2 The Board may not resolve to offer a cash payment in lieu of awarding a capitalisation share, as contemplated in clause 14.1.3, unless the Board –

14.2.1 has considered the Solvency and Liquidity Test as required by section 46, on the assumption that every such Shareholder would elect to receive cash; and

14.2.2 is satisfied that the Company would satisfy the Solvency and Liquidity Test immediately upon the completion of such cash distribution. **[LR10.6]**

15 BENEFICIAL INTERESTS IN SECURITIES

The Company's issued Securities may be held by, and registered in the name of, one person for the beneficial interest of another person as set out in section 56(1), provided that the registered holder of the Securities must disclose to the Company –

15.1 the identity of the beneficial owner of the Securities; and

15.2 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,

in accordance with the provisions of section 56.

16 FINANCIAL ASSISTANCE

The Board may authorise the Company to provide financial assistance by way of 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 (and in accordance with) section 44 of the Act, and the authority of the Board in this regard is not limited or restricted by this Memorandum of Incorporation.

17 ACQUISITION BY THE COMPANY OF ITS OWN SHARES

17.1 Subject to the JSE Listings Requirements, the provisions of the Act, including section 48, and the further provisions of this clause 17 –

17.1.1 the Board may determine that the Company acquire a number of its own Shares; and

17.1.2 the board of any subsidiary of the Company may determine that such subsidiary acquire Shares of the Company, but –

17.1.2.1 not more than 10% (ten percent), in aggregate, of the number of issued Shares of any class may be held by, or for the benefit of, all of the subsidiaries of the Company, taken together; and

17.1.2.2 no voting rights attached to those Shares may be exercised while the Shares are held by that subsidiary and it remains a subsidiary of the Company; and

17.1.2.3 those Shares shall not be entitled to participate in any distribution by the Company.

17.2 Any decision by the Company to acquire its own Shares must satisfy the JSE Listings Requirements and the requirements of section 46 and, accordingly, the Company may not acquire its own Shares unless –

17.2.1 for as long as it is required in terms of the JSE Listings Requirements, the acquisition has been approved by resolution of the Shareholders as required in terms of the JSE Listings Requirements, whether in respect of a particular repurchase or generally approved by Shareholders and unless such acquisition otherwise complies with sections 5.67 to 5.69 of the JSE Listings Requirements (or such other sections as may be applicable from time to time); **[LR10.9(b)]**

17.2.2 the acquisition –

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

17.2.2.2 the Board, by resolution, has authorised the acquisition;

17.2.3 it reasonably appears that the Company will satisfy the Solvency and Liquidity Test immediately after completing the proposed acquisition; and

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

17.3 A decision of the Board referred to in clause 17.1.1 –

17.3.1 must be approved by a Special Resolution of the Shareholders if any Shares are to be acquired by the Company from a Director or prescribed officer of the Company, or a person related to a Director or prescribed officer of the Company (as contemplated in the Act); and

17.3.2 is subject to the requirements of sections 114 and 115 of the Act if considered alone, or together with other transactions in a Series of Integrated Transactions, it involves the acquisition by the Company of more than 5% (five percent) of the issued Shares of any particular class of the Company's Shares.

17.4 Notwithstanding any other provision of this Memorandum of Incorporation, the Company may not acquire its own Shares, and no subsidiary of the Company may acquire Shares of the Company if, as a result of that acquisition, there would no longer be any Shares of the Company in issue other than –

17.4.1 Shares held by one or more subsidiaries of the Company; or

17.4.2 convertible or redeemable Shares.

18 ODD-LOT OFFERS

18.1 The Company shall be entitled to implement an odd-lot offer in accordance with the provisions of this clause 18 if approved by the Shareholders in general meeting and in accordance with the restrictions and procedures

imposed by the JSE Listings Requirements.

18.2 If, upon implementation of any odd-lot offer made by the Company, there are holders of Shares holding in aggregate less than 100 (one hundred) Shares, or such other number of shares as determined by the JSE as amounting to an odd-lot ("**Odd-Lots**") in the Company ("**Odd-Lot Holders**"), then the Company shall, save in respect of Odd-Lot Holders who have elected to retain their Odd-Lots in the Company –

18.2.1 cause the Odd-Lots to be expropriated by the Company from the Odd-Lot Holders who have not made an election to retain their Odd-Lots in the Company or sold in such manner as the Directors may direct; and

18.2.2 procure that the proceeds of such expropriation or sales are paid to such Odd-Lot Holders.

18.3 All unclaimed proceeds of such sales (other than monetary proceeds) may be invested, provided that all monies due to Shareholders must be held by the Company in trust. Subject to the laws of prescription, proceeds of such sales which remain unclaimed for a period of 3 (three) years from the date on which they were declared (or such longer period as may be required under the laws of prescription) may be declared forfeited by the Directors for the benefit of the Company. The Directors may at any time annul such forfeiture upon such conditions (if any) as they think fit.

19 RECORD DATE FOR EXERCISE OF SHAREHOLDER RIGHTS

19.1 The record date for the purpose of determining which Shareholders are entitled to –

19.1.1 receive notice of a Shareholders' meeting;

19.1.2 participate in and vote at a Shareholders' meeting;

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

19.1.4 receive a distribution; or

19.1.5 be allotted or exercise any other rights,

shall be determined by the Board, provided that, for as long as the JSE Listings Requirements apply to the Company and prescribe a record date, such record date shall be the record date so prescribed. **[LR10.15]**

19.2 Such record date must be published to the Shareholders in a manner that satisfies the JSE Listings Requirements and any other prescribed requirements.

20 SHAREHOLDERS' MEETINGS

20.1 Calling of Shareholders' Meetings

20.1.1 The Board, or any prescribed officer of the Company authorised by the Board, is entitled to call a Shareholders' meeting at any time.

20.1.2 Subject to the provisions of section 60 dealing with the passing of resolutions of Shareholders otherwise than at a meeting of Shareholders, the Company shall hold a Shareholders' meeting –

20.1.2.1 at any time that the Board is required by the Act, the JSE Listings Requirements or this Memorandum of Incorporation to refer a matter to Shareholders for decision; or **[LR10.11(d)]**

20.1.2.2 whenever required in terms of the Act to fill a vacancy on the Board; or

20.1.2.3 when required in terms of clause 20.1.3 or by any other provision of this Memorandum of Incorporation.

20.1.3 The Board shall call a meeting of Shareholders if 1 (one) or more written and signed demands by Shareholders calling for such a meeting are Delivered to the Company and –

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

20.1.3.2 in aggregate, demands for substantially the same purpose are made and signed by the holders, as of the earliest time specified in any of those demands, of at least 10% (ten percent) of the voting rights

entitled to be exercised in relation to the matter proposed to be considered at the meeting.

20.2 **Annual General Meetings**

20.2.1 In addition to other meetings of the Company that may be convened from time to time, the Company shall convene an annual general meeting of its Shareholders once in each calendar year, but no more than 15 (fifteen) months after the date of the previous annual general meeting.

20.2.2 The Company shall Deliver notices of meetings to each Shareholder entitled to vote at such meeting who has elected to receive such documents. **[LR10.11(e)]**

20.2.3 Subject to the provisions of the JSE Listings Requirements, any such annual general meeting –

20.2.3.1 shall be capable of being held by Electronic Communication in accordance with the further provisions of this Memorandum of Incorporation; and

20.2.3.2 shall not be capable of being held in accordance with the provisions of section 60 set out in clause 25.

20.2.4 Each annual general meeting of the Company contemplated in clause 20.2.1 shall provide for at least the following business to be transacted –

20.2.4.1 the presentation of the directors' report, audited financial statements for the immediately preceding financial year of the Company and an audit committee report;

20.2.4.2 the election of Directors, to the extent required by the Act and by clause 26.3.2 of this Memorandum of Incorporation;

20.2.4.3 the appointment of an auditor and an audit committee for the following financial year;

20.2.4.4 any matters raised by the Shareholders, with or without advance notice to the Company, provided that matters raised without notice shall only be capable of being approved at a subsequent Shareholder's meeting duly convened in terms of this Memorandum of Incorporation or, to the extent permissible in terms of this Memorandum of Incorporation, in terms of a subsequent written resolution duly proposed for adoption by the Shareholders.

20.2.5 Save as otherwise provided herein, the Company is not required to hold any other Shareholders' meetings other than those specifically required by the Act and the JSE Listings Requirements.

20.3 **Location and Notice of Meeting**

20.3.1 The Board may determine the location of any Shareholders' meeting, and the Company may hold any such meeting in the Republic or in any foreign country, and the authority of the Board and the Company in this regard is not limited or restricted by this Memorandum of Incorporation.

20.3.2 Every Shareholder's meeting shall be reasonably accessible within the Republic for electronic participation by Shareholders, irrespective of whether the meeting is held in the Republic or elsewhere.

20.3.3 All meetings (whether called for the passing of Special or Ordinary Resolutions) shall be called on not less than 15 (fifteen) business days' notice. **[LR10.11(a) 10.11(b)]**

20.4 **Quorum and Adjournment of Meetings**

20.4.1 The quorum for a Shareholders' meeting to begin or for a matter to be considered, shall be at least 3 (three) Shareholders entitled to attend and vote and present in person. In addition –

20.4.1.1 a Shareholders' meeting may not begin until sufficient persons are Present at the Meeting to exercise, in aggregate, at least 25% (twenty five percent) of the voting rights that are entitled to be exercised in respect of at least one matter to be decided at the meeting; and

20.4.1.2 a matter to be decided at a Shareholders' meeting may not begin to

be considered unless sufficient persons are Present at the Meeting to exercise, in aggregate, at least 25% (twenty five percent) of all of the voting rights that are entitled to be exercised in respect of that matter at the time the matter is called on the agenda. **[LR10.11(g)]**

20.4.2 The time periods specified in sections 64(4) and (5) apply to the Company without variation and, accordingly, if within 1 (one) hour after the appointed time for a meeting to begin, the requirements of clause 20.4.1 –

20.4.2.1 for that meeting to begin have not been satisfied, the meeting shall be postponed, without any motion, vote or further notice, for 1 (one) week;

20.4.2.2 for consideration of a particular matter to begin have not been satisfied –

20.4.2.2.1 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 any motion or vote; or

20.4.2.2.2 if there is no other business on the agenda of the meeting, the meeting shall be adjourned, without any motion or vote, for 1 (one) week,

provided that the person intended to chair a meeting that cannot begin due to the operation of clause 20.4.1 may extend the 1 (one) hour limit allowed in clause 20.4.2 for a reasonable period on the grounds that –

20.4.2.3 exceptional circumstances affecting weather, transportation or Electronic Communication have generally impeded or are generally impeding the ability of Shareholders to be Present at the Meeting; or

20.4.2.4 one or more particular Shareholders, having been delayed, have communicated an intention to attend the meeting, and those Shareholders, together with others in attendance, would satisfy the requirements of clause 20.4.1.

20.4.3 The accidental omission to give notice of any meeting to any particular Shareholder or Shareholders, or an immaterial defect in the manner or form of giving notice of any such meeting, shall not invalidate any resolution passed at any such meeting.

20.4.4 The Company shall not be required to give further notice of a meeting that has been postponed or adjourned in terms of clause 20.4.2 unless the location for the meeting is different from –

20.4.4.1 the location of the postponed or adjourned meeting; or

20.4.4.2 the location announced at the time of adjournment, in the case of an adjourned meeting.

20.4.5 Notwithstanding the provisions of clause 20.4.4, for so long as the Company's Securities are listed on the JSE, the Company shall release notice on SENS of any postponed or adjourned meeting (whether postponed or adjourned in terms of clause 20.4.2 or otherwise).

20.4.6 If at the time appointed in terms of clause 20.4.2 for a postponed meeting to begin, or for an adjourned meeting to resume, the requirements of clause 20.4.1 have not been satisfied, the Shareholders present in person or by proxy will be deemed to constitute a quorum.

20.4.7 After a quorum has been established for a meeting, or for a matter to be considered at a meeting, all the Shareholders forming part of the quorum must be Present at the Meeting for the matter to be considered at the meeting. **[LR10.11(g)]**

20.4.8 The chairperson of a meeting may with the consent of a meeting at which a quorum is present (and must if the meeting resolves thus) adjourn the meeting from time to time and from place to place, but an adjourned meeting may only deal with matters which could legally be dealt with at the meeting on which the adjournment took place.

20.4.9 The maximum period allowable for an adjournment of a Shareholders' meeting is as set out in section 64(12), without variation.

20.5 **Conduct of Meetings**

20.5.1 The chairperson, if any, of the Board shall preside as chairperson at every Shareholder's meeting.

20.5.2 If there is no such chairperson, or if at any meeting he or she is not present within 15 (fifteen) minutes after the time appointed for holding the meeting or is unwilling to act as chairperson, the Directors present shall choose 1 (one) of their number to be chairperson. If no Director is willing to act as chairperson or if no Director is present within 15 (fifteen) minutes after the time appointed for commencement of the meeting, the Shareholders present shall by way of a poll appoint one of their number to be chairperson of the meeting.

20.5.3 The chairperson of a Shareholders' meeting may –

20.5.3.1 appoint any firm or persons to act as scrutineers for the purpose of checking any powers of attorney received and for counting the votes at the meeting;

20.5.3.2 act on a certificate given by any such scrutineers without requiring production at the meeting of the forms of proxy or himself counting the votes.

20.5.4 If any votes were counted which ought not to have been counted or if any votes were not counted which ought to have been counted, the error shall not vitiate the resolution, unless -

20.5.4.1 it is brought to the attention of the chairperson at the meeting; and

20.5.4.2 in the opinion of the chairperson of the meeting, it is of sufficient magnitude to vitiate the resolution.

20.5.5 Any objection to the admissibility of any vote (whether on a show of hands or on a poll) shall be raised -

20.5.5.1 at the meeting or adjourned meeting at which the vote objected to was recorded; or

20.5.5.2 at the meeting or adjourned meeting at which the result of the poll was announced,

and every vote not then disallowed shall be valid for all purposes. Any objection made timeously shall be referred to the chairperson of the meeting, whose decision shall be final and conclusive.

20.5.6 Even if he is not a Shareholder -

20.5.6.1 any Director; or

20.5.6.2 the chairperson; or

20.5.6.3 the Company's auditor; or

20.5.6.4 Company's attorney (or where the Company's attorneys are a firm, any partner or director thereof); or

20.5.6.5 Company's JSE sponsor (or any director or JSE approved executive thereof),

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.

21 SHAREHOLDERS' MEETINGS BY ELECTRONIC COMMUNICATION

21.1 Subject to the provisions of the JSE Listings Requirements, the Company may conduct a Shareholders' meeting entirely by Electronic Communication or provide for participation in a meeting by Electronic Communication, as set out in section 63, and the power of the Company to do so is not limited or restricted by this Memorandum of Incorporation. Accordingly –

21.1.1 any Shareholders' meeting may be conducted entirely by Electronic Communication; or

21.1.2 one or more Shareholders, or proxies for Shareholders, may participate by Electronic Communication in all or part of any Shareholders' meeting that is being held in person,

so long as the Electronic Communication employed ordinarily enables all persons participating in that meeting to communicate concurrently with each other and without an intermediary, and to participate reasonably effectively in the meeting.

21.2 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 the ability to so participate and shall provide any necessary information to enable Shareholders or their proxies to access the available medium or means of Electronic Communication, provided that such access shall be at the expense of the Shareholder or proxy concerned.

22 VOTES OF SHAREHOLDERS

22.1 Subject to any special rights or restrictions as to voting attached to any Shares by or in accordance with this Memorandum of Incorporation, at a meeting of the Company –

22.1.1 every Ordinary Shareholder present and entitled to exercise voting rights shall be entitled to 1 (one) vote on a show of hands, irrespective of the number of voting rights that Ordinary Shareholder would otherwise be entitled to exercise;

22.1.2 on a poll any Ordinary Shareholder who is Present at the Meeting, whether as a Shareholder or as proxy for a Shareholder, has the number of votes determined in accordance with the voting rights associated with the Securities held by that Shareholder; and

22.1.3 the holders of Securities other than Ordinary Shares shall not be entitled to vote on any resolution at a meeting of Ordinary Shareholders, except as provided in clause 22.2. **[LR10.5 (c)]**

22.2 If any resolution is proposed as contemplated in clause 6.4, the holders of such Shares ("**Affected Shareholders**") shall be entitled to vote at the meeting of Ordinary Shareholders as contemplated in clause 22.1, provided that –

22.2.1 the votes of the Shares of that class held by the Affected Shareholders ("**Affected Shares**") shall not carry any special rights or privileges and each Affected Shareholder shall be entitled to 1 (one) vote for every Affected Share held; and

22.2.2 the total voting rights of all Securities (other than ordinary Shares and any Securities which are special Shares created for the purpose of black economic empowerment in terms of the Broad-based Black Economic Empowerment Act, No 53 of 2004 and the Codes promulgated under such Act ("**BEE Shares**")) shall not be more than 24.99% (twenty four point nine nine percent) of the total votes (including the votes of the ordinary Shareholders and holders of BEE Shares) exercisable at that meeting (with any fraction of a vote in respect of any Affected Shares held by an Affected Shareholder rounded down to the nearest whole number). **[LR10.5(c) & 10.5(e)]**

22.3 Voting shall be conducted by means of a polled vote in respect of any matter to be voted on at a meeting of Shareholders if a demand is made for such a vote by –

22.3.1 at least 5 (five) persons having the right to vote on that matter, either as Shareholders or as proxies representing Shareholders; or

22.3.2 a Shareholder who is, or Shareholders who together are, entitled, as Shareholders or proxies representing Shareholders, to exercise at least 10% (ten percent) of the voting rights entitled to be voted on that matter; or

22.3.3 the chairperson of the meeting.

22.4 At any meeting of the Company a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded in accordance with the provisions of clause 22.3, and unless a poll is so demanded, a declaration by the chairperson that a resolution has, on a show of hands, been carried or carried unanimously or by a particular majority or defeated, and an entry to that effect in the book containing the minutes of the

proceedings of the Company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution. The demand for a poll may be withdrawn.

22.5 If a poll is duly demanded, it shall be taken in such manner as the chairperson directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. In computing the majority on the poll, regard shall be had to the number of votes to which each Shareholder is entitled.

22.6 In the case of an equality of votes, whether on a show of hands or on a poll, the chairperson of the meeting at which the show of hands takes place, or at which the poll is demanded, shall not be entitled to a second or casting vote.

22.7 A poll demanded on the election of a chairperson (as contemplated in clause 20.5.2) or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairperson of the meeting directs. The demand for a poll shall not prevent the continuation of a meeting for the transaction of any business other than the question upon which the poll has been demanded.

22.8 Where there are joint registered holders of any Share, any 1 (one) of such persons may exercise all of the voting rights attached to that Share at any meeting, either personally or by proxy, as if he or she were solely entitled thereto. If more than 1 (one) of such joint holders is Present at any Meeting, personally or by proxy, the person so present whose name stands first in the Securities Register in respect of such Share shall alone be entitled to vote in respect thereof.

22.9 The board of any company or the controlling body of any other entity or person that holds any Securities of the Company may authorise any person to act as its representative at any meeting of Shareholders of the Company, in which event the following provisions will apply –

22.9.1 the person so authorised may exercise the same powers of the authorising company, entity or person as it could have exercised if it

were an individual holder of Shares; and

22.9.2 the authorising company, entity or person shall lodge a resolution of the directors of such company or controlling body of such other entity or person confirming the granting of such authority, and certified under the hand of the chairperson or secretary thereof, with the Company before the commencement of any Shareholders' meeting at which such person intends to exercise any rights of such Shareholder, unless excused from doing so by the chairperson of such meeting in his sole discretion.

23 PROXIES AND REPRESENTATIVES

23.1 Any Shareholder may at any time appoint any natural person (or two or more natural persons concurrently), including a natural person who is not a Shareholder, as a proxy to –

23.1.1 participate in, and speak and vote at, a Shareholders' meeting on behalf of that Shareholder; or

23.1.2 give or withhold written consent on behalf of that Shareholder to a decision contemplated in section 60,

provided that a Shareholder may appoint more than 1 (one) proxy to exercise voting rights attached to different Securities held by the Shareholder.

23.2 A proxy appointment –

23.2.1 must be in writing, dated and signed by the Shareholder; and

23.2.2 remains valid for –

23.2.2.1 1 (one) year after the date on which it was signed; or

23.2.2.2 any longer or shorter period expressly set out in the appointment,

unless it is revoked in a manner contemplated in the Act or expires earlier as contemplated in the Act.

23.3 The holder of a power of attorney or other written authority from a

Shareholder may, if so authorised thereby, represent such Shareholder at any meeting of the Company and such holder shall deliver the power of attorney or other written authority (if any), or a copy thereof, to the Company before such holder exercises any rights of the Shareholder at a Shareholders' meeting. A Shareholder so represented at a meeting of the Company shall be deemed for purposes of this Memorandum of Incorporation to be a Shareholder who is Present at the Meeting.

23.4 All of the remaining provisions of the Act relating to the appointment and revocation of proxies and the rights of proxies generally shall apply and, in particular –

23.4.1 a Shareholder has the right to appoint 2 (two) or more persons concurrently as proxies as set out in section 58(3)(a) ("**Concurrent Proxies**"), provided that the instrument appointing such Concurrent Proxies clearly states the order in which the votes of the Concurrent Proxies are to take precedence in the event that both or all of the Concurrent Proxies are present, and vote, at the meeting concerned;

23.4.2 a Shareholder's proxy may delegate the proxy's powers to another person as set out in section 58(3)(b);

23.4.3 a Shareholder or his proxy must Deliver to the Company a copy of the instrument appointing a proxy not later than 48 (forty eight) hours before the commencement of the meeting at which the proxy intends to exercise that Shareholder's rights, provided that the chairperson of the meeting may, in his discretion, accept proxies that have been delivered after the expiry of the aforementioned period up until the time of commencement of the meeting; and

23.4.4 unless the instrument appointing a proxy provides otherwise, a Shareholder's proxy may decide, without direction from the Shareholder, whether to exercise or abstain from exercising any voting right of the Shareholder, as set out in section 58(7),

and none of such rights or powers are limited, restricted or varied by this Memorandum of Incorporation.

23.5 Every instrument of proxy shall, as far as circumstances permit, be substantially in the following form, or in such other form as the Directors may approve from time to time –

"I/We _____

being a shareholder of _____ Limited do hereby appoint

_____

or failing him/her

_____

or failing him/her, the chairperson of the meeting as my/our proxy to vote or abstain from voting on my/our behalf at the meeting of the Company to be held at on and at any adjournment thereof as follows:-

	In favour of	Against	Abstain
Special Resolution 1	.....	.....	.....
Ordinary Resolution 1	.....	.....	.....

(Indicate instruction to proxy by way of a cross in space provided above). Except as instructed above or if no instructions are inserted above, my/our proxy may vote as he/she thinks fit.

SIGNED this day of in the year of .

_____

SHAREHOLDER'S SIGNATURE

(Note -- A shareholder entitled to attend, speak and vote is entitled to appoint a proxy to attend, speak and vote in his/her stead, and such proxy need not be a shareholder of the Company)."

24 SHAREHOLDERS' RESOLUTIONS

24.1 For an Ordinary Resolution to be approved it must be supported by more than 50% (fifty percent) of the voting rights exercised on the resolution, as provided in section 65(7). Notwithstanding anything to the contrary contained in this Memorandum of Incorporation, to the extent that the JSE Listings Requirements require a higher percentage in respect of any particular Ordinary Resolution, the Company shall not implement such Ordinary Resolution unless the Company has obtained the support of the applicable percentage prescribed in terms of the JSE Listings

Requirements.

24.2 For a Special Resolution to be approved it must be supported by the holders of at least 75% (seventy five percent) of the voting rights exercised on the resolution, as provided in section 65(9). **[LR10.11(a)]**

24.3 No matters, except –

24.3.1 those matters set out in section 65(11); or

24.3.2 and any other matter required by the Act to be resolved by means of a Special Resolution; or

24.3.3 for so long as the Company's securities are listed on the JSE, any other matter required by the JSE Listings Requirements to be resolved by means of a Special Resolution,

require a Special Resolution of the Company.

24.4 In the event that any Shareholder abstains from voting in respect of any resolution, such Shareholder will, for the purposes of determining the number of votes exercised in respect of that resolution, be deemed not to have exercised a vote in respect thereof.

25 SHAREHOLDERS ACTING OTHER THAN AT A MEETING

25.1 In accordance with the provisions of section 60, but subject to clause 25.4, a resolution that could be voted on at a Shareholders' meeting (other than in respect of the election of Directors) may instead be – **[LR10.16(b)]**

25.1.1 submitted by the Board for consideration to the Shareholders entitled to exercise the voting rights in relation to the resolution; and

25.1.2 voted on in writing by such Shareholders within a period of 20 (twenty) business days after the resolution was submitted to them.

25.2 A resolution contemplated in clause 25.1 –

25.2.1 will have been adopted if it is 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; and

25.2.2 if adopted, will have the same effect as if it had been approved by voting at a meeting.

25.3 Within 10 (ten) business days after adopting a resolution in accordance with the procedures provided in this clause 25, the Company shall Deliver a statement describing the results of the vote, consent process, or election to every Shareholder who was entitled to vote on or consent to the resolution.

25.4 The provisions of this clause 25 shall not apply to –

25.4.1 any Shareholder meetings that are called for in terms of the JSE Listings Requirements, which Shareholder meetings must be held "in person"; or

25.4.2 the passing of any resolution in terms of clause 26.1.2; or

25.4.3 to any annual general meeting of the Company,

provided that, notwithstanding the provisions of clause 25.4.1, any resolutions required in respect of a change of the Company's name, any odd lot offer, any increase in the Company's authorised shared capital and/or the approval of any amendment of this memorandum of incorporation may be proposed as written resolutions in accordance with the provisions of section 60 of the Act as contemplated in this clause 25, but subject to the JSE Listings Requirements. **[LR10.11(c) and LR10.11(h)(i)]**

26 COMPOSITION AND POWERS OF THE BOARD OF DIRECTORS

26.1 Number of Directors

26.1.1 In addition to the minimum number of Directors, if any, that the Company must have to satisfy any requirement in terms of the Act to appoint an audit committee and a social and ethics committee, the Board must comprise at least 4 (four) Directors and the Shareholders shall be entitled, by Ordinary Resolution, to determine such maximum number of Directors as they from time to time shall consider appropriate.

[LR10.16(a)]

26.1.2 All Directors shall be elected by an Ordinary Resolution of the Shareholders at a general or annual general meeting of the Company and no appointment of a Director in accordance with a resolution passed in terms of section 60 shall be competent. **[LR10.16(b)]**

26.2 **Election of Directors**

26.2.1 In any election of Directors –

26.2.1.1 the election is to be conducted as a series of votes, 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 have been filled; and

26.2.1.2 in each vote to fill a vacancy –

26.2.1.2.1 each vote entitled to be exercised may be exercised once; and

26.2.1.2.2 the vacancy is filled only if a majority of the votes exercised support the candidate.

26.2.2 The Company shall only have elected Directors and there shall be no appointed or *ex officio* Directors as contemplated in section 66(4).

26.3 **Eligibility, Resignation and Rotation of Directors**

26.3.1 Apart from satisfying the qualification and eligibility requirements set out in section 69, a person need not satisfy any eligibility requirements or qualifications to become or remain a Director or a prescribed officer of the Company.

26.3.2 Subject to clause 26.3.2.1, no Director shall be appointed for life or for an indefinite period and the non-executive Directors shall rotate in accordance with the following provisions of this clause 26.3.2 – **[LR10.16(k)]**

26.3.2.1 at the first annual general meeting referred to in clause 20.2.1, all non-executive Directors shall retire from office, and at each

subsequent annual general meeting referred to in clause 20.2.1, 1/3 (one third) of the non-executive Directors for the time being, or if their number is not 3 (three) or a multiple of 3 (three), the number nearest to 1/3 (one third), but not less than 1/3 (one third), shall retire from office; **[LR10.16(g)]**

26.3.2.2 the non-executive Directors to retire in every year shall be those who have been longest in office since their last election, but as between persons who were elected as Directors on the same day, those to retire shall, unless they otherwise agree among themselves, be determined by lot;

26.3.2.3 a retiring non-executive Director shall be eligible for re-election;

26.3.2.4 the Company, at the general meeting at which a non-executive Director retires in the above manner, or at any other general meeting, may fill the vacancy by electing a person thereto, provided that the Company shall not be entitled to fill the vacancy by means of a resolution passed in accordance with clause 25; **[LR10.16(g)]**

26.3.2.5 if at any meeting at which an election of Directors ought to take place the offices of the retiring non-executive Directors are not filled, unless it is expressly resolved not to fill such vacancies, the meeting shall stand adjourned and the further provisions of this Memorandum of Incorporation, including clauses 20.4.2 to 20.4.5 (inclusive) will apply *mutatis mutandis* to such adjournment, and if at such adjourned meeting the vacancies are not filled, the retiring non-executive Directors, or such of them as have not had their offices filled, shall be deemed to have been re-elected at such adjourned meeting.

