

# THE FINANCIAL SERVICES TRIBUNAL

In the matter of:

**TRUSTCO GROUP HOLDINGS LIMITED**

Applicant

and

**JSE LIMITED**

Respondent

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**APPLICATION FOR RECONSIDERATION OF DECISIONS OF THE JSE LIMITED  
IN TERMS OF SECTION 230 OF THE FINANCIAL SECTOR REGULATION ACT,  
2017**

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## **1.1 PARTICULARS OF THE APPLICANT**

### *A. Applicant's Full Names and Legal Representatives*

The Applicant is Trustco Group Holdings Limited, a limited liability company duly incorporated in terms of the laws of Namibia (registration number: 2003/058) and registered as an external company in South Africa (registration number: 2009/002634/10), with its principal place of business at Trustco House, 2 Keller Street, Windhoek, Namibia ("**Trustco**").

Trustco is represented herein by Norton Rose Fulbright South Africa Inc ("**Norton Rose**")

### *B. Telephone Numbers*

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C. *Email Address*

John Bell (Norton Rose): [John.Bell@bakermckenzie.com](mailto:John.Bell@bakermckenzie.com)

D. *Business Address*

Applicant: Trustco House  
2 Keller Street  
Windhoek, Namibia

Norton Rose : 15 Alice Lane  
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## 1.2 PARTICULARS OF THE DECISIONS

1.2.1 An application for reconsideration is hereby noted against the decision-maker's (being the Respondent, JSE Limited) ("**JSE**") decisions (as defined in section 218 of The Financial Sector Regulation Act, 2017) contained in the JSE's decision letter, dated 13 December 2021 read with its letter dated 14 February 2022, attached hereto marked annexure "**X-1**" and "**X-2**" respectively.

1.2.2 The JSE's decisions are as follows:

1.2.2.1 that Trustco has failed to comply with the Listings Requirements and the JSE decision and in so doing, has disregarded the Financial Services Tribunal' decision; and

1.2.2.2 that the appropriate recourse for Trustco's aforementioned failures is to suspend the listing of its securities, as this would further the objectives of the Financial Markets Act and would manifestly be in the public interest.

### 1.3 GROUNDS

The grounds upon which the application is based are attached hereto, marked annexure "X-3".

**DATED at SANDTON on this the 18th day of FEBRUARY 2022**



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13 December 2021  
Ref: 111246/19-4/SC

The Company Secretary  
Trustco Group Holdings Limited

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Dear Sir/ Madam

#### **TRUSTCO GROUP HOLDINGS LIMITED ("TRUSTCO"): SUSPENSION OF LISTING OF SECURITIES**

1. We refer to the following:
  - 1.1 our letter of 3 December 2021, in which Trustco was informed that due to its non-compliance with the Listings Requirements, the decision of the JSE in its letter of 11 November 2020 (which was confirmed by Financial Services Tribunal) ("**the JSE Decision**") and the decision of the Financial Services Tribunal itself, upholding the JSE Decision, dated 22 November 2021 ("**the FST Decision**"), the JSE was considering suspending the listing of Trustco's securities ("**the proposed suspension**"); and
  - 1.2 the letter from Norton Rose Fulbright to the JSE, on Trustco's behalf, dated 7 December 2021 in response to the JSE's above letter ("**the NRF letter**").
2. It is necessary to record at the outset that the NRF letter is incorrect in contending that the JSE has already decided to suspend the listing of Trustco's shares. It is plain that the JSE expressly invited Trustco in its letter to "*make written representations to the JSE as to why such a suspension should not be affected.*" The JSE therefore sought in express terms Trustco's views in relation to why the proposed suspension should not be confirmed, and the NRF letter unfortunately proceeds from the wrong premise insofar as it assumed that the JSE already decided to suspend the listing of Trustco's securities.

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**Non-Executive Directors:** N Nyembezi (Chairman), ZBM Bassa, MS Cleary, VN Fakude, Dr SP Kana, FN Khanyile, IM Kirk, BJ Kruger, Dr MA Matookane, P Nhleko

**Group Company Secretary:** GA Brookes

3. In the circumstances, we consider the "*objections*" raised in paragraph 14 and 15 of the NRF letter (which are clearly intended to be Trustco's objections to the proposed suspension) to be Trustco's representations as to why the proposed suspension should not be confirmed. We deal with these representations on this basis below.

3.1 Firstly, considerable emphasis has been placed on the alleged difficulties that Trustco has with the FST Decision and its intended review thereof. Trustco seeks to rely on this as a basis to contend that the proposed suspension will be premature, as the JSE ought in Trustco's view to await the outcome of its intended review proceedings before considering the proposed suspension. The JSE does not agree with this contention for, *inter alia*, the following reasons:

3.1.1 The FST Decision is final, binding and immediately enforceable unless and until it is set aside; and its enforceability is not affected or automatically suspended by the institution of any proceedings to have it reviewed and set aside.

3.1.2 In any event, the effect of the FST Decision is that the JSE Decision is restored, as the Tribunal refused to interfere with the JSE Decision and dismissed Trustco's application for reconsideration.

3.1.3 The JSE does not intend to enforce the FST Decision (save in respect of the cost order if that is required, which will be done later) in the form of a civil judgment as contemplated in section 236 of the Financial Sector Regulation Act, 2017 ("**FSRA**"). Instead, the JSE seeks to enforce the JSE Decision as it would have had there been no application for reconsideration at all. Section 236 of the FSRA accordingly does not find application.

3.2 Secondly, Trustco contends that it requires more time to consider the effect of the FST Decision and how to implement the FST Decision. The JSE does not agree with this for the following reasons:

3.2.1 As noted above, it is not the FST Decision that needs to be implemented but instead, the JSE Decision which was effectively confirmed by the FST Decision to dismiss Trustco's application for reconsideration. Importantly, the JSE Decision directs Trustco as to how the relevant financial statements need to be restated.

- 3.2.2 The JSE Decision was taken over a year ago and Trustco accordingly had a year to consider and take advice on it, in the knowledge that its challenges to the JSE Decision may prove to be unsuccessful.
- 3.2.3 In any event, the confirmation that Trustco will review the FST Decision confirms that it has already formed a view on such decision and accordingly does not require any further time to consider it.
- 3.2.4 As regards the alleged concerns regarding the potential liability of Trustco's directors, it is not clear why this has been raised in the NRF letter, as this has nothing to with Trustco and its obligation to comply with its legal obligations.
- 3.3 Trustco's contention that the FST Decision did not confirm the reconsidered decision or find that it was correct is plainly incorrect. The FST Decision clearly aligns with the submissions advanced by the JSE in all material respects and moreover, as stated above, by dismissing Trustco's application for reconsideration, the JSE Decision was effectively upheld.
- 3.4 Thirdly, Trustco contends that the proposed suspension should not be confirmed because it would cause harm to Trustco itself and to its shareholders. In considering whether to suspend the listing of Trustco's shares, the JSE is required to consider whether it would promote the objectives of the Financial Markets Act, 2012 ("**FMA**") which, *inter alia*, includes whether or not it is in the public interest to do so. In the JSE's view, Trustco's concerns as aforesaid are outweighed by the need to hold Trustco accountable for its refusal to comply with the Listing Requirements and the JSE Decision, and its consequent disregard of the FST Decision. The JSE is of the view that the proposed suspension is necessary to satisfy the objectives of the FMA and it is manifestly in the public interest. What Trustco is required to do involves restating its financial statements in an amount in excess of N\$ 2 billion. The JSE considers that this is important information which the public must be told.
4. Lastly, in regard to Trustco's requests for information, the JSE is of the view that Trustco already has all of the information that it requires to respond to the JSE's request for written representations regarding the proposed suspension. The JSE accordingly declines to provide same.

**Decision by the JSE**

5. Having carefully considered all relevant facts and information, including those contained in the NRF letter, the JSE has decided that Trustco has failed to comply with the Listings Requirements and the JSE decision and in so doing, has disregarded the FST Decision. The JSE has also decided that the appropriate recourse for Trustco's aforementioned failures is to suspend the listing of its securities, as this would further the objectives of the FMA and would manifestly be in the public interest.
6. The JSE notes Trustco's requests for undertakings and its threat of urgent court proceedings if such undertakings are not provided. In light of the fact that Trustco misconstrued the proposed suspension as being a decision already made by the JSE, this threat is clearly premature. In any event the JSE declines to provide the undertaking sought.
7. Now that the JSE has confirmed its decision, should Trustco be dissatisfied with the decision, its remedy is to object to the decision in accordance with paragraph 1.4 of the Listings Requirements.
8. Should Trustco wish to object to the JSE's decision to suspend the listing of Trustco's shares, the JSE must be notified and written reasons for such objection must be furnished to the JSE by no later than close of business on Friday, 17 December 2021.

Yours Faithfully



**AM DE BRUYN: GENERAL MANAGER  
ISSUER REGULATION**

14 February 2022

The Company Secretary  
Trustco Group Holdings Limited

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Dear Sirs

**JSE LIMITED ("THE JSE") // TRUSTCO GROUP HOLDINGS LIMITED ("TRUSTCO"): SUSPENSION OF LISTING OF SECURITIES**

1. We refer to the JSE's decision to suspend the listing of Trustco's securities ("**the Suspension Decision**") and following:
  - 1.1 the correspondence exchanged between the JSE, Trustco and the parties' respective legal representatives between 3 December 2021 to date, with particular reference to:
    - 1.1.1 the JSE's letter to Trustco, dated 11 November 2020 ("**the JSE's Decision**");
    - 1.1.2 the JSE's letter to Trustco confirming the Suspension Decision, dated 13 December 2021;
    - 1.1.3 the letter from Norton Rose Fulbright to the JSE setting out its objections to the Suspension Decision, dated 17 December 2021 ("**the Objection Letter**");
    - 1.1.4 the letter from Webber Wentzel to Norton Rose Fulbright, dated 20 January 2022 and Norton Rose Fulbright's response thereto, dated 26 January 2022;
  - 1.2 Trustco's audited financial statements for the year ending 31 August 2021, published on 1 February 2022 ("**Trustco's AFS**").
2. As you are aware, following receipt of the Objection Letter, in which it was contended that the implementation of the Suspension Decision would be premature prior to the publication of Trustco's AFS, the JSE confirmed, through Webber Wentzel's 20 January 2022 letter, that it would await sight of Trustco's AFS before making its decision on whether to uphold Trustco's objection to the Suspension Decision.
3. Having considered Trustco's AFS, as well as all other relevant facts and information contained in the Objection Letter, the JSE has decided to dismiss Trustco's objection to the Suspension Decision. In doing so, and having regard

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**Group Company Secretary:** GA Brookes

**JSE Limited Reg No:** 2005/022939/06 Member of the World Federation of Exchanges



to the significance of the Suspension Decision, the JSE will simultaneously with the sending of this letter, publish a SENS announcement confirming its decision, a copy of which is annexed to this letter marked "A".

4. As Trustco has made clear its intention to seek a suspension of the Suspension Decision, the JSE confirms that it will not immediately implement the Suspension Decision. In this regard, we are instructed to record that:

4.1 should Trustco wish to initiate any legal proceedings, and obtain the relief it deems necessary to obtain, on an urgent basis, in the form of an order from a competent tribunal directing that the implementation of the Suspension Decision is suspended pending the outcome of an application for reconsideration of such decision, such process must be initiated and delivered by 15h00 on Friday, 18 February 2022;

4.2 upon receipt of such process, the JSE will suspend the implementation of the Suspension Decision until 15h00 on 11 March 2022, to allow for these proceedings of first instance to run their course;

4.3 if Trustco does not initiate and deliver any legal process by 15h00 on 18 February 2022, or if it does so, but in any event fails to obtain the appropriate relief by 15h00 on 11 March 2022, the JSE will immediately implement the Suspension Decision without further notice to Trustco.

5. We confirm that Webber Wentzel is authorised to accept service of any process in this regard on behalf of the JSE.

Yours faithfully



**A F VISSER: DIRECTOR  
ISSUER REGULATION**

## ANNEXURE X-3

### GROUND FOR APPLICATION FOR RECONSIDERATION IN TERMS OF SECTION 230 OF THE FINANCIAL SECTOR REGULATION ACT, 2017

#### PARTIES

- 1 Trustco Group Holdings Limited (the applicant in this matter) ("**Trustco**") is a Namibian company listed on the JSE Limited ("**JSE**") and the Namibian Stock Exchange.
- 2 The JSE is the respondent in this matter.

#### NATURE OF THE APPLICATION

- 3 This is an application for reconsideration of the JSE's decision to suspend Trustco's listing on the JSE main board ("**the Suspension Decision**").
- 4 The application is brought in terms of section 230 of the Financial Sector Regulation Act, 7 of 2019 ("**the FSR Act**"). Trustco seeks to have the Suspension Decision set aside as contemplated in section 234(a) of the FSR Act.

#### BACKGROUND

- 5 On 22 November 2021 the Financial Services Tribunal handed down an award ("**the Award**") in a reconsideration application brought by Trustco against a decision of the JSE in terms of which Trustco was required to restate: (i) its annual financial statements for the year ending 31 March 2019; and (ii) interim results for the 6 months ended 31 September 2019.
- 6 On 3 December 2021 the JSE informed Trustco that it is considering a suspension of Trustco's listing due to Trustco purportedly: (i) having failed to comply with important provisions of the JSE Listings Requirements ("**the Listings Requirements**"); (ii) failed to take the necessary and appropriate steps to ensure that it complies with the Listings Requirements; and (iii) having no intention of complying with the Listings Requirements and the Award. Trustco was afforded an opportunity in terms of paragraph 1.7 of the Listings Requirements to make written representations as to why its listing should not be suspended. A copy of the letter is attached as "**A.1**".
- 7 On 9 December 2021 Trustco responded to the JSE and which letter is attached as "**A.2**".

- 8 On 13 December 2021 the JSE informed Trustco that it has made the Suspension Decision. A copy of the letter is attached as “**A.3**”.
- 9 On 14 December 2021, Norton Rose Fulbright on behalf of Trustco sought confirmation as to the authority of the decision makers of the JSE that amongst others made the Suspension Decision. A copy of the letter is attached as “**A.4**”.
- 10 On 15 December 2021, Webber Wentzel on behalf of the JSE responded to Norton Rose Fulbright dealing with Trustco’s queries as to the authority of the decision makers and the lawfulness of the decisions taken by the JSE. A copy of the letter is attached as “**A.5**”
- 11 Trustco, in exercising its rights under paragraph 1.4 of the Listings Requirements and on 17 December 2021 objected to the Suspension Decision. Trustco further requested an opportunity to make oral submissions to the body who would hear the objection. Copies of the objection and the subsequent correspondence regarding the oral submissions are attached as “**A.6**”; “**A.7**”; “**A.8**” and “**A.9**”.
- 12 Trustco in its letter of 26 January 2022 in response to Webber Wentzel’s letter of 20 January 2022 (A.8) informed the JSE how it is endeavouring to inform the market of the restatements ordered in terms of the Award but as an interim measure pending a review. It also sought to engage with the JSE if the JSE had a fundamental difficulty with the way in which the AFS reflected the restatements. A copy of the letter is attached as “**A.10**”
- 13 On 31 January 2022, Trustco published its audited financial statements for the year ending 31 August 2021. A copy of certain relevant extracts of the AFS are attached as “**A.11**.” The full AFS will undoubtedly form part of the record to be provided by the JSE.
- 14 The JSE was not willing to meet with Trustco to discuss the AFS and its presentation of the restatements. As a consequence and on 14 February 2022 the JSE confirmed that Trustco’s objection was dismissed and that the Suspension Decision was final. A copy of the letter is attached as “**A.12**”.

## **LEGISLATIVE FRAMEWORK**

- 15 The JSE’s powers to suspend an issuer’s listing is derived from:

15.1 Sections 11(1)(g)(iv) and 12 of the Financial Markets Act, 19 of 2012 (“**FM Act**”)<sup>1</sup>; and

15.2 Paragraph 1.1(a) and paragraph 1.6 of the Listings Requirements.

16 Section 11(1)(g)(iv) of the FM Act provides as follows:

“(g) *for any contravention of or failure to comply with the listing requirements, any one or more of the following penalties that may be imposed by the exchange or by a person to whom the exchange has delegated its disciplinary functions:*

...

(iv) *suspension or termination of listing;*

...”

17 Section 12(1) and (2) of the FM Act provides as follows:

**“12. Removal of listing and suspension of trading**

(1) *An exchange may, subject to this section, the exchange rules and the listing requirements, remove securities from the list, even to the extent that a removal may have the effect that an entire board or substantial portion of the board on the exchange is closed, or suspend the trading in listed securities, if it will further one or more of the objects of this Act referred to in section 2.*

(2) *An exchange must, subject to subsection (3), before a removal or suspension referred to in subsection (1)—*

(a) *inform the issuer of its intention to remove or suspend;*

(b) *give the issuer the reasons for the intended removal or suspension; and*

(c) *call upon the issuer to show cause, within a period specified by the exchange, why the removal or suspension should not be effected”*

18 Paragraph 1.6 of the Listings Requirements provide as follows:

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<sup>1</sup> Previously section 13 of the Securities Services Act, 2004 (“**the SS Act**”). The SS Act was repealed and replaced with the Financial Markets Act with effect from 3 June 2013.

*“The JSE may, subject to the suspension provisions of the FMA, and if either of the following applies:*

- (a) if it will further one or more of the objects contained in Section 2 of the FMA, which may also include if it is in the public interest to do so; or*
- (b) if the applicant issuer has failed to comply with the Listings Requirements and it is in the public interest to do so, suspend the listing of securities of an applicant issuer and impose such conditions as it may, in the circumstances, deem appropriate for the lifting of such suspension.”*

19 From the correspondence received and dealt with above it appears that the purported basis for the Suspension Decision is paragraph 1.6(b) above.

## **RECONSIDERATION GROUNDS**

20 At the outset, the submissions made by Trustco as encapsulated by the correspondence attached should be read as if specially incorporated herein. The main reconsideration grounds are however detailed below.

### **21 THE DECISION MAKER LACKS AUTHORITY**

21.1 The JSE confirmed, per Webber Wentzel’s letters of 15 and 22 December 2021 that Mr AF Visser (“**Visser**”), in his capacity as Director: Issuer Regulation Division, took, amongst others, the Suspension Decision.

21.2 Visser purportedly had authority to do so by virtue of a delegation of authority by the JSE’s board of directors as contemplated by section 68 of the FM Act.

21.3 It however subsequently appeared that Visser obtained the authority by means of a resolution passed by the JSE’s board of directors pursuant to section 58 of the Securities Services Act, 2004 (being the predecessor to section 68 of the FM Act) and section 72 of the Companies Act, 2008 (“**the Companies Act**”). A copy of the resolution is attached to Webber Wentzel’s letter of 22 December 2021 which is attached as “**A.7**” (“**the Resolution**”).

21.4 The Tribunal is referred to paragraph 2 of the Resolution.<sup>2</sup>

21.5 Section 72 of the Companies Act authorises the delegation of authority by a board of directors to a committee of the board of directors. In this regard:

- (1) Firstly, it is not apparent that Visser is the head of the Issuer Division as contemplated by the Resolution;
- (2) Secondly, a committee cannot comprise of only one person – which Visser appears to be as the sole decision maker; and
- (3) Thirdly, clause 12.11.1 of the JSE’s Memorandum of Incorporation (attached as “**B**”) provides that “*all members of these committees must be Directors*”. Visser is not a director of the JSE albeit that he holds a title of directorship of a division of the JSE which in itself is not legally correct.

21.6 Insofar as the JSE’s board sought to resolve to delegate its authority and powers under section 68 of the FM Act to Visser, such resolution is ultra vires the JSE’s MOI and the Companies Act. As a consequence Visser did not have the necessary authority to make the Suspension Decision and the decision is therefore also ultra vires and of no force and effect.

21.7 On this basis alone the Suspension Decision stands to be set aside. Trustco nevertheless and if the Tribunal finds that Visser did have the necessary authority to make the Suspension Decision, raises below further reconsideration grounds.

## 22 THE SUSPENSION DECISION IS PREMATURE

22.1 It is submitted that the Suspension Decision is premature for two reasons, each to be dealt with below.

### 22.2 Section 236 of the Financial Sector Regulation Act, 2017 (“the FSR Act”)

- (1) The JSE was informed that Trustco intended to review the Award in terms of the right afforded to it in terms of section 235 of the FSR Act and the Rules. Trustco, on 31

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<sup>2</sup> Contrary to the Resolution, the Listings Requirements and the Issuer Regulation Conflicts of Interest Policy reflects that the board delegated its authority to the management of the Issuer Division.

January 2022, launched the review application in the High Court, Pretoria under case number 5640/2022 (“**Review Application**”).

- (2) The Suspension Decision is the JSE’s process of enforcing the Award made by the Tribunal. The validity and legality of the Suspension Decision is wholly dependent on the validity and legality of the Award and can only be enforced if the Award is enforceable.
- (3) Enforcement of the Award is regulated by section 236 of the FSR Act which provides as follows:

**“236. Enforcement of Tribunal orders.—**

- (1) *A party to proceedings on an application for reconsideration of a decision may file with the registrar of a competent court a certified copy of an order made in terms of section 234 if:*
  - (a) *no proceedings in relation to the making of the order have been commenced in a court by the end of the period for commencing such proceedings; or*
  - (b) *if such proceedings have been commenced, the proceedings have been finally disposed of.*
- (2) *The order, on being filed, has the effect of a civil judgment, and may be enforced as if lawfully given in that court.”*

- (4) A proceeding under section 236 (1) of the FSR Act includes a review as contemplated in section 235 of the FSR Act.
- (5) It is trite that Trustco has 180 days under the Promotion of Administrative Justice Act, 2000 (“**PAJA**”) to review the Award. That time-period lapses on 21 May 2022.
- (6) As such, no enforcement of the Award can be pursued until such time as either the time period for launching such a review has lapsed or the review has been finally determined.

- (7) In any event, and as mentioned, Trustco launched the Review Application on 31 January 2022.
- (8) The Suspension Decision is therefore premature and illegal as it seeks to enforce the Award prior to the lapse of the review period, whilst the Review Application is pending and is therefore in contravention of the express provisions of section 236 of the FSR Act.

### 22.3 Publishing of the 2021 AFS

- (1) The Award and the JSE's underlying decision requires a restatement of the 2019 financial statements mentioned in the introductory paragraphs hereof.
- (2) Given the date of the Tribunal's decision (22 November 2021), it is frankly impossible for it to be implemented in the period of time between the decision that the JSE purportedly decided that there was a breach of the Listing Requirements, i.e. 3 December 2021.
- (3) Given that the JSE's decision requires a restatement of audited financial statements, which involves complex commercial transactions with far reaching consequences, the earliest Trustco can possibly and legitimately be expected to give effect to the JSE and Tribunal's decision / the Award is when it will be in a position to publish its next audited financial statements which would then: (i) reflect the restatements that the JSE required; (ii) be audited; and (iii) signed-off by the Trustco's board of directors.
- (4) This position is accepted by the JSE if regard is had to Webber Wentzel's letter of 22 December 2021.
- (5) Trustco's 2021 AFS was due by 31 December 2021 but, mainly as a result of the timing of the Award in relation to the publication date and in light of the extensive work that had to be undertaken by both Trustco and its auditors in relation to such restatements, publication could to the JSE's knowledge only take place by 31 January 2022.



- (6) It is also to be noted that the JSE made the Suspension Decision at the time on the apparent assumption that Trustco refused to restate – this was gainsaid on a number of occasions where Trustco made it clear that it was, notwithstanding its decision to review the Award.
- (7) As such the Suspension Decision was premature and invalid as it was made prior to the date by when Trustco could practically give effect to the Award by making the restatements and without there being any legitimate basis to suggest that Trustco refused to give effect to the Award
- (8) For the JSE to contend in its letter of 14 February 2022 dismissing the objection that they have now reviewed the 2021 AFS thereby rendering the decision no longer premature in this regard, is incorrect. The decision was already taken, the objection ought to have been upheld and the JSE should have commenced the process afresh.

## 23 **PUBLIC INTEREST AND PROMOTING THE OBJECTIVES OF THE FM ACT**

23.1 The JSE contends, in support of the Suspension Decision, that a suspension would be in the public interests and will promote the objectives of the FM Act.

23.2 This is evidently not correct, given that:

- (1) The market is well aware of the JSE's decision and the Tribunal's decision as conveyed to them through the various SENS announcements and published on Trustco's website;
- (2) A suspension is not going to provide the market or the public with any further information than they either do not already know or that is in the public domain;
- (3) The annual financial statements published on 31 January 2022 makes specific reference to the restatements as required in terms of the Award and clearly demonstrates, as an interim measure pending the outcome of the Review Application, how these restatements would effect the annual financial statement in their current form.

- (4) The difference between Trustco and the JSE's positions is an interpretation of IFRS accounting standards, and is not a situation where there is any suggestion or element of fraud or manipulation of financial statements;
- (5) Trustco's minority shareholders have confirmed through a non-binding vote that they agree with Trustco's financial treatment of the underlying transactions; and
- (6) There remains, by virtue of what is stated above, a live and *bona fide* dispute as to whether Visser and the Tribunal's decisions are correct, whether they should be implemented and then also whether Trustco has in fact breached any Listings Requirement.

23.3 Moreover, the JSE has also failed to consider and properly evaluate the consequences of a successful review application in circumstances where the JSE has suspended Trustco's listing. This would necessitate a reinstatement after a significant period of time with Trustco and its shareholders suffering immense and irreparable financial and reputational prejudice which the JSE has not sought to indemnify Trustco for. This to be weighed against absolutely no prejudice to the market given their knowledge of the matter as explained above.

23.4 In view of the above, the Suspension Decision seeks, not as the JSE suggest, to be in the interest of the public but is in fact quite obviously aimed at implementing punitive measures which is wholly inappropriate and premature but is also capricious, arbitrary and irrational.

## 24 **NON-COMPLIANCE WITH THE FM ACT AND LISTINGS REQUIREMENTS AND BIASED DECISION MAKING**

24.1 The JSE has, despite being requested to do so, failed to confirm which Listing Requirement has purportedly been breached by Trustco as per its allegation in its 3 December 2021 letter – and which forms the very basis of its decision to suspend.

24.2 It is trite from a reading of section 12 of the FM Act and paragraph 1.6 of the Listings Requirements that a suspension decision can in these circumstances only be made if a proper reasons for the suspension has been given coupled with there being a breach (or failure to comply with) the Listings Requirements.

24.3 In the circumstances, and absent confirmation as to which Listing Requirement has been breached, the basis of such allegation and also reasons as to why it would be in the public interest to suspend Trustco's listing:

- (1) The decision was made without providing Trustco with proper reasons as to why the Sanctions Decision was made;
- (2) Trustco is deprived of the right to in the first instance address the JSE in relation to such decision which (as contemplated in paragraph 1.7 of the Listing Requirements and the FM Act) which in turn renders the entire suspension decision making process contrary to the Listing Requirements and the FMA;
- (3) The Suspension Decision then lacks a legal basis and is not authorised by any empowering provision; and
- (4) Trustco is prejudiced in its ability to properly object to the Suspension Decision, again contrary to both the Listing Requirements and the FM Act, and is left to base its objections on both conjecture and assumptions, which impedes its rights to a fair and just process.

24.4 The Sanctions Decision was therefore made in contravention of both the FM Act and the Listings Requirements.

24.5 The JSE's approach unfortunately also confirms that the Suspension Decision was a foregone conclusion, which is exacerbated by the fact that the decision and any submissions made in respect thereof had to be made to the same person, i.e. Visser. It is evident that Visser was biased in his decision making which in turn provides a further basis for the Suspension Decision to be set aside.

## **CONCLUSION**

25 For the reasons advanced above, it is submitted that the Sanctions Decision stands to be set aside. The flaws on the part of the JSE as highlighted can furthermore not be remedied and as such there is no sense in referring it back to the JSE.

- 26 Although the Tribunal can only make an order as to costs in exceptional circumstances, it is submitted that such exceptional circumstances exist in this matter. The JSE was on numerous occasions, as can be gleaned from the correspondence attached to this application, advised of the defective nature and inappropriateness of the Sanctions Decision.
- 27 The JSE has however sought to ignore these and persist with the Sanctions Decision in what Trustco would contend was done in a biased and vindictive manner. Trustco accordingly also seeks an order for costs.
-

3 December 2021

111246/19-4/SC

Mr W Geysler

The Audit Committee Chairperson

Trustco Group Holdings Limited

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Stock Exchange

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Dear Sir

### **PROACTIVE MONITORING OF ANNUAL FINANCIAL STATEMENTS (“AFS”)**

1. We refer to our letter dated 26 November 2021. Trustco has failed to comply with important provisions of the JSE’s Listings Requirements and the JSE’s decision in this regard has been confirmed by the Financial Service Tribunal. It is of obvious and serious concern that Trustco’s published financial information was incorrect, misleading and did not comply with important provisions of the Listings Requirements and IFRS and that this untenable state situation has been continuing for a period of more than two years.
2. The serious concerns set out above are further exacerbated by Trustco’s failure and refusal to take the necessary and appropriate steps to ensure that it complies with the Listings Requirements and the decisions of the JSE and the Financial Services Tribunal. It is readily apparent from the contents of Trustco’s announcement of the 1<sup>st</sup> of December 2021 that it has no intention of complying with the Listings Requirements and the decisions of the JSE and the Financial Services Tribunal. It is indeed startling that Trustco has attempted to somehow make compliance with the Listings Requirements and the JSE and the Financial Services Tribunal’s decisions dependent on, or subject to shareholders’ approval.
3. Neither Trustco, its directors, its shareholders and/or its advisors are empowered to endorse or approve a course of action that is contrary to and in conflict with the provisions of the Listings Requirements and the decisions of the JSE and the Financial Services Tribunal.

**Executive Directors:** Dr L Fourie (Group CEO), A Takoorden (CFO)

**Non-Executive Directors:** N Nyembezi (Chairman), ZBM Bassa, MS Cleary, VN Fakude, Dr SP Kana, FN Khanyile, IM Kirk, BJ Kruger, Dr MA Matooane, P Nhleko

**Group Company Secretary:** GA Brookes

4. The JSE's licensed duties and functions are set out in peremptory terms in section 10 of the Financial Markets Act. The JSE is obliged to enforce its Listings Requirements and to ensure that issuers and their directors comply, in all aspects with these Requirements. Conversely, issuers listed on the JSE and their directors are obliged to provide the JSE with an unequivocal undertaking that they will comply with the Listings Requirements (see 1.1 of Schedule 1).
  
5. In these circumstances, the JSE is considering the suspension of the listing of Trustco's securities due to its failure to comply with important provisions of the Listings Requirements and its refusal to take the necessary steps to ensure that it complies, in all aspects with the Listings Requirements and the decisions of the JSE and the Financial Services Tribunal. The JSE is also of the view that the proposed suspension would be in the public interest and will further the objects of the Financial Markets Act. Trustco's failure to comply with important provisions of the Listings Requirements and its refusal to take the necessary and appropriate corrective action are contrary to the objectives of the Financial Markets Act, destructive of their very purpose and can never said to be in the public interest.
  
6. In terms of paragraph 1.7 of the Listings Requirements, we hereby give Trustco the opportunity to make written representations to the JSE as to why such a suspension should not be affected.
  
7. We await your response on or before 10 December 2021.

Yours faithfully



**A F VISSER: DIRECTOR  
ISSUER REGULATION**

9 December 2021

By Email: [andrev@jse.co.za](mailto:andrev@jse.co.za)

Mr A F Visser  
Issuer Regulation  
Johannesburg Stock Exchange



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**Your reference**      **Our reference**  
111246/19-4/SC      TGH1/ Mr J Bell

Dear Sirs

### Trustco Group Holdings Ltd

1 As you are aware, we represent Trustco Group Holdings Ltd (“**Trustco**” or “**our client**”).

### Response Time

- 2 We refer to your letter dated 3 December 2021, sent to our client’s audit committee chairman, Mr Geyser, but not to any other representatives of our client. Our instructions are that due to the letter having been password protected, a readable copy was only provided to our client on 7 December 2021.
- 3 Given the complexity and potential impact of the issues involved and the fact that the letter was only received on 7 December 2021, it is unfortunately impossible for our client to respond to your letter at such short notice and on or before 10 December 2021. Even if our client received the letter on 3 December 2021 we would have had to ask for an extension of at least 10 days after we received the additional information requested below.

### Implementation of the Tribunal’ decision

- 4 Despite the assertion in your letter of 3 December 2021 that “*Trustco has no intention of complying with the listing requirements and the decision of the JSE and the Financial Tribunal*”, our client assures you that no such decision was taken by its Board of Directors.
- 5 It appears that the JSE has lost sight of the fact that a restatement of financial statements of this magnitude and complexity in relation to matters dating back some three years requires significant consideration and time both by our client and its advisors. Our client and its advisors will need to obtain independent advice on the issues, and how to treat and practically implement the Tribunal’s decision. The completion of this exercise will be further delayed given the time of year and the upcoming festive season.
- 6 Our client, and its advisors, have every right to give proper consideration the content of the decision and its practical impact. They should, in order to ensure accurate reporting to the market, be afforded sufficient time to attend to this. Furthermore, nothing precludes our client in the circumstances from raising the issues with, and taking guidance from, its shareholders. You would in this regard have noted the SENS announcement of 8 December 2021 which provides the prodigiously positive outcome of the matters voted on by the minority shareholders and which our client consider in future decisions.

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Norton Rose Fulbright South Africa Inc (Reg No 1984/003385/21) Directors: APM Robinson (Chairman) M van der Westhuizen (Chief Executive Officer) K Ainslie MH Alexander MS Ash SH Barnett JW Bell HI Bisset BE Botha GG Bouwer N Bowan PA Bracher DR Breier AJ Chappel M Chavous SL Chemaly MD Cossie C Costas MO Dale V David BM Denny D Dinnie MC Hartwell R Hendricks CR Holness DS Kapelus AV Kardamilakis SJ Kennedy-Good SS Khoza JM Kron S Lahri REF Lake PE Lamb S Makara EJ McCaul CJ Merrington JE Midlane GA Nott UN Odayar B Perrett RP Petersen CC Pillay DR Pillay CJ Pretorius GM Rademeyer L Rech D Reddy V Reddy AK Strachan I Swart DS Tatham HJ van Rensburg C van Vuuren AP Vos M Wagener JJ Whyte AP Williams LE Williams C Woolley

Consultant: N Botha AE Buckley PM Chronis AGS Dixon MJ Hart RJ Holwill GCB Kahle WP le Roux E Lamprecht P Naude L Oberholzer

Norton Rose Fulbright South Africa Inc, Norton Rose Fulbright LLP, Norton Rose Fulbright Australia, Norton Rose Fulbright Canada LLP and Norton Rose Fulbright US LLP are separate legal entities and all of them are members of Norton Rose Fulbright Verein, a Swiss Verein. Norton Rose Fulbright Verein helps coordinate the activities of the members but does not itself provide legal services to clients. Details of each entity, with certain regulatory information, are available at nortonrosefulbright.com.

- 7 Our client's right to seek guidance from its shareholders, and the alleged failure to take timeous steps to comply with the Tribunal's decision cannot be construed, as the JSE seems to do, as constituting some sort of general and blanket attempt to "*make compliance with the Listings Requirements and the JSE and the Financial Services Tribunal's decision dependent on, or subject to shareholders' approval.*"
- 8 A further issue of significant concern for our client and its Board of Directors is the impact of the JSE's so called Amended Corrective Action on the liability of Trustco's Board of Directors. The Amended Corrective Action requires the implementation of changes to financial statements that the Board of Directors must take legal responsibility for. However, the board is required by the JSE to do so in the absence of any consensual or contractual basis. In short, the JSE requires the Trustco Board to authorise a financial entry which are not supported by the true facts. Trustco's Board of Directors is therefore exposed to claims based on what it considers to be incorrect and false financial statements, for which the JSE (and its Board of Directors) have provided no indemnity. The JSE is invited by return to confirm whether it and its Board of Directors will provide such an indemnity to our client and its Board of Directors, if our client agrees or is coerced under pain of penalty to agree to such actions.

### **New Decision and Review**

- 9 It is apparent from the letter that the JSE has now made a decision that our client is not complying with the JSE Listing Requirements ("**the Non-Compliance Decision**"), albeit that there is no indication in your letter which particular JSE Listings Requirement have purportedly not been complied with.
- 10 We can only assume, that the Non-Compliance Decision is based on nothing more than the fact that our client has thus far not taken steps to comply with the Financial Services Tribunal's ("**the Tribunal**") decision of 23 November 2021.
- 11 In addition to the reasons for the delay as set out above, and from the analysis conducted to date, our client, and its advisors are of the view that the Tribunal's decision is incorrect and in fact reviewable.
- 12 You will therefore no doubt be cognisant of the fact that:
- 12.1 our client has 180 days to review the Tribunal's decision in terms of the *Promotion of Administrative Justice Act, 2000* ("**PAJA**") or any applicable law; and
- 12.2 the Tribunal's decision can only be enforced in accordance with section 236 of the *Financial Sector Regulation Act, 2017* ("**FSRA**") which process in turn can only ensue following the lapse of the above time-period if no review application has been launched.
- 13 We hereby confirm our instructions to bring the necessary review application within the time-frame afforded under PAJA.

### **Objections to the Non-Compliance Decision**

- 14 The Non-Compliance Decision coupled with the threat of suspending our client's listing on unilaterally imposed timelines, is:
- 14.1 firstly, premature as it:
- (1) fails to take into account the reasons for the delay in implementation as set out above;
  - (2) fails to take into account our client's right to review the Tribunal's decision; and
  - (3) seeks to impose a sanction without our client being given sufficient information and a reasonable opportunity to address the Non-Compliance Decision; and
- 14.2 secondly, nothing short of an attempt by the JSE to coerce our client into compliance with a decision that is based on an unlawful and reviewable decision by the Tribunal; and



- 14.3 thirdly, ill-founded in light of the provisions and purpose of section 236 of the FSRA in terms of which there is no obligation on our client at this juncture to act on the JSE's initial decision and the Non-Compliance Decision.
- 15 In addition to the above, and as the JSE itself points out, this matter has, through no fault of our client, been dragging on for more than two years. In the interim and prior to our client's reconsideration application, the JSE saw fit to publish a SENS informing the market of its initial decision which has now been followed by a further SENS informing the market of the Tribunal's decision. This coupled with Trustco's own SENS announcement has made the market well aware of the JSE, FRIP and Tribunal's decisions. Seeking to suspend our client's listing in the current circumstances, and whilst our client is entitled to exercise its rights under section 236 of the FSRA:
- 15.1 is severely prejudicial to our client, and will merely serve as a punishment for perceived non-compliance with some unidentified spirit - called substance - of IFRS. In fact, during the hearing before the Tribunal, it was conceded by the JSE's counsel that Trustco complied with IFRS, but, so it was contended, Trustco should have rather complied with IFRS's substance and not its form. In this regard:
- (1) You are unfortunately incorrect by asserting that the Tribunal confirmed the JSE's decision. The Tribunal never made such a finding.
  - (2) The Tribunal also did not find that the JSE was correct. The Tribunal simply applied the due deference principle in a clinical manner. In doing so, it caused a vitiating irregularity to occur. This aspect raises fundamental constitutional and legality issues which will be advanced in Trustco's review application. In short, the application of the due deference rule in circumstances where no deference - but only indifference - is shown to the business judgment of the Trustco Board of Directors, leaves the law at large to punish (while materially threatening the personal security) of directors who are simply doing their honest best, and while acting on the advice of JSE approved experts.
- 15.2 will cause, by result or design, significant damage to our client and its shareholders contrary to the intended purpose of both the *Financial Markets Act, 2012* and Listings Requirements; and
- 15.3 is, contrary to the JSE's unsubstantiated and disconcerting allegation, not in the public interest at all, which position is amplified by the overwhelmingly manner in which minority shareholders have voted per the SENS announcement of 8 December 2021.

### Objection and Undertakings

- 16 In the circumstances, and for the reasons above as well as the fact that the JSE has not articulated which JSE Listings Requirement has purported been breached or provided any factual or legal basis to contend that a suspension will be in the public interest, our client:
- 16.1 objects to the Non-Compliance Decision in terms of Listing Requirement 1.4 – subject to the right to supplement its reasons upon being provided with the further information requested below;
- 16.2 requires your unequivocal undertaking by no later than 17h00 on 13 December 2021 that our client's listing will not be suspended or any other sanction imposed on our client in relation to the alleged failure to adhere to the Tribunal's decision pending:
- (1) you providing our client with the detailed information requested below; and
  - (2) you providing our client a reasonable time to take advice and respond to your letter of 3 December 2021 and supplement the basis for its objection under Listing Requirement 1.4; and/or
  - (3) the outcome of the above objection process under Listing Requirement 1.4; and
  - (4) further written reasons in terms of Listing Requirement 1.7 in respect of any decision to suspend (which would follow from the objection process above and a further objection under Listing Requirement 1.4 to any such decision); and

- (5) the outcome of an application for reconsideration to the Financial Services Tribunal of the above two decisions; and/or
  - (6) the final determination of the review application.
- 17 If you are not prepared to give the undertakings sought then we hold instructions to approach the High Court on an urgent basis to suspend the Non-Compliance and/or Suspension Decision pending either the review or a reconsideration application and suspension application to the Financial Services Tribunal. Further, in the event that you are not prepared to give the undertakings sought, please advise by the above date (17h00 on 13 December 2021) when the JSE will seek to suspend the listing.

**Information required for Response**

- 18 For purposes of providing an answer to your letter of 3 December 2021, supplementing Trustco's objection grounds and in order to take a proper decision as to the implementation of the "Amended Corrective Action", we hold instructions to record the following:
- 18.1 In your letter 26 November 2021 you refer to the "Amended Corrective Action" and what appears to be a compulsory "restatement".
  - 18.2 In your letter of 3 December 2021, you also say that the "JSE is considering the suspension of the listing of Trustco securities".
- 19 Please provide us with:
- 19.1 the exact reference to the source of the JSE's powers, empowering the JSE to order Trustco to amend or restate its financial statements which have been approved by the Trustco Board of Directors on advice of JSE approved expert, and thereafter approved by the shareholders.
  - 19.2 the resolution(s) of the JSE Board of Directors, or the resolution(s) delegating such powers, and then of course, the resolution(s) of that body under clause 12.13.17 of the JSE's memorandum of incorporation to impose the "Amended Corrective Action";
  - 19.3 the resolution(s) of the JSE Board of Directors, or the resolution(s) delegating such power, and then of course the resolution(s) of that body under clause 12.13.17 of the JSE's memorandum of incorporation in terms of which a decision was made:
    - (1) to consider the suspension of the listing of the Trustco securities;
    - (2) finding that the "*JSE is also of the view that the suspension would be in the public interest*";
    - (3) finding that "*Trustco's failure to comply with the important provisions of the Listing Requirements and its refusal to take the necessary and appropriate action contrary to the objectives of the Financial Markets Act, is destructive of their very purpose*" and therefore it can "*never be said to be in the public interest*" not to suspend the Trustco securities; and
    - (4) determining that Trustco published financial information which was "*misleading*".
- 20 Under the circumstances, you will appreciate that our client will only be in a position to issue and release its Annual Financial Statements for the year ended 2021, after it received the requested information from the JSE. Once the information is received our client will need to discuss and consider the information in conjunction with its external advisors. Due to the magnitude and scale of information that will need to be considered and evaluated our client foresee that it will not be in position to release its Annual Financial Statement for the year ended 2021 by end of December 2021. Our client therefore request a further undertaking from the JSE, that it will not thread to suspend the trading of our client's shares until such time that the information a requested by our client has been provided and our client had a reasonable time to consider and evaluate its position with its external advisors.
- 21 Lastly, and with due respect, we hold instructions to point out that our client assumes that the same body which came to the firm conclusions (as asserted in your letter of 3 December 2021 to be the JSE itself), will not take any future decisions in respect of any possible suspension of Trustco securities.

9 December 2021

NORTON ROSE FULBRIGHT

- This must be so after a decision was taken that the proposed suspension “*would be in the public interest*” and that “*it can never be said to be in the public interest*” not to suspend the Trustco securities.
- 22 The firm conclusions referred to above have been reached and are clearly cast in stone. With respect, you will no doubt agree, that it will serve absolutely no purpose for Trustco to make submissions to a body with such firm and unalterable convictions. This is exacerbated by the fact that your letter of 3 December 2021, firmly asserts and concludes that Trustco’s published financial information “*was misleading*”. The latter issue is of serious concern to our clients, as the JSE has never before made such an allegation, let alone come to such a firm conclusion. This, with respect, rather unfortunate conviction of Trustco’s board members serves as an absolute bar for future participation in any process concerning Trustco on the issues under discussion.
- 23 Our failure to have dealt with each and every allegation in your letter under reply should not be interpreted as an admission thereof and we reserve the right to address it in the appropriate forum and at the appropriate time.
- 24 All our client’s other rights remain strictly reserved.

