
MEMORANDUM OF INCORPORATION

OF

NASPERS LIMITED

A PUBLIC COMPANY

(Registration Number 1925/001431/06)

Registration Date: 18 July 1925

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1 DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Memorandum of Incorporation, unless clearly inconsistent with or otherwise indicated by the context -

- 1.1.1 "Act" means the Companies Act, No. 71 of 2008, as amended, 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 "Central Securities Depository" has the meaning set out in section 1 of the ~~Securities Services~~ [Financial Markets Act](#);
- 1.1.4 "Certificated Securities" means Securities issued by the Company that are not Uncertificated Securities;
- 1.1.5 "Company" means the company named on the first page of this Memorandum of Incorporation, duly incorporated under the registration number endorsed thereon;
- 1.1.6 "Control" means control as defined in section 12 of the Competition Act, No. 89 of 1998, as amended, as at the date of adoption of this Memorandum of Incorporation;
- 1.1.7 "EFT" means electronic funds transfer;
- 1.1.8 "Electronic Communication" has the meaning set out in section 1 of the Electronic Communications and Transactions Act, No. 25 of 2002, as amended;
- 1.1.9 ["Financial Markets Act" means the Financial Markets Act, No. 19 of 2012, as amended;](#)

- 1.1.10 ~~1.1.9~~ "JSE" means the exchange, licensed under the ~~Securities Services~~ Financial Markets Act, operated by JSE Limited (Registration Number 2005/022939/06), a public company duly incorporated in the Republic;
- 1.1.11 ~~1.1.10~~ "Listings Requirements" means the listings requirements of the JSE, as applicable from time to time;
- 1.1.12 ~~1.1.11~~ "Memorandum of Incorporation" means this memorandum of incorporation;
- 1.1.13 ~~1.1.12~~ "Participant" has the meaning set out in section 1 of the ~~Securities Services~~ Financial Markets Act;
- 1.1.14 "Prosus" means Myriad International Holdings N.V. (to be renamed Prosus N.V.), a public company with limited liability (naamloze vennootschap) incorporated under the laws of the Netherlands with registration number 34099856;
- 1.1.15 "Prosus A1 Ordinary Shares" means A1 ordinary shares in the authorised capital of Prosus with a nominal value of €0.05 (five eurocents) each, convertible to Prosus A2 Ordinary Shares upon the Company making, or becoming obliged to make, a filing with the Netherlands Authority for the Financial Markets (Autoriteit Financiële Markten) that it ceases to be entitled to exercise at least 50% (fifty per cent) plus 1 (one) vote out of the total number of voting rights that may be exercised at a general meeting of Prosus shareholders;
- 1.1.16 "Prosus A2 Ordinary Shares" means A2 ordinary shares in the authorised capital of Prosus with a nominal value of €50 (fifty euros) each, convertible to Prosus A1 Ordinary Shares upon the Company making, or becoming obliged to make, a filing with the Netherlands Authority for the Financial Markets (Autoriteit Financiële Markten) that it holds at least 50% (fifty per cent) plus 1 (one) vote out of the total number of voting rights that may be exercised at a general meeting of Prosus shareholders;

1.1.17 "Prosus N Ordinary Shares" means N ordinary shares in the capital of Prosus with a nominal value of €0.05 (five eurocents) each;

1.1.18 ~~1.1.13~~ **"Regulations"** means the regulations published in terms of the Act, from time to time;

1.1.19 ~~1.1.14~~ **"Republic"** means the Republic of South Africa;

1.1.20 ~~1.1.15~~ **"Securities"** means -

1.1.20.1 ~~1.1.15.1~~ any shares, notes, bonds, debentures or other instruments, irrespective of their firm or title, issued, or authorised to be issued, by the Company; or

1.1.20.2 ~~1.1.15.2~~ anything falling within the meaning of "securities" as set out in section 1 of the ~~Securities Services~~ Financial Markets Act, and includes shares held in a private company;

1.1.21 ~~1.1.16~~ **"Securities Register"** means the register of issued Securities of the Company required to be established in terms of section 50(1) of the Act;

~~1.1.17~~ ~~"Securities Services Act"~~ means ~~the Security Services Act, No. 36 of 2004, as amended;~~

1.1.22 ~~1.1.18~~ **"SENS"** means the Securities Exchange News Service established and operated by the Listings Division of the JSE;

1.1.23 ~~1.1.19~~ **"Solvency and Liquidity Test"** has the meaning attributed thereto in section 4 of the Act;

1.1.24 ~~1.1.20~~ **"STRATE Regulations"** means all regulations relating to ~~uncertificated securities~~ Uncertificated Securities, including those contained in the Act and the ~~Securities Services~~ Financial Markets Act;

1.1.25 ~~1.1.21~~ **"Uncertificated Securities"** means any "uncertificated securities" defined as such in section ~~29-1~~ of the ~~Securities Services~~ Financial Markets Act; and

1.1.26 ~~1.1.22~~ **"Uncertificated Securities Register"** means the record of Uncertificated Securities administered and maintained by a Participant or Central Securities Depository, as determined in accordance with the rules of the Central Securities Depository.

1.2 Interpretation

1.2.1 In this Memorandum of Incorporation, unless clearly inconsistent with or otherwise indicated by the context -

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

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

1.2.1.3 a reference to a section by number refers to the corresponding section of the Act;

1.2.1.4 a reference to an article by number refers to a corresponding provision of this Memorandum of Incorporation;

1.2.1.5 any reference to the singular includes the plural and *vice versa*, any reference to natural persons includes legal persons and *vice versa* and any reference to a gender includes the other genders.

1.2.2 The headings in this Memorandum of Incorporation have been inserted for convenience only and shall not be taken into account in its interpretation.

1.2.3 Words and expressions defined in any article shall, for the purposes of the article, bear the meanings assigned to such words and expressions in that article.