26.3.3 A Director shall cease to hold office as such if he reaches the age of 70 (seventy) years, in which event such Director shall vacate his office at the start of the annual general meeting of the Company in the calendar year in which such Director turns 70 (seventy) years of age. Such Director shall be eligible for re-election however, the Director shall cease to hold office annually thereafter, and shall vacate his office at the start of the annual general meeting of the Company in each subsequent

calendar year. The Director shall be eligible for re-election in each subsequent calendar year.

26.3.4 The Board shall, through its nomination committee if such committee has been constituted in terms of clause 32, provide the Shareholders with a recommendation in the notice of the meeting at which the re-election of a retiring Director is proposed, as to which retiring Directors are eligible for re-election, taking into account that Director's past performance and contribution. Sufficient time shall be allowed between the date of such notice and the date of the general meeting or annual general meeting at which the re-election of the Director is to be proposed to allow nominations to reach the Company's office from any part in the Republic. **[LR10.16(g)]**

26.4 **Powers of the Directors**

26.4.1 The Board has the power to –

26.4.1.1 fill any vacancy on the Board on a temporary basis, as set out in section 68(3), provided that such appointment must be confirmed by the Shareholders, in accordance with clause 26.1.2, at the next annual general meeting of the Company, as required in terms of section 70(3)(b)(i); and **[LR10.16(c)]**

26.4.1.2 exercise all of the powers and perform any of the functions of the Company, as set out in section 66(1),

and the powers of the Board in this regard are only limited and restricted as contemplated in this clause 25.4.

26.4.2 The Directors may at any time and from time to time by power of attorney appoint any person or persons to be the attorney or attorneys and agent(s) of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors in terms of this Memorandum of Incorporation) and for such period and subject to such conditions as the Directors may from time to time think fit. Any such appointment may, if the Directors think fit, be made in favour of any company, the shareholders, directors,

nominees or managers of any company or firm, or otherwise in favour of any fluctuating body of persons, whether nominated directly or indirectly by the Directors. Any such power of attorney may contain such provisions for the protection or convenience of persons dealing with such attorneys and agents as the Directors think fit. Any such attorneys or agents as aforesaid may be authorised by the Directors to sub-delegate all or any of the powers, authorities and discretions for the time being vested in them. Any reference to a power of attorney herein shall include any other form of delegation including the right to sub-delegate.

26.4.3 Save as otherwise expressly provided herein, all cheques, promissory notes, bills of exchange and other negotiable or transferable instruments, and all documents to be executed by the Company, shall be signed, drawn, accepted, endorsed or executed, as the case may be, in such manner as the Directors shall from time to time determine.

26.4.4 All acts performed by the Directors or by a committee of Directors or by any person acting as a Director or a member of a committee shall, notwithstanding that it shall afterwards be discovered that there was some defect in the appointment of the Directors or persons acting as aforesaid, or that any of them were disqualified from or had vacated office, be as valid as if every such person had been duly appointed and was qualified and had continued to be a Director or member of such committee.

26.4.5 If the number of Directors falls below the minimum number fixed in accordance with this Memorandum of Incorporation, the remaining Directors must as soon as possible and in any event not later than 3 (three) months from the date that the number falls below such minimum, fill the vacancy/ies in accordance with clause 26.4.1.1 or convene a general meeting for the purpose of filling the vacancies, and the failure by the Company to have the minimum number of Directors during the said 3 (three) month period does not limit or negate the authority of the board of Directors or invalidate anything done by the board of Directors while their number is below the minimum number fixed in accordance with this Memorandum of Incorporation. **[LR10.16(d)]**

26.4.6 The Directors in office may act notwithstanding any vacancy in their body, but if after the expiry of the 3 (three) month period contemplated in clause 26.4.5, their number remains below the minimum number fixed in accordance with this Memorandum of Incorporation, they may, for as long as their number is reduced below such minimum, act only for the purpose of filling vacancies in their body in terms of section 68(3) or of summoning general meetings of the Company, but not for any other purpose. **[LR10.16(d)]**

26.5 **Directors' Interests**

26.5.1 A Director may hold any other office or place of profit under the Company (except that of auditor) or any subsidiary of the Company in conjunction with the office of Director, for such period and on such terms as to remuneration (in addition to the remuneration to which he may be entitled as a Director) and otherwise as a disinterested quorum of the Directors may determine. **[LR10.16(e)]**

26.5.2 A Director of the Company may be or become a director or other officer of, or otherwise interested in, any company promoted by the Company or in which the Company may be interested as shareholder or otherwise, provided that the appointment and remuneration in respect of such other office must be determined by a disinterested quorum of Directors. **[LR10.16(e)]**

26.5.3 Each Director and each alternate Director, prescribed officer and member of any committee of the Board (whether or not such latter persons are also members of the Board) shall, subject to the exemptions contained in section 75(2) and the qualifications contained in section 75(3), comply with all of the provisions of section 75 in the event that they (or any person who is a related person to them) has a personal financial interest in any matter to be considered by the Board.

26.5.4 Save where the Directors have obtained the prior approval of the JSE to so propose such a resolution, the proposal of any resolution to Shareholders in terms of sections 20(2) and 20(6) to permit or ratify an act of the Directors that is inconsistent with any limitation or restriction

imposed by this Memorandum of Incorporation, or the authority of the Directors to perform such an act on behalf of the Company, is prohibited. **[LR10.3]**

27 DIRECTORS' MEETINGS

27.1 Save as may be provided otherwise herein, the Directors may meet together for the despatch of business, adjourn and otherwise regulate their meetings as they think fit.

27.2 The Directors may elect a chairperson and a deputy chairperson and determine the period for which each is to hold office. The chairperson, or in his absence the deputy chairperson, shall be entitled to preside over all meetings of Directors. If no chairperson or deputy chairperson is elected, or if at any meeting neither is present or willing to act as chairperson thereof within 10 (ten) minutes of the time appointed for holding the meeting, the Directors present shall choose 1 (one) of their number to be chairperson of such meeting. **[LR10.16(i)]**

27.3 In addition to the provisions of section 73(1), any Director shall at any time be entitled to call a meeting of the Directors.

27.4 The Board has the power to –

27.4.1 consider any matter and/or adopt any resolution other than at a meeting contemplated in section 74 and, accordingly, any decision that could be voted on at a meeting of the Board may instead be adopted by the written consent of a majority of the Directors, given in person or by Electronic Communication, provided that each Director has received notice of the matter to be decided; **[LR10.16(j)]**

27.4.2 conduct a meeting entirely by Electronic Communication, or to provide for participation in a meeting by Electronic Communication, as set out in section 73(3), provided that, as required by such section, the Electronic Communication facility employed ordinarily enables all persons participating in the meeting to communicate concurrently with each other without an intermediary and to participate reasonably effectively in the meeting; **[LR10.16(j)]**

27.4.3 determine the manner and form of providing notice of its meetings contemplated in section 73(4), provided that –

27.4.3.1 the notice period for the convening of any meeting of the Board will be at least 7 (seven) days unless the decision of the Directors is required on an urgent basis which justifies a shorter period of notice, in which event the meeting may be called on shorter notice. The decision of the chairperson of the Board, or failing the chairperson for any reason, the decision of any 2 (two) Directors as to whether a matter should be decided on an urgent basis, and the period of notice to be given, shall be final and binding on the Directors;

27.4.3.2 an agenda of the matters to be discussed at the meeting shall be given to each Director, together with the notice referred to in clause 27.4.3.1; and

27.4.4 proceed with a meeting despite a failure or defect in giving notice of the meeting, as provided in section 73(5),

and the powers of the Board in respect of the above matters are not limited or restricted by this Memorandum of Incorporation.

27.5 Any resolution adopted in terms of clause 27.4.1 or 27.4.2 and inserted in the minute book shall be as valid and effective as if it had been passed at a meeting of Directors. Any such resolution may consist of several documents and shall be deemed to have been passed on the date on which it was signed by the last Director who signed it (where applicable, unless a statement to the contrary is made in that resolution). **[LR10.16(j)]**

27.6 The quorum requirement for a Directors' meeting (including an adjourned meeting) to begin, the voting rights at such a meeting, and the requirements for approval of a resolution at such a meeting are as set out in section 73(5), subject only to clause 27.6.5, and accordingly –

27.6.1 if all of the Directors of the Company –

27.6.1.1 acknowledge actual receipt of the notice convening a meeting; or

27.6.1.2 are present at a meeting; or

27.6.1.3 waive notice of a 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;

27.6.2 a majority of the Directors must be present at a meeting before a vote may be called at any meeting of the Directors;

27.6.3 each Director has 1 (one) vote on a matter before the Board;

27.6.4 a majority of the votes cast in favour of a resolution is sufficient to approve that resolution;

27.6.5 in the case of a tied vote –

27.6.5.1 the chairperson may not cast a deciding vote in addition to any deliberative vote; and

27.6.5.2 the matter being voted on fails. **[LR10.16(i)]**

27.7 Resolutions adopted by the Board –

27.7.1 must be dated and sequentially numbered; and

27.7.2 are effective as of the date of the resolution, unless any resolution states otherwise.

27.8 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, are evidence of the proceedings of that meeting, or the adoption of that resolution, as the case may be.

28 DIRECTORS' COMPENSATION AND FINANCIAL ASSISTANCE

28.1 The Company may pay remuneration to the Directors for their services as Directors in accordance with a Special Resolution approved by the Shareholders within the previous 2 (two) years, as set out in section 66(8) and (9), and the power of the Company in this regard is not limited or restricted by this Memorandum of Incorporation.

28.2 Any Director who -

28.2.1 serves on any executive or other committee; or

28.2.2 devotes special attention to the business of the Company; or

28.2.3 goes or resides outside South Africa for the purpose of the Company; or

28.2.4 otherwise performs or binds himself to perform services which, in the opinion of the Directors, are outside the scope of the ordinary duties of a Director,

may be paid such extra remuneration or allowances in addition to or in substitution of the remuneration to which he may be entitled as a Director, as a disinterested quorum of the Directors may from time to time determine. **[LR10.16(f)]**

28.3 The Directors may also be paid all their travelling and other expenses properly and necessarily incurred by them in connection with -

28.3.1 the business of the Company; and

28.3.2 attending meetings of the Directors or of committees of the Directors of the Company. **[LR10.16(f)]**

28.4 The Board may, as contemplated in and subject to the requirements of section 45, authorise the Company to provide financial assistance to a Director, prescribed officer or other person referred to in section 45(2), and the power of the Board in this regard is not limited or restricted by this Memorandum of Incorporation.

29 EXECUTIVE DIRECTORS

29.1 The Directors may from time to time appoint a chief executive officer, executive financial Director and such other executive Directors for such term and at such remuneration as they may think fit (subject only to the requirements of section 66(8) and (9), and may revoke such appointment subject to the terms of any agreement entered into in any particular case and it may be made a term of his or her appointment that he or she be paid

a pension, gratuity and/or other benefit on his retirement from office.

29.2 Subject to the provisions of any contract between himself and the Company, a managing Director shall be subject to the same provisions as to disqualification and removal as the other Directors of the Company.

29.3 The Directors may from time to time entrust to and confer upon a managing Director for the time being such of the powers exercisable in terms of this Memorandum of Incorporation by the Directors as they may think fit, and may confer such powers for such time and to be exercised for such objects and purposes, and upon such terms and conditions, and with such restrictions, as they think expedient; and they may confer such powers either collaterally with or to the exclusion of and in substitution for all or any of the powers of the Directors in that behalf, and may from time to time revoke, withdraw, alter or vary all or any of such powers.

30 INDEMNIFICATION OF DIRECTORS

30.1 The Company may –

30.1.1 advance expenses to a Director or directly or indirectly indemnify a Director in respect of the defence of legal proceedings, as set out in section 78(4);

30.1.2 indemnify a Director in respect of liability as set out in section 78(5); and/or

30.1.3 purchase insurance to protect the Company or a Director as set out in section 78(7),

and the power of the Company in this regard is not limited, restricted or extended by this Memorandum of Incorporation.

30.2 The provisions of clause 30.1 shall apply *mutatis mutandis* in respect of any former Director, prescribed officer or member of any committee of the Board, including but not limited to the audit committee.

31 BORROWING POWERS

31.1 Subject to the provisions of clause 31.2 and the other provisions of this Memorandum of Incorporation, the Directors may from time to time –

31.1.1 borrow for the purposes of the Company such sums as they think fit; and

31.1.2 secure the payment or repayment of any such sums, or any other sum, as they think fit, whether by the creation and issue of Securities, mortgage or charge upon all or any of the property or assets of the Company.

31.2 The Directors shall procure, but only insofar as by the exercise of voting and other rights or powers of control exercisable by the Company they can so procure that the borrowings of any subsidiary of the Company from time to time shall not exceed the amount authorised by the Company.

32 COMMITTEES OF THE BOARD

32.1 The Board may –

32.1.1 appoint committees of Directors and delegate to any such committee any of the authority of the Board as contemplated in section 72(1); and/or

32.1.2 include in any such committee persons who are not Directors, as contemplated in section 72(2)(a),

and the power of the Board in this regard is not limited or restricted by this Memorandum of Incorporation.

32.2 The authority of a committee appointed by the Board as contemplated in section 72(2)(b) and (c) is not limited or restricted by this Memorandum of Incorporation.

32.3 If and for as long as it is required to do so in terms of the Act or the Regulations and unless the Company is exempted from doing so by the Tribunal in terms of section 72(5), the Board must appoint a social and ethics committee having the powers and functions prescribed in terms of

section 72 and the Regulations.

32.4 If and for as long as any of the Company's Securities are listed on the JSE, the Board shall appoint such Board committees as are required by the JSE Listings Requirements, having such functions and powers as are prescribed by or in terms of the JSE Listings Requirements.

32.5 The Company must further appoint an audit committee in the manner and for the purposes set out in Part D of Chapter 3 of the Act.

33 ANNUAL FINANCIAL STATEMENTS

33.1 The Company shall keep all such accurate and complete accounting records, in English, as are necessary to enable the Company to satisfy its obligations in terms of –

33.1.1 the Act;

33.1.2 any other law with respect to the preparation of financial statements to which the Company may be subject; and

33.1.3 this Memorandum of Incorporation.

33.2 The Company shall each year prepare annual financial statements within 4 (four) months after the end of its financial year, or such shorter period as may be appropriate to provide the required notice of an annual general meeting in terms of section 61(7).

33.3 The Company shall appoint an auditor each year at its annual general meeting. If the Company appoints a firm as its auditor, any change in the composition of the members of that firm shall not by itself create a vacancy in the office of auditor.

33.4 The annual financial statements of the Company must be prepared and audited in accordance with the provisions of section 30 of the Act.

33.5 A copy of the annual financial statements must be sent to Shareholders at least 15 (fifteen) business days before the date of the annual general meeting of the Company at which such annual financial statements will be

presented. **[LR10.19]**

33.6 The annual financial statements shall be prepared on a basis that is not inconsistent with any unalterable or non-elective provision of the Act and shall –

33.6.1 satisfy, as to form and content, the financial reporting standards of IFRS; and

33.6.2 subject to and in accordance with IFRS –

33.6.2.1 present fairly the state of affairs and business of the Company and explain the transactions and financial position of the business of the Company;

33.6.2.2 show the Company's assets, liabilities and equity, as well as its income and expenses and any other prescribed information;

33.6.2.3 set out the date on which the statements were produced and the accounting period to which they apply; and

33.6.2.4 bear on the first page thereof a prominent notice indicating that the annual financial statements have been audited and the name and professional designation of the person who prepared them.

34 COMPANY SECRETARY

34.1 The Company must appoint a company secretary.

34.2 The company secretary must have the requisite knowledge of, or experience with, relevant laws and be a permanent resident of the Republic.

34.3 The Board must fill any vacancy in the office of company secretary within 60 (sixty) business days after such vacancy arises by a person whom the Directors consider to have the requisite knowledge and experience.

35 DISTRIBUTIONS

35.1 Subject to the provisions of the Act, and particularly section 46, the

Company may make a proposed distribution if such distribution –

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

35.1.2 is authorised by resolution of the Board, in compliance with the JSE Listings Requirements,

provided that if such distribution is a repayment of capital, the Company shall not be entitled to require the subsequent subscription of such amount. **[LR10.8]**

35.2 No distribution shall bear interest against the Company, except as otherwise provided under the conditions of issue of the Shares in respect of which such distribution is payable.

35.3 Distributions may be declared either free of or subject to the deduction of income tax and any other tax or duty in respect of which the Company may be chargeable.

35.4 The Directors may from time to time declare and pay to the Shareholders such interim distributions as the Directors consider to be appropriate.

35.5 All distributions are to be declared by the Directors in accordance with the provisions of the Act. **[LR10.17(a)]**

35.6 All unclaimed distributions (other than monetary distributions) may be invested or otherwise made use of by the Directors for the benefit of the Company until claimed, provided that distributions unclaimed for a period of 3 (three) years (or such other period as the law may prescribe for the prescription of a claim) from the date on which they were declared may be declared by the Directors as forfeited for the benefit of the Company. The Directors may at any time annul such forfeiture upon such conditions (if any) as they think fit. All unclaimed monetary distributions due to any Shareholder/s shall be held by the Company in trust until lawfully claimed by such Shareholder/s, provided that such unclaimed monetary distributions shall be subject to the laws of prescription. **[LR10.17(c)]**

35.7 Any distribution, interest or other sum payable in cash to the holder of a

Share may be paid by cheque or warrant sent by post and addressed to -

35.7.1 the holder at his registered address; or

35.7.2 in the case of joint holders, the holder whose name appears first in the Securities Register in respect of the share, at his registered address; or

35.7.3 such person and at such address as the holder or joint holders may in writing direct.

35.8 Every such cheque or warrant shall -

35.8.1 be made payable to the order of the person to whom it is addressed; and

35.8.2 be sent at the risk of the holder or joint holders.

35.9 The Company shall not be responsible for the loss in transmission of any cheque or warrant or of any document (whether similar to a cheque or warrant or not) sent by post as aforesaid.

35.10 A holder or any one of two or more joint holders, or his or their agent duly appointed in writing, may give valid receipts for any distributions or other moneys paid in respect of a Share held by such holder or joint holders.

35.11 When such cheque or warrant is paid, it shall discharge the Company of any further liability in respect of the amount concerned.

35.12 A distribution may also be paid in any other way determined by the Directors including without limitation by means of electronic funds transfer, and if the directives of the Directors in that regard are complied with, the Company shall not be liable for any loss or damage which a Shareholder may suffer as a result thereof.

35.13 Without detracting from the ability of the Company to issue capitalisation Shares, any distribution may be paid wholly or in part -

35.13.1 by the distribution of specific assets; or

35.13.2 by the issue of Shares, debentures or Securities of the Company or securities of any other company; or

35.13.3 in cash; or

35.13.4 in any other way which the Directors or the Company in general meeting may at the time of declaring the distribution determine.

35.14 Where any difficulty arises in regard to such distribution, the Directors may settle that difficulty as they think expedient, and in particular may fix the value which shall be placed on such specific assets on distribution.

35.15 The Directors may -

35.15.1 determine that cash payments shall be made to any Shareholder on the basis of the value so fixed in order to secure equality of distribution; and

35.15.2 vest any such assets in trustees upon such trusts for the benefit of the persons entitled to the distribution as the Directors deem expedient.

35.16 Any distribution must be made payable to Shareholders registered as at a record date subsequent to the date of declaration thereof or the date of confirmation thereof, whichever is the later date. **[LR10.17(b)]**.

36 ACCESS TO COMPANY RECORDS

36.1 Each person who holds or has a beneficial interest in any Securities issued by the Company is entitled to inspect and copy, without any charge for any such inspection or upon payment of no more than the prescribed maximum charge for any such copy, the information contained in the records of the Company referred to in section 26(1) of the Act, being –

36.1.1 this Memorandum of Incorporation, and any amendments or alterations thereof;

36.1.2 a record of the Directors, including the details of any person who has served as a Director, for a period of 7 (seven) years after that person has ceased to serve as a Director, and any information relating to such persons referred to in section 24(5);

36.1.3 all –

36.1.3.1 reports presented at an annual general meeting of the Company for a

period of 7 (seven) years after the date of any such meeting; and

36.1.3.2 annual financial statements required by the Act for a period of 7 (seven) years after the date on which each such particular statements were issued;

36.1.4 notice and minutes of all Shareholders' meetings, including –

36.1.4.1 all resolutions adopted by them, for 7 (seven) years after the date each such resolution was adopted; and

36.1.4.2 any document that was made available by the Company to the holders of Securities in relation to each such resolution;

36.1.5 any written communications sent generally by the Company to all holders of any class of the Company's Securities, for a period of 7 (seven) years after the date on which each of such communications was issued; and

36.1.6 the Securities Register.

36.2 A person not contemplated in clause 36.1 has a right to inspect the Securities Register and the register of Directors of the Company upon payment of an amount not exceeding the prescribed maximum fee for any such inspection.

36.3 A person who wishes to inspect the Uncertificated Securities Register may do so only through the Company in terms of section 26, and in accordance with the rules of the Central Securities Depository. Within 5 (five) business days after the date of a request for inspection, the Company must produce a record of the Uncertificated Securities Register, which record must reflect at least the details referred to in section 50(3)(b) at the close of business on the day on which the request for inspection was made.

37 PAYMENT OF COMMISSION

37.1 The Company may pay a commission at a rate not exceeding 10% (ten percent) of the issue price of a Share to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally,

for any Shares of the Company or for procuring or agreeing to procure, whether absolutely or conditionally, subscriptions for any Shares of the Company. **[LR10.14]**

37.2 Commission may be paid out of capital or profits, whether current or accumulated, or partly out of the one and partly out of the other.

37.3 Such commission may be paid in cash or, if authorised by the Company in general meeting, by the allotment of fully or partly paid-up Shares, or partly in one way and partly in the other.

37.4 The Company may, on any issue of Shares, pay such brokerage as may be lawful.

38 **NOTICES**

38.1 All notices shall be −

38.1.1 Delivered by the Company to each Shareholder of the Company physically, by fax, by email, by registered post, or by any other means authorised in terms of Table CR 3 annexed to the Regulations; and

38.1.2 simultaneously given to the Issuer Regulation Division of the JSE,

and shall be given in writing in any manner authorised by the JSE Listings Requirements and the Regulations. All notices shall, in addition to the above, be released through SENS provided that, in the event that the Shares or other Securities of the Company are not listed on the JSE, all the provisions of this Memorandum of Incorporation relating to the publication of notices via SENS shall no longer apply and such notices shall thereafter only be published in accordance with the provisions of the Act. **[LR10.11(f)]**

38.2 Each Shareholder of the Company –

38.2.1 shall notify in writing to the Company an address, which address shall be his registered address for the purposes of receiving written notices from the Company by post; and

38.2.2 may notify in writing to the Company an email address and/or facsimile

number, which address shall be his address for the purposes of receiving notices by way of Electronic Communication (and by doing so the Shareholder concerned shall be deemed to have confirmed that notices sent to such address can conveniently be printed by that Shareholder within a reasonable time and at a reasonable cost as contemplated in section 6(10)).

38.3 Except in the case of notification by a Shareholder as contemplated in clause 38.2.2 above, any Shareholder whose address in the Securities Register is an address not within South Africa, shall be entitled to have notices served upon him at such address. **[LR10.18]**

38.4 In the case of joint holders of a Share, all notices shall, unless such holders otherwise in writing request and the Directors agree, be given to that Shareholder whose name appears first in the Securities Register and a notice so given shall be deemed sufficient notice to all the joint holders.

38.5 Any notice sent by any means permitted in Table CR 3 annexed to the Regulations shall be deemed to have been Delivered as provided for that method of delivery in such Table.

38.6 Every person who by operation of law, transfer or other means whatsoever becomes entitled to any Share, shall be bound by every notice in respect of that Share which, previously to his name and address being entered in the Securities Register, was given to the person from whom he derives his title to such Share.

38.7 Any notice or document Delivered or sent by post to or left at the registered address of any Shareholder in pursuance of this Memorandum of Incorporation shall, notwithstanding that such Shareholder was then deceased, and whether or not the Company has notice of his death, be deemed to have been duly served in respect of any Shares, whether held solely or jointly with other persons by such Shareholder, until some other person be registered in his stead as the sole or joint holder thereof, and such service shall for all purposes of this Memorandum of Incorporation be deemed a sufficient service of such notice or document on his heirs, executors or administrators, and all persons (if any) jointly interested with

him in any such Shares.

39 AMENDMENT OF MEMORANDUM OF INCORPORATION

39.1 Subject to the provisions of clause 6.4, the Act and the JSE Listings Requirements, this Memorandum of Incorporation may only be amended by way of a Special Resolution of the ordinary Shareholders in accordance with section 16(1)(c), except if such amendment is **[LR10.5(d)]**–

39.1.1 in compliance with a Court order as contemplated in sections 16(1)(a) and 16(4) of the Act; or

39.1.2 in accordance with clauses 1.9 and 1.10;.or

39.1.3 to correct errors substantiated as such from objective evidence or which are self-evident errors (including, but without limitation *eiusdem generis*, spelling, punctuation, reference, grammar or similar defects) in the MOI; or

39.1.4 for complying with any applicable requirements of the Act when debentures and other debt instruments are created and/or issued, which the Board is empowered to do.

39.2 The Board shall publish a copy of any correction effected by the Board in accordance with this clause 39 on the Company's web-site.

39.3 An amendment of this Memorandum of Incorporation will take effect from the later of –

39.3.1 the date on, and time at, which the Commission accepts the filing of the notice of amendment contemplated in section 16(7); and

39.3.2 the date, if any, set out in the said notice of amendment,

save in the case of an amendment that changes the name of the Company, which will take effect from the date set out in the amended registration certificate issued by the Commission.

40 COMPANY RULES

The Board is prohibited from making, amending or repealing any rules as contemplated in section 15(3) and the Board's capacity to make such rules is hereby excluded. **[LR10.4]**

ADDITIONAL CLASSES OF SHARES

In addition to the Shares contemplated in clause 6.1.1 of the Memorandum of Incorporation to which this schedule is Schedule 1, the Company is authorised to issue no more than the following further Shares –

A Preference Shares

The Company is authorised to issue 1,000,000 (one million) class A cumulative redeemable preference shares with a par value of R0.01 (one cent) each ("**A Preference Shares**"), having the preferences, rights, limitations and other terms associated with the A Preference Shares, as set out in the A Preference Share terms set out in Schedule 1A hereto.

B Preference Shares

The Company is authorised to issue 2,000,000 (two million) class B cumulative redeemable preference shares with a par value of R0.01 (one cent) each ("**B Preference Shares**") subject to the preferences, rights, limitations and other terms associated with the B Preference Shares, as set out in the B Preference Share terms set out in Schedule 1B hereto.

C Preference Shares

The Company is authorised to issue 1,000,000 (one million) class C cumulative redeemable preference no par value shares ("**C Preference Shares**") having the preferences, rights, limitations and other terms associated with the C Preference Shares, as set out in the C Preference Share terms set out in Schedule 1C hereto.