Yours faithfully



pp

John Bell  
Director  
Norton Rose Fulbright South Africa Inc

13 December 2021

Ref: 111246/19-4/SC

The Company Secretary  
Trustco Group Holdings Limited

Johannesburg  
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Via Email: [C/O dsteinbuch@vunanicapital.co.za](mailto:C/O_dsteinbuch@vunanicapital.co.za)

Dear Sir/ Madam

**TRUSTCO GROUP HOLDINGS LIMITED ("TRUSTCO"): SUSPENSION OF LISTING OF SECURITIES**

1. We refer to the following:
  - 1.1 our letter of 3 December 2021, in which Trustco was informed that due to its non-compliance with the Listings Requirements, the decision of the JSE in its letter of 11 November 2020 (which was confirmed by Financial Services Tribunal) ("**the JSE Decision**") and the decision of the Financial Services Tribunal itself, upholding the JSE Decision, dated 22 November 2021 ("**the FST Decision**"), the JSE was considering suspending the listing of Trustco's securities ("**the proposed suspension**"); and
  - 1.2 the letter from Norton Rose Fulbright to the JSE, on Trustco's behalf, dated 7 December 2021 in response to the JSE's above letter ("**the NRF letter**").
2. It is necessary to record at the outset that the NRF letter is incorrect in contending that the JSE has already decided to suspend the listing of Trustco's shares. It is plain that the JSE expressly invited Trustco in its letter to "*make written representations to the JSE as to why such a suspension should not be affected.*" The JSE therefore sought in express terms Trustco's views in relation to why the proposed suspension should not be confirmed, and the NRF letter unfortunately proceeds from the wrong premise insofar as it assumed that the JSE already decided to suspend the listing of Trustco's securities.

**Executive Directors:** Dr L Fourie (Group CEO), A Takoordeen (CFO)

**Non-Executive Directors:** N Nyembezi (Chairman), ZBM Bassa, MS Cleary, VN Fakude, Dr SP Kana, FN Khanyile, IM Kirk, BJ Kruger, Dr MA Matookane, P Nhleko

**Group Company Secretary:** GA Brookes

3. In the circumstances, we consider the "*objections*" raised in paragraph 14 and 15 of the NRF letter (which are clearly intended to be Trustco's objections to the proposed suspension) to be Trustco's representations as to why the proposed suspension should not be confirmed. We deal with these representations on this basis below.

3.1 Firstly, considerable emphasis has been placed on the alleged difficulties that Trustco has with the FST Decision and its intended review thereof. Trustco seeks to rely on this as a basis to contend that the proposed suspension will be premature, as the JSE ought in Trustco's view to await the outcome of its intended review proceedings before considering the proposed suspension. The JSE does not agree with this contention for, *inter alia*, the following reasons:

3.1.1 The FST Decision is final, binding and immediately enforceable unless and until it is set aside; and its enforceability is not affected or automatically suspended by the institution of any proceedings to have it reviewed and set aside.

3.1.2 In any event, the effect of the FST Decision is that the JSE Decision is restored, as the Tribunal refused to interfere with the JSE Decision and dismissed Trustco's application for reconsideration.

3.1.3 The JSE does not intend to enforce the FST Decision (save in respect of the cost order if that is required, which will be done later) in the form of a civil judgment as contemplated in section 236 of the Financial Sector Regulation Act, 2017 ("**FSRA**"). Instead, the JSE seeks to enforce the JSE Decision as it would have had there been no application for reconsideration at all. Section 236 of the FSRA accordingly does not find application.

3.2 Secondly, Trustco contends that it requires more time to consider the effect of the FST Decision and how to implement the FST Decision. The JSE does not agree with this for the following reasons:

3.2.1 As noted above, it is not the FST Decision that needs to be implemented but instead, the JSE Decision which was effectively confirmed by the FST Decision to dismiss Trustco's application for reconsideration. Importantly, the JSE Decision directs Trustco as to how the relevant financial statements need to be restated.

- 3.2.2 The JSE Decision was taken over a year ago and Trustco accordingly had a year to consider and take advice on it, in the knowledge that its challenges to the JSE Decision may prove to be unsuccessful.
- 3.2.3 In any event, the confirmation that Trustco will review the FST Decision confirms that it has already formed a view on such decision and accordingly does not require any further time to consider it.
- 3.2.4 As regards the alleged concerns regarding the potential liability of Trustco's directors, it is not clear why this has been raised in the NRF letter, as this has nothing to with Trustco and its obligation to comply with its legal obligations.
- 3.3 Trustco's contention that the FST Decision did not confirm the reconsidered decision or find that it was correct is plainly incorrect. The FST Decision clearly aligns with the submissions advanced by the JSE in all material respects and moreover, as stated above, by dismissing Trustco's application for reconsideration, the JSE Decision was effectively upheld.
- 3.4 Thirdly, Trustco contends that the proposed suspension should not be confirmed because it would cause harm to Trustco itself and to its shareholders. In considering whether to suspend the listing of Trustco's shares, the JSE is required to consider whether it would promote the objectives of the Financial Markets Act, 2012 ("**FMA**") which, *inter alia*, includes whether or not it is in the public interest to do so. In the JSE's view, Trustco's concerns as aforesaid are outweighed by the need to hold Trustco accountable for its refusal to comply with the Listing Requirements and the JSE Decision, and its consequent disregard of the FST Decision. The JSE is of the view that the proposed suspension is necessary to satisfy the objectives of the FMA and it is manifestly in the public interest. What Trustco is required to do involves restating its financial statements in an amount in excess of N\$ 2 billion. The JSE considers that this is important information which the public must be told.
4. Lastly, in regard to Trustco's requests for information, the JSE is of the view that Trustco already has all of the information that it requires to respond to the JSE's request for written representations regarding the proposed suspension. The JSE accordingly declines to provide same.

### Decision by the JSE

5. Having carefully considered all relevant facts and information, including those contained in the NRF letter, the JSE has decided that Trustco has failed to comply with the Listings Requirements and the JSE decision and in so doing, has disregarded the FST Decision. The JSE has also decided that the appropriate recourse for Trustco's aforementioned failures is to suspend the listing of its securities, as this would further the objectives of the FMA and would manifestly be in the public interest.
6. The JSE notes Trustco's requests for undertakings and its threat of urgent court proceedings if such undertakings are not provided. In light of the fact that Trustco misconstrued the proposed suspension as being a decision already made by the JSE, this threat is clearly premature. In any event the JSE declines to provide the undertaking sought.
7. Now that the JSE has confirmed its decision, should Trustco be dissatisfied with the decision, its remedy is to object to the decision in accordance with paragraph 1.4 of the Listings Requirements.
8. Should Trustco wish to object to the JSE's decision to suspend the listing of Trustco's shares, the JSE must be notified and written reasons for such objection must be furnished to the JSE by no later than close of business on Friday, 17 December 2021.

Yours Faithfully



**AM DE BRUYN: GENERAL MANAGER**  
**ISSUER REGULATION**

14 December 2021



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**Your reference**      **Our reference**  
111246/19-4/SC      TGH1/J Bell

Dear Madam

### **Trustco Group Holdings Limited ("Trustco"): Suspension of listing of securities**

1. We refer to the JSE's letter of 13 December 2021.
2. We do not intend in this correspondence to address the allegations in your letter under reply and will do so separately through the objection process in due course. Please note that all future correspondence on this matter is to be directed to our offices.
3. We have noted your failure to provide us with the information sought in our letter of 9 December 2021.
4. Unless we receive the resolutions and minutes of the following meetings on or before 15 December 2021, we shall accept (even if the JSE disputes Trustco's entitlement thereto while simultaneously not providing the requested documents) that no duly constituted meeting was held and no proper resolution is in place for, at least, the following purported decisions:
  - 4.1. the "decision" referred to by you as the "Amended Corrective Action";
  - 4.2. the "decision" as referred to in paragraph 19.3 of our letter of 9 December 2021; and
  - 4.3. the "suspension decision" as reflected in your letter dated 13 December 2021.
5. The JSE has held out, also to the public at large, that the above decisions have been properly taken at duly constituted meetings. The JSE should have no difficulty in locating the minutes and the resolutions and forwarding these to us. After all, the dates are known, and the resolutions must be consecutively numbered. By now, the minutes of the first two "decisions", must also have been approved.
6. As we have stated, any answer which has the effect that the JSE is not willing to provide the requested document will entitle Trustco to accept that no duly constituted meeting was held, and no lawful decision was ever made. This factual and legal position will then be conveyed to the relevant institutions, including the body to which Trustco's objection must be addressed as envisaged in your letter dated 13 December 2021.
7. The JSE's public pronouncements were disseminated to and read by the public at large, and assumed by Trustco (until your refusal to provide the requested resolutions) to have been validly taken. Similarly, any damages which were suffered by Trustco as a result of such publications to the public, were, until we received your letter dated 13 December 2021, assumed by Trustco to have been suffered as a result of decisions lawfully taken by duly authorised bodies at duly constituted bona fide meetings. Your refusal to adhere to the most elementary, albeit fundamental, duty - providing of information requested by Trustco -

TGH1 Resolution Request (211214)v2

Norton Rose Fulbright South Africa Inc (Reg No 1984/003385/21) Directors: APM Robinson (Chairman) M van der Westhuizen (Chief Executive Officer) K Ainslie MH Alexander MS Ash SH Barnett JW Bell HI Bisset BE Botha GG Bouwer N Bowman PA Bracher DR Breier AJ Chappel M Chavoux SL Chemaly MD Cossie C Costas MO Dale V David BM Denny D Dirnie MC Hartwell R Hendricks GR Holness DS Kapelus AV Kardamiliakis SJ Kennedy-Good SS Khoza JM Kron S Lahri REF Lake PE Lamb S Makara EJ McCaul CJ Merrington JE Midlane GA Nott UN Odayar B Perrett RP Petersen CC Pillay DR Pillay CJ Pretorius GM Rademeyer L Rech D Reddy V Reddy AK Strachan I Swart DS Tatham HJ van Rensburg C van Vuuren AP Vos M Wagener JJ Whyte AP Williams LE Williams C Woolley

Consultant: N Botha AE Buckley PM Chronis AGS Dixon MJ Hart RJ Holwill GCB Kahle WP le Roux E Lamprecht P Naude L Oberholzer

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14 December 2021

which apparently authorises coercive action, is not only unlawful but must immediately be rectified. Either by providing the requested documents, or by setting the record straight.

8. All our clients rights are reserved.

Yours faithfully



John Bell  
Director  
Norton Rose Fulbright South Africa Inc

**Norton Rose Fulbright**

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Your reference

J Bell  
TM/117526

Our reference

M Straeuli / P Mohanlall / D Harris  
3043858

Date

15 December 2021

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Dear Sir

## **TRUSTCO GROUP HOLDINGS LIMITED ("TRUSTCO"): SUSPENSION OF LISTING OF SECURITIES**

1. We act on behalf of the JSE Limited in the above matter ("**the JSE**").
2. The JSE has provided us with copies the following documents, to which we refer:
  - 2.1 the JSE's letter to Trustco Group Holdings Limited ("**Trustco**"), dated 11 November 2020 ("**the Amended Corrective Action**");
  - 2.2 the JSE's letter to Trustco Group Holdings Limited ("**Trustco**"), dated 3 December 2021 ("**the Proposed Suspension Letter**");
  - 2.3 your letter to the JSE, dated 9 December 2021 ("**your letter**");
  - 2.4 the JSE's letter to Trustco, dated 13 December 2021 ("**the Suspension Decision**"); and
  - 2.5 your letter to the JSE, dated 14 December 2021 ("**your letter**").
3. We have been instructed to address a response on behalf of the JSE to your letter, which we do below. In doing, we do not respond to each and every assertion in your letter, and the JSE reserves its right to do so in the future, should the need arise. The election not to respond is not an admission of those assertions that are not responded to.

20211215 Letter From WW To Nrf

**Senior Partner:** JC Els **Managing Partner:** SJ Hutton **Partners:** BW Abraham RB Africa NG Alp RL Appelbaum DC Bayman KL Beilings AE Bennett AP Blair AR Bowley J Braum MS Burger M Bux RI Carrim T Cassim SJ Chong ME Claassens C Collett KL Collier KM Colman KE Coster K Couzyn DB Cron PA Crosland R Cruywagen JH Davies PM Daya L de Bruyn PU Dela M Denenga DW de Villiers BEC Dickinson MA Diemont DA Dingley MS Dladla G Driver W Drue GP Duncan HJ du Preez CP du Toit SK Edmundson LF Egypt KH Eiser AE Esterhuizen MJR Evans K Fazel AA Felekis G Fitzmaurice JB Forman L Franca KL Gawith OH Geldenhuys MM Gibson CI Gouws PD Grealay S Haroun JM Harvey JS Henning KR Hillis Z Hlophe CM Holfeld PM Holloway AV Ismail ME Jarvis CA Jennings JC Jones CM Jonker S Jooste LA Kahn ACR Katzke M Kennedy KE Kilner A Keyser MD Kota JC Kraamwinkel J Lamb KJ Lebea E Louw M Mahlangu V Mannar L Marais G Masina T Masingi N Mbere MC McIntosh SJ McKenzie CS Meyer AJ Mills D Milo NP Mngomezulu P Mohanlall M Moloi N Moodley LE Mostert VM Movshovich C Murphy RA Nelson G Niven ZN Ntshona M Nxumalo AN Nyatumba A October L Odendaal GJP Olivier N Paige AMT Pardini AS Parry S Patel N Pather GR Penfold SE Phajane M Philippides BA Phillips MA Phillips DJ Rafferty D Ramjattan GI Rapson K Rew SA Ritchie J Roberts G Sader M Sader H Samsodien JW Scholtz KE Shepherd AJ Simpson N Singh N Singh-Nogueira P Singh S Sithole J Smit RS Smith MP Spalding PS Stein MW Straeuli LJ Swaine Z Swanepoel A Thakor T Theessen TK Thekiso C Theodosiou T Theunissen R Thavani G Truter PZ Vanda SE van der Meulen JP van der Poel CS Vanmail JE Veeran B Versfeld MG Versfeld TA Versfeld DM Visagie EME Warrington J Watson AWR Westwood RH Wilson KD Wolmarans DJ Wright M Yudaken

**Chief Operating Officer:** SA Boyd

4. The JSE notes that it is peculiar that your client is now concerned about the lawfulness of the decisions of the JSE, particularly its decision of 11 November 2020 which was taken more than a year ago and was the subject of your client's reconsideration application, where no objection was made to the taking of the decision. On the contrary your client proceeded on the basis that the decision was taken by an appropriately mandated person.
5. Nonetheless, we are instructed to address your client's concerns by confirming that the decisions referred to in your letter were taken by Mr Andre Visser in his capacity as Director of the JSE's Issuer Regulation division, acting in accordance with authority delegated to him by the JSE's board in terms of section 68 of the Financial Markets Act 19 of 2012.
6. In regard to the Suspension Decision letter, we are instructed to record that although this letter was signed by Ms AM De Bruyn, in her capacity as the General Manager of the Issuer Regulation division, the Suspension Decision was indeed taken by Mr Visser. Mr Visser was not in the JSE's office and available to sign the Suspension Decision Letter and asked Ms de Bruyn to sign it for him
7. We trust that the above addresses your client's queries.
8. We remind your client that the decisions taken by the JSE, stand and are operative until they are set aside or stayed. In those circumstances your client is required to comply with the decisions notwithstanding its views of the authority of the individual who took the decisions.
9. Our client's rights are reserved.

Yours faithfully

**WEBBER WENTZEL**

Michael Straeuli

Partner

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17 December 2021



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Dear Sir / Madam

**Your reference**      **Our reference**  
111246/19-4/SC      TGH1/J Bell

### **Trustco Group Holdings Limited ("Trustco"): Objection to suspension of listing of securities**

1. We refer to Mr Visser's letter of 13 December 2021.
2. In the letter you advised that Trustco should follow the procedure prescribed in paragraph 1.4 of the Listing Requirements. That paragraph 1.4 states that "an applicant issuer" who wants to object to a decision which "is taken under these Listing Requirements", may file an objection, for consideration by the JSE. We follow your advice and forward you this objection letter which should be considered by the correct independent body or members. We are not sure which exact body must consider the objection, but law and logic tells that Mr Visser cannot form part of this body. No person can be an "appellate body" with appellate jurisdiction over himself. Trustco furthermore request an opportunity to make oral representations to the independent body and also requires confirmation as to the identity of the members comprising this independent body.
3. Trustco follows the procedure as advised by you without prejudice to its rights as to the following:
  - 3.1. Mr Visser took the decision while his outcome was a foregone conclusion. That much we made clear in our letter dated 9 December 2021. He was disqualified to do so as a result of Trustco's legitimate concern that he has already made up his mind before he received our letter dated 9 December 2020. The fact that Mr Visser had already made up his mind, was not cured by his invitation to Trustco to persuade him to change his mind. A casual perusal of the relevant case law will inform that such a process constitute "rubber stamping", "a foregone conclusion" and "smokescreens".
  - 3.2. Mr Visser, all along, acted in an ultra vires manner. Even your attorney's letter of 15 December makes it plain and beyond dispute, that no resolution is in existence in terms of which the JSE board of directors duly and properly delegated the entire might of their coercive powers to one person. The JSE also does not have such a power, being a power to delegate to one person. If the JSE board of directors did so, they themselves acted in an ultra vires manner. As we have pointed out in our letter of 9 December 2021, the delegation powers of the JSE board of directors are proscribed and refer you to the JSE's Memorandum of Incorporation.
  - 3.3. Given this unfortunate state of affairs, Trustco demands that the JSE should immediately acknowledge Mr Visser's ultra vires actions, and to please take the necessary remedial steps by informing the market accordingly. The unfortunate truth appears to be that the market and the public at large are under the impression – caused by publications made on behalf of the JSE – that decisions made by Mr Visser were made by competent authorities, while the failure of Mr Visser and the JSE itself to provide Trustco with the relevant resolutions and minutes of meetings, unequivocally demonstrates the exact opposite.

TGH1 Objections (211217)final

Norton Rose Fulbright South Africa Inc (Reg No 1984/003385/21) Directors: APM Robinson (Chairman) M van der Westhuizen (Chief Executive Officer) K Ainslie MH Alexander MS Ash SH Barnett JW Bell HI Bisset BE Botha GG Bouwer N Bowan PA Bracher DR Breier AJ Chappel M Chavoux SL Chemaly MD Cossie C Costas MO Dale V David BM Denny D Dirnis MC Hartwell R Hendricks CR Holness DS Kapellus AV Kardamiliakis SJ Kennedy-Good SS Khoza JM Kron S Lahri REF Lake PE Lamb S Makara EJ McCaul CJ Merrington JE Midlane GA Nott UN Odayar B Perrett RP Petersen CC Pillay DR Pillay CJ Pretorius GM Rademeyer L Rech D Reddy V Reddy AK Strachan I Swart DS Tatham HJ van Rensburg C van Vuuren AP Vos M Wagener JJ Whyte AP Williams LE Williams C Woolley

Consultant: N Botha AE Buckley PM Chronis AGS Dixon MJ Hart RJ Holwill GCB Kahle WP le Roux E Lamprecht P Naude L Oberholzer

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4. While reserving all Trustco's rights, we now proceed to address the body who must hear Trustco's objections.
5. The suspension decision taken by Mr Visser ("**the Suspension Decision**") re-affirms the position adopted in our letter of 9 December 2021 in that the decision, for all intents and purposes, had already been taken by him at the time. It unfortunately appears that the outcome of the objection process will also be a foregone conclusion, if it is again decided by Mr Visser, and that an inevitable application for reconsideration coupled with an urgent application for suspension of the Suspension Decision before the Financial Services Tribunal is soon to follow. The only basis on which this can be cured is for an independent body with proper authority, or delegated authority, to set aside Mr Visser's decisions.
6. If an authorised independent body does not cure the fundamental defects in Mr Visser's decisions, it will lead to unnecessary, protracted and costly legal process to run in parallel with the review application to be instituted by Trustco. The impetuous manner in which Mr Visser acts as if he is duly authorised and even referred to himself in past letters as the "JSE" (while Trustco believed, it now turned out to be erroneously so, that he was indeed duly authorised and acted as a member of a duly authorised body or committee) is unfortunate and it neither serves the public interest nor those of Trustco's shareholders to enforce his decisions. That would have been the case even if Mr Visser was duly authorised. It is certainly not in line with the objects and purpose of the Financial Markets Act, 2012 ("**the FMA**") to enforce Mr Visser's decisions whether they are ultra vires or not.
7. Without prejudice to Trustco's right to supplement these grounds in any application for reconsideration to follow, Trustco objects to the Suspension Decision for the reasons set out in our letter of 9 December 2021 and also the following:
  - 7.1. As already stated, Mr Visser has failed to provide the resolutions requested in our 9 December 2021 letter and our subsequent letter of 14 December 2021. It is therefore apparent that no such resolutions exist and those who took the decisions, including the Suspension Decision, were not duly authorised and mandated to do so. Those decisions and the Suspension Decision are therefore unlawful and of no force and effect. They are nullities.
  - 7.2. Mr Visser, despite being requested to do so, has failed to confirm which JSE Listing Requirement has purportedly been breached by Trustco. Absent such a confirmation:
    - 7.2.1. Trustco is firstly deprived of the right to in the first instance address the JSE in relation to such decision which in turn renders the entire suspension decision making process contrary to the Listing Requirements and the FMA;
    - 7.2.2. The Suspension Decision is not founded on a legally sound basis and not authorised by any empowering provision; and
    - 7.2.3. Trustco is prejudiced in its ability to properly object to the Suspension Decision, again contrary to both the Listing Requirements and the FMA, and is left to base its objections on both conjecture and assumptions, which impedes its rights to a fair and just process.
  - 7.3. In our 9 December 2021 letter we made it abundantly clear that no decision has been taken on the part of Trustco to not implement the JSE and Tribunal's decision as they pertain to the restatement of the relevant financial statements. Although Trustco disagrees with the Tribunal's decision and has decided to review it, it does not detract from the aforesaid position. Trustco is investigating whether the decisions can practically be implemented pending a review but would naturally not wish to be in the unenviable position of having to restate the financials at this juncture simply to again, following a successful review, having to reverse the restatements. Such a situation would create absolute confusion in the market and not be in the public interest.
  - 7.4. Given the date of the Tribunal's decision (23 November 2021), it is frankly impossible for it to be implemented in the period of time between the decision that the JSE purportedly decided that there was a breach of the Listing Requirements (3 December 2021).
    - 7.4.1. To expect implementation in this short period of time is grossly unreasonable and demonstrates an absolute failure on the part of the JSE to appreciate the complexities and

implications of the Tribunal and the JSE's decision. This is not simply a quick correction and restatement that has to be effected.

- 7.4.2. Cognisance must be had to the Tribunal's decision, the complexity of the relevant transactions, their accounting, and the magnitude thereof. Numerous stakeholders must be consulted in the process to ensure that all interested parties positions are properly taken into account and that the decision is practically implementable. To suggest that Trustco had a year to conduct this exercise is with respect a paper-thin argument devoid of all sensibility. Those decisions were suspended pending final determination of the matter pending before the Tribunal.
  - 7.4.3. Moreover, the exercise does not simply entail the restatement of the financial statements but also potential unwinding of the underlying transactions as relevant parties to the transactions must reconsider whether or not they wish to proceed with the underlying transactions – unwinding of the transaction will in turn have further knock-on effects on the accounting of the transactions.
  - 7.4.4. Given that the JSE's decision requires a restatement of audited financial statements, the earliest Trustco can possibly and legitimately be expected to give effect to the JSE and Tribunal's decision is when it will be in a position to publish its audited financial statements which would then: (i) reflect the restatements that the JSE required; (ii) be audited; and (iii) signed-off by the Trustco's board of directors.
  - 7.4.5. Trustco has until 31 December 2021 to publish its annual audited financial statements. Mindful of the factors listed above, and to allow sufficient time for the auditors to conduct their audit and render an unqualified report, it is however anticipated that these will be published by no later than 31 January 2022 and the JSE has separately been engaged on this.
  - 7.4.6. The additional time required by Trustco is reasonable in the circumstances and also both fair and in the public interest, particularly given that the public would require audited financial statements, compliant with IFRS and on an unqualified basis. Trustco cannot be blamed for the timing of the Tribunal's decision in relation to the timing for filing of its financial statements.
  - 7.4.7. It is therefore submitted, that the Suspension Decision is at best pre-mature and cannot be enforced upon Trustco prior to the publishing of the audited financial statements. In short, Mr Visser's decision punishes Trustco before it breached any rule. Mr Visser simply assumes, despite Trustco's assurances to the contrary, that Trustco will definitely be non-compliant in future when its financial statements are published.
- 7.5. Contrary to the Mr Visser's position, the validity of his initial decision relating to the restatements are wholly dependent on the validity and legality of the Tribunal's decision. His decision can only have legal force and effect if the Tribunal's decision is valid and enforceable which enforcement process is regulated by section 236 of the Financial Sector Regulation Act, 2017.
- 7.5.1. It would be absurd to suggest that if any underlying decision, which receives its validation from a decision by the Tribunal, can simply continue to be enforced outside of the enforcement of the Tribunal's decision itself. Indeed, any review of the Tribunal's decision as provided for would then similarly serve no purpose at all – which underpins how Mr Visser is misconstruing the importance of section 236.
  - 7.5.2. It is furthermore untenable for the common law relating to a challenge to an administrative decision that it can be considered to take precedence over a statutory remedy and process of enforcement. Section 236 would in such circumstances simply be rendered superfluous which in turn cannot pass constitutional muster.
  - 7.5.3. Mr Visser is accordingly impermissibly seeking to subvert both the review of the Tribunal's decision and its enforcement process by now seeking to extricate himself from that decision.
  - 7.5.4. As such, Trustco persists in its position that an independent and authorised body which will consider the objections contained in this letter, cannot enforce Mr Visser's decision whether through the Sanctions Decision or otherwise pending the outcome of the review application to

be instituted by Trustco. As such and on this basis as well, Mr Visser's Sanctions Decision is both premature and illegal.

- 7.6. Mr Visser has also failed to consider and properly evaluate the consequences of a successful review application in circumstances where he has suspended Trustco's listing. This would necessitate a reinstatement after a significant period of time with Trustco and its shareholders suffering immense and irreparable financial and reputational prejudice which Mr Visser, or his employer, has not sought to indemnify Trustco for. This to be weighed against absolutely no prejudice to the market given their knowledge of the matter as explained below.
- 7.7. Mr Visser has persisted in his view and support of his decision that a suspension is purportedly in the interest of the public and promotes the objectives of the FMA. He has however again failed to provide any factual basis for this contention and in particular the purported weighting exercise referenced in paragraph 3.4 of its letter. Whilst again undermining Trustco's right to a fair process, it has in particular lost sight of the fact that:
  - 7.7.1. The market is well aware of the JSE's decision and the Tribunal's decision as conveyed to them through the various SENS announcements;
  - 7.7.2. A suspension is not going to provide the market or the public with any further information than they either do not already know or that is in the public domain;
  - 7.7.3. The difference between Trustco and the JSE's positions is an interpretation of IFRS accounting standards, and is not a situation where there is any suggestion or element of fraud or manipulation of financial statements;
  - 7.7.4. Trustco's minority shareholders have confirmed through the recent non-binding vote that they agree with Trustco's financial treatment of the transactions; and
  - 7.7.5. There remains, by virtue of what is stated above, a live and bona fide dispute as to whether Visser and the Tribunal's decisions are correct, whether they should be implemented and then also whether Trustco has in fact breached any Listings Requirement. Needless to say, had the Tribunal known that Mr Visser acted without any authority whatsoever, it would have set aside Mr Visser's decisions.
8. In view of the above, the Suspension Decision seeks, not as Mr Visser suggests, to be in the interest of the public but is in fact quite obviously aimed at implementing punitive measures which is wholly inappropriate and premature but is also capricious, arbitrary and irrational.
9. We accordingly would implore the independent body consisting of duly authorised persons who are considering this letter, to take an unbiased and pragmatic view in relation to the Suspension Decision and again mindful that this entire matter will be resolved through the review application.
10. However, should you nevertheless approve of Mr Visser's conduct and decisions, then mindful of the upcoming festive season and the unavailability of decision makers of both Trustco and the JSE as well as their advisors, the JSE is requested to undertake not to implement the suspension pending the outcome of an application for suspension of the Suspension Decision to the Tribunal and the outcome of Trustco's review application in the courts. .
11. We await your response and decision and in the interim Trustco's rights remain reserved including the right to address any aspect of Mr Visser's letters under reply which has not expressly been dealt with herein.

17 December 2021

Yours faithfully



John Bell  
Director  
Norton Rose Fulbright South Africa Inc



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Date

22 December 2021

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Dear Sir

**TRUSTCO GROUP HOLDINGS LIMITED ("TRUSTCO"): SUSPENSION OF LISTING OF SECURITIES**

1. We refer to the above matter, and the various correspondences exchanged between the parties to date, including the following:
  - 1.1 the JSE's letter to Trustco, dated 11 November 2020 ("**the JSE's Decision**");
  - 1.2 the JSE's letter to Trustco, dated 13 December 2021 ("**the Suspension Decision**");
  - 1.3 your letter to the JSE, dated 14 December 2021;
  - 1.4 our letter to you, dated 15 December 2021;
  - 1.5 your letter to us, dated 17 December 2021 ("**your letter**"); and
  - 1.6 your letter to the JSE, dated 17 December 2021 ("**the Objection Letter**").
2. At the outset, it is not the intention of this letter to respond, on behalf of the JSE, to the Objection Letter. We have been instructed to confirm that the JSE is in the process of

20211222 Letter From WW To NRF(17414968.1)

Senior Partner: JC Els Managing Partner: SJ Hutton Partners: BW Abraham RB Africa NG Alp RL Appelbaum DC Bayman KL Beilings AE Bennett AP Blair AR Bowley J Braum MS Burger M Bux RI Carrim T Cassim SJ Chong ME Claassens C Collett KL Collier KM Colman KE Coster K Couzyn DB Cron PA Crosland R Cruywagen JH Davies PM Daya L de Bruyn PU Dela M Denenga DW de Villiers BEC Dickinson MA Diemont DA Dingley MS Dladla G Driver W Drue GP Duncan HJ du Preez CP du Toit SK Edmundson LF Egypt KH Eiser AE Esterhuizen MJR Evans K Fazel AA Felekis G Fitzmaurice JB Forman L Franca KL Gawith OH Geldenhuys MM Gibson CI Gouws PD Grealy S Haroun JM Harvey JS Henning KR Hillis Z Hlophe CM Hoffeld PM Holloway AV Ismail ME Jarvis CA Jennings JC Jones CM Jonker S Jooste LA Kahn ACR Katzke M Kennedy KE Kilner A Keyser MD Kota JC Kraamwinkel J Lamb KJ Lebea E Louw M Mahlangu V Mannar L Marais G Masina T Masingi N Mbere MC McIntosh SJ McKenzie CS Meyer AJ Mills D Milo NP Mngomezulu P Mohanlall M Moloi N Moodley LE Mostert VM Movshovich C Murphy RA Nelson G Niven ZN Ntshona M Nxumalo AN Nyatumba A October L Odendaal GJP Olivier N Paige AMT Pardini AS Parry S Patel N Pather GR Penfold SE Phajane M Philippides BA Phillips MA Phillips DJ Rafferty D Ramjetan GI Rapson K Rew SA Ritchie J Roberts G Sader M Sader H Samsodien JW Scholtz KE Shepherd AJ Simpson N Singh N Singh-Nogueira P Singh S Sithole J Smit RS Smith MP Spalding PS Stein MW Straeuli LJ Swaine Z Swanepoel A Thakor T Theessen TK Thekiso C Theodosiou T Theunissen R Tihavani G Truter PZ Vanda SE van der Meulen JP van der Poel CS Vanmali JE Veeran B Versfeld MG Versfeld TA Versfeld DM Visagie EME Warmington J Watson AWR Westwood RH Wilson KD Wolmarans DJ Wright M Yudaken

Chief Operating Officer: SA Boyd

considering the Objection Letter, and the JSE reserves its rights to respond to same in due course, most likely in the new year.

3. The purpose of this letter is to address certain interim matters, relevant to the Suspension Decision and your letter.
  - 3.1 First, and with reference to your letter, a copy of our client's delegation of powers, as approved by the board of the JSE on 22 November 2011, is annexed marked "**A**" ("**the Delegation**"). We refer your attention to paragraph 2.1 of the Delegation. The JSE reserves its rights to deal with the various allegations of your client, insofar as the Delegation is concerned, as part of its formal response to the Objection Letter.
  - 3.2 Second, in respect of your client's request for oral representations made at paragraph 2 of the Objection Letter ("**the request**"), the JSE requests that Trustco succinctly set out: why it believes that oral representations are appropriate; why written representations are not sufficient; the issues which it wishes to address in oral submissions; the identity of the person who will make the oral submissions; and the date when Trustco intends to make these submissions. Trustco should supply this information without delay, and the JSE will consider Trustco's request. The JSE will not delay its other processes, in respect of the Objection Letter, whilst it awaits Trustco's submission on making oral representations.
  - 3.3 Third, paragraph 7.4 of the Objection Letter alleges that the JSE's Decision cannot be given effect to within an abbreviated time period, *inter alia*, given the magnitude and complexity of the restatement, and the potential unwinding of the underlying transactions in question. For the sake of clarity, compliance with the JSE's decision would not require the 31 March 2019 AFS, nor the 30 September 2020 AFS, to be re-issued and audited. Given that your client has, however, changed its financial year-end to 31 August 2021, the comparative period for the 31 August 2021 AFS will need to be restated, to give effect to the JSE's Decision. This restatement will need to be audited as part of the 31 August 2021 AFS audit.
  - 3.4 Whilst practical difficulties are by no means an excuse not to comply with the JSE's Decision, we are instructed to confirm that, should your client provide the JSE with an unequivocal, and irrevocable undertaking that the necessary restatement of your client's annual financial statements will be implemented in your client's 31 August 2021 Annual Financial Statements, the JSE will reasonably accommodate your client

in its timelines for the implementation of the JSE's Decision. Should your client so agree and comply, the basis for the Suspension Decision will fall away, which will, in turn, render the need for any objection process or court action nugatory.

4. Lastly, we are instructed to confirm that the JSE's Suspension Decision will not be implemented until such time as the objection process is finalised, or unless your client agrees as set out in paragraph 3.4 above.
5. Our client's rights are reserved.

Yours faithfully

**WEBBER WENTZEL**

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Partner

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## DELEGATION OF POWERS

### “RESOLVED:

1. That in terms of section 58 of the Securities Services Act 36 of 2004 and section 72 of the Companies Act 71 of 2008 (the Acts), the Board hereby delegates to the persons or entities set out below the following powers:

#### 1.1. **To the Executive Committee, the power to:**

- 1.1.1. to do all such things as the Board is required or permitted to do in terms of the Acts, the Articles and Memorandum of Association, the common law and equities, derivatives and interest rate rules and Listings Requirements of the JSE, including authorising an appropriate person to sign any affidavit that may be required to be signed by a representative of the JSE in performing any power exercised in terms hereof;
- 1.1.2. incur budgeted expenditure as per the budget applicable to the financial year in question as approved by the Board (“budgeted expenditure”);
- 1.1.3. incur, in aggregate, unbudgeted expenditure not exceeding 5 % of the total budgeted expenditure for the year in question, provided that no one item of such unbudgeted expenditure exceeds R10 million;
- 1.1.4. enter into and sign any agreement between the JSE and any other person or persons which: –
  - results in expenditure of R 10 million or less over the period of the agreement;
  - is of a duration of 5 years or less; or
  - is of an indefinite duration, results in expenditure of no more than R 2 million per annum with an initial term of no more than five years but thereafter may be terminated on not more than 3 months; and
  - has been formally approved and signed off by the **JSE’s Legal Counsel.**

For the avoidance of doubt, it is noted that any agreements involving expenditure or duration in excess of the limits set out in 1.1.3 and 1.1.4 above are required to be approved by the JSE Board;

- 1.2. Subject to 1.3 below, to each individual Executive Committee member in respect of the operations and budget of that Executive Committee Member's division, the power to:
- 1.2.1. incur budgeted expenditure of any one item up to a maximum of R 1 Million;
- 1.2.2. enter into and sign any agreement between the JSE and any other person or persons that –
- results in expenditure of no more than R 300 000 per annum;
  - results in expenditure of up to a maximum of R1.2 million over the period of the agreement;
  - has a duration of no more than three years; or
  - is of an indefinite duration, results in expenditure of no more than R 300 000 per annum with an initial term of no more than three years but thereafter may be terminated on not more than 3 months; and
  - has been formally approved and signed off by the **JSE's Legal Counsel**.

For the avoidance of doubt, it is noted that any agreements involving expenditure or duration in excess of the limits set out in 1.2.1 and 1.2.2 above are required to be approved by the JSE Executive Committee;

- 1.3. To the Chief Information Officer in respect of the operations and budget of the **Technology Division**, the powers as are set out in the document entitled "ITD Contracts Delegation Policy V1.00", the content of which is set out hereunder in these minutes;
- 1.4. To an employee of grade 15 and above ("employee"), in respect of the operations and budget of the division in which that person is employed, the power to:
- 1.4.1. incur budgeted expenditure of any one item up to R 500 000: Provided that the general authority of a specific individual to incur expenditure on this basis has been tabled and approved by the Executive Committee in advance of the exercising of the said power.

2. That, save for the power or duty to decide whether the listing of the securities of a company on the JSE should be terminated at the instance of the JSE, which power is delegated to the Executive Committee, the Board hereby delegates the powers and duties under sections 13 and 15 of the Securities Services Act, and the Listing Requirements to –
  - 2.1. the head of the **Issuer Regulation Division** or the General Manager: Issuer Regulation, or other appropriate person or persons as identified by the Executive Committee; and
  - 2.2. the Listings Appeal Committee, provided that the Listings Appeal Committee may only exercise any of the powers or duties so delegated after it receives a request for appeal.
3. The Board hereby delegates the power to enter into and sign:
  - any Information Distribution agreements between the JSE and any JSE public information user to the **Head of the Market Data** Division, or failing such person for any reason, any member of the Executive Committee, provided that the agreements are the standard form Information Distribution agreements as approved by the JSE Executive Committee from time to time;
  - any Clearing Agreements between the JSE and a clearing member of the JSE to the Head of the **Post Trade Services** Division or failing such person for any reason, any member of the Executive Committee, provided that the agreements are the standard form clearing agreement as approved by the JSE Executive Committee from time to time;
  - Any JSE Services Agreements between the JSE and any authorised user or other party, including the JSE Services Agreement, the Shared Infrastructure Provider Agreement and the Talx End user Agreement to the Head of the **Equities** Division or failing such person for any reason, any member of the Executive Committee, provided that the agreement is the standard form clearing agreement as approved by the JSE Executive Committee from time to time.

That any and all existing delegations will remain in force unless they are contrary to the delegations effected in terms of these resolutions.

(Resolved on 1 December 2000 and amended on 6 November 2001, 7 May 2002, 5 August 2003, 22 November 2005, 13 March 2007, 20 November 2007, 22 November 2011)

13 January 2022

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Michael Straegli  
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**Direct line**  
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Dear Michael

**Email**  
john.bell@nortonrosefulbright.com

**Your reference**      **Our reference**  
M Straegli / PTGH1/J Bell  
Mohanlall / D Harris  
/3043858

## TRUSTCO GROUP HOLDINGS (PTY) LTD / JSE LIMITED

- 1 We refer to your letter of 22 December 2021.
- 2 In respect of paragraph 31 of your letter:
  - 2.1 Firstly, the resolution now attached gainsays the instruction you received previously, as conveyed to us;
  - 2.2 Secondly, the resolution is not numbered; and
  - 2.3 Thirdly, the resolution itself, even if valid, confirms that the decisions under discussion and forming the purported basis of all action taken in respect of Trustco were taken in an ultra vires manner;
  - 2.4 Fourthly, given the contradictions between the various JSE documentation relating to the purported authority of Mr Visser, and in order to get a proper understanding of the context within which the decision reflected in the resolution was taken, we require a copy of the minute of the meeting where this decision was taken.
- 3 We call again on the JSE to inform the market of these defects. Trustco's prejudice and damages are escalating every day the incorrect information in the market is not withdrawn. Our client's rights are reserved to deal with the further issues resulting from the ultra vires action, the JSE's refusal to set the record straight, and remainder of the letter at the appropriate time.
- 4 Turning to paragraphs 3.2 to 3.4 of your letter:
- 5 We note the JSE's agreement that the restatements it require would need to be audited as part of our client's audited financial statements for the year ending 31 August 2021 ("**the 2021 AFS**"). This in itself supports our client's submission that, mindful of the date of the Tribunal's decision, the suspension decision is premature and that no such decision could have taken prior to the publishing of our client's 2021 AFS.
- 6 As to the oral submissions, we have indicated in our client's objections the complex and intergrade nature of the restatements that your client requires coupled with the knock on effect it has on the underlying transactions. Neither your client nor the decisions maker(s) are, to our client's knowledge,

Letter WW 13 01 2022

Norton Rose Fulbright South Africa Inc (Reg No 1984/003385/21) Directors: APM Robinson (Chairman) M van der Westhuizen (Chief Executive Officer) K Ainslie MH Alexander MS Ash SH Barnett JW Bell HI Bisset BE Botha GG Bouwer N Bowan PA Bracher DR Breier AJ Chappel M Chavoux SL Chemaly MD Cossie C Costas MO Dale V David BM Denny D Dirnie MC Hartwell R Hendricks CR Holness DS Kapellus AV Kardamiliakis SJ Kennedy-Good SS Khoza JM Kron S Lahri REF Lake PE Lamb S Makara EJ McCaul CJ Merrington JE Midlane GA Nott UN Odayar B Perrett RP Petersen CC Pillay DR Pillay CJ Pretorius GM Rademeyer L Rech D Reddy V Reddy AK Strachan I Swart DS Tatham HJ van Rensburg C van Vuuren AP Vos M Wagener JJ Whyte AP Williams LE Williams C Woolley

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13 January 2022

accounting experts and it is prudent that the aforesaid accounting complexities and time it will take to duly consider all aspects and implications of the restatements be explained to these decision maker(s), especially because neither our client nor its advisors (or its minority shareholders for that matter) agree with the restatements.

- 7 Moreover, a suspension is, barring a termination of a listing, the most severe sanction that the JSE can impose. Given the immense prejudice and damaging consequences this entails, particularly where it cannot be undone, and in circumstances where the underlying decision is the subject of a review and the possibility exists that the Tribunal's decision is set aside, it would be prudent for the decision-making body to be provided with as much information as possible and be able to engage with our client face to face in respect of our client's objections and any queries they have in respect thereof.
- 8 To try and deal with these types of issues based solely on the papers will not only be to our client's prejudice but also place the decision-making body in a precarious and uninformed position as they will undoubtedly need to have a clear understanding of the issues in order to properly consider our client's objections. This can only be achieved through oral submissions and engagement.
- 9 Our client therefore proposes to make submissions on each of the matters raised in its objections with a particular focus on the time this will take and the time it will take to come to a determination on how to practically implement the restatements pending the outcome of a review application. Our client would also propose to make submissions on why a suspension at this stage is, in addition to being premature, a wholly inappropriate remedy.
- 10 Oral submissions will be made by Dr Quinton van Rooyen (CEO), Mr Floors Abrahams (CFO) and Mr Tapiwa Njikizanas, our client's independent IFRS advisor. Our client further proposes for these submissions to be made on either 27 or 28 January 2022 via Zoom or MS Teams. Our client's representatives are also prepared to travel to Johannesburg for an in-person meeting if so required by the JSE.
- 11 Until our client has, in conjunction with its and external advisors, come to a determination as to how to practically implement the restatements pending a review, our client is not at this juncture able to give the undertaking sought in paragraph 3.4 of your letter under reply. As communicated to the JSE, our client does however undertake to publish its 2021 AFS by no later than 31 January 2022.
- 12 We await your response and in the interim all our client's rights remain reserved.

