



DEED OF TRUST

establishing

THE ISIQALO FOUNDATION TRUST

Between

TIMOTHY CONIBEAR

(UK Passport Number: 540587988)

(the “**Founder**”)

and

MTHANDAZO NDABENI

(Identity Number: 810805 5420 08 0) *Resigned May 2014

PAMELA DLULANE

(Identity Number: 870405 0864 08 0) *Resigned April 2013

and

DANIELLA WAGENER

(Identity Number: 870105 0216 08 9)

(together, the “**First Trustees**”)

DEED AMENDED ON 11/5/2012 TO ADD:

CHRISTOPHER DYLAN ZAKADE MASON (ID 831003 5016 08 3)

STEVEN SELWYN PIKE (ID 704514650)

MELISSA JANE KERNICK (ID 720601 0019 08 7)

ADEMANMI OLAOLUWA LAWSON (307972932)

LUIS ALBERTO CHAPPELLA BARNETCHE (G05450658)

DR ADNAN MIA (671022 5113 08 1)

TO THE BOARD OF TRUSTEES OF THE ISIQALO FOUNDATION – AS REGISTERED BY THE
MASTERS OFFICE

INDEX

1.	INTERPRETATION	3
2.	CREATION OF THE TRUST	7
3.	NAME OF TRUST	7
4.	OBJECT OF THE TRUST	8
5.	BENEFICIARIES	9
6.	ADMINISTRATION OF THE TRUST.....	10
7.	POWERS OF THE TRUSTEES.....	11
8.	EMPLOYMENT OF INCOME AND PAYMENT OF THE TRUST'S EXPENSES.....	15
9.	THE TRUSTEES' APOINTMENTS	16
10.	TRUSTEES - DISQUALIFICATION AND VACATION OF OFFICE.....	16
11.	TRUSTEES' MEETINGS	18
12.	ORDINARY AND SPECIAL RESOLUTIONS	19
13.	TRUSTEES ROUND ROBIN RESOLUTIONS	20
14.	RECORD OF TRUSTEES' RESOLUTIONS	20
15.	THE ADMINISTRATOR.....	21
16.	FINANCIAL YEAR.....	21
17.	ACCOUNTING AND RELATED MATTERS	21
18.	EXEMPTIONS FOR TRUSTEES.....	23
19.	DUTIES AND FURTHER POWERS OF TRUSTEES.....	24
20.	TAX RETURNS AND TAX INFORMATION	25
21.	DONATIONS EXEMPT FROM TAX.....	25
22.	TERMINATION OF THE TRUST.....	26
23.	AMENDMENT OF THE TRUST DEED	26
24.	REMUNERATION OF TRUSTEES	27

PREAMBLE

WHEREAS:

- A. The Founder has agreed to form a trust, namely The ISIQALO Foundation Trust (the “Trust”), by way of this Deed of Trust (the “Trust Deed”);
- B. The Trust will be established, funded, developed, administered and maintained for the realisation of its aims and objectives as set out in clause 4 of this Trust Deed; and
- C. The Founder is accordingly entering into this Trust Deed with the First Trustees to establish the trust referred to in paragraph A above.

THE PARTIES ACCORDINGLY AGREE THAT:

1. INTERPRETATION

1.1 Definitions

For the purposes of this Trust Deed (including the Preamble above), unless the context requires otherwise:

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|-------|---------------------|---|
| 1.1.1 | “Beneficiaries” | means the beneficiaries determined by the Trustees in accordance with clause 6, and “Beneficiary” shall have a corresponding meaning; |
| 1.1.2 | “Business Day” | means any day other than a Saturday, Sunday or statutory holiday in South Africa; |
| 1.1.3 | “the Commissioner” | means the Commissioner of the South African Revenue Services; |
| 1.1.4 | “the Companies Act” | means the Companies Act, 1973; |
| 1.1.5 | “First Trustees” | means Mthandazo Ndabeni, Pamela Dlulane |

and Daniella Wagener;

1.1.6	“Founder”	means Timothy Conibear
1.1.7	“Income Tax Act”	means the Income Tax Act 58 of 1962;
1.1.8	“Master”	means the Master of the High Court as defined in the Trust Control Act;
1.1.9	“Net Income”	means the income of the Trust (including, for the avoidance of doubt, all interest received on the Trust Capital) after paying or charging or providing for all costs and expenses lawfully incurred by the Trustees in connection with the administration of the Trust, including their reasonable remuneration and any income tax that may become payable by the Trustees in their representative capacity;
1.1.10	“NPO Act”	means the Non-Profit Organisations Act, 1997;
1.1.11	“Ordinary Resolution”	means a resolution of the Trustees which satisfies the requirements of clause 12 below;
1.1.12	“Parties”	means all the parties to this Trust Deed from time to time, being the Founder and the Trustees from time to time; and “Party” means any one of them as the context may require;
1.1.13	“Signature Date”	means the date on which this Trust Deed is last signed by the Parties;
1.1.14	“Special Resolution”	means a resolution of the Trustees which satisfies the requirements of clause 12 below;
1.1.15	“Trust Capital”	means the capital of the Trust, consisting of the