SCHEDULE "1A"

A PREFERENCE SHARE TERMS

TERMS AND CONDITIONS OF THE CLASS A CUMULATIVE REDEEMABLE PREFERENCE SHARES

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1 **INTERPRETATION**

1.1 In these A Preference Share Terms, unless the context indicates a contrary intention, the following words and expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings –

1.1.1 "**A Preference Dividend**" means each dividend declared (or deemed to be declared) in relation to any A Preference Share in accordance with the provisions of clause 3.1.1 of these A Preference Share Terms, together with any Additional Preference Dividends;

1.1.2 "**A Preference Share**" means a class A cumulative redeemable preference shares with a par value of R0.01 (one cent) each, and will have the rights, privileges and restrictions contained in the A Preference Share Terms;

1.1.3 "**A Preference Share Terms**" means the rights, privileges and restrictions attaching to the A Preference Shares, as set out in this document which is appended as **Schedule** "**1A**" to the Memorandum of Incorporation;

1.1.4 "**Accrued A Preference Dividends**" means, at any time, any and all A Preference Dividends or portions thereof which have accrued, but which have not yet been declared and paid at that time, whether or not there were any profits available for the payment of such A Preference Dividends;

1.1.5 "**Act**" shall have the meaning given to such term in the Memorandum of Incorporation;

1.1.6 "**Additional Preference Dividends**" means the additional preference dividends described in clause 7.2 of the A Preference Share Terms;

1.1.7 "**Adjustment Event**" means any one or more of the events, circumstances or occurrences described as an adjustment event in clause 7.1 of the A Preference Share Terms;

1.1.8 "**Adjustment Notice**" means the written notice referred to in clause 7.2 of the A Preference Share Terms;

1.1.9 "**Banks Act**" means the Banks Act, No 94 of 1990, as amended from time to time;

1.1.10 "**B Preference Share**" means a class B cumulative redeemable preference shares with a par value of R0.01 (one cent) each, which will have the rights, privileges and restrictions contained in the B Preference Share Terms;

1.1.11 "**B Preference Share Terms**" means the rights, privileges and restrictions attaching to the B Preference Shares, as set out in **Schedule** "**1B**" of the Memorandum of Incorporation;

1.1.12 "**Company**" shall have the meaning given to such term in the Memorandum of Incorporation;

1.1.13 "**Corporate Tax Rate**" means the rate at which normal income tax is levied on companies (other than mining companies, pension funds and life insurance companies) from time to time in terms of the Income Tax Act;

1.1.14 "**CPI**" means, as at any date, the annual average rate of change in the consumer price index for all areas and all items, expressed as a percentage, for the previous 4 (four) quarters as published in the Government Gazette by Statistics South Africa or its successor, or any other index which, if the aforementioned index ceases to be published, becomes the norm accepted in the banking industry for similar purposes, which annual change shall be determined by comparing the most

recently published index with the index published in respect of the corresponding month in the previous year;

1.1.15 "**Distribution**" means any distribution whatsoever to shareholders including distributions by way of dividends (including dividends *in specie*), capital reductions, share repurchases, fees, interest payments, royalties, repayments of loan accounts and the like;

1.1.16 "**Distribution Period**" means a period commencing on the first day and ending on the last day of every Half Year, provided that -

1.1.16.1 the first Distribution Period shall be the period from (and including) the Implementation Date and ending on the last day of the Half Year during which the Implementation Date occurred; and

1.1.16.2 if the Financial Year of the Company changes, the then uncompleted Distribution Period shall end on the last day of the then uncompleted Half Year (which may have been extended or brought forward as a result of the change in the Financial Year);

1.1.17 "**Dividend Payment Date**" means the due date on which the Company is obliged to pay any A Preference Dividend (but not the Additional Preference Dividend) as contemplated in clause 3 of these A Preference Share Terms;

1.1.18 "**Dividend Rate**" means, subject to the provisions of clauses 7.2 and 11.1 of these A Preference Share Terms, a variable rate equal to 95% (ninety five percent) of the Prime Rate, nominal annual compounded monthly in arrears;

1.1.19 "**Early Redemption Event**" means any one or more of the events, circumstances or occurrences described as an early redemption event in clause 9 of these A Preference Share Terms;

1.1.20 "**Facilities Agreement**" means the loan facilities agreement between, *inter alia*, Sea Harvest Corporation and SBSA, in terms whereof SBSA made funding available to Sea Harvest Corporation;

1.1.21 "**Financial Year**" means the financial year of the Company from time to time;

1.1.22 "**Group**" has the meaning given thereto in the Shareholders Agreement;

1.1.23 "**Half Year**" means –

1.1.23.1 a period of six months commencing on the first day of every Financial Year and ending on the last day of such six month period; and

1.1.23.2 a period of six months commencing on the first day after the expiry of the period described in clause 1.1.23.1 of these A Preference Share Terms and ending on the last day of such Financial Year;

1.1.24 "**Holder**" means a holder of the A Preference Shares from time to time;

1.1.25 "**Income Tax Act**" means the Income Tax Act, No 58 of 1962, as amended from time to time;

1.1.26 "**Indebtedness**" means any indebtedness of any nature whatsoever, which shall include any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent, and includes obligations under redeemable preference shares;

1.1.27 "**Indexed**" means in relation to any sum, that sum adjusted annually at the end of each Financial Year of the Company to take account of year-on-year changes in the CPI. In the event of a dispute between the Parties as to any adjustment, such dispute will be referred to Independent Auditors for determination, who shall act as experts and not as arbitrators;

1.1.28 "**Implementation Date**" means 28 May 2009;

1.1.29 "**Insolvency Event**" means, in relation to any entity or person, the occurrence of any of the following events or circumstances –

1.1.29.1 a meeting of that entity or person being convened to consider or pass a resolution, or a declaration is made in respect of that entity or

person, a petition is presented in respect of that entity or person, legal proceedings are finalised by or in respect of that entity or person or any other step is taken, to place the Company into business rescue or for the final winding-up or curatorship or dissolution of such entity/s or such person's assets, business or estate, or with a view to a composition, assignment or arrangement with such entity's or such person's creditors; or

1.1.29.2 any liquidator, curator, business rescue practitioner or similar officer being appointed in respect of such entity or person or any material part of its assets or undertakings or such entity or person requests such appointment;

1.1.30 "**Issue Date**" means, in respect of each Preference Share, the date upon which it is actually allotted and issued by the Company;

1.1.31 "**Memorandum of Incorporation**" means the memorandum of incorporation in respect of the Company, to which this document is attached as **Schedule** "**1**";

1.1.32 "**MIT**" has the meaning given thereto in the Shareholders Agreement;

1.1.33 "**MIT Relationship Agreement**" has the meaning given thereto in the Shareholders Agreement;

1.1.34 "**MIT2**" has the meaning given thereto in the Shareholders Agreement;

1.1.35 "**MIT2 Relationship Agreement**" has the meaning given thereto in the Shareholders Agreement;

1.1.36 "**MIT2 Subscription Agreement**" has the meaning given thereto in the Shareholders Agreement;

1.1.37 "**Ordinary Loans**" has the meaning given thereto in the Shareholders Agreement;

1.1.38 "**Ordinary Shares**" shall have the meaning given to such term in the Memorandum of Incorporation;

1.1.39 "**Outstanding A Preference Share**" means any A Preference Share which has been subscribed for by and allotted and issued, and which has not yet been redeemed;

1.1.40 "**Potential Early Redemption Event**" means any event or circumstance which, with the giving of notice, lapse of time or fulfilment of any other condition, would be or constitute an Early Redemption Event;

1.1.41 "**Prime Rate**" means the publicly quoted basic rate of interest, percent per annum, at which Nedbank Limited lends on unsecured overdraft, compounded monthly in arrear and calculated on a 365 (three hundred and sixty five) day year factor irrespective of whether the year is a leap year or not. A certificate issued under the hand of any manager (whose authority and appointment it shall not be necessary to prove) of Nedbank Limited as to the Prime Rate from time to time shall, in the absence of manifest error, be final and binding;

1.1.42 "**Priority of Payments**" means the priority of payments described in clause 6 of these A Preference Share Terms;

1.1.43 "**Redemption Amount**" means, in respect of each A Preference Share, the amount per A Preference Share payable on redemption of that A Preference Share which shall be the aggregate of –

1.1.43.1 the Subscription Price; plus

1.1.43.2 all Accrued A Preference Dividends calculated up to the Redemption Date notwithstanding that the Redemption Date would not otherwise have been a Dividend Payment Date;

1.1.44 "**Redemption Date**" means, in respect of each Preference Share, the date upon which that Preference Share is redeemed;

1.1.45 "**SBSA**" means The Standard Bank of South Africa Limited, registration number 1962/000738/06, a public company with limited liability duly incorporated in accordance with the corporate laws of the Republic of South Africa;

1.1.46 "**Sea Harvest Corporation**" means Sea Harvest Corporation Proprietary Limited (previously Business Venture Investments No. 1322 Proprietary Limited), registration number 2008/024147/07, a private company with limited liability duly incorporated in accordance with the corporate laws of the Republic of South Africa;

1.1.47 "**Shareholders Agreement**" shall have the meaning given to such term in the Memorandum of Incorporation;

1.1.48 "**STC**" means secondary tax on companies leviable in terms of Part VII of the Income Tax Act;

1.1.49 "**Subscription Price**" means, in respect of each A Preference Share, an amount equal to the par value thereof plus a premium of R99.99 (ninety nine rand and ninety nine cents), in the aggregate being an amount of R100.00 (one hundred rand) per A Preference Share;

1.1.50 "**Third Party Funding Agreements**" means –

1.1.50.1 the Facilities Agreement; and

1.1.50.2 any documents designated as Financing Documents in the Facilities Agreement,

and "**Third Party Funding Agreement**" means, as the context requires, any one of them.

1.2 Any reference in these A Preference Share Terms to –

1.2.1 "**continuing**", in the context of an Early Redemption Event, means –

1.2.1.1 where an Early Redemption Event or its consequences are incapable of remedy that Early Redemption Event is deemed to be continuing unless it has been expressly waived in writing by the Holder and all conditions of such waiver have been fulfilled to the reasonable satisfaction of the Holder;

1.2.1.2 in any other case, that Early Redemption Event is deemed to be continuing unless and until –

1.2.1.2.1 it has been expressly waived in writing by the Holder and all conditions of such waiver have been fulfilled to the reasonable satisfaction of the Holder; or

1.2.1.2.2 it has been remedied and the resulting position is that which it would have been if such Early Redemption Event had not occurred; and

1.2.2 "**tax**" means all income tax, capital gains tax, dividends tax, value added tax, stamp duty, securities transfer tax, uncertificated securities tax, levies, assessments, imposts, deductions, charges and withholdings whatsoever in terms of any tax legislation, and includes all penalties or interest payable as a consequence of any failure or delay in paying any taxes.

1.3 Save as specifically otherwise provided, in these A Preference Share Terms the words "clause" or "clauses" refer to clauses of these A Preference Share Terms.

1.4 Any reference to –

1.4.1 the singular includes the plural and vice versa;

1.4.2 natural persons includes juristic persons and vice versa;

1.4.3 any one sex or gender includes the other sex or gender, as the case may be;

1.4.4 "**including**" (or words of similar meaning) means to include without limitation, and if the expression is used with reference to specific examples the "*eiusdem generis*" rule shall not apply, and "**include**" shall have a corresponding meaning;

1.4.5 "**law**" means any law of general application and includes the common law and any statute, constitution, decree, treaty, regulation, directive, ordinance, by-law, order or any other enactment of legislative measure of government (including local and provincial government) statutory or regulatory body which has the force of law as at the Issue Date and as amended or re-enacted from time to time;

1.4.6 "**writing**" (or words of similar meaning) means legible writing and in English and excludes any form of electronic communication contemplated in the Electronic Communications and Transactions Act, No. 25 of 2002, and "**written**" or "**writing**" shall have a corresponding meaning;

1.4.7 a party includes a reference to that party's successors in title and assigns allowed at law.

1.5 The words "**shall**" and "**will**" and "**must**" used in the context of any obligation or restriction imposed on a party have the same meaning.

1.6 The clause headings in these Preference Share Terms have been inserted for convenience only and shall not be taken into account in its interpretation.

1.7 Words and expressions defined in any sub-clause shall, for the purpose of the clause of which that sub-clause forms part, bear the meaning assigned to such words and expressions in that sub-clause.

1.8 If any provision in a definition is a substantive provision conferring rights or imposing obligations, effect shall be given to that provision as if it were a substantive clause in the body of the agreement, notwithstanding that it is only contained in the interpretation clause.

1.9 If any period is referred to in these Preference Share Terms by way of a reference to a number of days or weeks or months or other intervals, the period shall be reckoned exclusively of the 1st (first) day and inclusively of the last day of the relevant interval, unless the last day falls on a day which is not a business day, in which case the last day shall be the next succeeding business day.

1.10 If the due date for performance of any obligation in terms of these Preference Share Terms is a day which is not a business day then (unless otherwise stipulated) the due date for performance of the relevant obligation shall be the immediately preceding business day.

1.11 If any obligation or act is required to be performed on a particular day it shall be performed (unless otherwise stipulated) by 17h00 (local time at the place where the obligation or act is required to be performed) on that day.

1.12 These A Preference Share Terms shall be governed, interpreted and enforced in accordance with the laws of the South Africa from time to time.

1.13 If amounts or figures are specified in numerals and in words and if there is any discrepancy between the numerals and the words then the words shall apply.

1.14 The rule of construction that these A Preference Share Terms shall be interpreted against the party responsible for the drafting of these A Preference Share Terms, shall not apply.

1.15 Any reference in these A Preference Share Terms to "these A Preference Share Terms" or any other agreement or document shall be construed as a reference to these A Preference Share Terms or, as the case may be, such other agreement or document, as amended, varied, novated or supplemented from time to time.

1.16 A reference to any statutory enactment shall be construed as a reference to that enactment as at the Issue Date and as amended or substituted from time to time.

1.17 Whenever any person is required to act "as an expert and not as an arbitrator" in terms of these Preference Share Terms, then –

1.17.1 the determination of the expert shall (in the absence of manifest error) be final and binding;

1.17.2 subject to any express provision to the contrary, the expert shall determine the liability for his, her or its charges, which shall be paid accordingly;

1.17.3 the expert shall be entitled to determine such methods and processes as he or she or it may, in his, her or its sole discretion, deem appropriate in the circumstances provided that the expert may not adopt any process which is manifestly biased, unfair or unreasonable;

1.17.4 the expert shall consult with the relevant parties (provided that the extent of the expert's consultation shall be in his, her or its sole discretion) prior to rendering a determination; and

1.17.5 having regard to the sensitivity of any confidential information, the expert shall be entitled to take advice from any person considered by him or her or it to have expert knowledge with reference to the matter in question.

2 SUBSCRIPTION, ALLOTMENT AND ISSUE

2.1 Each A Preference Share shall have a par value of R0.01 (one cent) and has been issued, credited as fully paid up, at par plus a premium in the aggregate equal to the Subscription Price.

2.2 Upon receipt of payment of the Subscription Price, the Company shall credit an amount of -

2.2.1 R0.01 (one cent) per A Preference Share to its share capital account; and

2.2.2 R99.99 (ninety nine rand and ninety nine cents) per A Preference Share to its share premium account.

3 DIVIDEND RIGHTS

3.1 The A Preference Shares shall, subject to the remaining provisions of these A Preference Share Terms, confer on the Holder the right to receive cumulative preferential cash dividends which shall -

3.1.1 be calculated at the Dividend Rate on an amount equal to the Subscription Price together with all A Preference Dividends which have been compounded in accordance with the provisions of clause 3.1.3 of these A Preference Share Terms, for the period from and including the Issue Date to but excluding the Redemption Date;

3.1.2 be calculated on the basis of the actual number of days elapsed and a 365 (three hundred and sixty five) day year, whether or not the year is a leap year; and

3.1.3 accrue on a daily basis and be compounded monthly in arrears; and

3.1.4 be payable on the Redemption Date of the A Preference Share in question unless paid earlier in accordance with the Priority of Payments.

3.2 Notwithstanding anything to the contrary contained in these A Preference Share Terms, the Company shall only be obliged to declare and pay any A Preference Dividend if and to the extent that –

3.2.1 such declaration and payment is permissible under the Third Party Funding Agreements and these A Preference Share Terms; and

3.2.2 the Company has available cash resources to make such payment.

4 RANKING

The obligation to make payment under these A Preference Share Terms of any amount due to the Holder shall be in preference and priority to the obligations to make payment to and the rights to receive payment of, the holder of any B Preference Shares, Ordinary Shares, other class of shares in the capital of the Company, or Ordinary Loans.

5 RIGHTS UPON WINDING-UP OF THE COMPANY

On a winding-up of the Company, the A Preference Shares shall confer the right to the payment of an amount equal to the Redemption Amount per A Preference Share. Such payment shall be in priority to any payment to the holders of any B Preference Shares, Ordinary Shares, other class of share in the capital of the Company or Ordinary Loans.

6 PRIORITY OF PAYMENTS

6.1 Subject always to the Third Party Funding Agreements, the Company shall procure that the excess cash in Sea Harvest Corporation and all other subsidiaries of the Company is distributed to the Company by not later than the end of every Distribution Period.

6.2 All cash received by the Company from time to time shall within 5 (five) business days be applied by the Company in the following order of priority –

6.2.1 firstly, to the full extent possible taking into account the amount of available cash, to pay any current and provide for the reasonably anticipated future tax liabilities of the Company;

6.2.2 thereafter, to the full extent possible taking into account the amount of the remaining available cash, to pay any current and provide for the reasonably anticipated future administration costs of the Company, subject to a maximum amount of R40,000.00 (forty thousand rand) (Indexed) in any Financial Year;

6.2.3 thereafter, to the full extent possible taking into account the amount of the remaining available cash, to pay or provide for the management fees contemplated in clause 9 of the Shareholders Agreement;

6.2.4 thereafter, to the full extent possible taking into account the amount of the remaining available cash, to declare and pay accrued preference dividends in respect of the B Preference Shares, together with any associated taxes and expenses;

6.2.5 thereafter, to the full extent possible taking into account the amount of the remaining available cash -

6.2.5.1 prior to the expiry of a period of 10 (ten) years and 1 (one) day after the date upon which the B Preference Shares were issued, at the Company's election (i) to retain such amount in a redemption reserve account established for the purpose, or (ii) to redeem the B Preference Shares;

6.2.5.2 after the date of expiry of a period of 10 (ten) years and 1 (one) day after the date upon which the B Preference Shares were issued, to redeem the B Preference Shares; and

6.2.6 thereafter, to the full extent possible taking into account the amount of the remaining available cash, and only after the Company has complied

with all its obligations under the B Preference Shares, and all B Preference Shares have been redeemed in full, to make Distributions as contemplated in clause 13.2 of the Shareholders Agreement, as read with clause 35 of the Memorandum of Incorporation.

6.3 Notwithstanding clause 6.2, in the event of the Company undertaking a refinance, any proceeds (the "**Refinance Proceeds**") from such refinance after settling the outstandings under the Third Party Funding Agreements (if any) and earmarked for distribution shall, subject to clause 6.4, be applied in the following order of priority –

6.3.1 firstly, to declare and pay any accumulated dividends in respect of the B Preference Shares;

6.3.2 thereafter, to the full extent possible taking into account the amount of the remaining balance of the Refinance Proceeds, to redeem all the remaining B Preference Shares;

6.3.3 thereafter, to the full extent possible taking into account the amount of the remaining balance of the Refinance Proceeds, to repurchase Ordinary Shares held by MIT in accordance with the MIT Relationship Agreement;

6.3.4 thereafter, to the full extent possible taking into account the amount of the remaining balance of the Refinance Proceeds, to repurchase Ordinary Shares (1) to settle the Notional Funding Amount (as defined in the MIT2 Subscription Agreement) in accordance with the MIT2 Subscription Agreement, and (2), if any balance remains after such repurchase, making up the First Tranche (as defined in the MIT2 Relationship Agreement) (to the extent not yet repurchased by the Company) held by MIT2 in accordance with the MIT2 Relationship Agreement;

6.3.5 thereafter, to the full extent possible taking into account the amount of the remaining balance of the Refinance Proceeds, to make Distributions to the Ordinary Shareholders,

6.4 In the event of any refinance undertaken by the Group contemplated in clause 6.3, the Refinance Proceeds earmarked for distribution is not sufficient to redeem all the B Preference Shares and declare and pay all accumulated dividends thereon in full, and the Company will not have sufficient cash to repurchase all the Ordinary Shares held by MIT following such distribution and redemption, the Company shall be obliged to use the available Refinance Proceeds earmarked for distribution as follows –

6.4.1 30% (thirty percent) of the Refinance Proceeds shall be used to repurchase Ordinary Shares held by MIT; and

6.4.2 70% (seventy percent) of the Refinance Proceeds shall be used to declare and pay dividends on the B Preference Shares and, to the extent possible, redeem B Preference Shares.

6.5 All Distributions received by the Company which are not in the nature of cash shall be disposed of by the Company at fair market value. Any cash proceeds received by the Company pursuant to any disposal as aforesaid shall be dealt with in accordance with the Priority of Payments.

6.6 All payments made in accordance with the Priority of Payments shall be made *pro rata* (based on the number of A Preference Shares held) to the respective Holders of A Preference Shares, save as specifically otherwise provided herein.

7 ADJUSTMENT EVENT

7.1 An Adjustment Event shall occur if after the Issue Date there is in relation to any Holder ("**Affected Holder**") -

7.1.1 any change in any law, or the interpretation or application thereof, or the introduction of any new law, which -

7.1.1.1 increases the cost of subscribing for, holding and/or funding the A Preference Shares;

7.1.1.2 reduces the net after-tax dividend receipt to the Affected Holder; or

7.1.1.3 reduces the net after-tax return to the Affected Holder, including any tax imposed on or in respect of the declaration of dividends, or the imposition of any tax on or in respect of any amount received in respect of the A Preference Share (whether such tax is imposed on dividends, return of capital, as a withholding tax, or otherwise);

7.1.2 for so long as the Affected Holder is a bank duly registered as such in accordance with the Banks Act, or where all of the obligations of the Holder from time to time are guaranteed by, or the Affected Holder is a subsidiary or fellow subsidiary of, a bank or a bank holding company, or the Affected Holder is otherwise obliged to comply with the Banks Act, any -

7.1.2.1 proposal to be implemented in terms of the Basel III Accord is implemented on a basis materially different to that proposed as at the Issue Date;

7.1.2.2 directive of any central bank or any other fiscal, monetary, regulatory or other authority in the Republic of South Africa;

7.1.2.3 change in banking practice as it affects or is applied generally by banks and/or financial institutions in the Republic of South Africa;

7.1.2.4 requirement or request by any central bank or statutory or monetary authority with which banks in the Republic of South Africa generally comply to pay any amounts (including an increase in the Corporate Tax Rate) or maintain special deposits or reserve assets in addition to those paid or maintained or reserved by the Affected Holder at the Implementation Date; or

7.1.2.5 compliance by the Affected Holder with any reserve, cash ratio, special deposit or liquidity requirement (or any other similar requirement) in respect of the A Preference Shares,

which is applicable to the Affected Holder and which has any of the effects described in clauses 7.1.1.1 to 7.1.1.3 of these A Preference Share Terms;

7.1.3 any tax suffered, incurred or payable by the Affected Holder or for which the Affected Holder becomes liable on, or in respect of any A Preference Share (including as a result of the subscription for, the holding and/or funding of the A Preference Share) the A Preference Dividends or any amount payable on redemption of the A Preference Share;

7.1.4 any circumstance which results in the Affected Holder not being entitled to take any A Preference Dividend declared to the Affected Holder fully into account in determining its liability for any tax (whether on dividends or otherwise);

7.1.5 any change in the Income Tax Act or any other law, which has the effect that the A Preference Dividends declared to the Affected Holder is not fully taken into account in determining and/or reducing that Affected Holder's liability for any tax on dividends; or

7.1.6 any change in the Corporate Tax Rate.

7.2 Upon or at any time after the occurrence of any Adjustment Event, the Affected Holder shall be entitled, notwithstanding anything to the contrary herein contained, to give written notice thereof to the Company and require that the Company forthwith declare additional preference dividends ("**Additional Preference Dividends**") in such amount as to place the Affected Holder in the same net after-tax position as if that Adjustment Event had not taken place, and thereafter to increase the Dividend Rate by such margin as is necessary to ensure that the Affected Holder remains in the same net after-tax position as if the Adjustment Event had not taken place. The Adjustment Notice shall specify the Adjustment Event in question, the amount of the Additional Preference Dividends and the increase in the Dividend Rate, and shall, in addition, specify the date upon which the Additional Preference Dividends must be declared and paid and from which the increase in the Dividend Rate shall take effect (which may be a date prior to the date of the Adjustment Notice).

7.3 If, after all of the A Preference Shares have been redeemed, the effect of an Adjustment Event only becomes apparent, or the Affected Holder only becomes aware of the effects of such Adjustment Event after all of the A

Preference Shares have been redeemed, the Company shall and hereby does indemnify and hold the Affected Holder harmless against the effect of such Adjustment Event and, accordingly, shall pay to the Affected Holder, forthwith on demand, such amount as may be required to place the Affected Holder in the same net after-tax position it would have been in but for the occurrence of such Adjustment Event or the effects thereof only becoming apparent after the redemption of all of the A Preference Shares (including such amount as may be necessary to fully compensate such Affected Holder for the loss of any STC or other dividends tax credit).

7.4 It is specifically recorded that in calculating the net after-tax position in which an Affected Holder would have been, it will be assumed that the Holder would have received STC credits on all dividends or deemed dividends at a rate of 10% (ten percent).

7.5 In these A Preference Share Terms, where an event has occurred which requires that an amount be calculated in order to place the Holder in the same net after-tax position that it would have been in had the event not occurred, the amount so calculated shall be increased at the Dividend Rate, calculated from and including the date as at which the calculation is made to but excluding the date upon which the amount is actually received by the Holder.

7.6 Each Holder's rights arising from the provisions of this clause 7 shall survive the expiry by effluxion of time or redemption of the A Preference Shares for any reason and shall be enforceable by the Affected Holder, its successors and cessionaries, until the last day of the 3rd (third) year following the year of assessment in which the Holder is finally assessed for tax in respect of all receipts and accruals pertaining to its Preference Shares.

7.7 After payment by the Company of any amount envisaged in this clause 7 as a consequence of any tax suffered, incurred or payable by an Affected Holder, the Company and the Affected Holder shall consult as to whether to object to any assessment which captured the tax suffered, incurred or payable and to decide on the appropriate steps to be taken. Any objection and other steps shall be for the sole account of the Company which shall

indemnify the Affected Holders in respect thereof on demand. It is specifically recorded that no objection shall be made or other steps taken unless the Affected Holder has first agreed thereto in writing and the Affected Holder has been given adequate security for the costs so to be incurred.

8 REDEMPTION

Subject to the Priority of Payments, the Company shall be entitled, but not obliged, to redeem all or any of the Outstanding A Preference Shares, pro rata to the holdings of all Holders, at the Redemption Amount upon not less than 10 (ten) business days prior written notice to the Holder.

9 EARLY REDEMPTION

9.1 An Early Redemption Event shall occur, if, unless the Holder has given its prior written consent –

9.1.1 the Company breaches any of its obligations under the Shareholders Agreement and/or these A Preference Share Terms and/or the B Preference Share Terms, including any positive or negative undertaking contained in the Shareholders Agreement and fails to remedy such breach to the satisfaction of the Holder within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring it to do so;

9.1.2 the Company breaches any of its obligations under the Shareholders Agreement, and fails to remedy such breach to the satisfaction of the Holder within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring it to do so;

9.1.3 the Company breaches any of its obligations under any Third Party Funding Agreements, and fails to remedy such breach during the applicable cure period provided for in the applicable agreement;

9.1.4 any Indebtedness of the Company in excess of R100,000.00 (one hundred thousand rand) is not paid on the due date, or after any remedy period agreed to by the relevant creditor, and the Company fails to settle

such Indebtedness within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring it to do so unless the Company is, within such notice period, able to demonstrate to the satisfaction of the Holder that the amount of the Indebtedness is in dispute and that reasonable steps to contest the claim are being taken in good faith;

9.1.5 the Company sells, alienates or otherwise disposes, or enters into any transaction for the sale, alienation or other disposal of, any of its material assets and fails to remedy the position to the satisfaction of the Holder within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring it to do so;

9.1.6 the Company takes any corporate action, or other steps are taken or legal proceedings are started, for its winding-up (whether provisionally or final), dissolution, administration or re-organisation or for the appointment of a liquidator, receiver, administrator, administrative receiver, trustee or similar officer and the Company fails to remedy the position to the satisfaction of the Holder within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring it to do so, unless the Company is, within such notice period, able to demonstrate to the satisfaction of the Holder that such steps or proceedings are of a vexatious or frivolous nature;

9.1.7 a judgment in an amount in excess of R100,000.00 (one hundred thousand rand) is entered against the Company and the Company fails, within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring it to do so, either to satisfy the judgment or to apply for it to be set aside or to appeal against it and in the event of such application or appeal being unsuccessful, fails to make immediate payment;

9.1.8 any execution, attachment or similar process is levied upon or against any of the assets or property of the Company with a value of more than R100,000.00 (one hundred thousand rand) which is not paid or discharged within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring it to do so unless the

Company is, within such notice period, able to demonstrate to the satisfaction of the Holder that such execution, attachment or similar process is in dispute and that reasonable steps to contest same are being taken in good faith;

9.1.9 a creditor takes possession or a business rescue practitioner or liquidator is appointed in respect of the whole or any part of the property, assets or revenue of the Company with a value of more than R100,000.00 (one hundred thousand rand) or institutes any legal proceedings at any time to enforce any security granted by the Company with a value of more than R100,000.00 (one hundred thousand rand), unless, in either case, the underlying Indebtedness to the creditor in question is discharged within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring it to do so or unless the Company is, within such notice period, able to demonstrate to the satisfaction of the Holder that such Indebtedness or legal proceedings are disputed by the Company in good faith and reasonable steps are being taken by the Company in regard thereto;

9.1.10 any A Preference Dividend is not paid on the relevant Dividend Payment Date and the Company fails to remedy such breach within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring it to do so;

9.1.11 any portion of the Redemption Amount is not paid on the due date for payment thereof, and the Company fails to remedy such breach to the satisfaction of the Holder within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring it to do so;

9.1.12 any Insolvency Event occurs in relation to the Company, and the position is not rectified to the satisfaction of the Holder within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring the position to be rectified;

9.1.13 business rescue proceedings are commenced in respect of the Company or any provisional order of liquidation is given in a court of competent jurisdiction in respect of the Company, whether compulsorily

or voluntarily and the Company fails to remedy the position to the satisfaction of the Holder within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring it to do so;

9.1.14 any final order of liquidation is given in a court of competent jurisdiction in respect of the Company, whether compulsorily or voluntarily; or

9.1.15 the Company makes or attempts to make or recommends a general offer of compromise with all or any class of its creditors, and the Company does not cease such activities to the satisfaction of the Holder within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring the Company to cease such activities.

