Republic of South Africa

Companies Act, No. 71 of 2008

MEMORANDUM OF INCORPORATION FOR A PRIVATE COMPANY

Name of company: Ubambo Investment Holdings Proprietary Limited

Previous Registration number: 1998/014976/06

New Registration number: __________________________

Memorandum of Incorporation adopted by Special Resolution passed on XXXXX 2026

INDEX

Part A Interpretation

1. **Definitions**

In this Memorandum of Incorporation, unless the context otherwise requires:

1.1 **Affiliate** – means any person related to a Shareholder in such a way that either the Shareholder or such person directly or indirectly Controls, is Controlled by, or is under common Control with, the other and includes a partnership over which a Shareholder exercises Control;

1.2 **Board** – means the board of Directors of the Company from time to time elected or appointed in accordance with the terms hereof and the Shareholders' Agreement;

1.3 **Companies Act** – means the Companies Act, 71 of 2008, as amended, or any legislation which replaces it;

1.4 **Company** – means Ubambo Investment Holdings Proprietary Limited, a private company incorporated under the laws of South Africa, with registration number ___________________________;

1.5 **Control** – shall bear the meaning ascribed to it in the Companies Act;

1.6 **Director** – means a member of the Board;

1.7 **Memorandum of Incorporation** – means this Memorandum of Incorporation;

1.8 **Ordinary Resolution** – means a resolution passed by the affirmative vote of those Shareholders present at (or participating in) a properly constituted and quorate meeting of the Shareholders, or the affirmative vote of those Shareholders who sign a resolution in terms of section 60 (a resolution other than at a meeting), in each case who are entitled to exercise more than 50% of the voting rights thereat or thereon, as the case may be;

1.9 **Reserved Shareholder Matters** – means those matters reserved for the decision of the Shareholders in accordance with article 29;

1.10 **Shareholder** – means the holders of Shares from time to time;

1.11 **Shareholders Agreement** – means the shareholders' agreement entered into by and between the Shareholders of the Company from time to time;

1.12 **South Africa –** means the Republic of South Africa;

1.13 **Special Resolution** – means a resolution adopted (i) at a properly constituted and quorate meeting of Shareholders, or (ii) by Shareholders acting other than at a meeting, with the support of at least 75% of the voting rights exercised on a resolution.

2. **Interpretation**

2.1 Capitalised terms used in this Memorandum of Incorporation, which are defined in the Companies Act but not in this Memorandum of Incorporation, will bear the same meaning in this Memorandum of Incorporation as in the Companies Act.

2.2 A reference to an enactment or agreement is a reference to that enactment or agreement as at the date of this Memorandum of Incorporation and as amended or re-enacted from time to time.

2.3 All references to "**section/s**" in this Memorandum of Incorporation refer to the sections of the Companies Act unless the context indicates otherwise. Further, a reference in this Memorandum of Incorporation to a section refers to the corresponding section of the Companies Act notwithstanding the renumbering or amendment of such section after the date on which this Memorandum of Incorporation is adopted, and to the extent that any section of the Companies Act referred to in this Memorandum of Incorporation is amended after the date of adoption of this Memorandum of Incorporation, the relevant provision of this Memorandum of Incorporation shall be deemed to refer to the amended provision of the Companies Act, as applicable.

2.4 All references to "**article**" or "**articles**" in this Memorandum of Incorporation refer to the relevant article or articles in this Memorandum of Incorporation, unless the context indicates otherwise.

2.5 The headings are for reference purposes only and shall not affect the interpretation of this Memorandum of Incorporation.

2.6 Words in the singular number shall include the plural, and words in the plural number shall include the singular, words importing the masculine gender shall include the other genders, and words importing persons shall include created entities (corporate or otherwise).

2.7 A reference to "**Business Days**" will mean any day other than a Saturday, Sunday or statutory public holiday in South Africa and a reference to "**days**" (as opposed to Business Days) will mean calendar days. When any number of days, or Business Days, is prescribed, such number will exclude the first and include the last, unless, in the case of days, the last day falls on a Saturday, Sunday, or a public holiday in South Africa, in which case the last day will be the next succeeding Business Day.

2.8 The rule of interpretation that a written agreement will be interpreted against the party responsible for the drafting or preparation of that agreement will not apply.

