

# MEMORANDUM OF INCORPORATION

of

## MR PRICE GROUP LIMITED

(Registration number 1933/004418/06)

being a profit company which is classified as a public company

("the Company")

The Company has adopted this unique form of Memorandum of Incorporation and, accordingly, the prescribed standard form of Memorandum of Incorporation for profit companies, which is contained in the Companies Regulations shall not apply to the Company.

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

This Memorandum of Incorporation has adopted by Special Resolution of the members of the Company at a general meeting held at Durban on 30 August 2012.

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## 1 INTERPRETATION

In this MOI:

- 1.1 a word or an expression that denotes -
  - 1.1.1 any gender, includes the other genders;
  - 1.1.2 a natural person, includes an artificial or juristic person and *vice versa*;
  - 1.1.3 the singular, includes the plural and *vice versa*;
- 1.2 the following word and expressions shall bear the meanings assigned to them below and cognate expressions shall bear corresponding meanings, unless the context otherwise indicates -
  - 1.2.1 "**Act**" - the Companies Act 71 of 2008, for the time being in force and as amended or re-enacted, including any regulations promulgated thereunder and for the time being in force;
  - 1.2.2 "**Annual General Meeting**" – the meeting of a Public Company required by section 61(7) of the Act;
  - 1.2.3 "**B Shares**" – the par value B ordinary shares of 0.3 cents each in the capital of the Company, having the preferences, rights, limitations and other terms contemplated in clause 11 as read with Schedule 2;
  - 1.2.4 "**Company**" - the company defined as such on the front page of this MOI;
  - 1.2.5 "**Equity Securities**" - equity shares (being shares that comprise a company's equity share capital and which carry votes), securities, if any (as that term is defined in the Securities Services Act, 2004, as amended), and equity instruments, if any (being securities with restricted voting rights but which participate in the distribution of profits in a manner directly linked to the profitability of the company);
  - 1.2.6 "**General Meeting**" - an Annual General Meeting or other Shareholder Meeting or general meeting duly constituted and any adjournment thereof;
  - 1.2.7 "**Group**" - the Company and any or all of its Subsidiaries for the time being and from time to time;
  - 1.2.8 "**JSE**" – the JSE Limited, a company duly registered and incorporated with limited liability under the company laws of the Republic of South Africa under registration number 2005/022939/06, licensed as an exchange under the Security Services Act 36 of 2004;
  - 1.2.9 "**JSE Listings Requirements**" – the Listings Requirements of the JSE from time to time;
  - 1.2.10 "**Legal Representative**" - any Person who has submitted proof (which is satisfactory to the Board) of his appointment (and, to the extent required by the Board, the continuation of that appointment) as -
    - 1.2.10.1 an executor of the estate of a deceased Shareholder, or a curator, guardian or trustee of a Shareholder whose estate has been sequestrated or who is otherwise under any disability;

- 1.2.10.2 the liquidator of any Shareholder that is a body corporate in the course of being wound-up; or
- 1.2.10.3 the business rescue practitioner of any Shareholder that is a company undergoing business rescue proceedings;
- 1.2.11 "**Memorandum of Incorporation**" or "**MOI**" - the memorandum of incorporation of the Company, being this document (and including any Schedules hereto), as amended or replaced from time to time;
- 1.2.12 "**Ordinary Share**" – the par value ordinary shares of 0.025 cents each in the capital of the Company, having the preferences, rights, limitations and other terms contemplated in clause 10;
- 1.2.13 "**Profit Company**" – means a company incorporated for the purpose of financial gain for its shareholders;
- 1.2.14 "**Public Company**" – means a Profit Company that is not a state-owned company, a private company or a personal liability company;
- 1.2.15 "**Regulations**" - the Companies Regulations of 2011 for so long as they remain of force and effect and any other regulations made under the Act;
- 1.2.16 "**Republic**" - the Republic of South Africa;
- 1.2.17 "**SENS**" – the Securities Exchange News Service;
- 1.2.18 "**Share**" – all the shares from time to time of the Company;
- 1.2.19 "**Shareholder**" - a holder of a Share issued by the Company and who is entered as such in its Securities Register (established in terms of section 50(1));
- 1.2.20 "**Shareholders Meeting**" – with respect to any particular matter concerning the Company, a meeting of those holders of the Company's Shareholders who are entitled to exercise voting rights in relation to that matter;
- 1.2.21 "**Subsidiary**" – has the meaning determined in accordance with section 3 of the Act;
- 1.2.22 "**Year**" – calendar year.
- 1.3 if any provision in a definition is a substantive provision conferring a right or imposing an obligation on any Person, then, notwithstanding that it is only in a definition, effect shall be given to that provision as if it were a substantive provision in the body of this MOI;
- 1.4 the use of the word "**including**", "**includes**" and "**include**", followed by a specific example/s, shall not be construed as limiting the meaning of the general wording preceding it and the *eiusdem generis* rule shall not be applied in the interpretation of that general wording or those specific example/s;
- 1.5 where any term is defined within a particular clause other than this clause 1, that term shall bear the meaning ascribed to it in that clause wherever it is used in this MOI;
- 1.6 the term "meeting" shall include any adjourned meetings;