Trust Fund and any part of the Net Income which is not distributed and is accumulated to the capital of the Trust, minus the aggregate of:

- (a) the liabilities of the Trust, both actual and contingent; and
- (b) the sum of all provisions for liabilities (actual or contingent) the amount of which cannot be determined with substantial accuracy and for depreciation, renewals or diminution in value of assets;

1.1.16	“Trust Control Act”	means the Trust Property Control Act, 1988;
1.1.17	“the Trust”	means the trust established by this Trust Deed;
1.1.18	“this Trust Deed”	means this deed of trust;
1.1.19	“Trust Fund	means the assets or funds held and administered by the Trustees from time to time, including, without limitation, any donation received by the Trust from time to time;
1.1.20	“the Trust Object”	means the object of the Trust which is specified in clause 4 below; and
1.1.21	“Trustees”	means the trustees of the Trust from time to time (including the First Trustees), who are duly appointed in accordance with the provisions of this Trust Deed; and “Trustee” means any one of them, as the context may require.

1.2 General Interpretation:

For the purposes of this Trust Deed the following rules of construction shall apply, unless the context requires otherwise:

- 1.2.1 the singular shall include the plural and *vice versa*;
- 1.2.2 a reference to any one gender, whether masculine, feminine or neuter, includes the other two;
- 1.2.3 any reference to a person includes, without being limited to, any individual, body corporate, unincorporated association or other entity recognised under any law as having a separate legal existence or personality;
- 1.2.4 any word or expression defined in, and for the purposes of, this Trust Deed shall if expressed in the singular include the plural and *vice versa*, and a cognate word or expression shall have a corresponding meaning;
- 1.2.5 references to a statutory provision include any subordinate legislation made from time to time under the provision in question and also include the provision as from time to time modified or re-enacted as far as such modification or re-enactment applies, or is capable of applying, to this Trust Deed or any transaction entered into in accordance with this Trust Deed;
- 1.2.6 a “law” shall be construed as any law (including common law and customary law), statute, constitution, decree, judgment, treaty, regulation, directive, by-law, order or any other legislative measure or enactment of any government, local government, statutory or regulatory body or court;
- 1.2.7 references in this Trust Deed to “clauses” are to clauses of this Trust Deed;

- 1.2.8 any reference in this Trust Deed to this Trust Deed or any other agreement, document or instrument shall be construed as a reference to this Trust Deed or that other agreement, document or instrument as amended, varied, novated or substituted from time to time;
- 1.2.9 words and expressions in section 30, read with the Ninth Schedule, of the Income Tax Act, which are not defined in this Trust Deed, shall have the same meanings in clause 4 this Trust Deed as they have in section 30 of the Income Tax Act;
- 1.2.10 any word and expression defined in any clause shall, unless the application of the word or expression is specifically limited to the clause in question, bear the meaning ascribed to the word or expression throughout this Trust Deed; and
- 1.2.11 unless otherwise provided, any number of days prescribed shall be determined by excluding the first and including the last day or, where the last day falls on a day that is not a Business Day, the next succeeding Business Day.

1.3 Headings and Sub-headings:

All the headings and sub-headings in this Trust Deed are for convenience only and are not to be taken into account for the purposes of interpreting it.

2. CREATION OF THE TRUST

- 2.1 The Parties agree to establish a trust for the purposes, and upon and subject to the terms and conditions, of this Trust Deed.
- 2.2 It is intended (but shall not be a requirement for the creation and registration of the Trust under the Trust Control Act) that the Trust shall be registered as a non-profit organisation under the NPO Act and a public benefit organisation under the Income Tax Act as soon as is reasonably practicable after its creation and registration under the Trust Control Act.

3. NAME OF TRUST

- 3.1 The name of the Trust shall be: “The Isiqalo Foundation Trust”.
- 3.2 The Founder may change the name of the Trust from time to time to any other name which he considers to be appropriate by written notice given to the Trustees.

4. OBJECT OF THE TRUST

- 4.1 The object of the Trust shall be to develop, fund and provide programmes in disadvantaged communities in the Western Cape that will facilitate and promote the empowerment and development of children and young adults living in such communities in accordance with paragraphs 1, 2, 4, 7, 9 and 11 of Parts I and II of the Ninth Schedule of the Income Tax Act (as the case may be), through:
- 4.1.1 the development, funding and provision of educational programmes for the benefit of children and young adults living in the said communities, which programmes will facilitate and support community development insofar as the prevention of HIV/AIDS, drug and alcohol addiction and other health and social issues are concerned (as contemplated by paragraphs 1(a), 1(h), 1(p) and 2(c) of Parts I and II of the Ninth Schedule of the Income Tax Act);
- 4.1.2 the development, funding and provision of after-school sporting programmes that incorporate specific health and social messages that assist in creating awareness and facilitating development in regard to these issues (as contemplated by paragraphs 1(a), 1(h) and 1(p) of Parts I and II, together with paragraph 9 of Part I, of the Ninth Schedule of the Income Tax Act);
- 4.1.3 the sourcing and provision of educational resources necessary to support and facilitate early childhood development, such as learning equipment, premises and qualified teachers (as contemplated by paragraph 4(h) of Part I and paragraph 3(h) of Part II of the Ninth Schedule of the Income Tax Act);
- 4.1.4 the provision of career counselling and professional guidance (as contemplated by paragraph 7(c) of Part I and paragraph 3(m) of Part II of the Ninth Schedule of the Income Tax Act);

