

**CONSTITUTION  
OF  
BRAINWORKS LIMITED  
(the "Company")**

**A PUBLIC COMPANY  
LIMITED BY SHARES**

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CORPORATE & BUSINESS REGISTRATION DEPT  
REPUBLIC OF MAURITIUS

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**1 NAME**

The Name of the Company is **BRAINWORKS LIMITED**.

**2 OBJECTS**

- 2.1** The primary objective of the Company is that of an investment holding company.
- 2.2** In line with the above, the Company shall carry out transactions which are not prohibited under the Laws of Mauritius, the laws of the countries where the Company is transacting business and the Listings Requirements of the Johannesburg Stock Exchange (being an exchange operated by the JSE Limited (the "**JSE Listings Requirements**") and to do all such things as are incidental or conducive to the attainment of the above objects. These objects will apply exclusively to business as defined with regard to global business in the Financial Services Act 2007, for which a Category 1 Global Business Licence is issued.

**3 LIABILITY**

The liability of the shareholders of the Company (the "**Shareholders**") is limited.

**4 CAPITAL**

- 4.1** After the first allotment of shares by the directors, any further equity securities proposed to be issued wholly for cash consideration (which shall include a cheque received in good faith or a release of a liability of the Company for a liquidated sum or an undertaking to pay cash to the Company at a future date) shall first be offered to the Shareholders in proportion as nearly as may be to the number of the existing shares held by them respectively unless such issue has been authorised in terms of paragraph 4.2. Subject to the prior approval of the JSE, the board of directors (the "**board**") may exclude from such offer any holders of securities in the Company which the board considers necessary or expedient to be excluded from the offer because the legal impediments or compliance with the requirements of any regulatory body of any territory recognised as having import on the offer. [LR3.31, LR10.1 and LR10.9(a)]
- 4.2** The Shareholders in an annual or special meeting ("**Meeting**") may authorise the board to issue securities and/or grant options to subscribe for unissued securities at any time to any person and in any number as it thinks fit pursuant to Section 52 of the Companies Act 2001, provided that such corporate actions have been approved by the JSE and subject to the JSE Listings Requirements. [LR10.1 and LR10.9(a)]
- 4.3** No shares or any interest or right to the shares shall be issued or granted by the Company to bearer.
- 4.4** The Company may from time to time through a special resolution and in accordance with the Companies Act, 2001 and the JSE Listings Requirements:
- 4.4.1** create any class of shares: [LR 10.5(d)(i)]
- 4.4.2** increase or decrease the number of securities of any class of the Company's securities; [LR 10.5(d)(iv)]

- 4.4.3 consolidate and reduce the number of the Company's securities of any class; [LR 10.5(d)(v)]
- 4.4.4 subdivide its securities of any class by increasing the number of issued securities of that class without an increase in capital; [LR 10.5(d)(vi)]
- 4.4.5 change the name of the Company; [LR 10.5(d)(vii)]
- 4.4.6 convert one class of shares into one or more other classes, save where the right of conversion attaches to the class of shares created; or [LR 10.5(d)(iii)]
- 4.4.7 subject to paragraph 14.6, vary any preference, right, limitation or other terms attaching to any class of shares. [LR 10.5(d)(ii) and 10(5)(e)]
- 4.5 Securities for which listing is sought shall be fully paid up when issued and rank pari passu in all respects as amongst themselves including as to participation in the profits of the Company. [LR10.2(a) and 10.5(a)]
- 4.6 The capital of the Company shall consist of ordinary no par value shares and having attached to them the following rights: -
  - 4.6.1 The right to one vote on a poll at a meeting of the Company on any resolution; [LR 10.5(b)]
  - 4.6.2 The right to an equal share in dividends authorised by the board; and
  - 4.6.3 The right to an equal share in the distribution of the surplus assets of the Company.
- 4.7 The Company may not pay commission exceeding 5% to any person in consideration of his subscribing or agreeing to subscribe, whether absolutely or conditionally, for any securities of the Company. [LR 10.14]

## **5 ALTERATION OF CONSTITUTION**

The Company may in accordance with the Companies Act 2001 alter its Constitution or any provision therein by special resolution of the Shareholders provided that prior written approval has been obtained from the JSE for such alteration. The reference to 'alteration', for the avoidance of doubt, shall include but not be limited to, the matters referred to in paragraph 4.4 above. [LR10.5(d)]

## **6 SPECIAL RESOLUTIONS**

- 6.1 A special resolution must be passed by at least 75 per cent of the votes of those Shareholders entitled to vote and voting on the question of which notice of at least 21 business days specifying the intention to propose the resolution as a special resolution has been duly given. [LR10.11(a)]
- 6.2 In this Constitution, "business day" shall mean any day other than a Saturday, Sunday or any other day on which (i) banks located in Mauritius are required or authorized by law to remain closed; (ii) the JSE is closed.

## **7 TYPE OF COMPANY**

The Company is a public company limited by shares.

## **8 REGISTERED OFFICE**

The Registered Office of the Company C/o ADANSONIA MANAGEMENT SERVICES LIMITED, Suite 1, PERRIERI OFFICE SUITES, C2-302, Level 3, Office Block C, La Croisette, Grand Baie, 30517, Mauritius or in such other place as the board may from time to time determine.

## **9 BALANCE SHEET DATE**

The Balance Sheet Date shall be determined by the board. A copy of the annual report (including the annual financial statements) must be distributed to Shareholders at least 21 business days before the date of the Annual General Meeting at which they will be considered. (For the purposes of this Constitution, "Annual General Meeting" shall mean the annual meeting of the Members in accordance with Section 115 of the Companies Act 2001.) [LR10.19]

## **10 TRANSFER OF SHARES**

10.1 Subject to such of the restrictions set out in this Constitution as may be applicable, shares of the Company for which listing is sought shall be freely transferable and each Shareholder may transfer, without payment of any fee or other charges, save for applicable State fees, all or any of his shares in the manner provided in paragraph 10.3.1 and 10.3.2 as may be applicable. [LR10.2(a)]

### **10.2 Transfer of unlisted shares**

In respect of shares held in certificated form and where such shares have not been listed on the JSE, every instrument of transfer shall be executed by or on behalf of the transferor. Every instrument of transfer shall be left at the registered office of the Company (or such other place as the board may from time to time determine) at which it is presented for registration accompanied by the certificate of the shares so transferred, and/or such other evidence as the Company may require, to prove the title of the transferor of his rights to transfer the shares. All authorities to sign instruments of transfer granted by Shareholders for the purpose of transferring shares which may be lodged, produced or exhibited with or to the Company at its registered office (or such other place as the Board may from time to time determine) shall, as between the Company and the grantor of such authorities, be taken and deemed to continue and remain in full force and effect and the Company may allow the same to be acted upon until such time as express notice in writing of the revocation of the same shall have been given and lodged at the Company's registered office (or such other place as the board may from time to time determine) at which the authority was lodged, produced or exhibited. Even after the giving and lodging of such notice, the Company shall be entitled to give effect to any instrument signed under the authority to sign, and certified by any officer of the Company, as being in order before the giving and lodging of such notices. The transferor shall be deemed to remain the holder of such share until the name of the transferee is entered in the Register in respect of it. [LR 10.2(b)]

### **10.3 Transfer of listed shares**

10.3.1 For so long as the Company shall be admitted for listing on the JSE, a Member wishing to transfer its shares, shall where physical share certificates have been issued to that Shareholder, cause its shares

to be dematerialised and all share transfers must be in dematerialised form and conducted through Strate.