- 1.7 any word or expression (whether or not capitalised) that is defined in the Act or in the JSE Listings Requirements and that is not otherwise defined in this MOI shall, unless the context otherwise indicates, have the meaning assigned to it in the Act or the JSE Listings Requirements (as the case may be). For the avoidance of doubt, it is recorded that any reference to "Present at such Meeting" or "Present at the Meeting" shall be construed in accordance with the definition of "Present at a Meeting" in the Act; and
- 1.8 a reference to a "**section**" refers to the corresponding section of the Act.
- 1.9 clause headings are used for convenience only and shall not be used in the interpretation of the MOI.

## 2 **CONFLICT**

If there is a conflict between:

- 2.1 a provision of the MOI and a provision of the Act; or
- 2.2 a provision of the MOI and a provision of the JSE Listings Requirements.

then any such conflict shall be determined in terms of the application provisions of the Act from time to time (including the provisions of section 15(1) as read with sections 5(6) and 6(15) of the Act).

## 3 **AMENDMENT OF THE MOI**

- 3.1 Any amendment to this MOI must be approved by a Special Resolution of Shareholders, save where such an amendment is ordered by a court in terms of Sections 16(1)(a) and 16(4) of the Act. Amendment, for the avoidance of doubt, shall include, but shall not be limited to:
  - 3.1.1 the creation of any class of shares;
  - 3.1.2 the variation of any preferences, rights, limitations and other terms attaching to any class of shares;
  - 3.1.3 the conversion of one class of shares into one or more other classes;
  - 3.1.4 an increase in the number of Securities of a class;
  - 3.1.5 a consolidation of Securities;
  - 3.1.6 a sub-division of Securities; and/or
  - 3.1.7 the change of the name of the company.
- 3.2 Any amendments to the MOI from time to time shall comply with any applicable provisions of the JSE Listings Requirements.

## 4 **RULES**

The Board shall not have the power to make, amend or appeal rules as contemplated in Section 15(3) of the Act.

## **5 STATUS AS PUBLIC COMPANY**

5.1 There are no prohibitions on the Company offering any of its Securities to the public and there are no restrictions on the transferability on the Company's Securities, subject to the compliance with any applicable provisions of the JSE Listings Requirements and this MOI.

5.2 The Company is not:

5.2.1 a State-Owned Company;

5.2.2 a Private Company; or

5.2.3 a Personal Liability Company.

5.3 The Company is, accordingly, classified as a Public Company in terms of section 8(2)(d) of the Act.

## **6 SHARE CAPITAL**

The classes of Shares, and the number of Shares of each class, that the Company is authorised to issue, are set out in Schedule 1 to this MOI.

## **7 UNISSUED SECURITIES**

7.1 Unissued Equity Securities shall be offered to existing Shareholders, pro rata to their shareholdings, unless such Securities are to be issued for an acquisition of assets. The Shareholders, in General Meeting, may authorise the Board to issue unissued Securities, and/or grant options to subscribe for unissued Securities, as the Board in their discretion deem fit, provided that any such corporate actions have been approved by the JSE and are subject to the JSE Listings Requirements.

## **8 TRANSFERABILITY OF SECURITIES AND TRANSFER OF SECURITIES**

8.1 Securities for which listing is sought must be fully paid up and freely transferable, unless otherwise required by statute. Notwithstanding the provisions of Section 40(5) of the Act, the JSE will not list Shares that are not fully paid for upon listing.