2.9 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, notwithstanding that it is only in the definition article, effect will be given to it as if it were a substantive provision in the body of the Memorandum of Incorporation.

2.10 The *eiusdem generis* rule will not apply and accordingly, whenever a provision is followed by the word "including" and specific examples, such examples will not be construed so as to limit the ambit of the provision concerned.

2.11 If any term is defined within the context of any particular article in the Memorandum of Incorporation, the term so defined, unless it is clear from the article in question that the term so defined has limited application to the relevant article, shall bear the meaning ascribed to it for all purposes in terms of this Memorandum of Incorporation, notwithstanding that the term has not been defined in this interpretation provision.

2.12 If the provisions of this Memorandum of Incorporation are in any way inconsistent with:

2.12.1 any Unalterable Provision/s, subject to article 3.2.1, the Unalterable Provision/s shall prevail; or

2.12.2 any Alterable Provision/s or the Shareholders Agreement, the Memorandum of Incorporation shall prevail.

2.13 If any provision of the Shareholders Agreement is inconsistent with the Companies Act or this Memorandum of Incorporation, then the Shareholders Agreement shall be void to the extent of such inconsistency until such time as either the Shareholders Agreement or this Memorandum of Incorporation is amended.

Part B Incorporation and Nature of the Company

3. Incorporation

3.1 The Company is prohibited from offering any of its securities to the public and the transferability of its securities is restricted, and accordingly the Company is a private company as defined in section 8(2)(b).

3.2 The Company is governed by:

3.2.1 the Unalterable Provisions, subject only to such higher standards, greater restrictions, longer time periods or more onerous requirements as may be imposed on the Company in terms of this Memorandum of Incorporation in relation to such Unalterable Provisions;

3.2.2 the Alterable Provisions, subject to the limitations, extensions, variations or substitutions set out in this Memorandum of Incorporation;

3.2.3 the provisions of this Memorandum of Incorporation; and

3.2.4 the provisions of the Shareholders' Agreement.

3.3 The Company shall carry on business under the name "Ubambo Investment Holdings Proprietary Limited". Any change to the name of the Company shall be effected in accordance with the provisions of the Companies Act.

4. Powers of the Company

The Company:

4.1 has all the legal powers and capacity of an individual, except to the extent that a juristic person is incapable of exercising any such power or this Memorandum of Incorporation provides otherwise; and

4.2 is not subject to any provisions contemplated in section 15(2)(b) or (c) or any restrictions, limitations or qualifications contemplated in section 19(1)(b)(ii).

5. Memorandum of Incorporation and Company Rules

5.1 If the Board alters the Memorandum of Incorporation in any manner contemplated in section 17(1), namely in any manner necessary to correct a patent error in spelling, punctuation, reference, grammar or similar defect on the face of the Memorandum of Incorporation, then the Board must give notice in writing of that alteration to the Shareholders within 14 days of filing the notice of alteration with the Commission.

5.2 This Memorandum of Incorporation may be altered or amended only in the manner contemplated in sections 16, 17 or 152(6)(b) and it may not be altered or amended in any other manner.

5.3 The Board may not make, amend or repeal rules for the Company, as contemplated in sections 15(3) to (5).

6. Application of Optional Provisions

6.1 The Company does not elect, in terms of section 34(2), to comply voluntarily with the provisions of Chapter 3 of the Companies Act (Enhanced Accountability and Transparency).

6.2 The Company does not elect, in terms of section 118(1)(c)(ii), to submit voluntarily to the provisions of Parts B (Authority of Panel and Takeover Regulations) and C (Regulation of Affected Transactions and Offers) of Chapter 5 of the Companies Act, which deal with the Takeover Regulation Panel and the regulation of affected transactions. Part C Securities of the Company

7. Authorised Shares and Certification

7.1 The Company is authorised to issue 5,333,104 (five million, three hundred and thirty three thousand one hundred and four) ordinary Shares.

7.2 The following rights attach to the ordinary Shares:

7.2.1 Shareholders have one vote per ordinary Share in respect of every matter that may be decided by voting;

7.2.2 Shareholders participate *pro rata* in any distribution to the Shareholders; and

7.2.3 Shareholders are entitled to receive the net assets of the Company upon its liquidation *pro rata* to their shareholding.