- 10.3.2 For the purposes of this section, "Strate" shall mean the software, hardware, communications and network systems, which are used to carry out transactions or other operations related to transactions on the JSE and "Strate Limited" shall mean the Strate Proprietary Limited (registration number 1998/022242/07), the entity which is responsible for Strate.
- 10.3.3 Every change in the ownership of shares in the capital of the Company shall be subject to the following limitations and restrictions –
- 10.3.4 Refusal by directors for transfers
- 10.3.5 The directors may refuse to register any transfer of shares which are listed on the JSE where:
- 10.3.5.1 the directors have notice of any agreement by the Shareholders to transfer only to some specified person or subject to some specified condition or as required under applicable laws.
- 10.3.5.2 so required by law;
- 10.3.5.3 registration would impose on the transferee a liability to the Company, and the transferee has not signed the transfer;
- 10.3.5.4 a holder of any such share has failed to pay on the due date any amount payable thereon, either in terms of the issue thereof or in accordance with the constitution, including any call made thereon;
- 10.3.5.5 the transferee is a minor or a person of unsound mind;
- 10.3.5.6 the transfer is not accompanied by such proof as the board reasonably requires of the right of the transferor to make the transfer; or
- 10.3.5.7 the Board acting in good faith decides in its sole discretion that registration of the transfer would not be in the best interests of the company and/or any of its shareholders.
- 10.3.6 Transmission of shares
- 10.3.6.1 If title to a share passes to a Transmitttee, the Company may only recognise the Transmitttee as having any title to that share.
- 10.3.6.2 A Transmitttee who produces such evidence of entitlement to shares as the directors may properly require –
- 10.3.6.2.1 may, subject to the provisions of this Constitution choose either to become the holder of those shares or to have them transferred to another person; and
- 10.3.6.2.2 subject to the provisions of this Constitution, and pending any transfer of the shares to another person, has the same rights as the holder had.



10.3.7 Transmittees do not have the right to attend or vote at Meetings, or agree to a proposed written resolution, in respect of shares to which they are entitled, by reason of the holder's death or bankruptcy or otherwise, unless they become the holders of those shares.

10.4 The Company shall not be bound to register more than four persons as the joint holders of any share or shares and in the case of a share held jointly by several persons. The Company shall not be bound to issue more than one certificate therefor (where applicable), and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all.

## **11 MEETINGS OF SHAREHOLDERS**

### **11.1 Meetings and resolutions in lieu of meetings**

11.1.1 The board may convene special meetings of the Shareholders of the Company at such times and in such manner and places within the Republic of Mauritius as the directors consider necessary or desirable. In addition, a special meeting of Shareholders entitled to vote on an issue shall be called by the board on the written request of Shareholders holding shares carrying together not less than 5% of voting rights entitled to be exercised on the issue.

11.1.2 The board shall in each year convene an annual meeting of the Shareholders of the Company, and such annual meeting shall be held;

11.1.2.1 not more than once in each year;

11.1.2.2 not later than six months after the Balance Sheet Date of the Company; and

11.1.2.3 not later than fifteen months after the previous annual meeting.

11.1.3 Subject to the provisions of the JSE Listings Requirements, a resolution in writing signed by the Shareholders who hold not less than 75% of the votes entitled to be cast on that resolution, is as valid as if it had been passed at a meeting of those Shareholders. For so long as this is required by the JSE Listings Requirements, only the following resolutions may be so proposed as written resolutions: [LR10.11(h)]

11.1.3.1 change of name of the Company;

11.1.3.2 odd-lot offers; and

11.1.3.3 approval of amendment to this Constitution.

11.1.4 For the purposes of paragraph 11.1.3, any resolution may consist of one or more similar documents in similar form (including letters, facsimiles, electronic mail, or other similar means of communications) each signed or assented to by or on behalf of one or more of the Shareholders specified in paragraph 11.1.3.

### **11.2 Procedure at Meetings of Shareholders**

11.2.1 Chairperson

- 11.2.1.1 Where the directors have elected a chairperson of the board, and the chairperson of the board is present at a meeting of Shareholders, he shall chair the meeting.
- 11.2.1.2 Where no chairperson of the board has been elected or if, at any meeting of Shareholders, the chairperson of the board is not present within 15 minutes of the time appointed for the commencement of the meeting, the directors present shall elect one of their numbers to be chairperson of the meeting.
- 11.2.1.3 Where no director is willing to act as chairperson, or where no director is present within 15 minutes of the time appointed for holding the meeting, the Shareholders present may choose one of their numbers to be chairperson of the meeting.
- 11.2.2 Notice of meetings
- 11.2.2.1 Written notice of the time and place of a meeting of Shareholders shall be sent to every Shareholder entitled to vote at such meeting and to every director, secretary and auditor of the Company not less than 21 business days before the scheduled date of the meeting. Should the Company's shares be listed on the JSE at the time of such notice, at the same time as notices are sent to Shareholders, a copy must be sent to the JSE and announced on the Securities News Service of the JSE ("SENS"). The giving of notice to members whose registered address is outside Mauritius shall not be prohibited. [LR10.11(b), 10.11(e), 10.11(f) and 10.18]
- 11.2.2.2 The notice shall state:
- 11.2.2.2.1 the nature of the business to be transacted at the meeting in sufficient detail to enable a Shareholder to form a reasoned judgement in relation to it; and
- 11.2.2.2.2 the text of any Special Resolution to be submitted to the meeting.
- 11.2.2.3 Any irregularity in a notice of a meeting shall be waived where all the Shareholders entitled to attend and vote at the meeting attend the meeting without protest as to the irregularity, or where all such Shareholders agree to the waiver.
- 11.2.2.4 Any accidental omission to give notice of a meeting to, or the failure to receive notice of a meeting by a Shareholder shall not invalidate the proceedings at that meeting.
- 11.2.2.5 The chairperson may, or where directed by the meeting, shall, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place, if the board so resolves.
- 11.2.2.6 When a meeting of Shareholders is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting.
- 11.2.2.7 Notwithstanding anything to the contrary contained herein, it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.
- 11.3 Methods of holding meetings



- 11.3.1 meeting of Shareholders may be held either:
  - 11.3.1.1 by a number of Shareholders who constitute a quorum, being assembled together at the place, date, and time appointed for the meeting; or
  - 11.3.1.2 by means of audio, or audio and visual, communication by which all Shareholders participating and constituting a quorum, can simultaneously hear each other throughout the meeting.
- 11.3.2 To the extent required, a meeting called for in terms of the JSE Listings Requirements must be held in person. [LR10.11(c) and 10.11(h)]
- 11.4 Quorum
  - 11.4.1 No business shall be transacted at any Meeting and at an adjourned or postponed Meeting unless a quorum is present when the Meeting proceeds to business. At least three Shareholders representing 25% of the votes entitled to be cast at the Meeting and present in person or by proxy shall constitute a quorum. [LR10.11(g)]
  - 11.4.2 Where a quorum is not present within 30 minutes after the time appointed for the Meeting:
    - 11.4.2.1 in the case of a Meeting called under section 118(1)(b) of the Companies Act 2001 the Meeting shall be dissolved;
    - 11.4.2.2 in the case of any other Meeting, the Meeting shall be adjourned to the same day in the following week at the same time and place, or to such other date, time and place as the directors may appoint; and
    - 11.4.2.3 where, at the adjourned Meeting, a quorum is not present within 30 minutes after the time appointed for the Meeting:
      - 11.4.2.3.1 in the case of a Meeting to resolve matters required in terms of the JSE Listings Requirements, the adjourned Meeting, and all further meetings where a quorum is not present, shall again be adjourned in the manner contemplated in paragraph 11.4.2.2 above until a quorum is present; and
      - 11.4.2.3.2 in the case of any other Meeting, Shareholders or their proxies present shall be a quorum.
- 11.5 Voting
  - 11.5.1 Where a meeting of Shareholders is held in terms of paragraph 11.3.1.1 unless a poll is demanded, voting at the meeting shall be by whichever of the following methods is determined by the chairperson of the meeting:
    - 11.5.1.1 voting by voice; or
    - 11.5.1.2 voting by show of hands.

