

**THE AECI LIMITED**  
**2012 LONG TERM INCENTIVE PLAN**

adopted by

**AECI LIMITED**

(Registration Number: 1924/002590/06)

Approved by special resolution passed at a general meeting of the Company held at  
AECI Place, 24 The Woodlands, Woodlands Drive, Woodmead on 28 May 2012.

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## TABLE OF CONTENTS

PART 1 – INTRODUCTION .....	3
1    DEFINITIONS AND INTERPRETATION.....	3
2    PURPOSE .....	11
PART 2 - ADMINISTRATION OF THE PLAN .....	12
3    THE PLAN .....	12
4    ADMINISTRATION OF THE PLAN .....	12
5    ANNUAL ACCOUNTS.....	12
6    SHARES.....	12
7    FUNDING .....	13
8    MAXIMUM NUMBER OF SHARES WHICH MAY BE ACQUIRED BY PARTICIPANTS .....	13
9    TERMINATION OF EMPLOYMENT .....	14
PART 3 – THE PERFORMANCE SHARE METHOD .....	15
10   AWARDS.....	15
11   VESTING AND SETTLEMENT OF PERFORMANCE SHARES .....	16
12   TERMINATION OF EMPLOYMENT .....	16
PART 4 – THE EARNINGS GROWTH METHOD.....	17
13   ALLOCATIONS .....	17
14   VESTING OF EARNINGS GROWTH UNITS.....	17
15   EXERCISE .....	18
16   TERMINATION OF EMPLOYMENT .....	18
PART 5 - GENERAL .....	19
17   PARTICIPATION BY DIRECTORS.....	19
18   INSOLVENCY .....	19
19 <del>MALUS POOR PERFORMANCE AND DISCIPLINARY PROCEDURES</del> .....	19
20   FAMILY ENTITIES .....	21
21   ADJUSTMENTS.....	21
22 <del>FORFEITURE CANCELLATION</del> .....	22
23   TAX LIABILITY .....	22
24   EMPLOYER COMPANY LIABILITIES .....	23
25   LISTING AND LEGAL REQUIREMENTS .....	23
26   AMENDMENT OF THE PLAN.....	23
27   STRATE .....	24
28   DISPUTES .....	25
29   RIGHTS PRIOR TO SETTLEMENT.....	25
30   PROFITS AND LOSSES AND TERMINATION OF THE PLAN.....	25
31   DOMICILIUM AND NOTICES .....	25
32   COMPLIANCE.....	26
33   GENERAL PROVISIONS.....	27

## PART 1 – INTRODUCTION

### 1 DEFINITIONS AND INTERPRETATION

1.1 In these Rules, unless expressly stipulated to the contrary or unless the context clearly indicates a contrary intention, the following words and expressions shall bear the following meanings (and cognate words and expressions shall bear corresponding meanings) -

1.1.1 "**Act**" - the Companies Act 71 of 2008, as amended or substituted;

1.1.2 "**Agency Agreement**" – an agency agreement to be entered into between the Company and the Employer Companies to regulate the Participation Costs of the Plan;

1.1.3 "**Allocation**" – the conditional allocation of Earnings Growth Units to an Eligible Employee in terms of 13.1 (read with 13.2) and the words "**allocated**" and "**allocate**" shall be construed accordingly;

1.1.4 "**Allocation Date**" – the date on which an Allocation is made to an Eligible Employee, which date may not be made retrospective;

1.1.5 "**Allocation Letter**" – a letter containing the information specified in 13.2 sent by the Board to an Eligible Employee informing him of an Allocation;

1.1.6 "**Allocation Value**" – the value of an Earnings Growth Unit on the Allocation Date, being a value calculated by applying the Earnings Growth Index as at the Allocation Date to the Initial Allocation Value;

1.1.7 "**Applicable Laws**" – in relation to any person or entity, all and any -

1.1.7.1 statutes, subordinate legislation and common law;

1.1.7.2 regulations;

1.1.7.3 ordinances and by-laws;

1.1.7.4 accounting standards;

1.1.7.5 the JSE Listings Requirements or the listings requirements of any other securities exchange on which the Company's Shares are listed;

1.1.7.6 the Takeover Regulations;

1.1.7.7 directives, codes of practice, circulars, guidance notices, judgments and decisions of any competent authority,

compliance with which is mandatory, or voluntary as the case may be, for that person or entity;

1.1.8 "**Appreciation**" – in relation to an Earnings Growth Unit, the positive growth in the Earnings Growth Index, calculated according to the following formula:

$$A = EV - AV$$

Where: A = Appreciation

EV = Exercise Value

AV = Allocation Value

1.1.9 "**Auditors**" – the registered auditors of the Company from time to time;

1.1.10 "**Award**" - the conditional award to an Eligible Employee of Performance Shares in terms of 10.1 (read with 10.2) and the word "**Awarded**" shall be construed accordingly;

1.1.11 "**Award Date**" – the date on which an Award is made to an Eligible Employee, which date may not be made retrospective;

1.1.12 "**Award Letter**" – a letter containing the information specified in 10.2 sent by the Board to an Eligible Employee informing him of an Award;

1.1.13 "**Base Earnings**" – the Earnings of the Company as declared in the audited and published annual financial statements for the financial year ending 31 December 2011;

1.1.14 "**Board**" - the board of directors for the time being of the Company, acting either as a board, or through the remuneration committee or any other committee of its members appointed by the Board from time to time and/or through the Compliance Officer, whichever is charged by the Board with the administration of the Plan;

1.1.15 "**Business Day**" – any day on which the JSE is open for the transaction of business;

1.1.16 "**Change of Control**" – all circumstances where a party (or parties acting in concert), directly or indirectly obtains:-

1.1.16.1 beneficial ownership of the specified percentage or more of the Company's issued share capital; or

1.1.16.2 control of the specified percentage or more of the voting rights at meetings of the Company; or

1.1.16.3 the right to control the management of the Company or the composition of the Board; or

1.1.16.4 the right to appoint or remove directors holding a majority of voting rights at Board meetings; or

- 1.1.16.5 the right to control the business or undertaking of the Company through a merger or consolidation with any other business or entity, or upon a sale of the whole or a major part of the Company's assets or undertakings.

