**SHAREHOLDERS AGREEMENT**

between

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (PROPRIETARY) LIMITED

Registration number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

And

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (PROPRIETARY) LIMITED

Registration number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

AND

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (PROPRIETARY) LIMITED

Registration number: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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**1. RECITALS**

The Parties wish to enter into this Agreement to record, amongst other things, the definitive terms and conditions on which they are to conduct the affairs of the Company and to regulate the relationship between them as shareholders in the Company from the Signature Date.

**2. DEFINITIONS AND INTERPRETATION**

2.1 In this Agreement and the Recitals, unless the context indicates otherwise, the words and expressions below shall have the following meanings (and cognate expressions shall bear corresponding meanings):

2.1.1 "Act" means the Companies Act of South Africa, No. 71 of 2008;

2.1.2 "Agreement" means this agreement together with all the Appendices hereto;

2.1.3 "Appendix" means an addendum or appendix or annexure to this Agreement;

2.1.4 "Approvals Framework" means the document annexed hereto as Appendix 2.1.4;

2.1.5 "Auditors" means the auditors of the Company from time to time;

2.1.6 "Board" means the board of directors of the Company;

2.1.7 "Business" means the business conducted by the Company from time to time, as at

the Signature Date comprising that of acquiring and holding investments;

2.1.8 "Business Day" shall bear the meaning given to that term in section 1 of the Companies

Act

2.1.9 "Company" means \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Proprietary) Limited, registration number 2015/326572/07, a private company duly incorporated with limited liability according to the company laws of the Republic of South Africa;

2.1.10 "Control" shall bear the meaning given to that term in section 2(2) of the Companies

Act;

2.1.11 "Dispose" means to sell, transfer, unbundle, exchange, liquidate, cede, dispose of or

otherwise alienate and cognate expressions shall have a corresponding meaning;

2.1.12 "Equity" in relation to any Shareholder, means such Shareholder's Shares and Claims;

2.1.13 "Memorandum of Incorporation" means the memorandum of incorporation of the

Company, a copy of which is attached as Schedule 1 to this Agreement;

2.1.14 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Proprietary) Limited, registration number \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a private company duly incorporated with limited liability according to the company laws of the Republic of South Africa

2.1.15 \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Proprietary) Limited, registration number \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a private company duly incorporated with limited liability according to the company laws of the Republic of South Africa

2.1.17 "Prescribed Ratio" means the ratio in which the Shareholders hold Shares in the Company from time to time;

2.1.18 "Prime Rate" means the publicly quoted prime overdraft rate from time to time of the institution that is the primary banker to the Company, evidenced by a certificate of any manager of that institution whose designation it shall not be necessary to prove and whose determination shall constitute prima facie evidence of that rate;

2.1.19 "Shares" means shares in the share capital of the Company as set out in the Memorandum of Incorporation;

2.1.20 "Shareholders" means the registered holders of Shares from time to time, who are Parties to this Agreement;

2.1.21 "Shareholders Loan" means the aggregate of all claims in respect of any cause of indebtedness whatsoever and including, cash and assets advanced, contingent or conditional claims, loan accounts, interest on loans, directors claims for salaries and fees for services rendered and whether acquired by cession or otherwise which a Shareholder or any one, or more, of them may have against the Company from time to time,

2.1.22 "Shareholders Proportion" means, in respect of any Shareholder at any time, the proportion which the number of Shares in the Company registered in the name of the Shareholder in question bears to the total number of Shares in the issued share capital of the Company at the relevant time; and

2.1.23 "Signature Date" means the date on which this Agreement is signed by the last signing Party.

2.2 Where any term is defined within the context of any particular clause in this Agreement, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the meaning ascribed to it for all purposes in terms of this Agreement, notwithstanding that that term has not been defined in this definitions clause.