- 11.5.2 Where a meeting of Shareholders is held under paragraph 11.3.1.2, unless a poll is demanded, voting at the meeting shall be by the Shareholders signifying individually their assent or dissent by voice.
- 11.5.3 A declaration by the chairperson of the meeting that a resolution is carried by the requisite majority shall be conclusive evidence of that fact unless a poll is demanded in accordance with paragraph 11.5.4.
- 11.5.4 At a meeting of Shareholders, a poll may be demanded by:
- 11.5.4.1 not less than five Shareholders having the right to vote at the meeting;
  - 11.5.4.2 a Shareholder or Shareholders representing not less than 10 percent of the total voting rights of all Shareholders having the right to vote at the meeting;
  - 11.5.4.3 by a Shareholder or Shareholders holding shares in the Company that confer a right to vote at the meeting and on which the aggregate amount paid up is not less than 10 percent of the total amount paid up on all shares that confer that right; or
  - 11.5.4.4 the chairperson of the meeting.
- 11.5.5 A poll may be demanded either before or after the vote is taken on a resolution.
- 11.5.6 Where a poll is taken, votes shall be counted according to the votes attached to the shares of each Shareholder present in person or by proxy and voting. [LR10.5(b)]
- 11.5.7 The chairperson of a Shareholders' meeting shall not be entitled to a casting vote.
- 11.5.8 For the purposes of paragraph 11.5.4:
- 11.5.8.1 the instrument appointing a proxy to vote at a meeting of the Company shall confer authority to demand or join in demanding a poll and a demand by a person as proxy for a Shareholder shall have the same effect as a demand by the Shareholder;
  - 11.5.8.2 subject to any rights or restrictions for the time being attached to any class of shares, every Shareholders present in person or by proxy and voting by voice or by show of hands and every Shareholder voting by postal vote (where this is permitted) shall have one vote.
- 11.6 Proxies
- 11.6.1 A Shareholder may exercise the right to vote either by being present in person or by proxy.
  - 11.6.2 A proxy for a Shareholder may attend and be heard at a meeting of Shareholder as if the proxy were the Shareholder.
  - 11.6.3 A proxy shall be appointed by notice in writing signed by the Shareholder and the notice shall state whether the appointment is for a particular meeting or a specified term.
  - 11.6.4 No proxy shall be effective in relation to a meeting unless:
    - 11.6.4.1 a copy of the notice of appointment is produced before the start of the meeting;

- 11.6.4.2 any power of attorney or other authority under which the proxy is signed or a notarially certified copy shall also be produced;
- 11.6.4.3 a proxy form shall be sent with each notice calling a meeting of the Company;
- 11.6.4.4 the instrument appointing a proxy shall be in writing under the hand of the appointer or of his agent duly authorised in writing or in the case of a corporation under the hand of an officer or of an agent duly authorised;
- 11.6.4.5 the instrument appointing a proxy shall be in the following form:

I/we ..... of ..... being Shareholders of the above named Company hereby appoint ..... or failing him/her, ..... of ..... as my/our proxy to vote for me/us at the meeting of the Company to be held on ..... and at any adjournment of the meeting.

Signed this ..... day of .....

- 11.6.5 The instrument appointing a proxy shall not be effective unless it is produced at least 48 hours before the start of a meeting.
- 11.6.6 Proxies may be deposited at any office outside of Mauritius, including any office established for the purposes of complying with the JSE Listings Requirements. [LR 10.20(a)]
- 11.7 Minutes
  - 11.7.1 The board shall ensure that minutes are kept of all proceedings at meetings of Shareholders.
  - 11.7.2 Minutes which have been signed as being correct by the chairperson of the meeting are prima facie evidence of the proceedings.
- 11.8 Shareholders Proposals
  - 11.8.1 A Shareholder may give written notice to the board of a matter the Shareholder proposes to raise for discussion or resolution at the next meeting of Shareholders at which the Shareholder is entitled to vote.
  - 11.8.2 Where the notice is received by the board not less than 28 days before the last day on which notice of the relevant meeting of Shareholders is required to be given by the board, the board shall, at the expense of the Company, give notice of the Shareholders' proposal and the text of any proposed resolution to all Shareholders entitled to receive notice of the meeting.
  - 11.8.3 Where the directors intend that Shareholders may vote on the proposal by proxy, they shall give the proposing Shareholders the right to include in or with the notice given by the board a statement of not more than 1000 words prepared by the proposing Shareholders in support of the proposal, together with the name and address of the proposing Shareholders.

- 11.8.4 The board shall not be required to include in or with the notice given by the board a statement prepared by a Shareholder who the directors consider to be defamatory, frivolous, or vexatious.
- 11.8.5 Where the costs of giving notice of the Shareholder's proposal and the text of any proposed resolution are required to be met by the proposing Shareholder, the proposing Shareholder shall, on notice by the board, deposit with the Company or tender to the Company a sum sufficient to meet those costs.
- 11.9 Corporations may act by representative
- A body corporate which is a Shareholder may appoint a representative to attend a meeting of Shareholders on its behalf in the same manner as that in which it could appoint a proxy.
- 11.10 Votes of joint holders
- Where two or more persons are registered as the holder of a share, the vote of the person named first in the share register and voting on a matter shall be accepted to the exclusion of the votes of the other joint holders.

## **12 DIRECTORS**

### **12.1 Number**

- 12.1.1 Subject to any subsequent amendment to change the number of directors, the number of the directors shall not be less than four (4)[and shall include at least two (2) directors who are ordinarily resident in Mauritius]. If the number falls below four (4) the remaining directors shall as soon as possible, and in any event not later than three months from the date the number of directors falls below the minimum, fill the vacancy or to fill the vacancy at a Meeting. After the expiry of the three-month period the remaining directors shall only be permitted to act for the purpose of filling vacancies or for calling Meetings. [LR10.16(a) and 10.16(d)]
- 12.1.2 Any director appointed under paragraph 12.1.1 shall hold office only until the next following annual meeting and shall then retire, but shall be eligible for appointment at that Meeting. [LR10.16(c)]
- 12.1.3 The quorum for all board meetings shall comprise the majority of directors, of which at least one must at all times be an executive director.

### **12.2 Qualification**

No director shall be required to hold shares in the Company to qualify him for an appointment.