For the purposes of this 1.1.16 the expression "**specified percentage**" shall bear the meaning assigned to it from time to time in the Takeover Regulations read with the Act, presently being 35%;

- 1.1.17 "**Company**" – AECI Limited (registration number 1924/002590/06), a company incorporated in accordance with the laws of the RSA;
- 1.1.18 "**Compliance Officer**" – the officer referred to in section 97 of the Act;
- 1.1.19 "**Date of Termination of Employment**" – the date upon which a Participant is no longer employed by, or ceases to hold salaried office in, any Employer Company, provided that in the event of a resignation by a Participant, the date shall be the date on which the Participant gives notice of his resignation or his intention to resign unless such notice is subsequently withdrawn;
- 1.1.20 "**Dismissal based on Operational Requirements**" – the retrenchment of a Participant based on the Employer Company's economic, technological, structural or similar needs;
- 1.1.21 "**Earnings**" – headline earnings as reported, but adjusted for windfall profits and abnormal write-offs as approved by the board;
- 1.1.22 "**Earnings Growth Index**" – an index expressed as a percentage that in any one year reflects the value of the Earnings in the immediate preceding year in relation to Base Earnings;
- 1.1.23 "**Earnings Growth Method**" - the method of participation in this Plan detailed in Part 4 of these Rules;
- 1.1.24 "**Earnings Growth Unit**" – an Earnings Growth Unit conditionally allocated to an Eligible Employee in terms of 13.1 (read with 13.2). For the avoidance of doubt it is recorded that Earnings Growth Units do not constitute equity in the Company and neither are they in any way linked to the equity of the Company;
- 1.1.25 "**Eligible Employee**" – a person eligible for participation in the Plan, namely an executive, senior manager, key employee, consultant, contractor and/or person who's principal source of income is derived from any member company of the Group, including any present or future executive director holding salaried employment or office, which person shall be selected by the Board from time to time in its sole and absolute discretion, but excluding any non-executive director;
- 1.1.26 "**Employee**" – any person holding full-time salaried employment or office (including any executive director) of any Employer Company;

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- 1.1.27 "**Employer Company**" – that member company of the Group that is the employer of a particular Participant;
- 1.1.28 "**Exercise**" – the exercising by a Participant of any of his Vested Earnings Growth Units in terms of 15.1;
- 1.1.29 "**Exercise Date**" – the date on which any Vested Earnings Growth Units are Exercised by a Participant in terms of 15.1, which shall be the date on which the Exercise Notice is received by the person designated for this purpose by the Company;
- 1.1.30 "**Exercise Notice**" – the written notice given by a Participant to Exercise as provided for in 15.1;
- 1.1.31 "**Exercise Value**" – the value attributable to an Earnings Growth Unit on Exercise, being a value calculated by applying the Earnings Growth Index as at the Exercise Date to the Initial Allocation Value;
- 1.1.32 "**Fair Market Value**" – in relation to a Share on any particular day, shall be the mid-market price of the Share on the Trading Day immediately prior to the Vesting Date;
- 1.1.33 "**Family Company**" – any company or close corporation, the entire issued share capital or member's interest of which is held and beneficially owned by all or any of a Participant, his lawful spouse, his lawful children and/or his Family Trust;
- 1.1.34 "**Family Entity**" - a Family Company or a Family Trust;
- 1.1.35 "**Family Trust**" – a trust constituted solely for the benefit of all or any of a Participant, his lawful spouse and/or his lawful children;
- 1.1.36 "**Fault Termination**" - the termination of employment of a Participant by the Group by reason of -
- 1.1.36.1 misconduct;
- 1.1.36.2 poor performance;
- 1.1.36.3 loss of confidence in the Participant or an irretrievable breakdown of the employment relationship; or
- 1.1.36.4 resignation by the Participant.
- 1.1.37 "**Forfeiture**" – the cancellation of an Award or Allocation in whole or in part;
- 1.1.38 "**Group**" - the Company and any other company, body corporate or other undertaking which is or would be deemed to be a subsidiary or associate of the Company in terms of the Act, and the expression "**member company of the Group**" shall be construed accordingly;

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- 1.1.39 **"Implementation Date"** – in relation to a Change of Control, the date upon which such Change of Control becomes effective;
- 1.1.40 **"Initial Allocation Value"** – the value accorded to an Earnings Growth Unit at the inception of this Plan, being R100 (one hundred Rand);
- 1.1.41 **"JSE"** - the securities exchange operated by the JSE Limited, or its successor;
- 1.1.42 **"LRA"** – the Labour Relations Act 66 of 1995, as amended or substituted;
- 1.1.43 **"Maximum Period"** – in relation to Earnings Growth Units, the period commencing on an Allocation Date and expiring on the 7<sup>th</sup> (seventh) anniversary of that Allocation Date;
- 1.1.44 **"Malus"** – the Forfeiture of Unvested or Unsettled Awards and/or Unvested or Unsettled Allocations in terms of 19;
- 1.1.45 **"Material"** – the materiality number accorded to any material event as defined by the Company's "Risk Limit" contained in its Enterprise Risk Management Framework or as determined by the Board from time to time;
- 1.1.46 **"Misconduct"** – any conduct by a Participant that warrants the issuing of a final written warning to him/her in terms of the Company's or Employer Company's (as applicable) disciplinary code and procedure in place from time to time;
- 1.1.47 **"No Fault Termination"** – the termination of employment of a Participant by the Group by reason of -
- 1.1.47.1 injury, disability or ill-health, in each case as certified by a qualified medical practitioner nominated by the relevant Employer Company;
- 1.1.47.2 Dismissal based on Operational Requirements as contemplated in the LRA;
- 1.1.47.3 retirement on or after his Retirement Date;
- 1.1.47.4 a mutually agreed termination of employment; or
- 1.1.47.5 the Employer Company by which he is employed ceasing to be a member company of the Group, provided that if the holding of an associate or subsidiary member company of the Group drops to below 20% (twenty percent) this will not be deemed to be a termination of employment;
- 1.1.48 **"Other Schemes"** - any current share plan or scheme operated by the Group (other than the Plan) which provides for the acquisition of, or subscription for, shares in the Company, or the grant of options in respect of such shares, by, or on behalf of, employees, directors (whether executive or non-executive) consultants or other officers of any member company of the Group;
- 1.1.49 **"Participant"** – an Eligible Employee to whom an Award or Allocation has been made, and who has accepted such Award or Allocation, and includes the executor of the Participant's deceased estate, or Family Entity, where

appropriate;