2.3 This Agreement shall be interpreted in accordance with the following principles:

2.3.1 a reference to a "person" includes a reference to an individual, partnership, company, close corporation, other body corporate, a trust, an unincorporated association or a joint venture and that person's legal representatives, successors and permitted assigns;

2.3.2 words importing the masculine shall include a reference to the feminine and vice versa;

2.3.3 words importing the singular shall include a reference to the plural and vice versa;

2.3.4 reference to a document includes an amendment or supplement to, or replacement or novation of that document;

2.3.5 any reference in this Agreement to legislation or a statute shall be a reference to such legislation or statute as at the Signature Date and as amended, varied, re-enacted or replaced from time to time;

2.3.7 where numerical figures are referred to in numerals and words, if there is any conflict between the two, the words shall prevail;

2.3.8 if any provision is a definition and is a substantive provision conferring rights or imposing obligations on any Party, notwithstanding that it is only in the definitions clause (or such other clause), effect shall be given to it as if it were a substantive provision in the body of this Agreement;

2.3.9 in the event that the day for performance of any obligation to be performed in terms of this Agreement should fall on a day which is not a Business Day, the relevant day for performance shall be the immediately succeeding Business Day;

2.3.10 where any number of days is prescribed in this Agreement, that number shall be determined exclusively of the first day and inclusively of the last day, unless the last day falls on a day which is not a Business Day, in which case the last day shall be the immediately succeeding Business Day;

2.3.11 the terms "holding company', "subsidiary" and "wholly owned subsidiary" bear the same meaning given to those terms in the Companies Act;

2.3.12 all monetary amounts are stated exclusive of VAT and in RSA Rand (or R), unless provided otherwise, and VAT is payable at the same time and in the same manner as is any other amount payable under this Agreement, where that amount is subject to VAT,

2.3.13 the use of the word "including" followed by specific examples shall not be construed as limiting the meaning of the general wording preceding it and the eiusdem generis rule shall not be applied in the interpretation of such general wording or such specific examples;

2.3.14 the expiration or termination of this Agreement shall not affect such of the provisions of this Agreement as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this;

2.3.15 the terms of this Agreement having been negotiated, they shall not be interpreted against the Party who procured its preparation and drafting, it being specifically agreed that the contra proferentem rule shall not apply; and

**3. ORGANISATION OF THE COMPANY**

The Parties record that the Company shall be organised on the following basis:

3.1

**Name**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Proprietary Limited.

**Authorised Share Capital:**

R1000 (one thousand Rand) divided into 1,000 (one thousand) Shares.

3.2

**Issued Share Capital**

R100 (hundred rand) divided into 100 Shares, of which:

3.2.1

i.) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Pty) Ltd is the registered and beneficial holder of 70(Seventy) Shares,

representing 70% (seventy percent) of the Shares; and

ii.) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (Pty) Ltd is the registered and beneficial holder of 30 (thirty) Shares, representing 30% (thirty percent) of the Shares.

**4. FUNDING OF THE COMPANY AND SHAREHOLDERS' LOANS**

4.1 The Shareholders shall meet from time to time to discuss the finance requirements of the Company and the methods of providing such finance, provided that the Shareholders shall endeavour to satisfy the financial requirements of the Company in the following manner and in the following priority:

4.1.1 first, out of the profits generated by the Company;

4.1.2 second, by way of loans or other financial assistance to the Company from financial institutions or other third parties;

4.1.3 third, through investments by the Shareholders (whether by subscription for further shares, loans or otherwise) in the Company upon terms and conditions to be determined by Board.

4.2 Subject to clauses 4.1.1 to 4.1.3, should any portion of additional capital required by the Company be made available to the Company in the form of additional share capital (or should the Board decide for any other reason to issue Shares), the Shareholders shall be entitled to subscribe for such shares in accordance with the provisions of the Memorandum of Incorporation and the Companies Act.

4.3 Any Shareholders' Loans shall, unless the Shareholders expressly agree in writing to the contrary, be governed by the following terms and conditions:

4.3.1 each Shareholder shall be entitled to contribute finance to the Company in proportion to its then existing Shareholders' Proportion and, failing such contribution being made by any Shareholder, the provisions of clause 4.4 shall apply;

4.3.2 they shall only be repaid by the Company when the Board considers that the Company is in a financial position to make the repayment;

4.3.3 subject to clause 4.4:

4.3.3.1 no Shareholders' Loan or any part thereof shall be repaid to any Shareholder unless a proportionate repayment is made to the other Shareholders; and

4.3.3.2 the Shareholders' Loans shall bear interest at such rate as may be determined by the Board from time to time.