Yours faithfully



John Bell  
Director  
Norton Rose Fulbright South Africa Inc



# WEBBER WENTZEL

in alliance with > **Linklaters**

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Our reference

M Straeuli / P Mohanlall / D Harris  
3043858

Date

20 January 2021

**CONFIDENTIALITY:** This letter contains confidential information intended only for the person/s to whom it is addressed. No other recipient is entitled to read the rest of this letter or disclose its contents to any person, or take copies. If you have received this in error please notify us immediately by fax, e-mail or telephone at the numbers listed above.

Dear Sir

## TRUSTCO GROUP HOLDINGS LIMITED ("TRUSTCO"): SUSPENSION OF LISTING OF SECURITIES

1. We refer to the above matter, and to the various correspondences exchanged between the parties to date, including the following:
  - 1.1 the JSE's letter to Trustco, dated 13 December 2021 ("**the Suspension Decision**"); and
  - 1.2 your letters to the JSE, dated 14 and 17 December 2021;
  - 1.3 our letter to you, dated 22 December 2021; and
  - 1.4 your letter to us, dated 13 January 2022 ("**your letter**").
2. We note from your letter that Trustco persists in taking issue with Mr Visser's authority. The JSE denies that Mr Visser lacked authority, and maintains that all its decisions were lawfully made. The JSE is also satisfied that it has provided Trustco with sufficient information to address its concerns.
3. As regards Trustco's request for an opportunity to make oral submissions, we are instructed that the JSE has carefully considered the request made in your letter as to why your client considers oral submissions are appropriate and necessary.

**Senior Partner:** JC Els **Managing Partner:** SJ Hutton **Partners:** BW Abraham RB Africa NG Alp RL Appelbaum DC Bayman KL Beilings AE Bennett AP Blair AR Bowley J Braum MS Burger M Bux RI Carrim T Cassim SJ Chong ME Claassens C Collett KL Collier KM Colman KE Coster K Couzyn DB Cron PA Crosland R Cruywagen JH Davies PM Daya L de Bruyn PU Dela M Denenga DW de Villiers BEC Dickinson MA Diemont DA Dingley MS Dladla G Driver W Drue GP Duncan HJ du Preez CP du Toit SK Edmundson LF Egypt KH Eiser AE Esterhuizen MJR Evans K Fazel AA Felekis G Fitzmaurice JB Forman L Franca KL Gawith OH Geldenhuys MM Gibson CI Gouws PD Grealay S Haroun JM Harvey JS Henning KR Hillis Z Hlophe CM Holfeld PM Holloway AV Ismail ME Jarvis CA Jennings JC Jones CM Jonker S Jooste LA Kahn ACR Katzke M Kennedy KE Kilner A Keyser MD Kota JC Kraamwinkel J Lamb KJ Lebea E Louw M Mahlangu V Mannar L Marais G Masina T Masingi N Mbere MC McIntosh SJ McKenzie CS Meyer AJ Mills D Milo NP Mngomezulu P Mohanlall M Moloi N Moodley LE Mostert VM Movshovich C Murphy RA Nelson G Niven ZN Ntshona M Nxumalo AN Nyatumba A October L Odendaal GJP Olivier N Paige AMT Pardini AS Parry S Patel N Pather GR Penfold SE Phajane M Philippides BA Phillips MA Phillips DJ Rafferty D Ramjattan GI Rapson K Rew SA Ritchie J Roberts G Sader M Sader H Samsodien JW Scholtz KE Shepherd AJ Simpson N Singh N Singh-Nogueira P Singh S Sithole J Smit RS Smith MP Spalding PS Stein MW Straeuli LJ Swaine Z Swanepoel A Thakor T Theessen TK Thekiso C Theodosiou T Theunissen R Thavani G Truter PZ Vanda SE van der Meulen JP van der Poel CS Vanmail JE Veeran B Versfeld MG Versfeld TA Versfeld DM Visagie EME Warmington J Watson AWR Westwood RH Wilson KD Wolmarans DJ Wright M Yudaken

**Chief Operating Officer:** SA Boyd

4. Trustco has no automatic right to an opportunity to make oral submissions. The JSE has afforded Trustco an opportunity to make written submissions which is sufficient to ensure that Trustco is able to present whatever arguments it believes are necessary.
5. In the circumstances, Trustco is requested to deliver any written submissions it wishes to make by close of business on **Wednesday, 26 January 2022**. If the written submissions are not received by 26 January 2022 the JSE will accept that Trustco has elected not to provide written submissions.
6. Following receipt of Trustco's written submissions, the JSE will await the publication of Trustco's annual financial statements for 2021 by 31 January 2022 in order to consider its contents and whether this impacts upon the Suspension Decision. The JSE will then deliver its decision on whether or not to uphold Trustco's objection to the Suspension Decision as soon as reasonably possible thereafter.
7. The JSE looks forward to receiving Trustco's written submissions in due course.
8. Our client's rights are reserved.

Yours faithfully ,



**WEBBER WENTZEL**

Michael Straeuli

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26 January 2022



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<b>Your reference</b>	<b>Our reference</b>
M Straegli / P	TGH1/J Bell
Mohanlal / D Harris	
/3043858	

Dear Michael

## TRUSTCO GROUP HOLDINGS LIMITED / JSE LIMITED: SUSPENSION OF LISTING OF SECURITIES

- 1 We refer to your letter of 20 January 2021.
- 2 It's disappointing and unfortunate to note your client's refusal to allow our client the opportunity to make oral representations simply on the basis that our client has no express right thereto. One would have thought that your client would be amenable and in fact deem it prudent to discuss and interrogate our client's objections on a matter of this magnitude in a fair, open and transparent forum.
- 3 Our client accordingly persists in the grounds of objection as set out in our letters of 17 December 2021 and 13 January 2022.
- 4 That said, it would appear from your letter that your client is in fact intent on dismissing our client's objection simply based on how it presents its annual financial statements (**AFS**) on 31 January 2022 rather than with regard to any of the grounds of objection raised.
- 5 We are accordingly instructed that the AFS will, whilst noting that the JSE is in fact not in terms of paragraph 8.65 of Listing Requirement authorised to order a restatement and as an interim measure pending the determination of our client's application to review the Tribunal's decision (**Review**), address the restatements.
- 7 Once the JSE has considered the AFS, and in the event that it disagrees with how the AFS are presented as an interim measure, then we request that our clients' respective representatives meet as soon as possible in order to discuss the matter at hand in an effort to resolve it in an expedient and amicable manner.
- 8 If the JSE is not agreeable to the above approach and if it will seek to uphold the initial suspension decision, then we request an undertaking that we be provided with 96 hours' notice before such a suspension would take effect in order to afford our client the opportunity to seek the necessary urgent injunctive relief to stay implementation of such a decision.
- 9 Lastly, we anticipate to issue the Review during the course of next week. Please advise whether your offices are authorised to accept service of the application on behalf of the JSE.
- 10 Our client's rights remain fully reserved.

Letter WW (220126)v2

Norton Rose Fulbright South Africa Inc (Reg No 1984/003385/21) Directors: APM Robinson (Chairman) M van der Westhuizen (Chief Executive Officer) K Ainslie MH Alexander MS Ash SH Barnett JW Bell HI Bisset BE Botha GG Bouwer N Bowan PA Bracher DR Breier PA Cartwright M Chevoss SL Chemaly MD Cossie C Costas MC Dale V David BM Denny D Dinie MC Hartwell R Hendricks CR Holmes DS Kapelus AV Kardamitakis SJ Kennedy-Good SS Khoza JM Kron S Lahri REF Lake PE Lamb S Makara EJ McCaul CJ Merrington JE Midlane T Moodley GA Nott BP O'Connor UN Odayar B Perrett RP Petersen CC Pillay DR Pillay CJ Pretorius GM Rademeyer L Rech D Reddy V Reddy AK Strachan I Swart DS Tatham HJ van Rensburg C van Vuuren AP Vos M Wagener JJ Whyte AP Williams LE Williams C Woolley

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26 January 2022

Yours faithfully



John Bell  
Director  
Norton Rose Fulbright South Africa Inc

## GROUP FINANCIAL DIRECTOR'S **REPORT**

### **PERFORMANCE OVERVIEW**

During the period under review, the COVID-19 pandemic continued to exacerbate the adverse economic environment Trustco operates in. The Delta variant wave in particular hit Trustco's core market in Namibia hard, but the roll-out of vaccination programmes in the operating countries of the group promise to negate the effect of the pandemic somewhat, albeit with sub-optimal vaccination numbers in the populace currently.

Due to the aforementioned, revenue for the group decreased from NAD 618 million to NAD 313 million, down by 49%. Loss attributable to the owners of the parent similarly increased by 228% to a loss of NAD 872 million from a loss of NAD 266 million in the previous year.

A significant portion of this loss, NAD 282 million, was due to property revaluations as a result of above mentioned adverse market conditions, with a forex loss of NAD 253 million also forming part of the loss. Headline loss per share of 19.06 cents in the previous year thus decreased to a loss of 48.81 cents per share in the current period.

Nexia SAB&T, the group's JSE accredited external auditors, continued in office for the reporting period. The group changed its financial year-end from September to August, allowing it to align the release of its full year results to the operating schedule of group's capital and funding base in the northern hemisphere.

The group continued operating under the restructured debt agreement with its international funders, with interest payments, capital holidays as well as term extensions of up to seven years having been negotiated.

### **INVESTMENTS OVERVIEW**

#### **FINANCIAL SERVICES**

##### **INSURANCE AND ITS INVESTMENTS**

Revenue from insurance premiums for the previous reporting period of eighteen months was from NAD 168 million, down to NAD 113 million, a decrease of 32%.

Insurance continued with the diversification of revenue streams with innovative products, restructuring and expanding existing products on a digital platform, but experienced increased claims due to the COVID-19 pandemic, especially in the life business.

Revenue from tuition fees in the distance learning business increased from NAD 42 million in the prior period to NAD 59 million, an increase of 41%. This was driven by funding received that was used to fund student loans.

Property sales revenue decreased from NAD 130 million to NAD 41 million, a decrease of 69%.

The shopping mall at Elisenheim Lifestyle Estate, which was completed during the previous period, continued to add value to the development, as well as enhanced the living environment of residents during the reporting period. Further commercial developments are anticipated in the future.

#### **BANKING AND FINANCE**

The banking division revenue decreased to NAD 80 million from NAD 276 million, a decrease of 71%, but reduced their recorded loss after tax from NAD 462 million compared to a loss of NAD 62 million in the reporting period. The reduction in revenue was mainly driven by the decline in interest rates that occurred during the prior period.

While COVID-19 has affected customers through loss of employment and income, both Trustco Finance and Trustco Bank Namibia have applied concerted strategies to manage credit vetting to ensure that the quality of their loan books are not compromised, thereby limiting any further impact of the pandemic on the ECLs.

#### **RESOURCES**

Resources reported an after tax loss of NAD 332 million, compared to a NAD 1 142 million profit in the previous year, as this period saw concerted effort to bring the Meya Mine into commercial production.

**FLOORS ABRAHAMS**  
EXECUTIVE DIRECTOR AND  
GROUP FINANCIAL DIRECTOR

# GROUP FINANCIAL DIRECTOR'S REPORT

(CONTINUED)

## MEYA MINING

Meya Mining, a world class Kimberlite deposit, is situated in Sierra Leone. Meya Mining was granted a twenty five year large-scale mining licence on 26 July 2019 which will enable Meya to exploit the current estimated three million carats valued at approximately NAD 14 billion as determined by the internal preliminary exploration conducted and reported on by independent international mining experts.

During the financial period, Meya Mining was capitalised sufficiently to produce at least 10 000 carats per month, being circa 120 000 carats per annum, after development is completed during the first half of 2022, whereafter production is set to increase up to 30 000 carats per month, being 360 000 carats per annum by the last quarter of 2023.

After the end of the financial period, a term sheet was signed between Meya Mining and a first tier global diamond producer to acquire a 55% equity stake, as well as provide a USD 150 million debt facility. This will enable the mine to scale production to 1 million carats per annum over the next three years. It is expected that this agreement will be finalised by the end of March 2022, after a technical and geological due diligence has been completed.

## DIVIDENDS

During the period under review, no dividend declaration for the financial period ended 31 August 2021 was made by the board.

## COVID-19 IMPACT

Measures taken to contain the spread of the virus, including travel bans, quarantines, social distancing and closures of non-essential services, have triggered significant disruptions to businesses worldwide, resulting in an economic slowdown. However, the vaccination program in Trustco, Namibia and worldwide is showing positive results. The forward-looking impact of COVID-19 has been incorporated into the expected credit loss model and impairment assessments.

## PROACTIVE MONITORING PROCESS

The Johannesburg Stock Exchange Limited (JSE) selected Trustco as part of their proactive monitoring review process wherein they reviewed Trustco's financial statements for the twelve months ended 31 March 2019 and its unaudited interim results for the six months ended 30 September 2019.

Following the conclusion of the proactive monitoring process, the JSE informed Trustco that Trustco's financial statements for the 12 months ended March 2019 and unaudited interim results for the six months ended September 2019, as referred to above, were not fully compliant with IFRS with respect to the three matters as listed below, and consequently instructed Trustco to effect certain restatements to the 31 March 2019 and 30 September 2019 results.

These three matters were:

1. Treatment of reclassification of inventory to investment property;
2. Recognition of revenue from the sale of unserviced erven (real estate inventory); and
3. Treatment of loan waivers.

These matters were correctly identified by Trustco at inception thereof as complex and non-routine in nature and as such the company sought expert IFRS advice on these matters from its JSE accredited expert IFRS advisors to determine the appropriate accounting treatment thereof.

The transactions were considered quantitatively and qualitatively material and noted as significant matters by the current and previous auditors and were therefore the subject of detailed technical assessment.

Following reconsideration, including consultation with the current auditors, Trustco agreed to effect a restatement to the 2018 and 2019 financial years with regards to matter 2 as disclosed in note 44 of the September 2020 financial results.

Trustco disagreed with the JSE with respect to matters 1 and 3 hence no adjustments have been made to the August 2021, September 2020, September 2019 and March 2019 financial statements regarding these matters. Trustco is pursuing the relevant channels available to obtain a confirmation of the appropriateness of its accounting treatment and a rescission of the decisions of the JSE.

Trustco lodged an objection to the JSE's findings concerning matters 1 and 3 with the Financial Services Tribunal during January 2021, and its decision to direct Trustco to apply particular accounting as allowed for in terms of Section 230 of the Financial Sector Regulations Act, 2017.

On 2 November 2021 the Financial Services Tribunal heard virtual representation from both Trustco and the JSE's legal representatives to consider the instruction issued by the JSE to restate the historic results related to matters 1 and 3.

On 22 November 2021 the Financial Services Tribunal dismissed the application for reconsideration sought by Trustco.

The board, who ultimately remains responsible and accountable to stakeholders for the preparation of the financial statements and their compliance with IFRS, together with their legal representatives and IFRS advisors, reviewed the Financial Services Tribunal ruling, and once again are not in agreement with the judgement.

Responding to the ruling of the Financial Services Tribunal, Trustco is in the process of bringing an application in the High Court in South Africa, in terms of the Promotion of Administrative Justice Act No.3 of 2000, to set aside the ruling of the Financial Services Tribunal as Trustco believes the ruling did not consider pertinent representation by affected parties related to the substance of the various transactions at the time they were entered into and recorded.

The following summary provides further information relating to the qualitative factors pertaining to matters 1 and 3, insofar as it supports the relevant accounting application adopted by Trustco, and the issues raised by the JSE.

## TREATMENT OF RECLASSIFICATION OF INVENTORY TO INVESTMENT PROPERTY

In accordance with IAS 2, Trustco initially classified the Elisenheim property as inventory as it was intended for immediate development and sale in the ordinary course of business. Over the years Trustco has developed and sold portions of the land. When the property market slowed down and Trustco was unable to fully exploit this development opportunity, the board of directors resolved to cease developments of a portion of the remaining extent of the property for the foreseeable future. Management gave effect to this decision by implementing a cessation of development activity including a decommissioning of the development

plans; ceased to seek regulatory approvals for further development, a sale of equipment earmarked for in the development, and staff retrenchments. The actions were consistent with the changed intention to hold the property for long term capital appreciation which is consistent with the definition of investment property. These actions were consistent with the changed use to hold the property for long-term capital appreciation which is consistent with the definition of investment property.

The JSE opposes the reclassification of property previously held inventory to investment property, as they are of the opinion that Trustco had only demonstrated a change in its intentions with respect to the property but did not demonstrate any actions as evidence of a change in the use of the land as required by IAS 40. Trustco strongly disagrees with the JSE given the facts stated above.

Following Trustco's change in use as indicated above, the property was reclassified from inventory (NAD 291 million) to investment property (NAD 984 million), in accordance with IAS 40.63, which specifies the treatment for a transfer from inventories to investment property that will be carried at fair value, and that any difference between the fair value of the property at that date and its previous carrying amount shall be recognised in profit or loss. This was done by recognising the fair value of the transferred property as revenue, and its previous carrying amount (at cost) as cost of sales, in accordance with the requirements of IAS 40.64 which states that such transfers be treated in a manner consistent with the sale of inventory.

## TREATMENT OF LOAN WAIVERS - HUSO LOAN

During 2015, Trustco engaged in a transaction to acquire Huso from Dr. Q Van Rooyen. The terms of the Huso Transaction were recorded in a sale of shares agreement (which did not include the sale of loan interests held by Dr Q Van Rooyen in these entities). The shareholders of Trustco (excluding Dr Q Van Rooyen who did not vote) approved the Huso Transaction and voted in favour thereof at a meeting held on 5 October 2015. Due to a delay in fulfilment of the Huso Transaction suspensive conditions, a change in the structure of the Huso Transaction was proposed. These changes were approved by Trustco Group's shareholders on 13 June 2017.

# GROUP FINANCIAL DIRECTOR'S **REPORT**

(CONTINUED)

The shareholder of Huso Investments (Pty) Ltd (Huso), being Dr Q Van Rooyen, had over the years advanced NAD 546 million to the Huso group of companies. The repayment of these loans was at the sole discretion of the Huso group companies and were therefore classified as equity by these entities.

During March 2018, the terms of the loans were amended by a resolution of directors of Huso and Northern Namibian Development Company (Pty) Ltd (NNDC). The amendment meant that the loan repayment was no longer at the discretion of Huso but would now be due within a stipulated period. As a result of this change, which imposed an unavoidable obligation to repay the loans, the loans became classified as financial liabilities. Before and after this amendment these loans remained in the beneficial interest of Dr Q Van Rooyen and did not in any way affect the sale of shares agreement between the parties as these loan interests had always been excluded from the Huso Transaction from the onset.

The Huso Transaction subsequently became effective and Dr Q van Rooyen's shares in Huso were acquired by Trustco Resources. Subsequent to the finalisation of the Huso Transaction Dr Q Van Rooyen elected to waive repayment of the Huso Loan from the Huso group companies (which had by this time become a part of the Trustco group). The loans, as financial liabilities falling within the scope of IFRS 9, were therefore derecognised upon the waiver in accordance with the requirements of that standard with the resulting effect being recognised in profit or loss.

The JSE contends that the Huso Transaction (a common control business combination) and the subsequent waiver of the Huso group company loans by Dr Q Van Rooyen in his capacity as a lender to those businesses, be treated as a single transaction. On this understanding the loans due to Dr Q Van Rooyen would not have been recognised as financial liabilities and the waiver would not have had an impact to be recognised in profit or loss. Trustco disagrees with the JSE's understanding of the Huso transaction, specifically that the loan waiver forms part of an indivisible single transaction.

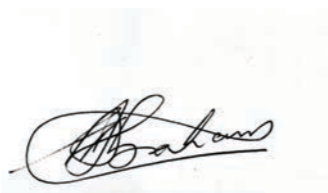
## **TREATMENT OF LOAN WAIVERS - RELATED PARTY LOAN**

On 8 October 2018, Dr Q Van Rooyen, through Next Capital Ltd (Next), concluded an agreement to loan up to NAD 1 billion to Trustco Group for the purpose of funding the acquisition of a 51% shareholding interest in Meya Mining from Germinate Sierra Leone Limited. The loan terms were explicit with respect to imposing an obligation of repayment and was therefore classified as a financial liability by Trustco.

On 1 October 2019, repayment of the Related Party Loan was waived by Dr Q Van Rooyen at his sole discretion. The loan was derecognised in a manner consistent with the application described above with respect to the Huso loans and as a consequence impacted profit or loss.

The JSE contends that whilst the loan terms would have met the requirements of IAS 32 to be classified as a financial liability at initial recognition, the subsequent waiver in substance was equity in nature, following a similar approach as in the Huso loan noted above, and should thus have been initially recognised directly in equity, with the subsequent waiver thereof being recognised directly in equity, and not through profit and loss. Trustco disagrees with the opinion of the JSE regarding the Related Party Loan, specifically in that the loan should be accounted for in equity due to it being waived in the following financial period.

For more information the Review Application filed on 31 January 2022 can be found on <https://www.tqh.na/downloads/>



**FLOORS ABRAHAMS**  
EXECUTIVE DIRECTOR AND  
GROUP FINANCIAL DIRECTOR

# DIRECTORS' RESPONSIBILITIES AND APPROVAL

The directors are required in terms of the Companies Act of Namibia and South Africa to maintain adequate accounting records and are responsible for the content and integrity of the consolidated financial statements and related financial information included in this report. It is their responsibility to ensure that the consolidated financial statements fairly present the state of affairs of the group as at the end of the reporting period and the results of its operations and cash flows for the period then ended, in conformity with International Financial Reporting Standard (IFRS). The external auditors are engaged to express an independent opinion on the consolidated financial statements.

The consolidated financial statements have been prepared in accordance with all applicable IFRS as issued by the International Accounting Standards Board (IASB), interpretations as issued by the IFRS Interpretations Committee (IFRIC), Financial Reporting Pronouncements as issued by the Financial Reporting Standards Council (FRSC), the Listings Requirements (LR) of JSE Limited (JSE) and Namibia Stock Exchange (NSX) and in the manner, as required by the Companies Act of Namibia and South Africa and are based upon appropriate accounting policies consistently applied and supported by reasonable and prudent judgements and estimates. The consolidated financial statements incorporate full and responsible disclosure in line with the group's philosophy on corporate governance.

The directors acknowledge that they are ultimately responsible for the system of internal financial control as established by the group and place considerable importance on maintaining a strong control environment. To enable the directors to meet these responsibilities, the board has set standards for internal control aimed at reducing the risk of error or loss in a cost-effective manner.

The standards include the proper delegation of responsibilities within a clearly defined framework, effective accounting procedures as well as adequate segregation of duties to ensure an acceptable level of risk. These controls are monitored throughout the group and all employees are required to maintain the highest ethical standards in ensuring the group's business is conducted in a manner that in all reasonable circumstances is above reproach. The focus of risk management in the group is on identifying, assessing, managing and monitoring all known forms of risk across the group. While operating risk cannot be fully eliminated, the group endeavours to mitigate and minimise it by ensuring that appropriate infrastructure, controls, systems and ethical behaviour are applied and managed within predetermined procedures and constraints.

The directors are of the opinion, based on the information and explanations given by management, that the system of internal control provides reasonable assurance that the financial records may be relied on for the preparation of the consolidated financial statements. However, any system of internal financial control can provide only reasonable and not absolute, assurance against material misstatement or loss.

The directors have reviewed the group's cash flow forecast for the 12 month period ended 31 August 2022 and, in light of this review and the current financial position, they are satisfied that the group has or had access to adequate resources to continue in operational existence for the foreseeable future.

The external auditors are responsible for independently auditing and reporting on the consolidated financial statements. The group's external auditors have examined the consolidated financial statements and their report is presented on pages 82 to 97.

The consolidated financial statements are set out on pages 106 to 195, which have been prepared on the going concern basis, were approved by the board and were signed on their behalf by.



**ADV RAYMOND HEATHCOTE SC**  
CHAIRMAN OF THE BOARD  
WINDHOEK  
31 JANUARY 2022



**DR QUINTON VAN ROOYEN**  
GROUP MANAGING DIRECTOR AND CEO  
WINDHOEK  
31 JANUARY 2022

# AUDIT AND RISK COMMITTEE'S CERTIFICATION

In fulfilling their duties and responsibilities as required, the audit and risk committee (ARC) performed and fulfilled its responsibilities and duties during the reporting period and has provided the following statement:

- The independence of the external auditors: Nexia SAB&T and Grand Namibia (appointed 10 June 2021)
  - The ARC considered and is satisfied that the external audit firms are independent of Trustco.
  - For any non-audit services to be performed by the external auditors, the nature and extent thereof are submitted to the ARC before commencement of any non-audit services for consideration and approval.
  - Trustco has an auditor rotation policy in place and the tenure of the external audit firm and the rotation of the designated external audit partner were considered. The current external auditors of Trustco and the designated external audit partners are currently in their first and second year.
  - There have been no significant changes to the management of Trustco during the external audit firms' tenure which may mitigate the attendant risk of familiarity between the external auditor and management.
- The ARC considered and addressed the significant matters in relation to the annual financial statements, specifically relating to the proactive monitoring of the JSE and going concern as per notes 36 and 39 of the consolidated annual financial statements.
- The ARC considered and was satisfied with the quality of the external audit, with reference to the audit quality indicators and inspection reports issued by the external audit regulators.
- The ARC considered and was satisfied with the effectiveness of the chief audit executive and the internal audit function. The ARC approved the internal audit plan for the reporting period.
- The ARC considered and reviewed the effectiveness of the design and implementation

of internal financial controls. The ARC, on the recommendation of the internal audit department, identified any significant weaknesses in the design, implementation or execution of internal financial controls and implemented mitigating policies and procedures. There were no cases of material financial loss, fraud, corruption or errors.

- The ARC considered the effectiveness of the group financial director and the group's finance function and found it sufficient.
- The ARC viewed and considered the combined assurance of the various external auditors through various jurisdictions and found it effective.
- All significant and material transactions were analysed with senior financial management and ARC engaged with experts on the subject matters.
- The ARC considered all interpretations and interrogations of IFRS in relation to complex non-routine transactions and obtained advice from JSE accredited IFRS advisors.
- The ARC reviewed the financial statements and the integrated annual report.
- The ARC considered and discussed the assumptions and principles used in fair value determinations.
- The ARC executed its responsibilities pursuant to paragraph 22.15 (h) of the JSE LR during the reporting period.



**WINTON GEYSER**  
CHAIRMAN OF THE AUDIT AND RISK COMMITTEE  
AND INDEPENDENT  
NON-EXECUTIVE DIRECTOR  
31 JANUARY 2022



# COMPANY SECRETARY'S **CERTIFICATION**

Declaration by the company secretary.

Komada Holdings (Pty) Ltd, being the company secretary of Trustco Group Holdings Ltd and its subsidiaries, certify that the company has in conjunction

with Business and Intellectual Property Authority of Namibia (BIPA) engaged in a voluntary audit process to ensure all company files and annual returns of Trustco and its subsidiaries are up to date. This process is still ongoing.

**KOMADA HOLDINGS (PTY) LTD**  
COMPANY SECRETARY  
31 JANUARY 2022

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## **CHIEF EXECUTIVE OFFICER AND FINANCIAL DIRECTOR'S RESPONSIBILITY STATEMENT**

The directors, whose names are stated in this report, hereby confirm that:

- The annual financial statements, set out on pages 106 to 195, fairly present in all material respects the financial position, financial performance and cash flows of the company in terms of IFRS
- No facts have been omitted or untrue statements made that would make the annual financial statements false or misleading
- Internal financial controls have been put in place to ensure that material information relating to the company and its consolidated subsidiaries have been provided to effectively prepare the annual financial statements of the group
- The internal financial controls are adequate and effective and can be relied upon in compiling the annual financial statements, having fulfilled our role and function within the combined assurance model pursuant to principle 15 of the King IV Report and
- Where we were not satisfied, we have disclosed to the audit and risk committee and the auditors the deficiencies in design and operational effectiveness of the internal financial controls and any fraud that involves directors and have taken the necessary remedial action. No disclosure or remedial action was required.

**DR QUINTON VAN ROOYEN**  
GROUP MANAGING DIRECTOR AND CEO  
WINDHOEK  
31 JANUARY 2022

**FLOORS ABRAHAMS**  
EXECUTIVE DIRECTOR AND GROUP FINANCIAL DIRECTOR  
WINDHOEK  
31 JANUARY 2022

# INDEPENDENT AUDITOR'S REPORT

To the shareholders of Trustco Group Holdings Limited

## REPORT ON THE AUDIT OF THE CONSOLIDATED FINANCIAL STATEMENTS

### OPINION

We have audited the consolidated financial statements of Trustco Group Holdings Limited and its subsidiaries (the Group) set out on pages 106 to 195, which comprise the consolidated statement of financial position as at 31 August 2021, the consolidated statement of profit or loss and other comprehensive income, the consolidated statement of changes in equity and the consolidated statement of cash flows for the 11 month period then ended, as well as notes to the consolidated financial statements, including a summary of significant accounting policies.

In our opinion, the accompanying consolidated financial statements present fairly, in all material respects, the consolidated financial position of the group as at 31 August 2021, and its consolidated financial performance and consolidated cash flows for the 11 month period then ended in accordance with International Financial Reporting Standards and the requirements of the Companies Act of South Africa.

### BASIS FOR OPINION

We conducted our audit in accordance with International Standards on Auditing (ISAs). Our responsibilities under those standards are further described in the Auditor's Responsibilities for the Audit of the Consolidated Financial Statements section of our report. We are independent of the group in accordance with the Independent Regulatory Board for Auditors' Code of Professional Conduct for Registered Auditors (IRBA Code) and other independence requirements applicable to performing audits of financial statements in South Africa. We have fulfilled our other ethical responsibilities in accordance with the IRBA Code and in accordance with other ethical requirements applicable to performing audits in South Africa. The IRBA Code is consistent with the corresponding sections of the International Ethics Standards Board for Accountants' International Code of Ethics for Professional Accountants (including International Independence Standards). We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

### MATERIAL UNCERTAINTY RELATED TO GOING CONCERN

We draw attention to note 36 in the consolidated financial statements, which indicates that the group incurred a loss of NAD 988 million for the 11 month period ended 31 August 2021 (18 month period ended 30 September 2020: NAD 343 million) and, as of that date, the group's current liabilities exceeded its current assets by NAD 664 million with total assets exceeding total liabilities by NAD 2.3 billion. As stated in note 36, these events or conditions, along with other matters as set forth in note 36, indicate that a material uncertainty exists that may cast significant doubt on the group's ability to continue as a going concern. We have considered the adequacy of the disclosures made in note 36 to the consolidated financial statements concerning the group's ability to continue as a going concern and we assessed the solvency and liquidity of existing assets. Our opinion is not modified in respect of this matter.

### EMPHASIS OF MATTER

#### JSE LIMITED PROACTIVE MONITORING PROCESS

We draw attention to note 39 of the consolidated financial statements, which describes the conditions associated with the proactive monitoring and the instruction issued by the JSE Limited to restate the annual financial statements for comparative financial periods, as well as management's response thereto.

#### HELIOS ORYX LIMITED LITIGATION

We draw attention to note 37 of the consolidated financial statements, which describes the ongoing litigation with Helios Oryx Limited relating to the facility agreement entered into between the parties amounting to NAD 332 million as at 31 August 2021, as well as the security provided against the facility.

Our opinion is not modified in respect of these matters.

### KEY AUDIT MATTERS

Key audit matters are those matters that, in our professional judgement, were of most significance in our audit of the consolidated financial statements of the current period. These matters were addressed in the context of our audit of the consolidated financial statements as a whole, and in forming our opinion thereon, and we do not provide a separate opinion on these matters. In addition to the matter described in the Material Uncertainty Related to Going Concern section, we have determined the matters described below to be the key audit matters to be communicated in our report.

### KEY AUDIT MATTER

#### IMPAIRMENT ASSESSMENT OF ADVANCES

As at 31 August 2021, the group recognised advances carried at amortised cost amounting to NAD 490 million (2020: NAD 922 million), net of expected credit losses determined in accordance with IFRS 9 of NAD 235 million (2020: NAD 853 million).

As described in the accounting policy notes to the consolidated financial statements the impairment loss is determined in accordance with IFRS 9 - *Financial Instruments*.

The application of IFRS 9's requirements related to credit loss allowances is subject to a significant degree of judgement required in assessing the impairment of financial instruments.

Those judgements include amongst others, the classification of the financial instrument on initial recognition, defining the default period, determining the stage of impairment the financial instrument falls within and estimating the recoverable amount of the underlying security.

Accordingly, the expected credit loss assessment of these assets is considered to be a key audit matter.

### HOW OUR AUDIT ADDRESSED THE KEY AUDIT MATTER

Our procedures focused on testing the assumptions and judgements applied in the ECL model of advances.

Our audit procedures included amongst others:

- We obtained an understanding of the group's process for estimating the credit loss allowance;
- We tested the design, implementation and operating effectiveness of key financial controls over identification of significant increase in credit risk, measurement of expected credit losses and evaluation of the consistency of methodologies and appropriateness of the assumptions used by management;
- We evaluated the source of data used by management in their assessment to ensure there is no data discrepancies between the financial systems and accounting systems;
- We assessed the competencies, capabilities, objectivity, experience and professional certification of management's staff that performed the assessments;
- We assessed the appropriateness of the valuation methodology, inputs and assumptions used by management in determining expected credit losses including assessing whether the inputs incorporate prior information, current information and forward-looking information and to ascertain whether the method/model and assumptions used are comparable with industry benchmarks and incorporated a further risk premium for the impact of COVID-19 a part of the testing;
- We assessed the stages 1 - 3 categorisation and probability of default determination to confirm it is accurate;
- We recalculated the expected credit losses that result from all possible default events over the life of the financial instrument as calculated by management and followed up on any material differences identified;
- We assessed the adequacy of the present value of securities held against loans advanced; and
- We assessed whether disclosures made in the consolidated financial statements relating to the credit loss allowance of the trade receivables and advanced met the requirements of IFRS 9 - *Financial Instruments*.

# INDEPENDENT AUDITOR'S **REPORT** (CONTINUED)

## FAIR VALUE ADJUSTMENT ON INVESTMENT PROPERTY

As at 31 August 2021, the group recognised investment property carried at fair value of NAD 2.25 billion (2021: NAD 1.78 billion).

Investment property makes up a significant portion of the total assets of the group. Furthermore, the fair value adjustment on the investment property included in investment and other income, is considered to be significant.

The valuations of the properties are based on a combination of both observable and unobservable inputs as disclosed in note 8. These judgements and assumptions significantly impact the valuations as can be seen by the sensitivity analysis disclosures in note 8.

Valuation of investment property was considered a matter of most significance in our audit due to the degree of judgements applied and assumptions made by management during the valuation of investment property.

We evaluated the key assumptions made by the directors in the determining the fair value of the investment property.

Our procedures included amongst others:

- We engaged with management to obtain a detailed understanding of their property valuation systems and processes;
- We assessed whether the valuation techniques and methodologies applied by management are consistent with generally accepted property valuation techniques in the real estate market;
- We have tested the assumptions and data used by management, to derive at the fair values of the investment properties, by independently verifying the reasonability of these assumptions and data to third parties and other market data;
- We evaluated the competence and experience of management's staff with reference to their qualifications and industry experience;
- We held discussions with management to establish if the valuations complied with the requirements of IFRS 13 Fair Value Measurement; and
- We critically assessed the measurement basis and disclosures for the valuation in accordance with International Financial Reporting Standards.

## IMPAIRMENT OF GOODWILL, EVALUATION AND EXPLORATION ASSETS AND MINING PROPERTIES

The group recognised goodwill, evaluation and exploration assets and mining properties in the amount of NAD 258 million (2020: NAD 258 million), NAD 415 million (2020: NAD 474 million) and NAD 670 million (2020: NAD 608 million), respectively, related to its mining and exploration operations.

The directors are required to perform an annual impairment test on the recoverability of goodwill, evaluation and exploration assets and mining properties. The directors performed their assessment using discounted cash flow models to determine the value in use for each appropriate cash generating unit.

There are several key assumptions and judgements applied in the valuation models, which include amongst others: resource and reserve estimations; revenue growth; operating margins and discount rates applied to the projected cash flows, as well as consideration of the continuing impact of COVID-19 on the assessment.

The impairment test of goodwill, evaluation and exploration assets and mining properties is a key audit matter due to the significant judgement and estimations involved in determining the recoverable amount of the cash generating unit.

We evaluated the key assumptions made by the directors in assessing the goodwill, evaluation and exploration assets and mining properties for impairment.

Some of our procedures included:

- Enquiry from management in order to obtain an understanding of the impairment process followed by management, which includes the methodology, models and identification of the smallest cash generating units (CGUs);
- We evaluated the design, implementation and operating effectiveness of internal controls over the review of the impairment, life of mine and resource base models, the budgeting and forecasting processes and appropriateness of key assumptions (including the determination of the reserves and resources used within the valuations of the CGUs), discount rates applied, sales growth assumptions and annual revenue forecasts based on available saleable product;
- We evaluated management's discounted cash flow models for the CGUs against life of mine plans and our understanding of the operations, and tested the key estimates and assumptions used by management in each discounted cash flow model by performing the following procedures:
  - evaluating the methodologies applied by management by comparing them to generally accepted business valuation techniques;
  - recalculating the results of management's discounted cash flow models;
  - agreeing forecast sales prices to actual historic sales from existing resources extracted;
  - assessing the reasonability of the cut-off grade, production processes, capital expenditure and operational expenditure requirements.
- We recalculated a discount rate for each cash generating unit using independently sourced data and incorporated, where necessary, a further risk premium for the impact of COVID-19 as part of our testing;
- We assessed management's sensitivity assessments for reasonableness and performed our own sensitivity calculations in respect of expected sales prices, operational costs, exchange rates and cut-off grades;
- We reviewed the resources and reserve reports with regard to each of the underlying cash generating units to confirm the resource quantity, grade and quality used in models by management.

# INDEPENDENT AUDITOR'S REPORT

(CONTINUED)

## OTHER INFORMATION

The directors are responsible for the other information. The other information comprises the information included in the document titled "Trustco Group Holdings Limited Integrated Annual Report and Audited Financial Statements 2021" which includes the Directors Report, the Audit Committee's Report and the Company Secretary Certificate as required by the Companies Act of South Africa and the Directors Certification as required by the JSE Limited Listing Requirements, which we obtained prior to the date of this report. The other information does not include the consolidated financial statements and our auditor's report thereon.

Our opinion on the consolidated financial statements does not cover the other information and we do not express an audit opinion or any form of assurance conclusion thereon.

In connection with our audit of the consolidated financial statements, our responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or our knowledge obtained in the audit, or otherwise appears to be materially misstated. If, based on the work we have performed on the other information obtained prior to the date of this auditor's report, we conclude that there is a material misstatement of this other information, we are required to report that fact. We have nothing to report in this regard.

## RESPONSIBILITIES OF THE DIRECTORS FOR THE CONSOLIDATED FINANCIAL STATEMENTS

The directors are responsible for the preparation and fair presentation of the consolidated financial statements in accordance with International Financial Reporting Standards and the requirements of the Companies Act of South Africa, and for such internal control as the directors determine is necessary to enable the preparation of consolidated financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the consolidated financial statements, the directors are responsible for assessing the group's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the directors either intend to liquidate the Group or to cease operations, or have no realistic alternative but to do so.

## AUDITOR'S RESPONSIBILITIES FOR THE AUDIT OF THE CONSOLIDATED FINANCIAL STATEMENTS

Our objectives are to obtain reasonable assurance about whether the consolidated financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these consolidated financial statements.

As part of an audit in accordance with ISAs, we exercise professional judgement and maintain professional scepticism throughout the audit. We also:

- Identify and assess the risks of material misstatement of the consolidated financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence that is sufficient and appropriate to provide a basis for our opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Obtain an understanding of internal control relevant to the audit in order to design audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Group's internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the directors.
- Conclude on the appropriateness of the director's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions that may cast significant doubt on the group's ability to continue as a going concern. If we

conclude that a material uncertainty exists, we are required to draw attention in our auditor's report to the related disclosures in the consolidated financial statements or, if such disclosures are inadequate, to modify our opinion. Our conclusions are based on the audit evidence obtained up to the date of our auditor's report. However, future events or conditions may cause the Group to cease to continue as a going concern.

- Evaluate the overall presentation, structure and content of the consolidated financial statements, including the disclosures, and whether the consolidated financial statements represent the underlying transactions and events in a manner that achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information of the entities or business activities within the Group to express an opinion on the consolidated financial statements. We are responsible for the direction, supervision and performance of the group audit. We remain solely responsible for our audit opinion.

We communicate with the directors regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control that we identify during our audit.

We also provide the directors with a statement that we have complied with relevant ethical requirements regarding independence, and to communicate with them all relationships and other matters that may reasonably be thought to bear on our independence, and where applicable, actions taken to eliminate threats or safeguards applied.

From the matters communicated with the directors, we determine those matters that were of most significance in the audit of the consolidated financial statements of the current period and are therefore the key audit matters. We describe these matters in our auditor's report unless law or regulation precludes public disclosure about the matter or when, in extremely rare circumstances, we determine that a matter should not be communicated in our report because the adverse consequences of doing so would reasonably be expected to outweigh the public interest benefits of such communication.

## REPORT ON OTHER LEGAL AND REGULATORY REQUIREMENTS

In terms of the IRBA Rule published in Government Gazette Number 39475 dated 4 December 2015, we report that Nexia SAB&T has been the auditor of Trustco Group Holdings Limited for 2 years.



**NEXIA SAB&T**

DIRECTOR: J ENGELBRECHT  
REGISTERED AUDITOR

31 JANUARY 2022

119 WITCH-HAZEL AVENUE, HIGHVELD  
TECHNOPARK, CENTURION

# DIRECTOR'S REPORT

The directors have the pleasure of submitting their report on the consolidated financial statements of Trustco Group Holdings Ltd (Trustco) for the period ended 31 August 2021.

## 1. FINANCIAL RESULTS

The financial results of the group for the reporting period are reflected in the consolidated financial statements set out on pages 102 to 191.

Loss after tax for the group for the 11 months ended 31 August 2021 was NAD 963 million (18 months ended 30 September 2020: NAD 343 million).

## 2. SHAREHOLDERS' VALUE

Based on these results, the shareholders' value for 2021 is NAD 2.1 billion (30 September 2020: NAD 2.7 billion). The directors are confident that this value will show growth for the foreseeable future and beyond.

## 3. DIVIDENDS

No dividends were declared by Trustco during the reporting period, nor were any dividends declared during the previous 18 months ended 30 September 2020. The directors will reassess the dividend declaration at the time of the half year 2022 results publication. The cash reserves of the group will be applied to the capitalisation of the group.

## 4. BORROWINGS

The borrowings of the group are within limits set by the articles of association.

## 5. DIRECTORATE AND APPRECIATION

The group is fortunate to have an energetic management team to lead the group forward. The directors, management and staff of the various companies in the group have all played a crucial role in the period under review. We thank each individual and team for their contributions this year. The directors are:

- Adv R Heathcote SC
- W J Geyser
- R J Taljaard
- R Marney
- Dr Q van Rooyen
- F J Abrahams
- J van der Heever
- Q Z van Rooyen (alternate director to Dr Q van Rooyen).

R Marney and J van der Heever were appointed as independent non-executive members of the Trustco Group Holdings Ltd board of directors on 26 March 2021 and 1 November 2021 respectively.

## 6. AUDITORS

Nexia SAB&T continued in office as JSE accredited auditors for the group for 2021.

## 7. SECRETARY

The company secretary is Komada Holdings (Pty) Ltd.

## 8. SHARE CAPITAL

Refer to note 17 of the consolidated annual financial statements for detail of the movement in authorised and issued share capital.

## 9. GOING CONCERN

The financial results have been prepared on the going concern basis which considers the continuity of normal business activities, the realisation of assets and the settlement of liabilities in the normal course of business. The board of directors, as part of their responsibilities, annually assesses the going concern of the group. As part of their assessment, the board of directors considered working capital requirements, availability of resources and reserves either from existing operational activities or further borrowings, available information about the future, financial impact of ongoing litigation, the possible outcomes of planned events and the responses to such events and conditions that would be available to the board.

The board of directors has, inter alia, considered the following specific factors in determining whether the group is a going concern for the foreseeable future:

- Loss for the eleven months ended 31 August 2021 of NAD 988 million (eighteen months ended 30 September 2020: NAD 343 million);
- Current liabilities of the Group exceed current asset as at 31 August 2021 by NAD 664 million, while total assets exceed total liabilities by NAD 2.3 billion;
- Cash generated from operating activities for the eleven months ended 31 August 2021, which includes proceeds from borrowings for advances, together with future cash generating capabilities;

- Whether the group has sufficient cash resources from operations or through further borrowings which is readily available, in order to settle its creditors and maturing liabilities as and when they fall due in the foreseeable future, whilst continuing to maintain its operating abilities for the foreseeable financial period;
- Whether there is any significant pending litigation that will threaten the going concern status of the group;
- Assessment of the existing economic conditions related to the various operating segments and whether the possibility exists to sufficiently scale said operations in the foreseeable future to provide additional cash resources; and
- Assessment of the solvency and liquidity position of the group in accordance with the Companies Act.