7.3 Securities of the Company must be issued in certificated form.

8. New Issue of Shares

For an issuance of Shares, Shareholders shall not have a pre-emptive right to be offered and to subscribe for additional shares as contemplated in section 39.

9. Issuing of Shares

9.1 The Board shall not have the power to take any of the following actions without the prior approval by Special Resolution:

9.1.1 amend the authorisation (including increasing or decreasing the number) and classification of Shares (including determining rights and preferences) as contemplated in section 36(2)(b) or 36(3);

9.1.2 authorise the issue of any shares, including any shares, securities, options or rights as contemplated in section 41 (shareholder approval for issuing shares in certain cases)

9.1.3 authorise the issue of secured and unsecured debt instruments and grant special privileges in relation thereto as contemplated in section 43 (securities other than shares); or

9.1.4 exercise any of the functions set out in section 47 (capitalisation shares).

10. **Registration of Beneficial Interests**

Save for the securities held by a trust, the Company shall not permit securities to be held by one person for the beneficial interest of another.

11. **Securities Register**

The Company shall maintain at its registered office or the registered location of the statutory records of the Company, a register of its issued Securities as provided for in section 50 read with Regulation 32, detailing amongst others, the names and addresses of the Shareholders and the number of Shares issued. The register of issued Securities shall be open to inspection as provided for in section 26, namely for a reasonable period during business hours and by direct request to the Company.

12. **Transferability of securities**

12.1 The Board must enforce any restriction on the transferability of the securities of the Company, whether contained in this Memorandum of Incorporation or in the Shareholders Agreement.

12.2 The Board shall not authorise the registration of a transfer of securities and accordingly, the Company shall not enter into its securities register the transfer of any securities, unless:

12.2.1 the transfer complies with the provisions of this Memorandum of Incorporation and the Shareholders Agreement; and

12.2.2 the transfer is evidenced by a proper instrument of transfer signed by the transferor and transferee, the form of which shall be determined by the Board from time to time, which has been delivered to the Company at its registered office together with:

12.2.2.1 such proof as the Board may require of the authority of the signatory/ies to that instrument of transfer; and

12.2.2.2 the certificate in respect of securities being transferred; or

12.2.3 the transfer was effected by operation of law.

Part D Shareholders' Rights and Meetings

13. Single Shareholder's Authority to Act

If, at any time, as contemplated in section 57(2), the Company has only one Shareholder:

13.1 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

13.2 the provisions of sections 59 to 69 (which address matters pertaining to shareholders in instances where there is more than one shareholder), to the extent not provided for in articles 20, 21, 25, 26 and 27, shall not apply to the Company.

14. Shareholders Right to Information

Every Shareholder has a right to access, inspect and/or copy the information set out in section 26(1), namely the Memorandum of Incorporation, the records of the Directors, the reports to annual meetings and annual financial statements, the notices and minutes of annual meetings, and the securities register.

15. Record Date

The Record Date for participating in and voting at a Shareholders' meeting is the latest date by which the Company is required to give the Shareholders notice of that meeting.

16. Shareholders and Proxies

16.1 Shareholder Right to be Represented by Proxy

16.1.1 At any time, a Shareholder may appoint any individual, including an individual who is not a Shareholder, as proxy to:

16.1.1.1 participate in, speak and vote at, a Shareholders meeting on behalf of the Shareholder; or

16.1.1.2 give or withhold written consent on behalf of the Shareholder to a decision to be taken by round robin resolution in accordance with section 60.

16.1.2 The proxy appointment:

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

16.1.2.2 remains valid for:

16.1.2.2.1 one year after the date on which it was signed; or

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

unless it is revoked or expires earlier.

16.2 **Representation by Concurrent Proxies**

A Shareholder shall not be entitled to appoint concurrent proxies. The right of a Shareholder to appoint persons concurrently as proxies as set out in section 58(3)(a) is accordingly limited and restricted by this Memorandum of Incorporation.

16.3 **Authority of Proxy to Delegate**

In accordance with section 58(3)(b), a Shareholder's proxy shall be entitled to delegate the proxy's powers to act on behalf of the Shareholder to another person, subject to any restrictions set out in the instrument appointing a proxy.