4.4 If at any time the Shareholders' Loans are not in the Shareholders' Proportion, then any Shareholder whose Shareholders' Loans are more than its Shareholders' Proportion shall be entitled to the repayment of such excess before the payment of any other Shareholders' Loans and such excess shall, unless the Shareholders unanimously agree otherwise:

4.4.1 bear interest (nominal annual compounded monthly) at the Prime Rate plus 2% (two percent) from date of advance to date of repayment; and

4.4.2 rank as senior debt to which the remaining Shareholders' Loans shall be subordinated.

4.5 Notwithstanding anything to the contrary contained in this Agreement, no suretyship,

guarantee or indemnity shall be required to be given by any Shareholder without that Shareholder's prior written consent.

4.6 If a suretyship, guarantee or indemnity is given by one or more of the Shareholders on behalf of the Company with the prior written consent of all the Shareholders:

4.6.1 by the Shareholders, jointly and severally; or

4.6.2 by any one of the Shareholders pursuant to a written agreement between the Shareholders to that effect;

then the Shareholders shall be liable under such suretyship, guarantee or indemnity as amongst themselves, in proportion to their shareholding in the Company at the time that any such suretyship, guarantee or indemnity is enforced against the Shareholder that gave it, irrespective of the terms and conditions of that suretyship, guarantee or indemnity.

4.7 Any amount payable by any Shareholder to the Company or another Shareholder in terms of the provisions of clause 4.6, shall be payable on demand, provided that should any Shareholder fail to pay its due proportion of any amount due and payable, such defaulting Shareholder shall be liable on an attorney and own client scale to pay to the claiming Shareholder all costs incurred by the claiming Shareholder in enforcing its rights.

4.8 If the Company:

4.8.1 is wound-up (provisionally or finally);

4.8.2 is placed under judicial management in terms of a provisional or final order; or

4.8.3 is subject to business rescue proceedings; or

4.8.4 submits an offer of compromise or similar offer to its creditors generally or otherwise

becomes a party to a compromise arrangement with its creditors generally,

then all Shareholders' Loans shall immediately become due and payable.

4.9 No Shareholder shall Dispose of or Encumber all or any of its Shareholder's Loan without the

prior written consent of the other Shareholder or unless such disposal is in accordance with the provisions of this Agreement.

**5. SHAREHOLDERS' MEETINGS**

Any meeting of Shareholders shall be carried out in accordance with the provisions of the Companies Act and the Memorandum of Incorporation.

**6. BOARD OF DIRECTORS**

The Board shall be appointed and governed in accordance with the provisions set out in the Companies Act and the Memorandum of Incorporation.

**7. DIVIDENDS**

7.1.1 shall only be paid once the Shareholders' Loans have been repaid in full;

7.1.2 are subject to the provisions of the Companies Act and the Memorandum of Incorporation; and

7.1.3 are subject to the financial circumstances and requirements of the Company, in particular, its working capital and capital expenditure requirements.

**8. SUPPORT**

8.1 Each Shareholder undertakes at all times to do all such things, perform all such actions and take all such steps (including in particular the exercise of their voting rights in the Company) and to procure the doing of all such things, the performance of all such actions and taking of all such steps as may be open to them and necessary for or incidental to putting into effect and maintaining the provisions of this Agreement.

8.2 Where this Agreement provides that any particular transaction or matter requires the consent, approval or agreement of any Shareholder, such consent, approval or agreement may not be unreasonably withheld or delayed and may be given subject to such terms and conditions as that shareholder may reasonably impose and any breach of such terms and conditions by any person subject to them shall be deemed to be a breach of the terms of this Agreement.

8.3 Notwithstanding anything in this Agreement, nothing in this Agreement shall be construed so as to constitute any of the Shareholders as the partner, agent or representative of any other Shareholder or to create any trust for any purpose whatsoever.

8.4 The Parties shall at all times during the continuance of this Agreement observe the principles of good faith towards one another in the performance of their obligations in terms of this Agreement, which shall include the Parties:

8.4.1 at all times during the term of this Agreement acting reasonably, honestly and in good faith; and

8.4.2 performing their obligations arising from this Agreement diligently and with reasonable care.