9.2 Upon the occurrence of an Early Redemption Event and at any time while it is continuing, the Holder shall be entitled, on written notice to the Company, to require the Company to redeem all Outstanding A Preference Shares at the Redemption Amount.

10 PROCEDURE FOR REDEMPTION

10.1 Upon the redemption of any A Preference Share, the Holder shall be obliged to surrender to the Company the certificates relating thereto in order that same may be cancelled. Should the Holder be unable to surrender a certificate to the Company in accordance with the aforegoing, the Holder may *in lieu* thereof provide the Company with an indemnity in a form reasonably acceptable to the Company.

10.2 If any certificate surrendered pursuant to any redemption of any of the A Preference Shares includes any A Preference Shares not being redeemed on the occasion on which it is so surrendered, then a new certificate for the remainder of the A Preference Shares not so being redeemed shall be issued free of charge to the Holder.

10.3 Should the Company not have sufficient profits or proceeds from a fresh issue of shares from which to pay the par value of the A Preference Shares upon the redemption thereof, the Holder shall have the right, but shall not be obliged, to subscribe at par for such number of redeemable preference shares, the par value of which would enable the par value of the A

Preference Shares to be redeemed. The Company shall be obliged to pass the necessary special resolution pursuant to the Act to provide for the rights attaching to such redeemable preference shares, which rights shall be those *mutatis mutandis* set forth in these A Preference Share Terms, save that –

10.3.1 such redeemable preference shares shall not be issued at a premium;

10.3.2 such redeemable preference shares shall be redeemable by the Company at any time in cash following their issue; and

10.3.3 the preference dividends in respect of such redeemable preference shares shall be declared and paid at the discretion of the directors of the Company.

10.4 The Ordinary Shareholder and the holders of all other classes of shares in the capital of the Company irrevocably and *in rem suam* appoint the Holder as their attorney and agent to pass such special resolution and any special resolution necessary to increase the authorised share capital of the Company to include the preference shares referred to in clause 10.3 of these A Preference Share Terms.

11 INCREASE IN RESPECT OF ARREARS

If any A Preference Dividend or Redemption Amount is not paid on the due date therefor, then, for so long as the amount due by the Company in respect of the A Preference Dividend or Redemption Amount remains in arrear –

11.1 the Dividend Rate will increase by 200 (two hundred) basis points; and

11.2 the amount due by the Company in respect of the arrear A Preference Dividend or Redemption Amount shall be increased by an amount arrived at by applying the increased Dividend Rate on the same basis as set out in clause 3.1 of these A Preference Share Terms, *mutatis mutandis*, to the amount of the arrear A Preference Dividend or Redemption Amount from and including the due date for payment thereof to but excluding the actual date of payment, and shall be payable by the Company on any date it

elects, but by no later than the next Dividend Payment Date or the Redemption Date.

12 DISTRIBUTIONS TO SHAREHOLDERS

Save as permitted in terms of the Priority of Payments, and notwithstanding clause 35 of the Memorandum of Incorporation, no Distributions of any nature whatsoever will be made by the Company to the holders of any other shares in the capital of the Company until all the A Preference Shares have been redeemed and all amounts payable in respect of the A Preference Shares have been fully and finally paid.

13 VOTING RIGHTS AND GENERAL MEETINGS

13.1 The Holder shall be entitled to attend, but not to vote, either in person or by proxy, at any meeting of the shareholders of the Company, unless one or more of the following circumstances prevail at the date of the meeting –

13.1.1 any A Preference Dividends or any part thereof remains in arrear and unpaid after 5 (five) business days from the due date thereof;

13.1.2 any Redemption Amount remains in arrear and unpaid after 5 (five) business days from due date thereof;

13.1.3 any Early Redemption Event has occurred and is continuing; or

13.1.4 any resolution of the Company is proposed which directly affects the rights and privileges attached to the A Preference Shares or the interests of the Holder, including the proposal of a resolution for in the commencement of business rescue proceedings in respect of the Company or for the winding-up or liquidation, whether provisionally or finally, of the Company, or for the reduction of its capital.

13.2 The Company shall be obliged to give the Holder notice, in terms of the Act, of any general or adjourned general meeting. At every general or adjourned general meeting at which the Holder is entitled to vote, the provisions of the Memorandum of Incorporation relating to general or adjourned general meetings of ordinary members shall apply *mutatis mutandis*.

13.3 At any general or adjourned general meeting of the Company at which the Holder is present or represented and entitled to vote, and notwithstanding anything to the contrary contained in the Memorandum of Incorporation, upon a poll, the Holder will be entitled, in respect of each Outstanding A Preference Share then held, to 1,000 (one thousand) votes per Outstanding A Preference Share.

14 PAYMENTS

14.1 All payments to be made by the Company to the Holder shall be made at or before 12h00 on the due date for payment in immediately available funds, free of exchange and bank commission and without deduction, set-off or demand.

14.2 All payments to be made by the Company to the Holder shall be made into such banking account/s as the Holder may notify the Company in writing from time to time.

14.3 The Company shall have no right to defer, withhold or adjust any payment due to the Holder.

15 GENERAL

15.1 The terms of the A Preference Shares may not be modified, altered, varied, added to or abrogated without the prior written consent of the Holder.

15.2 No shares in the capital of the Company ranking, as regards rights to dividends, or on a winding-up as regards capital, in priority to or *pari passu* with the A Preference Shares shall be created or issued without the prior written consent of the Holder.

15.3 All provisions and the various clauses of these A Preference Share Terms are, notwithstanding the manner in which they have been grouped together or linked grammatically, severable from each other. Any provision or clause of these A Preference Share Terms which is or becomes unenforceable in any jurisdiction, whether due to voidness, invalidity, illegality, unlawfulness or for any other reason whatever, shall, in such jurisdiction only and only to the extent that it is so unenforceable, be treated

as *pro non scripto* and the remaining provisions and clauses of these A Preference Share Terms shall remain of full force and effect.

15.4 A certificate delivered by the Holder to the Company, reflecting the amount owing by the Company to the Holder, will be *prima facie* proof of the amount owing. The appointment of the officer, manager or employee of the Holder providing such certification, shall not be required to be proved.

15.5 The A Preference Shares shall not be listed on any securities exchange.

SCHEDULE "1B"

B PREFERENCE SHARE TERMS

TERMS AND CONDITIONS OF THE CLASS B CUMULATIVE REDEEMABLE PREFERENCE SHARES

1 INTERPRETATION

1.1 In these B Preference Share Terms, unless the context indicates a contrary intention, the following words and expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings –

1.1.1 "**A Preference Shares**" means the class A cumulative redeemable preference shares with a par value of R0.01 (one cent) each, which will have the rights, privileges and restrictions contained in the A Preference Share Terms;

1.1.2 "**A Preference Share Terms**" means the rights, privileges and restrictions attaching to the A Preference Shares, as set out in **Schedule** "**1A**" to the Memorandum of Incorporation;

1.1.3 "**Accrued B Preference Dividends**" means, at any time, any and all B Preference Dividends or portions thereof which have accrued, but which have not yet been declared and paid at that time, whether or not there were any profits available for the payment of such B Preference Dividends;

1.1.4 "**Act**" shall have the meaning given to such term in the Memorandum of Incorporation;

1.1.5 "**Additional Preference Dividends**" means the additional preference dividends described in clause 7.2 of these B Preference Share Terms;

1.1.6 "**Adjustment Event**" means any one or more of the events, circumstances or occurrences described as an adjustment event in clause 7.1 of these B Preference Share Terms;

1.1.7 "**Adjustment Notice**" means the written notice referred to in clause 7.2 of these B Preference Share Terms;

1.1.8 "**B Preference Dividend**" means each dividend declared (or deemed to be declared) in relation to any B Preference Share in accordance with the provisions of clause 3.1.1 of these B Preference Share Terms, together with any Additional Preference Dividends;

1.1.9 "**B Preference Shares**" means class B cumulative redeemable preference shares with par value of R0.01 (one cent) each, and will have the rights, privileges and restrictions contained in these B Preference Share Terms;

1.1.10 "**B Preference Share Terms**" means the rights, privileges and restrictions attaching to the B Preference Shares, as set out in this document which is appended as **Schedule** "**1B**" to the Memorandum of Incorporation;

1.1.11 "**Banks Act**" means the Banks Act, No 94 of 1990;

1.1.12 "**Company**" shall have the meaning given to such term in the Memorandum of Incorporation;

1.1.13 "**Corporate Tax Rate**" means the rate at which normal income tax is levied on companies (other than mining companies, pension funds and life insurance companies) from time to time in terms of the Income Tax Act;

1.1.14 "**CPI**" means, as at any date, the annual average rate of change in the consumer price index for all areas and all items, expressed as a percentage, for the previous 4 (four) quarters as published in the Government Gazette by Statistics South Africa or its successor, or any other index which, if the aforementioned index ceases to be published, becomes the norm accepted in the banking industry for similar purposes, which annual change shall be determined by comparing the most recently published index with the index published in respect of the corresponding month in the previous year;

1.1.15 "**Distribution**" means any distribution whatsoever to shareholders including distributions by way of dividends (including dividends *in specie*), capital reductions, share repurchases, fees, interest payments, royalties, repayments of loan accounts and the like;

1.1.16 "**Distribution Period**" means a period commencing on the first day and ending on the last day of every Half Year, provided that -

1.1.16.1 the first Distribution Period shall be the period from (and including) the Implementation Date and ending on the last day of the Half Year during which the Implementation Date occurred; and

1.1.16.2 if the Financial Year of the Company changes, the then uncompleted Distribution Period shall end on the last day of the then uncompleted Half Year (which may have been extended or brought forward as a result of the change in the Financial Year);

1.1.17 "**Dividend Payment Date**" means the due date on which the Company is obliged to pay any B Preference Dividend (but not the Additional Preference Dividend) as contemplated in clause 3;

1.1.18 "**Dividend Rate**" means, subject to the provisions of clauses 7.2 and 11.1 of these B Preference Share Terms a variable rate equal to 95% (ninety five percent) of the Prime Rate, nominal annual compounded monthly in arrears;

1.1.19 "**Early Redemption Event**" means any one or more of the events, circumstances or occurrences described as an early redemption event in clause 9 of these B Preference Share Terms;

1.1.20 "**Facilities Agreement**" means the loan facilities agreement between, *inter alia*, Sea Harvest Corporation and SBSA, in terms whereof SBSA made funding available to Sea Harvest Corporation;

1.1.21 "**Financial Year**" means the financial year of the Company from time to time;

1.1.22 "**Group**" has the meaning given thereto in the Shareholders Agreement;

1.1.23 "**Half Year**" means –

1.1.23.1 a period of 6 (six) months commencing on the first day of every Financial Year and ending on the last day of such 6 (six) month period; and

1.1.23.2 a period of 6 (six) months commencing on the first day after the expiry of the period described in clause 1.1.23.1 of these B Preference Share Terms and ending on the last day of such Financial Year;

1.1.24 "**Holder**" means a holder of the B Preference Shares from time to time;

1.1.25 "**Income Tax Act**" means the Income Tax Act, No 58 of 1962;

1.1.26 "**Indebtedness**" means any indebtedness of any nature whatsoever, which shall include any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent, and includes obligations under redeemable preference shares;

1.1.27 "**Indexed**" means in relation to any sum, that sum adjusted annually at the end of each Financial Year of the Company to take account of year-on-year changes in the CPI. In the event of a dispute between the Parties as to any adjustment, such dispute will be referred to Independent Auditors for determination, who shall act as experts and not as arbitrators;

1.1.28 "**Implementation Date**" means 28 May 2009;

1.1.29 "**Insolvency Event**" means, in relation to any entity or person, the occurrence of any of the following events or circumstances –

1.1.29.1 a meeting of that entity or person being convened to consider or pass a resolution, or a declaration is made in respect of that entity or person, a petition is presented in respect of that entity or person, legal proceedings are finalised by or in respect of that entity or person or any other step is taken, for placing the Company into business rescue or the final winding-up or curatorship or dissolution of such entity/s or

such person's assets, business or estate, or with a view to a composition, assignment or arrangement with such entity's or such person's creditors; or

1.1.29.2 any liquidator, curator, business rescue practitioner or similar officer being appointed in respect of such entity or person or any material part of its assets or undertakings or such entity or person requests such appointment;

1.1.30 "**Issue Date**" means, in respect of each B Preference Share, the date upon which it is actually allotted and issued by the Company;

1.1.31 "**Memorandum of Incorporation**" means the memorandum of incorporation in respect of the Company, to which this document is attached as **Schedule** "**1B**";

1.1.32 "**MIT**" has the meaning given thereto in the Shareholders Agreement;

1.1.33 "**MIT Relationship Agreement**" has the meaning given thereto in the Shareholders Agreement;

1.1.34 "**MIT2**" has the meaning given thereto in the Shareholders Agreement;

1.1.35 "**MIT2 Relationship Agreement**" has the meaning given thereto in the Shareholders Agreement;

1.1.36 "**MIT2 Subscription Agreement**" has the meaning given thereto in the Shareholders Agreement;

1.1.37 "**Ordinary Loans**" has the meaning given thereto in the Shareholders Agreement;

1.1.38 "**Ordinary Shares**" shall have the meaning given to such term in the Memorandum of Incorporation;

1.1.39 "**Outstanding B Preference Share**" means any B Preference Share which has been subscribed for by and allotted and issued, and which has not yet been redeemed;

1.1.40 "**Potential Early Redemption Event**" means any event or circumstance which, with the giving of notice, lapse of time or fulfilment of any other condition, would be or constitute an Early Redemption Event;

1.1.41 "**Prime Rate**" means the publicly quoted basic rate of interest, percent per annum, at which Nedbank Limited lends on unsecured overdraft, compounded monthly in arrear and calculated on a 365 (three hundred and sixty five) day year factor irrespective of whether the year is a leap year or not. A certificate issued under the hand of any manager (whose authority and appointment it shall not be necessary to prove) of Nedbank Limited as to the Prime Rate from time to time shall, in the absence of manifest error, be final and binding;

1.1.42 "**Priority of Payments**" means the priority of payments described in clause 6 of these B Preference Share Terms;

1.1.43 "**Redemption Amount**" means, in respect of each B Preference Share, the amount per B Preference Share payable on redemption of that B Preference Share which shall be the aggregate of –

1.1.43.1 the Subscription Price; plus

1.1.43.2 all Accrued B Preference Dividends calculated up to the Redemption Date notwithstanding that the Redemption Date would not otherwise have been a Dividend Payment Date;

1.1.44 "**Redemption Date**" means, in respect of each Preference Share, the date upon which that Preference Share is redeemed;

1.1.45 "**SBSA**" means The Standard Bank of South Africa Limited, registration number 1962/000738/06, a public company with limited liability duly incorporated in accordance with the corporate laws of the Republic of South Africa;

1.1.46 "**Sea Harvest Corporation**" means Sea Harvest Corporation Proprietary Limited, registration number 2008/024147/07, a limited liability private company, duly incorporated in accordance with the corporate laws of South Africa;

1.1.47 "**Shareholders Agreement**" shall have the meaning given to such term in the Memorandum of Incorporation;

1.1.48 "**STC**" means secondary tax on companies leviable in terms of Part VII of the Income Tax Act;

1.1.49 "**Subscription Price**" means, in respect of each B Preference Share, an amount equal to the par value thereof plus a premium of R99.99 (ninety nine rand and ninety nine cents), in the aggregate being an amount of R100.00 (one hundred rand) per B Preference Share;

1.1.50 "**Third Party Funding Agreements**" means –

1.1.50.1 the Facilities Agreement; and

1.1.50.2 any documents designated as Financing Documents in the Facilities Agreement,

and "**Third Party Funding Agreement**" means, as the context requires, any one of them.

1.2 Any reference in these B Preference Share Terms to –

1.2.1 "**continuing**", in the context of an Early Redemption Event, means –

1.2.1.1 where an Early Redemption Event or its consequences are incapable of remedy that Early Redemption Event is deemed to be continuing unless it has been expressly waived in writing by the Holder and all conditions of such waiver have been fulfilled to the reasonable satisfaction of the Holder;

1.2.1.2 in any other case, that Early Redemption Event is deemed to be continuing unless and until –

1.2.1.2.1 it has been expressly waived in writing by the Holder and all conditions of such waiver have been fulfilled to the reasonable satisfaction of the Holder; or

1.2.1.2.2 it has been remedied and the resulting position is that which it would have been if such Early Redemption Event had not occurred; and

1.2.2 "**tax**" means all income tax, capital gains tax, dividends tax, value added tax, stamp duty, securities transfer tax, uncertificated securities tax, levies, assessments, imposts, deductions, charges and withholdings whatsoever in terms of any tax legislation, and includes all penalties or interest payable as a consequence of any failure or delay in paying any taxes.

1.3 Save as specifically otherwise provided, in these B Preference Share Terms the words "clause" or "clauses" refer to clauses of these B Preference Share Terms.

1.4 Any reference to –

1.4.1 the singular includes the plural and *vice versa*;

1.4.2 natural persons includes juristic persons and *vice versa*;

1.4.3 any one sex or gender includes the other sex or gender, as the case may be;

1.4.4 "**including**" (or words of similar meaning) means to include without limitation, and if the expression is used with reference to specific examples the "*eiusdem generis*" rule shall not apply, and "**include**" shall have a corresponding meaning;

1.4.5 "**law**" means any law of general application and includes the common law and any statute, constitution, decree, treaty, regulation, directive, ordinance, by-law, order or any other enactment of legislative measure of government (including local and provincial government) statutory or regulatory body which has the force of law as at the Issue Date and as amended or re-enacted from time to time;

1.4.6 "**writing**" (or words of similar meaning) means legible writing and in English and excludes any form of electronic communication contemplated in the Electronic Communications and Transactions Act,

No. 25 of 2002, and "**written**" or "**writing**" shall have a corresponding meaning;

1.4.7 a party includes a reference to that party's successors in title and assigns allowed at law.

1.5 The words "**shall**" and "**will**" and "**must**" used in the context of any obligation or restriction imposed on a party have the same meaning.

1.6 The clause headings in these B Preference Share Terms have been inserted for convenience only and shall not be taken into account in its interpretation.

1.7 Words and expressions defined in any sub-clause shall, for the purpose of the clause of which that sub-clause forms part, bear the meaning assigned to such words and expressions in that sub-clause.

1.8 If any provision in a definition is a substantive provision conferring rights or imposing obligations, effect shall be given to that provision as if it were a substantive clause in the body of the agreement, notwithstanding that it is only contained in the interpretation clause.

1.9 If any period is referred to in these B Preference Share Terms by way of a reference to a number of days or weeks or months or other intervals, the period shall be reckoned exclusively of the 1st (first) day and inclusively of the last day of the relevant interval, unless the last day falls on a day which is not a business day, in which case the last day shall be the next succeeding business day.

1.10 If the due date for performance of any obligation in terms of these B Preference Share Terms is a day which is not a business day then (unless otherwise stipulated) the due date for performance of the relevant obligation shall be the immediately preceding business day.

1.11 If any obligation or act is required to be performed on a particular day it shall be performed (unless otherwise stipulated) by 17h00 (local time at the place where the obligation or act is required to be performed) on that day.

1.12 These B Preference Share Terms shall be governed, interpreted and enforced in accordance with the laws of the South Africa from time to time.

1.13 If amounts or figures are specified in numerals and in words and if there is any discrepancy between the numerals and the words then the words shall apply.

1.14 The rule of construction that these B Preference Share Terms shall be interpreted against the party responsible for the drafting of these B Preference Share Terms, shall not apply.

1.15 Any reference in these B Preference Share Terms to "these B Preference Share Terms" or any other agreement or document shall be construed as a reference to these B Preference Share Terms or, as the case may be, such other agreement or document, as amended, varied, novated or supplemented from time to time.

1.16 A reference to any statutory enactment shall be construed as a reference to that enactment as at the Issue Date and as amended or substituted from time to time.

1.17 Whenever any person is required to act "as an expert and not as an arbitrator" in terms of these Preference Share Terms, then –

1.17.1 the determination of the expert shall (in the absence of manifest error) be final and binding;

1.17.2 subject to any express provision to the contrary, the expert shall determine the liability for his, her or its charges, which shall be paid accordingly;

1.17.3 the expert shall be entitled to determine such methods and processes as he, she or it may, in his, her or its sole discretion, deem appropriate in the circumstances provided that the expert may not adopt any process which is manifestly biased, unfair or unreasonable;

1.17.4 the expert shall consult with the relevant parties (provided that the extent of the expert's consultation shall be in his, her or its sole discretion) prior to rendering a determination; and

1.17.5 having regard to the sensitivity of any confidential information, the expert shall be entitled to take advice from any person considered by him or her or it to have expert knowledge with reference to the matter in question.

2 SUBSCRIPTION, ALLOTMENT AND ISSUE

2.1 Each B Preference Share shall have a par value of R0.01 (one cent) and shall be allotted and issued, credited as fully paid up, at par plus a premium in the aggregate equal to the Subscription Price.

2.2 Upon receipt of payment of the Subscription Price, the Company shall credit an amount of -

2.2.1 R0.01 (one cent) per B Preference Share to its share capital account; and

2.2.2 R99.99 (ninety nine rand and ninety nine cents) per B Preference Share to its share premium account.

3 DIVIDEND RIGHTS

3.1 The B Preference Shares shall, subject to the remaining provisions of these B Preference Share Terms, confer on the Holder the right to receive cumulative preferential cash dividends which shall -

3.1.1 be calculated at the Dividend Rate on an amount equal to the Subscription Price together with all B Preference Dividends which have been compounded in accordance with the provisions of clause 3.1.3 of these B Preference Share Terms, for the period from and including the Issue Date to but excluding the Redemption Date;

3.1.2 be calculated on the basis of the actual number of days elapsed and a 365 (three hundred and sixty five) day year, whether or not the year is a leap year; and

3.1.3 accrue on a daily basis and be compounded monthly in arrears; and

3.1.4 be payable on the Redemption Date of the B Preference Share in question unless paid earlier in accordance with the Priority of Payments.

3.2 Notwithstanding anything to the contrary contained in these B Preference Share Terms, the Company shall only be obliged to declare and pay any B Preference Dividend if and to the extent that –

3.2.1 such declaration and payment is permissible under the Third Party Funding Agreements and the A Preference Share Terms; and

3.2.2 the Company has available cash resources to make such payment.

4 RANKING

The obligation to make payment under these B Preference Share Terms of any amount due to the Holder shall be in preference and priority to the obligations to make payment to and the rights to receive payment of, the holder of any Ordinary Shares, other class of shares in the capital of the Company (other than A Preference Shares), or Ordinary Loans, but shall always rank after the obligation to make payment of any amount in respect of the A Preference Shares under the A Preference Share Terms.

5 RIGHTS UPON WINDING-UP OF THE COMPANY

On a winding-up of the Company, the B Preference Shares shall confer the right to the payment of an amount equal to the Redemption Amount per B Preference Share. Such payment shall be in priority to any payment to the holders of any Ordinary Shares, other class of share in the capital of the Company (other than A Preference Shares), or Ordinary Loans, but shall always rank after the obligation to make payment of any amount in respect of the A Preference Shares under the A Preference Terms.

6 PRIORITY OF PAYMENTS

6.1 Subject always to the Third Party Funding Agreements, the Company shall procure that the excess cash in Sea Harvest Corporation and all other subsidiaries of the Company is distributed to the Company by not later than the end of every Distribution Period.

6.2 All cash received by the Company from time to time shall within 5 (five) business days be applied by the Company in the following order of priority –

6.2.1 firstly, to the full extent possible taking into account the amount of available cash, to pay any current and provide for the reasonably anticipated future tax liabilities of the Company;

6.2.2 thereafter, to the full extent possible taking into account the amount of the remaining available cash, to pay any current and provide for the reasonably anticipated future administration costs of the Company, subject to a maximum amount of R40,000.00 (forty thousand rand) (Indexed) in any Financial Year;

6.2.3 thereafter, to the full extent possible taking into account the amount of the remaining available cash, to pay or provide for the management fees contemplated in clause 9 of the Shareholders Agreement;

6.2.4 thereafter, to the full extent possible taking into account the amount of the remaining available cash, to declare and pay accrued preference dividends in respect of the B Preference Shares, together with any associated taxes and expenses;

6.2.5 thereafter, to the full extent possible taking into account the amount of the remaining available cash -

6.2.5.1 prior to the expiry of a period of 10 (ten) years and 1 (one) day after the date upon which the B Preference Shares were issued, at the Company's election (i) to retain such amount in a redemption reserve account established for the purpose, or (ii) to redeem the B Preference Shares;

6.2.5.2 after the date of expiry of a period of 10 (ten) years and 1 (one) day after the date upon which the B Preference Shares were issued, to redeem the B Preference Shares; and

6.2.6 thereafter, to the full extent possible taking into account the amount of the remaining available cash, and only after the Company has complied with all its obligations under the B Preference Shares, and all B Preference Shares have been redeemed in full, to make Distributions as contemplated in clause 13.2 of the Shareholders Agreement, as read with clause 35 of the Memorandum of Incorporation.

6.3 Notwithstanding clause 6.2, in the event of the Company undertaking a refinance, any proceeds (the "**Refinance Proceeds**") from such refinance after settling the outstandings under the Third Party Funding Agreements (if any) and earmarked for distribution shall, subject to clause 6.4, be applied in the following order of priority –

6.3.1 firstly, to declare and pay any accumulated dividends in respect of the B Preference Shares;

6.3.2 thereafter, to the full extent possible taking into account the amount of the remaining balance of the Refinance Proceeds, to redeem all the remaining B Preference Shares;

6.3.3 thereafter, to the full extent possible taking into account the amount of the remaining balance of the Refinance Proceeds, to repurchase Ordinary Shares held by MIT in accordance with the MIT Relationship Agreement;

6.3.4 thereafter, to the full extent possible taking into account the amount of the remaining balance of the Refinance Proceeds, to repurchase Ordinary Shares (1) to settle the Notional Funding Amount (as defined in the MIT2 Subscription Agreement) in accordance with the MIT2 Subscription Agreement, and (2), if any balance remains after such repurchase, making up the First Tranche (as defined in the MIT2 Relationship Agreement) (to the extent not yet repurchased by the Company) in accordance with the MIT2 Relationship Agreement;

6.3.5 thereafter, to the full extent possible taking into account the amount of the remaining balance of the Refinance Proceeds, to make Distributions to the Ordinary Shareholders,

6.4 In the event of a refinance undertaken by the Group, as contemplated in clause 6.3, the Refinance Proceeds earmarked for distribution is not sufficient to redeem all the B Preference Shares and declare and pay all accumulated dividends thereon in full, and the Company will not have sufficient cash to repurchase all the Ordinary Shares held by MIT following

such distribution and redemption, the Company shall be obliged to use the available Refinance Proceeds earmarked for distribution as follows –

6.4.1 30% (thirty percent) of the Refinance Proceeds shall be used to repurchase Ordinary Shares held by MIT; and

6.4.2 70% (seventy percent) of the Refinance Proceeds shall be used to declare and pay dividends on the B Preference Shares and, to the extent possible, redeem B Preference Shares.

6.5 All Distributions received by the Company which are not in the nature of cash shall be disposed of by the Company at fair market value. Any cash proceeds received by the Company pursuant to any disposal as aforesaid shall be dealt with in accordance with the Priority of Payments.

6.6 All payments made in accordance with the Priority of Payments shall be made pro rata (based on the number of B Preference Shares held) to the respective Holders of B Preference Shares, save as specifically otherwise provided herein.