- 1.1.50 **"Performance Criteria"** – the performance criteria applicable to the Award of Performance Shares and the Allocation of Earnings Growth Units as may be determined by the Board from time to time, and as communicated to Eligible Employees in the Award Letter or the Allocation Letter;
- 1.1.51 **"Performance Share Method"** – the method of participation in this Plan detailed in Part 3 of these Rules;
- 1.1.52 **"Performance Shares"** – Shares which for purposes of the Plan have been Awarded to an Eligible Employee in terms of an Award Letter as described in 10.2;
- 1.1.53 **"Plan"** – The AECI Limited 2012 Long Term Incentive Plan the terms of which are embodied in these Rules and which entails participation therein through any or all of the Performance Share Method and the Earnings Growth Method as determined by the Board;
- 1.1.54 **"Retirement Date"** - the date on which, or age at which a Participant:
  - 1.1.54.1 can be required to retire by any Employer Company in terms of its policy;
  - 1.1.54.2 has, by agreement with the Employer Company, agreed to take early retirement; or
  - 1.1.54.3 or such later date as may be stipulated in a situation of immediate continuation in employment (after the normal retirement date) as a contractor or non-permanent employee of the Group;
- 1.1.55 **"RSA"** – the Republic of South Africa;
- 1.1.56 **"Rules"** – these Rules, as amended from time to time;
- 1.1.57 **"Settled"** – in relation to:
  - 1.1.57.1 a Vested Award shall mean -
    - 1.1.57.1.1 that Performance Shares that have been allotted and issued or transferred to a Participant at the time of an Award, become unrestricted and the Participant acquires unfettered ownership of such Shares; or
    - 1.1.57.1.2 the allotment and issue or transfer by the Company of Shares in the name of a Participant as soon as practically possible after the Vesting Date, it being specifically recorded, that the relevant Employer Company will be liable to pay the issue or purchase price of such Shares; or
    - 1.1.57.1.3 if the Company so elects, the procuring by the Company of the purchase of Shares on the JSE and the transfer of such Shares by an Employer Company into the name of a Participant through the acquisition thereof on



behalf of a Participant or otherwise; or

1.1.57.1.4 the use of the services of an external third party to trade and thereby transfer Shares on behalf of the Company to Participants; or

1.1.57.1.5 in the sole and absolute discretion of the Board, the payment by the Company and/or an Employer Company, as the case may be, to the Participant of a cash bonus equal to the Fair Market Value of the Shares on the Vesting Date;

1.1.57.2 an Exercised Allocation:

1.1.57.2.1 in the sole and absolute discretion of the Board, the payment by the Company and/or an Employer Company, as the case may be, to the Participant of a cash bonus equal to the Appreciation,

and the words "**Settlement**" and "**Settle**" shall be construed accordingly, while "**Unsettled**" shall mean the opposite. It is recorded that any Shares which have been Settled to a Participant in terms of this Plan shall rank *pari passu* with all other issued Shares in all respects;

1.1.58 "**Share(s)**" – ordinary share(s) in the capital of the Company (or such other class of shares as may represent the same as a result of any reorganisation, reconstruction or other variation of the share capital of the Company to which the provisions of the Plan may apply from time to time);

1.1.59 "**Special Distribution**" – a distribution of Shares or any other asset (including cash) by the Company to its shareholders:

1.1.59.1 in the course of, and as part of any unbundling, reorganisation, rationalisation, compromise, arrangement or reconstruction (including the amalgamation of two or more companies or entities);

1.1.59.2 in the course of, or as part of, a reduction of capital (including a share repurchase);

1.1.59.3 in the course or in anticipation of the deregistration or liquidation of a company for any of the above purposes;

but excluding any special dividends or other payments in terms of the Act and normal annual interim and final cash or scrip dividends declared by the Company;

1.1.60 "**Takeover Regulations**" – the regulations on takeovers prescribed by the Takeover Regulation Panel under the Act;

1.1.61 "**Tax** - any present or future tax or other charge of any kind or nature whatsoever imposed, levied, collected, withheld or assessed by any competent authority, and includes all income tax (whether based on or measured by income/revenue or

profit or gain of any nature or kind or otherwise and whether levied under the Tax Act or otherwise), capital gains tax, value-added tax and any charge in the nature of taxation, and any interest, penalty, fine or other payment on, or in respect thereof;

1.1.62 "Tax Act" - the Income Tax Act 58 of 1962, as amended or substituted;

1.1.63 "Trading Day" – any day on which the Shares are traded on the JSE;

1.1.64 "Vest, Vesting and Vested" - when used in relation to:

1.1.64.1 an Award shall mean that such Award shall become capable of being Settled in accordance with 11; and

1.1.64.2 an Allocation shall mean that such Allocation shall become exercisable in accordance with 15;

and "Unvested" shall mean the opposite.

1.1.65 "Vesting Date" – in relation to:

1.1.65.1 an Award, the date on which Performance Shares Vest and shall be Settled to a Participant being a date 3 (three) years from the Award Date; and

1.1.65.2 an Allocation, the date from which Earnings Growth Units Vest and may be Exercised by Participants being:

1.1.65.2.1 one third of the Allocation no earlier than the third anniversary of the Allocation Date;

1.1.65.2.2 a second third of the Allocation no earlier than the fourth anniversary of the Allocation Date; and

1.1.65.2.3 the final third of the Allocation no earlier than the fifth anniversary of the Allocation Date;

provided that if the Vesting Date in respect of an Award falls on a date which, or during a period in which -

1.1.65.3 by virtue of any Applicable Laws or any policy of the Group (including any corporate governance policy) it is not permissible to Settle Shares to a Participant; or

1.1.65.4 by virtue of any Applicable Laws or any policy of the Group (including any corporate governance policy) it is not permissible for a Participant to receive or otherwise deal or trade in Shares,

the Vesting Date shall be the second Trading Day after the date on which it becomes permissible to Settle Shares to a Participant and/or for the Participant to receive or deal or trade in Shares (as the case may be);

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- 1.1.66 In these Rules -
- 1.1.67 clause headings are used for convenience only and shall be ignored in their interpretation;
- 1.1.68 unless the context clearly indicates a contrary intention, an expression which denotes -
- 1.1.68.1 any gender includes the other genders;
- 1.1.68.2 a natural person includes an artificial person (whether corporate or unincorporate) and vice versa;
- 1.1.68.3 the singular includes the plural and vice versa;
- 1.1.69 unless the context clearly indicates a contrary intention, words and expressions defined in the Act shall bear the meanings therein assigned to them;
- 1.1.70 any reference to any statute shall be to that statute, as amended from time to time and to any statutory substitution of that statute; and
- 1.1.71 the use of the word "**including**" or "**includes**" or "**include**" followed by a specific example 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 example/s;
- 1.2 If any provision in 1.1 is a substantive provision conferring any right or imposing any obligation on anyone, effect shall be given to it as if it were a substantive provision in the body of these Rules.
- 1.3 When any number of days is prescribed in these Rules, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or official public holiday in the RSA, in which case the last day shall be the next Business Day.