- 4.1.5 the development, funding and provision of programmes that seek to enhance the environmental awareness of each community, including clean-up projects in areas in which the Trust operates (as contemplated by paragraph 7(c) of Part I and paragraph 4(c) of Part II of the Ninth Schedule of the Income Tax Act); and *inter alia*
- 4.1.6 the provision of support services that promote the common interests of public benefit organisations contemplated in section 30 of the Income Tax Act or institutions, boards or bodies which conduct one or more public benefit activities contemplated in this clause 4.1 (as contemplated by paragraph 11(a) of Part I of the Ninth Schedule of the Income Tax Act).
- 4.2 In pursuance solely of the Trust Object the Trustees shall, in their sole and absolute discretion, be entitled to allocate the funds, assets, services or other resources which it provides, among any one or more of the Beneficiaries, and to provide any funds, assets, services or other resources allocated for any particular Beneficiary at such times, for such purposes as are permitted by the Beneficiary's own constitution, in such manner and upon such terms and conditions as are determined by the Trustees in their sole and absolute discretion.
- 4.3 The Trustees shall take reasonable steps to ensure that all funds, assets, services or other resources provided by them to a Beneficiary in furtherance of the Trust Object will be applied by the Beneficiary in question for the purposes of, in the manner, to the extent and upon such terms and conditions as are so determined by the Trustees for the furtherance solely of the Trust Object.
- 4.4 The Trustees may invite proposals from time to time from the Beneficiaries for funds, assets, services or other resources to be provided by the Trustees in terms of this Trust Deed, and the Beneficiaries may themselves initiate such proposals.

5. BENEFICIARIES

- 5.1 The Beneficiaries of the Trust shall be children and young adults living in disadvantaged communities in the Western Cape (including, without limitation, the Masiphumelele Township) which, in the opinion of the Trustees, would benefit from and are deserving of any support or assistance which falls within the scope of the

Trust Object.

- 5.2 The provision of funds, assets, services or other resources by the Trustees to the Beneficiaries, the allocation of such funds, assets, services or other resources among the Beneficiaries, and the conditions of such provision and allocations, shall be in the absolute discretion of the Trustees, and no Beneficiary or any other person shall have any right to claim a benefit from the Trust. No person who is not a Beneficiary shall have any right to have access to the records of the Trust. Subject to the Trust Control Act and any other law governing the Trust generally, Beneficiaries shall only have a right to have access to the records of the Trust insofar as the records relate directly to a distribution of funds to them.

6. ADMINISTRATION OF THE TRUST

- 6.1 The activities of the Trust shall be directed at and the resources of the Trust shall be used for the pursuit of the Trust Object.
- 6.2 The Trust Fund shall be utilised solely for the pursuit of the Trust Object and, to the extent not so utilised, shall be maintained and invested for future use.
- 6.3 The Trust shall apply and distribute funds solely in pursuit of the Trust Object, but always in accordance with the requirements of any applicable law and in accordance with this Trust Deed.
- 6.4 Notwithstanding clauses 6.1, 6.2, and 6.3, the Trust may pay reasonable remuneration to any employees of the Trust, as contemplated in terms of section 30(1)(b)(ii) of the Income Tax Act.
- 6.5 The Trust shall be administered in such a manner as to ensure at all times that it qualifies as a public benefit organisation and for this purpose shall comply with all relevant conditions imposed and directions given by the Commissioner.
- 6.6 The Trust Object may, subject to the provisions of the Income Tax Act (insofar as they apply to public benefit organisations) and the NPO Act, be amended from time to time in accordance with clause 23 below.
- 6.7 The Trust is a discretionary Trust insofar as the employment, allocation and

distribution of Net Income, Trust Capital and the Trust Fund is concerned, all of which may, subject to the provisions of this Trust Deed, be allocated by the Trustees in their absolute discretion to any Beneficiary and upon such terms and conditions as they in their absolute discretion may determine.

7. POWERS OF THE TRUSTEES

- 7.1 The powers of the Trustees as set out in this Trust Deed are powers which are conferred upon them as Trustees of the Trust and to enable them to administer the Trust Fund for the benefit of Beneficiaries in accordance with the Trust Object, and not for their personal benefit. The extent of the powers vested in the Trustees must be construed in accordance with and subject to the Trust Object.
- 7.2 The Trustees shall at all times be vested with such powers to deal with the Trust Fund as they in their exclusive discretion deem necessary to control and manage the Trust Fund in accordance with the Trust Object, but subject always to the provisions of the Income Tax Act (insofar as they apply to public benefit organisations), the Trust Control Act and the provisions of this Trust Deed.
- 7.3 The Trust shall not carry on any business undertaking or trading activity which is not permitted for a public benefit organisation in terms of the Income Tax Act.
- 7.4 The Trustees shall utilise the Trust Fund solely for the Trust Object or invest it in such manner as may be permitted for a public benefit organisation from time to time in terms of the Income Tax Act.
- 7.5 Without restricting the generality of the Trustees' powers in terms of clause 7.2 above, but subject to the provisions of clauses 7.3 and 7.4 above, the Trustees shall have the following general powers:
- 7.5.1 to open and operate on any current and deposit accounts with banks and other financial institutions, and to draw, accept or give cheques, promissory notes, bills of exchange and other negotiable instruments;
- 7.5.2 to buy, sell or exchange goods of any kind, movable and immovable, corporeal and incorporeal, including, without limitation, shares, stocks, debentures and securities, on such terms and conditions as the Trustees

may decide;