16.4 **Requirement to deliver proxy instrument to the Company**

In accordance with section 58(3)(c), a Shareholder must deliver to the Company a copy of the instrument appointing a proxy before that proxy may exercise the Shareholder's rights at a Shareholders meeting.

16.5 **Deliberative authority of proxy**

In accordance with section 58(7), save as otherwise set out in the instrument appointing the proxy, a Shareholder's proxy shall be entitled to decide without direction from the Shareholder whether to exercise, or abstain from exercising any voting right of the Shareholder.

17. **Annual General Meeting**

The Company shall hold an annual general meeting in accordance with the provisions of Companies Act.

18. **Special General Meetings**

A special general meeting of the Shareholders may be convened by:

18.1 the Board; or

18.2 Shareholders who collectively hold at least 10% of the voting rights to be exercised in respect of the matters to be decided at such meeting.

19. **Notice of Shareholder Meetings**

The notice of a Shareholders meeting is subject to the notice period in article 20 and must:

19.1 be in writing, clearly stating the date, time, place, record date and time of the meeting and shall include an agenda identifying in reasonable detail, the matters to be discussed at such meeting; and

19.2 include copies of any relevant documents to be discussed at such meeting as well as draft copies of any resolutions proposed to be adopted at the meeting and contain a reasonably prominent statement of the Shareholders' rights with regards to appointing proxies and any other requirements contemplated in the Companies Act.

20. Notice Period for Shareholder Meetings

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 10 Business Days.

21. Location of Shareholders’ Meetings

The persons convening meetings of the Shareholders as contemplated in articles 17 and 18 or any other provision in this Memorandum of Incorporation shall determine the location of any Shareholder's meeting, provided that such meeting is held in South Africa.

22. Calling a Shareholders’ Meeting

If the Company is unable to convene a Shareholders’ meeting because it has no Directors or because all of its Directors are incapacitated, any Shareholder may convene a meeting in accordance with article 19.

23. Quorum for shareholders meetings

23.1 No business shall be transacted at any Shareholders meeting unless a quorum of at least 25% of the holders of voting rights to be exercised on any matter to be decided at the meeting are present in person or by proxy at the time when the meeting proceeds.

23.2 If, within 30 minutes after the appointed time for a meeting to begin, a quorum is not present, the meeting shall stand adjourned to a time and place, not less than seven days, provided that if that day is not a Business Day then the meeting shall take place on the next succeeding Business Day, and if at such adjourned meeting a quorum is not present, then provided that the notice of the adjourned meeting has been provided to all the Shareholders in accordance with article 19, then the representatives of the Shareholders present at the meeting shall constitute a quorum.

24. Meetings by Conference Call

At the request of any Shareholder, Shareholder meetings may be held by electronic oral communication (such as conference call, video conferencing, or combination thereof) between Shareholders, some or all of whom are in different places, provided that each Shareholder who participates is able to hear the other participating Shareholders addressing the meeting, and, if he so wishes, is able to address all of the other participating Shareholders simultaneously, and provided further that the decisions of the Shareholders taken at such meetings are confirmed by telefax or e-mail attachment within 24 hours of the meeting by the Shareholder who requested that the meeting be held by conference call and ratified at the next meeting of the Shareholders.

25. Round robin resolutions

25.1 In accordance with section 60 (shareholders acting other than at a meeting), a resolution that could be voted on at a Shareholders’ meeting may instead be submitted for consideration to the Shareholders entitled to exercise voting rights in relation to the resolution and voted on in writing by Shareholders entitled to exercise voting rights in relation to the resolution within 20 Business Days after the resolution was submitted to them.

25.2 Such resolution 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 Resolution or Special Resolution, as the case may be, at a properly constituted Shareholders' meeting and if adopted, has the same effect as if it had been approved by voting at a meeting.

25.3 For the purpose of this article 25, unless otherwise stated in the resolution, it shall be deemed to have been passed on the date upon which it was signed by the last signatory.

25.4 A resolution shall be deemed to have been signed if consent thereto has been given and a message transmitted by e-mail and purporting to emanate from the person whose signature to such resolution is required.

26. **Chairperson**

26.1 The chairperson of a shareholders' meeting shall be the Director appointed as the chairperson of the Board, by the Board.