- 1.2.4 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 or form permitted in terms of the Act and/or the Regulations.
- 1.2.5 Any reference in this Memorandum of Incorporation to -
- 1.2.5.1 "**days**" means a calendar day, 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;
- 1.2.5.2 "**writing**" means legible writing and in English and includes printing, typewriting, lithography or 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.
- 1.2.6 The use of the words "**include**" and "**including**" in this Memorandum of Incorporation followed by a specific example or examples shall not be construed or interpreted as limiting the meaning of the general wording preceding it and the *eiusdem generis* rule shall not be applied in the interpretation of such general wording and/or such specific example or examples and the words "**other**" or "**otherwise**" shall not be construed *eiusdem generis* with any preceding words where a wider construction is possible.

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 public 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 and the Listings Requirements;
- 2.2.2 the alterable provisions of the Act and the Listings Requirements, subject to the limitation, extensions, variations or substitutions set out in this Memorandum of Incorporation; and
- 2.2.3 the provisions of this Memorandum of Incorporation.

3 POWERS OF THE COMPANY

- 3.1 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.
- 3.2 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 SPECIAL CONDITIONS

This Memorandum of Incorporation does not contain any special conditions applicable to the Company, as contemplated in section 15(2)(b) or (c).

5 ISSUE OF SHARES AND VARIATION OF RIGHTS

- 5.1 The Company is authorised to issue-
 - 5.1.1 1 250 000 (one million two hundred and fifty thousand) A ordinary shares with a par value of R20 (twenty rand) each, 712 131 of which have been allotted and issued, as at the date of adoption of this Memorandum of Incorporation, in order to achieve the independence of the Company in the interest of all stakeholders of the Company. Each A ordinary share shall entitle the holder thereof -
 - 5.1.1.1 to exercise voting rights on all matters submitted for a decision to shareholders of the Company;

- 5.1.1.2 to exercise 1 000 (one thousand) votes per A ordinary share held; and
- 5.1.1.3 to distributions of any kind, including but not limited to, distributions of cash, or of a distribution *in specie*, as determined from time to time by the Board, equivalent to $\frac{1}{5}$ (one-fifth) of the distribution rights with respect to the distribution to which a holder of an N ordinary share in the issued share capital of the Company is entitled, with respect to the same period;
- 5.1.1.4 on the liquidation of the Company only, as contemplated in the Companies Act and the Insolvency Act No. 24 of 1936, as amended, to receive any surplus funds available for distribution amongst the shareholders to an amount equal to R20 per A ordinary share, whereafter every A ordinary share will rank equally with every N ordinary share, in the issued share capital of the Company.
- 5.1.2 500 000 000 (five hundred million) authorised N ordinary shares with a par value of R0.02 (two cents) each, 411 711 353 (four hundred and eleven million seven hundred and eleven thousand three hundred and fifty three) of which have been allotted and issued, as at the date of adoption of this Memorandum of Incorporation, each of which shall entitle the holder thereof -
- 5.1.2.1 to exercise voting rights on all matters submitted for a decision to the shareholders of the Company;
- 5.1.2.2 to exercise 1 (one) vote per N ordinary share held;
- 5.1.2.3 to distributions as determined from time to time by the Board; and
- 5.1.2.4 on the liquidation of the Company, but subject to 5.1.1.4, to rank equally with every A ordinary share in the issued share capital of the Company, on a return of capital.

5.1.3 500 000 000 (five hundred million) authorised M ordinary shares of no par value, such number of which as may be authorised by Shareholders or the

Board (as applicable) will be allotted and issued by way of a capitalisation issue, on a pro rata basis, to the holders of the N ordinary shares on the Securities Register on the record date determined for such capitalisation issue who have not made an election (to the extent granted by the Board) to be issued additional N ordinary shares instead of M ordinary shares in terms of such capitalisation issue ("**Election**"). Each M ordinary share shall –

5.1.3.1 not entitle the holder thereof to any voting rights save if a proposed resolution seeks to amend the preferences, rights, limitations or other terms associated with the M ordinary shares while they are in issue, in which case each M ordinary share shall entitle the holder thereof the right to exercise 1 (one) vote per M ordinary share held;

5.1.3.2 not entitle the holder thereof to any distributions by the Company, including, without limiting the aforesaid, a right to receive any distribution on a winding-up of the Company;

5.1.3.3 notwithstanding anything to the contrary contained in this Memorandum of Incorporation, grant the holder thereof the right to be issued 1 (one) Prosus N Ordinary Share for every M ordinary share held, and the related obligation to contribute such M ordinary shares held by or on behalf of a holder of M ordinary shares to Prosus in return for the issue of the aforementioned Prosus N Ordinary Shares. This right and related obligation in respect of Prosus N Ordinary Shares and M ordinary shares will be implemented automatically without the need for the holders of the N ordinary shares (who have not made the Election to be issued additional N ordinary shares) or M ordinary shares, as applicable, to take any action on the allotment and issue of the M ordinary shares, issue of Prosus N Ordinary Shares or contribution of M ordinary shares to Prosus, with the effect that the M ordinary shares will be allotted, issued and registered in the name of the aforementioned relevant holders of N ordinary shares and automatically thereafter contributed to Prosus, or a third party to which Prosus may have renounced its entitlement to the M

[ordinary shares, in return for the issuance of Prosus N Ordinary Shares on the basis outlined above.](#)

5.2 The Board shall have the power (subject to the limitations contained in this Memorandum of Incorporation), to -

5.2.1 increase or decrease the number of authorised shares of any class of the Company's shares; or

5.2.2 consolidate and reduce the number of the Company's issued and authorised shares of any class;

5.2.3 subdivide its shares of any class by increasing the number of its issued and authorised shares of that clause, without an increase of its capital;

5.2.4 reclassify any classified shares that have been authorised but not issued;

5.2.5 classify any unclassified shares that have been authorised but not issued;

5.2.6 determine the preferences, rights, limitations or other terms of any shares, **[10.5(d)]**

provided that the Board cannot create and allot and issue shares of whatsoever class and for whatsoever reason, which affects the existing voting relationship between the A and N shareholders, by more than 10% (ten per cent) on an aggregate basis, without -

5.2.7 an equal creation and allotment and issue of A ordinary shares (on the basis that, if appropriate, any shortfall that may have arisen over the period concerned, will be caught up), which allotment and issue will take place by way of a capitalisation issue in terms of section 47(1); or

5.2.8 the prior consent of at least 90% (ninety per cent) of the holders of the A ordinary shares either in writing, or at a separate class general meeting.