7 ADJUSTMENT EVENT

7.1 An Adjustment Event shall occur if there is, after the Issue Date, in relation to any Holder ("**Affected Holder**") -

7.1.1 any change in any law, or the interpretation or application thereof, or the introduction of any new law, which -

7.1.1.1 increases the cost of subscribing for, holding and/or funding the B Preference Shares;

7.1.1.2 reduces the net after-tax dividend receipt to the Affected Holder; or

7.1.1.3 reduces the net after-tax return to the Affected Holder, including any tax imposed on or in respect of the declaration of dividends, or the imposition of any tax on or in respect of any amount received in respect of the B Preference Share (whether such tax is imposed on dividends, return of capital, as a withholding tax, or otherwise);

7.1.2 for so long as the Affected Holder is a bank duly registered as such in accordance with the Banks Act, or where all of the obligations of the Holder from time to time are guaranteed by, or the Affected Holder is a subsidiary or fellow subsidiary of, a bank or a bank holding company, or the Affected Holder is otherwise obliged to comply with the Banks Act, any -

7.1.2.1 proposal to be implemented in terms of the Basel II Accord is implemented on a basis materially different to that proposed as at the Issue Date;

7.1.2.2 directive of any central bank or any other fiscal, monetary, regulatory or other authority in the Republic of South Africa;

7.1.2.3 change in banking practice as it affects or is applied generally by banks and/or financial institutions in the Republic of South Africa;

7.1.2.4 requirement or request by any central bank or statutory or monetary authority with which banks in the Republic of South Africa generally comply to pay any amounts (including an increase in the Corporate Tax Rate) or maintain special deposits or reserve assets in addition to those paid or maintained or reserved by the Affected Holder at the Implementation Date; or

7.1.2.5 compliance by the Affected Holder with any reserve, cash ratio, special deposit or liquidity requirement (or any other similar requirement) in respect of the B Preference Shares,

which is applicable to the Affected Holder and which has any of the effects described in clauses 7.1.1.1 to 7.1.1.3 of these B Preference Share Terms;

7.1.3 any tax suffered, incurred or payable by the Affected Holder or for which the Affected Holder becomes liable on, or in respect of any Preference Share (including as a result of the subscription for, the holding and/or funding of the B Preference Share) the B Preference Dividends or any amount payable on redemption of the B Preference Share;

7.1.4 any circumstance which results in the Affected Holder not being entitled to take any B Preference Dividend declared to the Affected Holder fully into account in determining its liability for any tax (whether on dividends or otherwise);

7.1.5 any change in the Income Tax Act or any other law, which has the effect that the B Preference Dividends declared to the Affected Holder is not fully taken into account in determining and/or reducing that Affected Holder's liability for any tax on dividends; or

7.1.6 any change in the Corporate Tax Rate.

7.2 Upon or at any time after the occurrence of any Adjustment Event, the Affected Holder shall be entitled, notwithstanding anything to the contrary herein contained, to give written notice thereof to the Company and require that the Company forthwith declare additional preference dividends ("**Additional Preference Dividends**") in such amount as to place the Affected Holder in the same net after-tax position as if that Adjustment Event had not taken place, and thereafter to increase the Dividend Rate by such margin as is necessary to ensure that the Affected Holder remains in the same net after-tax position as if the Adjustment Event had not taken place. The Adjustment Notice shall specify the Adjustment Event in question, the amount of the Additional Preference Dividends and the increase in the Dividend Rate, and shall, in addition, specify the date upon which the Additional Preference Dividends must be declared and paid and from which the increase in the Dividend Rate shall take effect (which may be a date prior to the date of the Adjustment Notice).

7.3 If, after all of the B Preference Shares have been redeemed, the effect of an Adjustment Event only becomes apparent, or the Affected Holder only becomes aware of the effects of such Adjustment Event after all of B the Preference Shares have been redeemed, the Company shall and hereby does indemnify and hold the Affected Holder harmless against the effect of such Adjustment Event and, accordingly, shall pay to the Affected Holder, forthwith on demand, such amount as may be required to place the Affected Holder in the same net after-tax position it would have been in but for the occurrence of such Adjustment Event or the effects thereof only

becoming apparent after the redemption of all of the B Preference Shares (including such amount as may be necessary to fully compensate such Affected Holder for the loss of any STC or other dividends tax credit).

7.4 It is specifically recorded and agreed that in calculating the net after-tax position in which an Affected Holder would have been, it will be assumed that the Holder would have received STC credits on all dividends or deemed dividends at a rate of 10% (ten percent).

7.5 In these B Preference Share Terms, where an event has occurred which requires that an amount be calculated in order to place the Holder in the same net after-tax position that it would have been in had the event not occurred, the amount so calculated shall be increased at the Dividend Rate, calculated from and including the date as at which the calculation is made to but excluding the date upon which the amount is actually received by the Holder.

7.6 Each Holder's rights arising from the provisions of this clause 7 shall survive the expiry by effluxion of time or redemption of the B Preference Shares for any reason and shall be enforceable by the Affected Holder, its successors and cessionaries, until the last day of the 3rd (third) year following the year of assessment in which the Holder is finally assessed for tax in respect of all receipts and accruals pertaining to its B Preference Shares.

7.7 After payment by the Company of any amount envisaged in this clause 7 as a consequence of any tax suffered, incurred or payable by an Affected Holder, the Company and the Affected Holder shall consult as to whether to object to any assessment which captured the tax suffered, incurred or payable and to decide on the appropriate steps to be taken. Any objection and other steps shall be for the sole account of the Company which shall indemnify the Affected Holders in respect thereof on demand. It is specifically recorded that no objection shall be made or other steps taken unless the Affected Holder has first agreed thereto in writing and the Affected Holder has been given adequate security for the costs so to be incurred.

8 REDEMPTION

Subject to the Priority of Payments, the Company shall be entitled, but not obliged, to redeem all or any of the Outstanding B Preference Shares, pro rata to the holdings of all Holders, at the Redemption Amount upon not less than 10 (ten) business days prior written notice to the Holder.

9 EARLY REDEMPTION

9.1 An Early Redemption Event shall occur, if, unless the Holder has given its prior written consent –

9.1.1 the Company breaches any of its obligations under the Shareholders Agreement and/or these B Preference Share Terms and/or the A Preference Share Terms, including any positive or negative undertaking contained in the Shareholders Agreement and fails to remedy such breach to the satisfaction of the Holder within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring it to do so;

9.1.2 the Company breaches any of its obligations under the Shareholders Agreement, and fails to remedy such breach to the satisfaction of the Holder within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring it to do so;

9.1.3 the Company breaches any of its obligations under any Third Party Funding Agreements, and fails to remedy such breach during the applicable cure period provided for in the applicable agreement;

9.1.4 any Indebtedness of the Company in excess of R100,000.00 (one hundred thousand rand) is not paid on the due date, or after any remedy period agreed to by the relevant creditor, and the Company fails to settle such Indebtedness within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring it to do so unless the Company is, within such notice period, able to demonstrate to the satisfaction of the Holder that the amount of the Indebtedness is in dispute and that reasonable steps to contest the claim are being taken in good faith;

9.1.5 the Company sells, alienates or otherwise disposes, or enters into any transaction for the sale, alienation or other disposal of, any of its material assets and fails to remedy the position to the satisfaction of the Holder within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring it to do so;

9.1.6 the Company takes any corporate action, or other steps are taken or legal proceedings are started, for its winding-up (whether provisionally or final), dissolution, administration or re-organisation or for the appointment of a liquidator, receiver, administrator, administrative receiver, trustee or similar officer and the Company fails to remedy the position to the satisfaction of the Holder within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring it to do so, unless the Company is, within such notice period, able to demonstrate to the satisfaction of the Holder that such steps or proceedings are of a vexatious or frivolous nature;

9.1.7 a judgment in an amount in excess of R100,000.00 (one hundred thousand rand) is entered against the Company and the Company fails, within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring it to do so, either to satisfy the judgment or to apply for it to be set aside or to appeal against it and in the event of such application or appeal being unsuccessful, fails to make immediate payment;

9.1.8 any execution, attachment or similar process is levied upon or against any of the assets or property of the Company with a value of more than R100,000.00 (one hundred thousand rand) which is not paid or discharged within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring it to do so unless the Company is, within such notice period, able to demonstrate to the satisfaction of the Holder that such execution, attachment or similar process is in dispute and that reasonable steps to contest same are being taken in good faith;

9.1.9 a creditor takes possession or a business rescue practitioner or liquidator is appointed in respect of the whole or any part of the property,

assets or revenue of the Company with a value of more than R100,000.00 (one hundred thousand rand) or institutes any legal proceedings at any time to enforce any security granted by the Company with a value of more than R100,000.00 (one hundred thousand rand), unless, in either case, the underlying Indebtedness to the creditor in question is discharged within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring it to do so or unless the Company is, within such notice period, able to demonstrate to the satisfaction of the Holder that such Indebtedness or legal proceedings are disputed by the Company in good faith and reasonable steps are being taken by the Company in regard thereto;

9.1.10 any B Preference Dividend is not paid on the relevant Dividend Payment Date and the Company fails to remedy such breach within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring it to do so;

9.1.11 any portion of the Redemption Amount is not paid on the due date for payment thereof, and the Company fails to remedy such breach to the satisfaction of the Holder within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring it to do so;

9.1.12 any Insolvency Event occurs in relation to the Company, and the position is not rectified to the satisfaction of the Holder within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring the position to be rectified;

9.1.13 the commencement of business rescue proceedings in respect of the Company or any provisional order of liquidation is given in a court of competent jurisdiction in respect of the Company, whether compulsorily or voluntarily and the Company fails to remedy the position to the satisfaction of the Holder within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring it to do so;

9.1.14 any final order of liquidation is given in a court of competent jurisdiction in respect of the Company, whether compulsorily or voluntarily; or

9.1.15 the Company makes or attempts to make or recommends a general offer of compromise with all or any class of its creditors, and the Company does not cease such activities to the satisfaction of the Holder within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring the Company to cease such activities.

9.2 Upon the occurrence of an Early Redemption Event and at any time while it is continuing, the Holder shall be entitled, on written notice to the Company, to require the Company to redeem all Outstanding B Preference Shares at the Redemption Amount.

10 PROCEDURE FOR REDEMPTION

10.1 Upon the redemption of any B Preference Share, the Holder shall be obliged to surrender to the Company the certificates relating thereto in order that same may be cancelled. Should the Holder be unable to surrender a certificate to the Company in accordance with the aforegoing, the Holder may *in lieu* thereof provide the Company with an indemnity in a form reasonably acceptable to the Company.

10.2 If any certificate surrendered pursuant to any redemption of any of the B Preference Shares includes any B Preference Shares not being redeemed on the occasion on which it is so surrendered, then a new certificate for the remainder of the B Preference Shares not so being redeemed shall be issued free of charge to the Holder.

10.3 Should the Company not have sufficient profits or proceeds from a fresh issue of shares from which to pay the par value of the B Preference Shares upon the redemption thereof, the Holder shall have the right, but shall not be obliged, to subscribe at par for such number of redeemable preference shares, the par value of which would enable the par value of the B Preference Shares to be redeemed. The Company shall be obliged to pass the necessary special resolution pursuant to the Act to provide for the rights attaching to such redeemable preference shares, which rights shall be those mutatis mutandis set forth in these B Preference Share Terms, save that –

10.3.1 such redeemable preference shares shall not be issued at a premium;

10.3.2 such redeemable preference shares shall be redeemable by the Company at any time in cash following their issue; and

10.3.3 the preference dividends in respect of such redeemable preference shares shall be declared and paid at the discretion of the directors of the Company.

10.4 The Ordinary Shareholder and the holders of all other classes of shares in the capital of the Company irrevocably and *in rem suam* appoint the Holder as their attorney and agent to pass such special resolution and any special resolution necessary to increase the authorised share capital of the Company to include the preference shares referred to in clause 10.3 of these B Preference Share Terms.

11 INCREASE IN RESPECT OF ARREARS

If any B Preference Dividend or Redemption Amount is not paid on the due date therefor, then, for so long as the amount due by the Company in respect of the B Preference Dividend or Redemption Amount remains in arrear –

11.1 the Dividend Rate will increase by 200 (two hundred) basis points; and

11.2 the amount due by the Company in respect of the arrear B Preference Dividend or Redemption Amount shall be increased by an amount arrived at by applying the increased Dividend Rate on the same basis as set out in clause 3.1, mutatis mutandis, to the amount of the arrear B Preference Dividend or Redemption Amount from and including the due date for payment thereof to but excluding the actual date of payment, and shall be payable by the Company on any date it elects, but by no later than the next Dividend Payment Date or the Redemption Date.

12 DISTRIBUTIONS TO SHAREHOLDERS

Save as permitted in terms of the Priority of Payments, and notwithstanding clause 35 of the Memorandum of Incorporation, no Distributions of any nature whatsoever will be made by the Company to the holders of any other shares in the capital of the Company until all the B Preference Shares have been

redeemed and all amounts payable in respect of the B Preference Shares have been fully and finally paid.

13 VOTING RIGHTS AND GENERAL MEETINGS

13.1 The Holder shall be entitled to attend, but not to vote, either in person or by proxy, at any meeting of the shareholders of the Company, unless one or more of the following circumstances prevail at the date of the meeting –

13.1.1 any B Preference Dividends or any part thereof remains in arrear and unpaid after 5 (five) business days from the due date thereof;

13.1.2 any Redemption Amount remains in arrear and unpaid after 5 (five) business days from due date thereof;

13.1.3 any Early Redemption Event has occurred and is continuing; or

13.1.4 any resolution of the Company is proposed which directly affects the rights and privileges attached to the B Preference Shares or the interests of the Holder, including the proposal of a resolution for the commencement of business rescue proceedings in respect of the Company or the winding-up or liquidation, whether provisionally or finally, of the Company, or for the reduction of its capital.

13.2 The Company shall be obliged to give the Holder notice, in terms of the Act, of any general or adjourned general meeting. At every general or adjourned general meeting at which the Holder is entitled to vote, the provisions of the Memorandum of Incorporation relating to general or adjourned general meetings of ordinary members shall apply mutatis mutandis.

13.3 At any general or adjourned general meeting of the Company at which the Holder is present or represented and entitled to vote, and notwithstanding anything to the contrary contained in the Memorandum of Incorporation of the Company, upon a poll, the Holder will be entitled, in respect of each Outstanding B Preference Share then held, to 1,000 (one thousand) votes per Outstanding B Preference Share.

14 PAYMENTS

14.1 All payments to be made by the Company to the Holder shall be made at or before 12h00 on the due date for payment in immediately available funds, free of exchange and bank commission and without deduction, set-off or demand.

14.2 All payments to be made by the Company to the Holder shall be made into such banking account/s as the Holder may notify the Company in writing from time to time.

14.3 The Company shall have no right to defer, withhold or adjust any payment due to the Holder.

15 GENERAL

15.1 The terms of the B Preference Shares may not be modified, altered, varied, added to or abrogated without the prior written consent of the Holder.

15.2 No shares in the capital of the Company ranking, as regards rights to dividends, or on a winding-up as regards capital, in priority to or *pari passu* with the B Preference Shares shall be created or issued without the prior written consent of the Holder.

15.3 All provisions and the various clauses of these Preference Share Terms are, notwithstanding the manner in which they have been grouped together or linked grammatically, severable from each other. Any provision or clause of these B Preference Share Terms which is or becomes unenforceable in any jurisdiction, whether due to voidness, invalidity, illegality, unlawfulness or for any other reason whatever, shall, in such jurisdiction only and only to the extent that it is so unenforceable, be treated as *pro non scripto* and the remaining provisions and clauses of these B Preference Share Terms shall remain of full force and effect.

15.4 A certificate delivered by the Holder to the Company, reflecting the amount owing by the Company to the Holder, will be prima facie proof of the amount owing. The appointment of the officer, manager or employee of the Holder providing such certification, shall not be required to be proved.

15.5 The B Preference Shares shall not be listed on any securities exchange.

SCHEDULE "1C"

C PREFERENCE SHARE TERMS

TERMS AND CONDITIONS OF THE CLASS C CUMULATIVE REDEEMABLE PREFERENCE SHARES

1 INTERPRETATION

1.1 In these C Preference Share Terms, unless the context indicates a contrary intention, the following words and expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings –

1.1.1 "**Accrued C Preference Dividends**" means, at any time, any and all C Preference Dividends or portions thereof which have accrued, but which have not yet been declared and paid at that time, whether or not there were any profits available for the payment of such C Preference Dividends;

1.1.2 "**Act**" shall have the meaning given to such term in the Memorandum of Incorporation;

1.1.3 "**Additional C Preference Dividends**" means the additional preference dividends described in clause 7.2 of these C Preference Share Terms;

1.1.4 "**Adjustment Event**" means any one or more of the events, circumstances or occurrences described as an adjustment event in clause 7.1 of these C Preference Share Terms;

1.1.5 "**Adjustment Notice**" means the written notice referred to in clause 7.2 of these C Preference Share Terms;

1.1.6 "**B Preference Shares**" means class B cumulative redeemable preference par value shares of R0.01 (one cent) each in the capital of the Company, which will have the rights, privileges and restrictions contained in the B Preference Share Terms;

1.1.7 "**B Preference Share Terms**" means the rights, privileges and

restrictions attaching to the B Preference Shares, as set out in **Schedule "1B"** to the Memorandum of Incorporation;

1.1.8 "**Banks Act**" means the Banks Act, No 94 of 1990;

1.1.9 "**C Preference Dividend**" means each dividend declared (or deemed to be declared) in relation to any C Preference Share in accordance with the provisions of clause 3.1 of these C Preference Share Terms, together with any Additional C Preference Dividends;

1.1.10 "**C Preference Shares**" means class C cumulative redeemable preference no par value shares in the capital of the Company, and will have the rights, privileges and restrictions contained in these C Preference Share Terms;

1.1.11 "**C Preference Share Terms**" means the rights, privileges and restrictions attaching to the C Preference Shares, as set out in this Annexure "1";

1.1.12 "**Company**" shall have the meaning given to such term in the Memorandum of Incorporation;

1.1.13 "**Corporate Tax Rate**" means the rate at which normal income tax is levied on companies (other than mining companies, pension funds and life insurance companies) from time to time in terms of the Income Tax Act;

1.1.14 "**CPI**" means, as at any date, the annual average rate of change in the consumer price index for all areas and all items, expressed as a percentage, for the previous 4 (four) quarters as published in the Government Gazette by Statistics South Africa or its successor, or any other index which, if the aforementioned index ceases to be published, becomes the norm accepted in the banking industry for similar purposes, which annual change shall be determined by comparing the most recently published index with the index published in respect of the corresponding month in the previous year;

1.1.15 "**Distribution**" means any distribution whatsoever to shareholders

including distributions by way of dividends (including dividends *in specie*), capital reductions, share repurchases, fees, interest payments, royalties, repayments of loan accounts and the like;

1.1.16 "**Distribution Period**" means a period commencing on the first day and ending on the last day of every Half Year, provided that -

1.1.16.1 the first Distribution Period shall be the period from (and including) the Implementation Date and ending on the last day of the Half Year during which the Implementation Date occurred; and

1.1.16.2 if the Financial Year of the Company changes, the then uncompleted Distribution Period shall end on the last day of the then uncompleted Half Year (which may have been extended or brought forward as a result of the change in the Financial Year);

1.1.17 "**Dividend Payment Date**" means the due date on which the Company is obliged to pay any C Preference Dividend (but not the Additional C Preference Dividend) as contemplated in clause 3 of these C Preference Share Terms;

1.1.18 "**Dividend Rate**" means, subject to the provisions of clauses 7.2 and 11.1 of these C Preference Share Terms, the Prime Rate plus 6% (six percent), nominal annual compounded monthly in arrears;

1.1.19 "**Early Redemption Event**" means any one or more of the events, circumstances or occurrences described as an early redemption event in clause 9 of these C Preference Share Terms;

1.1.20 "**Facilities Agreement**" means the loan facilities agreement between, *inter alia*, Sea Harvest Corporation and SBSA, in terms whereof SBSA made funding available to Sea Harvest Corporation;

1.1.21 "**Financial Year**" means the financial year of the Company from time to time;

1.1.22 "**Group**" has the meaning given thereto in the Shareholders Agreement;

1.1.23 "**Half Year**" means –

1.1.23.1 a period of six months commencing on the first day of every Financial Year and ending on the last day of such six month period; and

1.1.23.2 a period of six months commencing on the first day after the expiry of the period described in clause 1.1.23.1 of these C Preference Share Terms and ending on the last day of such Financial Year;

1.1.24 "**Holder**" means a holder of the C Preference Shares from time to time;

1.1.25 "**Hutchinson Mareterram Share Option(s)**" means the rights and/or options granted by Mareterram to Hutchinson to acquire 5,000,000 (five million) Mareterram Shares at A$0.15 per Mareterram Share;

1.1.26 "**Income Tax Act**" means the Income Tax Act, No 58 of 1962;

1.1.27 "**Indebtedness**" means any indebtedness of any nature whatsoever, which shall include any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent, and includes obligations under redeemable preference shares;

1.1.28 "**Indexed**" means in relation to any sum, that sum adjusted annually at the end of each Financial Year of the Company to take account of year-on-year changes in the CPI. In the event of a dispute between the Parties as to any adjustment, such dispute will be referred to Independent Auditors for determination, who shall act as experts and not as arbitrators;

1.1.29 "**Implementation Date**" means 28 May 2009;

1.1.30 "**Insolvency Event**" means, in relation to any entity or person, the occurrence of any of the following events or circumstances –

1.1.30.1 a meeting of that entity or person being convened to consider or pass a resolution, or a declaration is made in respect of that entity or person, a petition is presented in respect of that entity or person, legal proceedings are finalised by or in respect of that entity or person or any other step is taken, for the final winding-up, business rescue or curatorship or dissolution of such entity/s or such person's assets,

business or estate, or with a view to a composition, assignment or arrangement with such entity's or such person's creditors; or

1.1.30.2 any liquidator, curator, business rescue practitioner or similar officer being appointed in respect of such entity or person or any material part of its assets or undertakings or such entity or person requests such appointment;

1.1.31 "**Issue Date**" means, in respect of each C Preference Share, the date upon which it is actually allotted and issued by the Company;

1.1.32 "**Mareterram**" means Mareterram Limited, registration number ACN 009 248 720, a public company with limited liability duly incorporated in accordance with the laws of Australia;

1.1.33 "**Mareterram Offer**" means the written offer made or to be made by Sea Harvest International to Mareterram Shareholders pursuant to which Sea Harvest has offered, or will offer, to purchase –

1.1.33.1 50% (fifty percent) of the Mareterram Shares held by Mareterram Shareholders (other than Sea Harvest International) in exchange for the Mareterram Purchase Price;

1.1.33.2 50% (fifty percent) of the Hutchinson Mareterram Share Options currently held by Hutchinson in exchange for the Mareterram Purchase Price;

1.1.34 "**Mareterram Purchase Price**" means, in relation to –

1.1.34.1 the Mareterram Shares forming the subject matter of the Mareterram Offer, the aggregate of AU$0.35 (zero point thirty five Australian Dollars) per Mareterram Share purchased pursuant to the Mareterram Offer; and

1.1.34.2 the Hutchinson Mareterram Share Options, the aggregate of AU$0.15 (zero point fifteen Australian Dollars) per Hutchinson Mareterram Share Option purchased pursuant to the Mareterram Offer;

1.1.35 "**Mareterram Shares**" means ordinary shares in the share capital of

Mareterram;

1.1.36 "**Mareterram Shareholders**" means all holders of Mareterram Shares;

1.1.37 "**Memorandum of Incorporation**" means the memorandum of incorporation in respect of the Company, to which this document is attached as **Schedule** "**1C**";

1.1.38 "**MIT**" has the meaning given thereto in the Shareholders Agreement;

1.1.39 "**MIT Relationship Agreement**" has the meaning given thereto in the Shareholders Agreement;

1.1.40 "**MIT2**" has the meaning given thereto in the Shareholders Agreement;

1.1.41 "**MIT2 Relationship Agreement**" has the meaning given thereto in the Shareholders Agreement;

1.1.42 "**MIT2 Subscription Agreement**" has the meaning given thereto in the Shareholders Agreement;

1.1.43 "**Ordinary Loans**" has the meaning given thereto in the Shareholders Agreement;

1.1.44 "**Ordinary Shares**" shall have the meaning given to such term in the Memorandum of Incorporation;

1.1.45 "**Outstanding C Preference Share**" means any C Preference Share which has been subscribed for by and allotted and issued, and which has not yet been redeemed;

1.1.46 "**Potential Early Redemption Event**" means any event or circumstance which, with the giving of notice, lapse of time or fulfilment of any other condition, would be or constitute an Early Redemption Event;

1.1.47 "**Prime Rate**" means the publicly quoted basic rate of interest, percent per annum, at which Nedbank Limited lends on unsecured overdraft, compounded monthly in arrear and calculated on a 365 (three hundred and sixty five) day year factor irrespective of whether the year is a leap year or not. A certificate issued under the hand of any manager (whose

authority and appointment it shall not be necessary to prove) of Nedbank Limited as to the Prime Rate from time to time shall, in the absence of manifest error, be final and binding;

1.1.48 "**Priority of Payments**" means the priority of payments described in clause 6 of these C Preference Share Terms;

1.1.49 "**Redemption Amount**" means, in respect of each C Preference Share, the amount per C Preference Share payable on redemption of that C Preference Share which shall be the aggregate of –

1.1.49.1 the Subscription Price; plus

1.1.49.2 all Accrued C Preference Dividends calculated up to the Redemption Date notwithstanding that the Redemption Date would not otherwise have been a Dividend Payment Date;

1.1.50 "**Redemption Date**" means, in respect of each C Preference Share, the date upon which that C Preference Share is redeemed;

1.1.51 "**SBSA**" means The Standard Bank of South Africa Limited, registration number: 1962/000738/06, a company with limited liability duly incorporated in accordance with the corporate laws of the Republic of South Africa;

1.1.52 "**Sea Harvest Corporation**" shall have the meaning given to such term in the Memorandum of Incorporation;

1.1.53 "**Sea Harvest International**" means Sea Harvest International Proprietary Limited, registration number 2012/130812/07, a private company with limited liability duly incorporated in accordance with the laws of South Africa;

1.1.54 "**Shareholders Agreement**" shall have the meaning given to such term in the Memorandum of Incorporation;

1.1.55 "**Subscription Price**" means, in respect of each C Preference Share, an amount equal R1,000.00 (one thousand Rand) per C Preference Share; and

1.1.56 "**Third Party Funding Agreements**" means –

1.1.56.1 the Facilities Agreement; and

1.1.56.2 any documents designated as '*Financing Documents*' in the Facilities Agreement,

and "**Third Party Funding Agreement**" means, as the context requires, any one of them.

1.2 Any reference in these C Preference Share Terms to –

1.2.1 "**continuing**", in the context of an Early Redemption Event, means –

1.2.1.1 where an Early Redemption Event or its consequences are incapable of remedy that Early Redemption Event is deemed to be continuing unless it has been expressly waived in writing by the Holder and all conditions of such waiver have been fulfilled to the reasonable satisfaction of the Holder;

1.2.1.2 in any other case, that Early Redemption Event is deemed to be continuing unless and until –

1.2.1.2.1 it has been expressly waived in writing by the Holder and all conditions of such waiver have been fulfilled to the reasonable satisfaction of the Holder; or

1.2.1.2.2 it has been remedied and the resulting position is that which it would have been if such Early Redemption Event had not occurred; and

1.2.2 "**tax**" means all income tax, capital gains tax, dividend tax, value added tax, stamp duty, securities transfer tax, uncertificated securities tax, levies, assessments, imposts, deductions, charges and withholdings whatsoever in terms of any tax legislation, and includes all penalties or interest payable as a consequence of any failure or delay in paying any taxes.

1.3 Save as specifically otherwise provided, in these C Preference Share

Terms the words "clause" or "clauses" refer to clauses of these C Preference Share Terms.

1.4 Any reference to –

1.4.1 the singular includes the plural and *vice versa*;

1.4.2 natural persons includes juristic persons and *vice versa*;

1.4.3 any one sex or gender includes the other sexes or genders, as the case may be;

1.4.4 "**business day**" means any day other than a Saturday, Sunday or officially recognised public holiday in the Republic of South Africa;

1.4.5 "**including**" (or words of similar meaning) means to include without limitation, and if the expression is used with reference to specific examples the "*eiusdem generis*" rule shall not apply, and "**include**" shall have a corresponding meaning;

1.4.6 "**law**" means any law of general application and includes the common law and any statute, constitution, decree, treaty, regulation, directive, ordinance, by-law, order or any other enactment of legislative measure of government (including local and provincial government) statutory or regulatory body which has the force of law as at the Signature Date and as amended or re-enacted from time to time;

1.4.7 "**writing**" (or words of similar meaning) means legible writing and in English and excludes any form of electronic communication contemplated in the Electronic Communications and Transactions Act, No. 25 of 2002, and "**written**" or "**writing**" shall have a corresponding meaning;

1.4.8 a party includes a reference to that party's successors in title and assigns allowed at law.

1.5 The words "**shall**" and "**will**" and "**must**" used in the context of any obligation or restriction imposed on a party have the same meaning.

1.6 The clause headings in these C Preference Share Terms have been inserted for convenience only and shall not be taken into account in its interpretation.

1.7 Words and expressions defined in any sub-clause shall, for the purpose of the clause of which that sub-clause forms part, bear the meaning assigned to such words and expressions in that sub-clause.