- 7.5.3 to retain existing investments or investments made by the Trustees in that the same form or to re-invest them in any other form;
- 7.5.4 to borrow monies and raise funds for the Trust, with or without interest, with or without security, and on such terms and conditions as the Trustees agree with the lender;
- 7.5.5 to mortgage, pledge or otherwise hypothecate or grant any lien over any asset of the Trust;
- 7.5.6 to sell, let, improve, alter and maintain any fixed property forming a part of the Trust Fund and, if necessary, to demolish fixed improvements and erect new improvements on such fixed property, all in the course of carrying on an approved public benefit organisation;
- 7.5.7 to collect rent, cancel leases and evict a lessee from property belonging to the Trust;
- 7.5.8 to institute or defend legal action;
- 7.5.9 to attend meetings of creditors of any person, including, companies and body corporates, that is a debtor of the Trust, irrespective of whether the meeting is in connection with its solvency, sequestration, liquidation or judicial management, to vote on any matter submitted to the meeting, and generally to exercise all the rights a creditor would have had in similar circumstances;
- 7.5.10 to guarantee as surety, or co-principal debtor, the due performance or liability of any party whether a Beneficiary or a Trustee in terms of this Trust Deed, or any private company in which the Trust may hold shares, upon such terms and conditions as the Trustees may decided, and to bind an asset of the Trust as collateral security for this purpose;
- 7.5.11 to issue receipts, discharges or indemnities in respect of any repayment or discharge of obligations;

- 7.5.12 to make use of the services of professional advisors and tradesmen for the affairs of the Trust and to pay for such services out of the Trust Fund;
- 7.5.13 subject to clause 8.2 below, to pay any costs incurred in connection with the administration of the Trust out of the Trust Fund;
- 7.5.14 to make donations or distributions to the Beneficiaries in accordance with the Trust Object;
- 7.5.15 to accept donations or bequests on behalf of the Trust from any person subject to the terms and conditions of this Trust Deed and any law which may be applicable thereto, provided that no donation may be accepted by the Trust which is revocable at the instance of the donor for reasons other than a material failure by the Trust to conform to the designated purposes and conditions of such donation, including any misrepresentation with regard to the tax deductibility thereof in terms of section 18A of the Income Tax Act, or which imposes conditions which could enable the donor (not being an approved public benefit organisation or an institution, board or body which is exempt from tax in terms of section 10(1)(A)(i) of the Income Tax Act which has as its sole or principal object the carrying on of any public benefit activity) or any connected person in relation to such donor to derive some direct or indirect benefit from the application of the donation;
- 7.5.16 to hold investments in their personal names on behalf of the Trust, if necessary, in circumstances where investments are made in a company or unit trust scheme of which the Articles of Association or regulations prohibit the registration of such investments in the name of the Trust;
- 7.5.17 to decide whether any receipt of a liquidation dividend by the Trust shall form part of the Net Income or Trust Capital;
- 7.5.18 to make interim distributions of the Trust Capital and/or the Net Income to the Beneficiaries of the Trust in such circumstances and at such times, and in such form as the Trustees may deem fit;
- 7.5.19 to employ such reasonable measures at the cost of the Trust, as they deem

appropriate for purposes of identifying and determining the Beneficiaries;

7.5.20 to exercise all powers, rights and obligations granted in terms of this Trust Deed in any country outside South Africa; and

7.5.21 to sign all documents and take all steps deemed necessary for the proper exercise of all their powers conferred by this Trust Deed.

7.6 Donations accepted in terms of clause 7.5.15 above may not be *quid pro quo*, have reciprocal obligations, be revocable by the donor, nor have any personal benefit attaching to the donor; unless such donor is a public benefit organisation and the revocation of the donation is subject only to its misuse by the Trustees.

7.7 Without restricting the generality of the Trustees powers in terms of clause 7.2 above, but subject to the provisions of clauses 7.3 and 7.4 above, the Trustees shall have the following additional powers with respect to the Trust Fund and the Trust Capital:

7.7.1 to make any payments in the furtherance of the Trust Object from the Trust Capital, which they are otherwise empowered to make from the Net Income;

7.7.2 to distribute the Trust Fund during the currency of the Trust, at any time they so resolve to or for the benefit of the Beneficiaries;

7.7.3 to effect payment in cash or in kind, or partly in cash and partly in kind whenever any portion of the Trust Fund is distributed to a Beneficiary in terms of this Trust Deed. The value placed by the Trustees on any goods or property forming part of such a distribution shall be final and binding on the Beneficiaries;

7.7.4 to treat any periodic receipts to the Trust as income, notwithstanding that such receipts are derived from wasting assets, and they are not obliged to make provisions for the replacement thereof; and

7.7.5 to decide at their absolute discretion and in any manner they deem fit whether any receipts to the Trust constitutes income or capital, notwithstanding that the nature of the receipt may be otherwise and the

Trustees' decision in this regard shall be final and binding on all parties concerned.