- 5.3 Subject to the provisions of the Act and this Memorandum of Incorporation, authorised but unissued shares in the share capital of the Company shall be offered for subscription to existing shareholders of the Company in proportion to their existing shareholding, except where such shares are issued -
- 5.3.1 in consideration for the acquisition of assets, for cash, as contemplated in, and in accordance with, the provisions of the Listings Requirements; or
- 5.3.2 pursuant to an approved share based incentive scheme for executive directors or employees of the Naspers Group, in accordance with the provisions of the Listings Requirements. For the purposes hereof, "**Naspers Group**" means the Company and its subsidiaries and associated companies, as defined in the share based incentive scheme concerned.
- 5.4 The Board may resolve to issue shares of the Company at any time, but -
- 5.4.1 only within the classes, and to the extent that those shares have been authorised by, or in terms of, this Memorandum of Incorporation; and
- 5.4.2 only to the extent that such issue has been approved by the Shareholders in general meeting, 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, 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 and it may be varied or revoked by any general meeting of the shareholders, prior to such annual general meeting.
- 5.5 Should there be any issued preference shares in the share capital of the Company, the issue of further shares ranking in priority to, or *pari passu* with those preference shares, shall be deemed to be a variation of the rights attached to those preference shares, which will adversely affect those rights and no further shares of any class ranking in priority to, or *pari passu* with, existing preference shares, shall be created without a special resolution passed at a separate general meeting of such holders.

[10.5(f)]

- 5.6 Notwithstanding anything to the contrary in this Memorandum of Incorporation, neither the Company, nor the Board may -
- 5.6.1 grant special privileges regarding attending and voting at general meetings of shareholders, and the appointment of directors;
 - 5.6.2 issue and/or allot preference shares convertible into A ordinary shares or N ordinary shares; or
 - 5.6.3 issue and/or allot any Securities of the Company, redeem any issued preference shares, substitute preference shares for shares of the Company or acquire any Securities which, in each case, may result in the votes exercisable by the holders of A ordinary shares constituting less than a majority of the votes exercisable by all the shareholders of the Company.
- 5.7 Subject to any preferences, rights or limitations under which any Securities are held, the preferences, rights or limitations attached to all or any Securities of any class may be amended, varied, cancelled or expanded by a special resolution of shareholders at a general meeting. Without limiting the generality of the foregoing, the rights attaching to shares (unless the terms attaching to the shares specifically provide otherwise) shall be deemed to be amended by the creation or issue of any other shares ranking *pari passu* or in priority to any shares already issued by the Company. No such amendment, variation, cancellation or expansion, which directly or indirectly adversely affects those special rights or restrictions, shall be effected without -
- 5.7.1 a special resolution, taken by the holders of shares in that class, at a separate meeting. In such instances, the holders of such shares will be allowed to vote at the meeting of ordinary shareholders. No resolution of shareholders of the Company shall be proposed or passed, unless a special resolution of the holders of the shares of that class, approved the amendment; or
 - 5.7.2 the approval thereof by a special resolution passed at a separate general meeting of the holders of the shares in question in the same manner, *mutatis mutandis*, as a special resolution of the shareholders of the Company, and the

provisions of the Act and this Memorandum of Incorporation relating to general meetings shall apply to such separate general meeting, except that a quorum at any such general meeting shall be 3 (three) persons present in person or by proxy, holding at least 25% (twenty five per cent) of the issued shares of the class in question, provided that if a quorum is not so present, the provisions of section 64(4) shall apply, the meeting shall be adjourned to the 5th (fifth) business day thereafter, and the shareholders present or represented at the meeting to which the adjournment takes place, shall constitute a quorum.

[10.5(e)]

- 5.8 No shares of the Company may be authorised in respect of which the preferences, rights, limitations or any other terms of any class of shares of the Company may be varied in response to any objectively ascertainable external fact or facts as provided for in sections 37(6) and 37(7) of the Act. **[10.5(g)]**

6 CERTIFICATED AND UNCERTIFICATED SECURITIES

- 6.1 Securities of the Company are to be issued in certificated and uncertificated form, as the Board may determine from time to time, subject to the rules as defined in the STRATE regulations, in respect of shares in uncertificated form.
- 6.2 If share certificate is lost or destroyed, it may be replaced on such terms as the Board may determine.
- 6.3 Except to the extent otherwise provided in the Act, the rights and obligations of Securities 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.
- 6.4 Any Certificated Securities may cease to be evidenced by certificates and thereafter become Uncertificated Securities.

- 6.5 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.
- 6.6 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 -
- 6.6.1 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
- 6.6.2 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.
- 6.7 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 6.

7 TRANSFER OF SECURITIES

- 7.1 The instrument of transfer of any share shall be in the form as determined by the Company from time to time, and shall be signed by the transferor. The Company shall be entitled to charge a fee on the registration of any letters of executorship, certificate of death, marriage certificate, power of attorney or other notice or instrument affecting the title to or the right to transfer any Security.

7.2 Every instrument of transfer of a share shall -

7.2.1 in the case of A ordinary shares, be left at the registered office of the Company; or

7.2.2 in the case of N ordinary shares, be left at the offices of the transfer secretaries of the Company,

or such other place as the Company may designate from time to time.

7.3 Every instrument of transfer of a share shall be accompanied by -

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

7.3.2 such other proof as the Company may require to evidence the title of the transferor of his right to transfer the shares.

7.4 Any authority to sign instruments of transfer granted by a shareholder for the purpose of transferring shares, when lodged, produced or exhibited to or with the Company, shall be deemed to remain in full force and effect, and the Company may allow it to be acted upon, until such time as written notice of the revocation thereof is lodged at, in the case of A ordinary shares, the registered office of the Company or, in the case of N ordinary shares, at the offices of the transfer secretaries of the Company. Even after the lodging of such notice of revocation, the Company may give effect to any instrument of transfer signed under the authority to sign and certified (before the lodging of such notice) by any officer of the Company, as being in order. [\[10.2\(b\)\]](#)

7.5 The Board may suspend registration of transfer of any A ordinary shares during the 14 (fourteen) days immediately preceding either a general meeting of the Company or the date upon which dividends are payable, and at any other time, provided that the periods of suspension in 1 (one) calendar year, shall not exceed 60 (sixty) days in total.