26.2 If there is no such chairperson, or if at any meeting he is not present within 15 minutes after the time appointed for holding the meeting or is unwilling to act as chairperson, the Directors present shall choose one of their number to be chairperson. If no Director is willing to act as chairperson or if no Director is present within 15 minutes after the time appointed for holding the meeting, the Shareholders present shall choose one of their number to be chairperson of the meeting.

27. **Voting**

27.1 Save for the reserved matters listed in article 29 and matters requiring a Special Resolution in terms of the Companies Act, decisions of the Shareholders shall be taken by Ordinary Resolution.

27.2 In the case of an equality of votes, the chairperson of the meeting shall not be entitled to a second or casting vote, and such resolution shall fail.

28. **Minutes of Shareholder Meetings**

28.1 The Company shall keep minutes of the meetings of the Shareholders and include in those minutes every resolution adopted by the Shareholders.

28.2 Resolutions adopted by the Shareholders must be dated and sequentially numbered and are effective as of the date of the resolution, unless the resolution states otherwise.

28.3 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 Shareholders, is evidence of the proceedings of that meeting, or adoption of that resolution, as the case may be.

29. **Reserved Shareholder Matters**

In addition to the matters requiring approval by way of a Special Resolution in terms of section 65(11) or any other provision of the Companies Act or the Shareholders Agreement, the Company shall not engage in, agree to, perform or undertake any of the following Reserved Matters, unless approved by way of a Special Resolution:

29.1 **in respect of shares in the company:**

29.1.1 the encumbering of any Shares in the share capital of the Company;

29.1.2 the increase or decrease of the number of authorised Shares in the Company, to create new classes of Shares, reclassify any Shares that have been authorised but not issued, to classify any unclassified Shares or to determine the preferences, rights, limitations or other terms of any class of Shares;

29.1.3 the issue of any Shares;

29.1.4 any increase in, alteration or reduction or conversion of the Company's authorised Share capital;

29.1.5 the repurchase of any of the Company's issued Shares or redemption of any preference Shares issued to any Shareholder; and

29.1.6 the listing of any Shares or share options in the Company on any securities exchange;

29.2 **in respect of securities, debt instruments and encumbrances:**

29.2.1 to offer or issue any secured and/or unsecured debt instruments of the Company to the public or to offer any debt instrument to a Shareholder and/or grant any special privileges in relation thereto;

29.2.2 the requirement of a Shareholder to issue any guarantee, suretyship or indemnity to third parties for the obligations of the Company;

29.2.3 creation of any mortgage, pledge, hypothecation, charge, encumbrance or other security interest of whatsoever nature in respect of all or any part of the undertaking, property or assets of the Company, in excess of 10% of the value of the Company or the giving by the Company of any guarantee, suretyship, indemnity or the like for the obligations of any person, in excess of 10% of the value of the Company , and the variation of any of the terms and conditions applicable to any of the foregoing;

29.3 **in respect of expenses, loans, funding:**

29.3.1 the Company making any loan to any Shareholder, Director or third party;

29.3.2 approval for the Company to obtain third party loans other than in accordance with an approved funding proposal;

29.3.3 incurring of any material foreign exchange exposure by the Company other than in the ordinary course of business or incidental to the business of the Company; and

29.3.4 capital expenditure by the Company in respect of any item or project not approved in the annual budget or the incurring of any material indebtedness (being indebtedness in excess of 10% of the value of the Company) by the Company otherwise than as approved in the annual budget;

29.4 **in respect of agreements, including this Memorandum of Incorporation:**

29.4.1 any addition to or variation, deletion, or agreed cancellation of all or any articles or provisions of this Memorandum of Incorporation;

29.4.2 save in respect of agreements required for the operation of the Company, the entry into, extension, renewal or material alteration of any agreement between the Company and any Shareholder or any Affiliate of such Shareholder;

29.5 **in respect of acquisitions and sales and transfers:**

29.5.1 any acquisition or disposal of any immovable property by the Company in excess of 10% of the value of the Company;

29.5.2 the establishment, the disposal or transfer or acquisition (whether directly or through a subsidiary or other vehicle) of any business, share, asset or other investment (in the case of an asset, otherwise than in the ordinary course of business of the Company), including, without limitation, the incorporation, establishment or acquisition of any subsidiary of the Company; and