7.8 Where this Trust Deed refers to the discretion of the Trustees, such discretion shall be absolute and unrestricted unless the contrary is expressly stated.

8. EMPLOYMENT OF INCOME AND PAYMENT OF THE TRUST'S EXPENSES

8.1 The Trustees shall have the following additional powers:

8.1.1 subject to clause 8.2 below, to pay all costs incurred by the Trustees in connection with the administration of the Trust;

8.1.2 subject to clause 8.2 below, to reimburse themselves from the Trust Fund in respect of any expenses that they personally may incur in connection with the performance of their duties as Trustees, provided that all expenses shall be substantiated by written receipts insofar as possible. This clause 8.1.2 shall be subject always to clause 24.3 of this Trust Deed and nothing contained in the Trust Deed shall be construed as allowing the Trustees to promote their economic self-interest other than by way of receiving reasonable remuneration payable to them as contemplated in terms of section 30(1)(b)(ii) of the Income Tax Act and clause 24.1 of this Trust Deed;

8.1.3 to accumulate income in the Trust Fund in order to supplement the capital of the Trust Fund; and

8.1.4 to decide to accumulate undistributed profits as part of the income of the Trust Fund available for distribution, at their discretion, to the Beneficiaries.

8.2 The Trustees shall pay any expenses of the Trust:

8.2.1 by utilising in the first instance the income of the Trust and;

8.2.2 thereafter, by utilising proceeds of the Trust Fund.

8.3 The expenses referred to in clause 8.2 above, may include, but shall not be limited to:

- 8.3.1 all current costs and expenditure of the Trust whether or not it has already been incurred or is uncertain or conditional; and
- 8.3.2 any taxation that may become payable.

9. THE TRUSTEES' APOINTMENTS

- 9.1 The number of Trustees shall not be less than 3 (three) nor more than 7 (seven), unless otherwise determined by the Founder by written notice to the Trustees.
- 9.2 The First Trustees are all duly appointed with effect from the Signature Date, subject to the requirements of the Trust Control Act.
- 9.3 Subject to clause 9.2 above, the Founder shall be entitled to appoint the Trustees from time to time and to remove, replace and fill any vacancy in respect of any such Trustee, provided that the number so appointed does not result in the maximum number of Trustees permitted by this Trust Deed being exceeded at any time.
- 9.4 Any appointment, removal or replacement of a Trustee by the Founder shall be made by written notice to the Trustees, signed by the Founder and, subject to the requirements of the Trust Control Act, shall be operative as soon as the written notice is delivered to the Trustees.
- 9.5 If the number of Trustees falls below the minimum number permitted in terms of this Trust Deed at any time, the remaining Trustees shall nonetheless be entitled to exercise all the powers of the Trustees for the maintenance and administration of the Trust Fund (other than any distribution to Beneficiaries of the Trust Capital, the Trust Fund or Net Income) until such time as one or more other Trustees have been appointed in accordance with clause 9.3 above, so as to bring the number of Trustees to the minimum number applicable at the time.

10. TRUSTEES - DISQUALIFICATION AND VACATION OF OFFICE

- 10.1 The following persons shall be disqualified from acting as a Trustee:

- 10.1.1 a person who would be disqualified from acting as a director of a company in terms of section 218(1)(b), (c) or (d) of the Companies Act;
 - 10.1.2 a person who is removed from an office of trust on account of misconduct;
 - 10.1.3 a person whose estate has been sequestrated and has not been rehabilitated;
 - 10.1.4 a person who has been found lunatic or is of unsound mind who has been declared incapable of managing his or her affairs;
 - 10.1.5 a person who has been convicted of any crime involving dishonesty or in connection with the promotion, management or formation of a company and has been sentenced to serve a term of imprisonment without the option of a fine or a fine exceeding R2,000.00 (two thousand Rand) in respect of any such crime;
 - 10.1.6 a person who is not a natural person; or
 - 10.1.7 a person aged 75 (seventy-five) years or more.
- 10.2 The office of a Trustee shall be vacated upon the happening of any one of the following events:
- 10.2.1 if the Trustee becomes disqualified in terms of clause 10.1;
 - 10.2.2 if an application is filed for the sequestration of the Trustees estate upon which a provisional order of sequestration is subsequently granted or an application is filed for the surrender of his or her estate or for an administration order or if he or she commits an act of insolvency as defined in the insolvency law for the time being in force or if he or she makes any arrangement or composition with his or her creditors generally; or
 - 10.2.3 if he or she resigns his or her office by not less than 14 (fourteen) days' written notice to the remaining Trustees, provided that the remaining Trustees may agree to any shorter notice.