Following the above assessment, the board of directors believe that the above factors, coupled with prevailing economic conditions and forecast economic outlook presents some challenges for the foreseeable future. In response to the above factors, to address future cash flow requirements, detailed liquidity improvement initiatives have been developed and are being pursued, with the implementation thereof regularly monitored.

These conditions are considered to indicate that a material uncertainty exists which may cast significant doubt on the ability of the group to continue as a going concern in the foreseeable future.

This is largely attributable to the short-term liquidity position of the group.

Therefore, the ability of the group to continue as a going concern is dependent on the successful implementation or conclusion of the below noted matters in order to address the liquidity risk the group faces on an ongoing basis:

- completion of the underground development of Meya Mine to 10 000 carats per month (forecasted for 3rd quarter of 2022)
- completion of technical and geological due diligences related to Meya Mine following which a first tier global diamond producer will advance up to USD 150 million as a debt facility to scale production at Meya Mine and acquire a proposed equity stake of up to 55% in Meya Mining at a nominal value, which will provide further cash flows for the group's operations in the foreseeable future;

- recovery of USD 50 million from its investments to assist with the short-term liquidity requirements of the group;
- implementation of various collection strategies relating to the recovery of long outstanding advances owed to the group to increase available cash resources;
- continuous financial support from its international lenders; and
- successful resolution of various ongoing legal matters in order to mitigate the potential liquidity impact thereof.

The board of directors have evaluated the group's liquidity requirements to confirm whether the group has access to sufficient resources to continue as a going concern in the foreseeable future, considering the above factors and consequently prepared a cash flow forecast covering a period of 12 months from the date of these financial statements, concluding that the group would be able to continue its operations as a going concern.

The directors are not aware of any other matters that may impact the group.

The directors are also not aware of any material noncompliance with statutory or regulatory requirements or of any pending changes to legislation which may affect the group. Following the above assessment, the board of directors continue to adopt the going concern basis of accounting in preparing the financial statements.

## 10. REMUNERATION OF GROUP MANAGING DIRECTOR

Dr Q van Rooyen, the group managing director, is the sole shareholder of Next Capital Ltd (Next). Dr Q van Rooyen, Mr Q Z van Rooyen (the deputy group CEO) and Mr L van Rooyen are remunerated by Next. Next previously had a management agreement with Trustco which expired on 31 March 2021. In terms of this management agreement Next was remunerated on the following basis:

- 0.5% of the turnover of the group
- 1% of the headline earnings of the group and
- 1% of the basic earnings of the group.

If these targets were not met, the management fee would be halved, while if growth exceeded the average inflation rate of Namibia plus 5%, the management fees were doubled. Inflation in Namibia was recorded at 2.3% for the period to 31 March 2021 (30 September 2020: 2.8%).

# DIRECTOR'S REPORT (CONTINUED)

Next has subsequently entered into a revised management agreement with Trustco, subject to shareholders approval, in terms of which a fee would be earned on annual performance metrics of the group on the following basis:

## CORPORATE PERFORMANCE METRICS

MEASURE	GROWTH TARGET	COMPENSATION
TOTAL INCOME PER SHARE	>NAMIBIAN CPIX + 5%	1% OF TOTAL INCOME
ADJUSTED EARNINGS PER SHARE	>NAMIBIAN CPIX + 5%	2% OF ADJUSTED EARNINGS*
CASH GENERATED FROM OPERATIONS AFTER WORKING CAPITAL CHANGES	>NAMIBIAN CPIX + 5%	2% OF CASH GENERATED FROM OPERATIONS AFTER WORKING CAPITAL CHANGES
NET ASSET VALUE PER SHARE	>NAMIBIAN CPIX + 5%	2% PER ANNUM OF NET ASSET VALUE AFTER REACHING A FLOOR OF NAD 2,731,222,000

- CPIX in Namibia was recorded at 3.1% for the period 31 August 2021.

\* Adjusted earnings means the simple average of headline earnings and basic earnings of the group excluding management fees.

## SHAREHOLDER RETURN BASED METRICS

If the share price of a Trustco share remains at the agreed levels set out below for a period of at least 90 days on a Volume Weighted Average Price (VWAP) basis and

subject to high water mark principles, a once off payment in Trustco shares will be effected per category of share price target reached as set out below.

SHARE PRICE	EQUIVALENT MARKET CAPITAL	COMPENSATION (ONCE OFF SHARE PAYMENT PER CATEGORY REACHED)
NAD 9.75	15.7 BILLION	4 040 096 TRUSTCO SHARES
NAD 15.00	24.24 BILLION	5 656 135 TRUSTCO SHARES
NAD 19.00	30.7 BILLION	7 272 174 TRUSTCO SHARES
NAD 25.00	40 BILLION	8 888 212 TRUSTCO SHARES
NAD 30.00	50 BILLION	10 504 251 TRUSTCO SHARES
FOR EACH +25% SHARE PRICE INCREASE ABOVE NAD 30.00	VARIOUS	+25% FROM PREVIOUSLY ISSUED NUMBER OF SHARES

## PLEDGE OF ASSETS, SURETIES AND GUARANTEES PROVIDED

- 1.5% per annum of the value of assets pledged during the Measurement Period; and
- 1.5% per annum of value of sureties and guarantees provided as well as subordination of loans, during the Measurement Period.

## 11. SPECIAL RESOLUTION

At the Annual General Meeting, held on 29 April 2021 two special resolutions were approved and registered:

- the remuneration of the non-executive directors; and
- general authority to repurchase shares.

## 12. DIRECTORS INTEREST IN SHARES

Details of beneficial direct and indirect interest of directors in the shares of the company are set out below:

## DIRECTORS' INTEREST (AS AT 31 AUGUST 2021)

NAME	DIRECT SHAREHOLDING	INDIRECT SHAREHOLDING	TOTAL SHAREHOLDING	TOTAL SHAREHOLDING %
<b>EXECUTIVE DIRECTORS - HOLDING COMPANY</b>				
VAN ROOYEN, QUINTON	307 137 454	696 862 606	1 004 000 060	63.97
ABRAHAMS, FLOORS JACOBUS	2 451 518		2 451 518	0.16
<b>EXECUTIVE DIRECTORS - SUBSIDIARIES</b>				
BRAND, ANNETTE	60 476		60 476	0.00
CALITZ, ILANA	165 462		165 462	0.01
ERASMUS, MARCO	1 225 926		1 225 926	0.08
JANSE VAN RENSBURG, ELMARIE	1 852 546		1 852 546	0.12
JOUBERT, JAN SEBASTIAN CILLIERS	1 915 602		1 915 602	0.12
KAMARA, IBRAHIM SORIE	-	85 416 666	85 416 666	5.44
LAMBERT, ADRIANA	164 771		164 771	0.01
SLABBERT, THOMAS JOHAN (RESIGNED)	22 759		22 759	0.00
<b>INDEPENDENT NON-EXECUTIVE DIRECTORS (HOLDING AND SUBSIDIARIES)</b>				
TALJAARD, RENIER JACOBUS	50 151		50 151	0.00
VAN DEN HEEVER, JANENE	76 515		76 515	0.00
WELDON, LANA (RESIGNED)	-	25 400	25 400	0.00
GEYSER, WINTON JOHN	124 415		124 415	0.01
HEATHCOTE, RAYMOND	1 354 802		1 354 802	0.09
<b>GRAND TOTAL</b>	<b>3 166 023 397</b>	<b>782 304 672</b>	<b>1 098 907 069</b>	<b>70.01</b>

Total issued shares as at 31 August 2021 - 1 616 038 581

Treasury shares as at 31 August 2021 - 46 520 138

Shares calculated net of treasury shares as at 31 August 2021 - 1 569 518 443

# DIRECTOR'S REPORT (CONTINUED)

## DIRECTORS' INTEREST (AS AT 30 SEPTEMBER 2020)

NAME	DIRECT SHAREHOLDING	INDIRECT SHAREHOLDING	TOTAL SHAREHOLDING	TOTAL SHAREHOLDING %
<b>EXECUTIVE DIRECTORS - HOLDING COMPANY</b>				
VAN ROOYEN, QUINTON	307 137 454	696 862 606	1 004 000 060	63.94
ABRAHAMS, FLOORS JACOBUS	2 451 518	-	2 451 518	0.16
<b>EXECUTIVE DIRECTORS - SUBSIDIARIES</b>				
BRAND, ANNETTE	60 476	-	60 476	0.00
CALITZ, ILANA	165 202	-	165 202	0.01
ERASMUS, MARCO	1 225 926	-	1 225 926	0.08
JANSE VAN RENSBURG, ELMARIE	1 851 111	-	1 851 111	0.12
JOUBERT, JAN SEBASTIAN CILLIERS	1 915 602	-	1 915 602	0.12
KAMARA, IBRAHIM SORIE	-	85 416 666	85 416 666	5.44
LAMBERT, ADRIANA	194 873	-	194 873	0.01
SLABBERT, THOMAS JOHAN (RESIGNED)	396 301	-	396 301	0.03
<b>INDEPENDENT NON-EXECUTIVE DIRECTORS (HOLDING AND SUBSIDIARIES)</b>				
TALJAARD, RENIER JACOBUS	37 501	-	37 501	0.00
VAN DEN HEEVER, JANENE	7 085	-	7 085	0.00
WELDON, LANA (RESIGNED)	-	25 400	25 400	0.00
GEYSER, WINTON JOHN	116 088	-	116 088	0.01
HEATHCOTE, RAYMOND	1 354 802	-	1 354 802	0.09
<b>GRAND TOTAL</b>	<b>3 169 133 939</b>	<b>782 304 672</b>	<b>1 099 218 611</b>	<b>70.01</b>

Total issued shares as at 30 September 2020 - 1 616 038 581  
 Treasury shares as at 30 September 2020 - 45 800 647  
 Shares calculated net of treasury shares as at 30 September 2020 - 1 570 237 934

### 13. TREASURY SHARES

As of the reporting date, the market value of treasury shares was NAD 77 million (30 September 20: NAD 144 million).

### 14. EVENTS AFTER THE REPORTING DATE

#### 1. DIRECTORS APPOINTMENT

J van der Heever was appointed as an independent non-executive member of the Trustco Group Holdings Ltd board of directors with effect from 1 November 2021.

#### 2. PURCHASE OF SHARES

Trustco Capital (Pty) Ltd (subsidiary) purchased 51 769 633 Trustco Group Holdings Ltd (TTO) shares from Constantia Risk and Insurance Holdings Ltd for NAD 93.7 million on 2 September 2021.

#### 3. MANAGEMENT AGREEMENT WITH NEXT CAPITAL LTD

As noted in note 10 of the directors' report, the group and Next entered into a management agreement. The management agreement was classified as a category 1 Related Party Transaction in terms of the Listings Requirements of the Johannesburg Stock Exchange Limited (JSE). The group is in the process of preparing a circular containing full details of the management contract.

### 4. MEYA MINING TRANSACTION

After the end of the financial period, a term sheet was signed between Meya Mining and a first tier global diamond producer to acquire a 55% equity stake in Meya Mining, as well as provide a USD 150 million debt facility. This will enable the mine to scale production to 1 million carats per annum over the next three years. It is expected that this agreement will be finalized by the end of March 2022, after a technical and geological due diligence has been completed.

### 15. PROACTIVE MONITORING PROCESS

The Johannesburg Stock Exchange Limited (JSE) selected Trustco as part of their proactive monitoring review process wherein they reviewed Trustco's financial statements for the twelve months ended 31 March 2019 and its unaudited interim results for the six months ended 30 September 2019.

Following the conclusion of the proactive monitoring process, the JSE informed Trustco that Trustco's financial statements for the 12 months ended March 2019 and unaudited interim results for the six months ended September 2019, as referred to above, were not

fully compliant with IFRS with respect to the three matters as listed below, and consequently instructed Trustco to effect certain restatements to the 31 March 2019 and 30 September 2019 results.

These three matters were:

1. Treatment of reclassification of inventory to investment property;
2. Recognition of revenue from the sale of unserviced erven (real estate inventory); and
3. Treatment of loan waivers.

These matters were correctly identified by Trustco at inception thereof as complex and non-routine in nature and as such the company sought expert IFRS advice on these matters from its JSE accredited expert IFRS advisors to determine the appropriate accounting treatment thereof.

The transactions were considered quantitatively and qualitatively material and noted as significant matters by the current and previous auditors and were therefore the subject of detailed technical assessment.

Following reconsideration, including consultation with the current auditors, Trustco agreed to effect a restatement to the 2018 and 2019 financial years with regards to matter 2 as disclosed in note 44 of the September 2020 financial results.

Trustco disagreed with the JSE with respect to matters 1 and 3 hence no adjustments have been made to the August 2021, September 2020, September 2019 and March 2019 financial statements regarding these matters. Trustco is pursuing the relevant channels available to obtain a confirmation of the appropriateness of its accounting treatment and a rescission of the decisions of the JSE.

Trustco lodged an objection to the JSE's findings concerning matters 1 and 3 with the Financial Services Tribunal during January 2021, and its decision to direct Trustco to apply particular accounting as allowed for in terms of Section 230 of the Financial Sector Regulations Act, 2017.

On 2 November 2021 the Financial Services Tribunal heard virtual representation from both Trustco and the JSE's legal representatives to consider the instruction issued by the JSE to restate the historic results related to matters 1 and 3.

On 22 November 2021 the Financial Services Tribunal dismissed the application for reconsideration sought by Trustco.

The board, who ultimately remains responsible and accountable to stakeholders for the preparation of the financial statements and their compliance with IFRS, together with their legal representatives and IFRS advisors, reviewed the Financial Services Tribunal ruling, and once again are not in agreement with the judgement.

Responding to the ruling of the Financial Services Tribunal, Trustco is in the process of bringing an application in the High Court in South Africa, in terms of the Promotion of Administrative Justice Act No.3 of 2000, to set aside the ruling of the Financial Services Tribunal as Trustco believes the ruling did not consider pertinent representation by affected parties related to the substance of the various transactions at the time they were entered into and recorded.

The following summary provides further information relating to the qualitative factors pertaining to matters 1 and 3, insofar as it supports the relevant accounting application adopted by Trustco, and the issues raised by the JSE.

### TREATMENT OF RECLASSIFICATION OF INVENTORY TO INVESTMENT PROPERTY

In accordance with IAS 2, Trustco initially classified the Elisenheim property as inventory as it was intended for immediate development and sale in the ordinary course of business. Over the years Trustco has developed and sold portions of the land. When the property market slowed down and Trustco was unable to fully exploit this development opportunity, the board of directors resolved to cease developments of a portion of the remaining extent of the property for the foreseeable future. Management gave effect to this decision by implementing a cessation of development activity including a decommissioning of the development plans; ceased to seek regulatory approvals for further development, a sale of equipment earmarked for in the development, and staff retrenchments. The actions were consistent with the changed intention to hold the property for long term capital appreciation which is consistent with the definition of investment property. These actions were consistent with the changed use to hold the property for long-term capital appreciation which is consistent with the definition of investment property.

The JSE opposes the reclassification of property previously held inventory to investment property, as they are of the opinion that Trustco had only demonstrated a change in its intentions with respect to the property but did not demonstrate any actions as evidence of a change in the use of the land as required by IAS 40. Trustco strongly disagrees with the JSE given the facts stated above.

## DIRECTOR'S REPORT (CONTINUED)

Following Trustco's change in use as indicated above, the property was reclassified from inventory (NAD 291 million) to investment property (NAD 984 million), in accordance with IAS 40.63, which specifies the treatment for a transfer from inventories to investment property that will be carried at fair value, and that any difference between the fair value of the property at that date and its previous carrying amount shall be recognised in profit or loss. This was done by recognising the fair value of the transferred property as revenue, and its previous carrying amount (at cost) as cost of sales, in accordance with the requirements of IAS 40.64 which states that such transfers be treated in a manner consistent with the sale of inventory.

### TREATMENT OF LOAN WAIVERS - HUSO LOAN

During 2015, Trustco engaged in a transaction to acquire Huso from Dr. Q Van Rooyen. The terms of the Huso Transaction were recorded in a sale of shares agreement (which did not include the sale of loan interests held by Dr Q Van Rooyen in these entities). The shareholders of Trustco (excluding Dr Q Van Rooyen who did not vote) approved the Huso Transaction and voted in favour thereof at a meeting held on 5 October 2015. Due to a delay in fulfilment of the Huso Transaction suspensive conditions, a change in the structure of the Huso Transaction was proposed. These changes were approved by Trustco Group's shareholders on 13 June 2017.

The shareholder of Huso Investments (Pty) Ltd (Huso), being Dr Q Van Rooyen, had over the years advanced NAD 546 million to the Huso group of companies. The repayment of these loans was at the sole discretion of the Huso group companies and were therefore classified as equity by these entities.

During March 2018, the terms of the loans were amended by a resolution of directors of Huso and Northern Namibian Development Company (Pty) Ltd (NNDC). The amendment meant that the loan repayment was no longer at the discretion of Huso but would now be due within a stipulated period. As a result of this change, which imposed an unavoidable

obligation to repay the loans, the loans became classified as financial liabilities. Before and after this amendment these loans remained in the beneficial interest of Dr Q Van Rooyen and did not in any way affect the sale of shares agreement between the parties as these loan interests had always been excluded from the Huso Transaction from the onset.

The Huso Transaction subsequently became effective and Dr Q van Rooyen's shares in Huso were acquired by Trustco Resources. Subsequent to the finalisation of the Huso Transaction Dr Q Van Rooyen elected to waive repayment of the Huso Loan from the Huso group companies (which had by this time become a part of the Trustco group). The loans, as financial liabilities falling within the scope of IFRS 9, were therefore derecognised upon the waiver in accordance with the requirements of that standard with the resulting effect being recognised in profit or loss.

The JSE contends that the Huso Transaction (a common control business combination) and the subsequent waiver of the Huso group company loans by Dr Q Van Rooyen in his capacity as a lender to those businesses, be treated as a single transaction. On this understanding the loans due to Dr Q Van Rooyen would not have been recognised as financial liabilities and the waiver would not have had an impact to be recognised in profit or loss. Trustco disagrees with the JSE's understanding of the Huso transaction, specifically that the loan waiver forms part of an indivisible single transaction.

### TREATMENT OF LOAN WAIVERS - RELATED PARTY LOAN

On 8 October 2018, Dr Q Van Rooyen, through Next Capital Ltd (Next), concluded an agreement to loan up to NAD 1 billion to Trustco Group for the purpose of funding the acquisition of a 51% shareholding interest in Meyra Mining from Germinate Sierra Leone Limited. The loan terms were explicit with respect to imposing an obligation of repayment and was therefore classified as a financial liability by Trustco.

On 1 October 2019, repayment of the Related Party Loan was waived by Dr Q Van Rooyen at his sole discretion. The loan was derecognised in a manner consistent with the application described above with respect to the Huso loans and as a consequence impacted profit or loss.

The JSE contends that whilst the loan terms would have met the requirements of IAS 32 to be classified as a financial liability at initial recognition, the subsequent waiver in substance was equity in nature, following a similar approach as in the Huso loan noted above, and should thus have been initially recognised directly in equity, with the subsequent waiver thereof being recognised directly in equity, and not through profit and loss. Trustco disagrees with the opinion of the JSE regarding the Related Party Loan, specifically in that the loan should be accounted for in equity due to it being waived in the following financial period.

For more information the Review Application filed on 31 January 2022 can be found on <https://www.tgh.na/downloads/>

## 16. ACKNOWLEDGEMENTS

Thanks and appreciation are extended to all of shareholders, staff, suppliers and consumers for their continued support of the group.



# CONSOLIDATED STATEMENT OF FINANCIAL POSITION

AS AT

		31 AUGUST 2021	30 SEPTEMBER 2020
<b>FIGURES IN NAMIBIA DOLLAR THOUSAND</b>	<b>NOTES</b>		
<b>ASSETS</b>			
CASH AND CASH EQUIVALENTS		23 460	144 020
ADVANCES	2	489 470	921 859
TRADE AND OTHER RECEIVABLES	3	162 889	276 070
CURRENT TAX ASSETS		2 473	2 473
ASSETS HELD FOR SALE	4	-	343 636
INVENTORIES	6	237 103	129 917
PROPERTY, PLANT AND EQUIPMENT	7	314 783	392 644
INVESTMENT PROPERTY	8	2 246 470	1 780 167
INTANGIBLE ASSETS	9	362 326	419 110
EVALUATION AND EXPLORATION ASSETS	10	415 567	474 211
MINE PROPERTIES	11	670 924	607 699
DEFERRED TAX ASSETS	12	66 490	125 401
<b>TOTAL ASSETS</b>		<b>4 991 955</b>	<b>5 617 207</b>
<b>EQUITY AND LIABILITIES</b>			
<b>LIABILITIES</b>			
BANK OVERDRAFT		7 595	-
BORROWINGS	13	1 657 910	1 413 600
TRADE AND OTHER PAYABLES	14	672 354	645 004
CURRENT TAX LIABILITIES		26 168	24 829
LIABILITIES OF ASSETS HELD FOR SALE	4	-	1 161
INSURANCE CONTRACT LIABILITIES	15	50 618	51 551
AMOUNTS DUE TO RELATED PARTIES	5	163 262	206 094
LEASE LIABILITIES	16	57 608	78 308
DEFERRED TAX LIABILITIES	12	29 287	41 783
<b>TOTAL LIABILITIES</b>		<b>2 664 802</b>	<b>2 462 330</b>
<b>CAPITAL AND RESERVES</b>			
SHARE CAPITAL	17	371 691	371 691
SHARE PREMIUM	17	3 094 401	3 094 401
TREASURY SHARES	18	(231 343)	(228 680)
OTHER RESERVES	19	(3 104 698)	(3 275 208)
RETAINED EARNINGS		1 897 058	2 769 018
<b>EQUITY ATTRIBUTABLE TO EQUITY HOLDERS OF PARENT</b>		<b>2 027 109</b>	<b>2 731 222</b>
NON-CONTROLLING INTERESTS		300 044	423 655
<b>TOTAL CAPITAL AND RESERVES</b>		<b>2 327 153</b>	<b>3 154 877</b>
<b>TOTAL EQUITY AND LIABILITIES</b>		<b>4 991 955</b>	<b>5 617 207</b>

# CONSOLIDATED STATEMENT OF PROFIT OR LOSS AND OTHER COMPREHENSIVE INCOME

		11 MONTHS ENDED 31 AUGUST 2021	18 MONTHS ENDED 30 SEPTEMBER 2020
<b>FIGURES IN NAMIBIA DOLLAR THOUSAND</b>	<b>NOTES</b>		
REVENUE	21	312 777	617 652
COST OF SALES		(53 773)	(183 077)
<b>GROSS PROFIT</b>		<b>259 004</b>	<b>434 575</b>
INVESTMENT AND OTHER (EXPENSE)/ INCOME	24	(162 598)	984 882
OPERATING EXPENSES	22	(828 927)	(1 303 793)
INSURANCE BENEFITS AND CLAIMS		(25 967)	(42 921)
FINANCE COSTS	25	(181 872)	(378 185)
<b>LOSS BEFORE TAX</b>	<b>22</b>	<b>(940 360)</b>	<b>(305 442)</b>
INCOME TAX EXPENSE	26	(47 664)	(37 800)
<b>LOSS FOR THE PERIOD</b>		<b>(988 024)</b>	<b>(343 242)</b>
<b>OTHER COMPREHENSIVE INCOME/(LOSS):</b>			
<b>ITEMS THAT MAY BE RECLASSIFIED TO PROFIT OR LOSS:</b>			
EXCHANGE DIFFERENCES ON TRANSLATING FOREIGN OPERATION NET OF TAX		162 963	(123 651)
<b>TOTAL COMPREHENSIVE LOSS FOR THE PERIOD</b>		<b>(825 061)</b>	<b>(466 893)</b>
<b>LOSS ATTRIBUTABLE TO:</b>			
OWNERS OF THE PARENT		(871 960)	(266 102)
NON-CONTROLLING INTERESTS		(116 064)	(77 140)
		<b>(988 024)</b>	<b>(343 242)</b>
<b>TOTAL COMPREHENSIVE LOSS ATTRIBUTABLE TO:</b>			
OWNERS OF THE PARENT		(701 450)	(386 577)
NON-CONTROLLING INTERESTS		(123 611)	(80 316)
		<b>(825 061)</b>	<b>(466 893)</b>
<b>LOSS PER SHARE</b>			
BASIC LOSS PER SHARE (CENTS)	27	(55.55)	(19.95)
DILUTED LOSS PER SHARE (CENTS)	27	(55.38)	(19.87)

# CONSOLIDATED STATEMENT OF CHANGES IN EQUITY

FIGURES IN NAMIBIA DOLLAR THOUSAND	SHARE CAPITAL	SHARE PREMIUM	OTHER RESERVES	TREASURY SHARES	RETAINED EARNINGS	EQUITY ATTRIBUTABLE TO OWNERS OF THE PARENT	NON- CONTROLLING INTERESTS	TOTAL EQUITY
<b>BALANCE AT 1 APRIL 2019</b>	<b>224 084</b>	<b>921 719</b>	<b>(869 002)</b>	<b>(197 959)</b>	<b>2 967 240</b>	<b>3 046 082</b>	<b>489 931</b>	<b>3 536 013</b>
LOSS FOR THE PERIOD	-	-	-	-	(266 102)	(266 102)	(77 140)	(343 242)
OTHER COMPREHENSIVE LOSS	-	-	(120 475)	-	-	(120 475)	(3 176)	(123 651)
<b>TOTAL COMPREHENSIVE LOSS</b>	<b>-</b>	<b>-</b>	<b>(120 475)</b>	<b>-</b>	<b>(266 102)</b>	<b>(386 577)</b>	<b>(80 316)</b>	<b>(466 893)</b>
ISSUE OF SHARES	-	-	-	-	-	-	-	-
·SETTLEMENT OF VENDOR SHARES	144 624	2 140 575	(2 285 199)	-	-	-	-	-
·ISSUE OF STAFF SCHEME BONUS SHARES	2 981	32 019	-	(26 540)	-	8 460	-	8 460
·ISSUE OF SHARES PER WARRANTY AGREEMENT	2	88	-	-	-	90	-	90
TRANSFER BETWEEN RESERVES	-	-	(532)	-	532	-	-	-
TRANSACTION WITH NON-CONTROLLING INTERESTS (NOTE 20.1)	-	-	-	-	67 348	67 348	14 040	81 388
TREASURY SHARES ACQUIRED	-	-	-	(4 181)	-	(4 181)	-	(4 181)
<b>BALANCE AT 30 SEPTEMBER 2020</b>	<b>371 691</b>	<b>3 094 401</b>	<b>(3 275 208)</b>	<b>(228 680)</b>	<b>2 769 018</b>	<b>2 731 222</b>	<b>423 655</b>	<b>3 154 877</b>
<b>BALANCE AT 1 OCTOBER 2020</b>	<b>371 691</b>	<b>3 094 401</b>	<b>(3 275 208)</b>	<b>(228 680)</b>	<b>2 769 018</b>	<b>2 731 222</b>	<b>423 655</b>	<b>3 154 877</b>
LOSS FOR THE PERIOD	-	-	-	-	(871 960)	(871 960)	(116 064)	(988 024)
OTHER COMPREHENSIVE INCOME/(LOSS)	-	-	170 510	-	-	170 510	(7 547)	162 963
<b>TOTAL COMPREHENSIVE INCOME/(LOSS)</b>	<b>-</b>	<b>-</b>	<b>170 510</b>	<b>-</b>	<b>(871 960)</b>	<b>(701 450)</b>	<b>(123 611)</b>	<b>(825 061)</b>
TREASURY SHARES ACQUIRED	-	-	-	(2 663)	-	(2 663)	-	(2 663)
<b>BALANCE AT 31 AUGUST 2021</b>	<b>371 691</b>	<b>3 094 401</b>	<b>(3 104 698)</b>	<b>(231 343)</b>	<b>1 897 058</b>	<b>2 027 109</b>	<b>300 044</b>	<b>2 327 153</b>
NOTE	17	17	19	18				

# CONSOLIDATED STATEMENT OF CASH FLOWS

FIGURES IN NAMIBIA DOLLAR THOUSAND	NOTES	11 MONTHS ENDED 31 AUGUST 2021	18 MONTHS ENDED 30 SEPTEMBER 2020
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>			
CASH (USED IN)/ GENERATED FROM OPERATIONS	28	(63 596)	148 722
FINANCE INCOME		849	927
FINANCE COSTS		(26 753)	(118 786)
GROSS ADVANCES DISBURSED		(117 618)	(105 992)
RECEIPTS FROM REPAYMENT OF ADVANCES		32 947	113 567
REPAYMENTS OF BORROWINGS FOR ADVANCES		(3 000)	-
PROCEEDS FROM BORROWINGS FOR ADVANCES		176 240	136 240
TAX RECEIVED		90	562
<b>NET CASH FROM OPERATING ACTIVITIES</b>		<b>(841)</b>	<b>175 240</b>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>			
ADDITIONS TO PROPERTY, PLANT AND EQUIPMENT	7	(8 006)	(10 814)
PROCEEDS FROM DISPOSAL OF PROPERTY, PLANT AND EQUIPMENT	7	5 805	74 388
ADDITIONS TO INVESTMENT PROPERTY	8	-	(3 349)
ADDITIONS TO INTANGIBLE ASSETS	9	(17 061)	(23 680)
PROCEEDS FROM DISPOSAL OF INTANGIBLE ASSETS	9	-	61
NET CASH OUTFLOW ON DISPOSAL OF AVIATION BUSINESS		-	(7 12)
ADDITIONS TO MINING PROPERTIES	11	(94 148)	(13 597)
ADDITIONS TO EVALUATION AND EXPLORATION ASSETS	10	-	(199 638)
<b>NET CASH USED IN INVESTING ACTIVITIES</b>		<b>(113 410)</b>	<b>(177 341)</b>
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>			
PROCEEDS FROM SHARES ISSUED		-	90
PROCEEDS FROM BORROWINGS	30	69 331	-
REPAYMENT OF BORROWINGS	30	(8 170)	(101 835)
REPAYMENT OF LEASE LIABILITIES	30	(13 492)	(29 603)
ACQUISITION OF TREASURY SHARES		(2 663)	(4 181)
PROCEEDS FROM RELATED PARTIES BALANCES	30	-	49 271
REPAYMENT OF RELATED PARTIES BALANCES	30	(58 910)	(21 800)
TRANSACTION WITH NON-CONTROLLING INTERESTS		-	81 388
<b>NET CASH USED IN FINANCING ACTIVITIES</b>		<b>(13 904)</b>	<b>(26 670)</b>
NET DECREASE IN CASH AND CASH EQUIVALENTS		(128 155)	(28 771)
CASH AND CASH EQUIVALENTS AT THE BEGINNING OF THE PERIOD		144 020	172 791
<b>CASH AND CASH EQUIVALENTS AT THE END OF THE PERIOD</b>		<b>15 865</b>	<b>144 020</b>
<b>CASH AND CASH EQUIVALENTS COMPRISES OF:</b>			
BANK		23 460	144 020
BANK OVERDRAFT		(7 595)	-
		<b>15 865</b>	<b>144 020</b>

# ACCOUNTING POLICIES

**FOR THE 11 MONTHS ENDED  
31 AUGUST 2021**

## **SIGNIFICANT ACCOUNTING POLICIES**

### **1. BASIS OF PREPARATION**

The consolidated financial statements (financial statements) have been prepared in accordance with all applicable International Financial Reporting Standards (IFRS) as issued by the International Accounting Standards Board (IASB) and interpretations as issued by the IFRS Interpretations Committee (IFRIC), the Financial Reporting Pronouncements as issued by the Financial Reporting Standards Council (FRSC), the Listings Requirements of the JSE and the Namibian Stock Exchange and in the manner as required by the Companies Act of Namibia and the Companies Act of South Africa and are based upon appropriate accounting policies and supported by reasonable and prudent judgements and estimates. The financial statements have been prepared on the historical cost basis, except for the measurement of certain property, plant and equipment and investment properties at fair value and incorporate the principal accounting policies set out below. The accounting policies are consistent with those of financial statements for the previous period, except for the implementation of the amended business combinations policy discussed in accounting policy note 1.2(A).

The group presents its statement of financial position in order of liquidity following from the key considerations related to liquidity based on the group being a financial services group.

The financial statements are presented in Namibia Dollar, which is the group's functional and presentation currency and amounts are rounded to the nearest thousand.

### **1.1 ACCOUNTING ESTIMATES AND JUDGEMENTS**

In preparing the financial statements, management is required to make estimates and assumptions about the carrying amounts of assets and liabilities that are not readily apparent from other sources, which may affect the amounts presented in the financial statements and the related disclosures thereto. The use of available information and the application of judgement is

inherent in the formation of estimates. The estimates and associated assumptions are based on historical experience and other factors that are considered to be relevant. The estimates and underlying assumptions are reviewed on an ongoing basis. Revisions to estimates are recognised prospectively. Changes to the key estimates and judgements applied in determining the value of selected assets and liabilities could significantly affect the group's valuation evaluations and results.

The nature of the accounting estimates and judgements are detailed below.

#### **1.1.1 ESTIMATES**

Management makes use of estimates and assumptions in applying accounting policies that can have a material impact on the group's reported operating results, financial position and changes therein, as well as on the comparability of reported information over different reporting periods. The estimates used by the group include:

#### **(A) FAIR VALUE DETERMINATION - LAND AND BUILDINGS AND INVESTMENT PROPERTY**

The group measures and recognises land and buildings and investment property initially at cost and subsequently at fair value. The fair value estimate is determined using directors' valuations with independent external valuations obtained every three years. Fair value is determined as follows:

- land and buildings - valued using the income capitalisation method
- completed developments - completed developments valued using the discounted cash flow of future rental income adjusted by the value of the straight-lining lease debtor and
- developments under construction - an adjustment to the present value of the difference between the estimated fair value of the investment property at completion and the total estimated development cost.

Under current market conditions, the above adjustments are made to reflect the fair value at which the asset could be exchanged between market participants at the reporting date.

There is significant judgement involved in determining the fair value of land and buildings and investment property. The significant unobservable inputs into the valuations of land and buildings and investment property are capitalisation rates, discount rates, inflationary increases in rental and cost, development cost and market rental assumptions. Refer to notes 7 and 8 for detail relating to the unobservable inputs and the sensitivity thereof to changes therein.

#### **(B) IMPAIRMENT OF FINANCIAL ASSETS**

The credit loss allowance for financial assets is based on assumptions relating to the risk of default and expected loss rates. The group uses judgement in making these assumptions and selecting the inputs in the impairment calculation, based on the historic experience, existing market conditions as well as forward-looking estimates at the reporting date. Refer to notes 2, 3 and 35 for detail relating to the unobservable inputs used in the credit loss allowance assessment and the sensitivity thereof to changes therein.

#### **(C) IMPAIRMENT ASSESSMENT OF NON FINANCIAL ASSETS**

Management undertakes an annual impairment test for goodwill, intangible assets with an indefinite useful life as well as mining and exploration assets. For assets with finite useful lives, impairment testing is performed if events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable.

Impairment testing is an area involving management judgement, requiring assessment as to whether the carrying amounts of assets can be supported by the higher of their fair value less costs of disposal and value in use.

Value in use is calculated as the net present value of future cash flows derived from assets using cash flow projections that have been discounted at appropriate discount rates.

In calculating the net present value of the future cash flows, certain assumptions are required to be made in respect of unobservable inputs, including management's expectations of:

- growth in turnover of a cash-generating unit given the continued economic downturn and impact of COVID-19
- increase/decrease in expenses allocated to each cash-generating unit
- the selection of appropriate discount rates to reflect the risks involved
- available resources and reserves relating to mining assets
- capital requirements specific to commissioning new operations or expanding existing operations
- commodity prices and
- exchange rates.

Refer to note 9 for the details relating to the unobservable inputs and the sensitivity thereof to changes therein.

#### **(D) INSURANCE LIABILITIES**

One of the purposes of insurance is to enable policyholders to protect themselves against uncertain future events. Insurance companies accept the transfer of uncertainty from policyholders and seek to add value through the aggregation and management of these risks. The uncertainty inherent in insurance is inevitably reflected in the insurance company's financial statements, principally in respect of the company's insurance liabilities. Insurance liabilities include liabilities for unearned premiums, claims incurred and incurred but not reported (IBNR) claims.

The establishment of insurance liabilities is an inherently uncertain process and as a consequence of this uncertainty, the eventual cost of settlement of outstanding claims can vary substantially from the initial estimates. The group seeks to provide appropriate levels of claims provisions taking the known facts and experience into account. Refer to note 15 for the details relating to the significant unobservable inputs.

# ACCOUNTING POLICIES (CONTINUED)

## (E) TAX

Judgement is required in determining the accrual for income taxes due to the complexity of the legislation. The group recognises liabilities for anticipated tax audit issues based on estimates of whether additional taxes will be due. Where the final tax outcome of these matters is different from the initially recognised amounts, such differences will impact the income tax and deferred tax provisions.

The group recognises the net future tax benefit related to deferred tax assets to the extent that the temporary deductible differences will temporarily reverse in the foreseeable future. Assessing the recoverability of deferred tax assets requires the group to make significant estimates related to expectations of future taxable income. Estimates of future taxable income are based on forecast cash flows from operations and the application of existing tax laws in each jurisdiction. To the extent that future cash flows and taxable income differ significantly from estimates, the ability of the group to realise the net deferred tax assets recognised at each reporting date could be impacted.

The group carries significant deferred tax assets and has concluded that the deferred tax assets will be recoverable using the estimated future taxable income based on the approved business plans and budgets. The group expects to generate a taxable income from 2022 financial period onwards. The losses can be carried forward indefinitely and have no expiry date. Refer to note 12 for detail surrounding the estimate.

## (F) EXPLORATION AND EVALUATION ASSETS

A mineral reserve estimate is an estimate of the amount of mineral that can be economically and legally extracted from the group's mining assets. In order to calculate the mineral reserve, estimates and assumptions are required about a range of geological, technical and economic factors, including quantities, grades, production techniques, recovery rates, production costs, transport costs, commodity demand, commodity prices and exchange rates.

Estimating the mineral reserve's quantity and/or grade requires the size, shape and depth of ore bodies to be determined by analysing geological data such as the logging and assaying of drill samples. This process may require complex and difficult geological judgements and calculations to interpret the data.

Because the economic assumptions used to estimate changes in the mineral reserve from period to period, estimates of the mineral reserve may change from period to period. Changes in the reported mineral reserve may affect the group's financial results and financial position in a number of ways, including the following:

- asset carrying amounts may be affected due to changes in estimated future cash flows and
- the carrying amount of deferred tax assets may change due to changes in estimates of the likely recovery of the tax benefits.

## (G) MINING ASSETS AND DEVELOPMENT EXPENDITURE

Development activities commence after project sanctioning by the appropriate management level, following from receipt of a mining licence of the mineral reserve. Management applies judgement in determining when a project has reached a stage at which economically recoverable reserves exist such that development may be sanctioned. In exercising this judgement, management is required to make certain estimates and assumptions similar to those described in the accounting policy for exploration and evaluation assets. Any such estimates and assumptions may change as new information becomes available. If a judgement is made after starting the development activity that a development asset is impaired, the appropriate amount will be written off in profit or loss. Refer to note 11 for detail of the estimate.

### 1.1.2 CRITICAL ACCOUNTING JUDGEMENTS IN APPLYING THE GROUP'S ACCOUNTING POLICIES

Judgements made in the application of the financial reporting requirements that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next reporting period are discussed on the following page:

## (A) WAIVER OF DEBT

Judgement is required in determining whether a waiver of shareholder's debt is considered a capital contribution or extinguishing of debt. Where the shareholder's debt is initially recognised and subsequently measured in accordance with the requirements as prescribed by IFRS 9, the subsequent waiver thereof is also considered in accordance with IFRS 9, taking into account the requirements of IFRIC 19. Debt waiver in the previous reporting period was a release of financial liability in accordance with IFRS 9 and was recognised as other income in profit or loss. Refer to note 24 for detail surrounding the treatment of waiver of debt.

## (B) CLASSIFICATION OF REPAYMENT OF RECEIPTS FROM BORROWINGS AS PART CASH FLOW FROM OPERATING ACTIVITIES

The group operates a lending business as part of its financial services operating activities. In determining the appropriate classification of certain cash inflows and outflows it has taken into consideration its business model and the nature of the business activities as required by IAS 7. The cash flows associated with its lending activities have accordingly been classified as operating cash flows.

## 1.2 BASIS OF CONSOLIDATION

### (A) BUSINESS COMBINATIONS

The group accounts for business combinations using the acquisition method when the acquired set of activities and assets meets the definition of a business and control is transferred to the group. In determining whether a particular set of activities and assets is a business, the group assesses whether the set of assets and activities acquired includes, at a minimum, an input and substantive process and whether the acquired set has the ability to produce outputs.

The group has an option to apply a 'concentration test' that permits a simplified assessment of whether an acquired set of activities and assets is not a business. The optional concentration test is met if substantially all of the fair value of the gross assets acquired is concentrated in a single identifiable asset or group of similar identifiable assets.

The consideration transferred in the acquisition is generally measured at fair value, as are the identifiable net assets acquired. Any goodwill that arises is tested annually for impairment. Any gain on a bargain purchase is recognised in profit or loss immediately. Transaction costs are expensed as incurred, except if related to the issue of debt or equity securities.

## (B) SUBSIDIARIES

Subsidiaries are all entities over which the group has control. The group controls an entity when the group is exposed to, or has rights to, variable returns from its involvement with the entity and has the ability to affect those returns through its power over the entity. Subsidiaries are consolidated from the date on which control commences until the debt on which control ceases.

## (C) INTERCOMPANY TRANSACTIONS

Intercompany transactions, balances and unrealised gains on transactions between group companies are eliminated. Unrealised losses are also eliminated but considered an impairment indicator of the asset transferred.

## (D) CHANGE IN OWNERSHIP INTEREST IN SUBSIDIARIES WITHOUT CHANGE OF CONTROL

Transactions with non-controlling interests that do not result in loss of control are accounted for as equity transactions. The difference between the fair value of any consideration paid/received and the relevant share acquired/disposed of at the carrying amount of the subsidiary's net assets is recognised in equity.

## (E) NON-CONTROLLING INTERESTS

Non-controlling interests that are present ownership interests and entitle their holders to a proportionate share of the entity's net assets in the event of liquidation are initially measured at the non-controlling interests' proportionate share of the recognised amount of the acquiree's identifiable net assets.

# ACCOUNTING POLICIES (CONTINUED)

## (F) COMMON CONTROL TRANSACTIONS

Transactions in which combining entities are controlled by the same party or parties before and after the transaction and where that control is not transitory are referred to as common control transactions. The group's accounting policy for the acquiring entity is to account for the transaction at book values as reflected in the financial statements of the selling entity. The group accounts for the transaction prospectively, thus the acquired entity's results are included in the acquirer's financial statements from the date of the common control transaction. There is no restatement of comparative information. For common control transactions, the group determines the purchase consideration as the transaction cost adjusted for the time value of money where applicable. The excess of the purchase consideration over the acquirer's proportionate share of the net asset value acquired in common control transactions is recognised in the common control reserve in equity.

## (G) DISPOSAL OF SUBSIDIARIES

When the group loses control over a subsidiary, it derecognises the assets and liabilities of the subsidiary and any related non-controlling interests and other components of equity. Any resulting gain or loss is recognised in profit or loss. Any interest retained in the former subsidiary is measured at fair value when control is lost.

## 1.3 FOREIGN CURRENCY

### (A) FOREIGN CURRENCY TRANSACTIONS

Transactions in foreign currencies are translated into the respective functional currencies of group companies at the exchange rates at the dates of the transactions.

Monetary assets and liabilities denominated in foreign currencies are translated into the functional currency at the exchange rate at the reporting date. Non-monetary assets and liabilities that are measured at fair value in a foreign currency are translated into the functional currency at the exchange rate when the fair value was determined. Non-monetary items that are measured based on historical cost in a foreign currency are translated at the exchange rate at the date of the transaction. Foreign currency differences are recognised in profit or loss.