29.5.3 any sale, assignment, transfer or other disposition of any intangible assets such as goodwill, logos, names, trademarks, copyright, patents or licenses, trademark, patent or licence agreements and including any other intellectual property, where the value of such intangible assets exceeds 10% of the value of the Company;

29.6 **in respect of payments and dividends:**

29.6.1 the payment of compensation of whatsoever nature (including but not limited to fees, salaries, or bonuses) to the Directors of the Company; and

29.6.2 any change in the Company's dividend policy or accounting policies;

29.7 **in respect of the business, litigation and any new businesses:**

29.7.1 the name of the Company, or the name of any new business to be established by the Company and any changes thereto;

29.7.2 the commencement, defence or settlement of any litigation, arbitration or other proceedings, which may give rise to a claim or liability in excess of 10% of the value of the Company;

29.7.3 the suspension, discontinuance, change, cessation or abandoning of the business or part thereof by the Company or the discontinuance of the business activities of the Company or any material change in the nature of the business of the Company or the diversification of the Company into any other business; and

29.7.4 any partnership or joint venture or similar alliance or arrangement between the Company and other person, legal entity or concern (or the establishment, acquisition or purchase of such a partnership or joint venture or similar alliance by the Company) where the funding of such partnership, joint venture or similar alliance or arrangement requires contributions from the Shareholders;

29.8 **in respect of the status of the company:**

29.8.1 the voluntary winding up of the Company;

29.8.2 the entering into a compromise generally with the Company's creditors or deregistration of the Company; and

29.8.3 any other matter of the Company or any of its subsidiaries requiring that the Company or any of its subsidiaries pass a Special Resolution, as the case may be, in terms of the Companies Act.

Part E Directors and Officers

30. **Board of Directors**

30.1 **Board Powers:**

Save for any matters expressly reserved to the Shareholders in terms of article 29, the Board shall have full power of administration of the business and affairs of the Company.

30.2 **Composition of the Board:**

30.2.1 The Board shall comprise at least 2 (two) Directors and a maximum of 6 (six) Directors.

30.2.2 The Shareholders shall each be entitled to nominate, for election and appointment by them in accordance with section 66(4)(b), one Director for each complete 15% of the issued Shares it holds and conversely, a Shareholder having less than 15% of the issued Shares shall have no right to appoint a Director to the Board. Each Shareholder shall further be entitled to have removed and/or replace any Director nominated by it.

30.2.3 Each Shareholder undertakes, when required from time to time, to vote for:

30.2.3.1 the appointment of the others' nominees;

30.2.3.2 the removal of the others' nominees when so requested by the relevant Shareholder; and

30.2.3.3 the substitution of the others' nominees as Directors in the event of removal or disqualification as a Director of any of the others' nominees as Directors, subject to article 30.2.6.

30.2.4 The Shareholders shall co-operate and each Shareholder shall exercise all of its votes as Shareholders to procure that each nomination, removal or replacement of a Director or alternate Director in terms of this Memorandum of Incorporation is implemented without delay.

30.2.5 Should a Shareholder cease to be a Shareholder, such Shareholder shall procure the resignation of its nominated Directors without delay.

30.2.6 A Shareholder removing any of its nominated Directors as a Director, shall be responsible for and, hereby indemnifies the other Shareholders against any claim by such Director arising out of such Director's resignation or removal as such, including, but not limited to, claims for wrongful or unfair dismissal or redundancy or other compensation arising out of such removal or loss of office.

30.2.7 Should a Director in the circumstances referred to in this article refuse to resign as a Director, the Shareholders shall take steps to remove such Director in accordance with the provisions of applicable law and each of the Shareholders undertakes to exercise its or his voting rights at a Shareholders' meeting to procure such Director's removal as a Director.

30.2.8 This Memorandum of Incorporation does not stipulate any additional qualifications or eligibility requirements than those set out in the Companies Act for a person to become or remain a Director or a prescribed officer of the Company.

30.2.9 Without derogation from the provisions of the Companies Act, a Director shall cease to be a Director if:

30.2.9.1 he resigns as a Director of the Company; or

30.2.9.2 the Shareholder who nominated him as a Director notifies the Company of his removal from office; or

30.2.9.3 the Shareholder who nominated him as a Director disposes of all the Shares held by it.

31. **Alternate Directors**

31.1 Each Shareholder may appoint one alternate Director to any Director nominated by that Shareholder in accordance with article 30.2.