### **12.3 Appointment**

- 12.3.1 The directors of the Company shall be appointed by the Company in special meeting or at meetings of the board, provided that, in the case of director/s having been appointed by the board, such director/s' appointments are approved by the Shareholders at the next general or annual special meeting. [LR10.16(b) and 10.16(c)]

### **12.4 Retirement of directors**

- 12.4.1 Life directorships are not permissible. [LR10.16(k)]
- 12.4.2 All of the directors shall retire from office and may make themselves available for re-election at the first Annual General meeting of Shareholders held.
- 12.4.3 At each Annual General Meeting of Shareholders following the first Annual General Meeting, at least one third of the directors shall retire from office, subject to paragraph 12.4.4 and may make themselves available for re-election. The board, through the nomination committee, should recommend eligibility taking into account past performance and contribution made. [LR10.16(g)]
- 12.4.4 The directors so to retire at each Annual General Meeting, in terms of paragraph 12.4.3 above, shall (unless they otherwise agree among themselves) be those who have been longest in office since their last election, but as between persons who become or were last elected directors on the same day, those to retire shall (unless they otherwise agree among themselves) be determined by lot. The length of time a director has been in office shall, for the purposes of this paragraph, be computed from his last election, appointment or date upon which he was deemed re-elected.
- 12.4.5 The Company at the meeting at which a director retires under any provision of this Constitution may by ordinary resolution fill the office being vacated by electing thereto the retiring director or some other person eligible for appointment. In default, the retiring director shall be deemed to have been re-elected except in any of the following cases:
- 12.4.5.1 where at such meeting it is expressly resolved not to fill such office or a resolution for the re-election of such director is put to the meeting and lost;
- 12.4.5.2 where such director has given notice in writing to the Company that he is unwilling to be re-elected;
- 12.4.5.3 where such director has attained any retiring age applicable to him as director.
- 12.4.6 The retirement shall not have effect until the conclusion of the meeting except where a resolution is passed to elect some other person in the place of the retiring director or a resolution for his re-election is put to the meeting and lost and accordingly a retiring director who is re-elected or deemed to have been re-elected will continue in office without a break.
- 12.4.7 At least 7 days' notice shall be given to the Company of any intention to propose a person for election as a director at a meeting of the Shareholders and the consent of such person in relation thereto shall be communicated to the Company at least seven days before the date of the meeting.
- 12.4.8 Notwithstanding anything to the contrary contained herein and subject to as may otherwise be provided by law, any director, managing director or other executive director may, by ordinary resolution passed at meeting called for purposes that include their removal or ceasing to hold office pursuant to section 139 of the Companies Act 2001, be removed from office before the expiry of their period of office subject however, to the right of any such director to claim damages under any contract.
- 12.5 "Remuneration of directors and employees"



- 12.5.1 . "Subject to section 12.5.2, the remuneration of directors shall be determined by the Remuneration Committee."
- 12.5.2 . "Subject to applicable laws, the board may determine the terms of any service contract with any director and/or employee of the Company or any of its subsidiaries, provided that:"
- 12.5.2.1 "In respect of the appointment of a new executive director or other employee of the Company or any of its subsidiaries (excluding any subsidiary whose shares are listed on any recognised stock exchange from time to time), any annual total remuneration package payable to such new executive director or employee, as the case may be, being the aggregate of the gross salary and any benefits (including, without limitation, bonuses, pensions, incentive payments and share options or other share awards) to which such new executive director or employee, as the case may be, is contractually entitled to receive pursuant to the terms of their employment contract, excluding any Non-Guaranteed Amounts (as such term is defined in section 12.5.2.3), exceeding the annual equivalent of USD300,000.00 (Three Hundred Thousand United States of America Dollar only) shall require the approval by a resolution of the Shareholders of the Company (either in general meeting or by way of written resolution) who hold not less than (a) in the case of a resolution to be passed in general meeting, 50% of the votes entitled to be cast on that resolution and present in person or by proxy; or (b) in the case of a resolution to be passed as a written resolution, 75% of the votes entitled to be cast on that resolution.
- 12.5.2.2 In respect of an executive director or other employee of the Company or any of its subsidiaries (excluding any subsidiary whose shares are listed on any recognised stock exchange from time to time) that has already entered into an employment contract, the annual total remuneration package payable to such executive director or employee, as the case may be, being the aggregate of the gross salary and any benefits (including, without limitation, bonuses, pensions, incentive payments and share options or other share awards) to which such executive director or employee, as the case may be, is contractually entitled to receive pursuant to the terms of their employment contract, excluding any Non-Guaranteed Amounts (as such term is defined in section 12.5.2.3), may not be increased to exceed an annual equivalent of USD300,000.00 (Three Hundred United States of America Dollars only), without the prior approval by a resolution of the Shareholders of the Company (either in general meeting or by way of written resolution) who hold not less than (a) in the case of a resolution to be passed in general meeting, 50% of the votes entitled to be cast on that resolution in person or by proxy; or (b) in the case of a resolution to be passed as a written resolution, 75% of the votes entitled to be cast on that resolution.
- 12.5.2.3 The introduction of any new, or any amendment to any existing, schemes and/or policies of the Company and/or any of its subsidiaries (excluding any subsidiary whose shares are listed on any recognised stock exchange from time to time) in respect of share options, discretionary bonuses, long term incentive schemes and/or similar schemes and/or policies (such awards and/or payments thereunder being a "Non-Guaranteed Amount") shall require the prior approval by a resolution of the Shareholders of the Company (either in general meeting or by way of written resolution) who hold not less than (a) in the case of a resolution to be passed in general meeting, 50% of the votes entitled to be cast on that resolution in person or by proxy; or (b) in the case of a resolution to be passed as a written resolution, 75% of the votes entitled to be cast on that resolution.



Where any of the foregoing acts are to be taken in respect of an executive director or other employee of a non-wholly owned subsidiary of the Company where the Company, as a shareholder of such subsidiary, is required by law or regulation or under the constitution of, or pursuant to any shareholders' or other agreement with, such subsidiary, is required to first (a) consent to any action being taken by such subsidiary with respect to matters of director and employee remuneration, borrowing powers, the granting of security, acquisitions, disposals and investments or (b) otherwise vote on a resolution to enable such subsidiary to take such action (each, a "Qualified Subsidiary"), the exercise of such consent or vote by the Company shall require the prior approval by a resolution of the Shareholders of the Company (either in general meeting or by way of written resolution) who hold not less than (i) in the case of a resolution to be passed in general meeting, 50% of the votes entitled to be cast on the resolution in person or by proxy; or (ii) in the case of a resolution to be passed as a written resolution, 75% of the votes entitled to be cast on that resolution."