1.8 If any provision in a definition is a substantive provision conferring rights or imposing obligations, effect shall be given to that provision as if it were a substantive clause in the body of the agreement, notwithstanding that it is only contained in the interpretation clause.

1.9 If any period is referred to in these C Preference Share Terms by way of a reference to a number of days or weeks or months or other intervals, the period shall be reckoned exclusively of the 1st (first) day and inclusively of the last day of the relevant interval, unless the last day falls on a day which is not a business day, in which case the last day shall be the next succeeding business day.

1.10 If the due date for performance of any obligation in terms of these C Preference Share Terms is a day which is not a business day then (unless otherwise stipulated) the due date for performance of the relevant obligation shall be the immediately preceding business day.

1.11 If any obligation or act is required to be performed on a particular day it shall be performed (unless otherwise stipulated) by 17h00 (local time at the place where the obligation or act is required to be performed) on that day.

1.12 These C Preference Share Terms shall be governed, interpreted and enforced in accordance with the laws of the Republic of South Africa from time to time.

1.13 If amounts or figures are specified in numerals and in words and if there is any discrepancy between the numerals and the words then the words shall apply.

1.14 The rule of construction that these C Preference Share Terms shall be

interpreted against the party responsible for the drafting of these C Preference Share Terms, shall not apply.

1.15 Any reference in these C Preference Share Terms to "these C Preference Share Terms" or any other agreement or document shall be construed as a reference to these C Preference Share Terms or, as the case may be, such other agreement or document, as amended, varied, novated or supplemented from time to time.

1.16 A reference to any statutory enactment shall be construed as a reference to that enactment as at the Signature Date and as amended or substituted from time to time.

1.17 Whenever any person is required to act "as an expert and not as an arbitrator" in terms of these C Preference Share Terms, then –

1.17.1 the determination of the expert shall (in the absence of manifest error) be final and binding;

1.17.2 subject to any express provision to the contrary, the expert shall determine the liability for his or its charges, which shall be paid accordingly;

1.17.3 the expert shall be entitled to determine such methods and processes as he or it may, in his or its sole discretion, deem appropriate in the circumstances provided that the expert may not adopt any process which is manifestly biased, unfair or unreasonable;

1.17.4 the expert shall consult with the relevant parties (provided that the extent of the expert's consultation shall be in his or its sole discretion) prior to rendering a determination; and

1.17.5 having regard to the sensitivity of any confidential information, the expert shall be entitled to take advice from any person considered by him or it to have expert knowledge with reference to the matter in question.

2 SUBSCRIPTION, ALLOTMENT AND ISSUE

2.1 Each C Preference Share shall have no par value and shall be allotted and

issued and credited as fully paid up for an amount equal to the Subscription Price and where more than 1 (one) C Preference Share are issued in a single, series of- or multiple transactions, whether linked or inter-related, where appropriate, collectively credited as fully paid up for an amount equal to the aggregate Subscription Price for all such C Preference Shares.

3 DIVIDEND RIGHTS

3.1 The C Preference Shares shall, subject to the remaining provisions of these C Preference Share Terms, confer on the Holder the right to receive cumulative preferential cash dividends which shall –

3.1.1 be calculated at the Dividend Rate on an amount equal to the Subscription Price together with all C Preference Dividends which have been compounded in accordance with the provisions of clause 3.1.3, for the period from and including the Issue Date to but excluding the Redemption Date;

3.1.2 be calculated on the basis of the actual number of days elapsed and a 365 (three hundred and sixty five) day year, whether or not the year is a leap year; and

3.1.3 accrue on a daily basis and be compounded monthly in arrears; and

3.1.4 be payable on the Redemption Date of the C Preference Share in question unless paid earlier in accordance with the Priority of Payments.

3.2 Notwithstanding anything to the contrary contained in these C Preference Share Terms, the Company shall not be obliged to declare and pay any C Preference Dividend if and to the extent that –

3.2.1 such declaration and payment is not permissible under the Third Party Funding Agreements, the Memorandum of Incorporation, the B Preference Share Terms and the Shareholders Agreement;

3.2.2 the Company does not have available cash resources to make such payment.

4 **RANKING**

The obligation to make payment under these C Preference Share Terms of any amount due to the Holder shall be in preference and priority to the obligations to make payment to and the rights to receive payment of, the holder of any Ordinary Shares, other class of shares in the capital of the Company (other than B Preference Shares, in issue), or Ordinary Loans, but shall always rank after the obligation to make payment of any amount in respect of the B Preference Shares, in issue, under the B Preference Share Terms.

5 **RIGHTS UPON WINDING-UP OF THE COMPANY**

On a winding-up of the Company, the C Preference Shares shall confer the right to the payment of an amount equal to the Redemption Amount per C Preference Share. Such payment shall be in priority to any payment to the holders of any Ordinary Shares, other class of share in the capital of the Company (other than B Preference Shares, in issue), or Ordinary Loans, but shall always rank after the obligation to make payment of any amount in respect of the B Preference Shares, in issue under the B Preference Share Terms.

6 **PRIORITY OF PAYMENTS**

6.1 Subject always to the Third Party Funding Agreements, the Company shall procure that the excess cash in Sea Harvest Corporation and all other subsidiaries of the Company, excluding Mareterram, is distributed to the Company by not later than the end of every Distribution Period.

6.2 All cash received by the Company from time to time shall within 5 (five) business days of such receipt be applied by the Company in the following order of priority –

6.2.1 firstly, to the full extent possible taking into account the amount of available cash, to pay any current tax liabilities and provide for the reasonably anticipated future tax liabilities of the Company;

6.2.2 thereafter, to the full extent possible taking into account the amount of the remaining available cash, to pay any current and provide for the

reasonably anticipated future administration costs of the Company, subject to a maximum amount of R100,000.00 (one hundred thousand rand) (Indexed) in any Financial Year;

6.2.3 thereafter, to the full extent possible taking into account the amount of the remaining available cash, to pay or provide for the management fees contemplated in clause 9 of the Shareholders Agreement;

6.2.4 thereafter, to the full extent possible taking into account the amount of the remaining available cash, to declare and pay accrued preference dividends, in respect of the B Preference Shares in issue, together with any associated taxes and expenses in accordance with the B Preference Share Terms;

6.2.5 thereafter, to the full extent possible taking into account the amount of the remaining available cash, to declare and pay Accrued C Preference Dividends, together with any associated taxes and expenses;

6.2.6 thereafter to the full extent possible taking into account the amount of the remaining available cash, to, subject to the provisions of the B Preference Share Terms, at the Company's election (1) to retain such amount in a redemption reserve account established for this purpose or (2) redeem the B Preference Shares, in issue;

6.2.7 thereafter, to the full extent possible taking into account the amount of the remaining available cash -

6.2.7.1 prior to the date of expiry of a period of 10 (ten) years and 1 (one) day after the Issue Date, at the Company's election (1) to retain such amount in a redemption reserve account established for this purpose or (2) to redeem C Preference Shares; or

6.2.7.2 after the date of expiry of a period of 10 (ten) years and 1 (one) day after the Issue Date, to redeem the C Preference Shares; and

6.2.8 thereafter, to the full extent possible taking into account the amount of the remaining available cash, and only after the Company has complied with all its obligations under the B Preference Shares and the C

Preference Shares and all the B Preference Shares and C Preference Shares have been redeemed in full in accordance with their respective terms, to make Distributions as contemplated in clause 13.2 of the Shareholders Agreement as read with clause 46 of the Memorandum of Incorporation.

6.3 Notwithstanding clause 6.2 and 6.4, in the event of the Company, within 12 (twelve) months of the issue of the C Preference Shares for purposes of the Mareterram Offer, undertaking any refinance with SBSA or other funder ("**Funder Refinance**") specifically in order to refinance some or all of the C Preference Shares issued to the Subscriber for purposes of the Mareterram Offer, any proceeds of the Funder Refinance ("**Funder Refinance Proceeds**") and earmarked for distribution shall, be applied in the following order of priority –

6.3.1 to declare and pay any and all Accrued C Preference Dividends in respect of the C Preference Shares in issue; and

6.3.2 thereafter, to the full extent possible taking into account the amount of the remaining balance of the Funder Refinance Proceeds, at the Company's election (1) to retain such amount in a redemption reserve account established for this purpose or (2), to redeem all the remaining C Preference Shares in issue.

6.4 Notwithstanding clause 6.2, in the event of the Company undertaking a refinance (other than a Funder Refinance), any proceeds (the "**Refinance Proceeds**") from such refinance after settling the outstandings under the Third Party Funding Agreements (if any) and earmarked for distribution shall, subject to clause 6.4, be applied in the following order of priority –

6.4.1 firstly to declare and pay any accumulated dividends in respect of the B Preference Shares in issue in accordance with the B Preference Share Terms;

6.4.2 thereafter, to the full extent possible taking into account the amount of the remaining balance of the Refinance Proceeds, subject to the provisions of the B Preference Share Terms, to at the Company's

election (1) to retain such amount in a redemption reserve account established for this purpose or (2) redeem all the remaining B Preference Shares in issue;

6.4.3 thereafter, to the full extent possible taking into account the amount of the remaining balance of the Refinance Proceeds, to repurchase Ordinary Shares held by MIT in accordance with the MIT Relationship Agreement;

6.4.4 thereafter, to the full extent possible taking into account the amount of the remaining balance of the Refinance Proceeds, to repurchase Ordinary Shares (1) to settle the Notional Funding Amount (as defined in the MIT2 Subscription Agreement) in accordance with the MIT2 Subscription Agreement, and (2), if any balance remains after such repurchase, to repurchase ordinary shares making up the First Tranche (as defined in the MIT2 Relationship Agreement) (to the extent not yet repurchased by the Company) in accordance with the MIT2 Relationship Agreement;

6.4.5 thereafter, to declare and pay any and all Accrued C Preference Dividends in respect of the C Preference Shares in issue;

6.4.6 thereafter, to the full extent possible taking into account the amount of the remaining balance of the Refinance Proceeds, at the Company's election (1) to retain such amount in a redemption reserve account established for this purpose or (2) to redeem all the remaining C Preference Shares in issue;

6.4.7 thereafter, to the full extent possible taking into account the amount of the remaining balance of the Refinance Proceeds, to make Distributions to the Ordinary Shareholders.

6.5 In the event of a refinance undertaken by the Group, as contemplated in clause 6.4, the Refinance Proceeds earmarked for distribution is not sufficient to at the Company's election to redeem all the B Preference Shares in issue, and declare and pay all accumulated dividends thereon in full, and the Company will not have sufficient cash to repurchase all the

Ordinary Shares held by MIT following such distribution and redemption, the Company shall be obliged to use the available Refinance Proceeds earmarked for distribution as follows –

6.5.1 30% (thirty percent) of the Refinance Proceeds shall be used to repurchase Ordinary Shares held by MIT; and

6.5.2 70% (seventy percent) of the Refinance Proceeds shall be used to declare and pay dividends on the B Preference Shares in issue and, to the extent possible, subject to the provisions of the B Preference Share Terms, at the Company's election (1) to retain any remaining amount in a redemption reserve account established for this purpose or (2) redeem the B Preference Shares in issue.

6.6 All Distributions received by the Company which are not in the nature of cash shall be disposed of by the Company at fair market value, save if such Distribution is *in specie* and consists of Mareterram Shares in which event the Company shall retain such shares and apply all cash Distributions received in relation to those additional Mareterram Shares in such manner as contemplated in this clause 6. Any cash proceeds received by the Company pursuant to any disposal as aforesaid shall be dealt with in accordance with the Priority of Payments.

6.7 All payments made in accordance with the Priority of Payments shall be made pro rata (based on the number of C Preference Shares held) to the respective Holders of C Preference Shares, save as specifically otherwise provided herein.

7 ADJUSTMENT EVENT

7.1 An Adjustment Event shall occur if there is, after the Issue Date, in relation to any Holder ("**Affected Holder**") –

7.1.1 any change in any law, or the interpretation or application thereof, or the introduction of any new law, which -

7.1.1.1 increases the cost of subscribing for, holding and/or funding the C Preference Shares;

7.1.1.2 reduces the net after-tax dividend receipt to the Affected Holder; or

7.1.1.3 reduces the net after-tax return to the Affected Holder, including any tax imposed on or in respect of the declaration of dividends, or the imposition of any tax on or in respect of any amount received in respect of the C Preference Share (whether such tax is imposed on dividends, return of capital, as a withholding tax, or otherwise);

7.1.2 for so long as the Affected Holder is a bank duly registered as such in accordance with the Banks Act, or where all of the obligations of the Holder from time to time are guaranteed by, or the Affected Holder is a subsidiary or fellow subsidiary of, a bank or a bank holding company, or the Affected Holder is otherwise obliged to comply with the Banks Act, any -

7.1.2.1 proposal to be implemented in terms of the Basel II Accord is implemented on a basis materially different to that proposed as at the Signature Date of the Shareholder Funding Agreement;

7.1.2.2 directive of any central bank or any other fiscal, monetary, regulatory or other authority in the Republic of South Africa;

7.1.2.3 change in banking practice as it affects or is applied generally by banks and/or financial institutions in the Republic of South Africa;

7.1.2.4 requirement or request by any central bank or statutory or monetary authority with which banks in the Republic of South Africa generally comply to pay any amounts (including an increase in the Corporate Tax Rate) or maintain special deposits or reserve assets in addition to those paid or maintained or reserved by the Affected Holder at the Implementation Date; or

7.1.2.5 compliance by the Affected Holder with any reserve, cash ratio, special deposit or liquidity requirement (or any other similar requirement) in respect of the C Preference Shares,

7.1.2.6 which is applicable to the Affected Holder and which has any of the effects described in clauses 7.1.1.1 to 7.1.1.3;

7.1.3 any tax suffered, incurred or payable by the Affected Holder or for which the Affected Holder becomes liable on, or in respect of any C Preference Share (including as a result of the subscription for, the holding and/or funding of the C Preference Share) the C Preference Dividends or any amount payable on redemption of the C Preference Share;

7.1.4 any circumstance which results in the Affected Holder not being entitled to take any C Preference Dividend declared to the Affected Holder fully into account in determining its liability for any tax (whether on dividends or otherwise);

7.1.5 any change in the Income Tax Act or any other law, which has the effect that the C Preference Dividends declared to the Affected Holder is not fully taken into account in determining and/or reducing that Affected Holder's liability for any tax on dividends; or

7.1.6 any change in the Corporate Tax Rate or in the rate of any tax on dividends.

7.2 Upon or at any time after the occurrence of any Adjustment Event, the Affected Holder shall be entitled, notwithstanding anything to the contrary herein contained, to give written notice thereof to the Company and require that the Company forthwith declare additional preference dividends in respect of the C Preference Shares ("**Additional Preference Dividends**") in such amount as to place the Affected Holder in the same net after-tax position as if that Adjustment Event had not taken place, and thereafter to increase the Dividend Rate by such margin as is necessary to ensure that the Affected Holder remains in the same net after-tax position as if the Adjustment Event had not taken place. The Adjustment Notice shall specify the Adjustment Event in question, the amount of the Additional C Preference Dividends and the increase in the Dividend Rate, and shall, in addition, specify the date upon which the Additional C Preference Dividends must be declared and paid and from which the increase in the Dividend Rate shall take effect (which may be a date prior to the date of the Adjustment Notice).

7.3 If, after all of the C Preference Shares have been redeemed, the effect of

an Adjustment Event only becomes apparent, or the Affected Holder only becomes aware of the effects of such Adjustment Event after all of the C Preference Shares have been redeemed, the Company shall and hereby does indemnify and hold the Affected Holder harmless against the effect of such Adjustment Event and, accordingly, shall pay to the Affected Holder, forthwith on demand, such amount as may be required to place the Affected Holder in the same net after-tax position it would have been in but for the occurrence of such Adjustment Event or the effects thereof only becoming apparent after the redemption of all of the C Preference Shares (including such amount as may be necessary to fully compensate such Affected Holder for the loss of any dividend tax credit).

7.4 It is specifically recorded and agreed that in calculating the net after-tax position in which an Affected Holder would have been, it will be assumed that the Holder would not have been liable for any tax on dividends.

7.5 In these C Preference Share Terms, where an event has occurred which requires that an amount be calculated in order to place the Holder in the same net after-tax position that it would have been in had the event not occurred, the amount so calculated shall be increased at the Dividend Rate, calculated from and including the date as at which the calculation is made to but excluding the date upon which the amount is actually received by the Holder.

7.6 Each Holder's rights arising from the provisions of this clause 7 shall survive the expiry by effluxion of time or redemption of the C Preference Shares for any reason and shall be enforceable by the Affected Holder, its successors and cessionaries, until the last day of the 3rd (third) year following the year of assessment in which the Holder is finally assessed for tax in respect of all receipts and accruals pertaining to its C Preference Shares.

7.7 After payment by the Company of any amount envisaged in this clause 7 as a consequence of any tax suffered, incurred or payable by an Affected Holder, the Company and the Affected Holder shall consult as to whether to object to any assessment which captured the tax suffered, incurred or payable and to decide on the appropriate steps to be taken. Any objection

and other steps shall be for the sole account of the Company which shall indemnify the Affected Holders in respect thereof on demand. It is specifically recorded that no objection shall be made or other steps taken unless the Affected Holder has first agreed thereto in writing and the Affected Holder has been given adequate security for the costs so to be incurred.

8 REDEMPTION

Subject to the Priority of Payments, the Company shall be entitled, but not obliged, to, at any time, redeem all or any of the Outstanding C Preference Shares, *pro rata* to the holdings of all Holders, at the Redemption Amount upon not less than 10 (ten) business days prior written notice to the Holder concerned.

9 EARLY REDEMPTION

9.1 An Early Redemption Event shall occur, if, unless the Holder has given its prior written consent –

9.1.1 the Company breaches any of its obligations under the Shareholders Agreement and/or these C Preference Share Terms and/or the B Preference Share Terms, including any positive or negative undertaking contained in the Shareholders Agreement and fails to remedy such breach to the satisfaction of the Holder within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring it to do so;

9.1.2 the Company breaches any of its obligations under any Third Party Funding Agreement, and fails to remedy such breach during the applicable cure period provided for in the applicable agreement;

9.1.3 any Indebtedness of the Company in excess of R100,000.00 (one hundred thousand rand) is not paid on the due date, or after any remedy period agreed to by the relevant creditor, and the Company fails to settle such Indebtedness within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring it to do so unless the Company is, within such notice period, able to demonstrate to the

satisfaction of the Holder that the amount of the Indebtedness is in dispute and that reasonable steps to contest the claim are being taken in good faith;

9.1.4 the Company sells, alienates or otherwise disposes, or enters into any transaction for the sale, alienation or other disposal of, any of its material assets and fails to remedy the position to the satisfaction of the Holder within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring it to do so;

9.1.5 the Company takes any corporate action, or other steps are taken or legal proceedings are started, for its winding-up (whether provisionally or final), dissolution, administration or re-organisation or for the appointment of a liquidator, receiver, administrator, administrative receiver, trustee or similar officer and the Company fails to remedy the position to the satisfaction of the Holder within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring it to do so, unless the Company is, within such notice period, able to demonstrate to the satisfaction of the Holder that such steps or proceedings are of a vexatious or frivolous nature;

9.1.6 a judgment in an amount in excess of R100,000.00 (one hundred thousand rand) is entered against the Company and the Company fails, within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring it to do so, either to satisfy the judgment or to apply for it to be set aside or to appeal against it and in the event of such application or appeal being unsuccessful, fails to make immediate payment;

9.1.7 any execution, attachment or similar process is levied upon or against any of the assets or property of the Company with a value of more than R100,000.00 (one hundred thousand rand) which is not paid or discharged within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring it to do so unless the Company is, within such notice period, able to demonstrate to the satisfaction of the Holder that such execution, attachment or similar process is in dispute and that reasonable steps to contest same are

being taken in good faith;

9.1.8 a creditor takes possession or a judicial manager or liquidator is appointed in respect of the whole or any part of the property, assets or revenue of the Company with a value of more than R100,000.00 (one hundred thousand rand) or institutes any legal proceedings at any time to enforce any security granted by the Company with a value of more than R100,000.00 (one hundred thousand rand), unless, in either case, the underlying Indebtedness to the creditor in question is discharged within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring it to do so or unless the Company is, within such notice period, able to demonstrate to the satisfaction of the Holder that such Indebtedness or legal proceedings are disputed by the Company in good faith and reasonable steps are being taken by the Company in regard thereto;

9.1.9 any C Preference Dividend is not paid on the relevant Dividend Payment Date and the Company fails to remedy such breach within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring it to do so;

9.1.10 any portion of the Redemption Amount is not paid on the due date for payment thereof, and the Company fails to remedy such breach to the satisfaction of the Holder within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring it to do so;

9.1.11 any Insolvency Event occurs in relation to the Company, and the position is not rectified to the satisfaction of the Holder within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring the position to be rectified;

9.1.12 any final order of liquidation or judicial management is given in a court of competent jurisdiction in respect of the Company, whether compulsorily or voluntarily; or

9.1.13 the Company makes or attempts to make or recommends a general offer of compromise with all or any class of its creditors, and the

Company does not cease such activities to the satisfaction of the Holder within 20 (twenty) business days of receipt by the Company of written notice from the Holder requiring the Company to cease such activities.

9.2 Upon the occurrence of an Early Redemption Event and at any time while it is continuing, the Holder shall be entitled, on written notice to the Company, to require the Company to redeem all Outstanding C Preference Shares at the Redemption Amount.

10 PROCEDURE FOR REDEMPTION

10.1 Upon the redemption of any C Preference Share, the Holder shall be obliged to surrender to the Company the certificates relating thereto in order that same may be cancelled. Should the Holder be unable to surrender a certificate to the Company in accordance with the aforegoing, the Holder may in lieu thereof provide the Company with an indemnity in a form reasonably acceptable to the Company.

10.2 If any certificate surrendered pursuant to any redemption of any of the C Preference Shares includes any C Preference Shares not being redeemed on the occasion on which it is so surrendered, then a new certificate for the remainder of the C Preference Shares not so being redeemed shall be issued free of charge to the Holder.

11 INCREASE IN RESPECT OF ARREARS

If any C Preference Dividend or Redemption Amount is not paid on the due date therefor, then, for so long as the amount due by the Company in respect of the C Preference Dividend or Redemption Amount remains in arrear –

11.1 the Dividend Rate will increase by 200 (two hundred) basis points; and

11.2 the amount due by the Company in respect of the arrear C Preference Dividend or Redemption Amount shall be increased by an amount arrived at by applying the increased Dividend Rate on the same basis as set out in clause 3.1, *mutatis mutandis*, to the amount of the arrear C Preference Dividend or Redemption Amount from and including the due date for payment thereof to but excluding the actual date of payment, and shall be

payable by the Company on any date it elects, but by no later than the next Dividend Payment Date or the Redemption Date.

12 DISTRIBUTIONS TO SHAREHOLDERS

Save as permitted in terms of the Priority of Payments, and notwithstanding clause 35 of the Memorandum of Incorporation, no Distributions of any nature whatsoever will be made by the Company to the holders of any other shares in the capital of the Company until all the C Preference Shares have been redeemed and all amounts payable in respect of the C Preference Shares have been fully and finally paid.

13 VOTING RIGHTS AND GENERAL MEETINGS

13.1 The Holder shall be entitled to attend, but not to vote, either in person or by proxy, at any meeting of the shareholders of the Company, unless one or more of the following circumstances prevail at the date of the meeting –

13.1.1 any C Preference Dividends or any part thereof remains in arrear and unpaid after 5 (five) business days from the due date thereof;

13.1.2 any Redemption Amount remains in arrear and unpaid after 5 (five) business days from due date thereof;

13.1.3 any Early Redemption Event has occurred and is continuing; or

13.1.4 any resolution of the Company is proposed which directly affects the rights and privileges attached to the C Preference Shares or the interests of the Holder, including the proposal of a resolution for the winding-up, liquidation or judicial management, whether provisionally or finally, of the Company, or for the reduction of its capital.

13.2 The Company shall be obliged to give the Holder notice, in terms of the Companies Act, of any general or adjourned general meeting. At every general or adjourned general meeting at which the Holder is entitled to vote, the provisions of the Memorandum of Incorporation relating to general or adjourned general meetings of ordinary members shall apply *mutatis mutandis*.

13.3 At any general or adjourned general meeting of the Company at which the Holder is present or represented and entitled to vote, and notwithstanding anything to the contrary contained in the Memorandum of Incorporation, upon a poll, the Holder will be entitled, in respect of each Outstanding C Preference Shares then held, to 10,000 (ten one thousand) votes per Outstanding C Preference Shares.

14 PAYMENTS

14.1 All payments to be made by the Company to the Holder shall be made at or before 12h00 on the due date for payment in immediately available funds, free of exchange and bank commission and without deduction, set-off or demand.

14.2 All payments to be made by the Company to the Holder shall be made into such banking account/s as the Holder may notify the Company in writing from time to time.

14.3 The Company shall have no right to defer, withhold or adjust any payment due to the Holder.

15 GENERAL

15.1 The terms of the C Preference Shares may not be modified, altered, varied, added to or abrogated without the prior written consent of the Holder.

15.2 No shares in the capital of the Company ranking, as regards rights to dividends, or on a winding-up as regards capital, in priority to or *pari* passu with the C Preference Shares shall be created or issued without the prior written consent of the Holder.

15.3 All provisions and the various clauses of these C Preference Share Terms are, notwithstanding the manner in which they have been grouped together or linked grammatically, severable from each other. Any provision or clause of these C Preference Share Terms which is or becomes unenforceable in any jurisdiction, whether due to voidness, invalidity, illegality, unlawfulness or for any other reason whatever, shall, in such jurisdiction only and only to the extent that it is so unenforceable, be treated

as *pro non scripto* and the remaining provisions and clauses of these C Preference Share Terms shall remain of full force and effect.

15.4 A certificate delivered by the Holder to the Company, reflecting the amount owing by the Company to the Holder, will be *prima facie* proof of the amount owing. The appointment of the officer, manager or employee of the Holder providing such certification, shall not be required to be proved.

15.5 The C Preference Shares shall not be listed on any securities exchange.

THE COMPANIES ACT, NO. 71 OF 2008
(AS AMENDED)

MEMORANDUM OF INCORPORATION

OF

SEA HARVEST CORPORATION PROPRIETARY LIMITED

A PRIVATE COMPANY

REGISTRATION NUMBER: 2008/024147/07

REGISTRATION DATE: 15 OCTOBER 2008

DLA CLIFFE DEKKER HOFMEYR

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SCHEDULES

SCHEDULE "1" : PROTECTED MATTERS
SCHEDULE "2" : RESERVED MATTERS

1 INTERPRETATION

1.1 In this Memorandum of Incorporation, unless the context clearly indicates a contrary intention, the following words and expressions bear the meanings assigned to them and cognate expressions bear corresponding meanings –

1.1.1 "**Act**" means the Companies Act, No. 71 of 2008, as amended, consolidated or re-enacted from time to time, and includes all Schedules to such Act and the Regulations;

1.1.2 "**Board**" or "**Directors**" means the board of Directors from time to time of the Company or, if there is only one Director, then that Director;

1.1.3 "**Company**" means the company incorporated under the registration number recorded on the first page of this document, duly incorporated under the registration number endorsed hereon;

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

1.1.5 "**Holdco**" means Sea Harvest Holdings Proprietary Limited, registration number 2008/001066/07, a private company with limited liability duly incorporated in accordance with the corporate laws of the Republic of South Africa;

1.1.6 "**IFRS**" means the International Financial Reporting Standards, as adopted from time to time by the Board of the International Accounting Standards Committee, or its successor body, and approved for use in South Africa from time to time by the Financial Reporting Standards Council established in terms of section 203 of the Act;

1.1.7 "**Protected Matters**" means each matter set out in Schedule "1" to this Memorandum of Incorporation;

1.1.8 "**Regulations**" means the regulations published in terms of the Act from time to time;

1.1.9 "**Republic**" or "**South Africa**" means the Republic of South Africa;

1.1.10 "**Reserved Matters**" means each matter set out in Schedule "2" to this Memorandum of Incorporation;

1.1.11 "**Rules**" means any rules made in respect of the Company from time to time as contemplated in sections 15(3) to (5) and clause 43 hereof;

1.1.12 "**Shareholder**" means the holder of a Share issued by the Company and who is entered as such in the Securities Register, subject to the provisions of section 57(1);

1.1.13 "**Securities Register**" means the register contemplated in section 50(1); and

1.1.14 "**Subsidiary**" means a subsidiary as contemplated in section 3.

1.2 In this Memorandum of Incorporation, unless the context clearly indicates otherwise –

1.2.1 words and expressions defined in the Act and which are not defined herein shall have the meanings given to them in the Act;

1.2.2 a reference to a section by number refers to the corresponding section of the Act at the date on which this Memorandum of Incorporation is filed, notwithstanding the renumbering of such section after the date on which the Company is incorporated;

1.2.3 clause headings are for convenience only and are not to be used in its interpretation;

1.2.4 an expression which denotes -

1.2.4.1 any gender includes the other gender;

1.2.4.2 a natural person includes a juristic person and *vice versa*; and

1.2.4.3 the singular includes the plural and *vice versa*.