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

## **9 RATIFICATION OF ULTRA VIRES ACTS**

The proposal of any resolution to Shareholders in terms of Sections 20(2) and 20(6) of the Act is prohibited in the event that such a resolution would lead to the ratification of an Act that is contrary to the JSE Listings Requirements; unless otherwise agreed with the JSE.

## **10 PREFERENCES, RIGHTS, LIMITATIONS AND OTHER SHARE TERMS**

10.1 Securities in each class for which listing is applied shall rank pari passu in respect of all rights. It is recorded for the purposes hereof that the statement "Securities in each class rank pari passu" shall be understood to have the meaning attributed thereto in paragraph 3.29 of the JSE Listings Requirements.

- 10.2 Every holder of an Ordinary Share shall have one vote in respect of each such share that he holds and must be entitled to vote at every Annual General Meeting or General Meeting, whether in person or by proxy.
- 10.3 The rights of Shareholders to be represented by proxy shall be governed by the provisions of section 58 of the Act as read with any applicable provisions of the JSE Listings Requirements.
- 10.4 The holders of Securities, other than ordinary shares and any special shares created for the purposes of black economic empowerment in terms of the BEE Act and BEE Codes, shall not be entitled to vote on any resolution taken by the Company, save for as permitted by clause 10.8 below. In instances that such Shareholders are permitted to vote at General Meeting, their votes may not carry any special rights or privileges and they shall be entitled to one vote for each Share that they hold, provided that their total voting right at such a General Meeting may not exceed 24,99% of the total voting rights of all Shareholders at such General Meeting.
- 10.5 Any amendment to this MOI relates to the variation of any preferences, rights, limitations and other terms attaching to any other class of Shares already in issue, that amendment must not be implemented without a Special Resolution, taken by the holders of Shares in that class at a separate meeting. In such instances, the holders of such Shares may be allowed to vote at the meeting of Shareholders subject to clause 10.3 above. No resolution of Shareholders of the Company shall be proposed or passed, unless a Special Resolution, of the holders of the Shares in that class, have approved the amendment.
- 10.6 In addition to the above and for the avoidance of doubt, if there are any listed cumulative and/or listed non-cumulative preference share in the capital of the Company no further Securities ranking in priority to, or pari passu with, existing preference shares, of any class, shall be created without a Special Resolution passed at a separate General Meeting of such preference shareholders.
- 10.7 The preferences, rights, limitations or other terms of any class of Shares of the Company must not be varied and no 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) of the Act.
- 10.8 Subject to the provisions of clause 10.3 above, the holders of preference Shares (if any) shall have the right to vote at any Annual General Meeting or General Meeting of the Company–
- 10.8.1 during any special period, as provided for in clause 10.8.3 below, during which any dividend, any part of any dividend on such preference shares or any redemption payment thereon remains in arrears and unpaid; and/or
- 10.8.2 in regard to any resolution proposed for the winding-up of the Company or the reduction of its capital;
- 10.8.3 the period referred to in clause 10.8.1 above shall be the period commencing after the end of the financial year of the Company in respect of which such dividend accrued or such redemption payment became due.

## **11 PREFERENCES, RIGHTS, LIMITATIONS AND OTHER SHARE TERMS OF THE B SHARES**

- 11.1 The preferences, rights, limitations and other share terms of the B Shares are contained in Schedule 2 hereto.



11.2 Schedule 2 constitutes an integral part of this MOI.

## 12 CAPITALISATION ISSUES

Any capitalisation issue by the Company shall at least be subject to the fulfilment of the requirements set out in Section 47 of the Act. The Company's MOI may not be interpreted as providing for any less stringent requirements in regard to the foregoing.

## 13 SCRIP DIVIDEND AND CASH DIVIDEND ELECTIONS

The grant of the right of election is not prohibited by this MOI.

## 14 PAYMENTS TO SECURITIES HOLDERS

Payments to Securities holders must be effected in accordance with the JSE Listings Requirements and must not be subject to any provisions that any capital shall be repaid upon the basis that it may be called up again.

## 15 CORPORATE ACTIONS

15.1 Any or all of the following corporate actions (which corporate actions, for the avoidance of any doubt, are duly authorised by this MOI) must be undertaken by the Company, in accordance with the JSE Listings Requirements:

15.1.1 Issues of Equity Securities for cash.

15.1.2 Options and convertible Securities granted or issued for cash.

15.1.3 Repurchase of Securities;

15.1.4 Alteration of share capital, authorised shares and rights attaching to a class/es of Shares.

15.2 In respect of any corporate action that may result in fractional entitlements arising, all allocations of Securities will be rounded down to the nearest whole number resulting in allocations of whole securities and a cash payment (subject to compliance with the JSE Listings Requirements) for the fractions. The cash payment will be made in terms of the JSE Listings Requirements. The Company will release an announcement on LDT + 2 (last day to trade plus two days) in respect of the cash value determined.