- 12.5.3 The directors may be paid all travelling, hotel and other expenses properly and necessarily incurred by them in attending any meetings of the board (or committees thereof) or in connection with the business of the Company. [LR 10.16(f)]
- 12.5.4 A director may be employed in any other capacity in the Company or as a director or employee of a company controlled by, or itself a major subsidiary of, the Company and, in such event, his appointment and remuneration in respect of such other office must be determined by a disinterested quorum of directors. [LR 10.16(e)]
- 12.5.5 "Subject to section 12.5.2," If by arrangement with the board any director shall: (i) perform or render any special duties or extra services outside his ordinary duties as a director (and not in his capacity as a holder of employment or executive office), (ii) reside abroad, or (iii) be specifically occupied about the Company's business, he may be paid such reasonable additional remuneration (whether, by way of salary, commission, participation in profits or otherwise) as a disinterested quorum of directors may from time to time determine, which may be in addition to or in substitution for any other remuneration payable. [LR10.16(f)]
- 12.5.6 A director shall not vote on any contract or arrangement or any other proposal in which he or his associates have a material interest nor shall he be counted in the quorum present at the meeting.
- 12.5.7 Notwithstanding paragraph 12.5.5 above, a director shall be entitled to vote and be counted in the quorum at the meeting in respect of the following matters:-
- 12.5.7.1 the giving of any security or indemnity either:
- 12.5.7.1.1 to the director in respect of money lent or obligations incurred or undertaken by him at the request of or for the benefit of the Issuer or any of its subsidiaries; or
  - 12.5.7.1.2 to a third party in respect of a debt or obligation of the issuer or any of its subsidiaries for which the director has himself assumed responsibility in whole or in part and whether alone or jointly under a guarantee or indemnity or by the giving of security;
  - 12.5.7.1.3 any proposal concerning an offer of shares or debentures or other securities of or by the issuer or any other company which the issuer may promote or be interested in for

subscription or purchase where the director is or is to be interested as a participant in the underwriting or sub-underwriting of the offer;

12.5.7.1.4 any proposal concerning any other company in which the director is interested only, whether directly or indirectly, as an officer or executive or shareholder or in which the director is beneficially interested in shares of that company, provided that he, together with any of his associates, is not beneficially interested in five percent or more of the issued shares of any class of such company (or of any third company through which his interest is derived) or of the voting rights;

12.5.7.1.5 any proposal or arrangement concerning the benefit of employees of the issuer or its subsidiaries including:

- (a) the adoption, modification or operation of any employees' share scheme or any share incentive or share option scheme under which he may benefit; or
- (b) the adoption, modification or operation of a pension fund or retirement, death or disability benefits scheme which relates both to directors and employees of the issuer or any of its subsidiaries and does not provide in respect of any director as such any privilege or advantage not generally accorded to the class of persons to which such scheme or fund relates; and
- (c) any contract or arrangement in which the director is interested in the same manner as other holders of shares or debentures or other securities of the issuer by virtue only of his interest in shares or debentures or other securities of the issuer.

12.5.8 For the purposes of paragraph 12.5.6, "associate" shall have, in relation to any director, the following meanings: -

12.5.8.1 his spouse and any child or stepchild under the age of 18 years of the director ("the individual's family") and;

12.5.8.2 the trustees (acting as such) of any trust of which the individual or any of the individual's family is a beneficiary or discretionary object; and

12.5.8.3 any company in the equity capital of which the individual and/or any member or members of the individual's family (taken together) are directly or indirectly interested so as to exercise or control the exercise of 20 per cent or more of the voting power at meetings of shareholders, or to control the appointment and/or removal of directors holding a majority of voting rights at board meetings on all or substantially all matters, and any other company which is its subsidiary.

12.5.9 For the purposes of paragraph 12.5.7.1.4, associate shall have, in relation to a director, the following meaning: -

12.5.9.1 a spouse, a director living "en concubinage" under the common law, any child or stepchild or any relative residing under the same roof as that director;

12.5.9.2 a succession in which the director has an interest;

- 12.5.9.3 a partner of that director;
- 12.5.9.4 any company in which the director owns securities assuring him of more than 10 per cent of a class of shares to which are attached voting rights or an unlimited right to participate in earnings and in the assets upon winding up;
- 12.5.9.5 any controller of that director;
- 12.5.9.6 any trust in which the director has a substantial ownership interest or in which he fulfils the functions of a trustee or similar function;
- 12.5.9.7 any company which is a related company.

## 12.6 Proceedings of directors

### 12.6.1 Chairperson

- 12.6.1.1 The directors may elect one of their number as chairperson of the board and determine the period for which he is to hold office. [LR10.16(i)]
- 12.6.1.2 Where no chairperson is elected, or where at a meeting of the board the chairperson is not present within 15 minutes after the time appointed for the commencement of the meeting, the directors present may choose one of their number to be chairperson of the meeting.

### 12.6.2 Notice of meeting

- 12.6.2.1 A director or, if requested by a director to do so, an employee of the Company, may convene a meeting of the board by giving notice in accordance with this paragraph.
- 12.6.2.2 A notice of a meeting of the board shall be sent to every director and the notice shall include the date, time, and place of the meeting and the matters to be discussed.
- 12.6.2.3 Any meeting at which the business of the meeting is to appoint a director whether as an additional director or to fill a casual vacancy shall be called by at least 14 days' notice.
- 12.6.2.4 An irregularity in the notice of a meeting is waived where all directors entitled to receive notice of the meeting attend the meeting without protest as to the irregularity or where all directors entitled to receive notice of the meeting agree to the waiver.

### 12.6.3 Methods of holding meetings

- 12.6.3.1 The board or any committee thereof may meet at such times and in such manner and places within the Republic of Mauritius as the board may determine to be necessary or desirable.
- 12.6.3.2 A director shall be deemed to be present at a meeting of the board if he participates by telephone or other electronic means and all directors participating in the meeting are able to hear and communicate with one another.

### 12.6.4 Alternate directors

A director may by a written instrument appoint an alternate who must already be a director. The alternate is entitled to attend meetings in the absence of the director who appointed him and to vote or consent in the place of that director. [LR10.16(b)]

12.6.5 Voting

12.6.5.1 Every director has one vote.

12.6.5.2 The chairperson shall not have a casting vote.

12.6.5.3 A resolution of the board is passed if it is passed by a majority of the votes cast on it.

12.6.5.4 A director present at a meeting of the board is presumed to have agreed to, and to have voted in favour of, a resolution of the board unless he expressly dissents from or votes against the resolution at the meeting.

12.6.6 Minutes

The board shall ensure that minutes are kept of all proceedings at meetings of the board.

12.6.7 Resolution in writing

12.6.7.1 A resolution in writing, signed or assented to by all directors then entitled to receive notice of a board meeting, is as valid and effective as if it had been passed at a meeting of the board duly convened and held, provided that each director has received notice of the resolution. [LR10.16(j)]

12.6.7.2 Any such resolution may consist of several documents (including facsimile or other similar means of communication) in like form each signed or assented to by one or more directors 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. [LR10.16(j)]

12.6.7.3 A copy of any such resolution must be entered in the minute book of board proceedings. [LR10.16(j)]

12.6.8 Directors may delegate

12.6.8.1 Subject to this Constitution, the directors may delegate powers which are conferred on them:

12.6.8.1.1 to such person or committee;

12.6.8.1.2 by such means (including by power of attorney);

12.6.8.1.3 to such an extent;

12.6.8.1.4 in relation to such matters or territories; and

12.6.8.1.5 on such terms and conditions;

as they think fit.

12.6.8.2 If the directors so specify, any such delegation may authorise further delegation of the directors' powers by any person to whom they are delegated.

12.6.8.3 The directors may revoke any delegation in whole or part, or alter its terms and conditions.

#### 12.6.9 Committees

12.6.9.1 Committees to which the directors delegate any of their powers must follow procedures which are based as far as they are applicable on those provisions of the Constitution which govern the taking of decisions by directors.