7.6 The transferor shall be deemed to remain the holder of the share until the name of the transferee is entered in the Securities Register in respect thereof.

7.7 The Board may, in its sole discretion, record in the Securities Register that any share is held in trust or by a nominee, and the name of the beneficial shareholder.

8 TRANSMISSION OF SECURITIES

8.1 The executor of the estate of a deceased sole holder of a Security shall be the only person recognised by the Company as having 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 shareholders, as determined by the Board, shall be the person recognised by the Company as having title to the Security.

8.2 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, shall be entered in the Securities Register *nomine officii*, and shall thereafter, for all purposes, be deemed to be a Security Holder.

8.3 Subject to the provisions of 8.1 and 8.2, any person becoming entitled to any Security by virtue of death of a Security Holder shall, upon producing such evidence that he has such title or rights as the Board thinks 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 -

8.3.1 the Board 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

- 8.3.2 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. **[10.13]**

9 FRACTIONS OF SHARES

Subject to the provisions of the Listings Requirements, if a fraction of a share comes into being as a result of any allocation, the Board shall round all allocations of shares down to the nearest whole number resulting in allocations of whole shares and a cash payment for the fraction.

10 JOINT HOLDERS OF SHARES

Where 2 (two) or more persons are registered as the holders of any share, they shall be deemed to hold that share jointly, and -

- 10.1 notwithstanding anything to the contrary in this Memorandum of Incorporation, on the death, sequestration, liquidation or legal disability of any one of such joint holders, the remaining joint holders may be recognised, at the discretion of the Board, as the only persons having title to such share;
- 10.2 any one of such joint holders may give effectual receipts for any dividends, bonuses or returns of share capital or other accruals or distributions payable to such joint holders; and
- 10.3 any one of the joint holders of any share conferring a right to vote may vote either personally or by proxy at any meeting in respect of such shares as if he were solely entitled thereto, and if more than 1 (one) of such joint holders are present at the meeting, either personally or by proxy, the joint holder who tenders a vote and whose name has been entered in the Securities Register before the other joint holders who are present in person or by proxy, shall be entitled to vote in respect of that share.

11 NO LIEN

The Company does not have the power to claim a lien upon its Securities which shall be freely transferable. [10.12]

12 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).

13 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 such Securities of the Company, as set out in section 44, and the authority of the Board in this regard, is not limited or restricted by this Memorandum of Incorporation.

14 CAPITALISATION SHARES

14.1 The Board shall have the power and authority, in terms of section 47, 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; or

14.1.3 resolve to permit shareholders to elect to receive a cash payment *in lieu* of a capitalisation share,

provided that -

14.1.4 such power or authority has been authorised by the shareholders by means of an ordinary resolution;

- 14.1.5 such transaction(s), to the extent necessary, has/have been approved by the JSE (and the Listings Requirements have been complied with); and
- 14.1.6 where there is a capitalisation issue of N ordinary shares, there must be a corresponding capitalisation of A ordinary shares, in order to maintain the then prevailing ratio of voting rights.
- 14.2 The Board may not resolve to offer a cash payment *in lieu* of a capitalisation share, unless the Board -
- 14.2.1 has considered the Solvency and Liquidity Test, as required by section 46, on the assumption the every 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 the distribution. **[10.6]**

15 DEBT INSTRUMENTS

- 15.1 The authority of the Board to authorise the Company to issue secured or unsecured debt instruments, as set out in section 43(2) is not limited or restricted by this Memorandum of Incorporation.
- 15.2 The Board shall not be entitled to -
- 15.2.1 issue debt instruments convertible into A ordinary shares;
- 15.2.2 grant special privileges regarding -
- 15.2.2.1 attending and voting at general meetings and the appointment of directors; **[10.10]** or
- 15.2.2.2 allotment of Securities, redemption by the Company, or substitution of the debt instrument for shares of the Company and, for the avoidance of doubt, no debt instruments shall carry voting rights which affect the Control position of the A ordinary shares.

16 RECORD DATE FOR EXERCISE OF SHAREHOLDER RIGHTS

- 16.1 The record date for the purpose of determining which shareholders are entitled to -
- 16.1.1 receive notice of a shareholders' meeting;
 - 16.1.2 participate and vote at a shareholders' meeting;
 - 16.1.3 decide any matter by written consent or by Electronic Communication;
 - 16.1.4 receive a distribution; or
 - 16.1.5 be allotted or exercise other rights,

shall be determined by the Board in accordance with the Act, provided that, for as long as the Listings Requirements apply to the Company, such record date shall be the record date as required by the Listings Requirements, to the extent determined by the Listings Requirements. **[10.15]**

17 DISTRIBUTIONS

- 17.1 ~~Subject~~ Notwithstanding anything contained in this Memorandum of Incorporation to the contrary, but subject to the provisions of the Act, ~~and this Memorandum of Incorporation, and particularly section 46~~, the Company may make a proposed distribution if such distribution –
- 17.1.1 is pursuant to an existing legal obligation of the Company or a court order; or
 - 17.1.2 is authorised by resolution of the Board, in compliance with the Listings Requirements; or
 - 17.1.3 is authorised by the Board and relates to the distribution by the Company of Prosus A1 Ordinary Shares, in which event such distribution shall be made to the holders of the A ordinary shares to the exclusion of the holders of the N

ordinary shares and the holders of any other class of shares in the share capital of the Company.