8.5 If any Shareholder (including the estate or executor of any estate) refuses, fails or neglects to sign any document or do anything expressly required in terms of this Agreement and, despite written notice from the Company secretary giving him 7 (seven) Business Days to sign the document or to do such thing, still fails to do so within the period stipulated in that notice, the Company secretary is hereby irrevocably appointed in rem suam to execute such document or do such thing on behalf of that Shareholder as may be necessary in order to comply with the provisions of this Agreement, provided that this clause shall not entitle any person to sign or execute any form of financial security documentation (for example, a surety or a guarantee) for or on behalf of a Shareholder for the debts of the Company.

**9. GENERAL WARRANTIES**

9.1 Each of the Parties hereby warrants to and in favour of the others that:

9.1.1 it has the legal capacity and has taken all necessary corporate action required to empower and authorise it to enter into this Agreement;

9.1.2 this Agreement constitutes an agreement valid and binding on it and enforceable against it in accordance with its terms;

9.1.3 the execution of this Agreement and the performance of its obligations hereunder does not and shall not:

9.1.3.1 contravene any law or regulation to which that Party is subject;

9.1.3.2 contravene any provision of that Party's constitutional documents; or

9.1.3.3 conflict with or constitute a breach of any of the provisions of any other agreement, obligation, restriction or undertaking which is binding on it.

9.2 Each of the representations and warranties given by the Parties in terms of clause 9.1, shall:

9.2.1 be given as at the Signature Date;

9.2.2 be a separate warranty and will in no way be limited or restricted by inference from the terms of any other warranty or by any other words in this Agreement;

9.2.3 continue and remain in force notwithstanding the completion of any or all the transactions contemplated in this Agreement; and

9.2.4 prime facie be deemed to be material and to be a material representation inducing the other Parties to enter into this Agreement.

9.3 Without prejudice to the rights and remedies available to the Parties at law, the Party providing the warranty hereby indemnifies the other Parties and hold them harmless against all claims, liabilities, damages and losses which may appear and which flows from or is caused by a breach and/or non-fulfilment of any of the warranties given by that Party in clause 9.1.

9.4 Save for the warranties expressly set out in the clause 9.1, the Parties make no other representations and give no other warranties.

**10. BREACH**

10.1 Should a Party ("Defaulting Party') commit a breach of any material provision of this Agreement and should such breach be:

10.1.1 incapable of remedy; or

10.1.2 be capable of being remedied and should such Party fail to remedy such breach within 14 (fourteen) days after receiving written notice from another Party ("Aggrieved Party") requiring the Defaulting Party to do so, then the Aggrieved Party shall be entitled to claim specific performance of all of the Defaulting Party's obligations whether or not due for performance, without prejudice to the Aggrieved Party's right to claim damages.

10.2 Notwithstanding any other provision to the contrary in this Agreement:

10.2.1 no Party shall be entitled to cancel this Agreement in any circumstances; and

10.2.2 each Party shall only be liable for any direct loss, expense or damage arising out of or attributable to a breach of this Agreement caused by it and shall not be liable for any indirect, special or consequential loss, expense or damage.

**11. DISPUTE RESOLUTION**

11.1 Should a dispute occur between the Parties in regard to any matter arising out of this Agreement or its interpretation or their respective rights and obligations under this Agreement or its cancellation or any matter arising out of its cancellation, the dispute shall be referred to the managing director (or, if no such position exists, its equivalent designation) of each of the Parties concerned, or in the case of a natural person, such person, for resolution who shall endeavour to resolve that dispute in good faith and with due willingness and intention to determine a solution.

11.2 If the managing directors (or the equivalent designation) are unable to resolve the dispute in accordance with clause 11.1 within 21 (twenty one) days of having declared a dispute, the matter shall be referred to and decided by arbitration in accordance with clause 11.3.

 11.3 Arbitration amongst the Parties shall be subject to the following terms and conditions:

11.3.1 there shall be 1 (one) arbitrator who shall be, if the question in issue is:

11.3.1.1 primarily an accounting matter, an independent chartered accountant of not less than 15 (fifteen) years' standing;

11.3.1.2 primarily a legal matter, a practising attorney or advocate of not less than 15 (fifteen) years' standing;

11.3.1.3 primarily a technical matter, a suitably qualified person; and

11.3.1.4 any other matter, a suitably qualified person;

11.3.2 the appointment of the arbitrator shall be agreed upon between the Parties, but failing agreement between them within a period of 10 (ten) Business Days after the arbitration has been demanded, any of the Parties shall be entitled to request the chairperson for the time being of the Arbitration Foundation of South Africa to make the appointment and, in making his appointment, to have regard to the nature of the dispute;

