

SCHEDULE 2

TERMS AND CONDITIONS OF THE CUMULATIVE, NON-REDEEMABLE, NON-PARTICIPATING PREFERENCE SHARES:-

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- 1.1 For purposes of hereof-
- 1.1.1 “business day” means any day other than a Saturday, Sunday or official public holiday in the Republic of South Africa;
- 1.1.2 “calculation date” means 30 June and 31 December of each year;
- 1.1.3 “deemed value” means, in respect of each and every preference share issued by the Company at any time and irrespective of the issue price at which such share is issued, the value of a preference share as determined by the directors prior to the allotment and issue of the first preference share/s;
- 1.1.4 “dividend period” means, in respect of any particular preference shares, the dividend period determined by the directors prior to the issue of those preference shares and, failing such a determination in respect of any particular preference shares, the period which commences on the day after one calculation date and which terminates on the next calculation date provided that if any preference shares are issued on any day other than a calculation date the first dividend period in respect of such preference shares shall be the period which commences on the date on which they are issued and which terminates on the next calculation date;
- 1.1.5 “Income Tax Act” means the Income Tax Act No. 58 of 1962, as amended from time to time;
- 1.1.6 “issue price” means the actual issue price of each preference share, being the par value of a preference share plus the premium at which a preference share is allotted and issued;

- 1.1.7 “preference dividend” means a cumulative, non-participating, preference cash dividend calculated in accordance with 1.2.3 and increased, if applicable in accordance with 1.2.4, 1.2.5 and 1.2.7 below;
- 1.1.8 “preference dividend payment date” means, in respect of any preference dividends which the Company may declare for any dividend period a date, determined by the directors, at least 7 (seven) days prior to the date on which ordinary dividends declared by the Company for such dividend period are paid, provided that the preference dividend payment date shall not be later than 120 (one hundred and twenty) days after the last day of the applicable dividend period;
- 1.1.9 “preference dividend rate” means, in respect of any particular preference shares, the rate determined by the directors prior to the issue of such preference shares and, failing such determination, a variable nominal annual compounded monthly in arrears rate equal to 82,5% (eighty two comma five per centum) of the prime rate;
- 1.1.10 “preference shares” means 495 000 000 (four hundred and ninety five million) cumulative, non-redeemable, non-participating, variable rate, per value preference shares at R0,001 (1/10 cent) each in the share capital of the Company; and
- 1.1.11 “prime rate” means the publicly basic rate of interest expressed as a percentage per year, compounded monthly in arrear and calculated on 365 (three hundred and sixty five) day year factor (irrespective of whether or not the year is a leap year) from time to time quoted by ABSA Bank Limited (“ABSA”) or its successors in title in South Africa as being its prime overdraft rate as certified by any manager of ABSA, whose appointment and/or designation need not to be proved. A certificate from any manager of ABSA as to the prime rate at any time shall constitute *prima facie* proof thereof.
- 1.2 The following are the rights, privileges, restrictions and conditions which attach to the preference shares:

- 1.2.1 Each preference share will rank as regards to dividends and repayment of capital on the winding-up of the Company prior to the ordinary shares and any other class of shares in the capital of the Company not ranking prior to or *pari passu* with the preference shares.
- 1.2.2 Each preference share shall confer on the holder thereof the right to a return of capital on the winding-up of the Company equal to the deemed value of the preference shares then in issue divided by the number of preference shares in issue in priority to any repayment in respect of any other class of shares in the capital of the Company not ranking prior to or *pari passu* with the preference share.
- 1.2.3 Each preference share shall confer on the holder thereof, for each dividend period, a preferent right to dividends (in priority to on all other classes of shares, not ranking *pari passu* with the preference shares, then in issue) calculated in accordance with the following formula:

$$a = b \times (c \div 365) \times d$$

in which formula ~

- a = such preference dividend;
- b = the deemed value of a preference share;
- c = the preference dividend rate; and
- d = the number of days in the dividend period,

such preference dividend to be declared by the date 120 (one hundred and twenty) days after the last day of the applicable dividend period. If the preference dividend rate changes during any particular dividend period the preference dividend for such dividend period shall be calculated, in terms of formula contained in this clause 1.2.3, on the basis that the period prior to such change is one dividend period and the interest subsequent to such change is another dividend period and that the preference dividend for the entire dividend period is the aggregate of the two amounts thus calculated.

1.2.4 If, for any dividend period, the Company does not declare the preference dividend for such period in full by the date 120 (one hundred and twenty) days after the last day of such dividend period, the preference dividend for the next dividend period shall be increased by an amount calculated in accordance with the following formula ~

$$a = b \times c \times d$$

in which formula ~

a = the increase in the preference dividend for the next dividend period;

b = the preference dividend, or the portion of the preference dividend, which has not been declared

c = the prime rate; and

d = the number of days from the date 120 (one hundred and twenty) days after the last day of the dividend period in respect of which the applicable preference share should have been declared up to the day on which such dividend is declared, divided by 365 (three hundred and sixty five).