- 17.2 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.
- 17.3 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.
- 17.4 The Board may from time to time declare and pay to the shareholders such interim distributions as the Board considers to be appropriate.
- 17.5 No larger distribution shall be declared by the Company in general meeting than is recommended by the Board, but the Company in general meeting may declare a smaller distribution.
- 17.6 All unclaimed distributions shall be held in trust by the Company for a period of 3 (three) years from the date on which they were declared, whereafter such unclaimed distributions may be declared forfeited by the Board for the benefit of the Company. The Board may at any time annul such forfeiture upon such conditions (if any) as it thinks fit. All unclaimed monies, other than distributions, that are due to any shareholder/s shall be held by the Company in trust for an indefinite period until lawfully claimed by such shareholder/s.
- 17.7 Any distribution, interest or other sum payable in cash to the holder of a share may be paid by EFT or by cheque sent in a manner permitted by the Act and addressed to –
- 17.7.1 the holder at his registered address; or
- 17.7.2 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

- 17.7.3 such person and at such address as the holder or joint holders may in writing direct.
- 17.8 Every such cheque or EFT shall –
- 17.8.1 be made payable to the order of the person to whom it is addressed; and
- 17.8.2 be sent at the risk of the holder or joint holders.
- 17.9 The Company shall not be responsible for the loss in transmission of any cheque or EFT or of any document (whether similar to a cheque or not) sent by post as aforesaid.
- 17.10 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.
- 17.11 When such cheque or EFT is paid, it shall discharge the Company of any further liability in respect of the amount concerned.
- 17.12 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.
- 17.13 Without detracting from the ability of the Company to issue capitalisation shares, any distribution may be paid wholly or in part –
- 17.13.1 by the distribution of specific assets; or
- 17.13.2 by the issue of Securities or of shares, debentures or securities of any other company; or
- 17.13.3 in cash; or

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

17.14 Where any difficulty arises in regard to such distribution, the Board may settle that difficulty as it thinks expedient, and in particular may fix the value which shall be placed on such specific assets on distribution.

17.15 The Board may –

17.15.1 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

17.15.2 vest any such assets in trustees upon such trusts for the benefit of the persons entitled to the distribution as the Board deems expedient.

17.16 Any distribution must be made payable to shareholders registered as at a date subsequent to the date of declaration thereof or the date of confirmation thereof, whichever is the later date. **[10.17(a)] [10.17(b)] [10.17(c)]**

18 ACCESS TO COMPANY RECORDS

18.1 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 such inspection or upon payment of no more than the prescribed minimum charge for any such copy, the information contained in section 26(1), being -

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

18.1.2 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);

18.1.3 all -

- 18.1.3.1 reports presented at the annual general meeting of the Company, for a period of 7 (seven) years after the date of any such meeting; and
- 18.1.3.2 annual financial statements required by the Act, for a period of 7 (seven) years after the date on which each particular statements were issued;
- 18.1.4 notices and minutes of all shareholders' meetings, including -
 - 18.1.4.1 all resolutions adopted by them, for 7 (seven) years after the date each such resolution was adopted; and
 - 18.1.4.2 any document that was made available by the Company to the holders of Securities in relation to each such resolution;
- 18.1.5 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 were issued; and
- 18.1.6 the Securities Register.

19 CORPORATE ACTIONS

The following corporate actions shall be effected by the Company in accordance with the Listings Requirements -

- 19.1 issue of shares for cash and options and convertible Securities granted or issued for cash;
- 19.2 repurchase of Securities; and
- 19.3 the alteration of share capital, authorised shares and rights attaching to classes of shares of the Company. **[10.9]**

20 SHAREHOLDERS' AUTHORITY TO ACT

- 20.1 If, at any time, there is only one shareholder of the Company, the authority of that shareholder to act without notice, or compliance with any other internal formalities, as set out in section 57(2), is not limited or restricted by this Memorandum of Incorporation.
- 20.2 If, at any time, every shareholder of the Company is also a director of the Company, as contemplated in section 57(4), the authority of the shareholders to act without notice or compliance with any other internal formalities, as set out in section 57(4) is not limited or restricted by this Memorandum of Incorporation.

21 SHAREHOLDERS' MEETINGS

- 21.1 The right of shareholders to requisition a shareholders' meeting, as set out in section 61(3), may be exercised by the holders of at least 10% (ten per cent) of the voting rights in relation to the matter to be considered at the meeting, as provided for in section 61(3).
- 21.2 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 -
- 21.2.1 at any time that the Board is required by the Act, the Listings Requirements or this Memorandum of Incorporation to refer a matter to shareholders for decision;
- 21.2.2 whenever required in terms of the Act to fill a vacancy on the Board; or
- 21.2.3 when required in terms of 21.1.
- 21.3 The authority of the Board to determine the location of any shareholders meeting, and the authority of the Company to hold any such meeting in the Republic or in any foreign country, as set out in section 61(9) is not limited or restricted by this Memorandum of Incorporation.

- 21.4 The minimum number of days for the Company to deliver a notice of a shareholders meeting to shareholders as required by section 62 is as provided for in section 62(1). ~~10.11(a) and 10.11(b)~~
- 21.5 Every shareholders' 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.
- 21.6 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 or by proxy. In addition -
- 21.6.1 a shareholders' meeting may not begin until sufficient persons are present at the meeting to exercise, in aggregate, at least 25% (twenty five per cent) of the voting rights that are to be entitled to be exercised in respect of at least one matter to be decided at the meeting; and
- 21.6.2 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 25% (twenty five per cent) 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. ~~10.11(h)~~10.11(g)
- 21.7 The time periods allowed in section 64(4) and section 64(5) apply to the Company without variation.
- 21.8 The maximum period allowable for an adjournment of a shareholders' meeting is as set out in section 64(13) without variation.
- 21.9 The accidental omission to give notice of any meeting to any particular shareholder or shareholders shall not invalidate any resolution passed at any such meeting.
- 21.10 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.

- 21.11 The chairperson of the Board or, failing him, the lead director (or if more than one of them are present and willing to act, the most senior of them) shall act as the chairperson of each general meeting, provided that if no chairperson or lead director is present and willing to act, the shareholders present shall elect one of the directors or, if no director is present and willing to act, one of the shareholders present, to be the chairperson of that general meeting.
- 21.12 In the case of an equality of votes, the chairperson of the meeting shall be entitled to a second or casting vote.
- 21.13 The business of a general meeting shall include the power to sanction or declare dividends. ~~[10.11(g)]~~
- 21.14 No business shall be transacted at the resumption of any adjourned meeting other than the business left unfinished at the general meeting from which the adjournment took place.
- 21.15 Subject to any restriction as to voting to which any shareholder may be subject, a shareholder who is present in person or by authorised representative or proxy shall have the number of votes attaching to a share for each share of which that shareholder is the registered holder.
- 21.16 At any general meeting, a resolution put to vote shall be decided by a poll in accordance with the provisions of the Act and -
- 21.16.1 the voting, if for the election of a chairperson or an adjournment, shall take place immediately and in such manner as the general meeting determines and, if for any other matter, shall take place at such time and in such manner as the chairperson of the general meeting directs;
- 21.16.2 the result of the poll shall be deemed to be the resolution of the general meeting.
- 21.17 No object shall be made to the acceptance or rejection of any vote except at the general meeting at which the disputed vote is taken or, if it is adjourned, at the

resumption thereof. The chairperson of that general meeting or the resumed general meeting shall settle any disputes raised by such objection and his decision shall be final and binding.