1.3 Any reference in this Memorandum of Incorporation to –

1.3.1 "**days**" shall be construed as calendar days unless qualified by the word "business", in which instance a "business day" will be any day other than a Saturday, Sunday or public holiday as gazetted by the government of the Republic from time to time;

1.3.2 "**law**" means any law of general application and includes the common law and any statute, constitution, decree, treaty, regulation, directive, ordinance, by-law, order or any other enactment of legislative measure of government (including local and provincial government) statutory or regulatory body which has the force of law and a reference to any statutory enactment shall be construed as a reference to that enactment as amended or substituted from time to time; and

1.3.3 "**writing**" means legible writing and in English and includes printing, typewriting, lithography or any other mechanical process, as well as any electronic communication in a manner and a form permitted in terms of the Act and/or the Regulations.

1.4 The words "**include**" and "**including**" mean "include without limitation" and "including without limitation". The use of the words "**include**" and "**including**" followed by a specific example or examples shall not be construed as limiting the meaning of the general wording preceding it.

1.5 Unless otherwise provided, defined terms appearing in this Memorandum of Incorporation in title case shall be given their meaning as defined, while the same terms appearing in lower case shall be interpreted in accordance with the meaning defined in the Act, failing which, in the latter case, their plain English meaning.

1.6 Unless specifically otherwise provided, any number of days prescribed shall be determined by excluding the first and including the last day or, where the last day falls on a day that is not a business day, the next succeeding business day.

1.7 Where figures are referred to in numerals and in words, and there is any conflict between the two, the words shall prevail, unless the context indicates a contrary intention.

1.8 Any reference in this Memorandum of Incorporation to "**this Memorandum of Incorporation**" shall be construed as a reference to this Memorandum of Incorporation as amended from time to time.

2 JURISTIC PERSONALITY

2.1 The Company is a pre-existing company as defined in the Act and, as such, continues to exist as a private company as if it had been incorporated and registered in terms of the Act, as contemplated in item 2 of the Fifth Schedule to the Act, and this Memorandum of Incorporation replaces and supersedes the Memorandum and Articles of Association of the Company applicable immediately prior to the filing hereof.

2.2 The Company is incorporated in accordance with and governed by –

2.2.1 the unalterable provisions of the Act, save to the extent that this Memorandum of Incorporation does not impose on the Company a higher standard, greater restriction, longer period of time or similarly more onerous requirement;

2.2.2 the alterable provisions of the Act, subject to the limitations, extensions, variations or substitutions set out in this Memorandum of Incorporation;

2.2.3 the other provisions of this Memorandum of Incorporation; and

2.2.4 its Rules, if any.

3 PRIVATE COMPANY PROVISIONS

The Company is a private company, and accordingly –

3.1 the transferability of the securities of the Company is restricted as provided in this Memorandum of Incorporation; and

3.2 any offer to the public to subscribe for any securities of the Company is prohibited.

4 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.

5 POWERS OF THE COMPANY

5.1 Subject to the provisions of clauses 36 and 37, the Company has all of the legal powers and capacity contemplated in the Act, and no provision contained in this Memorandum of Incorporation should be interpreted or construed as negating, limiting, or restricting those powers in any way whatsoever.

5.2 Except to the extent that clauses 36 and 37 provide otherwise, the legal powers and capacity of the Company are not subject to any restrictions, limitations or qualifications, as contemplated in section 19(1)(b)(ii).

6 NO RESTRICTIVE CONDITIONS

This Memorandum of Incorporation does not contain any restrictive conditions applicable to the Company as contemplated in section 15(2)(b) or (c).

7 APPLICATION OF OPTIONAL PROVISIONS OF THE ACT

7.1 The Company does not elect, in terms of section 34(2), to comply voluntarily with the extended accountability provisions set out in Chapter 3 of the Act.

7.2 The Company, being a private company, does not elect in terms of section 118(1)(c)(ii) to submit voluntarily to the provisions of Parts B and C of Chapter 5 of the Act and to the Takeover Regulations provided for in the Act.

8 SHARES

8.1 As at the date upon which this Memorandum of Incorporation is filed, the Company has 1,000 (one thousand) authorised ordinary shares with a par value of R1 (one rand) each, which shares were created prior to 1 May 2011 and the Company does not, for the time being, elect to convert any of such shares into shares with no par value as contemplated in the Act.

8.2 The Board may, subject to section 41(3) and the further provisions of this clause 8.2 and clauses 36 and 37, and provided it has been approved by all the Shareholders, resolve to issue shares of the Company at any time, but only within the classes and to the extent that those shares have been authorised by or in terms of this Memorandum of Incorporation.

8.3 Notwithstanding the provisions of clause 8.2, any issue of Shares, Securities convertible into Shares, or rights exercisable for Shares in a transaction, or a series of integrated transactions shall, in accordance with the provisions of section 41(3) of the Act, require the approval of the Shareholders by special resolution if the voting power of the class of Shares that are issued or are issuable as a result of the transaction or series of integrated transactions will be equal to or exceed 30% (thirty percent) of the voting power of all the Shares of that class held by Shareholders immediately before that transaction or series of integrated transactions.

8.4 The authorisation and classification of shares, the numbers of authorised shares of each class, and the preferences, rights, limitations and other terms associated with each class of shares as set out in this Memorandum of Incorporation may be changed only by an amendment of this Memorandum of Incorporation by special resolution of the Shareholders.

8.5 The Board shall not have the power to –

8.5.1 determine the preferences, rights, limitations or other terms of any shares;

8.5.2 increase or decrease the number of authorised shares;

8.5.3 consolidate and reduce the number of the Company's issued and authorised shares of any class;

8.5.4 subdivide its shares of any class by increasing the number of its issued and authorised shares of that class without an increase of its capital; or

8.5.5 convert any par value shares into shares not having a par value,

and such power shall only be capable of being exercised by the

Shareholders by special resolution.

8.6 No Shareholder shall have any pre-emptive or other similar preferential right to be offered or to subscribe for any additional shares issued by the Company, save to the extent –

8.6.1 that any such right is specifically included as one of the rights, preferences or other terms upon which any class of shares is issued; or

8.6.2 otherwise provided in this Memorandum of Incorporation.

8.7 Securities of the Company are to be issued in certificated form. Every Shareholder, upon becoming a Shareholder, shall be entitled to one certificate free of charge but for every subsequent certificate the Directors may make such charge as from time to time they may think fit. If a certificate is defaced, lost or destroyed, it may be renewed on payment of such fee, if any, and on such terms, if any, as to evidence and indemnity as the Directors may think fit.

9 TRANSFER OF SECURITIES

9.1 The instrument of transfer of any security shall be signed by the transferor and the transferor shall be deemed to remain the holder of such security until the name of the transferee is entered in the Securities Register.

9.2 Shares may not be pledged, hypothecated or otherwise encumbered unless otherwise agreed in writing by the Shareholders.

9.3 Shares may only be transferred in accordance with the provisions of this Memorandum of Incorporation and any transfer of any shares which conflicts with any provision hereof shall neither be approved nor be permitted to be registered.

9.4 Securities transfer tax and other legal costs payable in respect of any transfer of securities pursuant to this Memorandum of Incorporation will be paid by the Company to the extent that the Company is liable therefor in law, but shall, to that extent, be recoverable from the person acquiring such securities.

9.5 Subject to such restrictions as may be applicable (whether by virtue of the preferences, rights, limitations or other terms associated with the securities in question), and particularly to the provisions of this clause 9 and clause 10, any Shareholder or holder of other securities may transfer all or any of its shares or other securities by instrument in writing in any usual or common form or any other form which the Directors may approve.

9.6 Unless otherwise resolved by the Board every instrument of transfer shall be delivered to the principal place of business of the Company, accompanied by –

9.6.1 the certificate issued in respect of the securities to be transferred; and/or

9.6.2 such other evidence as the Company may require to prove the title of the transferor, or his or her right to transfer the securities,

and the Directors may decline to recognise any instrument of transfer unless it is accompanied by the certificate of the securities to which it relates and/or such other evidence as the Directors may reasonably require to show the right of the transferor to make the transfer and unless the securities transfer tax thereon has been paid.

9.7 All authorities to sign transfer deeds granted by the holders of securities for the purpose of transferring securities which may be lodged, produced or exhibited with or to the Company or its registered office 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 such of the Company's offices at which the authority was first lodged, produced or exhibited. Even after the giving and lodging of such notice, 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. The Company shall not be bound to allow the exercise of any act or matter by an agent for a Shareholder unless a duly certified copy of such agent's authority be produced and filed with the Company.

9.8 All instruments of transfer, when registered, shall either be retained by the Company or disposed of in such manner as the Directors shall from time to time decide. Any instrument of transfer which the Directors may decline to register shall (unless the Directors shall resolve otherwise) be returned on demand to the person who lodged it.

10 RESTRICTIONS ON THE TRANSFER OF SHARES

Notwithstanding any other provision of this Memorandum of Incorporation to the contrary, no shares of any Shareholder shall be transferred except with the authority of a resolution of the Directors, and the Directors may at any time in their absolute and uncontrolled discretion, and without giving or being obliged to give any reason therefor, decline to register any proposed transfer of shares in the Company.

11 TRANSMISSION OF SHARES

11.1 Subject to the provisions of this Memorandum of Incorporation dealing with restrictions on the transfer of securities, the executor of the estate of a deceased sole holder of a security shall be the only person recognised by the Company as having any title to the security. In the case of a security registered in the names of 2 (two) or more holders, the survivor or survivors, or the executor of any deceased Shareholder shall be the only person recognised by the Company as having any title to the security. Any person who submits proof of his appointment as the executor, administrator, trustee, curator, or guardian in respect of the estate of a deceased Shareholder or holder of other securities ("**Security Holder**") of the Company, or of a Security Holder whose estate has been sequestrated or of a Security Holder who is otherwise under a disability or as the liquidator of any body corporate which is a Security Holder of the Company, shall be entered in the Securities Register of the Company *nomine officii*, and shall thereafter, for all purposes, be deemed to be a Security Holder of the Company.

11.2 Subject to the provisions of clause 11.1, any person becoming entitled to any security by virtue of the death of a Security Holder shall, upon producing such evidence that he has such title or rights as the Directors

think sufficient, have the right either to have such security transferred to himself or to make such other transfer of the security as such Security Holder could have made: provided that in respect of a transfer other than to himself –

11.2.1 the Directors shall have the same right to refuse or suspend registration as they would have had in the case of a proposed transfer of such security by such Security Holder before his death; and

11.2.2 a person becoming entitled to any security shall not, unless and until he is himself registered as a Security Holder in respect of such security, be entitled to exercise any voting or other right attaching to such security or any other right relating to meetings of the Company.

12 DEBT INSTRUMENTS

12.1 Subject to clause 12.2, the Board may not –

12.1.1 authorise the Company to issue secured or unsecured debt instruments, as set out in section 43(2); and

12.1.2 grant special privileges associated with any debt instruments to be issued by the Company, as set out in section 43(3),

save with the approval of the Shareholders by way of special resolution.

12.2 The Board is not empowered to offer, or to authorise the Company to offer, any debt instruments of the Company –

12.2.1 to the public; or

12.2.2 to which are attached any voting rights.

13 BENEFICIAL INTERESTS IN SECURITIES

The Company's issued securities may be held by, and registered in the name of, one person for the beneficial interest of another person as set out in section 56(1).

14 FINANCIAL ASSISTANCE

The Board may authorise the Company to provide financial assistance in accordance with the provisions of sections 44 and 45, and the authority of the Board in this regard is not limited or restricted by this Memorandum of Incorporation.

15 ACQUISITION BY THE COMPANY OF ITS OWN SHARES

In accordance with and subject to the provisions of section 48, the Board may determine that the Company should acquire a number of its own shares.

16 SINGLE SHAREHOLDER'S AUTHORITY TO ACT

If, at any time, as contemplated in section 57(2), the Company has only 1 (one) Shareholder –

16.1 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 Memorandum of Incorporation; and

16.2 the provisions of clauses 17 (Shareholders' Meetings), 18 (Shareholders' Meetings by Electronic Communication), 19 (Votes of Shareholders), 21 (Shareholders' Resolutions) and 22 (Shareholders Acting Other Than at a Meeting) shall not apply to the Company.

17 SHAREHOLDERS' MEETINGS

17.1 The Board, or any prescribed officer or the Company secretary, as authorised by the Board, is entitled to call a Shareholders' meeting at any time.

17.2 Notwithstanding any provision of the Act to the contrary, and in addition to other meetings of Shareholders that may be convened from time to time, the Company shall convene a yearly meeting of its Shareholders once in each calendar year, but no more than 15 (fifteen) months after the date of the previous yearly meeting, provided that any such yearly meeting shall be capable of being held by electronic communication in accordance with the

further provisions of this Memorandum of Incorporation.

17.3 Each yearly meeting of the Company contemplated in clause 17.2 shall provide for at least the following business to be transacted –

17.3.1 the presentation of the financial statements for the immediately preceding financial year of the Company;

17.3.2 the election of Directors, to the extent required by the Act or by this Memorandum of Incorporation;

17.3.3 the appointment of an auditor for the following financial year, to the extent that the annual financial statements of the Company are required to be audited in terms of the Act or by this Memorandum of Incorporation; and

17.3.4 any matters raised by the Shareholders, with or without advance notice to the Company.

17.4 Save as otherwise provided herein, the Company is not required to hold any other Shareholders' meetings other than those specifically required by the Act.

17.5 The Board may determine the location of any Shareholders' meeting, and the Company may hold any such meeting in the Republic or in any foreign country, and the authority of the Board and the Company in this regard is not limited or restricted by this Memorandum of Incorporation.

17.6 The minimum number of days for the Company to deliver a notice of a Shareholders' meeting to the Shareholders as required by section 62 is as provided for in section 62(1) and, accordingly, any such notice shall be delivered to all Shareholders as to the record date for the meeting at least 10 (ten) business days before the meeting is to begin.

17.7 The quorum requirement for a Shareholders' meeting to begin or for a matter to be considered is 100% (one hundred percent).

17.8 The time periods allowed in section 64(4) and (5) apply to the Company unless otherwise determined by the Shareholders from time to time.

17.9 The accidental omission to give notice of any meeting to any particular Shareholder or Shareholders who, either alone or together, hold 5% (five percent) or less of the shares in the Company shall not invalidate any resolution passed at any such meeting.

17.10 There shall be no limitation on the period for which a Shareholders' meeting may be adjourned.

17.11 The chairman, if any, of the Board shall preside as chairman at every Shareholder's meeting.

17.12 If there is no such chairman, or if at any meeting he or she is not present within 15 (fifteen) minutes after the time appointed for holding the meeting or is unwilling to act as chairman, the Directors present shall choose 1 (one) of their number to be chairman. If no Director is willing to act as chairman or if no Director is present within 15 (fifteen) minutes after the time appointed for holding the meeting, the Shareholders present shall choose one of their number to be chairman of the meeting.

17.13 The chairman of a meeting may -

17.13.1 appoint any firm or persons to act as scrutineers for the purpose of checking any powers of attorney received and for counting the votes at the meeting;

17.13.2 act on a certificate given by any such scrutineers without requiring production at the meeting of the forms of proxy or himself counting the votes.

17.14 If any votes were counted which ought not to have been counted or if any votes were not counted which ought to have been counted, the error shall not vitiate the resolution, unless -

17.14.1 it is brought to the attention of the chairman at the meeting; and

17.14.2 in the opinion of the chairman of the meeting, it is of sufficient magnitude to vitiate the resolution.

17.15 Any objection to the admissibility of any vote (whether on a show of hands

or on a poll) shall be raised -

17.15.1 at the meeting or adjourned meeting at which the vote objected to was recorded; or

17.15.2 at the meeting or adjourned meeting at which the result of the poll was announced,

and every vote not then disallowed shall be valid for all purposes. Any objection made timeously shall be referred to the chairman of the meeting, whose decision shall be final and conclusive.

17.16 Even if he is not a Shareholder, any Director may attend and speak at any general meeting, but may not vote, unless he is a Shareholder or the proxy or representative of a Shareholder.

18 SHAREHOLDERS' MEETINGS BY ELECTRONIC COMMUNICATION

The Company may conduct a Shareholders' meeting entirely by electronic communication or provide for participation in a meeting by electronic communication, as set out in section 63, and the power of the Company to do so is not limited or restricted by this Memorandum of Incorporation.

19 VOTES OF SHAREHOLDERS

19.1 Subject to any special rights or restrictions as to voting attached to any shares by or in accordance with this Memorandum of Association, at a meeting of the Company –

19.1.1 every person present and entitled to exercise voting rights shall be entitled to 1 (one) vote on a show of hands, irrespective of the number of voting rights that person would otherwise be entitled to exercise; and

19.1.2 on a poll any person who is present at the meeting, whether as a Shareholder or as proxy for a Shareholder, has the number of votes determined in accordance with the voting rights associated with the securities held by that Shareholder.

19.2 Voting shall be conducted by means of a polled vote in respect of any

matter to be voted on at a meeting of Shareholders if a demand is made for such a vote –

19.2.1 by Shareholders in accordance with the provisions of the Act; or

19.2.2 by the chairman of the meeting.

19.3 At any meeting of the Company a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded in accordance with the provisions of clause 19.2, and unless a poll is so demanded, a declaration by the chairman that a resolution has, on a show of hands, been carried or carried unanimously or by a particular majority or defeated, and an entry to that effect in the book containing the minutes of the proceedings of the Company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution. The demand for a poll may be withdrawn.

19.4 If a poll is duly demanded, it shall be taken in such manner as the chairman directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. In computing the majority on the poll, regard shall be had to the number of votes to which each Shareholder is entitled.

19.5 In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place, or at which the poll is demanded, shall not be entitled to a second or casting vote.

19.6 A poll demanded on the election of a chairman (as contemplated in clause 17.12) or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs. The demand for a poll shall not prevent the continuation of a meeting for the transaction of any business other than the question upon which the poll has been demanded.

19.7 Where there are joint registered holders of any share, any 1 (one) of such persons may exercise all of the voting rights attached to that share at any

meeting, either personally or by proxy, as if he or she were solely entitled thereto. If more than 1 (one) of such joint holders is present at any meeting, personally or by proxy, the person so present whose name stands first in the Securities Register in respect of such share shall alone be entitled to vote in respect thereof.

19.8 The board of any company or the controlling body of any other entity or person that holds any securities of the Company may authorise any person to act as its representative at any meeting of Shareholders of the Company, in which event the following provisions will apply –

19.8.1 the person so authorised may exercise the same powers of the authorising company, entity or person as it could have exercised if it were an individual holder of shares; and

19.8.2 the authorising company, entity or person shall lodge a resolution (or other written delegation of authority) of the board or controlling body of such company, entity or person confirming the granting of such authority, and certified under the hand of the chairman or secretary thereof, with the Company before the commencement of any Shareholders' meeting at which such person intends to exercise any rights of such Shareholder, unless excused from doing so by the chairman of such meeting.

20 PROXIES AND REPRESENTATIVES

20.1 Any Shareholder may at any time appoint any natural person (or two or more natural persons concurrently), including a natural person who is not a Shareholder, as a proxy in accordance with and for the purposes set out in the Act.

20.2 The holder of a power of attorney or other written authority from a Shareholder may, if so authorised thereby, represent such Shareholder at any meeting of the Company and such holder shall deliver the power of attorney or other written authority (if any), or a copy thereof, to the Company before such holder exercises any rights of the Shareholder at a Shareholders' meeting.

20.3 All of the remaining provisions of the Act relating to the appointment and revocation of proxies and the rights of proxies generally shall apply provided that –

20.3.1 a Shareholder or his proxy must deliver to the Company a copy of the instrument appointing a proxy –

20.3.1.1 not later than 48 (forty eight) hours before the commencement of the meeting at which the proxy intends to exercise that Shareholder's rights if the Company has more than 1 (one) Shareholder; and

20.3.1.2 at any time before the commencement of the meeting at which the proxy intends to exercise that Shareholder's rights if the Company only has 1 (one) Shareholder; and

20.3.2 unless the instrument appointing a proxy provides otherwise, a Shareholder's proxy may decide, without direction from the Shareholder, whether to exercise or abstain from exercising any voting right of the Shareholder, as set out in section 58(7),

and none of such rights or powers are limited, restricted or varied by this Memorandum of Incorporation.

20.4 Every instrument of proxy shall, as far as circumstances permit, be substantially in the following form, or in such other form as the Directors may approve from time to time –

"I/We _____

being a Shareholder of _____ Proprietary Limited do hereby appoint

_____

or failing him/her

_____

or failing him/her, the chairman of the meeting as my/our proxy to vote or abstain from voting on my/our behalf at the meeting of the Company to be held at on and at any adjournment thereof as follows:-

	In favour of	Against	Abstain

Special Resolution 1	.....	.....	.....
Ordinary Resolution 1	.....	.....	.....

(Indicate instruction to proxy by way of a cross in space provided above). Except as instructed above or if no instructions are inserted above, my/our proxy may vote as he/she thinks fit.

SIGNED this day of .

SHAREHOLDER'S SIGNATURE

(Note: A Shareholder entitled to attend, speak and vote is entitled to appoint a proxy to attend, speak and vote in his/her stead, and such proxy need not be a Shareholder of the Company)."

20.5 A vote cast or act done in accordance with the terms of a proxy form shall be deemed to be valid notwithstanding –

20.5.1 the previous death, insanity, or any other legal disability of the person appointing the proxy;

20.5.2 the revocation of the proxy; or

20.5.3 the transfer of a share in respect of which the proxy was given,

unless notice as to any of the abovementioned matters shall have been received by the Company or the chairman of the meeting before the vote was cast or the act was done or before the poll was taken.

21 SHAREHOLDERS' RESOLUTIONS

21.1 For an ordinary resolution to be approved it must be supported by more than 50% (fifty percent) of the voting rights of Shareholders exercised on the resolution.

21.2 For a special resolution to be approved it must be supported by more than 75% (seventy five percent) of the voting rights exercised on the resolution.

21.3 In the event that any Shareholder abstains from voting in respect of any resolution, such Shareholder will, for the purposes of determining the number of votes exercised in respect of that resolution, be deemed not to

have exercised a vote in respect thereof.

22 SHAREHOLDERS ACTING OTHER THAN AT A MEETING

22.1 In accordance with the provisions of section 60, a resolution that could be voted on at a Shareholders' meeting (including in respect of the election of Directors) may instead be –

22.1.1 submitted by the Board for consideration to the Shareholders entitled to exercise the voting rights in relation to the resolution; and

22.1.2 voted on in writing by such Shareholders within a period of 60 (sixty) days after the resolution was submitted to them.

22.2 In addition to a resolution passed in terms of clause 22.1, a resolution in writing signed by all the Shareholders entitled to vote thereon shall be as valid and effectual as if adopted at a duly convened general meeting.

23 COMPOSITION OF THE BOARD OF DIRECTORS

23.1 Number of Directors

23.1.1 In addition to the minimum number of Directors, if any, that the Company must have to satisfy any requirement in terms of the Act to appoint a social and ethics committee, the Board must comprise at least 1 (one) Director and the Shareholders shall be entitled to determine such maximum number of Directors as they from time to time shall consider appropriate.

23.1.2 The Directors shall be elected in terms of section 68(1) by the persons entitled to exercise voting rights in such an election, being the Shareholders of the Company and the holders of any other securities of the Company to the extent that the terms on which such securities were issued confer such rights.

23.1.3 Every person holding office as a Director, prescribed officer, company secretary or auditor of the Company immediately before 1 May 2011 (being the "effective date" of the Act) will, as contemplated in item 7(1) of Schedule 5 to the Act, continue to hold that office.

23.2 **Election of Directors**

23.2.1 In any election of Directors –

23.2.1.1 the election is to be conducted as a series of votes, 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 have been filled; and

23.2.1.2 in each vote to fill a vacancy –

23.2.1.2.1 each vote entitled to be exercised may be exercised once; and

23.2.1.2.2 the vacancy is filled only if a majority of the votes exercised support the candidate,

provided only that, in the event that the Company only has 1 (one) Shareholder, the above provisions of this clause 23 will not apply and the election of Directors shall take place in such manner as the Shareholder shall determine.

23.2.2 The Board may, from time to time, appoint any person as a Director.

23.3 **Eligibility and Term of Office**

23.3.1 Apart from satisfying the qualification and eligibility requirements set out in section 69, a person need not satisfy any further eligibility requirements or qualifications to become or remain a Director or a prescribed officer of the Company.

23.3.2 Each elected Director of the Company shall serve for an indefinite term, as contemplated in section 68(1) and a vacancy in the number of Directors shall only arise in the event of –

23.3.2.1 any elected Director ceasing to hold office or becoming disqualified from holding office as such for any reason; and/or

23.3.2.2 the Shareholders resolving to set a maximum number of Directors or if such maximum has already been determined, the Shareholders resolving to increase the number of elected Directors; and/or

23.3.2.3 any of the other circumstances contemplated in section 70(1) arising;

23.3.2.4 any of the other circumstances contemplated in clause 27 arising.

23.4 **Certain Powers of the Directors**

23.4.1 The Board has the power to –

23.4.1.1 fill any vacancy on the Board on a temporary basis, as set out in section 68(3) (and subject to section 70); and

23.4.1.2 exercise all of the powers and perform any of the functions of the Company, as set out in section 66(1),

and the powers of the Board in this regard are not limited or restricted by this Memorandum of Incorporation.

23.4.2 The Directors may at any time and from time to time appoint any person or persons to act on behalf of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors in terms of this Memorandum of Incorporation) and for such period and subject to such conditions as the Directors may from time to time think fit and may from time to time vary or revoke any such appointment. Any such appointment may, if the Directors think fit, be made in favour of any company, the members, Directors, nominees or managers of any company or firm, or otherwise in favour of any fluctuating body of persons, whether nominated directly or indirectly by the Directors. Any such agents as aforesaid may be authorised by the Directors to sub-delegate all or any of the powers, authorities and discretions for the time being vested in them.

23.4.3 Save as otherwise expressly provided herein, all cheques, promissory notes, bills of exchange and other negotiable or transferable instruments, and all documents to be executed by the Company, shall be signed, drawn, accepted, endorsed or executed, as the case may be, in such manner as the Directors shall from time to time determine.

23.4.4 All acts performed by the Directors or by a committee of Directors or by any person acting as a director or a member of a committee shall,

notwithstanding that it shall afterwards be discovered that there was some defect in the appointment of the Directors or persons acting as aforesaid, or that any of them were disqualified from or had vacated office, be as valid as if every such person had been duly appointed and was qualified and had continued to be a Director or member of such committee.

23.4.5 The Directors in office may act notwithstanding any vacancy in their body, but if and so long as their number is reduced below the minimum number fixed in accordance with this Memorandum of Incorporation, they may act only for the purpose of filling vacancies in their body in terms of section 68(3) or of summoning general meetings of the Company, but not for any other purpose.

23.5 **Directors' Interests**

Subject to the provisions of the Act and of clause 26 hereof –

23.5.1 a Director may be employed in any other capacity in the Company or become a director or officer of any subsidiary of the Company or of any company which is controlled by it or of which it is a Shareholder or in which it has a financial interest, provided that no Director shall be entitled to vote in respect of his or her own appointment as an employee or in respect of his or her remuneration;

23.5.2 a Director may be or become a director or other officer of, or otherwise interested in, any company promoted by the Company or in which the Company may be interested as shareholder or otherwise, and no such Director shall be accountable to the Company for any remuneration or other benefits received by him or her as a director or officer of, or from his or her interest in, such other company unless the Company otherwise directs; and

23.5.3 a Director may act, or any company of which he or she is a shareholder or any other Entity in which he or she has any interest, may act in a professional capacity (other than that of auditor) for the Company or any

company of which it is a Shareholder and he or she (or his or her firm) shall be entitled to remuneration for those professional services.

24 CHAIRPERSON AND MANAGING DIRECTOR

24.1 The chairperson of Holdco shall be the chairperson of the Company and the chairperson of the Company shall serve the same period of office as the chairperson of Holdco.

24.2 The Directors may from time to time appoint 1 (one) or more of their body to the office of managing Director for such term and at such remuneration as they may think fit (subject only to the requirements of section 66(8) and (9)), and may revoke such appointment subject to the terms of any agreement entered into in any particular case, provided that the period of office of a managing Director appointed in terms of an agreement shall be for a maximum period of 5 (five) years at any one time. A Director so appointed shall be subject to retirement in the same manner as the other Directors except during the period of his agreement, and his appointment shall terminate if he ceases for any reason to be a Director.