## (B) FOREIGN OPERATIONS

The financial statements of all group entities that have a functional currency different from the group's presentation currency are translated into the presentation currency at the reporting date. Assets and liabilities of each foreign operation are translated at the closing rate. Foreign currency differences are recognised in other comprehensive income and presented in the foreign currency translation reserve in equity. However, if the foreign operation is a non-wholly owned subsidiary, then the relevant proportion of the translation difference is allocated to non-controlling interests. When a foreign operation is disposed of, such that control is lost, the cumulative amount in the foreign currency translation reserve related to that foreign operation is reclassified to profit or loss as part of the gain or loss on disposal. When the group disposes of only part of its interest in a subsidiary that includes a foreign operation while retaining control, the relevant portion of the cumulative amount is reattributed to non-controlling interests.

## (B) FOREIGN EXCHANGE GAINS OR LOSSES IN INTERGROUP LOANS

Intergroup monetary assets and liabilities, which arose as a result of the USD denominated loan between two group entities, are not eliminated upon consolidation without reflecting the results of currency fluctuations. The monetary asset and liability represents a commitment to convert one currency into another, thereby exposing the reporting entity to currency fluctuations. The resultant exchange differences are recognised in profit or loss.

## 1.4 INVENTORIES

Real estate inventory is valued at the lower of cost (including development and preparation expenses) and net realisable value.

The cost of inventories comprises all purchase costs, conversion costs and other costs incurred in bringing the inventories to their present location and condition. The cost of inventories of items that are not ordinarily interchangeable and goods or services produced and segregated for specific projects are assigned using specific identification of the individual costs. Costs incurred in installing roads and infrastructure, arising from progress billings from contracts, are initially recognised in work-in-progress until the assets are available to use, as evidenced by engineering approval certificates.

## 1.5 PROPERTY, PLANT AND EQUIPMENT

Items of property, plant and equipment are initially measured at cost. Cost comprises expenditure that is directly attributable to the acquisition of the asset. Day-to-day repairs and maintenance are recognised as expenses in profit or loss. If significant parts of an item of property, plant and equipment have different useful lives, then they are accounted for as separate items (major components) of property, plant and equipment.

Land and buildings are measured at revalued amounts, being the fair value at the date of revaluation less any subsequent accumulated depreciation and subsequent accumulated impairment losses. Revaluations are made with sufficient regularity such that the carrying amount does not differ materially from that which would be determined using fair value at the reporting date. Increases in the carrying amounts of land and buildings arising on revaluation are recognised in other comprehensive income and accumulated in the revaluation reserve. Decreases that offset previous increases of the same assets and all other decreases are recognised in other comprehensive income and presented in equity. Each period the difference between depreciation based on the revalued carrying amount of the assets and depreciation based on the asset's original cost is transferred from revaluation reserve to retained earnings. The attributable revaluation surplus remaining in the property's revaluation reserve is transferred directly to retained earnings on the subsequent sale or retirement of a revalued asset.

Subsequently, all other categories of property, plant and equipment are measured at cost less accumulated depreciation and any impairment losses.

Subsequent expenditure is capitalised only if it is probable that the future economic benefits associated with the expenditure will flow to the group.

Leased assets are depreciated over their expected useful lives on the same basis as owned assets, however, when there is no reasonable certainty that ownership will be obtained by the end of their lease term, assets are depreciated over the shorter of the lease term and their useful lives.

The estimated useful life of items of property, plant and equipment for current and comparative periods are as follows:

ITEM	USEFUL LIFE
LAND	INDEFINITE
BUILDINGS*	30-50 YEARS
MACHINERY AND EQUIPMENT	6 - 15 YEARS
MOTOR VEHICLES	6 - 8 YEARS
OFFICE EQUIPMENT AND FURNITURE	6 - 8 YEARS
COMPUTER EQUIPMENT	3 - 5 YEARS
EXPLORATION ASSETS	
· MOTOR VEHICLES AND EQUIPMENT	5 YEARS
· BUILDINGS	10 YEARS
· MINING PLANT	5 YEARS

\* Including right-of-use assets

The residual value, useful life and depreciation method of each asset are reviewed at each reporting date.

The depreciation charge for each year is recognised in profit or loss unless it is included in the carrying amount of another asset.

The carrying amounts of property, plant and equipment are assessed for impairment whenever events or changes in circumstances indicate the carrying amounts may not be recoverable. If any such indication exists and where the carrying amounts exceed the estimated recoverable amounts, the assets or cash-generating units are written down to their recoverable amount.

Any gain or loss on disposal of an item of property, plant and equipment is recognised in profit or loss.

Borrowing costs directly attributable to the acquisition, construction or production of qualifying assets, which are assets that necessarily take a substantial period of time to get ready for their intended use or sale, are added to the cost of those assets, until such time as the assets are substantially ready for their intended use or sale.

# ACCOUNTING POLICIES (CONTINUED)

## 1.6 INVESTMENT PROPERTY

Investment property is recognised at cost, including transaction costs. Costs include costs incurred initially and subsequently incurred to add to, or to replace a part of, or service a property. Maintenance and repairs are recognised in profit or loss.

Subsequent to initial measurement, investment properties are measured and recognised at fair value. Investment property is revalued annually, or sooner if there has been a significant change in the conditions of the property and adjusted to fair value at the respective reporting dates with reference to either an independent external valuation or directors valuation.

A gain or loss arising from a change in fair value is included in profit or loss for the period in which it arises.

## 1.7 EXPLORATION AND EVALUATION ASSETS

Pre-licence costs relate to costs incurred before the group has obtained legal rights to explore a specific area. Such costs may include the acquisition of exploration data and the associated costs of analysing that data. These costs are recognised in profit or loss in the period in which they are incurred.

Exploration and evaluation activity involves the search for mineral resources, the determination of technical feasibility and assessing the commercial viability of an identified resource.

Exploration and evaluation activity includes:

- researching and analysing historical exploration data
- gathering exploration data through geophysical studies
- exploratory drilling and sampling
- determining and examining the volume and grade of the resource
- surveying transportation and infrastructure requirements and
- conducting market and finance studies.

The depreciation on items of plant and equipment used in the activities described above (for example, drilling and sampling) also represents exploration and evaluation expenditure. Any such depreciation is treated consistently with the group's other exploration and evaluation expenditure and is recognised as part of the cost of the asset.

Licence costs paid in connection with a right to explore in an existing exploration area are capitalised as intangible assets and amortised over the term of the permit.

All other costs directly related to exploration and evaluation activities in the area of interest are capitalised as exploration and evaluation assets which is an intangible asset in nature. General and administrative costs are allocated to an exploration and evaluation intangible asset only to the extent that those costs can be related directly to operational activities in the relevant area of interest. Capitalised exploration and evaluation expenditure is written off when the group concludes that a future economic benefit is more likely than not to be realised. If, after expenditure is capitalised, information becomes available suggesting that the recovery of expenditure is unlikely, the relevant capitalised amount is written off in profit or loss in the period when the new information becomes available.

In evaluating whether the expenditures meet the criteria to be capitalised, several different sources of information are used. The information that is used to determine the probability of future benefits depends on the extent of exploration and evaluation that has been performed.

Revenue realised from the sale of mineral resources during the exploration phase is recognised in profit or loss by the group.

## 1.8 MINE PROPERTIES

Expenditure is transferred from exploration and evaluation assets to mine properties, once the exploration and evaluation results support the future development of mining property and such development receives appropriate approvals.

After transfer of the exploration and evaluation assets, all subsequent expenditure on the construction, installation or completion of infrastructure facilities is capitalised. Any costs incurred in testing the assets to determine if they are functioning as intended are capitalised.

When the group commences production, the capitalisation of certain mine development costs ceases and costs are either regarded as forming part of the cost of inventory or expensed, except for costs that qualify for capitalisation relating to mining asset additions or improvements, underground mine development or mineable reserve development. It is also at this point that depreciation/amortisation commences.

## 1.9 INTANGIBLE ASSETS

Intangible assets are initially recognised at cost.

### (A) INTANGIBLE ASSETS WITH FINITE USEFUL LIVES

The carrying amounts of these intangible assets are assessed for impairment when events or changes in circumstances indicate that the carrying amount may not be recoverable.

Intangible assets with finite useful lives are measured at cost less accumulated amortisation and any impairment losses. Amortisation is determined to write down the intangible assets, on a straight-line basis, to their residual values, where relevant, as follows:

ITEM	USEFUL LIFE
COMPUTER SOFTWARE	2 - 10 YEARS
TRADEMARKS, LICENCES AND PATENTS	10 - 25 YEARS

The amortisation period, the residual value and the amortisation method for intangible assets are reviewed at each reporting date.

An intangible asset arising from development (or from the development phase of an internal project) is recognised as an asset when it has met the recognition criteria for internally generated intangible assets.

An intangible asset is derecognised on disposal or when no future economic benefits are expected from use. Gains or losses arising from derecognition of an intangible asset are recognised in profit or loss.

### (B) GOODWILL

Goodwill arising on an acquisition of a business is measured at cost less accumulated impairment losses, if any.

For impairment testing, goodwill is allocated to each of the group's cash-generating units (or groups of cash-generating units) that are expected to benefit from the synergies of the combination.

A cash generating unit to which goodwill has been allocated is tested for impairment annually or more frequently when there is an indication that the goodwill may be impaired. If the recoverable amount of the cash-generating unit is less than its carrying amount, the impairment loss is allocated first to reduce the carrying amount of any goodwill allocated to the unit and then to the other assets on a unit pro rata, based on the carrying amount of each asset in the unit. Any impairment loss for goodwill is recognised directly in profit or loss. An impairment loss recognised for goodwill is not reversed.

## 1.10 FINANCIAL INSTRUMENTS

### (A) INITIAL RECOGNITION AND MEASUREMENT

Financial assets and financial liabilities are recognised when the group becomes a party to the contractual provisions of the instruments. Financial instruments are initially measured at fair value. Transaction costs that are directly attributable to the acquisition or issue of financial assets and financial liabilities (other than financial assets and financial liabilities at fair value through profit or loss) are added to or deducted from the fair value of the financial assets or financial liabilities, as appropriate, on initial recognition. Transaction costs directly attributable to the acquisition of financial assets or financial liabilities at fair value through profit or loss are recognised immediately in profit or loss. A trade receivable without a significant financing component is initially measured at the transaction price.

### (B) FINANCIAL ASSETS AT AMORTISED COST

The group classifies its financial assets as those measured at amortised cost. Financial assets classified as measured at amortised cost include cash and cash equivalents, advances and trade and other receivables.

The classification depends on the entity's business model for managing the financial assets and the contractual terms of the cash flows. These assets are held for collection of contractual cash flows where those cash flows represent principal payments on specified dates and interest solely.

# ACCOUNTING **POLICIES** (CONTINUED)

## **(C) MEASUREMENT**

Subsequently, the group measures cash and cash equivalents, advances and trade receivables at amortised cost and these assets are subject to impairment. Interest income from these financial assets is included in finance income using the effective interest method. Any gain or loss arising from derecognition is recognised directly in profit or loss. Refer to note 35 for details of risk exposure and management thereof.

## **(D) DEFAULT**

The definition of default, which triggers the credit-impaired classification (stage 3), is based on the group's internal credit risk management approach and definitions. Whilst the specific determination of default varies according to the nature of the product, it is generally determined as occurring at the earlier of:

- Where, in the group's view, the counterparty is considered to be unlikely to pay amounts due on the due date or shortly thereafter without recourse to actions such as the realisation of security; or
- When the counterparty is past due for more than 90 days.

The group has not rebutted IFRS 9's 90 days past due rebuttable presumption.

## **(E) MEASUREMENT AND RECOGNITION OF EXPECTED CREDIT LOSS ON RECEIVABLES**

The group assesses on a forward-looking basis the expected credit losses (ECLs) associated with its cash and cash equivalents, advances and trade receivables measured at amortised cost. Lifetime ECLs are recognised when there has been a significant increase in credit risk since initial recognition. If, on the other hand, the credit risk on the financial instrument has not increased significantly since initial recognition, the group measures the loss allowance for that financial instrument at an amount equal to 12 month ECL. The assessment of whether lifetime ECLs should be recognised is based on significant increases in the likelihood or risk of a default occurring since initial recognition.

Lifetime ECLs represents the ECLs that will result from all possible default events over the expected life of a financial instrument. In contrast, 12 month ECLs represents the portion of lifetime ECLs that is expected to result from default events on a financial instrument that are possible within 12 months after the reporting date.

The group recognises a loss allowance for ECLs on a financial asset that is measured at amortised cost. The group uses a 'three-stage' approach ('general approach') for impairment based on changes in credit quality since initial recognition:

Loss given default is an estimate of the loss arising on default. It is based on the difference between contractual cash flows due and those that the group expects to receive, taking into account cash flows from collateral and integral credit enhancements.

The measurement of expected credit losses is a function of the probability of default, loss given default (i.e. the magnitude of the loss if there is a default) and the exposure at default. The assessment of the probability of default and loss given default is based on historical data adjusted by forward-looking information.

As for the exposure at default, for financial assets, this is represented by the assets' gross carrying amount at the reporting date. Expected credit losses are included in profit or loss.

## **(F) THE STAGES DEFINED**

Stage 1 includes financial instruments that do not have a significant increase in credit risk (SICR) since initial recognition. On initial recognition the group recognises 12 month ECLs on its advances. For these assets, 12 month ECLs are recognised and interest revenue is calculated on the gross carrying amount of the asset (that is, without deduction for the loss allowance).

Stage 2 includes financial instruments that have had a SICR since initial recognition (unless they have low credit risk at the reporting date) but that do not have objective evidence of impairment. For these assets, lifetime ECLs are recognised, but interest revenue is still calculated on the gross carrying amount of the asset.

Stage 3 includes financial assets that have objective evidence of impairment at the reporting date. For these assets, lifetime ECLs are recognised and interest revenue is calculated on the gross carrying amount and derecognised immediately to loss allowances.

## **(G) CURING**

Continuous assessment is required to determine if the conditions that led to a financial asset being considered to be credit-impaired (i.e. Stage 3) still exist. Financial assets that no longer qualify as credit-impaired remain within stage 3 for a minimum period of six months (i.e. six full consecutive monthly payments per the terms and conditions). After considering qualitative factors, including compliance with existing financial asset terms and conditions, the asset is moved to stage 2.

Where it has been determined that a financial asset no longer meets the criteria for SICR, the financial asset will be moved from stage 2 (lifetime ECL model) back to stage 1 (12 month ECL model) prospectively.

## **(H) WRITE OFF POLICY**

The group writes off financial assets, in whole or in part, when it has exhausted all practicable recovery efforts and has concluded there is no reasonable expectation of recovery. Indicators that there is no reasonable expectation of recovery include (i) ceasing enforcement activity and (ii) where the group's recovery method is foreclosing on collateral and the value of collateral is such that there is no reasonable expectation of recovering in full.

## **(I) SIGNIFICANT INCREASE IN CREDIT RISK (SICR)**

In assessing whether the credit risk on a financial asset has increased significantly since initial recognition, the group compares the risk of a default occurring on the financial asset as at the reporting date with the risk of a default occurring on the financial asset as at the date of initial recognition. In making this assessment, the group considers both quantitative and qualitative information that is reasonable and supportable, including historical experience and forward-looking information that is available without undue cost or effort.

The group presumes that the credit risk on a financial asset has increased significantly since initial recognition when contractual payments are more than 30 days past due, unless the group has reasonable and supportable information that demonstrates otherwise.

The group determines the increase in credit risk for advances based on missed loan payments. Advances are determined as credit-impaired and in default if the arrears are greater than 90 days. Loss allowances are measured as follows for each of the following:

- 12 month ECLs for loans with no missed repayments.
- lifetime ECLs for loans with missed repayments but less than 90 days in arrears.
- credit-impaired for loans in arrears for more than 90 days.

Financial assets with objective evidence of impairment, considering the rebuttable presumption that default does not occur later than when a financial asset is 90 days past due, are assessed as being in default unless the group has reasonable and supportable information that demonstrates otherwise.

The group regularly monitors the effectiveness of the criteria used to identify whether there has been a significant increase in credit risk and revises them as appropriate to ensure that the criteria are capable of identifying a significant increase in credit risk before the amount becomes past due.

## **(J) DERECOGNITION - FINANCIAL ASSETS**

The group derecognises a financial asset only when the contractual rights to the cash flows from the asset expire or when it transfers the financial asset and substantially all the risks and rewards of ownership of the asset to another party. If the group neither transfers nor retains all the risks and rewards of ownership substantially and continues to control the transferred asset, the group recognises its retained interest in the asset and an associated liability for amounts it may have to pay. If the group retains substantially all the risks and rewards of ownership of a transferred financial asset, the group continues to recognise the financial asset and also recognises a collateralised borrowing for the proceeds received.

## **(K) FINANCIAL LIABILITIES AT AMORTISED COST**

The group classifies its financial liabilities as those measured at amortised cost. Financial liabilities measured at amortised cost include bank overdraft, borrowings, trade and other payables and amounts due to related parties.

# ACCOUNTING **POLICIES** (CONTINUED)

## **(L) DERECOGNITION - FINANCIAL LIABILITIES**

The group derecognises financial liabilities when and only when, the group obligations are discharged, cancelled or they expire. The difference between the carrying amount of the financial liability derecognised and the consideration paid and payable, including any non-cash assets transferred or liabilities assumed, is recognised in profit or loss.

### **1.11 TAX**

#### **(A) CURRENT TAX ASSETS AND LIABILITIES**

Current tax for current and prior periods is, to the extent unpaid, recognised as a liability. If the amount already paid in respect of current and prior periods exceeds the amount due for those periods, the excess is recognised as an asset.

Current tax liabilities or assets for the current and prior periods are measured at the amount expected to be paid to or recovered from the tax authorities, using the tax rates and tax laws that have been enacted or substantively enacted by the end of the reporting period.

Tax assets and liabilities are offset at the taxpayer level if in the same jurisdiction as the law allows net settlement. The different balances are presented accordingly either as assets or liabilities in the statement of financial position.

#### **(B) DEFERRED TAX ASSETS AND LIABILITIES**

Deferred tax liability is recognised for all temporary taxable differences.

Deferred tax assets are recognised for all deductible temporary differences, including the carry forward of unused tax losses, to the extent that taxable profit will probably be available against which the deductible temporary difference can be utilised unless the deferred tax asset arises from the initial recognition of an asset or liability in a transaction that

- is not a business combination and
- at the time of the transaction, it affects neither accounting profit (loss) nor taxable profit (tax loss).

Deferred tax assets and liabilities are measured at the tax rates that are expected to apply to the period when the asset is realised or the liability is settled, based on tax rates and tax laws that have been enacted or substantively enacted by the end of the reporting period.

The measurement of deferred tax reflects the tax consequences that would follow from the manner in which the group expects, at the reporting date, to recover or settle the carrying amount of its assets and liabilities. For this purpose, the carrying amount of investment property measured at fair value is presumed to be recovered through sale and the group has not rebutted this presumption.

Temporary differences in relation to a right-of-use asset and a lease liability for a specific lease are regarded as a net package (the lease) for the purpose of recognising deferred tax.

Deferred tax assets and liabilities are offset at the taxpayer level if in the same jurisdiction and the law allows net settlement. The different balances are shown accordingly, either as assets or liabilities on the statement of financial position.

#### **(C) TAX EXPENSE**

Current and deferred taxes are recognised in profit or loss for the period, except to the extent that the tax arises from:

- a transaction or event which is recognised, in the same or a different period, in other comprehensive income or
- a business combination.

Current tax and deferred taxes are recognised directly in equity if the tax relates to items that are recognised, in the same or a different period, directly in equity.

### **1.12 LEASES**

#### **(A) THE GROUP AS A LESSEE**

At inception of a contract, the group considers whether a contract is or contains a lease. A lease is defined as a contract or part of a contract that conveys the right to use an asset (the underlying asset) for a period of time in exchange for consideration.

#### **(B) MEASUREMENT AND RECOGNITION OF LEASES AS A LESSEE**

At lease commencement date, the group recognises a right-of-use asset and a lease liability. The right-of-use asset is measured at cost, which is made up of the initial measurement of the lease liability, any initial direct costs incurred by the group and any lease payments made in advance of the lease commencement date. The right-of-use asset is subsequently depreciated using the straight-

line method from the commencement date to the end of the lease term, unless the lease transfers ownership of the underlying asset to the group by the end of the lease term or the cost of the right-of-use asset reflects that the group will exercise a purchase option. In that case the right-of-use asset will be depreciated over the useful life of the underlying asset, which is determined on the same basis as those of property and equipment.

The group also assesses the right-of-use asset for impairment when such indicators exist.

At the commencement date, the group measures the lease liability at the present value of the lease payments unpaid at that date, discounted using the interest rate implicit in the lease if that rate is readily available or the group's incremental borrowing rate.

To determine the increment of borrowing rate, the group:

- where possible it uses recent third party financing received by the individual lease as a starting point, adjusted to reflect changes in financing conditions since third party financing was received and
- uses a build-up approach that starts with a risk free interest rate adjusted for credit risk for leases held, which does not have a recent third party financing.

Lease payments included in the measurement of the lease liability are made up of fixed payments (including in-substance fixed), amounts expected to be payable under a residual value guarantee and payments arising from options reasonably certain to be exercised.

In the statement of financial position, right-of-use assets have been included in property, plant and equipment and lease liabilities have been presented separately.

### **1.13 EMPLOYEE BENEFITS**

#### **SHORT-TERM EMPLOYEE BENEFITS**

Short-term employee benefits are expensed as the related service is provided. A liability is recognised for the amount expected to be paid if the group has a present legal or constructive obligation to pay this amount as a result of past service provided by the employee and the obligation can be estimated reliably.

### **1.14 REVENUE**

The group recognises revenue from the following major sources:

- property sales
- insurance contracts (refer to accounting policy note 1.15 for further information)
- tuition fees
- diamonds sales and
- interest received on financial assets.

#### **(A) PROPERTY SALES**

The group sells serviced and unserviced land to customers. The sale of serviced land involves the following performance obligations:

- sale of land
- provision of bulk services

The transaction prices for sale of serviced land is allocated to the performance obligations based on the stand-alone selling prices. Where these are not directly observable, they are estimated based on expected cost plus margin.

Revenue is recognised when control of the serviced land is transferred to the customer on the date upon which the purchaser has the ability to unilaterally affect changes to the asset. The date at which control transfers is when the earliest of the following occurs:

- the necessary bulk services have been installed and are available and ready for use and
- the purchaser has accepted the asset and has right-of-use and control over the property.

Where the sale relates to serviced land, these indicators are present for both the sale of the land and the services when the installation of services is complete. Therefore the installation of bulk services gives rise to point in the revenue recognition.

#### **(B) TUITION AND OTHER RELATED FEES**

Revenue from the sale of educational courses is recognised over time. Progress is measured as the amount of hours completed, as a percentage of the agreed hours required for the work to be done. This measure of progress faithfully depicts the transfer of the delivery of service to the customer.

Revenue is recognised at a point in time when a customer purchases course material. Payment of the transaction price is due immediately at the point the customer purchases the course material.



# ACCOUNTING **POLICIES** (CONTINUED)

## **(C) DIAMOND SALES**

Revenue is recognised at a point in time when control of the diamond is transferred to the customer being at the point the customer purchases the diamond at the diamond auction. Payment of the transaction price is due immediately at the point the customer purchases the diamond.

## **(D) INTEREST RECEIVED ON FINANCIAL ASSETS**

Interest income on financial assets that are classified as debt instruments at amortised cost is determined using the effective interest method. The application of the effective interest method to calculate interest income on an advance or receivable is dependent on the credit risk of the advance or receivable. The effective interest rate is applied to the gross carrying amount of the advance or receivable, provided the loan is not credit impaired. The gross carrying amount is the amortised cost before adjusting for a loss allowance. When a loan or receivable is classified as being credit impaired stage 3 financial asset, the interest income is limited to the net carrying amount.

## **1.15 INSURANCE CONTRACTS**

### **(A) CLASSIFICATION OF CONTRACTS**

An insurance contract is a contract under which the insurer accepts significant insurance risk from the policyholder by agreeing to compensate the policyholder if a specified uncertain future event (the insured event) adversely affects the policyholder. All policyholder contracts that transfer significant insurance risk are classified as insurance contracts. Such contracts may also transfer financial risk. Trustco defines significant insurance risk as the possibility of having to pay benefits on the occurrence of an insured event that is significantly more than the benefits payable if the insured event did not occur.

Financial risk is the risk of a possible future change in the value of an asset or financial instrument due to a change in the interest rate, financial instrument price, commodity price, foreign exchange rate, index of prices or rates, credit rating or credit index or other measurable variables.

The following typical types of contracts issued by the group are classified as insurance contracts:

- policies that provide legal cover in the event of litigation against or in favour of policyholders
- policies providing lump-sum benefits and cost recoveries for death
- policies that provide salary cover
- policies that provide short-term cover relating to property, accident and personal accident
- policies that provide medical insurance cover and
- policies that provide all or a combination of the above covers.

### **(I) LONG-TERM INSURANCE OPERATIONS**

These contracts are valued in terms of the financial soundness valuation (FSV) basis contained in NSAP 104 (a mandatory guidance note issued by the Namibian Society of Actuaries that gives guidance on IFRS making specific reference to the Namibian environment). The statutory actuary reviews the calculation of the liabilities under long-term insurance contracts and investment contracts annually at the reporting date in accordance with prevailing legislation, Generally Accepted Actuarial Standards in Namibia and IFRS as appropriate. The transfers to or from insurance liabilities are accounted for in profit or loss and represent the increase or decrease in contract liabilities, including all necessary provisions and reserves.

The liabilities for insurance contracts are set equal to the accumulated fair value of the underlying assets plus a non-unit reserve calculated in accordance with NSAP 104. Any deficiency is immediately recognised in profit or loss and a provision is recognised for losses from the liability adequacy tests.

Investment contracts are initially and thereafter recognised at fair value, with changes in fair value being recognised in profit or loss. The premiums, benefit payments and investment earnings relating to these investment contracts have been excluded from profit or loss and accounted for directly as movements in the liability.

Once a contract has been classified as an insurance contract, it remains an insurance contract for the remainder of its lifetime, even if the insurance risk reduces significantly during this period, unless all rights and obligations are extinguished or expire. Investment contracts can, however, be reclassified as insurance contracts after inception if insurance risk becomes significant, although this generally does not occur with the current investment contracts being written.

### **(II) SHORT-TERM INSURANCE OPERATIONS**

Contracts under which the short-term insurance operations accept significant insurance risk from another party (the policyholder) by agreeing to compensate the policyholder or other beneficiaries if a specified uncertain future event (the insured event) adversely affects the policyholder, or other beneficiaries, are classified as insurance contracts.

### **(B) INSURANCE RESULTS**

The underwriting results are determined after recognising liabilities for unearned premiums, claims incurred, incurred but not reported claims and such additional provisions as are considered necessary. The methods used to determine these liabilities are as follows:

#### **(I) PREMIUMS**

Premiums are earned from the date the risk attaches, over the indemnity period, based on the pattern of the risk underwritten. Unearned premiums, which represent the proportion of premiums written in the current period which relate to risks that have not expired by reporting date, are calculated on the 365th basis for even risk business and other bases that best represent the unearned risk profile for uneven risk business.

#### **(II) CLAIMS**

Claims incurred consist of claims and claims handling expenses paid during the reporting period together with the movement in the claims incurred liability. Claims outstanding comprise an obligation for the estimate of the ultimate cost of settling all claims incurred but unpaid at reporting date whether reported or not and an appropriate risk margin.

Adjustments to the amounts of claims obligations established in prior periods, as a result of changes in estimates, are reflected in the period in which the adjustments are made and disclosed separately if material.

### **(III) LIABILITY ADEQUACY TEST**

At each reporting date, liability adequacy tests are required to ensure the adequacy of the insurance contract liabilities. In performing these tests, current best estimates of future premiums, claims and claims handling and administration expenses, as well as investment income from the assets backing such liabilities, are used. Since the insurance policy liabilities are calculated in terms of the FSV basis as described in NSAP 104, which meets the minimum requirements of the liability adequacy test, it is not necessary to perform an additional liability adequacy test.

### **(IV) INCURRED BUT NOT REPORTED CLAIMS (SHORT-TERM BUSINESS) (IBNR)**

IBNR reflects the total amount owed by the insurer to all valid claimants who have a covered loss but not yet reported this to the insurer. Claims are calculated as a percentage of claims. Different percentages are applied by class of business.

### **(V) POLICYHOLDERS' LIABILITY UNDER INSURANCE CONTRACT (LONG-TERM BUSINESS)**

The liabilities under life insurance contracts are valued in terms of the FSV basis containing a discounted cash flow valuation based on best estimates of future cash flows plus margins for adverse deviation as prescribed by NSAP 104. The operating surpluses or losses arising from life insurance contracts are determined by the annual valuation and are included in 'insurance liabilities'. These surpluses or losses are determined after taking into account the movement within the policyholder liabilities.

### **(VI) UNEARNED PREMIUM RESERVE**

A provision in respect of premiums written in the current period relating to future periods is determined for all business on actual monies received in advance. This is calculated by multiplying the premium by the ratio of the outstanding term to the original term of the policies in force.

# ACCOUNTING POLICIES (CONTINUED)

## (C) REVENUE RECOGNITION

### (I) LONG-TERM INSURANCE OPERATIONS

Premiums and annuity considerations on insurance contracts are recognised when due in terms of the contract, other than group schemes. Premiums receivable in respect of group schemes that are due after the reporting date are ignored. However, where the operating ratios exceed 100%, a deficiency reserve is established to offset any expected losses up until the next renewal date.

Premiums are shown before deduction of commission. Premium income received in advance is included in insurance contract liabilities. Amounts received under investment contracts are recognised as deposits to investment contract liabilities.

### (II) SHORT-TERM INSURANCE OPERATIONS

Gross written premiums comprise the premiums on insurance contracts entered into during the period, irrespective of whether they relate in whole or in part to a later accounting period. Premiums are disclosed gross of commission to intermediaries and exclude value-added tax. Premiums written include adjustments to premiums written in the prior reporting periods. The earned portion of the premium received is recognised as revenue. Premiums are earned from the date of attachment of risk, over the indemnity period, based on the pattern of risks underwritten.

### (D) SOLVENCY MARGIN

The solvency margin is a measurement of the financial strength of a short-term insurer. It represents the shareholders' funds, expressed as a percentage of net premium income. This method of measurement is done in accordance with Section 20 of the Namibian Short-term Insurance Act of 1998.

## 1.16 SHARE CAPITAL

### (A) ORDINARY SHARES

Ordinary shares are classified as equity. Incremental costs directly attributable to the issue of ordinary shares are recognised as a deduction from equity, net of any tax effects.

## (B) TREASURY SHARES

The consideration paid/received for the purchase/sale of treasury shares is recognised directly in equity. The cost of treasury shares held is presented as a separate reserve. On disposal, the average cost of shares is adjusted against the treasury shares reserve. Any excess of the consideration received on the sale of treasury shares over the average cost of the shares sold is recognised in a retained earnings.

## 1.17 EARNINGS PER SHARE

### (A) BASIC EARNINGS PER SHARE

Earnings per share is calculated using the weighted average number of ordinary shares in issue during the period and is based on the net profit attributable to ordinary shareholders. To calculate earnings per share, treasury shares are deducted from the number of ordinary shares in issue.

### (B) DILUTED EARNINGS PER SHARE

Diluted earnings per share is calculated by adjusting the weighted average number of ordinary shares outstanding to assume conversion of all dilutive potential ordinary shares and is based on the net profit attributable to ordinary shareholders, adjusted for the after-tax dilutive effect.

### (C) HEADLINE EARNINGS PER SHARE

Headline earnings per share is calculated using the weighted average number of ordinary shares in issue during the period and is based on the earnings attributable to ordinary shareholders, after excluding those items as required by Circular 01/2021 issued by the South African Institute of Chartered Accountants (SAICA).

### (D) DILUTED HEADLINE EARNINGS PER SHARE

Diluted headline earnings per share is calculated by adjusting the weighted average number of ordinary shares outstanding to assume conversion of all dilutive potential ordinary shares and is based on the earnings attributable to ordinary shareholders, after excluding those items as required by Circular 1/2021 issued by the South African Institute of Chartered Accountants (SAICA).

## 1.18 FINANCE COSTS

Finance costs comprise interest payable on borrowings, calculated using the effective interest method, interest receivable on funds invested and exchange differences arising from foreign currency borrowings to the extent that they are regarded as an adjustment to interest cost.

## 1.19 NON-CURRENT ASSETS (OR DISPOSAL GROUPS) HELD FOR SALE

Non-current assets, or disposal groups comprising assets and liabilities, are classified as held-for-sale if it is highly probable that they will be recovered primarily through sale rather than through continuing use.

Such assets, or disposal groups, are generally measured at the lower of their carrying amount and fair value less costs to sell. Any impairment loss on a disposal group is allocated first to goodwill and then to the remaining assets and liabilities on a pro rata basis, except that no loss is allocated to inventories, financial assets, deferred tax assets, employee benefit assets, investment property or biological assets, which continue to be measured in accordance with the group's other accounting policies. Impairment losses on initial classification as held for sale and subsequent gains and losses on remeasurement are recognised in profit or loss.

Once classified as held-for-sale, intangible assets and property, plant and equipment are no longer amortised or depreciated.

## 1.20 SHARE-BASED PAYMENT TRANSACTIONS - EQUITY SETTLED

The grant date fair value of share-based payment instruments granted to employees is recognised as an employee expense, with a corresponding increase in equity, over the period in which the employees become unconditionally entitled to the options. The amount recognised as an expense is adjusted to reflect the number of instruments for which the related service and non-market conditions are met, such that the amount ultimately recognised as an expense is based on the number of instruments that meet the related service and non-market performance conditions at the vesting date.

## 1.21 NEW STANDARDS AND INTERPRETATIONS

### 1.21.1 STANDARDS AND INTERPRETATIONS EFFECTIVE AND ADOPTED IN THE CURRENT PERIOD

The following amended standards became applicable for the current reporting period.

#### (A) STANDARD THAT DID NOT HAVE A MATERIAL EFFECT ON THE GROUP'S FINANCIAL STATEMENTS

- IAS 1 Presentation of Financial Statements - Definition of Material  
The amendments clarify and align the definition of 'material' and provide guidance to help improve consistency in the application of that concept whenever it is used in IFRS Standards.
- IAS 8 Accounting Policies, Changes in Accounting Estimates and Errors - Definition of Material  
The amendments clarify and align the definition of 'material' and provide guidance to help improve consistency in the application of that concept whenever it is used in IFRS Standards. The group did not have to change its accounting policies or make retrospective adjustments as a result of adopting these amended standards.

#### (B) STANDARD THAT HAD AN EFFECT ON THE GROUP'S FINANCIAL STATEMENTS

- IFRS 3 Business Combinations - Definition of Business
  1. confirm that a business must include inputs and a process and clarify that:
    - a. the process must be substantive; and
    - b. the inputs and process must together significantly contribute to creating outputs.
  2. narrow the definitions of a business by focusing the definition of outputs on goods and services provided to customers and other income from ordinary activities, rather than on providing dividends or other economic benefits directly to investors or lowering costs; and
  3. add a test that makes it easier to conclude that a company has acquired a group of assets rather than a business if the value of the assets acquired is substantially all concentrated in a single asset or group of similar assets.

# ACCOUNTING **POLICIES** (CONTINUED)

The details of changes in the accounting policy of the group are set out in note 1.2

## 1.21.2 STANDARDS AND INTERPRETATIONS NOT YET EFFECTIVE

The group has chosen not to early adopt the following standards which has been published and is mandatory for the group's accounting periods beginning on or after 31 August 2021:

### (A) STANDARDS THAT THE GROUP HAS ASSESSED

- IFRS 3 Business Combinations - Reference to the Conceptual Framework (effective for annual periods beginning on or after 1 January 2022)  
The amendment updates a reference in IFRS 3 to the Conceptual Framework for Financial Reporting without changing the accounting requirements for business combinations.
- IFRS 9 Financial Instruments - Annual Improvements to IFRS Standards 2018-2020 (effective for annual periods beginning on or after 1 January 2022). The amendment clarifies which fees an entity includes when it applies the "10 per cent test" in assessing whether to derecognise a financial liability. *(This amendment clarifies that - for the purpose of performing the "10 per cent test" for derecognition of financial liabilities - in determining those fees paid net of fees received, a borrower includes only fees paid or received between the borrower and the lender, including fees paid or received by either the borrower or lender on the other's behalf.)*
- IAS 1 Presentation of Financial Statements - Classification of Liabilities as Current or Non-current: (effective for annual periods beginning on or after 1 January 2023).  
Narrow-scope amendments to IAS 1 to clarify how to classify debt and other liabilities as current or non-current.

- IAS 1 Presentation of Financial Statements - Disclosure of Accounting Policies (effective for annual periods beginning on or after 1 January 2023)  
The amendments require companies to disclose their material accounting policy information rather than their significant accounting policies, with additional guidance added to the Standard to explain how an entity can identify material accounting policy information with examples of when accounting policy information is likely to be material.
- IAS 8 Accounting Policies, Changes in Accounting Estimates and Errors - Definition of Accounting Estimates (effective for annual periods beginning on or after 1 January 2023)  
Definition of Accounting Estimates: The amendments clarify how companies should distinguish changes in accounting policies from changes in accounting estimates, by replacing the definition of a change in accounting estimates with a new definition of accounting estimates. Under the new definition, accounting estimates are "monetary amounts in financial statements that are subject to measurement uncertainty". The requirements for recognising the effect of change in accounting prospectively remain unchanged.
- IAS 12 Income Taxes - Deferred Tax related to Assets and Liabilities arising from a Single Transaction (effective for annual periods beginning on or after 1 January 2023).  
The amendment clarifies how a company accounts for income tax, including deferred tax, which represents tax payable or recoverable in the future. In specified circumstances, companies are exempt from recognising deferred tax when they recognise assets or liabilities for the first time. The aim of the amendments is to reduce diversity in the reporting of deferred tax on leases and decommissioning obligations, by clarifying when the exemption from recognising deferred tax would apply to the initial recognition of such items.

- IAS 16 Property, Plant and Equipment - Property, Plant and Equipment: Proceeds before Intended Use (effective for annual periods beginning on or after 1 January 2022). The amendments prohibit an entity from deducting from the cost of an item of property, plant and equipment any proceeds from selling items produced while bringing that asset to the location and condition necessary for it to be capable of operating in the manner intended by management. Instead, an entity recognises the proceeds from selling such items and the cost of producing those items, in profit or loss.

Management has assessed the impact of these new and revised standards on the group and concluded that they have no material effect on the group.

### (B) STANDARDS FOR WHICH THE GROUP IS STILL ASSESSING THE IMPACT

- IFRS 9 Financial Instruments - Interest Rate Benchmark Reform Phase 2 (effective for annual periods beginning on or after 1 January 2021)  
The amendments to IFRS 9, IAS 39, IFRS 7, IFRS 4 and IFRS 16 amend requirements relating to changes in the basis for determining contractual cash flows of financial assets, financial liabilities and lease liabilities, hedge accounting and disclosures.
  - a. The amendments to IFRS 9 enable a company to apply a practical expedient to account for a change in the contractual cash flows that are required by IBOR reform by updating the effective interest rate to reflect any change arising from the reform.
  - b. The amendments to IFRS 9 enable (and require) companies to continue hedge accounting in circumstances when changes to hedged items and hedging instruments arise as a result of changes required by the IBOR reform, by requiring companies to amend their hedging relationships to reflect:
    - designating an alternative benchmark rate as the hedged risk; or
    - changing the description of the hedged item, including the designated portion, or of the hedging instrument.

- IFRS 17 Insurance contracts (effective for annual periods beginning on or after 1 January 2023). IFRS 17 creates one accounting model for all insurance contracts in all jurisdictions that apply IFRS.
  - a. IFRS 17 requires an entity to measure insurance contracts using updated estimates and assumptions that reflect the timing of cash flows and take into account any uncertainty relating to insurance contracts.
  - b. The financial statements of an entity will reflect the time value of money in estimated payments required to settle incurred claims.
  - c. Insurance contracts are required to be measured based only on the obligations created by the contracts.
  - d. An entity will be required to recognise profits as an insurance service is delivered, rather than on receipt of premiums.
  - e. This standard replaces IFRS 4 - Insurance Contracts.

The impact is currently being assessed.

# NOTES TO THE FINANCIAL STATEMENTS

## 2. ADVANCES

FIGURES IN NAMIBIA DOLLAR THOUSAND

	31 AUGUST 2021	30 SEPTEMBER 2020
PROPERTY ADVANCES	34 916	464 090
STUDENT ADVANCES	430 720	425 086
OTHER LOANS ADVANCED	23 834	32 683
	<b>489 470</b>	<b>921 859</b>
CURRENT ASSETS	144 900	615 757
NON-CURRENT ASSETS	344 570	306 102
	<b>489 470</b>	<b>921 859</b>
<b>RECONCILIATION OF ADVANCES</b>		
ADVANCES AT BEGINNING OF THE PERIOD	921 859	1 387 091
LOANS ADVANCED (INCLUDING TRANSACTION COSTS)	117 618	105 992
PAYMENTS RECEIVED	(32 947)	(113 567)
PROPERTY ACQUIRED IN LIEU OF SETTLEMENT OF DEBT (A)	(464 214)	-
INCREASE IN LOSS ALLOWANCE	(71 017)	(497 466)
INTEREST CAPITALISED	18 786	39 809
IMPAIRED ADVANCES WRITTEN OFF	(615)	-
	<b>489 470</b>	<b>921 859</b>
<b>CONSISTING OF</b>		
GROSS ADVANCES	724 827	1 774 877
LOSS ALLOWANCE	(235 357)	(853 018)
	<b>489 470</b>	<b>921 859</b>
<b>RECONCILIATION OF LOSS ALLOWANCE</b>		
OPENING BALANCE	853 018	355 552
SUBSEQUENT CHANGES IN LOSS ALLOWANCE	24 438	492 255
DERECOGNITION OF LOSS ALLOWANCE ON DEBT SETTLED (A)	(688 678)	-
LOSS ALLOWANCE ON NEW EXPOSURES RAISED	27 793	5 211
SUBSEQUENT CHANGES IN LOSS ALLOWANCE FOR FINANCIAL	18 786	-
	<b>235 357</b>	<b>853 018</b>

## PROPERTY ADVANCES

The advances are split as follows:

### (A) COMMERCIAL FINANCE

On 16 December 2020, the group purchased 100% shareholding in two investment entities; Cumbrae Island Investments (Pty) Ltd (Cumbrae) and Elisenheim Estate Property Number One Hundred And One (Pty) Ltd (EEP 101). EEP 101 and Cumbrae's sole assets were investment property (NAD 398 million) and real estate inventory (NAD 66 million). At the time of purchase, Cumbrae and EEP 101 owed the group NAD 432 million. The amount due to the group was equivalent to the fair value of the underlying assets of Cumbrae and EEP 101. As a result of the transaction, the group now controls Cumbrae and EEP 101 and the property loans advanced became intergroup receivables which were eliminated on consolidation. The transaction was not treated as a business combination and the concentration test was not applied because the transaction did not constitute the purchase of a business as the entities acquired were not operational. The group accounted for the transaction as a purchase of assets.

### (B) MORTGAGE LOANS

Mortgage loans with a carrying amount of NAD 12.2 million (30 September 2020: 20.19 million) bear interest at rates ranging between 8.25% pa to 10% pa (30 September 2020: 8.25% pa to 12.50% pa), the average mortgage type contracts are repayable over an average of 220 (30 September 2020: 220) monthly instalments of NAD 0.120 million (30 September 2020: NAD 0.137 million). Mortgage loans are secured by mortgage bonds over immovable property.

### (C) OTHER PROPERTY ADVANCES

Other advances with a carrying amount of NAD 23.8 million (30 September 2020: NAD 14.896 million) bear interest at rates ranging between 7.5% pa to 12.5% pa (30 September 2020: 10.50% pa to 15.50% pa), the average mortgage-type contracts are repayable over an average of 36 (30 September 2020: 36) monthly instalments of NAD 0.628 million (30 September 2020: NAD 0.709 million). Personal sureties or cessions of shares in property holding companies are also obtained from buyers where deemed necessary. Loans are secured by security over motor vehicles purchased by the dealers. Personal sureties are obtained where deemed necessary.