11. TRUSTEES' MEETINGS

- 11.1 The Trustees may meet, adjourn and otherwise regulate the holding of and the proceedings at their meetings as they deem fit, and determine the notices to be given of their meetings and the means of giving any such notice; provided that the Trustees shall hold at least 1 (one) meeting during each quarter of every financial year of the Trust, and each such quarterly meeting shall be convened by the chairperson of the Trustees on not less than 14 (fourteen) days' prior written notice, unless all the Trustees agree to a shorter period.
- 11.2 Any Trustee may at any time convene a meeting of the Trustees, and the chairperson of the Trustees, on the request of a Trustee, shall convene a meeting of the Trustees.
- 11.3 The Founder shall be entitled to appoint a chairperson of the Trustees from one of their number and to remove and replace any such chairperson at any time.
- 11.4 Any appointment, removal or replacement of the chairperson of the Trustees by the Founder shall be made by written notice to the Trustees, signed by the Founder, and shall be operative as soon as the written notice is delivered to the Trustees.
- 11.5 If at any meeting of the Trustees, the chairperson appointed in terms of clause 11.3 above is not present at the time set for holding the meeting, or if no such chairperson has been so appointed, then the Trustees present may appoint any one of their number who is present to act as chairperson for that particular meeting.
- 11.6 Subject to the requirements for a Special Resolution, the quorum necessary for any meeting of the Trustees shall be a majority of the appointed Trustees holding office at the time of the meeting and who are authorised to act as trustees of the Trust in terms of the Trust Control Act.
- 11.7 No business shall be transacted at a meeting of Trustees unless a quorum is present at the commencement of and throughout the meeting.
- 11.8 A meeting of Trustees at which a quorum is present may exercise any or all of the powers for the time being vested in or exercisable generally by the Trustees in terms of this Trust Deed.

- 11.9 The chairperson of any meeting shall not have a second or casting vote, unless there is an even number of Trustees present and voting, in which case the chairperson shall have a second or casting, as the case may be.
- 11.10 The following matters, if put to the vote at a meeting of the Trustees, shall be passed only by a Special Resolution or a resolution in writing which satisfies the requirements of clause 13 below:
- 11.10.1 entering into any single transaction, contract or commitment (or series of transactions, contracts or commitments), including without being limited to the acquisition or disposal of any assets, if such transaction, contract or commitment (or series of transactions, contracts or commitments) requires payments or other consideration by the parties thereto with an aggregate value in excess of R100,000.00 (one hundred thousand Rand);
- 11.10.2 incurring any interest bearing indebtedness from any cause whatever, including without being limited to any borrowings, finance or capitalised leases, instalment or hire purchase agreements or any other cause, where the effective capital sum of the indebtedness (as certified by the Trust's auditors for the time being) exceeds R100,000.00 (one hundred thousand Rand); or
- 11.10.3 the mortgaging, pledging or any other hypothecation of any of the assets of the Trust.
- 11.11 All matters other than those which require a Special Resolution in terms of this Trust Deed, which are put to a vote at any meeting of the Trustees, shall be carried by an Ordinary Resolution.

12. ORDINARY AND SPECIAL RESOLUTIONS

For the purposes of this Trust Deed:

- 12.1 A Special Resolution is a resolution passed at a meeting of the Trustees which satisfies the following requirements:

- 12.1.1 the quorum for the meeting shall not be less than 3 (three) Trustees holding office at the time of the meeting;
- 12.1.2 the resolution shall not be valid unless:
- 12.1.2.1 it is approved by the affirmative votes of not less than 3 (three) Trustees holding office at the time of the meeting; and
- 12.1.2.2 it is approved in writing by the Founder, whose approval may be given at any time before or after the meeting.
- 12.2 An ordinary resolution is a resolution passed at a meeting of the Trustees by the affirmative vote of a majority of the Trustees present at the meeting.

13. TRUSTEES ROUND ROBIN RESOLUTIONS

- 13.1 Subject to clause 13.3 below, a resolution in writing signed by all the Trustees shall be as valid and effective as if it had been passed as a Special Resolution or an Ordinary Resolution at a meeting of Trustees, provided it is inserted in the record book referred to in clause 14.
- 13.2 A resolution referred in clause 13.1 may consist of any one or more documents in the same form and, if each such document is signed by one or more of the Trustees concerned and is inserted in the record book, the resolution shall be as valid and effective as if it had been passed at a meeting of the Trustees.
- 13.3 Notwithstanding anything else to the contrary in this clause 13, the provisions of clause 13.1 shall not apply to a Special Resolution required for the termination of the Trust in terms of clause 22 or an alteration, amendment or addition of or to this Trust Deed in terms of clause 23.

14. RECORD OF TRUSTEES' RESOLUTIONS

- 14.1 The Trustees shall ensure that a record is made of all resolutions passed at meetings of Trustees and shall ensure that all resolutions passed by them, including any resolution in writing passed in terms of clause 13, shall be inserted in a book provided for that purpose.