31.2 An alternate Director shall (except as to remuneration) be subject in all respects to the terms and conditions existing with reference to the other

Directors. Each alternate Director, while so acting, shall exercise the same powers and discharge all the duties of the Director he represents. An alternate Director shall be entitled to receive notices of meetings of the Directors and to attend and vote as a Director at any such meeting at which the Director to whom he is an alternate is not personally present and to count towards a quorum at such meeting and generally at such meeting to perform all the functions of the Director to whom he is an alternate Director. Where an alternate Director is appointed to represent more than one Director, he shall have a separate vote on behalf of each Director he represents who is not personally present at the meeting, which shall be in addition to his own vote if he is a Director.

31.3 An alternate Director shall cease to be an alternate Director if the Director on whose behalf the alternate acts, ceases for any reason to be a Director.

32. **Proceedings of Directors**

32.1 The Directors may meet together for the dispatch of business, adjourn and regulate their meetings as they think fit.

32.2 The Directors shall elect a chairperson from one of their number.

32.3 The chairperson shall be entitled to preside over all meetings of Directors. If no chairperson is elected, or if at any meeting is not present or not willing to act as chairperson thereof within 15 minutes of the time appointed for holding the meeting, the Directors present shall choose one of their number to be chairperson of such meeting.

32.4 The chairperson of the Board shall deliver to every Director a notice of a meeting together with an agenda for the meeting, not less than seven Business Days before the date of the proposed meeting.

32.5 Any Director may at any time request the chairperson of the Board to convene a meeting of Directors in accordance with article 32.4 and upon such request the chairperson shall do so.

33. **Quorum**

33.1 The quorum for meetings of Directors shall be a majority of Directors either present physically or by electronic communication pursuant to article 34.

33.2 If within one hour of the time appointed for a meeting of Directors, a quorum is not present, then the meeting shall stand adjourned to a time and place not less than seven days, provided that if that day is not a Business Day, then the meeting shall take place on the next succeeding Business Day, and if at that meeting a quorum is not present then, provided the notice of the adjourned meeting has been provided to all Directors, the Directors present shall constitute a quorum.

34. **Meetings by Conference Call**

At the request of any Director, Board meetings may be held by electronic oral communication (such as conference call, video conferencing, or combination thereof) between Directors, some or all of whom are in different places, provided that each Director who participates is able to hear the other participating Directors addressing the meeting, and, if he so wishes, is able to address all of the other participating Directors simultaneously, and provided further that the decisions of the Board taken at such meetings are confirmed by telefax or e-mail attachment within 24 hours of the meeting by the Director who requested that the meeting be held by conference call and ratified at the next meeting of the Board.

35. **Round Robin Resolutions**

In accordance with section 74 (directors acting other than at meeting), a decision that could be voted on at a meeting of the Board 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.

36. **Board Voting**

36.1 Each of the Directors shall be entitled to one vote each.

36.2 Decisions of the Board shall be taken by Ordinary Resolution.

36.3 In the event of a deadlock of Directors, the chairperson of the Board shall have a casting vote.

37. **Minutes of Board meetings**

37.1 The Company shall keep minutes of the meetings of the Board and include in those minutes every resolution adopted by the Board.

37.2 Resolutions adopted by the Board must be dated and sequentially numbered and are effective as of the date of the resolution, unless the resolution states otherwise.

37.3 Any minutes of a meeting, or a resolution, signed by the chairperson of the meeting, or by the chairperson of the next meeting of the Board, is evidence of the proceedings of that meeting, or adoption of that resolution, as the case may be.

38. **Remuneration of Directors**

38.1 The Company may pay remuneration to its Directors for their service as Directors provided that such remuneration is paid in accordance with a Special Resolution approved by Shareholders within the previous 2 years, as set out in sections 66(8) and (9).

38.2 Notwithstanding the provisions of article 38.1, the Company may compensate its Directors for all travelling, subsistence and other expenses properly incurred by them in the execution of their duties in or about the business of the Company and which are authorised or ratified by the Board.

39. **Committees of the Board**

39.1 The Board shall be entitled to appoint committees of Directors, and to delegate to any such committee any of the authority of the Board, and to include in any such committee persons who are not Directors.