24.3 Subject to the provisions of any contract between himself and the Company, a managing Director shall be subject to the same provisions as to disqualification and removal as the other Directors of the Company.

24.4 The Directors may from time to time entrust to and confer upon a managing Director for the time being such of the powers exercisable in terms of this Memorandum of Incorporation by the Directors as they may think fit, and may confer such powers for such time and to be exercised for such objects and purposes, and upon such terms and conditions, and with such restrictions, as they think expedient; and they may confer such powers either collaterally with or to the exclusion of and in substitution for all or any of the powers of the Directors in that behalf, and may from time to time revoke, withdraw, alter or vary all or any of such powers.

25 ALTERNATE DIRECTORS

25.1 Alternate Directors in the Company shall be elected by the persons entitled to exercise voting rights in such an election, being the Shareholders of the

Company and the holders of any other securities of the Company to the extent that the terms on which such securities were issued confer such rights.

25.2 Subject to his advising the Company of an address at which notices may be served upon him, each alternate Director shall be entitled -

25.2.1 to receive notice, in terms of clause 30, of each meeting of the Board;

25.2.2 whilst acting in place of any Director to whom he is an alternate Director, to attend each meeting of the Board;

25.2.3 in the absence of the Director to whom he is an alternate, to sign a resolution in terms of clause 31 and generally to exercise all the other rights of that Director at any meeting;

25.2.4 at any meeting of the Board which he attends, to the same number of votes as the Director (to whom he is an alternate) has and who is not present at the meeting.

26 DIRECTORS' PERSONAL FINANCIAL INTERESTS

Each Director and each alternate Director, prescribed officer and member of any committee of the Board (whether or not such latter persons are also members of the Board) shall, subject to the exemptions contained in section 75(2) and the qualifications contained in section 75(3), comply with all of the provisions of section 75 in the event that they (or any person who is a related person to them) has a personal financial interest in any matter to be considered by the Board.

27 DIRECTORS' CESSATION OF OFFICE

27.1 A Director shall cease to be a Director if (and in such event, unless he has actually resigned, such Director shall be deemed to have resigned as a Director of the Company) –

27.1.1 he delivers a notice of his resignation at the registered office, in which event he shall cease to be a Director with effect from -

27.1.1.1 the date on which that notice is delivered; or

27.1.1.2 any later date stated in that notice to which the Board agrees;

27.1.2 his or her estate is finally sequestrated;

27.1.3 he or she files a petition for the surrender of his or her estate as insolvent;

27.1.4 he or she is placed under curatorship by any court of competent jurisdiction;

27.1.5 he is removed as a Director under any of the provisions of this Memorandum of Incorporation;

27.1.6 he ceases to be an employee of the Company for any reason, having been such employee;

27.1.7 subject to the provisions of the Act, the Board delivers a written notice to that effect at the registered office, with effect from the date stated in the written notice, provided that the termination of his appointment in terms of this clause 27.1.7 shall not prejudice any claim which he may have against the Company if the termination is a breach of a contract between him and the Company; or

27.1.8 he ceases to satisfy the qualification and eligibility requirements set out in section 69, provided that such Director shall only cease to be a Director upon the Board acknowledging in a minute that it has become aware of the fact that the Director in question has ceased to satisfy such requirements.

27.2 Notwithstanding the provisions of this Memorandum of Incorporation or of any agreement between the Company and a Director or any agreement between any Shareholders and a Director, but subject to the provisions of the Act, a Director may be removed by ordinary resolution at a shareholders' meeting of which notice has been given in accordance with the Act and subject to compliance with the Act, provided that the termination of his appointment shall not prejudice any claim which he may have against the Company as contemplated in section 71(9).

28 POWERS AND DUTIES OF DIRECTORS

28.1 The management of the Company's business and its control shall be vested in the Board which, in addition to all the powers expressly conferred upon the Board by the Act or by this Memorandum of Incorporation, but subject to the limitations and qualifications referred to in clauses 36 and 37, may exercise all the powers and do whatever may be exercised or done by the Company and are not in terms of the Act or by this Memorandum of Incorporation expressly directed or required to be exercised or done by a Shareholders' meeting. The Board may delegate any of its powers or functions to any 1 (one) or more individuals or committees.

28.2 No resolution passed at a Shareholders' meeting held in terms of this Memorandum of Incorporation or signed by Shareholders in terms of clause 22 shall invalidate any prior act of the Board which would have been valid if that resolution had not been passed.

28.3 The general powers given by clause 28.1 shall not be limited or restricted by any special power given to the Board by this Memorandum of Incorporation.

28.4 Subject to the provisions of the Act and subject to clauses 36 and 37, the Board may exercise from time to time the Company's powers to borrow monies.

29 SINGLE DIRECTOR'S AUTHORITY TO ACT

If at any time the Company has only 1 (one) Director, as contemplated in section 57(3), that Director may, subject to any restrictions or limitations imposed in terms of section 66(1), exercise any power or perform any function of the Board at any time, without notice or compliance with any other internal formalities, and the provisions of sections 71(3) to (7), 73 and 74 shall not apply in respect of the governance of the Company.

30 DIRECTORS' MEETINGS

30.1 The Board may meet, adjourn and otherwise regulate the holding of and the proceedings at its meetings as it deems fit and determine what notice is

to be given of its meetings and the means of giving that notice, provided that –

30.1.1 the notice period for the convening of any meeting of the Board will be at least 7 (seven) days unless the decision of the Board is required on an urgent basis which justifies a shorter period of notice, in which event the meeting may be called on shorter notice. The decision of the chairperson of the Board, or failing the chairperson for any reason, the decision of any 2 (two) Directors as to whether a matter should be decided on an urgent basis, and the period of notice to be given, shall be final and binding on the Directors;

30.1.2 an agenda of the matters to be discussed at the meeting shall be given to each Director, together with the notice referred to in clause 30.1.1;

30.1.3 no meeting may be held if notice thereof and the agenda therefor is not given in accordance with clauses 30.1.1 and 30.1.2;

30.1.4 no matter may be discussed at a meeting unless the particular matter has been expressly included in the agenda given in terms of clause 30.1.1,

and accordingly no resolution which the Board purports to pass at a meeting which is not convened in terms of the provisions of clause 30.1.1 to 30.1.4 shall be of any force or effect.

30.2 In addition to the provisions of section 73(1), any Director may at any time, and the secretary upon the request of a Director shall, call a meeting of the Board.

30.3 In the case of a Director who is appointed or elected, the Board shall use its reasonable endeavours to obtain an address (including an email address) for such Director where notices can be sent to him.

30.4 The Board has the power to conduct a meeting entirely by Electronic Communication, or to provide for participation in a meeting by Electronic Communication, as set out in section 73(3), provided that, as required by such section, the Electronic Communication facility employed ordinarily

enables all persons participating in the meeting to communicate concurrently with each other without an intermediary and to participate reasonably effectively in the meeting. Where a meeting of the Board is held in 2 (two) or more separate places pursuant to this clause 30.4, the meeting will be deemed to be held at 1 (one) of those places as determined by the chairperson of the meeting.

30.5 A quorum for Board meetings shall not be constituted unless a majority of the Directors are present at the meeting.

30.6 If a quorum is not present within 30 (thirty) minutes after the time appointed for the commencement of any meeting of the Board, that meeting shall stand adjourned to the same day 1 (one) week hence, at the same time and place or, if that day is not a business day, to the next business day and at least 48 (forty eight) hours written notice will be given of such adjourned meeting to all the Directors.

30.7 A notice in this regard given at the address of a Director, as contemplated in clause 30.3, shall be deemed to constitute compliance with clause 30.6 in respect of such Director.

30.8 Should no quorum once again be present at any adjourned meeting, then those Directors present will constitute a quorum.

30.9 No business shall be transacted at a meeting of Board unless a quorum is present at the commencement of and throughout the meeting.

30.10 The chairperson of the Board shall not have a second or casting vote on any resolution arising at a meeting of the Board.

30.11 Except as otherwise provided for in this Memorandum of Incorporation, all decisions taken at a meeting of the Board shall be taken by majority vote of those Directors present and voting, such vote to be determined in accordance with clauses 30.14.

30.12 The Company shall, unless otherwise determined by the Shareholders, procure that at least 3 (three) Board meetings be held in each 12 (twelve) month cycle.

30.13 All meetings of the Board shall be held at such place from time to time as may be determined by the chairperson of the Board, or failing the chairperson for any reason, as determined by any 2 (two) Directors. The Board shall as far as reasonably possible hold its meetings at a time and place convenient to all Directors.

30.14 At each meeting of the Board, each Director present and voting thereat has 1 (one) vote on a matter before the Board.

30.15 Resolutions adopted by the Board –

30.15.1 must be dated and sequentially numbered; and

30.15.2 are effective as of the date of the resolution, unless any resolution states otherwise.

30.16 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, are evidence of the proceedings of that meeting, or the adoption of that resolution, as the case may be.

30.17 The Directors shall, in terms of the Act, cause minutes to be kept -

30.17.1 of all appointments of officers;

30.17.2 of names of Directors present at every meeting of the Company and of the Directors; and

30.17.3 of all proceedings at all meetings of the Company and of the Directors or prescribed officers,

and such minutes shall be signed by the chairperson of the meeting at which the proceedings took place or by the chairperson of the next succeeding meeting.

31 DIRECTORS' ROUND ROBIN RESOLUTIONS

31.1 A resolution in writing signed by a majority of the Directors, in a manner which indicates support for such resolution by such majority, will be as effective for all purposes as a resolution passed by the Board at a meeting

duly convened, held and constituted. Any such resolution may consist of several documents in like form, each signed by one or more of such Directors, provided that a telefax or scanned copy of such document will be acceptable.

31.2 The Board shall ensure that a record of all resolutions passed by the Board shall be made in a book provided for this purpose and that any resolution passed in terms of clause 31.1 will be inserted in the same book.

31.3 The record or resolution or any extract from either which purports to be signed by the chairperson of the Board or by any Director or the Secretary shall be *prima facie* evidence of the matters stated therein.

32 DIRECTORS' COMPENSATION AND FINANCIAL ASSISTANCE

32.1 The Company may pay remuneration to the Directors for their services as Directors in accordance with a special resolution approved by the Company's Shareholders within the previous 2 (two) years, as set out in section 66(8) and (9), and the power of the Company in this regard is not limited or restricted by this Memorandum of Incorporation.

32.2 The Company shall reimburse the Directors all their travelling, accommodation and other expenses properly and necessarily incurred by them in connection with -

32.2.1 the business of the Company; and

32.2.2 attending meetings of the Directors or of committees of the Directors of the Company,

unless otherwise stated by the Shareholders.

32.3 The Board may, as set out in and subject to the requirements of section 45, authorise the Company to provide financial assistance to a Director, prescribed officer or other person referred to in section 45(2), and the power of the Board in this regard is not limited or restricted by this Memorandum of Incorporation.

33 INDEMNIFICATION OF DIRECTORS

33.1 The Company may –

33.1.1 advance expenses to a Director or directly or indirectly indemnify a Director in respect of the defence of legal proceedings, as set out in section 78(4);

33.1.2 indemnify a Director in respect of liability as set out in section 78(5); and/or

33.1.3 purchase insurance to protect the Company or a Director as set out in section 78(7),

and the power of the Company in this regard is not limited, restricted or extended by this Memorandum of Incorporation.

33.2 The provisions of clause 33.1 shall apply *mutatis mutandis* in respect of any former Director, prescribed officer or member of any committee of the Board, including the audit committee.

34 BORROWING POWERS

The Directors may from time to time exercise all of the powers of the Company to -

34.1 borrow for the purposes of the Company such sums as they think fit; and

34.2 secure the payment or repayment of any such sums, or any other sum, as they think fit, whether by the creation and issue of any securities, mortgage or charge upon all or any of the property or assets of the Company.

35 COMMITTEES OF THE BOARD

35.1 The Board may –

35.1.1 appoint committees of Directors and delegate to any such committee any of the authority of the Board as set out in section 72(1);

35.1.2 not include in any such committee persons who are not Directors but

shall be entitled to consult with and be advised by such persons.

35.2 The meetings and proceedings of any such committee shall, unless otherwise required by the Act, be governed by the provisions herein contained for regulating the meetings and proceedings of the Directors, so far as the same are applicable thereto and are not superseded by any regulations made by the Directors when appointing such committee and establishing its terms of reference.

36 PROTECTED MATTERS

Notwithstanding anything to the contrary contained in this Memorandum of Incorporation, the Company shall procure that no decision on a Protected Matter is adopted or implemented unless –

36.1 agreed to in writing by a majority of the executive directors of Holdco, as well as such number of the directors of Holdco as would have been required to vote in favour thereof for the matter to be approved at a properly constituted and quorate meeting of Directors of Holdco; or

36.2 agreed to in writing by every "Significant Minority Ordinary Shareholder" of Holdco, being a holder of 10% (ten percent) or more of the ordinary shares in issue in Holdco, but excluding the holder of at least 25% (twenty five percent) of the ordinary shares in Holdco and the holder of more than 50% of the ordinary shares in Holdco.

37 RESERVED MATTERS

Notwithstanding anything to the contrary contained in this Memorandum of Incorporation, the Company shall procure that no decision on a Reserved Matter is adopted or implemented unless –

37.1 agreed to in writing by 1 (one) Director nominated by each "Substantial Ordinary Shareholder" of Holdco, being the holder of at least 25% (twenty five percent) of the ordinary shares in issue by Holdco (for so long as such shareholder has a director on the board of Holdco); or

37.2 agreed to in writing by every Shareholder "Substantial Ordinary Shareholder" of Holdco, being the holder of at least 25% (twenty five

percent) of the ordinary shares in issue by Holdco (for so long as such shareholder has a director on the board of Holdco).

38 **ANNUAL FINANCIAL STATEMENTS**

38.1 Notwithstanding the provisions of clause 7.1 –

38.1.1 the Company shall keep all such accurate and complete accounting records, in English, as are necessary to enable the Company to satisfy its obligations in terms of –

38.1.1.1 the Act;

38.1.1.2 any other law with respect to the preparation of financial statements to which the Company may be subject;

38.1.1.3 the Regulations; and

38.1.1.4 this Memorandum of Incorporation; and

38.1.2 the Company shall each year prepare annual financial statements within 6 (six) months after the end of its financial year, or such shorter period as may be appropriate to provide the required notice of the yearly meeting contemplated in clause 17.2.

38.2 In the event that the annual financial statements of the Company –

38.2.1 are required to be audited pursuant to regulations made in terms of section 30(7), as contemplated in section 30(2)(b)(i), or as otherwise contemplated in the Act, the annual financial statements shall be so audited in accordance with the relevant provisions of the Act;

38.2.2 are required to be independently reviewed, as contemplated in section 30(2)(b)(ii)(bb), or as otherwise contemplated in the Act, the annual financial statements shall be so independently reviewed in accordance with the relevant provisions of the Act; or

38.2.3 are required to be audited, independently reviewed, or otherwise assessed in terms of any statute other than the Act, or a regulatory order, the Company shall comply with its relevant obligations in that

regard.

38.3 In the event that the Company falls in the category of companies that may be exempted from having its annual financial statements independently reviewed, as contemplated in section 30(2A), or if the Company is otherwise exempted from having its annual financial statements either audited or independently reviewed, the Company shall concomitantly not be required to have its annual financial statements audited or independently reviewed.

38.4 Notwithstanding clauses 38.2 and 38.3, the Board or the Shareholders may, either in respect of a particular financial year of the Company or for any other fixed or indefinite period, resolve that the annual financial statements shall be audited or independently reviewed, as the case may be, in which event such audit or independent review shall be conducted in accordance with the requirements and parameters set out in the relevant resolution.

39 DISTRIBUTIONS

39.1 Subject to the provisions of the Act, and particularly section 46, the Company may make a proposed distribution if such distribution –

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

39.1.2 is authorised by resolution of the Board.

39.2 No distribution shall bear interest against the Company, except as otherwise provided under the conditions of issue of the shares in respect of which such distribution is payable.

39.3 Subject only to the provisions of any law to the contrary, distributions may be declared either free of or subject to the deduction of income tax and any other tax or duty in respect of which the Company may be chargeable.

39.4 The Company in general meeting may declare a smaller dividend than that recommended by the Directors.

39.5 The Directors may from time to time declare and pay to the Shareholders such interim dividends as the Directors consider to be appropriate.

39.6 All unclaimed distributions may be invested or otherwise made use of by the Directors for the benefit of the Company until claimed, provided that distributions unclaimed for a period of 5 (five) years from the date on which they were declared may, upon a determination to that effect by the Directors, become the property of the Company. The Directors may at any time rescind any such determination upon such conditions (if any) as they think fit.

39.7 Any distribution, interest or other sum payable in cash to the holder of a share may be paid by cheque or warrant sent by post and addressed to -

39.7.1 the holder at his registered address; or

39.7.2 in the case of joint holders, the holder whose name appears first in the Securities Register in respect of the share, at his registered address; or

39.7.3 such person and at such address as the holder or joint holders may in writing direct.

39.8 Every such cheque or warrant shall -

39.8.1 be made payable to the order of the person to whom it is addressed; and

39.8.2 be sent at the risk of the holder or joint holders.

39.9 The Company shall not be responsible for the loss in transmission of any cheque or warrant or of any document (whether similar to a cheque or warrant or not) sent by post as aforesaid.

39.10 A holder or any one of two or more joint holders, or his or their agent duly appointed in writing, may give valid receipts for any distributions or other moneys paid in respect of a share held by such holder or joint holders.

39.11 When such cheque or warrant is paid, it shall discharge the Company of any further liability in respect of the amount concerned.

39.12 A distribution may also be paid in any other way determined by the

Directors, and if the directives of the Directors in that regard are complied with, the Company shall not be liable for any loss or damage which a Shareholder may suffer as a result thereof.

39.13 Without detracting from the ability of the Company to issue capitalisation shares, any distribution may be paid wholly or in part -

39.13.1 by the distribution of specific assets; or

39.13.2 by the issue of shares, debentures or securities of the Company or of any other company; or

39.13.3 in cash; or

39.13.4 in any other way which the Directors may at the time of declaring the distribution determine.

39.14 Where any difficulty arises in regard to such distribution, the Directors may settle that difficulty as they think expedient, and in particular may fix the value which shall be placed on such specific assets on distribution.

39.15 The Directors may -

39.15.1 determine that cash payments shall be made to any Shareholder on the basis of the value so fixed in order to secure equality of distribution; and

39.15.2 vest any such assets in trustees upon such trusts for the benefit of the persons entitled to the distribution as the Directors deem expedient.

40 **NOTICES**

40.1 All notices intended or required to be given by the Company to any Shareholder of the Company shall be given in writing in any manner authorised by the Regulations and particularly Table CR 3 annexed to the Regulations.

40.2 Each Director and Shareholder of the Company –

40.2.1 shall notify in writing to the Company an address, which address shall be his registered address for the purposes of receiving written notices from

the Company by post; and

40.2.2 may notify in writing to the Company an email address and/or facsimile number, which address shall be his or her or its address for the purposes of receiving notices by way of Electronic Communication (and by doing so the Director or Shareholder concerned shall be deemed to have confirmed that notices sent to such address can conveniently be printed by that Director or Shareholder within a reasonable time and at a reasonable cost as contemplated in section 6(10)).

40.3 Any Shareholder whose address in the Securities Register is an address not within South Africa, and who shall from time to time furnish the Company with an address within South Africa at which notices can be served upon him, shall be entitled to have notices served upon him at such address.

40.4 Save as determined in this Memorandum of Incorporation or in the Act, no Shareholder other than a registered Shareholder whose address appears in the Securities Register as being in South Africa, shall be entitled to receive any notice from the Company.

40.5 In the case of joint holders of a Share, all notices shall, unless such holders otherwise in writing request and the Directors agree, be given to that Shareholder whose name appears first in the Securities Register and a notice so given shall be deemed sufficient notice to all the joint holders.

40.6 Any notice sent by any means permitted in Table CR 3 annexed to the Regulations shall be deemed to have been delivered as provided for that method of delivery in such Table.

40.7 Every person who by operation of law, transfer or other means whatsoever becomes entitled to any Share, shall be bound by every notice in respect of that Share which, previously to his name and address being entered in the Securities Register, was given to the person from whom he derives his title to such Share.

40.8 Any notice or document delivered or sent by post to or left at the registered address of any Shareholder in pursuance of this Memorandum of

Incorporation shall, notwithstanding that such Shareholder was then deceased, and whether or not the Company has notice of his death, be deemed to have been duly served in respect of any shares, whether held solely or jointly with other persons by such Shareholder, until some other person be registered in his stead as the sole or joint holder thereof, and such service shall for all purposes of this Memorandum of Incorporation be deemed a sufficient service of such notice or document on his heirs, executors or administrators, and all persons (if any) jointly interested with him in any such shares.

41 WINDING UP

41.1 If the Company be wound up, the assets remaining after payment of the debts and liabilities of the Company and the costs of the liquidation shall be applied as follows -

41.1.1 to repay to the Shareholders the amounts paid up on the shares respectively held by each of them; and

41.1.2 the balance (if any) shall be distributed among the Shareholders in proportion to the number of ordinary shares respectively held by each of them,

provided that the provisions of this clause shall be subject to the rights of the holders of shares (if any) issued upon special conditions.

41.2 In a winding-up, any part of the assets of the Company, including any shares or securities of other companies may, with the sanction of a special resolution of the Company, be paid to the Shareholders of the Company *in specie*, or may, with the same sanction, be vested in trustees for the benefit of such Shareholders, and the liquidation of the Company may be closed and the Company dissolved.

42 AMENDMENT OF MEMORANDUM OF INCORPORATION

42.1 Save for the amendments contemplated in clause 42.2 and subject to clause 37, this Memorandum of Incorporation may only be altered or amended in the manner set out in sections 16 (other than 16(1)(b)), 17 or

152(6)(b).

42.2 The Board, or any individual authorised by the Board, may alter this Memorandum of Incorporation in any manner necessary to correct a patent error in spelling, punctuation, reference, grammar or similar defect on the face of the document by –

42.2.1 publishing a notice of any alteration made by delivering a copy of such amendments to each Shareholder by ordinary mail; and

42.2.2 filing a notice of the alteration.

42.3 An amendment of this Memorandum of Incorporation will take effect from the later of –

42.3.1 the date on, and time at, which the Commission accepts the filing of the notice of amendment contemplated in section 16(7); and

42.3.2 the date, if any, set out in the said notice of amendment,

save in the case of an amendment that changes the name of the Company, which will take effect from the date set out in the amended registration certificate issued by the Commission.

43 RULES

43.1 The Board is authorised to make, amend or repeal any necessary or incidental rules relating to the governance of the Company in respect of matters that are not addressed in the Act or in this Memorandum of Incorporation by –

43.1.1 publishing a copy of any Rules or amendments to such Rules made in terms of section 15(3) to 15(5) by delivering a copy of such Rules or amendments to each Shareholder by ordinary mail; and

43.1.2 filing a copy of those Rules.

43.2 Any Rules so made shall take effect and become binding in the manner contemplated in section 15(4).

43.3 The Board, or any individual authorised by the Board, may alter the Rules, in any manner necessary to correct a patent error in spelling, punctuation, reference, grammar or similar defect on the face of the document by –

43.3.1 publishing a notice of any alteration made by delivering a copy of such amendments to each Shareholder by ordinary mail; and

43.3.2 filing a notice of the alteration.

PROTECTED MATTERS

1 The following constitute Protected Matters –

1.1 any issue of shares by the Company which is not undertaken at the market value of the relevant Share;

1.2 any other material transaction between the Company and any third party where such transaction does not place a fair value on (1) the Company or the Company's assets which form the subject matter of such transaction, and (2) the consideration or counter-performance received by the Company under such transaction;

1.3 the conclusion of any transaction by any Group Entity with any Shareholder or Director or Associate of a Shareholder or Director where such transaction is not conducted on an arm's length basis and on market related terms and conditions;

1.4 any material change in the nature of the business of any material Group Entity not provided in the business plan of the Company or Holdco;

1.5 the cessation or discontinuance of the business of any material Group Entity, unless the financial performance of such Group Entity is detrimental to the value of the Group as a whole;

1.6 the adoption or amendment of any distribution policy, or the making by the Company of any distribution other than in accordance with the shareholders agreement in respect of Holdco (*mutatis mutandis*) or any other distribution policy approved as a Reserved Matter and a Protected Matter from time to time;

1.7 any other matter specifically designated a Protected Matter in terms of any of the other provisions of the Memorandum of Incorporation.

RESERVED MATTERS

1 The following constitute Reserved Matters –

1.1 any changes to the Memorandum of Incorporation of the Company;

1.2 any material change in the nature of the business of the Company not provided in the business plan of the Company or Holdco;

1.3 the cessation or discontinuance of the business of the Company;

1.4 the winding-up of the Company or the decision to commence business rescue proceedings in respect of the Company;

1.5 a merger, amalgamation, reconstruction or consolidation with another entity, or the acquisition of another entity or the whole or substantial part of the business of another entity;

1.6 the creation of any material mortgage charge, pledge, lien, cession or other encumbrance over the Company's assets or property not provided in the business plan of the Company or Holdco;

1.7 the adoption or amendment of any distribution policy, or the making by the Company of any distribution otherwise than in accordance with the distribution policy approved as a Reserved Matter and a Protected Matter from time to time;

1.8 the listing of the shares of the Company on any stock exchange;

1.9 the provision by Shareholders of additional funding, including requirements for additional equity or loan funding, or the provision of Shareholder guarantees for obtaining third party debt finance, save to the extent provided for in the business plan of the Company or Holdco;

1.10 any changes to the capital structure of the Company, including the creation and issue of new shares or the variation of the rights attaching to any shares in the Company;

1.11 the disposal of the whole or a material part of the business of the Company;

1.12 the establishment of any new company or the disposal of the Company;

1.13 the conclusion by the Company of any partnership or joint venture arrangements or profit sharing arrangements or other similar arrangement in relation to or involving profits of the Company;

1.14 the delegation of powers vested in the Board to a committee or sub-committee of the Board and the terms of that delegation;

1.15 the repayment of interest or capital of any claims owing by the Company to any Shareholder on loan account other than on a pro rata basis or in accordance with the terms applicable to such claims;

1.16 the creation and/or issue of debentures by the Company;

1.17 the institution by the Company of any material litigation or the settlement of any material claim;

1.18 any change in the financial year of the Company;

1.19 any change in the auditors of the Company;

1.20 the approval of the annual financial statements of the Company;

1.21 the approval of, material changes to, or material deviations from, the business plan of the Company;

1.22 the incurral of any material capital expenditure by the Company not provided in the business plan of the Company or Holdco;

1.23 the incurral of any material liability or the acquisition of any material asset not provided in the business plan of the Company or Holdco;

1.24 the incurral of any material foreign exchange exposure by the Company other than in the ordinary course of business;

1.25 the entering into by the Company of any transaction not in the ordinary course of its business;

1.26 the entering into by the Company of a material lease immovable property not provided in the business plan of the Company or Holdco;

1.27 the institution of proceedings to dissolve, liquidate, reorganise or restrict the Company or to place the Company under business rescue;

1.28 the entering into by the Company of any contract with an employee of any group entity of Holdco which provides for participation in profits and/or dividends, other than (1) in accordance with a general profit participation scheme which has been approved by way of a Reserved Matter, and (2) the existing cash-based management performance scheme of Sea Harvest, details of which are recorded in the document entitled "*Acceleration of Existing Sea Harvest HEPS Scheme*";

1.29 the creation of any encumbrance over the Company's assets or property which either does not exist as at the date of filing of this Memorandum of Incorporation or which significantly alters the gearing of the Company, not provided for in the business plan of the Company or Holdco;

1.30 the issuance by the Company of any material guarantees, suretyships, indemnities or like undertakings otherwise than in the ordinary course of business and not provided for in the business plan of the Company or Holdco;

1.31 any bonus or share incentive granted to any Director, executive or employee of the Company other than in accordance with an arrangement approved as a Reserved Matter;

1.32 any remuneration increase (other than an inflation based increase) granted to any Director or other executive of the Company not provided for in the business plan of the Company or Holdco;

1.33 passing of any resolution which is a special resolution in terms of the Act;

1.34 the conclusion of any transaction by the Company with any Shareholder or Director of a Shareholder or Director;

1.35 any change in the basis of accounting or accounting policies from those used during the immediately preceding financial year otherwise than in accordance with IFRS;

1.36 any other matter specifically designated a special resolution or Reserved Matter in terms of any of the other provisions of the Memorandum of Incorporation.

1.37 For purposes of this Schedule "2" a particular item shall be regarded as "material" if, either in value or percentage terms -

1.37.1 the relevant item exceeds the materiality threshold set from time to time for such item in terms of a management decision and approvals matrix adopted by way of a Reserved Matter; or

1.37.2 if there exists no such management decision and approvals matrix, or it exists but does not set a materiality threshold for the relevant item, the relevant item ought, in the overall context, to be regarded as material.