15.3 For the purposes of clause 15.2:

15.3.1 "corporate action" has the meaning assigned thereto in the JSE Listings Requirements;

15.3.2 the provisions of clause 15.2, for the avoidance of any doubt, will apply mutatis mutandis to any capitalisation issue in terms of clause 12;

15.3.3 any corporate action events to which fraction payouts will not apply (including any rights offers and any corporate event to the extent that it encompasses any share entitlements to any unlisted company) will be determined in terms of the JSE Listings Requirements. Any provision of clause 15.2 which is inconsistent with the JSE Listings Requirements will accordingly be void to the extent of any such inconsistency.

## 16 DEBT INSTRUMENTS

The granting of special privileges to holders of debt instruments, including attending and voting at general meetings and the appointment of directors, is prohibited.

## 17 **SHAREHOLDER RESOLUTIONS AND MEETINGS**

- 17.1 The passing of a Special Resolution is to be subject to the approval of at least 75% of the votes cast by all Equity Securities holders present in person, or represented by proxy, at the General Meeting convened to approve such resolution and must be subject to a minimum notice period of 15 business days.
- 17.2 An Ordinary Resolution is to be subject to a minimum notice period of 15 business days.
- 17.3 The notice periods referred to in clauses 17.1 and 17.2 are not applicable where the Company adheres to Section 62(2A) of the Act.
- 17.4 Subject to clause 17.12 below, all Shareholder meetings convened in terms of the JSE Listings Requirements must be held "in person" and must not be held by means of a written resolution as is contemplated in Section 60 of the Act.
- 17.5 There is no prohibition or restriction on the Company from calling any meeting for the purposes of adhering to the JSE Listings Requirements.
- 17.6 Notices of General Meetings are to be delivered to each Shareholder entitled to vote at such meeting and who has elected to receive such documents.
- 17.7 All notices of meetings must be delivered to the JSE at the same time as notices are sent to Shareholders. Such notices must also be announced through SENS.
- 17.8 The business of a General Meeting shall include the power to sanction or declare dividends.
- 17.9 The quorum at a General Meeting shall be at least three Shareholders entitled to attend and vote thereat. In addition to the foregoing, the quorum requirements provided for in Section 64(1) of the Act may not be lower than 25% in respect of any General Meeting.
- 17.10 Once a quorum has been established, all the Shareholders of the quorum must be present at the meeting to hear any matter that must be considered at such General Meeting.
- 17.11 The chairperson of the Board or, failing him, the deputy chairperson of the Board (or if more than one of them is present and willing to act, the most senior of them) shall preside as the chairperson of each Shareholders Meeting, provided that, if no chairperson or deputy chairperson is present and willing to act, the Board failing whom Shareholders present, shall elect one of the Directors to be the chairperson of that Shareholders Meeting.
- 17.12 Subject to the provisions of this MOI and the Act, the following resolutions may be proposed as written resolutions in accordance with Section 60 of the Act:
- 17.12.1 change of name;
- 17.12.2 odd lot offers;
- 17.12.3 increase in authorised share capital;
- 17.12.4 approval of amendments to this MOI, and
- 17.12.5 any other resolutions as permitted by the JSE Listings Requirements from time to time.

**18 LIEN UPON SECURITIES**

The power of the Company to claim a lien on Securities is prohibited.

**19 TRANSMISSION CLAUSE**

Securities registered in the name of a deceased or insolvent holder shall not be forfeited if the executor fails to register them in his own name or in the name of the heir(s) or legatees, when called upon by the Directors to do so.

**20 COMMISSION**

The Company may not pay any commission exceeding 10% to any person in consideration for their subscribing or agreeing to subscribe, whether absolutely or conditionally, for any Securities of the Company.

**21 RECORD DATE**

The record date for all transactions shall be as set out in the JSE Listings Requirements.

**22 DIRECTORS**

22.1 The minimum number of Directors of the Company shall be four.

22.2 The appointment of all Directors shall be subject to Shareholder approval at any Annual General Meeting or General Meeting provided the meeting is not conducted in terms of Section 60 of the Act.