## STUDENT ADVANCES

The net carrying amount balance of student advances with a carrying amount of NAD 430 million (30 September 2020: NAD 425 million) bears interest ranging between 7.5% - 15.0% pa (30 September 2020: 7.5% - 15.0% pa), are unsecured and repayable over periods between 12 and 60 months. The student advances serve as security for the borrowing facilities, as disclosed in note 13.

Refer to note 35 for details of financial risk management.

# NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

## RECONCILIATION OF LOSS ALLOWANCE FOR ADVANCES

	STAGE 1	STAGE 2	STAGE 3	TOTAL
OPENING BALANCE AT 1 OCTOBER 2020	49 534	4 405	799 079	853 018
TRANSFERS FROM STAGE 1	(8 841)	1 696	7 145	-
TRANSFERS FROM STAGE 2	2 654	(3 206)	552	-
TRANSFERS FROM STAGE 3	15 196	4 969	(20 165)	-
SUBSEQUENT CHANGES IN LOSS ALLOWANCE	(20 394)	(596)	45 587	24 597
LOSS ALLOWANCE RECOGNISED ON NEW EXPOSURES	27 356	170	19 053	46 579
IMPAIRED ACCOUNTS WRITTEN OFF	-	-	(159)	(159)
DERECOGNITION OF LOSS ALLOWANCE ON DEBT SETTLED (A)	-	-	(688 678)	(688 678)
<b>CARRYING AMOUNT AT 31 AUGUST 2021</b>	<b>65 505</b>	<b>7 438</b>	<b>162 414</b>	<b>235 357</b>

	STAGE 1	STAGE 2	STAGE 3	TOTAL
OPENING BALANCE AT 1 APRIL 2019	32 530	1 436	321 586	355 552
TRANSFERS FROM STAGE 1	(862)	229	633	-
TRANSFERS FROM STAGE 2	674	(2 059)	1 385	-
TRANSFERS FROM STAGE 3	1 562	25 389	(26 951)	-
SUBSEQUENT CHANGES IN LOSS ALLOWANCE	10 419	(20 590)	502 426	492 255
LOSS ALLOWANCE RECOGNISED ON NEW EXPOSURES	5 211	-	-	5 211
<b>CARRYING AMOUNT AT 30 SEPTEMBER 2020</b>	<b>49 534</b>	<b>4 405</b>	<b>799 079</b>	<b>853 018</b>

## RECONCILIATION OF LOSS ALLOWANCE FOR ADVANCES

	OPENING ECL 1 OCTOBER 2020	TOTAL TRANSFERS BETWEEN STAGES	ECL ON NEW EXPOSURES RAISED	IMPAIRED ACCOUNTS WRITTEN OFF	DERECOGNITION OF ECL ON DEBT SETTLED	SUBSEQUENT CHANGES IN ECL	CLOSING ECL 31 AUGUST 2021
<b>OTHER LOANS ADVANCED</b>							
STAGE 1	336	(385)	49	-	-	532	532
STAGE 2	6	370	-	-	-	46	422
STAGE 3	1 060	15	-	(159)	-	(46)	870
<b>STUDENT ADVANCES</b>							
STAGE 1	49 199	9 394	27 307	-	-	(20 927)	64 973
STAGE 2	4 398	3 089	170	-	-	(643)	7 016
STAGE 3	128 127	(12 483)	267	-	-	45 633	161 544
<b>PROPERTY ADVANCES</b>							
STAGE 1	-	-	-	-	-	-	-
STAGE 2	-	-	-	-	-	-	-
STAGE 3	669 892	-	18 786	-	(688 678)	-	-
	<b>853 018</b>	<b>-</b>	<b>46 579</b>	<b>(159)</b>	<b>(688 678)</b>	<b>24 597</b>	<b>235 357</b>

# NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

## RECONCILIATION OF LOSS ALLOWANCE FOR ADVANCES

	OPENING ECL 1 APRIL 2019	TOTAL TRANSFERS BETWEEN STAGES	ECL ON NEW EXPOSURES RAISED	IMPAIRED ACCOUNTS WRITTEN OFF	SUBSEQUENT CHANGES IN ECL	CLOSING ECL 30 SEPTEMBER 2020
<b>OTHER LOANS ADVANCED</b>						
STAGE 1	568	(4)	18	-	(246)	336
STAGE 2	30	(20)	-	-	(4)	6
STAGE 3	-	24	-	-	1 036	1 060
<b>STUDENT ADVANCES</b>						
STAGE 1	31 962	(29 767)	5 124	-	41 880	49 199
STAGE 2	1 406	3 019	33	-	(59)	4 399
STAGE 3	66 406	26 748	36	-	34 937	128 127
<b>PROPERTY ADVANCES</b>						
STAGE 1	-	-	-	-	-	-
STAGE 2	-	-	-	-	-	-
STAGE 3	255 180	-	-	-	414 711	669 891
	<b>355 552</b>	<b>-</b>	<b>5 211</b>	<b>-</b>	<b>492 255</b>	<b>853 018</b>

The loss allowance for advances to customers recognised in the period is impacted by a variety of factors. The main movements in the above tables are described below:

- Transfers between Stage 1, 2 and 3 due to balances experiencing significant increases (or decreases) of credit risk or becoming credit-impaired in the period and the consequent "step up" (or "step down") between 12-month and lifetime ECL.
- Additional allowances for new financial instruments recognised during the period, as well as releases for financial instruments derecognised in the period.
- Impact on the measurement of ECLs due to changes to model assumptions (including changes in the probability of default, exposure at default and loss given default) arising from the update of inputs to ECLs models.
- Unwinding of discount due to the passage of time because ECLs is measured on a present value basis.
- Increase in ECLs for property advances was due to the deterioration of property values. The underlying assets for property advances are immovable properties.

## RECONCILIATION OF GROSS CARRYING AMOUNT

	STAGE 1	STAGE 2	STAGE 3	TOTAL
OPENING BALANCE AT 1 OCTOBER 2020	410 607	5 959	1 358 311	1 774 877
TRANSFERS FROM STAGE 1	(26 322)	7 077	19 245	-
TRANSFERS FROM STAGE 2	12 831	(16 111)	3 280	-
TRANSFERS FROM STAGE 3	49 672	15 168	(64 840)	-
RECEIPTS	(292 947)	13 509	246 491	(32 947)
NEW LOANS	109 507	561	26 336	136 404
ACCOUNTS WRITTEN OFF	-	-	(615)	(615)
INVESTMENT PROPERTY ACQUIRED IN LIEU OF SETTLEMENT OF DEBT (A)	(31 960)	-	(1 120 932)	(1 152 892)
<b>CARRYING AMOUNT AT 31 AUGUST 2021</b>	<b>231 388</b>	<b>26 163</b>	<b>467 276</b>	<b>724 827</b>

	STAGE 1	STAGE 2	STAGE 3	TOTAL
OPENING BALANCE AT 1 APRIL 2019	458 795	6 732	1 277 116	1 742 643
TRANSFERS FROM STAGE 1	(9 023)	870	8 153	-
TRANSFERS FROM STAGE 2	897	(1 670)	773	-
TRANSFERS FROM STAGE 3	4 956	1 082	(6 038)	-
(RECEIPTS)/TRANSFERS TO	(95 034)	(1 184)	(17 349)	(113 567)
NEW LOANS	50 016	129	95 656	145 801
<b>CARRYING AMOUNT AT 30 SEPTEMBER 2020</b>	<b>410 607</b>	<b>5 959</b>	<b>1 358 311</b>	<b>1 774 877</b>

	GROSS CARRYING AMOUNT 1 OCTOBER 2020	TOTAL NEW LOANS TRANSFERS BETWEEN STAGES	IMPAIRED ACCOUNTS WRITTEN OFF	INVESTMENT PROPERTY ACQUIRED IN LIEU OF DEBT SETTLEMENT	RECEIPTS	GROSS CARRYING AMOUNT 31 AUGUST 2021
<b>OTHER LOANS ADVANCE</b>						
STAGE 1	33 293	(4 459)	1 734	-	(10 181)	20 387
STAGE 2	101	2 623	-	-	370	3 094
STAGE 3	1 695	1 835	(615)	-	266	3 181
<b>STUDENT ADVANCES</b>						
STAGE 1	366 140	40 640	101 364	-	(297 144)	211 000
STAGE 2	5 858	3 511	561	-	13 139	23 069
STAGE 3	213 467	(44 150)	267	-	260 603	430 187
<b>PROPERTY ADVANCES</b>						
STAGE 1	25 551	-	6 410	(31 961)	-	-
STAGE 2	-	-	-	-	-	-
STAGE 3	1 128 772	-	26 069	(1 120 932)	-	33 909
	<b>1 774 877</b>	<b>-</b>	<b>136 405</b>	<b>(615)</b>	<b>(1 152 893)</b>	<b>(32 947)</b>
						<b>724 827</b>

# NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

## RECONCILIATION OF GROSS CARRYING AMOUNT

	GROSS CARRYING AMOUNT 1 APRIL 2019	TOTAL TRANSFERS BETWEEN STAGES	NEW LOANS	IMPAIRED ACCOUNTS WRITTEN OFF	RECEIPTS	GROSS CARRYING AMOUNT 30 SEPTEMBER 2020
<b>OTHER LOANS ADVANCED</b>						
STAGE 1	50 531	(1 098)	3 937	-	(20 077)	33 293
STAGE 2	659	(507)	-	-	(51)	101
STAGE 3	-	1 605	-	-	90	1 695
<b>STUDENT ADVANCES</b>						
STAGE 1	408 933	(2 030)	46 353	-	(87 116)	366 140
STAGE 2	6 074	789	129	-	(1 134)	5 858
STAGE 3	214 198	1 241	3 307	-	(5 279)	213 467
<b>PROPERTY ADVANCES</b>						
STAGE 1	14 377	-	11 174	-	-	25 551
STAGE 2	-	-	-	-	-	-
STAGE 3	1 047 871	-	80 901	-	-	1 128 772
	<b>1 742 643</b>	<b>-</b>	<b>145 801</b>	<b>-</b>	<b>(113 567)</b>	<b>1 774 877</b>

No modifications were made to financial assets in the current and prior financial periods that resulted in derecognition.

	31 AUGUST 2021			30 SEPTEMBER 2020		
	GROSS LOANS	LOSS ALLOWANCE	CARRYING AMOUNT	GROSS LOANS	LOSS ALLOWANCE	CARRYING AMOUNT
<b>OTHER LOANS ADVANCED</b>						
STAGE 1	20 387	(532)	19 855	33 293	(336)	32 957
STAGE 2	3 094	(422)	2 672	101	(6)	95
STAGE 3	3 181	(870)	2 311	1 695	(1 060)	635
<b>STUDENT ADVANCES</b>						
STAGE 1	211 000	(64 973)	146 027	366 140	(49 199)	316 941
STAGE 2	23 069	(7 016)	16 053	5 858	(4 399)	1 459
STAGE 3	430 187	(161 544)	268 643	213 467	(128 127)	85 340
<b>PROPERTY ADVANCES</b>						
STAGE 1	-	-	-	25 551	-	25 551
STAGE 2	-	-	-	-	-	-
STAGE 3	33 909	-	33 909	1 128 772	(669 891)	458 880
	<b>724 825</b>	<b>(235 357)</b>	<b>489 470</b>	<b>1 774 877</b>	<b>(853 018)</b>	<b>921 859</b>

During the period under review the significant movement under property loans was as a result of the group acquiring investment property in lieu of settlement of property advances.

# NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

## COLLATERAL AND OTHER CREDIT ENHANCEMENTS

31 AUGUST 2021	MAXIMUM EXPOSURE TO CREDIT RISK	COLLATERAL	NET EXPOSURE
OTHER LOANS ADVANCED	26 662	(25 922)	740
STUDENT ADVANCES	664 255	-	664 255
PROPERTY ADVANCES	33 909	-	33 909
	724 827	(25 922)	698 904

30 SEPTEMBER 2020	MAXIMUM EXPOSURE TO CREDIT RISK	COLLATERAL	NET EXPOSURE
OTHER LOANS ADVANCED	35 089	(33 472)	1 617
STUDENT ADVANCES	585 464	-	585 464
PROPERTY ADVANCES	1 154 324	(459 890)	694 433
	1 774 877	(493 362)	1 281 514

- Other loans advanced are secured by mortgage bonds over immovable property or personal surety is obtained from buyers where deemed necessary and security over motor vehicles purchased by the dealer.
- Property advances are secured by immovable properties sold. Personal sureties are obtained from buyers where deemed necessary.

There has been no significant changes in the quality of collateral.

### ASSUMPTIONS

The group also includes all forward-looking information, which is reasonable and available without undue cost or effort. The information will typically include expected macroeconomic conditions and factors that are expected to impact portfolios or individual counterparty exposure. A sample of exposures was selected and assessed incorporating forward-looking information into their assigned credit risk rating. The group obtained an understanding of the forward-looking information such as the potential impact of COVID-19 which was taken into account for the exposure and evaluating it for reasonability against management's expectations. The group increased probability of default (PDs) for all portfolios of advances with the potential impact

of COVID-19 and the result was an increase in ECLs recognised at the reporting date. COVID-19 has had a pervasive effect on the global economy.

### PROPERTY ADVANCES

The underlying assets for property advances are serviced and unserviced properties, the terms of which are directly linked to the sale of the properties after bulk services are installed. Due to the lack of adequate historical data to determine the probability of default reliably ECLs for property advances is determined using the independent valuation of the underlying assets at the reporting date. Loss allowances are calculated as the difference between the property value and the gross carrying amount of the property advances at the reporting date.

The group considers the probability of default upon initial recognition of an asset and whether there has been a significant increase in credit risk on an ongoing basis throughout each reporting period. To assess whether there is a significant increase in credit risk, the group compares the risk of a default occurring on the asset at the reporting date with the risk of default at the date of initial recognition. It considers available reasonable and supportive forwarding-looking information. Especially the following indicators are incorporated:

- internal credit rating
- external credit rating (Bank of Namibia's BID 2 guidelines and Moody's Global default rates)
- actual or expected significant adverse changes in business, financial or economic conditions that are expected to cause a significant change to the borrower's ability to meet its obligations
- actual or expected significant changes in the operating results of the borrower
- significant increases in credit risk on other financial instruments of the same borrower
- significant changes in the value of the collateral supporting the obligation or in the quality of third-party guarantees or credit enhancements

- significant changes in the expected performance and behaviour of the borrower, including changes in the payment status of borrowers in the group and changes in the operating results of the borrower.

Macroeconomic information (such as market interest rates or growth rates) is incorporated as part of the internal rating model.

Regardless of the analysis above, a significant increase in credit risk is presumed if a debtor is more than 60 days past due in making a contractual payment.

The group uses three categories for advances that reflect their credit risk and how the loss provision is determined for each of those categories. These internal credit risk ratings are aligned to Moody's external credit ratings. A summary of the assumptions underpinning the group's expected credit loss model is as follows

CATEGORY	GROUP DEFINITION OF THE CATEGORY	THE BASIS FOR RECOGNITION OF EXPECTED CREDIT LOSS PROVISION
PERFORMING	LOANS WHOSE CREDIT RISK IS IN LINE WITH ORIGINAL EXPECTATIONS	12 MONTH EXPECTED LOSSES. WHERE THE EXPECTED LIFETIME OF AN ASSET IS LESS THAN 12 MONTHS, EXPECTED LOSSES ARE MEASURED AT ITS EXPECTED LIFETIME (STAGE 1)
UNDERPERFORMING	LOANS FOR WHICH A SIGNIFICANT INCREASE IN CREDIT RISK HAS OCCURRED COMPARED TO ORIGINAL EXPECTATIONS; A SIGNIFICANT INCREASE IN CREDIT RISK IS PRESUMED IF INTEREST AND/OR PRINCIPAL REPAYMENTS ARE 30 DAYS PAST DUE (SEE ABOVE IN MORE DETAIL)	LIFETIME EXPECTED LOSSES (STAGE 2)
NON-PERFORMING (CREDIT-IMPAIRED)	INTEREST AND/OR PRINCIPAL REPAYMENTS ARE 91 DAYS PAST DUE, OR IT BECOMES PROBABLE A CUSTOMER WILL ENTER BANKRUPTCY	LIFETIME EXPECTED LOSSES (STAGE 3)
WRITE-OFF	A) AMOUNTS DUE TO TRUSTCO BANK LTD THAT ARE 365 DAYS PAST DUE and THERE IS NO REASONABLE EXPECTATION OF RECOVERY FOR THE AMOUNTS ARE WRITTEN OFF IN LINE WITH BANK OF NAMIBIA'S REGULATIONS. B) OTHER FINANCIAL ASSETS ARE WRITTEN OFF WHEN ALL CREDIT ENHANCEMENT PROCEDURES ARE FULLY EXHAUSTED.	THE ASSET IS WRITTEN OFF

The following table shows the PDs applicable for the various stages.



# NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

STAGE	PROBABILITY OF DEFAULT (AVERAGE)	31 AUGUST 2021		30 SEPTEMBER 2020	
		LOSS GIVEN DEFAULT (AVERAGE)	PROBABILITY OF DEFAULT (AVERAGE)	LOSS GIVEN DEFAULT (AVERAGE)	PROBABILITY OF DEFAULT (AVERAGE)
STAGE 1	40.10%	31.05%	17.5%	26.7%	
STAGE 2	73.20%	31.05%	58.85%	26.7%	
STAGE 3	100.00%	31.05%	100.00%	26.7%	

## CREDIT RATING

31 AUGUST 2021	ECLs RATE	STAGE 1	STAGE 2	STAGE 3	TOTAL
STANDARD (0-30 DAYS)	42.10%	231 388	-	-	231 388
SUBSTANDARD (31-60 DAYS)	63.10%	-	3 094	-	3 094
SPECIAL MONITORING (61-90 DAYS)	73.20%	-	23 069	-	23 069
DEFAULT (90+ DAYS)	100.00%	-	-	467 276	467 276
<b>GROSS CARRYING AMOUNT</b>		231 388	26 163	467 276	724 827

30 SEPTEMBER 2020	ECLs RATE	STAGE 1	STAGE 2	STAGE 3	TOTAL
STANDARD (0-30 DAYS)	24.80%	243 120	-	-	243 120
SUBSTANDARD (31-60 DAYS)	34.20%	-	12 882	-	12 882
SPECIAL MONITORING (61-90 DAYS)	50.60%	-	6 221	-	6 221
DEFAULT (90+ DAYS)	100.00%	-	-	1 512 654	1 512 654
<b>GROSS CARRYING AMOUNT</b>		243 120	19 103	1 512 654	1 774 877

## 3. TRADE AND OTHER RECEIVABLES

FIGURES IN NAMIBIA DOLLAR THOUSAND

	31 AUGUST 2021	30 SEPTEMBER 2020
TRADE RECEIVABLES	43 067	35 422
PROPERTY SALES RECEIVABLES	48 960	179 208
OTHER RECEIVABLES	42 578	25 836
VAT	28 284	35 604
	<b>162 889</b>	<b>276 070</b>
FINANCIAL INSTRUMENTS	134 605	240 466
NON-FINANCIAL INSTRUMENTS	28 284	35 604
	<b>162 889</b>	<b>276 070</b>
<b>RECONCILIATION OF LOSS ALLOWANCE</b>		
OPENING BALANCE	24 238	1 287
SUBSEQUENT CHANGES IN LOSS ALLOWANCE	579	22 951
	<b>24 817</b>	<b>24 238</b>

# NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

The group holds collateral (in the form of immovable property sold) to cover its credit risks associated with property receivables. The carrying amount of property receivables amounts to NAD 49 million (2020: NAD 179 million) and the fair value of the immovable property exceeds the carrying amount of property receivables. If the group repossesses the immovable property, the group expects to sell the property within twelve months. The group does not sell or repledge the collateral in the absence of default by the debtor. There have not been any significant changes in the quality of the collateral held for property receivables. Therefore, no loss allowance was recognised as the expected credit loss is immaterial. The group has not recognised a loss allowance for the property receivables because of these collaterals.

The maximum exposure to credit risk at the reporting date is the fair value of each class of receivable. No trade receivables and other receivables have been pledged as collateral for liabilities or contingent liabilities.

The carrying amount approximates fair value due to the short-term nature thereof.

## 4. ASSETS AND LIABILITIES CLASSIFIED AS HELD FOR SALE

FIGURES IN NAMIBIA DOLLAR THOUSAND	31 AUGUST 2021	30 SEPTEMBER 2020
<b>ASSETS CLASSIFIED AS HELD FOR SALE</b>		
TRANSFER FROM INVESTMENT PROPERTY (NOTE 8)	-	343 580
TRADE AND OTHER RECEIVABLES	-	56
	-	<b>343 636</b>
<b>LIABILITIES ASSOCIATED WITH ASSETS CLASSIFIED AS HELD FOR SALE</b>		
TRADE AND OTHER PAYABLES	-	(1 070)
CURRENT TAX PAYABLE	-	(91)
		<b>(1 161)</b>
<b>NET TOTAL ASSETS CLASSIFIED AS HELD FOR SALE</b>	-	<b>342 475</b>

At 30 September 2020, the group resolved to dispose Herboth's Property Development (Pty) Ltd (indirect subsidiary) and a sales agreement was signed with an external party.

During the 2021 financial period the negotiations were terminated, therefore the Herboth's transaction will not proceed.

On termination of the transaction, no impairment loss was recognised.

## 5. AMOUNTS DUE TO RELATED PARTIES

FIGURES IN NAMIBIA DOLLAR THOUSAND

	31 AUGUST 2021	30 SEPTEMBER 2020
GERMINATE SL LTD	(75 155)	(82 332)
NEXT CAPITAL LTD	(88 107)	(123 762)
	<b>(163 262)</b>	<b>(206 094)</b>
CURRENT LIABILITIES	(75 155)	(64 255)
NON-CURRENT LIABILITIES	(88 107)	(141 839)
	<b>(163 262)</b>	<b>(206 094)</b>

The amount due to Next Capital Ltd bears interest at 12.08% per annum and is not repayable in the next 12 months. No management fees were accrued in terms of the new management agreement as announced, as regulatory and shareholder approval for the agreement has not yet been obtained.

The amount due to Germinate SL Ltd bears interest at LIBOR plus 4%, is repayable on demand and is unsecured.

The carrying amount approximates fair values owing to variable rates that reprice as interest rates change and due to the short-term nature thereof.

## 6. INVENTORIES

FIGURES IN NAMIBIA DOLLAR THOUSAND

	31 AUGUST 2021	30 SEPTEMBER 2020
WORK IN PROGRESS	193 929	80 418
FINISHED GOODS	43 174	49 499
	<b>237 103</b>	<b>129 917</b>

Work in progress relates to land under development. This land under development has been mortgaged as security for the borrowings as described in note 13.

The cost of inventories recognised as an expense and included in the cost of sales amounted to NAD 36 million (30 September 2020: NAD 99 million).

No inventories were written down to net realisable value during the reporting periods.

# NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

## 7. PROPERTY, PLANT AND EQUIPMENT

FIGURES IN NAMIBIA DOLLAR THOUSAND

	LAND AND BUILDINGS	MACHINERY AND EQUIPMENT	MOTOR VEHICLES	OFFICE EQUIPMENT AND FURNITURE	COMPUTER EQUIPMENT	AIRCRAFT	EXPLORATION	TOTAL ASSETS
<b>31 AUGUST 2021</b>								
COST OR FAIR VALUE	164 449	96 591	77 240	12 197	41 934	-	256 226	648 637
ACCUMULATED DEPRECIATION AND IMPAIRMENT	(13 775)	(87 445)	(37 290)	(4 592)	(41 318)	-	(149 434)	(333 854)
	<b>150 674</b>	<b>9 146</b>	<b>39 950</b>	<b>7 605</b>	<b>616</b>	<b>-</b>	<b>106 792</b>	<b>314 783</b>
OPENING BALANCE	150 170	19 422	58 158	7 899	4 390	-	152 605	392 644
ADDITIONS	-	-	-	8	373	-	7 625	8 006
DISPOSALS	(125)	(7 874)	(10 107)	(485)	-	-	-	(18 591)
DEPRECIATION	629	(2 402)	(8 101)	183	(4 147)	-	(34 968)	(48 806)
EXCHANGE RATE MOVEMENT	-	-	-	-	-	-	(18 470)	(18 470)
<b>CLOSING BALANCE</b>	<b>150 674</b>	<b>9 146</b>	<b>39 950</b>	<b>7 605</b>	<b>616</b>	<b>-</b>	<b>106 792</b>	<b>314 783</b>
<b>30 SEPTEMBER 2020</b>								
COST OR FAIR VALUE	164 669	103 812	98 133	12 462	41 671	-	283 857	704 604
ACCUMULATED DEPRECIATION AND IMPAIRMENT	(14 499)	(84 390)	(39 975)	(4 563)	(37 281)	-	(131 252)	(311 960)
	<b>150 170</b>	<b>19 422</b>	<b>58 158</b>	<b>7 899</b>	<b>4 390</b>	<b>-</b>	<b>152 605</b>	<b>392 644</b>
OPENING BALANCE	158 361	46 035	76 267	8 808	12 043	183 637	185 105	670 256
ADDITIONS	-	-	9 655	528	379	-	-	10 562
DISPOSALS	(358)	(48)	(9 680)	-	(678)	(177 604)	-	(188 368)
DEPRECIATION	(7 833)	(26 565)	(18 084)	(1 437)	(7 354)	(6 033)	(64 291)	(131 597)
EXCHANGE RATE MOVEMENT	-	-	-	-	-	-	31 791	31 791
<b>CLOSING BALANCE</b>	<b>150 170</b>	<b>19 422</b>	<b>58 158</b>	<b>7 899</b>	<b>4 390</b>	<b>-</b>	<b>152 605</b>	<b>392 644</b>

### LEASES

a) Amounts recognised in statement of financial position

The following right-of-use assets are included in property, plant and equipment in the relevant classes:

FIGURES IN NAMIBIA DOLLAR THOUSAND	31 AUGUST 2021	30 SEPTEMBER 2020
LAND AND BUILDINGS	29 901	29 901
MOTOR VEHICLES	25 488	31 766
<b>RIGHT-OF-USE ASSETS CARRYING AMOUNT</b>	<b>55 389</b>	<b>61 667</b>

b) Lease liabilities, refer to note 16

c) Amounts recognised in statement of profit and loss.

(i) Depreciation of right-of-use assets

(ii) Interest paid on lease liabilities, refer to note 25.

FIGURES IN NAMIBIA DOLLAR THOUSAND	31 AUGUST 2021	30 SEPTEMBER 2020
LAND AND BUILDINGS	-	7 001
MOTOR VEHICLES	6 826	8 267
	<b>6 826</b>	<b>15 268</b>

d) Cash out flows from lease liabilities, refer to note 30.

# NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

e) The group leasing activities:

i) Motor vehicles

The group leases vehicles. The average effective borrowing rate was 7.4% (30 September 2020: 7.4%) and an annual repayment was NAD 2.1 million (30 September 2020: NAD 2.1 million) and the lease liabilities are secured by motor vehicles. The average lease period for motor vehicle leases is 72 months.

ii) Land

The group leases land. The average lease period for land is 72 months. The average borrowing rate was 7.85% (30 September 2020: 7.85%) and an annual repayment of NAD 5.4 million (30 September 2020: NAD 7.6 million). The lease does not impose any covenants other than the security interest in the lease assets that are held by the lessor.

## PROPERTY, PLANT AND EQUIPMENT ENCUMBERED AS SECURITY

Refer to note 13 for details of property, plant and equipment encumbered as security for borrowings.

## REVALUATION OF LAND AND BUILDINGS

Directors perform a valuation of the group's land and buildings to determine the fair value of these assets.

The carrying amount of revalued assets under historical cost is:

FIGURES IN NAMIBIA DOLLAR THOUSAND

	31 AUGUST 2021	30 SEPTEMBER 2020
LAND AND BUILDINGS	97 673	97 169
<b>TOTAL HISTORICAL COST CARRYING AMOUNT</b>	<b>97 673</b>	<b>97 169</b>

Land and buildings are classified in level 3 of the fair value hierarchy.

## COMMITMENTS

Refer to note 39 for capital commitments authorised.

## VALUATION TECHNIQUES USED TO DETERMINE FAIR VALUES (LAND AND BUILDINGS)

Land and buildings were valued by using the income capitalisation method. This method involves the determination of the net income of the property that is capitalised at a rate sought by prudent investors to determine the revalued amount of the subject property. The expected income of the property is determined by the comparison of the market rentals of similar properties.

The valuations are based on the assessment by management. Properties are measured using the fair value model in terms of IFRS 13: Fair Value Measurement.

A register containing the information required by paragraph 22(3) of Schedule 4 of the Companies Act of Namibia is available for inspection at the company's registered office. If property, plant and equipment which are recognised on the revaluation model were stated on the historical cost basis, the carrying amounts would be as follows:

## 8. INVESTMENT PROPERTY

FIGURES IN NAMIBIA DOLLAR THOUSAND

	31 AUGUST 2021	30 SEPTEMBER 2020
<b>RECONCILIATION FOR THE PERIOD ENDED</b>		
OPENING BALANCE	1 780 167	2 399 618
ADDITIONS RESULTING FROM ACQUISITIONS	6 000	-
ADDITIONS	-	3 349
FAIR VALUE ADJUSTMENTS	(281 818)	(279 220)
TRANSFER FROM/(TO) ASSETS CLASSIFIED AS HELD FOR SALE	343 580	(343 580)
ACQUISITION THROUGH DERECOGNITION OF PROPERTY LOANS (NOTE 2)	398 541	-
<b>CARRYING AMOUNT</b>	<b>2 246 470</b>	<b>1 780 167</b>

## VALUATION OF INVESTMENT PROPERTY

LAFREZ DEVELOPMENT	696 811	696 870
ELISENHEIM	1 132 772	1 015 990
ONDANGWA DEVELOPMENT	18 957	18 957
FARM HERBOTH'S	343 580	-
DEVELOPED RENTAL PROPERTIES	23 250	23 250
REMAINDER OF FARM HERBOTH'S	25 100	25 100
KUISEB COUNTRY ESTATE	6 000	-
<b>CARRYING AMOUNT</b>	<b>2 246 470</b>	<b>1 780 167</b>

## INVESTMENT PROPERTY TRANSFERRED FROM/(TO) ASSETS HELD FOR SALE

Refer to note 4 for further information.

Certain investment properties as described above have been mortgaged as security for liabilities described in note 13.

A register containing the information required by paragraph 22(3) of Schedule 4 of the Namibian Companies Act is available for inspection at the company's registered office.

## VALUATION TECHNIQUES USED TO DETERMINE FAIR VALUES

The valuations are based on the assessment by management. Investment property is measured using the fair value model in terms of IFRS13: Fair Value Measurement. The group carries investment property at fair value, which was previously determined with reference to a combination of comparable sales values and the residual land valuation techniques, depending on the property's condition, which is dependent upon several inputs and underlying assumptions.

Investment properties are classified in level 3 of the fair value hierarchy.

# NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

## KEY VARIABLES

Key variables which will affect the value of investment properties are as follows:

	ELISENHEIM LIFESTYLE ESTATE	ELISENHEIM NATURE ESTATE	LAFRENZ INDUSTRIAL PARK	FARM HERBOTH'S
<b>ESTIMATED SELLABLE LAND (SQUARE METRES)</b>	<b>2 680 753</b>	<b>1 810 500</b>	<b>1 592 358</b>	<b>15 175 104</b>
RESIDENTIAL ERVEN	1 779 623	1 810 500	-	10 782 004
GENERAL RESIDENTIAL	538 834	-	-	-
BUSINESS ERVEN	55 443	-	-	312 800
OFFICE	-	-	-	-
INSTITUTIONAL	300 269	-	-	-
INDUSTRIAL - SERVICED PLOTS	6 584	-	1 592 358	-
	-	-	-	4 080 300
<b>SELLABLE LAND RATE PER SQUARE METRE (NAD)</b>				
RESIDENTIAL ERVEN	1 650	1 100	-	1 300
GENERAL RESIDENTIAL	1 650	-	-	-
BUSINESS ERVEN	1 800	-	-	1 500
OFFICE	-	-	-	-
INSTITUTIONAL	350	-	-	-
INDUSTRIAL - SERVICED PLOTS	1 800	-	1 800	-
	-	-	-	40
<b>CONSTRUCTION COSTS PER SQUARE METRE(NAD)</b>	450	430	480	600
<b>DEVELOPMENT PERIOD TO START (YEARS)</b>				
RESIDENTIAL ERVEN	2	9	-	5
GENERAL RESIDENTIAL	2	-	-	-
BUSINESS ERVEN	2	-	-	5
OFFICE	-	-	-	-
INSTITUTIONAL	2	-	-	-
INDUSTRIAL - SERVICED PLOTS	2	-	3	-
	-	-	-	5

# NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

	ELISENHEIM LIFESTYLE ESTATE	ELISENHEIM NATURE ESTATE	LAFRENZ INDUSTRIAL PARK	FARM HERBOTH
<b>DEVELOPMENT PERIOD TO END (YEARS)</b>				
RESIDENTIAL ERVEN	18	24	-	29
GENERAL RESIDENTIAL	18	-	-	-
BUSINESS ERVEN	5	-	-	14
OFFICE	-	-	-	-
INSTITUTIONAL	6	-	-	-
INDUSTRIAL - SERVICED	4	-	-	-
INDUSTRIAL	-	-	18	-
PLOTS	-	-	-	19
<b>SALES PERIOD START (YEARS)</b>				
RESIDENTIAL ERVEN	3	10	-	6
GENERAL RESIDENTIAL	3	-	-	-
BUSINESS ERVEN	3	-	-	6
OFFICE	-	-	-	-
INSTITUTIONAL	3	-	-	-
INDUSTRIAL - SERVICED	3	-	-	-
INDUSTRIAL	-	-	4	-
PLOTS	-	-	-	6
<b>SALES PERIOD END (YEARS)</b>				
RESIDENTIAL ERVEN	19	25	-	30
GENERAL RESIDENTIAL	19	-	-	-
BUSINESS ERVEN	7	-	-	15
OFFICE	-	-	-	-
INSTITUTIONAL	9	-	-	-
INDUSTRIAL - SERVICED	9	-	-	-
INDUSTRIAL	-	-	19	-
PLOTS	-	-	-	20
<b>RATES</b>				
FINANCING COST ON PROJECT FUNDING REQUIREMENT	8.5%	8.5%	8.5%	8.5%
MARKETING & LEGAL FEES RATE ON GROSS DEVELOPMENT VALUE	2.0%	2.0%	2.0%	2.0%
AGENT COMMISSION ON GROSS DEVELOPMENT VALUE	2.0%	2.0%	2.0%	2.0%
DEVELOPER'S PROFIT ON GROSS DEVELOPMENT VALUE	10.0%	10.0%	10.0%	10.0%
SELLING PRICE INFLATION RATE	4.5%	4.5%	4.5%	4.5%
COST PRICE INFLATION RATE	4.5%	4.5%	4.5%	4.5%
DISCOUNT RATE	13.0%	13.0%	13.0%	13.0%

# NOTES TO THE **FINANCIAL STATEMENTS** (CONTINUED)

## SENSITIVITY ANALYSIS

A change in key unobservable variables will affect the value of investment properties as follows:

FIGURES IN NAMIBIA DOLLAR THOUSAND	ELISENHEIM LIFESTYLE ESTATE	ELISENHEIM NATURE ESTATE	LAFRENZ INDUSTRIAL PARK	FARM HERBOTH'S
1 YEAR PROJECT ACCELERATION	(28 350)	(13 640)	(25 810)	(19 120)
1 YEAR PROJECT DELAY	30 660	20 580	27 920	20 830
5% REDUCTION IN SELLING PRICE	(54 190)	(19 440)	(50 520)	175 950
5% INCREASE IN SELLING PRICE	54 130	25 051	50 570	(175 970)
5% REDUCTION IN DEVELOPMENT COST	31 160	13 940	17 310	(159 590)
5% INCREASE IN DEVELOPMENT COST	(31 180)	(8 310)	(17 300)	159 600
1% REDUCTION IN FINANCING COST	80 560	33 960	58 840	(2 210)
1% INCREASE IN FINANCING COSTS	(90 080)	(34 070)	(66 290)	2 230
1% REDUCTION IN MARKETING & LEGAL FEES RATE	(18 050)	7 980	11 910	(830)
1% INCREASE IN MARKETING & LEGAL FEES RATE	18 060	(2 370)	(11 900)	810
1% REDUCTION IN AGENT COMMISSION RATE	(18 050)	7 980	11 910	(830)
1% INCREASE IN AGENT COMMISSION RATE	18 060	(2 370)	(11 900)	810
1% REDUCTION IN DEVELOPER'S PROFIT	(18 050)	7 980	11 910	(4 110)
1% INCREASE IN DEVELOPER'S PROFIT	18 060	(2 370)	(11 900)	4 090
1% REDUCTION IN INFLATION RATE	2 290	2 270	1 600	4 290
1% INCREASE IN INFLATION RATE	(2 290)	(2 270)	(1 550)	(4 300)
1% REDUCTION IN DISCOUNT RATE	76 380	33 540	52 260	(12 210)
1% INCREASE IN DISCOUNT RATE	(85 650)	(33 570)	(64 250)	11 860

# NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

## 9. INTANGIBLE ASSETS

FIGURES IN NAMIBIA DOLLAR THOUSAND

	TRADEMARKS, LICENCES AND PATENTS	COMPUTER SOFTWARE	GOODWILL	TOTAL
<b>31 AUGUST 2021</b>				
COST	68 465	283 909	268 018	620 392
ACCUMULATED AMORTISATION AND IMPAIRMENT	(36 529)	(212 040)	(9 497)	(258 066)
<b>CARRYING AMOUNT</b>	<b>31 936</b>	<b>71 869</b>	<b>258 521</b>	<b>362 326</b>
<b>30 SEPTEMBER 2020</b>				
COST	73 416	268 517	268 018	609 951
ACCUMULATED AMORTISATION AND IMPAIRMENT	(25 090)	(156 254)	(9 497)	(190 841)
<b>CARRYING AMOUNT</b>	<b>48 326</b>	<b>112 263</b>	<b>258 521</b>	<b>419 110</b>
OPENING BALANCE	48 326	112 263	258 521	419 110
ADDITIONS	713	16 348	-	17 061
AMORTISATION	(8 251)	(36 973)	-	(45 224)
IMPAIRMENT LOSS	(8 852)	(19 769)	-	(28 621)
<b>CARRYING AMOUNT</b>	<b>31 936</b>	<b>71 869</b>	<b>258 521</b>	<b>362 326</b>
OPENING BALANCE	54 378	139 622	258 521	452 521
ADDITIONS	481	23 199	-	23 680
DISPOSAL	(61)	-	-	(61)
OTHER CHARGES	(497)	-	-	(497)
AMORTISATION	(5 975)	(45 696)	-	(51 671)
IMPAIRMENT LOSS	-	(4 862)	-	(4 862)
<b>CARRYING AMOUNT</b>	<b>48 326</b>	<b>112 263</b>	<b>258 521</b>	<b>419 110</b>

Computer software includes internally generated computer software and purchased software deployed in systems across the group. Trademarks, licences and patents relate to educational course content, mobile technology and insurance patents and proprietary trademarks acquired.

### ASSESSMENT OF IMPAIRMENT OF GOODWILL, MINING ASSETS AND EXPLORATION ASSETS

#### MINING OPERATIONS - MEYA MINING LTD

Goodwill of NAD 258.5 million (30 September 2020: NAD 258.5 million) arose from the acquisition of Meya and is largely attributable to the exploration and evaluation resource and prospecting right. The recoverable amount of this unit is determined based on value-in-use calculations, which require the use of assumptions. The calculations use cash flow projections based on financial budgets approved by the directors based on the life of a mine plan with the following assumptions:

- revenue growth of 12.6% (30 September 2020: 12.6%)
- discount rate of 10% (30 September 2020: 10%)
- value per carat of USD 380 (30 September 2020: USD 380)
- expected life of mine - 15 years (30 September 2020: 15 years)
- operating expenditure growth of 5.71% (30 September 2020: 5.71%) and
- an average annual capital outlay of USD 20.5 million (30 September 2020: USD 20.5 million).

Projections during the budget period are based on the same expected gross margins and raw materials with price inflation throughout the budget period. The directors believe that any reasonable possible change in the key assumptions on which the recoverable amount is based would not cause the aggregate carrying amount to exceed the aggregate recoverable amount of the unit. The mine will commence production in the next financial period.

### SENSITIVITY ANALYSIS

The effect of a 1% change in the value of a carat with all other variables held constant will result in the value of the mine for the period ended 31 August 2021 decrease/increase by USD 7.9 million (30 September 2020 decrease/increase by USD 8.3 million). The effect of a 1% change in the discount rate with all other variables held constant will result in the value of the mine for the period ended 31 August 2021 increasing by USD 39.3 million and decreasing by 35.6 million (30 September 2020 increasing by USD 33.7 million and decreasing by USD 37.3 million). A 1% change identified above would not result in an impairment of goodwill.

### IMPAIRMENT OF EDUCATIONAL COURSES AND COMPUTER SOFTWARE

The downturn in the Namibian economy resulted in the revision of recoverable amounts for computer software and educational courses developed by the group. The group recognised impairment loss of NAD 28.6 million which was determined by reference to market values of the affected intangibles. The impairment loss is included in the operating expenses in the statement of profit or loss. The impairment loss is recorded in the insurance and its investments segment.



# NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

## 10. EVALUATION AND EXPLORATION ASSETS

FIGURES IN NAMIBIA DOLLAR THOUSAND

	31 AUGUST 2021	30 SEPTEMBER 2020
COST	415 567	474 211
ACCUMULATED AMORTISATION	-	-
<b>CARRYING AMOUNT</b>	<b>415 567</b>	<b>474 211</b>

### RECONCILIATION OF EVALUATION AND EXPLORATION ASSETS

OPENING BALANCE	474 211	530 275
ADDITIONS	-	305 237
EXCHANGE RATE MOVEMENT	-	10 441
TRANSFER TO MINE PROPERTIES	(58 644)	(371 742)
<b>CARRYING AMOUNT</b>	<b>415 567</b>	<b>474 211</b>

In the previous period, a 25 year large scale mining licence was granted to Meya Mining Ltd.

The mine is in the process of transitioning from the exploration and evaluation stage to commercial production, NAD nil (30 September 2020: NAD 372 million) was transferred from evaluation and exploration assets to mine. During the current period the group focused on development of the mine properties as opposed to further evaluation and exploration activities.

## 11. MINE PROPERTIES

FIGURES IN NAMIBIA DOLLAR THOUSAND

	31 AUGUST 2021	30 SEPTEMBER 2020
COST	739 658	607 699
ACCUMULATED AMORTISATION AND IMPAIRMENT	(68 734)	-
<b>CARRYING AMOUNT</b>	<b>670 924</b>	<b>607 699</b>

### RECONCILIATION OF MINE PROPERTIES

OPENING BALANCE	607 699	164 875
ADDITIONS	185 275	32 756
TRANSFER FROM EVALUATION AND EXPLORATION ASSETS	-	371 742
EXCHANGE RATE MOVEMENT	(53 316)	38 326
IMPAIRMENT LOSS	(68 734)	-
<b>CARRYING AMOUNT</b>	<b>670 924</b>	<b>607 699</b>

### VALUE OF MINE PROPERTIES

MEYA MINE	530 484	409 334
NORTHERN NAMIBIA DEVELOPMENT MINE (NNDC)	140 440	198 365
<b>CARRYING AMOUNT</b>	<b>670 924</b>	<b>607 699</b>

## ASSESSMENT OF IMPAIRMENT

### (A) IMPAIRMENT TEST OF MEYA MINE

Refer to note 9 for impairment assessment of the Meya Mining Ltd.

### (B) IMPAIRMENT TEST OF NNDC MINE

NNDC has been placed under care and maintenance.

The mining operations have not commenced (extraction of the resources) and the continued development of the mine with the prospects of extraction has been postponed, which is why the mine properties have not been depreciated.

The group recognised an impairment loss of NAD 69 million in the Resources segment. Impairment loss was as a result of unfavourable business environment due to downturn in the Namibian economy. Impairment loss is included in operating expenses in the statement of profit or loss.

The recoverable amount of this unit is determined based on value-in-use calculations which require the use of assumptions. The calculations use cash flow projections based on financial budgets approved by the directors based on the life of a mine plan with the following assumptions:

- Average forecast annual revenue of USD 9.6 million (30 September 2020: USD 9.1 million)
- Average forecast annual operating expenditure USD 4.2 million (30 September 2020: USD 4.2 million)
- Discount rate of 12.55% (30 September 2020: 10%).
- Value per carat of USD 160 (30 September 2020: USD 160)
- USD to NAD conversion rate of 15.00
- 3 year horizon to production windfall
- Expected life of mine of 15 years (30 September 2020: 15 years) and
- Initial and an average annual capital outlay of USD 7.2 million and USD 0.6 million dollars (30 September 2020: USD 7.2 million and USD 0.5 million).