## 2 **PURPOSE**

The purpose of the Plan shall be to attract, motivate, reward and retain Participants who are able to influence the performance of the Group, on a basis which aligns their interests with those of the Company's shareholders. The Earnings Growth Method is a cash-settled incentive plan and does not utilise equity of the Company or in any way linked to or impact on the equity of the Company.

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## **PART 2 - ADMINISTRATION OF THE PLAN**

### **3 THE PLAN**

The Plan is hereby constituted and shall be administered for the purpose and in the manner set out in these Rules. The Plan shall at the discretion of the Board be given effect to through the Performance Share Method or the Earnings Growth Method, or any combination thereof.

### **4 ADMINISTRATION OF THE PLAN**

4.1 The Board is responsible for the operation and administration of the Plan, and subject to Applicable Laws has discretion to decide whether and on what basis the Plan shall be operated, which may include but not be limited to the delegation of the administration of the Plan to a Compliance Officer or any third party appointed by the Board, but excluding any executive director of the Company.

4.2 Subject to the provisions of the Plan, any Applicable Laws and to the approval of the Board, the Board shall be entitled to make and establish such rules and regulations, and to amend the same from time to time, as they may deem necessary or expedient for the proper implementation and administration of the Plan.

### **5 ANNUAL ACCOUNTS**

The Board shall ensure that a summary appears in the annual financial statements of the Company of the:

- 5.1 number of Performance Shares and Earnings Growth Units Awarded or Allocated or Settled to Participants;
- 5.2 number of Shares that may be utilised for the purposes of the Performance Share Method at the beginning of the financial year;
- 5.3 changes, if any, in such numbers during the financial year under review;
- 5.4 balance of Shares available for utilisation for the purposes of the Performance Share Method at the end of the financial year;
- 5.5 number of Shares, if any, held by any Employer Company which Shares may be acquired by Participants upon Vesting; and
- 5.6 number of Shares, if any, then under the control of the Board for Settlement to Participants in terms of the Performance Share Method.

### **6 SHARES**

The Company shall:

- 6.1 at all times reserve and keep available, free from pre-emptive rights, out of its authorised but unissued share capital, such number of Shares as may be required

to enable the Company to fulfil its obligations to Award or Settle Shares to Participants in terms of the Performance Share Method;

6.2 ensure that Shares may only be issued or purchased for purposes of the Performance Share Method once a Participant (or group of Participants) to whom they will be Awarded has been formally identified.

6.3 ensure that Shares held for purposes of the Performance Share Method will not have their votes at general/annual general meetings taken into account for the purposes of resolutions proposed in terms of the JSE Listings Requirements and/or the Act or for purposes of determining categorisations as detailed in Section 9 of the JSE Listings Requirements.

## 7 FUNDING

7.1 Other than any Tax/Social Liability as defined in 23.1, all costs of and incidental to the implementation and administration of the Plan, including but not limited to:

7.1.1 the consideration for Shares (if any) acquired under the Performance Share Method;

7.1.2 the costs incurred in the acquisition thereof;

7.1.3 any administration or other expenses or administration fees;

7.1.4 any duties payable upon the Settlement of Shares to Participants including without limitation issue duty, stamp duty, securities transfer tax; and

7.1.5 all secretarial, accounting, administrative, legal and financial advice and services, office accommodation and stationery,

properly incurred by the Company as agent for and on behalf of each Employer Company in order to give effect to the Plan (all of the foregoing costs, expenses and duties hereinafter referred to as "**Participation Costs**") shall be funded, as the Board may from time to time direct.

7.2 The Company shall recover from each Employer Company such Participation Costs as may be attributable to the participation of any of its Participants in the Plan. To this effect the Company shall procure that all Employer Companies execute an Agency Agreement, which, once executed shall be deemed to be incorporated by reference into these Rules, and read together will constitute one agreement.

## 8 MAXIMUM NUMBER OF SHARES WHICH MAY BE ACQUIRED BY PARTICIPANTS

8.1 Subject to 8.2, any adjustments in terms of 21.1 and the prior approval, if required, of the JSE or any other securities exchange on which Shares are listed, the prior authority of the shareholders of the Company in general meeting shall be required if the aggregate number of Shares which may be acquired by:

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- 8.1.1 all Participants under the Performance Share Method is to exceed 2 327 129 (two million three hundred and twenty seven thousand one hundred and twenty nine) Shares less the number of shares and options utilised pursuant to the Other Schemes operated by the Group; or
- 8.1.2 any one Participant in terms of the Performance Share Method is to exceed 290 891 (two hundred and ninety thousand eight hundred and ninety one) Shares less the number of shares and options utilised pursuant to the Other Schemes operated by the Group.
- 8.2 In the event of an adjustment in equity capital as provided for in 21.1, the fixed maximum numbers in 8.1.1 and 8.1.2 above shall be adjusted to give a Participant entitlement to the same proportion of equity capital as that to which he was previously entitled.
- 8.3 In the determination of the number of Shares which may be acquired by Participants in terms of 8.1, Shares shall not be taken into account, which have been purchased through the JSE.

## 9 TERMINATION OF EMPLOYMENT

- 9.1 A Participant who ceases to be employed by an Employer Company on the basis that he is -
- 9.1.1 immediately thereafter employed by another Employer Company;
- 9.1.2 immediately thereafter engaged by the Employer Company as a contractor or non-permanent employee of the Group; or
- 9.1.3 thereafter re-employed by such Employer Company pursuant to it being determined that his employment was terminated on a basis which was not lawful in terms of the LRA;

shall be deemed not to have terminated his employment for the purposes of the Plan and his rights (whether conditional or otherwise) in and to any Award or Allocation shall be unaffected.