12.6.9.2 The directors may not make rules of procedure for all or any committees, which are inconsistent with this Constitution. [LR.10.4]

12.6.10 The directors may not make, amend or appeal rules relating to the governance of the Company, including rules of procedure. [LR.10.4]

### 13 POWERS AND DUTIES OF DIRECTORS

#### 13.1

##### "13.1 Borrowing Powers

13.1.1 For the purpose of this constitution, "Threshold Limit" is defined as the higher of either USD2,000,000 (Two million United States of America Dollars any) or the foreign currency equivalent thereof at the prevailing Spot rate, or 5% of the market capitalization of the Company, in each case, as at the date of the proposed transaction to be entered into by the Company or any of its subsidiaries, as the case may be.

13.1.2 Subject to the provisions of section 13.1.1, the directors may exercise all powers of the Company to borrow or raise or secure the payment of money or the performances or satisfaction by the Company of any obligation or liability and to mortgage or charge its undertaking, property and uncalled capital or any part thereof and to issue mortgages, charges, bonds, notes and other securities and other instrument whether outright or as security, for any debt liability or obligation of the Company or of any third party. In addition, such power shall be exercised, in compliance with Section 143 of the Companies Act 2001."

"13.1.3 The following acts by the Company or any of its subsidiaries (excluding any subsidiary whose shares are listed on any recognised stock exchange from time to time) shall require the prior approval by a resolution of the Shareholders of the Company (either in general meeting or by way of written resolution) who hold not less than (a) in the case of a resolution to be passed in general meeting, 50% of the votes entitled to be cast on the resolution in person or by proxy; or (b) in the case of a resolution to be passed as a written resolution, 75% of the votes entitled to be cast on that resolution:"

13.1.3.1 entering in any indebtedness, loan agreement borrowing or otherwise in one or multiple occurrence for an amount exceeding the Threshold Limit; or



13.1.3.2 granting of any security, guarantee, encumbrance or otherwise in one or multiple occurrence the value of which exceeds the Threshold Limit; or

13.1.3.3 materially amending the terms of any existing loan agreements to which the Company and/or a subsidiary of the Company is a party to the nominal value of which exceeds the Threshold Limit as defined in section 13.1 and, for the purposes of this Section 13.1.2.3, a material amendment shall include, without limitation, any change to the amount of principal or interest payable under the relevant loan agreement.

Where any of the foregoing acts are to be taken in respect of Qualified Subsidiary, the exercise of any consent or vote by the Company shall require the prior approval by a resolution of the Shareholders of the Company (either in general meeting or by way of written resolution) who hold not less than (a) in the case of a resolution to be passed in general meeting, 50% of the votes entitled to be cast on the resolution in person or by proxy; or (b) in the case of a resolution to be passed as a written resolution, 75% of the votes entitled to be cast on that resolution."

### 13.2 Overseas Seal and Branch Registers

13.2.1 The Company may exercise the powers conferred by the Companies Act 2001 with regard to having an official seal for use abroad, and those powers shall be vested in the directors.

13.2.2 The Company may exercise the powers conferred by the Companies Act 2001 relating to the keeping of branch registers and the directors may (subject to the provisions of that section) make and vary such regulations as they think fit regarding the keeping of any such branch register.

### 13.3 Management of company

The business of the Company shall be managed by the directors in Mauritius who may pay all expenses incurred in promoting or registering the Company and who may exercise all such powers of the Company as are not, by the Companies Act 2001 or by this Constitution, required to be exercised by the Company in a Meeting, subject, nevertheless, to the provisions of this Constitution and to the provisions of the Companies Act 2001.

### 13.4 Indemnity

Subject to the provisions of the Companies Act 2001, and any other statute for the time being in force, every director or other officer of the Company shall be entitled to be indemnified out of the assets of the Company against all losses or liabilities which he may sustain or incur in or about the execution of the duties of his office or otherwise in relation thereto, and no director or other officer shall be liable for any loss, damage or misfortune which may happen to, or be incurred by the Company in the execution of his office, or in relation thereto.

### 13.5 Power to Insure Against Liability or Costs

13.5.1 The Company may, with the prior approval of the Board and to the extent permitted by law, effect insurance for a Director, any manager, or employee of the Company or a related Company in respect of:



- 13.5.1.1 Capacity as Director, manager or employee: liability, not being criminal liability, for any act or omission in his or her capacity as a Director, any manager or employee; or
- 13.5.1.2 Defending or Settling Claim: costs incurred by that Director, any manager or employee in defending or settling any claim or proceeding relating to any such liability; or
- 13.5.1.3 Defending Criminal Proceedings: costs incurred by that Director, any manager or employee in defending any criminal proceedings in which he or she is acquitted.

#### 13.6 Directors' expenses

For avoidance of doubt, paragraph 12.5.5, the Company may pay any reasonable expenses which the directors properly incur in connection with their attendance at:

- 13.6.1 meetings of directors or committees of directors;
- 13.6.2 Meetings of Shareholders, or
- 13.6.3 separate meetings of the holders of any class of shares or of debentures of the Company, or otherwise in connection with the exercise of their powers and the discharge of their responsibilities in relation to the Company.

#### 13.7 "Acquisition and Disposal of assets and investments

The following acts by the Company or any of its subsidiaries (excluding any subsidiary whose shares are listed on any recognised stock exchange from time to time) shall require the approval by a resolution of the Shareholders of the Company (either in general meeting or by way of written resolution) who hold not less than (a) in the case of a resolution to be passed in general meeting, 50% of the votes entitled to be cast on the resolution in person or by proxy; or (b) in the case of a resolution to be passed as a written resolution, 75% of the votes entitled to be cast on that resolution:

- 13.7.1 acquiring, buying or investing in any assets in one or multiple occurrence for an amount exceeding the Threshold Limit; and
- 13.7.2 selling or divesting in whole or in part from any asset in one or multiple occurrence the value of which exceeds the Threshold Limit.

#### 14 WHERE ANY OF THE FOREGOING ACTS ARE TO BE TAKEN IN RESPECT OF QUALIFIED SUBSIDIARY, THE EXERCISE OF ANY CONSENT OR VOTE BY THE COMPANY SHALL REQUIRE THE PRIOR APPROVAL BY A RESOLUTION OF THE SHAREHOLDERS OF THE COMPANY (EITHER IN GENERAL MEETING OR BY WAY OF WRITTEN RESOLUTION) WHO HOLD NOT LESS THAN (A) IN THE CASE OF A RESOLUTION TO BE PASSED IN GENERAL MEETING, 50% OF THE VOTES ENTITLED TO BE CAST ON THE RESOLUTION IN PERSON OR BY PROXY; OR (B) IN THE CASE OF A RESOLUTION TO BE PASSED AS A WRITTEN RESOLUTION, 75% OF THE VOTES ENTITLED TO BE CAST ON THAT RESOLUTION. "MISCELLANEOUS PROVISIONS

##### 14.1 Ratification of ultra vires acts

Where the provisions of this Constitution restrict or qualify the purposes, powers or activities of the Company, or limits the authority of the directors to perform an act on behalf of the Company, the Shareholders may not ratify any action by the Company or the directors that is inconsistent with any such limit, restriction or qualification or the JSE Listings Requirements, unless otherwise agreed with the JSE. [LR10.3]

#### 14.2 Governance

The directors may not undertake any action relating to the governance of the Company in contravention of this Constitution and/or any provision of the Companies Act 2001, and to the extent that they do not conflict with this Constitution and/or any provision of the Companies Act 2001, and/or the JSE Listings Requirements.