22.3 The appointment of a Director, to fill a casual vacancy or as an addition to the Board, must be confirmed by Shareholders at the next Annual General Meeting.

22.4 Should the number of Directors fall below the minimum provided in this MOI, the remaining Directors must, as soon as possible, and, in any event, not later than three months from the date that the number of Directors falls below the minimum, fill the vacancies or call a General Meeting for the purpose of filling the vacancies. A failure by Company to have the minimum number of Directors during the three-month period does not limit or negate the authority of the Board or invalidate anything done by the Board or the Company. After the expiry of the three-month period, the remaining Directors shall only be permitted to act for the purpose of filling vacancies or calling general meetings of Shareholders.

22.5 A Director may be employed in any other capacity in the Company or as a Director or employee of a company controlled by, or itself a major subsidiary of, the Company and, in such event, his appointment and remuneration in respect of such other office must be determined by a disinterested quorum of Directors.

22.6 The Directors may be paid all their travelling and other expenses, properly and necessarily incurred by them in and about the business of the Company, and in attending meetings of the Directors or of committees thereof; and, if any Director is required to perform extra services, to reside abroad or be specifically occupied about the Company's business, he may be entitled to receive such remuneration as is determined by a disinterested quorum of Directors, which may be either in addition to or in substitution for any other remuneration payable.

22.7 At least one third of non-executive Directors must retire at the Company's Annual General Meeting (or other General Meeting held on an annual basis), provided the meeting is not conducted in terms of Section 60 of the Act. These retiring members of the Board may be re-elected, provided they are eligible. The Board, through its nomination committee, should recommend eligibility, taking into account past performance and contribution made.

- 22.8 The notice period to be allowed before the date of an Annual General Meeting or General Meeting convened for the nomination of a new Director must be such as to give sufficient time, after the receipt of the notice, for nominations to reach the Company's office from any part of the Republic of South Africa. Directors may be elected at a General Meeting, provided the meeting is not conducted in terms of Section 60 of the Act.
- 22.9 The Directors shall be entitled to elect a chairman, deputy chairman and/or any vice chairman and to determine the period for which they, respectively, shall hold office. No chairman shall be permitted to have a casting vote.
- 22.10 A decision that could be voted on at a meeting of the Board of a Company may, instead, be adopted by 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. Such resolution, 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 (unless a statement to the contrary is made in that resolution).
- 22.11 Life directorships and directorships for an indefinite period are not permissible.
- 22.12 The quorum necessary for the transaction of the business of the Directors shall be three Directors. If a quorum is not present within thirty minutes after the time appointed for the commencement of any meeting of the Board, that meeting shall automatically be postponed without motion or vote to the same day in the following week (or, if that day is not a Business Day, the next Business Day), at the same time and place. The postponed meeting may only deal with the matters that were on the agenda of the meeting that was postponed. If at any such postponed meeting a quorum is not present within thirty minutes after the time appointed for the commencement of that meeting, then, notwithstanding the provisions of section 73(5)(b) of the Act, the Directors present will be deemed to constitute a quorum and will be sufficient to vote on any resolution which is tabled at that meeting.
- 22.13 For the avoidance of any doubt:
- 22.13.1 the chairperson of the Board or the chairperson of the nomination committee of the Board shall be entitled to nominate Directors but any such person shall not be entitled to appoint or remove any director/s;
- 22.13.2 the nomination and appointment of Directors (including any alternate directors) shall further be governed by the applicable provisions of the JSE Listings Requirements and the Act.

## **23 ALTERNATE DIRECTORS**

- 23.1 Each Director may, by notice in writing to the Company at any time, -
- 23.1.1 nominate any one or more than one person in the alternative (including any of his co-Directors) to be his Alternate Director;
- 23.1.2 terminate any such appointment.
- 23.2 The appointment of an Alternate Director must be approved by Shareholders to the extent required in terms of the JSE Listings Requirements or the Act (as the case may be).

23.3 The appointment of an Alternate Director shall terminate when the Director to whom he is an Alternate Director -

23.3.1 ceases to be a Director; or

23.3.2 terminates his appointment.

provided that a Director retiring at any meeting shall not, subject to any applicable provisions of the Act and the JSE Listings Requirements from time to time, for the purposes of this clause 23.3 be deemed to have ceased to be a Director.