Projections during the budget period are based on the same expected gross margins and raw materials with a price inflation throughout the budget period.

### (C) SENSITIVITY ANALYSIS OF THE NNDC MINE

The effect of a 1% change in the value of carat with all other variables held constant will result in a further impairment of the mine for the period ended 31 August 2021: changing by USD 5.1 million (30 September 2020: changing by USD 4.1 million).

The effect of a 1% change in the discount rate with all other variables held constant will result in the value of the mine for the period ended 31 August 2021 increase by USD 9.6 million (30 September 2020 increase by USD 1.2 million and decrease by USD 1.1 million).

# NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

## 12. DEFERRED TAX ASSETS AND (LIABILITIES)

FIGURES IN NAMIBIA DOLLAR THOUSAND	OPENING BALANCE	31 AUGUST 2021 MOVEMENT	CLOSING BALANCE	OPENING BALANCE	30 SEPTEMBER 2020 MOVEMENT	CLOSING BALANCE
PROPERTY, PLANT AND EQUIPMENT	(19 057)	(3 627)	(22 684)	(75 901)	56 844	(19 057)
INVENTORY	(15 183)	10 688	(4 495)	(15 183)	-	(15 183)
INVESTMENT PROPERTY	(20 916)	(1 430)	(22 346)	(20 088)	(828)	(20 916)
INTANGIBLE ASSETS	(2 339)	2 311	(28)	(8 117)	5 778	(2 339)
LEASE LIABILITIES	5 741	11 401	17 142	6 693	(952)	5 741
PROPERTY RECEIVABLES	(58 363)	30 079	(28 284)	(62 090)	3 727	(58 363)
LOSS ALLOWANCE	38 491	8 425	46 916	3 618	34 873	38 491
ACCRUALS FOR LEAVE PAY AND BONUSES	2 371	52	2 423	2 032	339	2 371
INCOME RECEIVED IN ADVANCE	9 480	(8 597)	883	-	9 480	9 480
FOREIGN CURRENCY TRANSLATION	-	-	-	6 790	(6 790)	-
DEFERRED INCOME	-	8 535	8 535	-	-	-
ASSESSED LOSSES	143 393	(104 252)	39 141	242 902	(99 509)	143 393
<b>TOTAL</b>	<b>83 618</b>	<b>(46 415)</b>	<b>37 203</b>	<b>80 656</b>	<b>2 962</b>	<b>83 618</b>

### RECONCILIATION OF DEFERRED TAX ASSET

OPENING BALANCE	83 618	80 656
RECOGNISED IN PROFIT OR LOSS (NOTE 26)	(46 415)	(21 754)
RECOGNISED IN OTHER COMPREHENSIVE INCOME (NOTE 26)	-	8 903
DISPOSAL OF AVIATION BUSINESS	-	15 813
	<b>37 203</b>	<b>83 618</b>
DEFERRED TAX ASSETS	66 490	125 401
DEFERRED TAX LIABILITIES	(29 287)	(41 783)
	<b>37 203</b>	<b>83 618</b>

The group believes that assessed losses will be utilised through the generation of future taxable income. The entities in an assessed loss position are expected to fully utilise these tax benefits through tax planning opportunities in the near future.

# NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

## 13. BORROWINGS

FIGURES IN NAMIBIA DOLLAR THOUSAND

	31 AUGUST 2021	30 SEPTEMBER 2020
TERM LOANS	1 653 936	1 403 270
ASSET-BACKED FINANCING ARRANGEMENTS	-	5 160
MORTGAGE BONDS	3 974	5 170
<b>CARRYING AMOUNT</b>	<b>1 657 910</b>	<b>1 413 600</b>
NON-CURRENT LIABILITIES	1 237 752	377 662
CURRENT LIABILITIES	420 158	1 035 938
<b>CARRYING AMOUNT</b>	<b>1 657 910</b>	<b>1 413 600</b>

Refer to note 30 for further information concerning cashflow movements in borrowings.

There were no covenants breached at the reporting date.

Refer to note 37.2 for balance dispute of NAD 332 million (30 September 2020 NAD 350 million) due to Helios Oryx Ltd for further information.

PERIOD OF LOAN MATURITY	LOAN VALUE		INSTALMENT		INTEREST RATE		
	AUGUST	SEPTEMBER	AUGUST	SEPTEMBER	AUGUST	SEPTEMBER	
	2021	2020	2021	2020	2021	2020	
TERM LOANS	2017 - 2029	1 653 936	1 403 270	219 515	298 109	9.83	9.83
ASSET-BACKED FINANCING ARRANGEMENTS	2017 - 2023	-	5 160	-	5 140	-	9.73
MORTGAGE BONDS	2017 - 2026	3 974	5 170	561	1 011	9.87	9.73
<b>TOTAL</b>		<b>1 657 910</b>	<b>1 413 600</b>	<b>220 076</b>	<b>304 260</b>		

## SECURITIES IN PLACE FOR BORROWINGS

The following securities are in place for borrowings:

- Unlimited surety by Dr Q van Rooyen and C van Rooyen in favour of Bank Windhoek Ltd.
- A guarantee by Dr Q van Rooyen in favour of an international lender.
- Share pledge granted by Trustco Group Holdings Ltd and TBN Holdings Ltd as part of the Security Sharing Agreement.
- A guarantee in favour of an international lender by Trustco Group Holdings Ltd.
- Unlimited suretyship by Trustco Group Holdings Ltd in favour of Bank Windhoek Ltd.
- Guarantee by Trustco Group Holdings Ltd in favour of Pinnacle Micro Namibia (Pty) Ltd for NAD 25 million.
- Trustco Group Holdings Ltd guarantee in favour of Apple Bank/Air Finance.
- Limited suretyship by Trustco Group International (Pty) Ltd, Institute for Open Learning (Pty) Ltd and TBN Holdings Ltd each for an amount of R 45 million in favour of Trustco Finance (Pty) Ltd as part of the Security Sharing Agreement.
- Guarantees in favour of an international lender by Trustco Finance (Pty) Ltd, Trustco Capital (Pty) Ltd, Trustco Intermediary Solutions (Pty) Ltd and Trustco Group International (Pty) Ltd.
- Mortgage bond in favour of Bank Windhoek Ltd over Portion 130 (Portion of Portion A) of Farm Nubuamias No. 37, Lafrenz Windhoek, Namibia.
- Various bonds registered in favour of Absa over residential properties.
- Cession over Loan Book debts granted by Trustco Finance (Pty) Ltd as part of the Security Sharing Agreement.
- First demand guarantee by Trustco Finance (Pty) Ltd in favour of an international lender.
- Cession of policy numbers 8028338, 624645014 and 642757873 with Mutual and Federal for various bonds and asset financing.
- Unlimited surety by Trustco Property Holdings (Pty) Ltd in favour of Bank Windhoek Ltd.
- Various bonds over Elisenheim property in favour of Bank Windhoek Ltd, as well as unlimited suretyship by EPDC.
- A bond on Portion 5 (a Portion of Portion 4) of the Farm Elisenheim No. 68 and limited up to USD 47 million in favour of Helios.
- Bonds in favour of Norsad Finance over remaining extent of Portion 133 (a Portion of Portion A) and Portion 81 (a Portion of Portion 13) of the Farm Nubuamias No. 37 for a sum up to USD 19.4 million as well as various guarantees.
- A lien over equipment and the Large-Scale Mining Licence of Meya Mining.
- Asset-backed financing arrangements with Wesbank are secured over equipment and a guarantee by Trustco Group Holdings Ltd.
- Various bonds in favour of Bank Windhoek registered on commercial and residential properties and
- A bond registered in favour of an international lender over Erf 8874, Windhoek.
- A bond over Portion 133 (a Portion of Portion A) of the farm Nubuamias No. 37 in favour of Development Bank of Namibia.
- Guarantee by Trustco Group Holdings in favour of Inselberg Trust.

# NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

## SUMMARY OF ASSETS PROVIDED AS SECURITY FOR THE GROUP

FIGURES IN NAMIBIA DOLLAR THOUSAND	31 AUGUST 2021	30 SEPTEMBER 2020
PROPERTY, PLANT AND EQUIPMENT	133 190	119 811
INVESTMENT PROPERTIES	225 410	225 410
ADVANCES	483 411	372 395
INVENTORY	95 283	47 447
	<b>937 294</b>	<b>765 063</b>

The total value of security pledged by the managing director for which the group reimburses him for the suretyship in accordance with the management fee agreement amounted to NAD 658 million (30 September 2020: NAD 584 million).

## UNUTILISED COMMITTED BORROWINGS

As at 31 August 2021, there were USD 5.5 million borrowing facilities not yet fully utilised (30 September 2020: none).

## 14. TRADE AND OTHER PAYABLES

FIGURES IN NAMIBIA DOLLAR THOUSAND	31 AUGUST 2021	30 SEPTEMBER 2020
TRADE PAYABLES	486 514	492 866
OTHER PAYABLES	72 593	84 090
EMPLOYEE FUND	48 115	41 087
VAT	65 134	26 961
	<b>672 356</b>	<b>645 004</b>
FINANCIAL INSTRUMENTS	607 222	618 043
NON-FINANCIAL INSTRUMENTS	65 134	26 961
	<b>672 356</b>	<b>645 004</b>

The carrying amount approximates the fair values due to the short-term in nature thereof.

## 15. INSURANCE CONTRACT LIABILITIES

FIGURES IN NAMIBIA DOLLAR THOUSAND	31 AUGUST 2021	30 SEPTEMBER 2020
LONG-TERM INSURANCE CONTRACTS	36 706	38 035
SHORT-TERM INSURANCE CONTRACTS	13 912	13 516
	<b>50 618</b>	<b>51 551</b>

### A) LONG-TERM INSURANCE CONTRACTS

CLAIMS INCURRED	316	87
UNEARNED PREMIUM RESERVE	1 993	2 442
POLICYHOLDERS' LIABILITY UNDER INSURANCE CONTRACTS	34 397	35 506
	<b>36 706</b>	<b>38 035</b>

### RECONCILIATION OF LONG-TERM INSURANCE CONTRACT LIABILITIES - 2021

	OPENING BALANCE	MOVEMENT	CLOSING BALANCE
CLAIMS INCURRED	87	229	316
UNEARNED PREMIUM RESERVE	2 442	(449)	1 993
POLICYHOLDERS' LIABILITY UNDER INSURANCE CONTRACTS	35 506	(1 109)	34 397
	<b>38 035</b>	<b>(1 329)</b>	<b>36 706</b>

### RECONCILIATION OF LONG-TERM INSURANCE CONTRACT LIABILITIES - 2020

	OPENING BALANCE	MOVEMENT	CLOSING BALANCE
CLAIMS INCURRED	151	(64)	87
UNEARNED PREMIUM RESERVE	2 764	(322)	2 442
POLICYHOLDERS' LIABILITY UNDER INSURANCE CONTRACTS	30 111	5395	35 506
	<b>33 026</b>	<b>5 009</b>	<b>38 035</b>

# NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

## B) SHORT-TERM INSURANCE CONTRACTS

FIGURES IN NAMIBIA DOLLAR THOUSAND

	31 AUGUST 2021	30 SEPTEMBER 2020
IBNR	1 832	1 821
CLAIMS INCURRED	6 746	5 908
UNEARNED PREMIUM RESERVE	5 334	5 787
	<b>13 912</b>	<b>13 516</b>

### RECONCILIATION OF SHORT-TERM INSURANCE CONTRACT LIABILITIES - 2021

	OPENING BALANCE	MOVEMENT	CLOSING BALANCE
IBNR	1 821	11	1 832
CLAIMS INCURRED	5 908	838	6 746
UNEARNED PREMIUM RESERVE	5 787	(453)	5 334
	<b>13 516</b>	<b>396</b>	<b>13 912</b>

### RECONCILIATION OF SHORT-TERM INSURANCE CONTRACT LIABILITIES - 2020

	OPENING BALANCE	MOVEMENT	CLOSING BALANCE
IBNR	2 034	(213)	1 821
CLAIMS INCURRED	3 994	1 914	5 908
UNEARNED PREMIUM RESERVE	6 339	(552)	5 787
	<b>12 367</b>	<b>1 149</b>	<b>13 516</b>

### SOLVENCY MARGIN

	31 AUGUST 2021	30 SEPTEMBER 2020
SOLVENCY MARGIN OF TRUSTCO INSURANCE LTD	19.58%	27.5%

The solvency margin represents shareholders' interest of NAD 8.3 million (30 September 2020: NAD 12.4 million) expressed as a percentage of net premium income of NAD 45.1 million (30 September 2020: NAD 45.2 million).

### ASSUMPTIONS AND ESTIMATES (SHORT-TERM INSURANCE) CLAIMS INCURRED

Full provision is made for the estimated cost of claims that have occurred and were submitted by the reporting date that have not yet been finally settled and processed to completion. Each notified claim is assessed on a case-by-case basis taking into account information available from the insured and past experience with similar claims

### IBNR

IBNR is calculated as 4% of premium income.

### UNEARNED PREMIUM RESERVE

The group raises provisions for unearned premiums based on actual advance payments received at the reporting date, to reflect the underlying risk profile of the specific insurance contracts. An unearned premium provision is created at the moment the

advance payment is received and is released either on cancellation or lapsing of the contract upon which the customer is refunded.

### ASSUMPTIONS AND ESTIMATES (LONG-TERM INSURANCE) THE PROCESS USED TO DECIDE ON LONG-TERM INSURANCE ASSUMPTIONS

The business was divided up into homogeneous groupings and then each grouping was analysed. Best estimate assumptions were then determined based on the experience gained from investigations. Where data was limited, industry information was used. Recent trends evident in the data were allowed for.

The value of insurance liabilities is based on best estimate assumptions of future experience plus compulsory margins as required in terms of NSAP 104, plus additional discretionary margins determined by the statutory actuary. The compulsory margins are summarised as follows:

ASSUMPTION	ADDITIONAL VARIABLE	COMPULSORY MARGIN
INVESTMENT EARNINGS	2.7% PER ANNUM (30 SEPTEMBER 2020: 3.9%)	INVESTMENT EARNINGS ASSUMPTION WAS INCREASED OR DECREASED BY 0.25% DEPENDING ON WHICH GIVES THE HIGHER LIABILITY
EXPECTED INFLATION	EXPECTED INFLATION 4.6% (30 SEPTEMBER 2020: 5.9%)	10% LOADING ON THE EXPECTED INFLATION ASSUMPTION
MORTALITY	ASSUMPTIONS FOR HIV RELATED MORTALITY AND NON-HIV RELATED MORTALITY WERE UNCHANGED	ASSUMPTIONS WERE UNCHANGED
LAPSES	AS PER ACTUAL INCIDENTS	LAPSE RATE ASSUMPTIONS WERE INCREASED OR DECREASED BY 25% DEPENDING ON WHICH GIVES THE HIGHER LIABILITY
SURRENDERS	AS PER ACTUAL INCIDENTS	SURRENDER RATE ASSUMPTIONS WERE INCREASED OR DECREASED BY 10% DEPENDING ON WHICH GIVES THE HIGHER LIABILITY
EXPENSES	ALLOWANCE FOR EXPENSES WAS 34.4% (30 SEPTEMBER 2020 31.3%) OF THE PREMIUM	PLUS 10% COMPULSORY MARGIN

# NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

Overall these changes in the current reporting period resulted in a reduction in the actuarial liabilities of NAD 7 million (30 September 2020: NAD 2.7 million).

Negative reserves were eliminated on a policy-by-policy basis for all policies that had three or more premiums in arrears.

The assumptions used for insurance contracts are as follows:  
All the assumptions below are based on the most recent experience gained from investigations in each country modified for expected trends. Generally, investigations are carried out for all assumptions every reporting period.

#### (I) MORTALITY

Adjusted standard assured lives and annuity tables were used to reflect the group's recent claims experience.

#### (II) MORBIDITY

Disability and dread disease rates are based on standard morbidity tables and critical illness tables and, where appropriate, adjusted to reflect the group's recent claims experience.

#### (III) MEDICAL AND RETRENCHMENT

The incidence of medical and retrenchment claims is derived from the risk premium rates determined from annual investigations. The adjusted rates are intended to reflect the future expected experience.

#### (IV) WITHDRAWAL

The withdrawal assumptions are based on the most recent withdrawal investigations taking into account past and expected future trends. The withdrawal rates are calculated every period for each company/country by class and policy duration. Typically the rates are higher at early durations.

#### (V) RENEWAL EXPENSES AND INFLATION

A detailed expense investigation for each company/country was undertaken and the expenses were split by the line of business and between new business and maintenance expenses. The maintenance expenses were adjusted for expected inflation in the future and spread over the anticipated volumes of business over the next reporting period to derive a per policy expense for each class. The expenses allocated to new business are expected to be covered by future new business written.

#### (VI) TAX

The interest and expense assumptions are net of any tax payable based on the tax environment for each country and the company's tax position.

#### POLICYHOLDERS' LIABILITY UNDER INSURANCE CONTRACTS

The reserving method is split into two methodologies, namely prospective valuation and retrospective valuation. Prospective valuation is used to compute the basic reserve and retrospective reserve calculation is used to compute claims Incurred But Not Reported (IBNR).

#### CAPITAL ADEQUACY FOR LIFE BUSINESS

The solvency position determined in accordance with the Namibian Long-term Insurance Act, 1998, is summarised below. Actuarial calculation for the life business only.

	31 AUGUST 2021 NAD '000	31 MARCH 2020 NAD '000
EXCESS OF ASSETS OVER LIABILITIES	1 052 360	1 028 419
MINIMUM STATUTORY REQUIREMENT	4 000	4 000
SAN CAPITAL ADEQUACY BENCHMARK*	31 548	21 022
CAR RATIO	3.335%	4.892%

\*Note that the Namibian Society of Actuaries (SAN) CAR is not a requirement of the Act, it is based on SAN's NSAP 104.

#### INSURANCE RISK

##### LONG-TERM INSURANCE OPERATIONS

Insurance risk occurs due to the uncertainty of the timing and amount of future cash flows arising under insurance contracts. This could also occur because of the frequency or severity of claims and benefits being greater than estimated. Insurance events are random and the actual number and amount of claims and benefits will vary from period to period from the estimate using statistical techniques. The long-term insurance operations use appropriate base tables of standard mortality and morbidity which are modified to reflect the type of contract being written and the territory in which the insured person resides. An investigation into the experience of the group over the last three periods is carried out and statistical methods are used to adjust the crude mortality rates to produce the best estimate of expected mortality for the future. Termination statistics to investigate the deviation of actual termination experience against assumptions are used. Statistical methods are used to determine appropriate rates. An allowance is then made for any trends in the data to arrive at the best estimate of future termination rates.

##### SHORT-TERM INSURANCE OPERATIONS

This operation underwrites risks that natural persons, corporates or other entities wish to transfer to an insurer. Such risks may relate to litigation and loss of income. As such the operation is exposed to uncertainty surrounding the timing, frequency and severity of claims under insurance contracts. The principal risk is that the frequency and/or severity of claims are greater than expected. Insurance events are by their nature random and the actual size and number of events in any one period may vary from those estimated and experienced in prior periods.

The operation underwrites primarily short-tailed risks, that is, insurance under which claims are settled within six months of the occurrence of the events giving rise to the claims. Risks that are long-tailed in nature represent an insignificant portion of the group's insurance portfolio. Therefore the group's exposure at any time to insurance contracts issued for more than one year is insignificant. There were no changes from the previous period.

#### CAPITAL ADEQUACY AND SOLVENCY RISK

##### LONG-TERM INSURANCE OPERATIONS

The capital adequacy requirement is determined according to generally accepted actuarial principles in terms of the guidelines issued by the SAN. It is an estimate of the minimum capital that will be required to meet fairly substantial deviations from the main assumptions affecting the group's business.

#### SHORT-TERM INSURANCE OPERATIONS

The group submits quarterly and annual returns to the Namibian Financial Institutions Supervisory Authority (NAMFISA) that show the solvency position of its insurance operations. The group is required to maintain, at all times, a statutory surplus asset ratio and free assets after asset spread requirements as defined in the Short-term Insurance Act, 1998 (the Act). The returns submitted by the company to the regulator showed that the company met the minimum capital requirements at the reporting date.

#### UNDERWRITING RISK

##### LONG-TERM INSURANCE OPERATIONS

The statutory actuary reports annually on the actuarial soundness of the premium rates in use and the profitability of the business taking into consideration the reasonable benefit expectation of policyholders. All new rate tables are approved and authorised by the statutory actuary before being used. Annual investigations into mortality and morbidity experience are conducted. All applications for risk cover above specified limits are reviewed by experienced underwriters and evaluated against established standards. All risk-related liabilities above specified monetary or impairment limits are reinsured.

##### SHORT-TERM INSURANCE OPERATIONS

The operation limits its exposure to insurance risk through setting a clearly defined underwriting strategy including limits, adopting appropriate risk assessment techniques and the reinsurance of risks that exceed its risk appetite. The underwriting strategy ensures diversification of insurance risk in terms of type and amount of risk covered, geographical location and type of industry covered. The strategy also aims to develop a sufficiently large population of risks to reduce the variability of the expected outcome. Ongoing review and analysis of underwriting information enable the group to monitor its risks and take timely corrective action.

#### FINANCIAL RISK

##### LONG-TERM INSURANCE OPERATIONS

The key financial risk is that the proceeds from its financial assets are not sufficient to fund the obligations arising from its insurance and investment contracts. Components of this financial risk are interest rate risk, equity price risk, currency risk, liquidity risk and credit risk. An investment committee sets policies and monitors compliance with investment policies. Refer to note 35 for additional details.

##### SHORT-TERM INSURANCE OPERATIONS

The short-term operations are exposed to daily calls on available cash resources from claims arising. Liabilities are matched by appropriate assets and the operations have significant liquid resources to cover obligations.

# NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

## 16. LEASE LIABILITIES

FIGURES IN NAMIBIA DOLLAR THOUSAND	31 AUGUST 2021	30 SEPTEMBER 2020
PRESENT VALUE OF LEASE PAYMENTS DUE		
WITHIN 1 YEAR	19 577	23 702
IN SECOND TO FIFTH YEAR INCLUSIVE	22 049	39 046
LATER THAN 5 YEARS	15 982	15 560
	<b>57 608</b>	<b>78 308</b>
CURRENT LIABILITIES	19 577	23 702
NON CURRENT LIABILITIES	38 031	54 606
	<b>57 608</b>	<b>78 308</b>

Refer to notes 25 and 30 for interest expense and cashflow movement for the year.

### SECURITIES IN PLACE FOR LEASE LIABILITIES

The following securities are in place for lease liabilities:

- Guarantees by Trustco Resources (Pty) Ltd and Meya Mining in favour of Sierra Leone Commercial Bank for USD 1.5 million as well as a lien over the equipment of Meya Mining Ltd.
- Finance lease from Avis Fleet Management Services is secured by vehicles.

The group leases land and buildings as well as motor vehicles and trackless equipment. The leases typically runs between 30 to 120 months. The interest rate implicit to the leases range between 6.5% and 12.5%.

## 17. SHARE CAPITAL

FIGURES IN NAMIBIA DOLLAR THOUSAND	31 AUGUST 2021	30 SEPTEMBER 2020
AUTHORISED		
2 500 000 000 ORDINARY SHARES OF NAD 0.23 EACH	575 000	575 000
ISSUED AND FULLY PAID		
ORDINARY	371 691	371 691
SHARE PREMIUM	3 094 401	3 094 401
	<b>3 466 092</b>	<b>3 466 092</b>

## RECONCILIATION OF NUMBER OF SHARES ISSUED

REPORTED AT THE BEGINNING OF THE PERIOD ('000)	1 616 038	974 266
SHARES ISSUED ('000)	-	641 772
<b>CARRYING AMOUNT AT THE END OF THE PERIOD ('000)</b>	<b>1 616 038</b>	<b>1 616 038</b>

## RECONCILIATION OF COST OF SHARES ISSUED

REPORTED AT THE BEGINNING OF THE PERIOD	371 691	190 245
SHARES ISSUED AT A PREMIUM	-	181 446
<b>CARRYING AMOUNT AT THE END OF THE PERIOD</b>	<b>371 691</b>	<b>371 691</b>

The unissued shares are under the control of the directors for which renewed authority is to be sought at the forthcoming annual general meeting. At the reporting date, 1 616 038 581 (30 September 2020: 1 616 038 581) shares were issued.

## 18. TREASURY SHARES

FIGURES IN NAMIBIA DOLLAR THOUSAND	31 AUGUST 2021	30 SEPTEMBER 2020
NUMBER OF SHARES	46 520	45 792
COST OF SHARES	231 343	228 680

The group purchased 0.7 million (30 September 2020: 1.2 million ) shares through its subsidiaries at an average price of NAD 3.70 (30 September 2020: NAD 3.47) At the reporting date, the market value of treasury shares was NAD 77 million (30 September 2020: NAD 144 million). No shares were reverted to unissued shares.

## 19. OTHER RESERVES

FIGURES IN NAMIBIA DOLLAR THOUSAND	31 AUGUST 2021	30 SEPTEMBER 2020
SHARES FOR VENDORS	14 976	14 976
OTHER RESERVES	39 912	39 912
FOREIGN CURRENCY TRANSLATION RESERVE	38 099	(132 411)
COMMON CONTROL RESERVE	(3 197 685)	(3 197 685)
	<b>(3 104 698)</b>	<b>(3 275 208)</b>

### COMMON CONTROL RESERVE

Common control reserve arose from the acquisition of Huso Group. Refer to note 33 of the 2019 Annual Report for further information.

### SHARES FOR VENDORS

These represent 4.922 million shares not yet issued for the purchase of Trustco Financial Services (Pty) Ltd on 1 November 2007. Refer to note 19.1 of the 2018 Annual report for further information.

### FOREIGN CURRENCY TRANSLATION RESERVE

The translation reserve comprises all foreign currency differences arising from the translation of the financial statements of foreign subsidiaries in Mauritius and Sierra Leone.

# NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

## 20. INTERESTS IN OTHER ENTITIES

Set out below is summarised financial information for each subsidiary that has non-controlling interests that are material to the group. The amounts disclosed for each subsidiary are before inter-company eliminations.

	31 AUGUST 2021	LEGAL SHIELD HOLDINGS LTD 30 SEPTEMBER 2020	31 AUGUST 2021	MEYA MINING LTD 30 SEPTEMBER 2020
<b>SUMMARISED STATEMENT OF FINANCIAL POSITION</b>				
CURRENT ASSETS	688 800	698 649	54 652	56 691
CURRENT LIABILITIES	(419 784)	(504 227)	(197 235)	(207 228)
<b>NET CURRENT ASSETS/(LIABILITIES)</b>	<b>269 016</b>	<b>194 422</b>	<b>(142 583)</b>	<b>(150 537)</b>
NON-CURRENT ASSETS	3 228 990	2 754 632	1 073 466	1 037 932
NON-CURRENT LIABILITIES	(1 653 640)	(1 477 789)	(767 196)	(714 476)
<b>NET NON-CURRENT ASSETS</b>	<b>1 575 350</b>	<b>1 276 843</b>	<b>306 270</b>	<b>323 456</b>
<b>NET ASSETS</b>	<b>1 844 366</b>	<b>1 471 265</b>	<b>163 687</b>	<b>172 919</b>
<b>ACCUMULATED NCI</b>	<b>246 967</b>	<b>368 381</b>	<b>38 001</b>	<b>41 234</b>
<b>SUMMARISED STATEMENT PROFIT OR LOSS AND OTHER COMPREHENSIVE INCOME</b>				
REVENUE	199 647	359 619	12 384	11 122
(LOSS)/PROFIT FOR THE PERIOD	(601 899)	(709 015)	12 330	(32 408)
OTHER COMPREHENSIVE INCOME	-	-	(21 596)	(5 241)
(LOSS)/PROFIT ALLOCATED TO NCI	(120 380)	(65 206)	4 316	(15 110)
TOTAL COMPREHENSIVE (LOSS)/PROFIT ALLOCATED TO NCI	(120 380)	(65 206)	(7 547)	(17 174)
<b>SUMMARISED CASH FLOWS</b>				
CASH FLOWS FROM/(USED IN) OPERATING ACTIVITIES	30 816	271 426	4 376	(40)
CASH FLOW USED IN INVESTING ACTIVITIES	(19 839)	(109 539)	(94 148)	(199 638)
CASH FLOW (USED IN)/FROM FINANCING ACTIVITIES	(25 605)	(180 182)	49 980	173 089
<b>NET INCREASE IN CASH AND CASH EQUIVALENTS</b>	<b>(14 628)</b>	<b>(18 295)</b>	<b>(39 792)</b>	<b>(26 589)</b>
<b>PERCENTAGE OF SHAREHOLDING OF NCI</b>	<b>20%</b>	<b>20%</b>	<b>35%</b>	<b>35%</b>
<b>DOMICILE AND PLACE OF BUSINESS</b>	<b>NAMIBIA</b>	<b>NAMIBIA</b>	<b>SIERRA LEONE</b>	<b>SIERRA LEONE</b>



# NOTES TO THE **FINANCIAL STATEMENTS** (CONTINUED)

## 20.1 TRANSACTIONS WITH NON-CONTROLLING INTEREST

On 30 March 2020, the Riskowitz Value Fund LLP acquired 52 ordinary shares (1.3%) of Trustco Resources (Pty) Ltd (indirect subsidiary) with a carrying amount of NAD 14.1 million for a purchase price of NAD 81.4 million.

The following table summarises the financial impact of the disposal to non-controlling interest without the loss of control

PROCEEDS RECEIVED	81.4 MILLION
NET ASSET VALUE	(14.1) MILLION
<b>TRANSACTION WITH NON-CONTROLLING INTEREST</b>	<b>67.3 MILLION</b>

## 21. REVENUE

FIGURES IN NAMIBIA DOLLAR THOUSAND

	<b>11 MONTHS ENDED 31 AUGUST 2021</b>	<b>18 MONTHS ENDED 30 SEPTEMBER 2020</b>
EXTERNAL REVENUE BY PRODUCT LINES:		
INSURANCE PREMIUM REVENUE	113 211	167 638
PROPERTY SALES	40 769	130 085
TUITION AND OTHER RELATED FEES	58 509	41 531
INTEREST EARNED ON ADVANCES	70 192	244 159
DIAMOND SALES	12 384	14 463
OTHER REVENUE	17 712	19 776
<b>TOTAL REVENUE</b>	<b>312 777</b>	<b>617 652</b>

Other revenue mainly comprises of rental of equipment and commissions received from customers.

# NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

## DISAGGREGATION OF REVENUE FROM CONTRACTS WITH CUSTOMERS

The group derives revenue from the transfer of goods and services over time and at a point in time in the following major product lines and geographical regions:

PRODUCT LINE 31 AUGUST 2021	INSURANCE PREMIUMS	PROPERTY SALES	TUITION AND OTHER RELATED FEES	INTEREST ON ADVANCES	DIAMOND SALES	OTHER REVENUE	TOTAL
<b>FIGURES IN NAMIBIA DOLLAR THOUSAND</b>							
JURISDICTION WHERE REVENUE IS EARNED	NAMIBIA	NAMIBIA	NAMIBIA	NAMIBIA	SIERRA LEONE	NAMIBIA	
SEGMENT REVENUE	113 211	40 769	58 509	70 192	12 384	102 422	397 487
INTERSEGMENT REVENUE	-	-	-	-	-	(84 710)	(84 710)
REVENUE FROM EXTERNAL CUSTOMERS	113 211	40 769	58 509	70 192	12 384	17 712	312 777
AT A POINT IN TIME	113 211	40 769	21 871	70 192	12 384	17 712	276 139
OVER TIME	-	-	36 638	-	-	-	36 638
	113 211	40 769	58 509	70 192	12 384	17 712	312 777
<b>30 SEPTEMBER 2020</b>							
SEGMENT REVENUE	167 638	130 085	41 531	244 159	14 463	132 377	730 253
INTERSEGMENT REVENUE	-	-	-	-	-	(112 601)	(112 601)
REVENUE FROM EXTERNAL CUSTOMERS	167 638	130 085	41 531	244 159	14 463	19 776	617 652
AT A POINT IN TIME	167 638	130 085	-	244 159	14 463	10 946	567 291
OVER TIME	-	-	41 531	-	-	8 830	50 361
	167 638	130 085	41 531	244 159	14 463	19 776	617 652
						<b>2021</b>	<b>2020</b>
<b>CONTRACT BALANCES</b>							
CONTRACT LIABILITIES (INCOME RECEIVED IN ADVANCE)						(18 451)	(27 911)
<b>REVENUE RECOGNISED IN RELATION TO CONTRACT LIABILITIES</b>							
<b>AMOUNTS INCLUDED IN CONTRACT LIABILITIES AT THE BEGINNING OF THE YEAR</b>							
TUITION FEES						27 911	8 065
<b>REVENUE RECOGNISED THAT WAS INCLUDED IN THE CONTRACT LIABILITY BALANCE AT THE BEGINNING OF THE PERIOD</b>							
CONSIDERATION FROM TUITION FEES, NOT PREVIOUSLY RECOGNISED DUE TO PASSAGE OF TIME						25 585	8 065
<b>RECONCILIATION OF CONTRACT LIABILITIES</b>							
OPENING BALANCE						27 911	8 065
REVENUE RECOGNISED DURING THE PERIOD						(25 585)	(8 065)
INCOME RECEIVED IN ADVANCE						16 125	27 911
<b>CLOSING BALANCE</b>						<b>18 451</b>	<b>27 911</b>

## 22. PROFIT BEFORE TAX

FIGURES IN NAMIBIA DOLLAR THOUSAND

	11 MONTHS ENDED 31 AUGUST 2021	18 MONTHS ENDED 30 SEPTEMBER 2020
EMPLOYEE COSTS	123 300	243 774
LOSS ON FOREIGN EXCHANGE DIFFERENCES	252 677	133 457
AUDITORS' REMUNERATION - AUDIT FEES	14 975	18 104
LOSS ON DISPOSAL OF PROPERTY PLANT AND EQUIPMENT	12 431	5 113
IMPAIRMENT OF INTANGIBLES (NOTE 9)	28 621	4 862
IMPAIRMENT OF MINING PROPERTIES (NOTE 11)	68 734	-
IMPAIRMENT LOSS ON TRADE RECEIVABLES (NOTE 3)	579	38 775
IMPAIRMENT LOSS ON ADVANCES (NOTE 2)	71 017	497 466
DEPRECIATION AND AMORTISATION (NOTES 7 & 9)	59 063	99 817

## 23. DIRECTORS' EMOLUMENTS

### 23.1 DIRECTORS EMOLUMENTS

#### 11 MONTHS ENDED 31 AUGUST 2021

	BASIC SALARY	SHORT-TERM BENEFITS	DIRECTORS' FEES	TOTAL FEES
<b>FIGURES IN NAMIBIA DOLLAR THOUSAND</b>				
<b>HOLDING COMPANY (EXECUTIVE DIRECTORS)</b>				
DR Q VAN ROOYEN	-	-	-	-
FJ ABRAHAMS	2 157	510	-	2 667
	<b>2 157</b>	<b>510</b>	<b>-</b>	<b>2 667</b>
<b>NON-EXECUTIVE DIRECTORS</b>				
W GEYSER	-	-	283	283
ADV R HEATHCOTE SC	-	-	526	526
R TALJAARD	-	-	281	281
R MARNEY (APPOINTED 25 MARCH 2021)	-	-	76	76
	-	-	<b>1 166</b>	<b>1 166</b>

# NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

11 MONTHS ENDED 31 AUGUST 2021	BASIC SALARY	SHORT-TERM BENEFITS	DIRECTORS' FEES	TOTAL FEES
<b>SUBSIDIARY COMPANY (EXECUTIVE DIRECTORS)</b>				
A LAMBERT	836	52	-	888
E JANSE VAN RENSBURG	1 610	97	-	1 707
Q Z VAN ROOYEN	-	-	-	-
I CALITZ	887	66	-	953
A BRAND	970	55	-	1 025
J JOUBERT	-	-	3 300	3 300
IS KAMARA	2 673	-	-	2 673
M ERASMUS	1 550	106	-	1 656
T SLABBERT (RESIGNED 31 DECEMBER 2020)	373	7	-	380
	<b>8 899</b>	<b>383</b>	<b>3 300</b>	<b>12 582</b>
<b>NON-EXECUTIVE DIRECTORS OF SUBSIDIARY BOARDS</b>				
W GEYSER	-	-	1 181	1 181
R TALJAARD	-	-	706	706
T NEWTON	-	-	378	378
J VAN DEN HEEVER	-	-	331	331
S SIMILO	-	-	155	155
R CHETWODE	-	-	301	301
	-	-	<b>3 052</b>	<b>3 052</b>
<b>TOTAL</b>	<b>11 056</b>	<b>893</b>	<b>7 518</b>	<b>19 467</b>

## REMUNERATION OF GROUP MANAGING DIRECTOR

Dr Q van Rooyen, the group managing director, is the sole shareholder of Next Capital Ltd (Next). Dr Q van Rooyen, Mr Q Z van Rooyen (the deputy group CEO) and Mr L van Rooyen are remunerated by Next.

Next previously had a management agreement with Trustco which expired on 31 March 2021. In terms of this management agreement, Next was remunerated on the following basis:

- 0.5% of the revenue of the group
- 1% of the headline earnings of the group and
- 1% of the basic earnings of the group.

If these targets were not met, the management fee would be halved, while if growth exceeded the average inflation rate of Namibia plus 5%, the management fees were doubled. Inflation in Namibia was recorded at 2.3% for the period to 31 March 2021 (30 September 2020: 2.8%).

Next has subsequently entered into a revised management agreement, subject to shareholders approval, with Trustco in terms of which a fee would be earned on annual performance of the group on the following basis:

Implementation of the new agreement is pending all regulatory approvals.

## CORPORATE PERFORMANCE METRICS

MEASURE	GROWTH TARGET	COMPENSATION
TOTAL INCOME PER SHARE	>NAMIBIAN CPIX + 5%	1% OF TOTAL INCOME
ADJUSTED EARNINGS PER SHARE	>NAMIBIAN CPIX + 5%	2% OF ADJUSTED EARNINGS*
CASH GENERATED FROM OPERATIONS AFTER WORKING CAPITAL CHANGES	>NAMIBIAN CPIX + 5%	2% OF CASH GENERATED FROM OPERATIONS AFTER WORKING CAPITAL CHANGES
NET ASSET VALUE PER SHARE	>NAMIBIAN CPIX + 5%	2% PER ANNUM OF NET ASSET VALUE AFTER REACHING A FLOOR OF NAD 2,731,222,000

• CPIX in Namibia was recorded at 3.1% for the period 31 August 2021

• \* Adjusted earnings means the simple average of headline earnings and basic earnings of the group excluding management fees.

## SHAREHOLDER RETURN BASED METRICS

If the share price of a Trustco share remains at the agreed levels set out below for a period of at least 90 days on a Volume Weighted Average Price (VWAP) basis and subject to high water mark principles, a once off payment in Trustco shares will be effected per category of share price target reached as set out below.

SHARE PRICE	EQUIVALENT MARKET CAPITAL	COMPENSATION (ONCE OFF SHARE PAYMENT PER CATEGORY REACHED)
NAD 9.75	15.7 BILLION	4 040 096 TRUSTCO SHARES
NAD 15.00	24.24 BILLION	5 656 135 TRUSTCO SHARES
NAD 19.00	30.7 BILLION	7 272 174 TRUSTCO SHARES
NAD 25.00	40 BILLION	8 888 212 TRUSTCO SHARES
NAD 30.00	50 BILLION	10 504 251 TRUSTCO SHARES
FOR EACH +25% SHARE PRICE INCREASE ABOVE NAD 30.00	VARIOUS	+25% FROM PREVIOUSLY ISSUED NUMBER OF SHARES

## PLEDGE OF ASSETS, SURETIES AND GUARANTEES PROVIDED

- 1.5% per annum of the value of assets pledged during the Measurement Period;
- 1.5% per annum of value of sureties and guarantees provided as well as subordination of loans, during the Measurement Period.

18 MONTHS ENDED 30 SEPTEMBER 2020	BASIC SALARY	SHORT-TERM BENEFITS	DIRECTORS' FEES	TOTAL FEES
<b>FIGURES IN NAMIBIA DOLLAR THOUSAND HOLDING COMPANY (EXECUTIVE DIRECTORS)</b>				
DR Q VAN ROOYEN	-	-	-	-
FJ ABRAHAMS	3 610	193	-	3 803
	<b>3 610</b>	<b>193</b>	-	<b>3 803</b>
<b>NON-EXECUTIVE DIRECTORS</b>				
W GEYSER	-	-	449	449
ADV R HEATHCOTE SC	-	-	895	895
R TALJAARD	-	-	500	500
PROF LJ WELDON (RESIGNED 25 MARCH 2020)	-	-	303	303
KN VAN NIEKERK (RESIGNED 25 MARCH 2020)	-	-	404	404
	-	-	<b>2 551</b>	<b>2 551</b>

# NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

18 MONTHS ENDED 30 SEPTEMBER 2020	BASIC SALARY	SHORT-TERM BENEFITS	DIRECTORS' FEES	TOTAL FEES
<b>SUBSIDIARY COMPANY (EXECUTIVE DIRECTORS)</b>				
A LAMBERT	1 416	84	-	1 500
E JANSE VAN RENSBURG	2 690	159	-	2 849
Q Z VAN ROOYEN	-	-	-	-
I CALITZ	1 521	291	-	1 812
T SLABBERT	2 286	65	-	2 351
A BRAND	1 498	241	-	1 739
J JACOBS (RESIGNED 30 APRIL 2020)	3 734	221	-	3 955
J JOUBERT	-	-	5 400	5 400
IS KAMARA	4 685	-	-	4 685
M ERASMUS (APPOINTED 20 MARCH 2020)	1 013	68	-	1 081
	<b>18 843</b>	<b>1 129</b>	<b>5 400</b>	<b>25 372</b>
<b>NON-EXECUTIVE DIRECTORS OF SUBSIDIARY BOARDS</b>				
W GEYSER	-	-	2 246	2 246
R TALJAARD	-	-	1 378	1 378
T NEWTON	-	-	652	652
J VAN DEN HEEVER	-	-	541	541
S SIMILO	-	-	221	221
PROF LJ WELDON (RESIGNED 25 MARCH 2020)	-	-	627	627
KN VAN NIEKERK (RESIGNED 25 MARCH 2020)	-	-	500	500
R CHETWODE	-	-	548	548
	-	-	<b>6 713</b>	<b>6 713</b>
<b>TOTAL</b>	<b>22 453</b>	<b>1 322</b>	<b>14 664</b>	<b>38 439</b>

## 23.2 CHANGES IN THE BOARD OF DIRECTORS

R Marney and J van den Heever were appointed as independent non-executive members of the Trustco Group Holdings Ltd board of directors on 26 March 2021 and 1 November 2021 respectively.

## 24. INVESTMENT AND OTHER (EXPENSES)/ INCOME

	11 MONTHS ENDED 31 AUGUST 2021	18 MONTHS ENDED 30 SEPTEMBER 2020
FIGURES IN NAMIBIA DOLLAR THOUSAND		
INTEREST INCOME	849	927
LOAN WAIVER	-	1 000 000
SUNDRY INCOME	4 218	3 146
GAINS ON EXCHANGE DIFFERENCES	114 153	260 029
FAIR VALUE LOSS OF INVESTMENT PROPERTY	(281 818)	(279 220)
	<b>(162 598)</b>	<b>984 882</b>

Next Capital Ltd (sole shareholder is Dr Q van Rooyen) waived a portion of the debt due by the group to Next. An amount of NAD nil (30 September 2020: NAD 1 billion) was written-off and was disclosed as investment and other income.