- 9.2 A Participant who is an executive director of any Employer Company who retires or resigns from his position as director on the basis that he is immediately re-elected in accordance with the constitutional documents of that Employer Company shall be deemed not to have terminated his employment with that Employer Company.

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## PART 3 – THE PERFORMANCE SHARE METHOD

### 10 AWARDS

- 10.1 The Board may, in its sole and absolute discretion, resolve to make Awards to Eligible Employees from time to time. The Board shall in relation to the basis on which it makes Awards, be guided by the remuneration and reward strategy designed and approved by its Remuneration Committee from time to time, which shall inter alia, take into account the Eligible Employee's seniority, role and current level of remuneration.
- 10.2 The Board shall, as soon as reasonably practicable on or after the Award Date, notify the Eligible Employee of the Award in an Award Letter. The Award Letter shall be in the form as prescribed by the Board from time to time and shall specify -
- 10.2.1 the number of Performance Shares Awarded to the Eligible Employee;
  - 10.2.2 the Award Date;
  - 10.2.3 the Vesting Date;
  - 10.2.4 the Performance Criteria imposed by the Board, which will determine the manner in which, and the extent to which an Award shall be adjusted prior to Settlement;
  - 10.2.5 the provisions of 23;
  - 10.2.6 any other conditions attached to the Award;
  - 10.2.7 a stipulation that the Award is subject to the provisions of these Rules;
  - 10.2.8 where a copy of the Rules might be obtained for perusal; and
  - 10.2.9 provision for signed acceptance by the Eligible Employee.
- 10.3 Acceptance by an Eligible Employee of an Award shall be communicated to the Board by the signature and return of the Award Letter by such date as the Board may prescribe in the Award Letter. An Award which is not accepted by an Eligible Employee as aforesaid shall automatically be deemed to have been Forfeited, subject to re-instatement or extension by the Board in its sole and absolute discretion.
- 10.4 Subject to 20, an Award is personal to a Participant and shall not be capable of being ceded, assigned, transferred or otherwise disposed of or encumbered by a Participant.
- 10.5 There shall be no consideration payable by a Participant for an Award.
- 10.6 The Board may in its sole and absolute discretion after Vesting Settle such further Shares or cash to a Participant as are equivalent in value to any dividends which the Participant would have earned, but have not been paid to the Participant, from the

Award Date to the Vesting Date had the Participant had full and unrestricted ownership in the Performance Shares which are being Settled.

10.7 A Participant shall not be entitled to any dividends (or other distributions made) and shall have no right to vote in respect of Performance Shares awarded to him in an Award, unless and until and to the extent that the Performance Shares under his Award are Settled to him in Shares in accordance with the provisions of this Plan.

10.8 An Award may be Forfeited at any time after the date of acceptance thereof in terms of 10.3 if the Board and the Participant so agree in writing.

## 11 VESTING AND SETTLEMENT OF PERFORMANCE SHARES

11.1 The Board shall prior to the Vesting Date in respect of an Award assess and determine the extent to which the Performance Criteria imposed by the Board have been achieved. The Performance Shares comprising that portion of an Award in respect of which the Performance Criteria have been achieved, shall Vest on the Vesting Date, and the balance shall be Forfeited.

11.2 The number of Performance Shares which have Vested in a Participant in terms of 11.1 shall, subject to 11.3, 19, and 23, be Settled to the Participant as soon as practically possible after the Vesting Date.

11.3 Notwithstanding 11.2, the Participant shall pay, in such manner as the Board may from time to time prescribe, any such additional amount which the Board may notify the Participant of, in respect of any deduction on account of Tax as may be required by Applicable Laws which may arise on the Settlement of an Award to him.

## 12 TERMINATION OF EMPLOYMENT

12.1 Subject to 9, and unless the Board determines otherwise, if a Participant ceases to be employed by the Group by reason of:

12.1.1 a No Fault Termination prior to the Vesting Date, then these Rules shall in all respects continue to apply to all unvested Awards as if the Participant's employment had not been terminated;

12.1.2 his death, then:

12.1.2.1 the Board shall in its sole and absolute discretion assess and determine the extent to which the Performance Criteria have been met as at the Date of Termination of Employment; and

12.1.2.2 the Award shall Vest to the extent that the Performance Criteria have been achieved and be Settled to the Participant as soon as practically possible after the Date of Termination of Employment; or

12.1.3 a Fault Termination prior to the Vesting Date, the Award shall be Forfeited on the Date of Termination of Employment.



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## **PART 4 – THE EARNINGS GROWTH METHOD**

### **13 ALLOCATIONS**

- 13.1 The Board may, in its sole and absolute discretion, resolve to allocate Earnings Growth Units to Eligible Employees from time to time.
- 13.2 The Board shall, as soon as reasonably practicable on or after the Allocation Date, notify the Eligible Employees of the Allocation in an Allocation Letter. The Allocation Letter shall be in the form prescribed by the Board and shall specify -
- 13.2.1 the number of Earnings Growth Units allocated to the Eligible Employee;
  - 13.2.2 the Allocation Value per Earnings Growth Unit;
  - 13.2.3 the Allocation Date;
  - 13.2.4 the Vesting Dates;
  - 13.2.5 the Performance Criteria imposed by the Board;
  - 13.2.6 the provisions of 23;
  - 13.2.7 a stipulation that the Allocation is subject to the provisions of these Rules;
  - 13.2.8 where a copy of these Rules might be obtained for perusal; and
  - 13.2.9 provision for signed acceptance by the Eligible Employee.
- 13.3 Acceptance by an Eligible Employee of an Allocation shall be communicated to the Board by the signature and return of the Allocation Letter by such date as the Board may prescribe in the Allocation Letter. An Allocation which is not accepted by an Eligible Employee as aforesaid shall automatically be deemed to have been Forfeited, subject to re-instatement or extension by the Board in its sole and absolute discretion.
- 13.4 Subject to 20, an Allocation is personal to a Participant and shall not be capable of being ceded, assigned, transferred or otherwise disposed of or encumbered by a Participant.
- 13.5 There shall be no consideration payable by a Participant for an Allocation.
- 13.6 An Allocation may be Forfeited at any time after the date of acceptance thereof in terms of 13.3 if the Board and Participants so agree in writing.