- 14.2 Any record or resolution or any extract from any record or resolution which purports to be signed by the chairperson of the Trustees or by any Trustee, shall be *prima facie* evidence of the matters stated in it.

15. THE ADMINISTRATOR

The Trustees shall, if so required by the Founder at any time, employ an administrator for the Trust in accordance with and subject to the following provisions:

- 15.1 each administrator employed by the Trustees from time to time shall be a person nominated by the Founder in writing;
- 15.2 each such administrator shall be employed by the Trustees to manage and administer the affairs of the Trust, but subject always to the overall direction and control of the Trustees to whom it shall be accountable;
- 15.3 the terms and conditions of the employment of any administrator, including its duties and remuneration, shall be determined by the Founder after consulting the Trustees;
- 15.4 the Trustees shall be entitled to terminate the employment of any administrator for good cause, but not otherwise without the written consent of the Founder; and
- 15.5 a Trustee may be eligible to be employed as the administrator.

16. FINANCIAL YEAR *Ammended April 2013

The Trust's financial year shall, unless and until otherwise decided by an Ordinary Resolution of the Trustees, but also with the written approval of the Founder, run from the first day of March to the last day of February in each calendar year.

17. ACCOUNTING AND RELATED MATTERS

- 17.1 The Trustees shall ensure that proper financial books and records are kept for the Trust which reflect truly and accurately their administration of the affairs and business of the Trust and explain the transactions and financial position of the Trust.

- 17.2 All those financial books and records, together with all other papers and documents of the Trust, shall be kept at such places as the Trustees may determine from time to time and shall be accessible to each Trustee so that he or she can inspect them at all reasonable times.
- 17.3 The Trustees shall ensure that at all times there shall be an auditor for the Trust, who shall be appointed by the Trustees on such terms and conditions as they may determine from time to time. If they have not already appointed an auditor, they shall do so immediately after the signing of this Trust Deed. The Trustees shall be entitled to replace any auditor appointed by them from time to time.
- 17.4 No person shall be appointed as the auditor for the Trust unless the person is a South African firm of practicing chartered accountants which has been approved in writing by the Founder.
- 17.5 Every auditor of the Trust shall have the right of access at all times to the books of account, vouchers and records of the Trust, and shall be entitled to require from the Trustees and employees of the Trust such information and explanations as may be necessary for the performance of their duties as auditors of the Trust. A Trustee or any firm of which a Trustee is a partner or member shall be competent and qualified to act as auditor of the Trust.
- 17.6 The books of the Trust shall be audited annually. The Trustees shall prepare a set of financial statements of the Trust for each financial year, which shall be in conformity with generally accepted accounting practice in South Africa and shall be signed by the Trustees and reported on by the auditor of the Trust.
- 17.7 All monies received on behalf of the Trust shall, unless the Trustees unanimously decide otherwise, but subject to the Trust Control Act, be deposited in one or more accounts with registered banks to be maintained by the Trustees with such branch or branches of such banks as they in their discretion may deem fit, and all payments to be made on behalf of the Trust shall, if the Trust has any such account and, insofar as it is practical, be made by cheque drawn on such account or on one of such accounts or by cheque issued by the bank with which a particular account is operated. Deposits may be made on the signature of 1 (one) Trustee, but all operations upon any such account or accounts shall be in accordance with

resolutions passed by the Trustees from time to time or, failing a resolution, upon the signatures of 2 (two) Trustees.

18. EXEMPTIONS FOR TRUSTEES

18.1 The Trustees shall be exempt from any obligation to furnish security in connection with their appointment or for the due administration of the Trust to the Master of the High Court or any other person, body or authority, as provided for in the Trust Control Act or any other law relating to Trusts and the protection of trust monies, and the Master and any such other person, body or authority are hereby directed to dispense with such security.

18.2 Subject to the Trust Control Act:

18.2.1 no Trustee shall be liable to make good to the Trust or anyone claiming through the Trust any loss occasioned or sustained by any cause, howsoever arising, except such loss as may arise from or be occasioned by his or her own personal dishonesty or other wilful misconduct or gross negligence;

18.2.2 no Trustee shall be liable for any act of dishonesty or other misconduct committed by any other Trustee unless he or she knowingly allowed it or was an accessory to it;

18.2.3 the Trustees shall be indemnified out of the Trust Fund against all claims and demands of whatsoever nature that may be made upon them arising out of the proper exercise or purported proper exercise of any of the powers conferred upon them under this Trust Deed; and

18.2.4 if the Trustees make any bona fide payment to any person they believe to be entitled to the payment under the terms of this Trust Deed and if it is subsequently found that the recipient was not entitled to the payment, the Trustees shall not be liable or responsible to the Trust or anyone claiming through the Trust for the payment so made.

18.3 If the Trust Fund includes any shares or interests in a company which confer the right or power to control that company or any of its subsidiaries, the Trustees shall

be under no obligation or duty to appoint any representative to the board of the company or any of its subsidiaries and shall have no responsibility to enquire into, oversee or take part in the management affairs or business of the company or any of its subsidiaries.