22 PROXIES

- 22.1 The right of a shareholder of the Company to appoint persons concurrently as proxies, as set out in section 52(3)(a) is not limited, restricted or varied by this Memorandum of Incorporation.
- 22.2 A proxy may not delegate its authority to act on behalf of the shareholder on whose behalf such proxy is held to another person, other than to the chairperson of the shareholders' meeting.
- 22.3 A proxy is not entitled to exercise, or abstain from exercising, any voting right of the shareholder on whose behalf such proxy is held, without direction from the shareholder, unless the appointed proxy is the chairperson of the shareholders' meeting.
- 22.4 The requirement that 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, as set out in section 58(3)(c) is not limited or restricted by this Memorandum of Incorporation. Subject to the provisions of the Act, a proxy form shall, in the case of N ordinary shares, be handed in at the office of the transfer secretaries of the Company or, in the case of A ordinary shares, be handed in at the registered office of the Company or such other place as the Company may designate from time to time, not less than 48 (forty eight) hours before the time (excluding Saturdays, Sundays and public holidays) appointed for the holding of the general meeting or resumption of an adjourned general meeting at which the person named therein proposes to vote.

23 NOTICES AND ELECTRONIC COMMUNICATION

23.1 All notices shall be given by the Company to each shareholder of the Company and simultaneously to the Issuer Regulations Division of the JSE, and shall be given in writing in any manner authorised by the Listings Requirements and the Regulations, and particularly Table CR3 annexed to the Regulations. All notices shall, in addition to the above, be released through SENS provided that, in the event that any Securities are not listed on the JSE, all 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.

23.2 Each shareholder of the Company -

23.2.1 shall notify the Company in writing of an address, which address shall be his registered address 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 until such time as the shareholder provides an address; and/or

23.2.2 may notify the Company in writing of an e-mail address, which address shall be his address for the purposes of receiving notices by way of Electronic Communication and, having done so shall be deemed to have agreed to receiving by Electronic Communication, notices and other documents from the Company at his e-mail address and the Company may satisfy its obligation to send him any notice or other document by -

23.2.2.1 in the case of documents other than notices, by publishing such document on a website; or

23.2.2.2 notifying him by e-mail to that e-mail address that a notice or document has been published, specifying the address of the website on which it has been published, the place on the website where such notice may be accessed, how it may be accessed and, if the notice relates to a general meeting, stating -

- 23.2.2.2.1 that the notice concerns a notice of a Company meeting served in accordance with the Act;
- 23.2.2.2.2 the place, date and time of the meeting;
- 23.2.2.2.3 whether the meeting is to be an annual or a general meeting; and
- 23.2.2.2.4 such other information as the Act may prescribe.
- 23.2.3 Any amendment or revocation of a notification given to the Company under 23.2 shall only take effect if in writing, signed by the shareholder and on actual receipt by the Company thereof.
- 23.2.4 An Electronic Communication shall not be treated as received by the Company if it is rejected by computer virus protection arrangements.
- 23.2.5 A document is treated as having been sent to a shareholder where the Company and the shareholder have agreed to the shareholder having access to documents on a website and the shareholder has been notified of the publication of the documents on a website, the address of that website and the place on the website where the documents may be accessed.
- 23.2.6 A document is treated as having been sent to a shareholder not less than fifteen (15) business days before the date of a meeting if the documents have been published on a website throughout the period commencing fifteen (15) business days before the meeting and ending with the conclusion of the meeting and notification of that publication on the website has been sent to the shareholder not less than fifteen (15) business days before the date of the meeting. The provisions of this 6 shall apply, *mutatis mutandis*, to any other time period specified in the Act.
- 23.2.7 Proceedings at a meeting will not be invalidated if documents have not been published for the entire period stated in 23.2.6 and where failure to publish the documents throughout the entire period is attributable to circumstances which it would have been unreasonable to have expected the Company to avoid.

- 23.2.8 A shareholder may give notice to the Company of the appointment of a proxy by electronic communication sent to such address as notified by the Company for that purpose.
- 23.2.9 Notice of annual and general meetings shall be delivered to each person entitled to vote at such meetings who have elected to receive such documents. **[10.11(e)]**.
- 23.3 Any shareholder whose address in the Securities Register, is an address not within the Republic, shall be entitled to have notices served upon him at such address.
- 23.4 In the case of joint holders of Securities, all notice shall, unless such holders request otherwise in writing, and the Board agrees, 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.
- 23.5 Any notice sent by any means permitted in Table CR3 annexed to the Regulations, shall be deemed to have been delivered as provided for in that method of delivery in such Table.
- 23.6 Every person, who by operation of law, transfer or other means whatsoever, becomes entitled to any Security, shall be bound by every notice in respect of that Security which, previous to his name and address being entered in the Securities Register, was given to the person from which he derives his title to such Security.
- 23.7 Any notice or document delivered or sent by post to, or left at, the registered address of any shareholder in pursuant 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 Securities, whether held solely or jointly with other persons by such shareholder, until some other person is registered in his stead as the sole or joint holder of such Security, 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

24 **SHAREHOLDERS' RESOLUTIONS OR ADMINISTRATORS AND ALL PERSONS (IF ANY) JOINTLY INTERESTED WITH HIM IN ANY SUCH SECURITIES. ~~[10.11(F)]~~**

24.1 Except where the Listings Requirements require a 75% (seventy five per cent) majority, for an ordinary resolution to be adopted at a shareholders' meeting, it must be supported by the holders of more than 50% (fifty per cent) of the voting rights exercised on the resolution, as provided for in section 65(7).