39.2 Members of such committees who are not Directors, shall not have a vote in respect of any matter before the committee.

39.3 The committee appointed by the Board may consult with or receive advice from any person and has the full authority of the Board in respect of a matter referred to it.

Part F Financial Matters and Corporate Governance

40. **Auditors**

The auditors of the Company shall be determined by Ordinary Resolution of the Shareholders at every annual general meeting of the Company.

41. **Financial Assistance**

41.1 The authority of the Board, as set out in section 44 (financial assistance for subscription of securities), to authorise the Company to provide financial assistance in relation to the subscription or purchase of any option or Securities of the Company or a related or inter-related company, as set out in section 44, is not limited or restricted by this Memorandum of Incorporation, but is subject to the Companies Act

41.2 The authority of the Board, as set out in section 45 (loans or other financial assistance to directors), to authorise the Company to provide financial assistance to a Director, Prescribed Officer or a related or inter-related company, or any other Person referred to in section 45(2) is not limited or restricted by this Memorandum of Incorporation but is subject to the Companies Act.

42. **Dividends**

42.1 The Shareholders shall have the right to participate in distributions of the Company in accordance with their proportionate shareholding in the Company and the provisions of this Memorandum of Incorporation.

42.2 Save where otherwise provided for in this article 42, it is recorded that the Shareholders and the Company intend that when declaring dividends, the Directors shall at all times seek to maximise the flow of dividends to the Shareholders, subject to:

42.2.1 the Company's present and reasonably anticipated future requirements of fixed capital, working and expansion capital;

42.2.2 repayment of shareholders' loans, banking covenants and operational requirements;

42.2.3 dividends not being paid from borrowed funds, either from Shareholders or from third parties;

42.2.4 the maintenance of prudent financial and gearing ratios at all times;

42.2.5 the Company having settled all debt covenants to which it is a party and is bound to;

42.2.6 the requirements of the Shareholders Agreement (if any);

42.2.7 the retention of reserves for working capital purposes in accordance with the agreed annual budget;

42.2.8 the Company complying with section 46, including the solvency and liquidity test; and

42.2.9 the Shareholders agreeing in writing and being reasonably satisfied as to the requirement of prudence as regards the Company (including making provision for the Company's present and reasonable anticipated future requirements of capital, including but not limited to investment capital) having been adhered to.

42.2.10 Subject to articles 42.2 and 42.2.11, the ordinary dividends shall be paid to the Shareholders within 30 days after dividends have been declared.

42.2.11 Notwithstanding the provisions of article 42.2, the Board shall not be entitled to declare and/or pay any distributions to the Shareholders until such time as all shareholders loans have been repaid in full, including any interest accrued thereon.

43. **Social and Ethics Committee**

The Company shall calculate its public interest score at the end of each financial year as set out in Regulation 26(2), in order to determine whether it is required to appoint a social and ethics committee in terms of section 72(4).

44. **Company Secretary**

44.1 Notwithstanding the election of the Company not to comply voluntarily with the provisions of Chapter 3 of the Companies Act as stated in article 6.1, the Board may appoint a person or firm of persons as company secretary from time to time.

44.2 Such company secretary must have the requisite knowledge of, or experience in, relevant laws and be a permanent resident of South Africa, and remain so while serving in that capacity.

44.3 The duties of the company secretary shall be the duties as specified in writing by the Board from time to time, and shall include as a minimum, the statutory duties set out in section 88.

44.4 If the office of company secretary becomes vacant for any reason, the Board must fill the vacancy by appointing a person whom the Directors consider to have the requisite knowledge and experience.

45. **Company Records**

45.1 The Company shall keep proper and accurate books and records reflecting all the transactions entered into by the Company including all amounts owing to and owing by the Company.

45.2 The Company shall ensure that the records and accounting books of the Company and of its subsidiaries are kept in accordance with the Companies Act and generally accepted accounting practice in South Africa and that such records and accounting books are audited annually.

Part G General Provisions

46. **Notices**

The Company may deliver notices, documents, records or statements, or notices of availability of the aforegoing, to each Shareholder entitled thereto in writing and in any manner authorised by section 6 and by the Regulations, which allow for personal delivery to the Shareholder or delivery by post, facsimile or Electronic Communication, and more particularly Regulation 7, which regulates the date and time of delivery, and Table CR3.