## 24 **BOARD COMMITTEES**

24.1 The Board may -

24.1.1 appoint any number of committees of Directors; and

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

24.1.3 include any Person who is not a Director of the Company in such committees,

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

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

## 25 **DISTRIBUTIONS**

25.1 Any Distributions shall be declared by the Directors, subject to compliance with any peremptory provisions of the Act (including the application of the solvency and liquidity test as set out in section 4 of the Act) and the JSE Listings Requirements.

25.2 Distributions are to be payable to Shareholders registered as at a date subsequent to the date of declaration or date of confirmation of the Distribution, whichever is the later.

25.3 The Company must hold all monies due to Shareholders in trust indefinitely, but subject to the laws of prescription.

25.4 The Company may transmit any Distribution by:

25.4.1 electronic bank transfer to such bank account as the holder thereof may have notified to the Company in writing for this purpose; or

25.4.2 ordinary post to the postal address of the Shareholder thereof (or, where two or more Persons are registered as the joint Shareholders of any Share, to the address of the joint holder whose name stands first in the Securities Register) recorded in the Securities Register as at a date subsequent to the date of declaration or date of confirmation of the Distribution (whichever the later) or such other address as the holder thereof may previously have notified to the Company in writing for this purpose,

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

## 26 **FINANCIAL ASSISTANCE**

- 26.1 The authority of the Board to authorise the Company to provide financial assistance by way of a loan, guarantee, the provision of security or otherwise to any person for the purpose of, or in connection with, the subscription of any option, or any Securities, issued or to be issued by the Company or a related or inter-related company, or for the purchase of any Securities of the Company or a related or inter-related company, subject to the provisions of sections 44(3) and 44(4), is not restricted or varied by this MOI.
- 26.2 The authority of the Board to authorise the Company to provide financial assistance to a Director or prescribed officer of the Company or a related or inter-related company, or to a related or inter-related company or corporation or to a member of a related or inter-related company or corporation, or to a person related to any such person or entity, subject to the provisions of sections 45(3) and 45(4), is not restricted or varied by this MOI.

## 27 **REGISTER AND CERTIFICATES**

- 27.1 Securities of the Company are to be issued in certificated or uncertificated form, as shall be determined by the Board from time to time.
- 27.2 The Company shall establish or cause to be established a register of its issued Securities in the form prescribed by the Act, the Regulations and the JSE Listings Requirements and maintain such register in accordance with the prescribed standards.

## 28 **JOINT HOLDERS OF SECURITIES**

Where two or more Persons are registered as the holders of any Security, they will be deemed to hold that Security jointly, and -

- 28.1 notwithstanding anything to the contrary contained anywhere else in this MOI, on the death, sequestration, liquidation or legal disability of any one of those joint holders, the remaining joint holders may be recognised, at the discretion of the Board, as the only Persons having title to that Security;
- 28.2 any one of those joint holders may give effective receipts for any Distributions or other payments or accruals payable to those joint holders;
- 28.3 only the joint holder whose name stands first in the Securities Register shall be entitled to delivery of the certificate relating to that Security, or to receive notices or payments from the Company (and any notice or payment given to that joint holder shall be deemed to be notice or payment, as the case may be, to all of the joint holders);
- 28.4 any one of the joint holders of any Security conferring a right to vote on any matter may vote either personally or by proxy at any meeting in respect of that Security as if he were solely entitled to exercise that vote, and, if more than one of those joint holders is present at any meeting of Shareholders, either personally or by proxy, the joint holder who tenders a vote (including an abstention) and whose name stands in the Securities Register before the other joint holders who are present, in person or by proxy, shall be the joint holder who is entitled to vote in respect of that Security;
- 28.5 the Company shall be entitled to refuse to register more than five Persons as the joint holders of a Security.

## 29 **LEGAL REPRESENTATIVES**

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

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

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

## 30 **FINANCIAL STATEMENTS AND ACCESS TO COMPANY INFORMATION**

30.1 A copy of the annual Financial Statements of the Company shall be delivered to all Shareholders in accordance with clause 31 at least 15 Business Days before the date of the Annual General Meeting at which they will be considered.