24.2 For a special resolution to be adopted at a shareholders meeting, it must be supported by the holders of at least 75% (seventy five per cent) of the voting rights exercised on the resolution, as provided for in section 65(9). **[10.11(a)]**

24.3 A special resolution adopted at a shareholders meeting is not required for a matter to be determined, except for those matters set out in section 65(11) or elsewhere in the Act.

25 **SHAREHOLDERS ACTING OTHER THAN AT A MEETING**

25.1 In accordance with the provisions of section 60, but subject to 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 -

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

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 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 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 25 shall not apply to any shareholder meetings that are called for in terms of the Listings Requirements or the passing of any resolution for the election of directors or to any annual general meeting of the Company.

26 COMPOSITION AND POWERS OF THE BOARD

26.1 The Board comprises of not less than four (4) and not more than twenty (20) directors, the majority of whom are to be elected by the shareholders, as contemplated in section 66(4)(b) of the Act. **[10.16(a)]**

26.2 In addition to the elected directors:

26.2.1 The board may in terms of section 66(4)(a)(i) of the Act appoint and remove directors to the board;

26.2.2 There are no ex officio directors of the company, as contemplated in section 66(4)(a)(ii) of the Act;

26.2.3 The board may, in terms of section 66(4)(a)(iii), appoint one or more alternate directors

~~And~~ and the appointment of all directors contemplated in 26.2.1 shall be subject to shareholder approval at the next annual general meeting of the company. **[10.16(c)]**

26.3 In addition to satisfying the qualification and eligibility requirements set out in section 69, the Board may, in its sole discretion, impose that in order to become or remain a director or a prescribed officer of the Company, a person must be, and remain,

independent from any competitor of the Company and in particular another media company, as determined by the Board from time to time.

- 26.4 The manner of electing directors is as set out in section 68(2). **[10.16(b)]**
- 26.5 The authority of the Board to fill a vacancy on the Board on a temporary basis, as set out in section 68(3) is not limited or restricted by this Memorandum of Incorporation provided that such appointment must be confirmed by the shareholders at the next annual general meeting of the Company. **[10.16(c)]**
- 26.6 The authority of the Board to manage and direct the business and affairs of the Company, as set out in section 66(1) is not limited or restricted by this Memorandum of Incorporation.
- 26.7 If the number of directors falls below the minimum number of directors required, the remaining director(s) shall, as soon as possible and in any event not later than 3 (three) months from the date that the number of directors fell below the minimum, fill the vacancies or call a general meeting for the purpose of filling the vacancies.
- 26.8 The failure by the Company to have the minimum number of directors during the 3 (three) month period referred to in 26.7 does not limit or negate the authority of the Board.
- 26.9 After the expiry of the 3 (three) month period referred to in 26.7, the remaining directors may act only to -
- 26.9.1 increase the number of directors to the required minimum; or
- 26.9.2 summon a general meeting for that purpose, provided that if there is no director able or willing to act, then any shareholder may convene a general meeting for that purpose. **[10.16(d)]**
- 26.10 The authority of the Board to consider a matter other than at a meeting, as set out in section 74 is not limited or restricted by this Memorandum of Incorporation, provided that each director has received notice of the matter to be decided. Any resolution

signed by the majority of the directors 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 (unless a statement to the contrary is made in that resolution). ~~10.16(i)~~ 10.16(j)

- 26.11 The right of the directors to requisition a meeting of the Board, as set out in section 73(1) may be exercised by at least 25% (twenty five per cent), as provided for in section 73(1).
- 26.12 The authority of the Board 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) is not limited or restricted by this Memorandum of Incorporation.
- 26.13 The authority of the Board to determine the manner and form of providing notice of its meetings, as set out in section 73(4) is not limited or restricted by this Memorandum of Incorporation.
- 26.14 The authority of the Board to proceed with a meeting despite failure or defect in giving notice of the meeting, as set out in section 73(5) is not limited by this Memorandum of Incorporation.
- 26.15 The quorum requirement for a directors 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), without variation.
- 26.16 A director shall cease to hold office as such if -
- 26.16.1 he is required to do so in terms of section 69; and/or
- 26.16.2 he is required to do so in terms of the Listings Requirements.
- 26.17 The directors may elect a chairperson and lead director of the Board and determine the period for which each is to hold office. If more than one lead director is elected,

the directors shall, upon their election, determine the order of their seniority. At any meeting of directors the chairperson of the Board, or if he is not present or willing to act as such, the most senior lead director present and willing to act as such, shall act as chairperson. If no chairperson or lead director has been elected, or is present and willing to act as such, the directors present at any directors' meeting shall choose one of their number to be chairperson of the meeting.

26.18 In the case of a tied vote, the chairperson may not have a second or deciding vote, and the resolution being voted on fails. **[10.16(i)]**

26.19 At each annual general meeting of the Company, with effect from the annual general meeting of the Company and subject to the provisions relating to the disqualification of directors, at least $\frac{1}{3}$ (one-third) of the non-executive directors then holding that position, shall retire. The directors who are to retire are those who have held their position for the longest period since their last election, but as between persons who became directors on the same day, the determination shall be made by ballot, unless otherwise agreed amongst themselves. **[10.16(g)]**

26.20 A retiring director shall be eligible for re-election if nominated by the Company's nomination committee. If re-elected he shall be deemed not to have vacated his office.

26.21 No person other than a retiring director, unless recommended by the Board, is competent to be elected as a director at any general meeting, unless he is nominated as a director by shareholders representing at least 20% (twenty per cent) of the voting rights, which nomination must be in writing and lodged at the registered office of the Company at least 60 (sixty) days prior to the meeting at which such director is to be elected, together with the consent of the nominee unless the latter is also the proposer.