#### 14.3 Liens

The Company shall not take a lien or other charge on its own shares and no share for which listing is sought shall be issued without being fully paid up. [LR 10.12 and 10.2(a)]

#### 14.4 Right to inspect accounts and other records

14.4.1 A Shareholder, subject to such conditions and regulations as the directors may determine having regard to any obligation binding upon the Company to keep confidential information supplied to it by other persons, may inspect personally or by his agent at any time and from time to time any account or book or document of the Company (and take and retain copies of them).

14.4.2 The Company will be audited on an annual basis.

14.4.3 A printed copy of the Annual Report of the Company prepared in accordance with the Companies Act 2001 shall, at least 21 days before the date of the meeting of Shareholders, be delivered or sent by post to the registered address of every member.

#### 14.5 Winding up

If the Company is wound up, the liquidator may, with the authority of a special resolution:

14.5.1 divide among the Shareholders in specie the whole or any part of the assets of the Company, (and may, for that purpose, value any assets and determine how the division will be carried out as between the Shareholders or different classes of Shareholders); and

14.5.2 vest the whole or any part of the assets of the Company in trustees upon such trusts for the benefit of the Shareholders as the liquidator determines, but no Shareholder will be compelled to accept any assets in respect of which there is a liability.

#### 14.6 Variation of Rights

14.6.1 Where the share capital of the Company is divided into different classes of shares, the Company shall not take any action which varies the rights attached to a class of shares unless that variation is approved by a special resolution of the holders of the shares of that class. [LR10.5(e)]

- 14.6.2 The quorum for a separate class meeting (other than an adjourned meeting) to consider a variation of the rights of any class of shares shall be the holders of one third of the issued shares of that class.
- 14.6.3 So long as the Company shall be a listed company, the Preferences, rights, limitations or other terms of any class of shares of the Company must not be varied and no resolution may be proposed to Shareholders for rights to include such variation in response to any objectively ascertainable external fact. [LR10.5(g)]
- 14.7 Record date
- 14.8 For as long as the company is listed on the JSE, the record date for any corporate action or event shall be determined in accordance with the JSE Listings Requirements. [LR 10.15]
- 14.9 General
- 14.9.1 If any provision of this Constitution imposes any obligation pursuant only to the JSE Listings Requirements, then insofar as the JSE exempts compliance with such obligation, the obligation shall be deemed to have been complied with.
- 14.9.2 If any provision of this Constitution limits, restricts or prohibits any power or authority of the Company or the board pursuant only to the JSE Listings Requirements, then insofar as such limitation, restriction or prohibition is waived or relaxed by the JSE, the power or authority shall be deemed not to be subject to such limitation, restriction or prohibition to the extent of such waiver or relaxation.

## **15 SECRETARY**

### **15.1 Appointment of Secretary**

The Secretary shall be appointed by the directors for such term at such remuneration and upon such conditions as the Board may think fit.

### **15.2 Restriction**

Any provision of the Companies Act 2001 or this Constitution requiring or authorising a thing to be done by or to a director and the secretary, shall not be satisfied by its being done by or to the same person acting both as director and as or in place of the secretary.

### **15.3 Joint secretaries**

If the directors think fit, two or more persons may be appointed as joint secretaries.

### **15.4 Removal**

Any secretary or joint secretary may at any time be removed from office by the directors, but without prejudice to any claim for damages for breach of any contract of service between him and the Company.

## **16 DIVIDENDS AND RESERVES**

### **16.1 Declaration of Dividends**

- 16.1.1 The Company in special meeting may declare dividends but may not declare a larger dividend than that declared by the directors in accordance with the Companies Act 2001, and no dividend shall be declared and paid except out of profits and unless the directors determine that immediately after the payment of the dividend: [LR10.17(a)]
- 16.1.1.1 the Company will be able to satisfy the solvency test in accordance with Section 6 of the Companies Act 2001 and the JSE Listings Requirements; and
- 16.1.1.2 the realisable value of the assets of the Company will not be less than the sum of its total liabilities, other than deferred taxes, as shown in the books of account, and its capital.
- 16.1.2 Dividends may be declared and paid in money, shares or other property.
- 16.1.3 A repayment of capital to Shareholders may not be made on the basis that it may be called up again [LR10.8].
- 16.1.4 The Company may cease sending dividend warrants by post if such warrants have been left uncashed on two successive occasions.
- 16.1.5 Notwithstanding paragraph 16.1.3 above, the Company may cease sending dividend warrants after the first occasion on which such warrant is returned undelivered where after reasonable enquiries, the Company has failed to establish any new address of the registered holder.
- 16.1.6 Dividends are be payable to Shareholders registered at a date subsequent to the date of declaration or date of confirmation of the dividend, whichever is the later.
- 16.2 Computation of Profit
- In computing the profits for the purpose of resolving to declare and pay a dividend, the directors may include in their computation the net unrealised appreciation of the assets of the Company.
- 16.3 Interim Dividends
- The directors may from time to time pay to the Shareholders such interim dividends as appear to the directors to be justified by the surplus of the Company.
- 16.4 Entitlement to dividends
- 16.4.1 Subject to the rights of holders of shares entitled to special rights as to dividends, all dividends shall be declared and paid to all Shareholders of the same class of the shares in issue at the date of declaration of the dividend.
- 16.4.2 If several persons are registered as joint holders of any share, any of them may give effectual receipt for any dividend or other monies payable on or in respect of the share.
- 16.5 Reserves
- The directors may, before recommending any dividend, set aside out of the profits of the Company such sums as they think proper as a reserve or reserves which shall, at the discretion of the directors, be applicable for meeting contingencies, or for any other purpose to which the profits of the Company

may be properly applied, and pending such application may, at the like discretion, either be employed in the business of the Company or be invested in such investments as the directors may from time to time think fit.

#### **16.6 Notice**

Notice of any dividend that may have been declared shall be given to each Shareholder in manner hereinafter mentioned and all dividends unclaimed shall be held in trust for ten years after having been declared may be forfeited by resolution of the directors for the benefit of the Company. The Company shall hold monies other than dividends due to Shareholders in trust indefinitely until lawfully claimed by such Shareholder. [LR10.17(c)]

#### **16.7 Interest**

No dividend shall bear interest against the Company.

### **17 DEBT INSTRUMENTS**

Subject to section 13.1, the board may create and issue secured or unsecured debentures and the Board may authorise the Company to issue secured or unsecured debt instruments but no special privileges associated with any debt instruments to be issued by the Company may be granted and the authority of the Board in such regard is limited by this Constitution. [LR10.10]

section.

### **18 CAPITALISATION SHARES [LR10.6]**

18.1 The board shall not have the power or authority to –

18.1.1 approve the issuing of any shares of the Company as capitalisation shares; or

18.1.2 to issue shares of one class as capitalisation shares in respect of shares of another class; or

18.1.3 to resolve to permit Shareholders to elect to receive a cash payment in lieu of a capitalisation share,

18.1.4 unless the JSE Listings Requirements have been complied with.

18.1.5 For the purposes of this section, "capitalisation shares" shall mean, shares issued by the Company, whether by way of a bonus award or otherwise, in such manner that the Company's reserves or unappropriated profits are in whole or in part applied in paying up such shares.