### **14 VESTING OF EARNINGS GROWTH UNITS**

- 14.1 Subject to 14.2, 19, and 23, an Allocation of Earnings Growth Units shall Vest on the Vesting Date of such Allocation.
- 14.2 If the relevant Performance Criteria in respect of any Allocation have not been met, the Earnings Growth Units available for Vesting shall not Vest in a Participant, but shall be postponed to the following anniversary of the Allocation Date, and so forth,

until the Performance Criteria are met (in which event Vesting will then occur), or the Maximum Period is reached, whichever occurs first.

## 15 EXERCISE

- 15.1 A Participant shall be entitled on or after the Vesting thereof, but prior to the Maximum Date, to Exercise an Allocation by way of an Exercise Notice to the Company. If approved by the Board in its sole and absolute discretion, the Participant shall in respect of each Allocation so Exercised and approved by the Board be Settled as is provided for in 1.1.57.2 and as is calculated in accordance with 15.4.
- 15.2 If a Participant elects not to Exercise an Allocation on or after the Vesting thereof, then Settlement shall not take place, and the provisions of 13.3, 13.5, and **Error! Reference source not found.** shall continue to apply.
- 15.3 Any Allocation which has not been Exercised on the expiry of the Maximum Period shall, subject to 0 and 19.9, be Settled as soon as practically possible after the expiry of the Maximum Period.
- 15.4 A Participant shall, in respect of an Allocation Exercised in accordance with the provisions of this 15, be entitled to be Settled the value of X where X is calculated in accordance with the following formula -

$$X = N \times A$$

where -

- N = the number of Earnings Growth Units which have been Exercised;
- A = the Appreciation;

## 16 TERMINATION OF EMPLOYMENT

- 16.1 Subject to 9, and unless the Board determines otherwise, if a Participant ceases to be employed by the Group by reason of:
- 16.1.1 a No Fault Termination, then these Rules shall in all respects continue to apply to all unvested Allocations as if the Participant's employment had not been terminated;
- 16.1.2 his death:
- 16.1.2.1 prior to the Vesting of an Allocation, then the Allocation will immediately Vest on the Date of Termination of Employment to the extent the Performance Criteria have been achieved (if applicable), and the Participant shall thereafter

- have 36 (thirty six) months from the Date of Termination of Employment or the Maximum Period (whichever occurs first) to Exercise such Allocation; or
- 16.1.2.2 after the Vesting but prior to the Exercise of an Allocation, then the Participant shall have 12 (twelve) months from the Date of Termination of Employment or the Maximum Period (whichever occurs first) to Exercise such Allocation;
- 16.1.3 a Fault Termination prior to the Vesting or Exercise of an Allocation, the Allocation shall be Forfeited on the Date of Termination of Employment.

## PART 5 - GENERAL

### 17 PARTICIPATION BY DIRECTORS

- 17.1 The participation by a Participant in the Plan, including the making of any Award or Allocation, or the Settlement thereof, shall at all times be approved and confirmed by the Remuneration Committee of the Board as constituted from time to time.
- 17.2 The participation by executive directors of the Group in the Plan, and the issue of Shares to them, shall at all times comply with the provisions of the Act.

### 18 INSOLVENCY

Upon involuntary liquidation or business rescue of the Company, each Participant shall have a claim against the Company for any Award or Allocation which has Vested, been Exercised or Settled, as the case may be.

### 19 MALUS

19.1 Notwithstanding any other provision of the Plan, and without prejudice to any other legal rights or remedies that the Group may have, the Board may exercise its discretion to apply Malus to a Participant's:

19.1.1 Performance Shares which constitute an Unvested or Unsettled Award; and/or where, in its reasonable opinion, any of the following situations applied before, during, or after the financial year in which the Award and/or Allocation was made to the Participant (the "Malus Trigger Events"):

19.1.2 the Company's, Employer Company's, and/or Group's financial statements having been restated to a Material extent other than a restatement which is as a result of non-compliance with financial reporting requirements (such as an appropriate change in accounting policy, an application of a change in reporting entity, or to rectify a minor error);

19.1.3 the discovery that any financial information or the assessment of any

Performance Criteria used to make an Award or Allocation was based on a Material error, or on Materially incorrect information provided to the Company, Employer Company, and/or the Group;

19.1.4 the Company, Employer Company, and/or Group having suffered a Material downturn in its financial performance in the financial years after the Award and/or Allocation was made, which downturn can be attributed to events that occurred prior to the making of the Award and/or Allocation and which were deliberately not disclosed to the Board by the Participant at the time of making the Award and/or Allocation;

19.1.5 the Company, Employer Company, and/or Group having suffered a Material downturn in its financial performance in the financial years after the Award and/or Allocation was made and over which the Participant had influence and/or control;

19.1.6 the Company, Employer Company, and/or Group having suffered a Material failure of risk management over which the Participant had influence and/or control;

19.1.7 the Company, Employer Company, and/or Group having suffered Material harm to its good name and reputation, which harm can be directly attributed to the Participant and/or over which the Participant had influence and/or control; and/or

19.1.8 the Participant's actions having amounted to Misconduct.

19.2 For the avoidance of doubt, where the Board decides to apply Malus pursuant to the occurrence of a Malus Trigger Event, any Unvested or Unsettled Awards and/or Unvested or Unsettled Allocations held by the Participant at that time may be Forfeited, and not solely the Award and/or Allocation which is most closely related to the Malus Trigger Event.

19.3 The Board shall act fairly, reasonably, and in good faith when considering whether or not to apply Malus to an Unvested or Unsettled Award, and/or an Unvested or Unsettled Allocation. In this regard, before a decision is made to apply Malus, the Board must:

19.3.1 review the situation to understand the nature and impact of the Malus Trigger Event(s);

19.3.2 assess the proximity of the Participant to the Malus Trigger Event(s);

19.3.3 provide the Participant with written notice of its intention to apply Malus;

19.3.4 invite the Participant to make written submissions to it, within 14 (fourteen) days of receipt of such notice, as to why the Board ought not to apply Malus;

19.3.5 consider the written submissions of the Participant and make a decision on

whether or not, and the extent to which, Malus will apply.

19.4 The Board retains the discretion to make a final determination as to whether or not an event qualifies as a Malus Trigger Event and the extent to which Malus should be applied.

19.5 The Board may consult advisors regarding the legal consequences of applying Malus as part of the procedure detailed in 19.3.