26.22 The proposal of any resolution to shareholders to permit or ratify and act of the Board that is inconsistent with any limitation or restriction imposed by this Memorandum of Incorporation, or the authority of the Board to perform such an act on behalf of the Company, is prohibited. **[10.3]**

27 MANAGING DIRECTOR AND EXECUTIVE DIRECTORS

- 27.1 The Board may from time to time appoint one or more of the directors as executive or managing directors of the Company, on such terms and conditions as to remuneration and otherwise (but for a maximum period of 5 (five) years in respect of any appointment of a managing director of the Company, which may be renewed at the expiry thereof, on condition that each such renewal may not exceed the period of 5 (five) years) as may be determined from time to time by the Board.
- 27.2 Any executive or managing director appointed in terms of 27.1 is subject to the same provisions regarding dismissal as any other director of the Company and, should he cease to be a director, he shall *ipso facto* cease to be a managing director or executive director without prejudice to any claim he may have for damages as a result thereof.
- 27.3 The remuneration payable to an executive or managing director appointed in terms of 27.1-
- 27.3.1 shall be determined by an impartial quorum of the Board; and **[10.16(e)]**
- 27.3.2 accrues to him, over and above or *in lieu* of the normal remuneration he may receive as a director of the Company, as the Board may determine.
- 27.4 The Board may -
- 27.4.1 grant from time to time to an executive or managing director appointed in terms of 27.1 all or any of the powers which in terms of this Memorandum of Incorporation may be exercised by the directors;
- 27.4.2 grant such powers for such period to be exercised for such purposes and subject to such conditions and restrictions as the Board may deem fit;
- 27.4.3 grant such powers with retention of or with the exclusion of or *in lieu* of any of the powers of the Board; and

27.4.4 from time to time revoke, withdraw or amend any of such powers as they deem fit.

28 DIRECTORS' COMPENSATION AND FINANCIAL ASSISTANCE

28.1 The authority of the Company to pay remuneration to the directors, in accordance with a special resolution approved by the shareholders within the previous 2 (two) years, as set out in section 66(9) and (10) is not limited or restricted by this Memorandum of Incorporation.

28.2 The directors shall be paid all their travelling and other expenses properly and necessarily incurred by them in and about the business of the Company, (including in relation to attending meetings of the directors or of committees thereof). If any director is required to perform extra services or to reside abroad or shall be specifically occupied about the Company's business, he shall be entitled to receive such remuneration, which may be either in addition to or in substitution for any other remuneration, as is determined by a disinterested quorum of the Board. **[10.16(f)]**

28.3 The authority of the Board, as set out in section 45, to authorise the Company to provide financial assistance to a director, prescribed officer, company, corporation or other person referred to in section 45(2) is not limited or restricted by this Memorandum of Incorporation.

29 QUALIFYING SHARES

No director shall be obliged to hold any qualifying shares.

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 30.1 shall apply *mutatis mutandis* in respect of any former director, prescribed officer, manager, company secretary or member of any committee of the Board, including the audit committee.

31 **BORROWING POWERS**

31.1 The directors may from time to time exercise all of the powers of the Company to -

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

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 For the purposes of 31.1, the borrowing powers of the Company shall be unlimited.

32 **COMMITTEES OF THE BOARD**

32.1 The authority of the Board to appoint committees of directors, and to delegate to any such committee any of the authority of the Board, as set out in section 72(1) and to include in any such committee, persons who are not directors, as set out in section 72(2)(a) is not limited or restricted by this Memorandum of Incorporation.

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

32.3 If and for so long as it is required to do so in terms of the Act or the Regulations, the Board must appoint a social and ethics committee having the powers and functions in terms of section 72 and the Regulations.

32.4 If and for so 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 Listings Requirements, having such functions and powers as are prescribed by or in terms of the 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 **COMPANY RULES**

The Board is prohibited from making any rules as contemplated in section 15(3) and the Board's capacity to make such rules is hereby excluded. **[10.4]**

34 **BRANCH REGISTER**

The Company shall be entitled to cause a branch securities register to be kept in any foreign country and the directors may make such provisions as they see fit in respect of such branch securities register.

35 **COPIES OF ANNUAL FINANCIAL STATEMENTS AND REPORTS TO BE SENT TO THE JSE AND STOCK EXCHANGE**

The Board shall send the requisite number of copies of the financial statements of the Company, and if the Company has subsidiaries, of the group financial statements, together with the auditor's reports, as is required for proper submission to a general meeting, to the shareholders simultaneously with the notice of the general meeting at which the financial statements and reports are to be considered, as well as to the JSE and any recognised stock exchange on which the shares of the Company are listed from time to time, in accordance with the requirements of the JSE and such stock exchange.

36 **SHARE TRANSACTION TOTALLY ELECTRONIC (S.T.R.A.T.E.)**

Notwithstanding anything contained to the contrary in the aforementioned provisions of this Memorandum of Incorporation, but subject to the Act and the Listings Requirement

and any other exchange on which the shares of the Company are quoted or listed from time to time, all share transactions may be concluded fully electronically.

37 **ODD-LOT OFFER**

In implementing any odd-lot offer made by the Company in accordance with the Listing Requirements, the Company shall, in respect of shareholders holding less than 100 (one hundred) N ordinary shares in the issued share capital of the Company ("**Odd-Lots**") and who did not elect to retain their Odd-Lots or increase their Odd-Lot holdings, cause the Odd-Lots to be sold on such terms as the directors may determine and the Company shall account to the shareholders concerned for the proceeds attributable to the sales, provided that the Odd-Lot offer has been approved by shareholders in a general meeting.

38 **AMENDMENT OF ~~MEMORANDUM~~ MEMORANDUM OF INCORPORATION**

38.1 This Memorandum of Incorporation may be altered or amended in the manner set out in section 16, 17 or 152(6)(b), subject to the provisions contemplated in section 16(1)(c), provided that -

38.1.1 any amendment must be submitted to the JSE for approval before such amendments are submitted to the shareholders for approval; and

38.1.2 any amendment to this Memorandum of Incorporation must be approved by a special resolution of the ordinary shareholders, save if such an amendment is ordered by a court in terms of section 16(1)(a) of the Act. Amendment, for the avoidance of doubt shall include, but not be limited to -

38.1.2.1 the creation of any class of shares;

38.1.2.2 the variation of any preferences, rights, limitation and other share terms attaching to any class of shares;

38.1.2.3 the conversion of one class of shares into one or more other classes;

38.1.2.4 the increase of the number of Securities;

- 38.1.2.5 consolidation of Securities;
- 38.1.2.6 sub-division of Securities;
- 38.1.2.7 the change of the name of the Company; or
- 38.1.2.8 the conversion of shares from par value to no par value. **[10.5(d)]**