11.3.3 subject to the other provisions of this clause 11, each arbitration shall take place in Johannesburg, Sandton and shall be submitted to and determined by arbitration in accordance with the Commercial Arbitration Rules of the Arbitration Foundation of South Africa provided that a Party which has been given notice of breach in terms of this Agreement and has not disputed such breach within the time period provided for remedying of such breach (if any) shall not thereafter be entitled to raise or refer such dispute to arbitration in terms of this clause 11, and the costs of any such arbitration shall be determined by the arbitrator as part of his finding; and

11.3.4 the decision of the arbitrator shall be final and binding on the Parties and may be made an order of any Court of competent jurisdiction. Each of the Parties hereby submits itself to the jurisdiction of the South Gauteng High Court should any other Party wish to make the arbitrator's decision an order of that court.

11.4 The provisions of this clause 11 will not preclude any Party from access to a competent division of the High Court of South Africa for urgent and/or interim relief pending the outcome of an arbitration in terms hereof or in respect of arbitration proceedings in terms hereof.

**12. CONFIDENTIALITY**

12.1 Without the prior written consent of the other Parties, each Party will, and will procure that their direct and indirect subsidiaries, keep confidential and will not disclose to any person:

12.1.1 the details of this Agreement, as well as the details of all the transactions or agreements contemplated in this Agreement;

12.1.2 all information relating to the business, the operations, affairs, assets and liabilities of the Parties; and

12.1.3 all information relating to the business, the operations, affairs, assets and liabilities of any Party, (together "the Confidential Information").

12.2 The Parties each respectively agree (in respect of itself and on behalf of its direct and indirect subsidiaries) to keep all Confidential Information confidential and to disclose it only to their respective officers, directors, employees, consultants and professional advisors who:

12.2.1 have a need to know (and then only to the extent that each such person has a need to know);

12.2.2 are aware that the Confidential Information should be kept confidential;

12.2.3 are aware of the disclosing party's undertaking in relation to such information in terms of this Agreement; and

12.2.4 have been directed by the disclosing party to keep the Confidential Information confidential and have undertaken to keep the Confidential Information confidential.

12.3 The obligations of the Parties in relation to the maintenance and non-disclosure of Confidential Information in terms of this Agreement do not extend to information that:

12.3.1 is disclosed to the receiving party in terms of this Agreement but at the time of such disclosure such information is known to be in the lawful possession or control of that party and not subject to an obligation of confidentiality;

12.3.2 is or becomes public knowledge, otherwise than pursuant to a breach of this Agreement by the party who disclosed such Confidential Information; and

12.3.3 is required by the provisions of this Agreement any law, statute or regulation, or during any court or arbitration proceedings, or by the rules or regulations of any recognised stock exchange to be disclosed and the party required to make the disclosure has limited, as far as reasonably possible, the extent of such disclosure and has consulted with the other Parties prior to making such disclosure.

12.4 The obligation contained in this clause 12.4 shall endure, even after the termination of this Agreement, without limit in point of time except and until such Confidential Information falls within any of the provisions of clause 12.3.1 to 12.3.3.

12.5 Should a Party be requested or required (by oral questions, interrogatories, requests for information or documents, subpoena, civil investigation demand or similar legal process) to
disclose any Confidential Information to any third party, the Party concerned shall immediately
notify the other Parties thereof in order that the other Parties may in their discretion and at their cost raise any applicable objections, seek an appropriate protective order or waive compliance with the provisions of this Agreement, or consent thereto.

12.6 Each Party shall consult with the other Party prior to making or issuing any public announcement, press release or similar public disclosure with respect to this Agreement or with respect to any activities of the Parties.

**DOMICILIUM CITANDI ET EXECUTANDI**

13.1 Each of the Parties chooses the address set out alongside its name below as their domicilium citandi et executandi at which all notices, legal processes and other communications must be delivered for the purposes of this Agreement:

13.1.1 For \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ - ADDRESS \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Email: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attention: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

13.1.2 For \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ - ADDRESS \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Email: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attention: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

13.1.3 For \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ - ADDRESS \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Email: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Attention: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

13.2 Any notice or communication required or permitted to be given in terms of this Agreement shall be valid and effective only if in writing, but it shall be competent to give notice by telefax.