1.2.5 If the Company declares any preference dividend but fails to pay such preference dividend on the applicable preference dividend payment date, the preference dividend for the next dividend period shall be increased by an amount calculated in accordance with the following formula ~

$$a = b \times c \times d$$

in which formula ~

a = the amount of such increase;

b = the preference dividend, or the portion of the preference dividend, which has not been paid;

c = the prime rate; and

d = the number of days from the date 120 (one hundred and twenty) days after the last day of the dividend period in respect of which the unpaid preference dividends were declared up to and

including the date on which such unpaid preference dividends are paid.

- 1.2.6 Payment of any preference dividend and/or accumulated outstanding preference dividend due by the Company shall be made by cheque sent by the Company by registered post at the risk of the holder of the preference share concerned, as recorded in the register of shareholders, or at the option of the registered holder, to that holder's commercial bank which has been nominated in writing, for credit to an account nominated in writing by such holder at least 7 (seven) business day prior to such aforementioned amounts becoming payable, or at the option of a dematerialised registered holder, in accordance with the relevant custody agreement between such holder and his Central Securities Depository Participant ("CSDP") or broker as a fully electronic share transaction.
- 1.2.7 If, as a result of any amendment to the Income Tax Act which is of general application to all corporate taxpayers, the Company becomes entitled to deduct (from its gross income and in determining its taxable income) the preference dividends or any portion of those dividends, the preference dividend rate shall be increased by such a percentage as will place the company, if it declares and pays dividends on the preference shares at such increased dividend rate, in the same net after tax position as it would have been in had the applicable amendment to the Income Tax Act not been made (and had the preference dividend rate accordingly not been increased.) The Company shall be entitled to require its auditors to verify whether it is obliged to increase the percentage of the prime rate in accordance with this clause 1.2.7. The auditors, in deciding whether such increase is required in terms of this clause 1.2.7, shall act as experts and not as arbitrators and their decision shall, in the absence of manifest error, be final and binding on the Company and all preference shareholders. The costs of such auditors shall be borne and paid by the Company.

- 1.2.8 Save as set out in clauses 1.2.1 to 1.2.5 and 1.2.7, the preference share shall not entitle the holder thereof to any participation in the profits or assets of the company, or on a winding-up in any of the surplus assets of the company.
- 1.2.9 The holders of the preference shares shall not be entitled to receive notice of any meeting of the company and shall not be entitled to be present or to vote, either in person or by proxy, at any meeting of the company, by virtue of or in respect of the preference shares, unless one or all of the following circumstances prevail at the date upon which notice convening the meeting in question is posted to such persons as are, in accordance with the provisions of the articles, entitled to receive notice of all meetings from the company –
- 1.2.9.1 the preference dividend for any dividend period has not been declared by the date 120 (one hundred and twenty) days after the last day of such dividend period; and/or
- 1.2.9.2 any preference dividend which has been declared is not paid by the applicable preference dividend payment date;
- 1.2.9.3 a resolution of the Company is proposed which resolution directly affects the rights attached to the preference shares or the interests of the holders of the preference shares, including a resolution for the winding-up of the Company or for the reduction of its capital, in which event the preference shareholders shall be entitled to vote only on such resolution.
- 1.2.10 At every general meeting of the Company at which holders of the preference shares as well as other classes of shares are present and entitled to vote, a preference shareholder shall be entitled to that proportion of the total votes in the Company which the aggregate amount of the nominal value of the shares held by him bears to the aggregate amount of the nominal value of all shares issued by the Company.
- 1.2.11 Notwithstanding the provisions of clause 1.2.1, no shares in the capital of the Company ranking, as regards rights to dividends or, on a winding-up as regards

return of capital, in priority to the preference shares, shall be created or issued nor will the rights for the time being attached to the preference shares be modified, amended, added to or abrogated, without-

- 1.2.11.1 the consent in writing of the holders of at least 75% (seventy five percent) of the preference shares; or
- 1.2.11.2 the prior sanction of a resolution passed at a separate class meeting of the holders of the preference shares in the same manner *mutatis mutandis* as a special resolution.

At every meeting of the holders of the preference shares, the provisions hereof relating to general meetings shall apply, *mutatis mutandis*, except that a quorum at any such meeting shall be any person or persons holding or representing by proxy at least one quarter of the issued preference shares, provided that if at any adjournment of such meeting a quorum is not so present, the provisions hereof relating to adjourned general meeting shall apply, *mutatis mutandis*."