### **19 ACQUISITION BY THE COMPANY OF ITS OWN SHARES**

Subject to JSE Listings Requirements and the Securities (Purchase of Own Shares) Rules 2007, the board may determine that the Company should acquire a number of its own shares. [LR10.9(b)]



## **20 ODD-LOT OFFERS**

- 20.1 For the purpose of this Constitution, "odd-lot" has the meaning given to it in the JSE Listings Requirements.
- 20.2 Where the Company proposes to make an odd-lot offer, the Company shall do so in accordance with the JSE Listings Requirements and the Companies Act, 2011 and in such instances a two-way election shall be provided for in terms of which the Shareholders may:
- 20.2.1 elect to retain their odd-lot holding; or
- 20.2.2 elect to sell the odd-lot holding.
- 20.3 If any Shareholders who qualify to participate in the odd-lot offer do not make an election in terms of paragraph 20.2.2., such Shareholders (and any person with a beneficial interest in such odd-lots) shall be deemed to have agreed to sell their odd-lot holdings, and the Company shall be entitled (on implementation of the odd lot offer) to expropriate all of the odd-lots held by such holders, provided that the odd-lot offer has been approved by the Shareholders in a Meeting by ordinary resolution.  
[LR5.123 and LR5.124]

## **21 AUTHENTICATION OF DEEDS AND DOCUMENTS**

### **21.1 Deeds and documents**

All deeds, acts and documents executed on behalf of the Company may be in such form and contain such powers, provisos, conditions, covenants, clauses and agreements as the directors shall think fit, and shall be signed by two directors or by such person or persons as the directors may from time to time appoint.

### **21.2 Negotiable instruments and cheques paid out**

All bills of exchange, promissory notes or other negotiable instruments shall be accepted, made, drawn or endorsed for and on behalf of the Company and all cheques or orders for payment shall be signed either by two directors or by such other person or persons as aforesaid.

### **21.3 Endorsement of negotiable instruments and cheques paid in**

Cheques or other negotiable instruments paid to the Company's bankers for collection and requiring the endorsement of the Company may be endorsed on its behalf by one director or by the secretary or by such other officer as the directors may from time to time appoint.

### **21.4 Banking**

All moneys belonging to the Company shall be paid to such bankers as the directors shall from time to time in writing or by resolution of the directors appoint and all receipts for money paid to the Company shall be signed by one director or by the secretary or such other officer as aforesaid and such receipt shall be an effectual discharge for the money therein stated to be received.



## **22 NOTICES**

- 22.1** A notice, or any other document or communication, including but not limited to financial statements may be given by the Company to any Shareholder, whether in or outside of Mauritius, either personally or by sending it by post, electronic mail, facsimile or telex to him at his registered address or to the address supplied by him to the Company for the giving of notices to him.
- 22.2** Any notice, document or other information shall be deemed served on, or delivered to, the intended recipient:
- 22.2.1** if delivered by hand, on signature of a delivery receipt or at the time the notice, document or other information is left at the address; or
- 22.2.2** if sent by fax, at the time of transmission; or
- 22.2.3** if sent by registered post or another next working day delivery service at 9.00 am on the second Business Day after posting or at the time recorded by the delivery service; or
- 22.2.4** if sent by reputable international overnight courier to an address outside the country from which it is sent, on signature of a delivery receipt or at the time the notice, document or other information is left at the address; or
- 22.2.5** if sent or supplied by email, at the time of transmission; or
- 22.2.6** if sent or supplied by means of a website, when the material is first made available on the website or (if later) when the recipient receives (or is deemed to have received) notice of the fact that the material is available on the website.
- 22.3** Any notice by the Company to any Shareholder may be given by electronic mail provided that:
- 22.3.1** the Shareholder has consented in writing to that form of communication being used by the Company or other person providing the notice; and
- 22.3.2** the Shareholder has provided an electronic address to which such notice may be sent.
- 22.4** Any consent under paragraph 21.2.1 may be revoked at any time on the provision of 5 days' notice in writing to the Company or other person providing the notice.
- 22.5** A notice may be given by the Company to the joint holders of a share by giving notice to the joint holder named first in the register in respect of the share.
- 22.6** A notice may be given by the Company to the persons entitled to a share in consequence of the death or bankruptcy of a Shareholder by sending it through the post in a prepaid letter addressed to them by name, or by the title of representatives of the deceased, or trustee of the bankrupt, or by any like description, at the address supplied for the purpose by the persons claiming to be so entitled or (until such an address has been supplied) by giving the notice in any manner in which the same might have been given if the death or bankruptcy has not occurred.

- 22.7 Any notice given by advertisement shall be published in one daily newspaper of wide circulation in each of South Africa, Zimbabwe and Mauritius.
- 22.8 Any Shareholder present, either personally or by proxy, at any meeting of the Company shall for all purposes be deemed to have received due notice of such meeting and, where requisite, of the purposes for which such meeting was convened.
- 22.9 Notice of every Meeting of Shareholders shall be given in any manner herein before authorised to:
- 22.9.1 every Shareholder, whether residing in or outside of Mauritius entitled to vote at such meeting and who has elected to receive such documents; [LR10.11(e)]
- 22.9.2 every person upon whom the ownership of a share devolves by reason of his being a legal representative or a trustee in bankruptcy of a Shareholder;
- 22.9.3 each director of the Company, such other person as the directors shall at any time and from time to time determine.

## **23 ARBITRATION**


- 23.1 Any dispute arising out of or in connection with this Constitution, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration under the LCIA-MIAC Arbitration Rules, which Rules are deemed to be incorporated by reference into this section.
- 23.2 The number of arbitrators shall be one.
- 23.3 The juridical seat of arbitration shall be Mauritius, and the International Arbitration Act 2008 shall apply to the arbitration.
- 23.4 The language to be used in the arbitral proceedings shall be the English language.

## **24 CERTIFICATES**

All certificates for shares shall be under seal, or a facsimile thereof, which shall only be affixed with the authority of the directors.

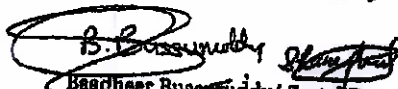
# **DECLARATION**

We, the undersigned, hereby certify that this is the Constitution adopted in accordance with Section 23(c) (vii) of the Companies Act 2001.


NAMES	ADDRESS	SIGNATURE
Zain Mehtab Madarun DIRECTOR	C/o ADANSONIA MANAGEMENT SERVICES LIMITED, Suite 1, PERRIERI OFFICE SUITES, C2-302, Level 3, Office Block C, La Croisette, Grand Baie, 30517, Mauritius	

This document is made in three originals.

Dated the 13 September 2019

  
Beedheer Bussuruddy/ Seetul Ramphul  
FOR ADANSONIA MANAGEMENT SERVICES LIMITED  
COMPANY SECRETARY

Suite 1, PERRIERI OFFICE SUITES,  
C2-302, Level 3, Office Block C, La Croisette,  
Grand Baie, 30517, Mauritius

This document is a true & correct copy of  
..... Constitution .....  
dated 13.09.2019 and filed on line .....  
regarding the company BRAINWORKS  
LIMITED .....  
Date 31.10.2019   
for Registrar of Companies .....  
Duty: Rs 500/- CB No. 101943



(1994)