13.3 Any notice to a Party contained in a correctly addressed envelope and:

13.3.1 sent by prepaid registered post to it at its chosen address; or

13.3.2 delivered by hand to a responsible person during ordinary business hours at its chosen address, shall be deemed to have been received, in the case of registered post, on the 8th (eighth) Business Day after posting (unless the contrary is proved) and, in the case of hand delivery, on the day of delivery.

13.4 Any notice by telefax to a Party at its telefax number shall be deemed, unless the contrary is proved, to have been received within 4 (four) hours of transmission where it is transmitted during normal business hours or within 24 (twenty-four) hours of the opening of business on the first Business Day after it is transmitted where it is transmitted outside those business hours.

13.5 Each of the Parties shall be entitled at any time to change its address to any other address in RSA by giving written notice to that effect to the other Party.

**14. ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement between the Parties as far as the subject matter contained in this Agreement is concerned and no Party shall have any claim or right of action arising from any undertaking, representation or warranty not included in this Agreement.

**15. CONFLICTS WITH THE MEMORANDUM OF INCORPORATION OR COMPANIES ACT**

Should a provision of this Agreement conflict with the Memorandum of Incorporation or the Companies Act, the Parties acknowledge that the provisions of the Memorandum of Incorporation and Companies Act shall prevail.

**16. SEVERABILITY**

Each of the provisions of this Agreement shall be considered as separate terms and conditions and in the event that this Agreement is affected by any legislation or any amendment thereto, or if the provisions herein contained are by virtue of that legislation or otherwise, held to be illegal, invalid, prohibited or unenforceable, then any such provisions shall be ineffective only to the extent of the illegality, invalidity, prohibition or unenforceability and each of the remaining provisions hereof shall remain in full force and effect as if the illegal, invalid, prohibited or unenforceable provision was not a part hereof.

**17. COSTS OF ENFORCEMENT**

All costs, charges and expenses of any nature whatever which may be incurred by a Party in enforcing its rights in terms of this Agreement, including without limiting the generality of the aforegoing, legal costs on the scale of attorney and own client and collection commission, irrespective of whether any action has been instituted, shall be recoverable on demand from the Party against which such rights are successfully enforced and shall be payable on demand.

**18. VARIATION AND CANCELLATION**

No agreement varying, adding to, deleting from or canceling this Agreement shall be effective unless reduced to writing and signed by or on behalf of the Parties.

**19. CESSION**

None of the Parties shall be entitled to assign, cede, delegate or transfer any rights, obligations, share or interest acquired in terms of this Agreement, in whole or in part, to any other Party or person without the prior written consent of all the other Parties, which consent shall not unreasonably be withheld or delayed.

**20. INDULGENCE**

No extension of time, relaxation or indulgence granted by any Party to another shall be deemed to be a waiver or tacit amendment of that Party's rights in terms hereof, nor shall any such relaxation or indulgence be deemed to be a novation or waiver of the terms and conditions of this Agreement.

**21. GOVERNING LAW AND JURISDICTION**

21.1 This Agreement shall in all respects be governed by and construed in accordance with the

law of the RSA, and all disputes, actions and other matters in connection therewith shall be determined in accordance with such law. 21.2 Each of the Parties hereby consents and submits to the non-exclusive jurisdiction of the South

Gauteng High Court for the purposes of all or any legal proceedings arising from or concerning this Agreement.

 21.3 Nothing in this Agreement shall prevent any Party from seeking relief on an urgent or

interlocutory basis from any High Court of South Africa with jurisdiction.

**22. COUNTERPARTS**

This Agreement may be signed in any number of counterparts and all such counterparts taken together shall constitute one and the same Agreement.

Thus done and signed at..........................................on this............day of............................20..........

As witnesses:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ For and on behalf of

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (PTY) LTD (Reg. No.: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)**

 by

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

who warrants his/her authority hereto

Thus done and signed at..........................................on this............day of............................20..........

As witnesses:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ For and on behalf of

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (PTY) LTD (Reg. No.: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)**

 by

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

who warrants his/her authority hereto

Thus done and signed at..........................................on this............day of............................20..........

As witnesses:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ For and on behalf of

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (PTY) LTD (Reg. No.: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_)**

 by

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

who warrants his/her authority hereto