19.6 Without derogating from 19.3, the Board is empowered with the absolute discretion to decline to apply Malus when doing so would be contrary to the best interests of the Company, its shareholders, or the Group.

19.7 Notwithstanding any other provision of the Plan, the Board may postpone the Vesting or Settlement of any Award or Allocation pending the final determination of:

19.7.1 an investigation into whether or not a Malus Trigger Event has occurred; and/or

19.7.2 whether or not, and the extent to which, Malus should be applied.

19.8 Where the situation contemplated in 19.7 applies, then the Vesting or Settlement (as applicable) of the Award or Allocation will be deemed to occur on the date that the procedure detailed in 19.4, has been completed.

19.9 For the avoidance of doubt, where the Vesting or Settlement of an Award or Allocation is deemed to occur in terms of 19.8, then the calculation of any Performance Criteria to determine the extent of Vesting and/or Settlement will be carried out as if the extension thereof had not occurred.

## 20 FAMILY ENTITIES

A Participant may not, without the prior written consent of the Board and subject to such conditions as the Board may in its sole discretion determine, cede, assign or transfer his rights (whether conditional or otherwise) in and to an Award or Allocation to a Family Entity. Without derogating from the generality of the foregoing, the Board may impose a condition that the Participant bind himself as surety for, and co-principal debtor *in solidum* with, the Family Entity for the fulfilment of its obligations in terms of this Plan.

## 21 ADJUSTMENTS

21.1 Notwithstanding anything to the contrary contained herein, but subject to **Error! Reference source not found.**, if the Company makes a Special Distribution and/or if the Company restructures its capital in that it:

21.1.1 undertakes a rights offer;

21.1.2 is placed in liquidation or business rescue which results in reorganisation;

- 
- 21.1.3 is party to a scheme of arrangement affecting the structuring of its share capital;
- 21.1.4 undertakes a conversion, redemption, subdivision or consolidation of its ordinary share capital; or
- 21.1.5 undertakes a bonus or capitalisation issue,
- such adjustments shall be made to the rights of Participants as may be determined to be fair and reasonable to the Participants concerned by the Board; provided that any adjustments pursuant to this 21.1 shall:
- 21.1.6 be confirmed by the Auditors to the JSE in writing prior to such adjustments being finalised that the adjustments were made in accordance with the provisions of the Plan. And such confirmation must be made to the JSE at; and
- 21.1.7 give a Participant the entitlement to the same proportion of the equity capital as he was previously entitled,
- and should any Participant be aggrieved, he may he utilise the dispute procedures set out in 28.
- 21.2 No adjustments shall be required in terms of 21.1 in the event of the issue of equity securities as consideration for an acquisition in terms **Error! Reference source not found.**, the issue of securities for cash and the issue of equity securities for a vendor consideration placing.
- 21.3 Any adjustment made in accordance with 21.1 above must be reported on in the Company's annual financial statements in the financial year during which the adjustment is made.

## 22 FORFEITURE

If, in terms of any provision of this Plan any Award or Allocation is deemed to have been Forfeited:

- 22.1 the Company is hereby irrevocably and *in rem suam* nominated, constituted and appointed as the sole attorney and agent of the Participant concerned in that Participant's name, place and stead to sign and execute all such documents and do all such things as are necessary for that purpose; and
- 22.2 the Award or Allocation shall revert back to the Plan.

## 23 TAX LIABILITY

- 23.1 It is the intention of the Company that any Award or Allocation shall be subject to the provisions of section 8C of the Tax Act.
- 23.2 Notwithstanding any other provision in these Rules (including and 11.3), if the Company or an Employer Company are obliged (or would suffer a disadvantage of any nature if they were not) to account for, withhold or deduct any (a) Tax in any jurisdiction which is payable in respect of, or in connection with, the making of any

Award or Allocation, the Settlement to a Participant of Shares, the payment of a cash amount and/or otherwise in connection with the Plan and/or (b) any amount in respect of any social security or similar contributions which would be recoverable from a Participant in respect of the making of any Award or Allocation, Settlement to a Participant of Shares, the payment of a cash amount and/or otherwise in connection with the Plan (the obligations referred to in (a) and (b) hereinafter referred to as a "**Tax/Social Liability**"), then the Company or the Employer Company (as the case may be) shall be entitled to account for, withhold or deduct such Tax/Social Liability or the Company and/or the Employer Company shall be relieved from the obligation to Settle any Shares to a Participant or to pay any amount to a Participant in terms of the Plan until that Participant has either -

- 23.2.1 made payment to the relevant Employer Company of an amount equal to the Tax/Social Liability; or
- 23.2.2 entered into an arrangement which is acceptable to the relevant Employer Company to secure that such payment is made (whether by authorising the sale of some or all of the Shares to be Settled to him and the payment to the relevant person of the relevant amounts out of the proceeds of the sale or otherwise).
- 23.3 The Company is hereby irrevocably and *in rem suam* nominated, constituted and appointed as the sole attorney and agent of a Participant, in that Participant's name, place and stead to sign and execute all such documents and do all such things as are necessary to give effect to the provisions of 23.

#### 24 **EMPLOYER COMPANY LIABILITIES**

An Employer Company may utilise the proceeds Settled under this Plan to offset any outstanding amounts due to the Employer Company, by the Participant.

#### 25 **LISTING AND LEGAL REQUIREMENTS**

Notwithstanding any other provision of this Plan:

- 25.1 no Shares shall be Settled to any Participant or acquired pursuant to this Plan if the Board determines, in their sole discretion, that such Settlement will or may violate any Applicable Laws; and
- 25.2 the Company shall apply for the listing on the JSE, or any other securities exchange on which the Company's Shares are listed, of all Shares which have been Settled to Participants under this Plan.