30.2 In addition to the rights set out in section 26 of the Act, and in accordance with the provisions of section 31(i) of the Act, a person who holds or has a beneficial interest in any securities issued by a company, is entitled -

- 30.2.1 without demand to receive a notice of the publication of any annual financial statements of the company required by this Act, setting out the steps required to obtain a copy of those statements; and
- 30.2.2 on demand to receive without charge one copy of any annual financial statements of the company required by this Act.

## 31 **NOTICES**

31.1 Any notice that is required to be given to Shareholders or Directors may be given in any manner prescribed in section 7 of the Regulations and that notice shall be deemed to have been delivered as provided for in the Act or the Regulations as a result of the relevant method of delivery.

31.2 Each Shareholder and Director shall -

- 31.2.1 notify the Company in writing of a postal address, which address shall be his registered address (which address may be in the Republic of South Africa or any other country) for the purposes of receiving written notices from the Company by post and, if he has not named such an address, he shall be deemed to have waived his right to be so served with notices; and
- 31.2.2 Unless otherwise agreed with the Company, notify in writing to the Company an e-mail address and facsimile number, which address shall be his address for the purposes of receiving notices by way of e-mail or facsimile, respectively.

## **SCHEDULE 1 - SHARE CAPITAL**

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

- 323 300 000 Ordinary Shares having the preferences, rights, limitations and other terms set out in the MOI;
- 19 700 000 B Ordinary Shares having the preferences, rights, limitations and other terms set out in the MOI;

## **SCHEDULE 2 – PREFERENCES, RIGHTS, LIMITATIONS and other share terms OF THE B SHARES**

32 Each B Share in the issued capital of the Company has the following preferences, rights, limitations (if any) and other terms (collectively, "the B Share Rights"):

- 32.1 in the event of voting by a poll, twelve votes in respect of each B Share;
- 32.2 on the winding-up of the company, the proceeds of the winding-up will be utilised in the first instance to effect a repayment of the par value of the B Shares and the ordinary shares *pro rata* to their respective par values, whereafter the B Shares and the Ordinary Shares will rank *pari passu* in respect of the distribution of any further proceeds;
- 32.3 each B Share will be entitled to the same dividend per share as an Ordinary Share;
- 32.4 subject to the provisions of clause 32.6 relating to the variation of rights and this Schedule 2, the B Shares will rank *pari passu* with the Ordinary Shares in all other respects, including meeting and voting with the holders of Ordinary Shares in all meetings;
- 32.5 each B Share may, at the option of the B Share holder, be converted into an Ordinary Share in the Company on the following basis:
- 32.5.1 the B Shareholder may convert all or part of his B Shares at any time by giving notice in writing to the Company;
- 32.5.2 pursuant to the conversion, the par value of the B Shares to be converted shall be reduced to the par value of the Ordinary Shares prior to such conversion;
- 32.5.3 the B Share holder shall be entitled to receive one Ordinary Share for every one B Share converted;
- 32.5.4 the Company shall, against surrender by the B Share holder of the share certificate(s) in respect of the B Shares being converted, allot and issue the number of Ordinary Shares in accordance with the provisions of Schedule 2;
- 32.5.5 the conversion shall be deemed to have taken place with effect from the date upon which the Company allots and issues the Ordinary Shares in accordance with the provisions of this Schedule 2;
- 32.5.6 the Ordinary Shares issued pursuant to the conversion shall rank *pari passu* in all respects with the then issued Ordinary Shares in the Company;
- 32.5.7 prior to the conversion, the Company shall procure the consent of the JSE to the listing of such converted B Shares on the JSE as soon as possible after such conversion, which listing shall be a condition precedent to the conversion;



- 32.6 the B Share Rights may only be varied or cancelled by Special Resolution and with the prior written consent of three-quarters of the holders of the B Shares or the prior sanction of a Special Resolution approved by the holders of the B Shares at a separate meeting.
- 32.7 Notwithstanding anything to the contrary in the MOI, in the event of any inconsistency or conflict between this Schedule 2 and the remaining provisions of this MOI (including clause 10.3 thereof), then the provisions of this Schedule 2 shall prevail.
- 32.8 In the event of any inconsistency or conflict between the B Share Rights and the JSE Listings Requirements (including paragraph 10.5(c)), then the provisions of this Schedule 2 shall prevail.
- 33 For the avoidance of any doubt, and in amplification of the import and intent of clauses 32.7 and 32.8, it is recorded that the B Share Rights were duly approved by the JSE and Shareholders of the Company (at a general meeting held on 19 October 2000) and such rights remain of force and effect.