19. DUTIES AND FURTHER POWERS OF TRUSTEES

- 19.1 Apart from the common law duties which attach to the office of Trustee, the Trustees shall be subject to the duties laid down in the Trust Control Act, namely, to:
- 19.1.1 ensure that the original of this Trust Deed is filed with the Master in accordance with the provisions of the Trust Control Act;
 - 19.1.2 refrain from acting as Trustees until they are in possession of a letter of authority from the Master so to act;
 - 19.1.3 receive and hold the Trust Fund for the benefit of the Beneficiaries, in accordance always with the Trust Object;
 - 19.1.4 take possession of all documents of title and other documents relating to the affairs of the Trust for safekeeping;
 - 19.1.5 ensure that proper books are kept for the affairs of the Trust, which duty may be delegated by the Trustees to the administrator;
 - 19.1.6 keep all assets of the Trust Fund separate from their own personal property and if applicable registered in the name of the Trust so that they may be identified as assets of the Trust Fund;
 - 19.1.7 refrain from holding or disposing of any assets of the Trust Fund for their personal benefit, or for the benefit of their estates, and generally to act in a prudent and responsible manner as would be expected from persons who are in charge of the affairs of another person; and
 - 19.1.8 unless compelled by law or Order of Court or for any other practical reasons, refrain from disclosing any records containing the identity of the Beneficiaries or the affairs of the Trust generally to disinterested parties.

- 19.2 While the Trust is in force, the Trustees shall be obligated to take and hold possession of all assets comprising the Trust Fund from time to time, including title deeds and other documents and to ensure their preservation and safe keeping for the duration of the Trust.

20. TAX RETURNS AND TAX INFORMATION

- 20.1 The Trustees shall file, or procure the filing of, tax returns for the Trust on an annual basis in accordance with the Income Tax Act and shall submit, or procure the submission of, with any such tax return, all relevant documents.
- 20.2 The Trustees shall, when so requested by the Commissioner in writing, make available for inspection all books of account, records or other documents relating to the Trust and answer all queries about them made by the Commissioner.

21. DONATIONS EXEMPT FROM TAX

- 21.1 The Trustees shall issue a receipt to every donor (the "Donor") for every donation made to the Trust which the Trustees believe in their reasonable opinion will qualify as a deductible donation for purposes of Section 18A of the Income Tax Act.
- 21.2 Every receipt issued by the Trustees shall include the following information:
- 21.2.1 the reference number of the Trust issued to it by the Commissioner for purposes of Section 18A of the Income Tax Act;
 - 21.2.2 the date of the receipt of the donation;
 - 21.2.3 the name and address of the Trust;
 - 21.2.4 the name and address of the Donor;
 - 21.2.5 the amount or nature of the donation if not in cash; and
 - 21.2.6 a certification that the receipt is issued for the purpose of Section 18A of the Income Tax Act and that the donation will be used exclusively for the object

stated in the receipt.

- 21.3 Subject to any dispensation which may be granted by the Commissioner, the Trustees shall distribute at least 75% (seventy-five percent) of the value of any donation for which a certification as contemplated in clause 21.1 has been issued, within 12 (twelve) months from the end of the financial year during which the relevant donation was received.

22. TERMINATION OF THE TRUST

- 22.1 The Trust shall remain in force for an indefinite period but may be terminated at any time by a Special Resolution of the Trustees.

- 22.2 Upon the winding-up of the Trust, the Trustees shall transfer, subject to clause 22.3, the Trust Fund to one or more other public benefit organisations (each a “Transferee”) whose object in each case is to carry on public benefit activities which are the same or similar to those carried on by the Trust.

- 22.3 If any donation (or portion thereof) for which a certification as contemplated in clause 21.2.6 has been issued (the “Relevant Portion”) has not been distributed at the time of the winding-up of the Trust:

- 22.3.1 the Transferee to whom the Relevant Portion is transferred must be a public benefit organisation which has been approved by the Commissioner for the purposes of making deductions pursuant to section 18A of the Income Tax Act; and

- 22.3.2 the transfer of the Relevant Portion must be subject to the condition that the Relevant Portion shall be utilised by the Transferee for a public benefit organisation approved by the Commissioner for purposes of making deductions pursuant to section 18A of the Income Tax Act.

23. AMENDMENT OF THE TRUST DEED

Any provision of this Trust Deed may be altered or amended only by a Special Resolution of the Trustees, provided that every such alteration or amendment shall also comply with

the Income Tax Act and be submitted to the Commissioner as soon as reasonably possible after the relevant alteration or amendment has been effected.

24. REMUNERATION OF TRUSTEES

- 24.1 The Trustees shall be entitled to receive reasonable remuneration from the Trust for the fulfilment of their duties as Trustees, which they may determine from time to time, subject always to the written approval of the Founder.
- 24.2 The fact that a Trustee conducts a profession or business shall not be an impediment for such Trustee or such Trustee's firm to render professional or business services to the Trust and to be remunerated according to such capacity, irrespective of the fact that he may be a Trustee of the Trust.
- 24.3 Any Trustee shall be reimbursed for any expenses necessarily incurred in attending a meeting of the Trustees, provided that such expenses shall be limited to his actual travelling, accommodation and subsistence expenses.