#### 26 **AMENDMENT OF THE PLAN**

- 26.1 It shall be competent for the Board to amend any of the provisions of the Plan subject to the prior approval (if required) of every securities exchange on which the Shares are for the time being listed; provided that no such amendment affecting the Vested rights of any Participant shall be effected without the prior written consent of

the Participant concerned, and provided further that no such amendment affecting any of the following matters shall be competent unless it is approved by ordinary resolution of 75% (seventy-five percent) of the shareholders of the Company in general meeting, excluding all of the votes attached to Shares owned or controlled by existing Participants in the Plan -

- 26.1.1 the definition of Eligible Employees and Participants;
- 26.1.2 the definition of Fair Market Value;
- 26.1.3 the calculation of the total number of Shares which may be acquired for the purpose of or pursuant to the Plan;
- 26.1.4 the calculation of the maximum number of Shares which may be acquired by any Participant in terms of the Plan;
- 26.1.5 the voting, dividend, transfer or other rights (including rights on liquidation of the Company) which may attach to any Award or Allocation;
- 26.1.6 the basis for Awards and Allocations in terms of these Rules;
- 26.1.7 the provisions of **Error! Reference source not found.**;
- 26.1.8 the provisions in these Rules dealing with the rights (whether conditional or otherwise) of Participants who leave the employment of the Group prior to Vesting or Exercise as detailed in 9, 12, 0 and **Error! Reference source not found.**; or
- 26.1.9 the provisions of this 26.
- 26.2 Without derogating from the provisions of 26.1, if it should become necessary or desirable by reason of the provisions of Applicable Laws at any time after the signing of these Rules, to amend the provisions of these Rules so as to preserve the substance of the provisions contained in these Rules but to amend the form so as to achieve the objectives embodied in these Rules in the best manner, having regard to such Applicable Laws and without prejudice to the Participants concerned, then the Board may (with the prior approval (if required) of every securities exchange on which the Shares are at the time listed) amend these Rules accordingly.

## 27 STRATE

Notwithstanding any provision in these Rules, the Company shall not be obliged to deliver the Participant share certificates in respect of the Shares settled to him in terms of these Rules but shall instead be obliged to procure such electronic transactions and/or entries and to deliver to the Participant such documents (if any) as may be required to reflect his rights in and to such Shares pursuant to the provisions of the Act, the Securities Services Act 36 of 2004, the Rules of the Central Securities Depository (being Share Transactions Totally Electronic Limited) and the requirements of the JSE.



## 28 DISPUTES

28.1 Should any dispute of whatever nature arise from or in connection with these Rules (including an urgent dispute), then the dispute shall, unless the parties thereto otherwise agree in writing:

28.1.1 in the first instance be referred to mediation by a mediator acceptable to both parties; and

28.1.2 failing resolution by mediation or agreement in respect of a mediator, shall be finally resolved in accordance with the Rules of the Arbitration Foundation of Southern Africa by an arbitrator or arbitrators appointed by the Foundation.

28.2 This clause is severable from the rest of these Rules and shall remain in effect even if these Rules are terminated for any reason.

## 29 RIGHTS PRIOR TO SETTLEMENT

29.1 For the sake of clarity and the avoidance of any doubt, it is recorded that until the Settlement the Participant shall have no rights whatsoever in and to the Performance Shares and in particular shall not:

29.1.1 have any ownership interest in; or

29.1.2 receive any dividends and/or exercise any voting rights attached to; or

29.1.3 have acquired,

such Performance Shares being the subject of any Award.

## 30 PROFITS AND LOSSES AND TERMINATION OF THE PLAN

30.1 The Company shall bear any losses sustained by the Plan which are not recovered from Employer Companies in terms of 7. Furthermore, the Company shall be entitled to receive and be paid any profits made in respect of the sale or disposal of Shares.

30.2 The Company or Employer Company may utilise any residual profits under this Plan (including undistributed dividends) to the benefit of the remaining Participants in such manner as the Board may determine.

30.3 The Plan shall terminate if the Board so resolves, but subject to the rights in any existing Awards or Allocations. Any deficit arising from the winding up of the Plan shall be borne by the Company, to the extent not recovered by the Company from Employer Companies.

## 31 DOMICILIUM AND NOTICES

31.1 The parties choose *domicilium citandi et executandi* for all purposes arising from the Plan, including the giving of any notice, the payment of any sum, the serving of any process, as follows -

- 
- 31.1.1 the Company : The address and telefax number of the Registered Office of the Company from time to time;
- 31.1.2 each Participant : The physical address, telefax number and electronic address from time to time reflected as being his address, telefax number and/or electronic address in the Group's payroll system from time to time.
- 31.2 Each of the parties shall be entitled from time to time, by written notice to the other, to vary its domicilium to any other physical address and/or its facsimile number and/or (in the case of a Participant) his electronic address; provided in the case of a Participant such variation is also made to his details on the Group's payroll system.
- 31.3 Any notice given and any payment made by any party to the other which -
- 31.3.1 is delivered by hand during the normal business hours of the addressee at the addressee's domicilium for the time being shall be rebuttably presumed to have been received by the addressee at the time of delivery;
- 31.3.2 is posted by prepaid registered post from an address within the RSA to the addressee at the addressee's domicilium for the time being shall be rebuttably presumed to have been received by the addressee on the seventh Business Day after the date of posting.
- 31.4 Any notice given by any party to any other party which is transmitted by electronic mail and/or facsimile to the addressee at the addressee's electronic address and/or facsimile address (as the case may be) for the time being shall be presumed, until the contrary is proved by the addressee, to have been received by the addressee on the date of successful transmission thereof.

## 32 COMPLIANCE

- 32.1 The Company shall comply with (and shall use its best endeavours to ensure compliance by all member companies of the Group with) all Applicable Laws insofar as they apply to the Plan. The Plan shall at all times be operated and administered subject to all Applicable Laws.
- 32.2 Without derogating from the generality of the foregoing, the Company shall -
- 32.2.1 appoint a Compliance Officer of the Plan; and
- 32.2.2 ensure compliance with Schedule 14 and paragraphs 3.63 to 3.74 of the Listings Requirements of the JSE.
- 32.3 The Company, by its signature hereto, undertakes to procure compliance by every Employer Company with these Rules.

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**33 GENERAL PROVISIONS**

33.1 The rights and obligations of any Participant under the terms of his office or employment with any Employer Company shall not be affected by his participation in the Plan or any right which he may have to participate in it. The Plan shall not entitle a Participant to any right to continued employment or any additional right to compensation in consequence of the termination of his employment.

33.2 The Plan shall be governed and construed in accordance with the law of the RSA.

Signed at \_\_\_\_\_ on \_\_\_\_\_ 2022

For and on behalf of the Company

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who warrants that he is duly  
authorised hereto

The Plan was duly adopted at a meeting of the shareholders of the Company held at \_\_\_\_\_ on \_\_\_\_\_.

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Chairman of the Meeting