## 25. FINANCE COSTS

	11 MONTHS ENDED 31 AUGUST 2021	18 MONTHS ENDED 30 SEPTEMBER 2020
FIGURES IN NAMIBIA DOLLAR THOUSAND		
BORROWINGS	144 300	332 182
LEASE LIABILITIES	3 249	2 173
OTHER FINANCING ARRANGEMENTS	34 323	43 830
	<b>181 872</b>	<b>378 185</b>

# NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

## 26. INCOME TAX

	11 MONTHS ENDED 31 AUGUST 2021	18 MONTHS ENDED 30 SEPTEMBER 2020
FIGURES IN NAMIBIA DOLLAR THOUSAND		
MAJOR COMPONENTS OF THE INCOME TAX EXPENSE		
<b>CURRENT</b>		
LOCAL INCOME TAX	1 249	15 716
FOREIGN INCOME TAX	-	330
	<b>1 249</b>	<b>16 046</b>
<b>DEFERRED</b>		
ORIGINATING AND REVERSING TEMPORARY DIFFERENCES - LOCAL TAX (NOTE 12)	46 415	21 754
<b>INCOME TAX EXPENSE</b>	<b>47 664</b>	<b>37 800</b>
FIGURES IN NAMIBIA DOLLAR THOUSAND		
	11 MONTHS ENDED 31 AUGUST 2021	18 MONTHS ENDED 30 SEPTEMBER 2020
<b>INCOME TAX RECOGNISED IN OTHER COMPREHENSIVE INCOME</b>		
RELATING TO ITEMS THAT MAY BE RECLASSIFIED (NOTE 12)	-	(8 903)
	-	<b>(8 903)</b>
<b>RECONCILIATION OF THE INCOME TAX RATE</b>		
RECONCILIATION BETWEEN APPLICABLE TAX RATE AND AVERAGE EFFECTIVE TAX RATE		
	%	%
APPLICABLE TAX RATE	32.00	32.00
TAX FOR THE PERIOD AS A PERCENTAGE OF PROFIT BEFORE TAX	5.07	12.38
NON-TAXABLE INCOME FROM LONG-TERM INSURANCE OPERATIONS	0.49	7.21
LOSSES FOR WHICH NO DEFERRED TAX ASSET WAS RECOGNISED	(10.88)	(63.14)
NON-TAXABLE INCOME AND CAPITAL INCOME (LOAN WAIVER - NOTE 24)	-	104.8
NON-TAXABLE LOSSES ON FAIR VALUE ADJUSTMENTS	(9.59)	(29.25)
PERMANENT DIFFERENCE ON IMPAIRMENT OF MINE PROPERTIES	(2.34)	-
PERMANENT DIFFERENCE ON IMPAIRMENT OF INTANGIBLES	(0.97)	-
PROFIT ON FOREIGN EXCHANGE	3.76	-
LOSS ON FOREIGN EXCHANGE	8.60	-
DEFERED TAX ASSETS DERECOGNISED	36.13	-
	<b>32.00</b>	<b>32.00</b>

The group has an estimated tax loss of NAD 1.7 billion (30 September 2020: NAD 2.2 billion) available for set off against future taxable income. The deferred tax was not recognised for the tax losses of NAD 1.6 billion (30 September 2020: NAD 1.8 billion).

## 27. EARNINGS AND HEADLINE EARNINGS PER SHARE

	LOSS BEFORE TAX 31 AUGUST 2021	INCOME TAX 31 AUGUST 2021	NON CONTROLLING INTEREST 31 AUGUST 2021	NET LOSS 31 AUGUST 2021	NET LOSS 30 SEPTEMBER 2020
FIGURES IN NAMIBIA DOLLAR THOUSAND					
BASIC LOSS	940 360	47 664	(116 064)	871 960	266 102
LOSS ON DISPOSAL OF PROPERTY AND EQUIPMENT	(12 431)	3 978	-	(8 453)	(2 318)
IMPAIRMENT OF INTANGIBLES	(28 621)	-	-	(28 621)	(4 862)
LOSS ON DISPOSAL OF AVIATION BUSINESS	-	-	-	-	(4 682)
IMPAIRMENT OF MINING PROPERTIES	(68 734)	-	-	(68 734)	-
<b>HEADLINE LOSS</b>	<b>830 574</b>	<b>51 642</b>	<b>(116 064)</b>	<b>766 152</b>	<b>254 240</b>

Reconciliation of the weighted average number of ordinary shares used for earnings per share to weighted average number of ordinary shares used for diluted earnings per share

	11 MONTHS ENDED 31 AUGUST 2021	18 MONTHS ENDED 30 SEPTEMBER 2020
FIGURES IN NAMIBIA DOLLAR THOUSAND		
WEIGHTED AVERAGE NUMBER OF ORDINARY SHARES (BASIC) ('000)	1 569 706	1 334 127
ADJUSTED FOR CONTINGENTLY ISSUABLE SHARES ('000) (NOTE 19)	4 922	4 922
<b>WEIGHTED AVERAGE NUMBER OF ORDINARY SHARES FOR THE PURPOSES OF DILUTED EARNINGS PER SHARE ('000)</b>	<b>1 574 628</b>	<b>1 339 049</b>
<b>LOSS PER SHARE</b>		
BASIC LOSS PER SHARE (CENTS)	55.55	19.95
DILUTED LOSS PER SHARE (CENTS)	55.38	19.87
HEADLINE BASIC LOSS PER SHARE (CENTS)	48.81	19.06
HEADLINE DILUTED LOSS PER SHARE (CENTS)	48.66	18.99

# NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

## 28. CASH (UTILISED IN)/GENERATED FROM OPERATIONS

FIGURES IN NAMIBIA DOLLAR THOUSAND	11 MONTHS ENDED 31 AUGUST 2021	18 MONTHS ENDED 30 SEPTEMBER 2020
LOSS BEFORE TAX	(940 360)	(305 442)
<b>ADJUSTMENTS FOR</b>		
DEPRECIATION AND AMORTISATION	59 063	99 817
LOSS ON DISPOSAL OF PROPERTY, PLANT AND EQUIPMENT	12 431	7 625
LOSS/(GAIN) ON FOREIGN EXCHANGE DIFFERENCES	252 677	(260 029)
INVESTMENT INCOME	(849)	(927)
LOSS ON DISPOSAL OF THE AVIATION BUSINESS	-	4 682
FINANCE COSTS	181 872	378 185
FAIR VALUE ADJUSTMENTS	281 818	279 220
IMPAIRMENT LOSS ON ADVANCES	71 017	497 466
WAIVER OF LOAN	-	(1 000 000)
IMPAIRMENT OF INTANGIBLE ASSETS	28 621	4 862
IMPAIRMENT OF MINING PROPERTIES	68 734	-
FOREIGN EXCHANGE (GAIN)/LOSS ON BORROWINGS	(110 440)	133 457
IMPAIRMENT LOSS ON TRADE RECEIVABLES	579	39 290
PROPERTY DEBTORS WRITTEN OFF	56 132	-
CHANGE IN INSURANCE CONTRACT LIABILITIES	176	763
CHANGE IN POLICYHOLDERS' LIABILITY UNDER INSURANCE CONTRACTS	(1 109)	5 395
OTHER NON-CASH ITEMS	(26 300)	(9 990)
<b>CASH USED IN OPERATIONS BEFORE WORKING CAPITAL CHANGES</b>	<b>(65 938)</b>	<b>(125 626)</b>
<b>CHANGES IN WORKING CAPITAL</b>		
INVENTORIES	6 325	(10 340)
TRADE AND OTHER RECEIVABLES	8 634	16 698
TRADE AND OTHER PAYABLES	(12 617)	267 990
<b>CHANGES IN WORKING CAPITAL</b>	<b>2 342</b>	<b>274 348</b>
<b>CASH (USED IN)/GENERATED FROM OPERATIONS</b>	<b>(63 596)</b>	<b>148 722</b>

## 29. TAX PAID

FIGURES IN NAMIBIA DOLLAR THOUSAND	11 MONTHS ENDED 31 AUGUST 2021	18 MONTHS ENDED 30 SEPTEMBER 2020
<b>BALANCE AT BEGINNING OF PERIOD</b>		
· CURRENT TAX ASSETS	(2 473)	(4 495)
· CURRENT TAX LIABILITIES	24 829	10 243
	22 356	5 748
CURRENT TAX FOR THE PERIOD RECOGNISED IN PROFIT OR LOSS	1 249	16 046
<b>BALANCE AT END OF PERIOD</b>		
· CURRENT TAX ASSETS	2 473	2 473
· CURRENT TAX LIABILITIES	(26 168)	(24 829)
<b>TAX PAID</b>	<b>(90)</b>	<b>(562)</b>

## 30. RECONCILIATION OF LIABILITIES ARISING FROM FINANCING

31 AUGUST 2021	BORROWINGS	LEASE LIABILITIES	RELATED PARTIES	TOTAL
OPENING BALANCE	1 413 600	78 308	206 094	1 698 002
NON CASH FLOW ITEMS	9 909	(7 208)	16 078	18 779
CASH FLOWS RELATED TO OPERATIONS*	173 240	-	-	173 240
<b>SUB TOTAL</b>	<b>1 596 749</b>	<b>71 100</b>	<b>222 172</b>	<b>1 890 021</b>
CASH FLOWS RELATED TO FINANCING	61 161	(13 492)	(58 910)	(11 241)
<b>CLOSING BALANCE</b>	<b>1 657 910</b>	<b>57 608</b>	<b>163 262</b>	<b>1 878 780</b>
<b>30 SEPTEMBER 2020</b>				
OPENING BALANCE	1 251 066	63 447	1 021 276	2 335 789
NON CASH FLOW ITEMS	128 129	44 464	157 347	329 940
CASH FLOWS RELATED TO OPERATIONS*	136 240	-	-	136 240
LOAN WAIVER (NOTE 24)	-	-	(1 000 000)	(1 000 000)
<b>SUB TOTAL</b>	<b>1 515 435</b>	<b>107 911</b>	<b>178 623</b>	<b>1 801 969</b>
CASH FLOWS RELATED TO FINANCING	(101 835)	(29 603)	27 471	(103 967)
<b>CLOSING BALANCE</b>	<b>1 413 600</b>	<b>78 308</b>	<b>206 094</b>	<b>1 698 002</b>

\*Borrowings used to finance the operations of the student loan book are classified as operating activities.

# NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

## 31. CASH AND CASH EQUIVALENTS

FIGURES IN NAMIBIA DOLLAR THOUSAND

	31 AUGUST 2021	30 SEPTEMBER 2020
BANK	23 460	144 020
BANK OVERDRAFT	(7 595)	-
	<b>15 865</b>	<b>144 020</b>

## 32. RELATED PARTIES

The group is controlled by Q van Rooyen who owns 63.97% (30 September 2020: 63.94%) of the company's shares. Material related party balances and transactions are disclosed in notes 5 and 24.

Other related parties are:

### SUBSIDIARIES

Agricultural Export Company (Pty) Ltd  
 Cumbrae Island Investments (Pty) Ltd  
 Discus Properties (Pty) Ltd  
 Elisenheim Estate Property Number One Hundred (Pty) Ltd  
 Elisenheim Estate Property Number One Hundred and One (Pty) Ltd  
 Elisenheim Estate Property Number One Hundred and Two (Pty) Ltd  
 Elisenheim Property Development Company Ltd  
 Erf 7179 (Pty) Ltd  
 Herboth's Property Development (Pty) Ltd  
 Huso Investments (Pty) Ltd  
 ICE Insurance Claims Exchange (Pty) Ltd\*  
 Institute for Open Learning (Pty) Ltd  
 Institute of Open Learning VTC (Pty) Ltd  
 Komada Holdings (Pty) Ltd  
 Kuiseb Country Estate (Pty) Ltd  
 Legal Shield Holdings Ltd  
 Meya Mining Limited\*\*  
 Morse Investments (Pty) Ltd  
 Morse Investments Mauritius\*\*  
 New Adventure Insurance Brokers (Pty) Ltd\*  
 Northern Industrial Estates (Pty) Ltd  
 Northern Namibia Development Company (Pty) Ltd  
 November Properties (Pty) Ltd  
 Printas (Pty) Ltd  
 TBN Holdings Ltd  
 Trustco Administrative Support Services (Pty) Ltd  
 Trustco Bank Namibia Limited  
 Trustco Business Developments (Pty) Ltd  
 Trustco Capital (Pty) Ltd  
 Trustco Construction Services (Pty) Ltd  
 Trustco Corporate Management Services (Pty) Ltd  
 Trustco Estate Planners and Administrators (Pty) Ltd  
 Trustco Finance (Pty) Ltd  
 Trustco Financial Services (Pty) Ltd\*  
 Trustco Fleet Management Services (Pty) Ltd

Trustco Group International (Pty) Ltd  
 Trustco Group International (Pty) Ltd\*  
 Trustco Informatix (Pty) Ltd\*  
 Trustco Insurance Limited  
 Trustco Intermediary Solutions (Pty) Ltd\*  
 Trustco Investment Management Company (Pty) Ltd  
 Trustco Life Limited  
 Trustco Media (Pty) Ltd  
 Trustco Mixed Marketing (Pty) Ltd  
 Trustco Mobile (Pty) Ltd  
 Trustco Mobile Mauritius\*\*  
 Trustco Newspapers (Pty) Ltd  
 Trustco Property Holdings (Pty) Ltd  
 Trustco Re-insure Limited  
 Trustco Resources (Pty) Ltd  
 Trustco Resources Mauritius\*\*  
 Trustco Unit Trust Management Company Ltd

### ENTITIES IN WHICH BOARD MEMBERS HAVE A SIGNIFICANT INFLUENCE

Arru Island Investments (Pty) Ltd  
 Bellissima Investments (Pty) Ltd  
 Dolphin View 50 Langstrand (Pty) Ltd  
 Foxtrot Properties (Pty) Ltd  
 Golf Properties (Pty) Ltd  
 Le-Hugo's Investments\*\*  
 Namibia Medical Investments (Pty) Ltd  
 Next Capital Ltd  
 Othinge Investments (Pty) Ltd  
 Portsmut Hunting Safaris ((Pty) Ltd  
 Shad Investments (Pty) Ltd  
 Sunda Island Investments (Pty) Ltd  
 Sweep Investments (Pty) Ltd  
 Thera Island Investments (Pty) Ltd  
 Next Air Services (Pty) Ltd  
 Next Tourism Holdings (Pty) Ltd

### OTHER RELATED ENTITIES

Germinate SL Ltd\*\*\*  
 Riskowitz Value Fund\*\*\*\*  
 Trustco Senior Employees Trust  
 Trustco Staff Share Incentive Scheme Trust

\* Incorporated in the Republic of South Africa

\*\* Incorporated in the Republic of Mauritius

\*\*\* Incorporated in the Republic of Sierra Leone

\*\*\*\* Incorporated in the United States of America

All other related parties are incorporated in Namibia.

Refer to note 5 for further information on balances due to related parties.

Transactions between the company and its subsidiaries, which are related parties, have been eliminated on consolidation and are not disclosed in this note. The sale of goods to related parties was made at the group's usual list price. Purchases were made at market price. Details of transactions between the group and other related parties are disclosed below and note 23 for details of directors' remuneration:

## RELATED PARTY TRANSACTIONS

	11 MONTHS ENDED 31 AUGUST 2021	18 MONTHS ENDED 30 SEPTEMBER 2020
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FIGURES IN NAMIBIA DOLLAR THOUSAND

### RISKOWITZ VALUE FUND LLP\*\*

DISPOSAL OF EQUITY INTEREST TO RELATED PARTY*	-	81 388
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\* In the previous financial period, the group sold an equity stake in Trustco Resources to Riskowitz Value Fund LLP. Refer to note 20 for further information.  
 \*\* Non-controlling interest

### NEXT CAPITAL LTD^

MANAGEMENT FEES^^	(1 605)	(21 032)
SURETY FEES	(12 667)	(33 618)
INTEREST	(10 289)	(69 513)
LOAN WAIVER	-	1 000 000

^ Common shareholder: Dr Q van Rooyen

^^ The amount due to Next Capital Ltd bears interest at 12.08% per annum and is not repayable in the next 12 months. No management fees were accrued in terms of the new management agreement as announced, as regulatory and shareholder approval for the agreement has not yet been obtained.

## 33. SEGMENT INFORMATION ORGANISATION OF SEGMENTS

The group is organised into three segments. These segments form a basis by which the group executive committee (chief operating decision-maker) formulates key operating decisions, allocates resources and assesses performance. The reportable segments are differentiated and grouped by their relative size, namely: insurance and its investments, banking and finance and resources. The identified segments constitute business units that are organised in such a way that they generate revenues and profits with assets that are collectively pooled (cash-generating unit). The business synergies created by the successful leveraging of the assets (in the different companies) necessitates an evaluation that takes cognisance of originating entities. The group primarily operates in Namibia and Sierra Leone.

The insurance and its investments segment includes the short-term and long-term insurers, properties and strategic investments.

The banking and finance segment includes Trustco Bank Namibia Ltd, Trustco Finance (Pty) Ltd and Trustco Capital (Pty) Ltd.

The resources segment primarily conducts mining operations in Namibia and Sierra Leone.

The remaining immaterial businesses which earn other income do not warrant separate disclosure based on both their small asset and earnings size as well as being managed and reported to the group executive committee on a singular basis. For the purposes of monitoring segment performance and allocating resources between segments, the group's executive committee monitors the tangible, intangible and financial assets attributable to each segment.

# NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

## PRODUCTS AND SERVICES FROM WHICH REPORTABLE SEGMENTS EARN THEIR REVENUE

The principal categories from which revenue is earned are as follows:

### INSURANCE AND ITS INVESTMENTS

- insurance premiums
- property sales
- tuition and related fees and
- other revenue.

Figures in Namibia dollar thousand

### BANKING

- commission from customers
- interest on advances and
- other revenue.

### RESOURCES

- diamond sales.

	TOTAL	INSURANCE AND ITS INVESTMENTS	BANKING	RESOURCES
<b>31 AUGUST 2021</b>				
REVENUE	<b>397 487</b>	305 583	79 520	12 384
EXTERNAL REVENUE	<b>312 777</b>	228 065	72 328	12 384
INTER-SEGMENT REVENUE	<b>84 710</b>	77 518	7 192	-
NET LOSS AFTER TAX	<b>988 024</b>	594 040	62 084	331 900
INCOME TAX EXPENSE/(BENEFIT)	<b>47 664</b>	70 864	(23 200)	-
DEPRECIATION AND AMORTISATION	<b>59 063</b>	55 871	2 381	811
INTEREST INCOME	<b>850</b>	193	657	-
INTEREST EXPENSE	<b>181 872</b>	90 529	86 674	4 669
IMPAIRMENT OF ADVANCES	<b>71 017</b>	-	71 017	-
IMPAIRMENT OF INTANGIBLES	<b>28 621</b>	28 621	-	-
IMPAIRMENT OF MINING PROPERTIES	<b>68 734</b>	-	-	68 734
<b>TOTAL ASSETS</b>	<b>4 991 955</b>	<b>2 515 348</b>	<b>1 020 413</b>	<b>1 456 194</b>
<b>TOTAL LIABILITIES</b>	<b>2 664 802</b>	<b>1 327 899</b>	<b>1 067 346</b>	<b>269 557</b>

	TOTAL	INSURANCE AND ITS INVESTMENTS	BANKING	RESOURCES
<b>30 SEPTEMBER 2020</b>				
REVENUE	<b>730 253</b>	439 735	276 055	14 463
EXTERNAL REVENUE	<b>617 652</b>	345 844	257 345	14 463
INTER-SEGMENT REVENUE	<b>112 601</b>	93 891	18 710	-
NET (LOSS)/PROFIT AFTER TAX	<b>(343 242)</b>	(1 023 286)	(461 866)	1 141 910
INCOME TAX EXPENSE	<b>(37 800)</b>	(8 640)	(12 146)	(17 014)
LOAN WAIVER	<b>1 000 000</b>	-	-	1 000 000
DEPRECIATION AND AMORTISATION	<b>(99 817)</b>	(88 463)	(9 851)	(1 503)
INTEREST INCOME	<b>927</b>	237	669	21
INTEREST EXPENSE	<b>(378 185)</b>	(251 500)	(92 747)	(33 938)
IMPAIRMENT LOSS ON ADVANCES	<b>(567 620)</b>	(39 290)	(528 330)	-
<b>TOTAL ASSETS</b>	<b>5 617 207</b>	<b>2 983 944</b>	<b>1 129 859</b>	<b>1 503 404</b>
<b>TOTAL LIABILITIES</b>	<b>2 462 330</b>	<b>1 530 967</b>	<b>696 498</b>	<b>234 865</b>

## SEGMENT ASSETS AND REVENUE BY LOCATION AND ENTITY DOMICILE

	31 AUGUST 2021 11 MONTHS REVENUE	30 SEPTEMBER 2020 18 MONTHS REVENUE	31 AUGUST 2021 ASSETS	30 SEPTEMBER 2020 ASSETS
NAMIBIA	300 393	603 189	3 625 544	4 264 062
SIERRA LEONE	12 384	14 463	1 366 411	1 353 145
<b>TOTAL</b>	<b>312 777</b>	<b>617 652</b>	<b>4 991 955</b>	<b>5 617 207</b>

Inter-segment sales occur at prevailing market prices.

The group's revenues from its major products and services are disclosed in note 21.

## INFORMATION ABOUT MAJOR CUSTOMERS

No single customer contributed 10% or more to the group's revenue for both 2021 and 2020.

## 34. CATEGORIES OF FINANCIAL INSTRUMENTS

FIGURES IN NAMIBIA DOLLAR THOUSAND

	31 AUGUST 2021	30 SEPTEMBER 2020
<b>FINANCIAL ASSETS</b>		
AMORTISED COST		
CASH AND CASH EQUIVALENTS	23 460	144 020
ADVANCES	489 470	921 859
TRADE AND OTHER RECEIVABLES	134 605	240 466
<b>FINANCIAL LIABILITIES</b>		
AMORTISED COST		
AMOUNTS DUE TO RELATED PARTIES	(163 262)	(206 094)
BORROWINGS	(1 657 910)	(1 413 600)
TRADE AND OTHER PAYABLES	(607 220)	(618 043)
BANK OVERDRAFT	(7 595)	-



# NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

## 35. FINANCIAL RISK MANAGEMENT

This note presents information about the group's exposure to financial risks, the group's objectives, policies and processes for measuring and managing risk and the group's management of capital. Further quantitative disclosures are included throughout these consolidated financial statements.

The group's risk management policies are established to identify and analyse the risks faced by the group, set appropriate risk limits and controls and monitor risks and adherence to limits. Risk management policies and systems are reviewed regularly to reflect changes in market conditions and the group's activities. Through its training and management standards and procedures, the group aims to develop a disciplined and constructive control environment in which all employees understand their roles and obligations.

The group audit and risk committee (ARC) oversees how management monitors compliance with the group's risk management policies and procedures and reviews the adequacy of the risk management framework concerning the risks faced by the group. The group audit committee is assisted in its oversight role by internal audit. Internal audit undertakes both regular and ad hoc reviews of risk management controls and procedures, the results of which are reported to the ARC.

### CAPITAL MANAGEMENT

The board's policy is to maintain a strong capital base to maintain investor, creditor and market confidence and sustain future business development. The board of directors monitors the return on capital, which the group defines as net operating income divided by total shareholders' equity. The board of directors also monitors the level of dividends paid to ordinary shareholders. The group manages its capital to ensure that entities in the group will be able to continue as going concern while maximising the return to stakeholders through the optimisation of the debt and equity balance.

The group's capital structure consists of debt, which includes the borrowings disclosed in note 13, shareholders' funds and equity attributable to equity holders of the parent, comprising issued capital and reserves as disclosed in notes 17 to 19 inclusive. During the reporting period, the group restructured its long term debt. The restructuring included deferring interest payments, capital holidays and bullet repayments of up to 7 years. Refer to maturity analysis for expected cash out flows.

Trustco Bank Namibia Ltd is subject to a Bank of Namibia imposed capital adequacy minimum. This ratio is calculated under Basel rules and is measured monthly. The current minimum capital adequacy ratio is 15% and Trustco Bank Namibia Ltd is currently at 42.67% (30 September 2020: 41.39%). The minimum Tier one leverage ratio is 6% and Trustco Bank Namibia Ltd's ratio is currently 38.55% (30 September 2020: 36.92%).

From time to time, the group purchases its shares on the market, the timing of which depends on market prices. Buy and sell decisions are made on the recommendation of management to the board and approved by the audit and risk committee. The group does not have a defined share buy-back plan, but shareholders have passed a general resolution allowing the company to buy back its shares from time to time.

There were no changes in the group's approach to capital management during the reporting period.

### FINANCIAL RISK MANAGEMENT OBJECTIVES

The group's corporate treasury function provides services to the business, coordinates access to domestic and international financial markets, monitors and manages the financial risk relating to the operations of the group through internal risk reports which analyse exposure by degree and magnitude of risks. These risks include market risk (including currency risk, fair value interest rate risk), credit risk, liquidity risk and cash flow interest rate risk.

The use of financial instruments is governed by the group's policies approved by the board of directors, which provide principles on foreign exchange risk, interest rate risk, credit risk, the use of financial derivatives and non-financial derivative financial instruments and the investment of excess liquidity. Compliance with policies and exposure limits are reviewed by the internal auditors continuously. The group does not enter into or trade financial instruments for speculative purposes.

### MARKET RISK

Market risk is the risk that changes in market prices, such as foreign exchange rates and interest rates will affect the group's income or the value of its holdings of financial instruments. The objective of market risk management is to manage and control market risk exposure within acceptable parameters while optimising the return.

Refer to interest rate sensitivity analysis below for discussion of group's exposure to market risk.

## FOREIGN CURRENCY RISK MANAGEMENT

The group is exposed to currency risk on borrowings that are denominated in a currency other than the respective functional currencies of group entities, primarily the Namibia Dollar, South African Rand and US Dollar. The currencies in which these transactions are concluded are primarily denominated in US Dollars.

Risk is managed through careful planning of probable US Dollar expenditures. US Dollar denominated liabilities are expected to be repaid with receipts from US Dollar denominated sales.

The carrying amount of the group's foreign currency denominated monetary assets and monetary liabilities at the reporting dates are as follows:

FIGURES IN NAMIBIA DOLLAR THOUSAND	31 AUGUST 2021	30 SEPTEMBER 2020
CASH AND CASH EQUIVALENTS	336	7 333
TRADE AND OTHER RECEIVABLES	3 16 554	5 863
BORROWINGS	13 (846 428)	(705 111)
TRADE AND OTHER PAYABLES	14 (191 692)	(236 323)
BANK OVERDRAFT	(7 586)	-
	<b>(1 028 816)</b>	<b>(928 238)</b>

## FOREIGN CURRENCY RISK SENSITIVITY ANALYSIS

At the reporting date, the South African rand was equal to the Namibia dollar. A 1% weakening or strengthening of the Namibia Dollar exchange rate versus the US Dollar (most common foreign currency exposure) on 31 August 2021, as broadly anticipated by the market, would decrease or increase the group's profit by NAD 10.3 million (30 September 2020: NAD 9.3 million). The analysis assumes that all other variables would remain constant.

## CREDIT RISK MANAGEMENT

Credit risk is the risk of financial loss to the group if a customer or counterparty to a financial instrument fails to meet its contractual obligations.

## FORWARD-LOOKING INFORMATION (FLI)

Historical default rates were regressed against selected relevant macroeconomic factors to investigate if there exists any relationship. Where there is a correlation between macroeconomic factors and historical default rates, the probabilities of default (PD) were adjusted to arrive at a point in time PD.

Financial assets exposed to credit risk at reporting date were as follows:

FIGURES IN NAMIBIA DOLLAR THOUSAND	31 AUGUST 2021	30 SEPTEMBER 2020
<b>FINANCIAL ASSETS</b>		
CASH AND CASH EQUIVALENTS	23 460	144 020
ADVANCES	2 489 470	921 859
TRADE AND OTHER RECEIVABLES	3 134 605	240 466
	<b>588 785</b>	<b>1 306 345</b>

# NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

Credit risk on advances (note 2) is managed through credit approval procedures, requiring regular repayments and requiring guarantees and/or security deposits as a prerequisite for advances. Property advances and property sales receivables are secured by properties sold. The group lends to individuals and businesses. The group's and company's cash balances are held at "A" rated local banks.

In the previous financial period the group's concentration of customer risk to a counterparty exceeding 5% of gross monetary assets during the period was for the two commercial property advances as disclosed in note 2. The commercial loans were liquidated in the reporting period. The group does not have any further concentration risk above 5% of its monetary assets.

## RECEIVABLES FROM TRADE CUSTOMERS AND ADVANCES

The group's exposure to credit risk is influenced mainly by the default risk of the sectors in which they operate. The demographics of the group's customer base, including the individual characteristics of each customer and country in which customers operate, has less of an influence on credit risk. The risk management committee has established a credit policy under which each new customer is analysed individually for creditworthiness before the group's standard payment and delivery terms and conditions are offered. The group's review includes external ratings, when available and in some cases bank references.

Purchase limits are established for each customer, which represents the maximum open amount without requiring approval from the risk management committee; these limits are reviewed on an ad hoc basis. Customers that fail to meet the group's benchmark creditworthiness criteria may transact with the group only on a prepayment basis. The group establishes a loss allowance for credit losses that represents its estimate of credit losses in respect of advances.

## INTEREST RATE RISK MANAGEMENT

The ultimate responsibility for interest rate risk management rests with the board of directors, which has established an appropriate framework for managing the group's exposure to changes in rates.

## INTEREST RATE SENSITIVITY ANALYSIS

The sensitivity analysis below has been determined based on the exposure to interest rates for financial assets and financial liabilities at the reporting date. The analysis is prepared assuming the balance of the financial instrument at the reporting date was receivable/ (payable) for the whole period. A 50 basis point increase or decrease is used when reporting interest risk internally to key management personnel and represents management's assessment of the possible change in interest rates.

If interest rates had been 1% higher/lower and all other variables were held constant, the group's loss for the period ended 31 August 2021 would decrease/increase by NAD 16.1 million (30 September 2020: decrease/ increase by NAD 9.3 million). This is mainly attributable to the group's exposure to interest rates on its variable rate borrowings.

## LIQUIDITY RISK MANAGEMENT

Liquidity risk is the risk that the group will not be able to meet its financial obligations as they fall due. The group's approach to managing liquidity is to ensure, as far as possible, that it will always have sufficient liquidity to meet its liabilities when due, under both normal and stressed conditions, without incurring unacceptable losses or risking damage to the group's reputation.

The ultimate responsibility for liquidity risk management rests with the board of directors, which has built an appropriate liquidity risk management framework to manage the group's short-, medium- and long-term funding and liquidity management requirements. The group manages liquidity risk by maintaining adequate reserves, banking facilities and reserve borrowing facilities by continuously monitoring the forecast and actual cash flows and matching the maturity profiles of financial assets and liabilities as well as by monitoring the current ratio.

## LIQUIDITY ANALYSIS

The following tables detail the group's future liquidity position arising from its non-derivative financial liabilities. The analysis has been prepared based on the undiscounted contractual cash flows of financial liabilities based on the earliest date on which the group can be required to pay.

31 AUGUST 2021	AVE. EFFECTIVE INTEREST RATE	DUE IN LESS THAN ONE YEAR	DUE IN ONE TO TWO YEARS	DUE IN TWO TO FIVE YEARS	DUE AFTER FIVE YEARS	TOTAL
		NAD' 000	NAD' 000	NAD' 000	NAD' 000	NAD' 000
<b>MATURITY ANALYSIS</b>						
<b>NON-INTEREST BEARING</b>						
· TRADE AND OTHER PAYABLES (NOTE 14)		607 220	-	-	-	607 220
<b>VARIABLE INTEREST RATE INSTRUMENTS</b>						
· TERM LOANS (NOTE 13)	9.83	560 796	192 684	1 332 325	160 194	2 245 999
· MORTGAGE LOANS (NOTE 13)	9.73	1 667	953	2 262	730	5 612
· INSURANCE LIABILITIES (NOTE 15)		30 267	9 360	10 942	49	50 618
· AMOUNTS DUE TO RELATED PARTIES (NOTE 5)	12.08	75 155	-	-	88 107	163 262
· BANK OVERDRAFT	21.00	7 595	-	-	-	7 595
		<b>1 282 700</b>	<b>202 997</b>	<b>1 345 529</b>	<b>249 080</b>	<b>3 080 306</b>

30 SEPTEMBER 2020	AVE. EFFECTIVE INTEREST RATE	DUE IN LESS THAN ONE YEAR	DUE IN ONE TO TWO YEARS	DUE IN TWO TO FIVE YEARS	DUE AFTER FIVE YEARS	TOTAL
		NAD' 000	NAD' 000	NAD' 000	NAD' 000	NAD' 000
<b>MATURITY ANALYSIS</b>						
<b>NON-INTEREST BEARING</b>						
· TRADE AND OTHER PAYABLES (NOTE 14)		618 043	-	-	-	618 043
<b>VARIABLE INTEREST RATE INSTRUMENTS</b>						
· TERM LOANS (NOTE 13)	9.83	1 285 841	135 427	264 720	21 800	1 707 788
· MORTGAGE LOANS (NOTE 13)	9.73	5 829	4 795	4 795	-	15 419
· ASSET-BACKED FINANCING AGREEMENTS (NOTE 13)	9.73	2 565	2 016	1 272	214	6 067
· INSURANCE LIABILITIES (NOTE 15)		33 982	8 003	9 520	46	51 551
· AMOUNTS DUE TO RELATED PARTIES (NOTE 5)	12.08	64 255	-	-	141 839	206 094
		<b>2 010 515</b>	<b>150 241</b>	<b>280 307</b>	<b>163 899</b>	<b>2 604 962</b>

# NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

## 36. GOING CONCERN

The financial results have been prepared on the going concern basis which considers the continuity of normal business activities, the realisation of assets and the settlement of liabilities in the normal course of business. The board of directors, as part of their responsibilities, annually assesses the going concern of the group. As part of their assessment, the board of directors considered working capital requirements, availability of resources and reserves either from existing operational activities or further borrowings, available information about the future, financial impact of ongoing litigation, the possible outcomes of planned events and the responses to such events and conditions that would be available to the board.

The board of directors has, inter alia, considered the following specific factors in determining whether the group is a going concern for the foreseeable future:

- Loss for the eleven months ended 31 August 2021 of NAD 988 million (eighteen months ended 30 September 2020: NAD 343 million);
- Current liabilities of the Group exceed current asset as at 31 August 2021 by NAD 664 million, while total assets exceed total liabilities by NAD 2.3 billion;
- Cash generated from operating activities for the eleven months ended 31 August 2021, which includes proceeds from borrowings for advances, together with future cash generating capabilities;
- Whether the group has sufficient cash resources from operations or through further borrowings which is readily available, in order to settle its creditors and maturing liabilities as and when they fall due in the foreseeable future, whilst continuing to maintain its operating abilities for the foreseeable financial period;
- Whether there is any significant pending litigation that will threaten the going concern status of the group;
- Assessment of the existing economic conditions related to the various operating segments and whether the possibility exists to sufficiently scale said operations in the foreseeable future to provide additional cash resources; and
- Assessment of the solvency and liquidity position of the group in accordance with the Companies Act.

Following the above assessment, the board of directors believe that the above factors, coupled with prevailing economic conditions and forecast economic outlook presents some challenges for the foreseeable future. In response to the above factors, to address future cash flow requirements, detailed liquidity improvement initiatives have been developed and are being pursued, with the implementation thereof regularly monitored.

These conditions are considered to indicate that a material uncertainty exists which may cast significant doubt on the ability of the group to continue as a going concern in the foreseeable future.

This is largely attributable to the short-term liquidity position of the group.

Therefore, the ability of the group to continue as a going concern is dependent on the successful implementation or conclusion of the below noted matters in order to address the liquidity risk the group faces on an ongoing basis:

- completion of the underground development of Meya Mine to 10 000 carats per month (forecasted for 3rd quarter of 2022)
- completion of technical and geological due diligences related to Meya Mine following which a first tier global diamond producer will advance up to USD 150 million as a debt facility to scale production at Meya Mine and acquire a proposed equity stake of up to 55% in Meya Mining at a nominal value, which will provide further cash flows for the group's operations in the foreseeable future;
- recovery of USD 50 million from its investments to assist with the short-term liquidity requirements of the group;
- implementation of various collection strategies relating to the recovery of long outstanding advances owed to the group to increase available cash resources;
- continuous financial support from its international lenders; and
- successful resolution of various ongoing legal matters in order to mitigate the potential liquidity impact thereof.

The board of directors have evaluated the group's liquidity requirements to confirm whether the group has access to sufficient resources to continue as a going concern in the foreseeable future, considering the above factors and consequently prepared a cash flow forecast covering a period of 12 months from the date of these financial statements, concluding that the group would be able to continue its operations as a going concern.

The directors are not aware of any other matters that may impact the group.

The directors are also not aware of any material noncompliance with statutory or regulatory requirements or of any pending changes to legislation which may affect the group. Following the above assessment, the board of directors continue to adopt the going concern basis of accounting in preparing the financial statements.

## 37. EVENTS AFTER THE REPORTING DATE

### 1. DIRECTORS APPOINTMENT

J van der Heever was appointed as an independent non-executive member of the Trustco Group Holdings Ltd board of directors with effect from 1 November 2021.

### 2. PURCHASE OF SHARES

Trustco Capital (Pty) Ltd (subsidiary) purchased a 51 769 633 Trustco Group Holdings Ltd (TTO) shares from Constantia Risk and Insurance Holdings Ltd for NAD 93.7 million on 2 September 2021.

### 3. MANAGEMENT AGREEMENT WITH NEXT CAPITAL LTD

As noted in note 10 of the directors report, the group and Next Capital entered into a management agreement. The management agreement was classified as a category 1 Related Party Transaction in terms of the Listings Requirements of the JSE Limited. The group is in the process of preparing a circular containing full details of the management contract.

### 4. MEYA MINING TRANSACTION

After the end of the financial period, a term sheet was signed between Meya Mining and a first tier global diamond producer to acquire a 55% equity stake in Meya Mining, as well as provide a USD 150 million debt facility. This will enable the mine to scale production to 1 million carats per annum over the next three years. It is expected that this agreement will be finalized by the end of March 2022, after a technical and geological due diligence has been completed.

## 38. CONTINGENT LIABILITIES AND GUARANTEES

### 38.1 CITY OF WINDHOEK

The group has guaranteed the installation of bulk services on its real estate inventory (Lafrenz and Elisenheim development), amounting to NAD 6.37 million and NAD 1.49 million, respectively.

### 38.2 PENDING LEGAL CASES

The group has pending legal cases for which the total legal costs are estimated to be approximately NAD10 million.

### HELIOS ORYX LIMITED VS TRUSTCO GROUP HOLDINGS LTD

Helios Oryx Limited issued a summons in the High Court of Justice (Business and Property Courts of England and Wales Commercial Court). The summons relates to a facility agreement entered into between the parties.

This action is being defended by Trustco Group Holdings Ltd (TGH). Helios declared all amounts outstanding under the facility agreement and demanded payment totalling USD 19.6 million. On 20 January 2021, the High Court of Justice of England and Wales (Commercial Court) granted summary judgement in favour of Helios against Trustco in the sum of USD 21.4 million together with legal costs.

Trustco's total exposure in respect of the Helios claim (inclusive of capital, interest and costs) is provided for in full in the annual financial statements.

Trustco, together with its legal advisors, are implementing all legal remedies available to TGH, including appealing against the judgement. Helios also instituted an action in Windhoek, Namibia, which is pending. The group has a substantive counter claim against Helios in excess of USD 59 million which it is pursuing and is in the process of being quantified. The claim of USD 21.4 million is secured over the Elisenheim property development. The matter is still pending.

# NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

## 39. PROACTIVE MONITORING PROCESS

The Johannesburg Stock Exchange Limited (JSE) selected Trustco as part of their proactive monitoring review process wherein they reviewed Trustco's financial statements for the twelve months ended 31 March 2019 and its unaudited interim results for the six months ended 30 September 2019.

Following the conclusion of the proactive monitoring process, the JSE informed Trustco that Trustco's financial statements for the 12 months ended March 2019 and unaudited interim results for the six months ended September 2019, as referred to above, were not fully compliant with IFRS with respect to the three matters as listed below, and consequently instructed Trustco to effect certain restatements to the 31 March 2019 and 30 September 2019 results.

These three matters were:

1. Treatment of reclassification of inventory to investment property;
2. Recognition of revenue from the sale of unserviced erven (real estate inventory); and
3. Treatment of loan waivers.

These matters were correctly identified by Trustco at inception thereof as complex and non-routine in nature and as such the company sought expert IFRS advice on these matters from its JSE accredited expert IFRS advisors to determine the appropriate accounting treatment thereof.

The transactions were considered quantitatively and qualitatively material and noted as significant matters by the current and previous auditors and were therefore the subject of detailed technical assessment.

Following reconsideration, including consultation with the current auditors, Trustco agreed to effect a restatement to the 2018 and 2019 financial years with regards to matter 2 as disclosed in note 44 of the September 2020 financial results.

Trustco disagreed with the JSE with respect to matters 1 and 3 hence no adjustments have been made to the August 2021, September 2020, September 2019 and March 2019 financial statements regarding these matters. Trustco is pursuing the relevant channels available to obtain a confirmation of the appropriateness of its accounting treatment and a rescission of the decisions of the JSE.

Trustco lodged an objection to the JSE's findings concerning matters 1 and 3 with the Financial Services Tribunal during January 2021, and its decision to direct Trustco to apply particular accounting as allowed for in terms of Section 230 of the Financial Sector Regulations Act, 2017.

On 2 November 2021 the Financial Services Tribunal heard virtual representation from both Trustco and the JSE's legal representatives to consider the instruction issued by the JSE to restate the historic results related to matters 1 and 3.

On 22 November 2021 the Financial Services Tribunal dismissed the application for reconsideration sought by Trustco.

The board, who ultimately remains responsible and accountable to stakeholders for the preparation of the financial statements and their compliance with IFRS, together with their legal representatives and IFRS advisors, reviewed the Financial Services Tribunal ruling, and once again are not in agreement with the judgement.

Responding to the ruling of the Financial Services Tribunal, Trustco is in the process of bringing an application in the High Court in South Africa, in terms of the Promotion of Administrative Justice Act No.3 of 2000, to set aside the ruling of the Financial Services Tribunal as Trustco believes the ruling did not consider pertinent representation by affected parties related to the substance of the various transactions at the time they were entered into and recorded.

The following summary provides further information relating to the qualitative factors pertaining to matters 1 and 3, insofar as it supports the relevant accounting application adopted by Trustco, and the issues raised by the JSE.

### TREATMENT OF RECLASSIFICATION OF INVENTORY TO INVESTMENT PROPERTY

In accordance with IAS 2, Trustco initially classified the Eisenheim property as inventory as it was intended for immediate development and sale in the ordinary course of business. Over the years Trustco has developed and sold portions of the land. When the property market slowed down and Trustco was unable to fully exploit this development opportunity, the board of directors resolved to cease developments of a portion of the remaining extent of the property for the foreseeable

future. Management gave effect to this decision by implementing; a cessation of development activity including a decommissioning of the development plans; ceased to seek regulatory approvals for further development; a sale of equipment earmarked for in the development; and staff retrenchments. The actions were consistent with the changed intention to hold the property for long term capital appreciation which is consistent with the definition of investment property. These actions were consistent with the changed use to hold the property for long-term capital appreciation which is consistent with the definition of investment property.

The JSE opposes the reclassification of property previously held inventory to investment property, as they are of the opinion that Trustco had only demonstrated a change in its intentions with respect to the property but did not demonstrate any actions as evidence of a change in the use of the land as required by IAS 40. Trustco strongly disagrees with the JSE given the facts stated above.

Following Trustco's change in use as indicated above, the property was reclassified from inventory (NAD 291 million) to investment property (NAD 984 million), in accordance with IAS 40.63, which specifies the treatment for a transfer from inventories to investment property that will be carried at fair value, and that any difference between the fair value of the property at that date and its previous carrying amount shall be recognised in profit or loss. This was done by recognising the fair value of the transferred property as revenue, and its previous carrying amount (at cost) as cost of sales, in accordance with the requirements of IAS 40.64 which states that such transfers be treated in a manner consistent with the sale of inventory.

### TREATMENT OF LOAN WAIVERS - HUSO LOAN

During 2015, Trustco engaged in a transaction to acquire Huso from Dr. Q Van Rooyen. The terms of the Huso Transaction were recorded in a sale of shares agreement (which did not include the sale of loan interests held by Dr Q Van Rooyen in these entities). The shareholders of Trustco (excluding Dr Q Van Rooyen who did not vote) approved the Huso Transaction and voted in favour thereof at a meeting held on 5 October 2015. Due to a delay in fulfilment of the Huso Transaction suspensive conditions, a change in the structure of the Huso Transaction was proposed. These changes were approved by Trustco Group's shareholders on 13 June 2017.

The shareholder of Huso Investments (Pty) Ltd (Huso), being Dr Q Van Rooyen, had over the years advanced NAD 546 million to the Huso group of companies. The repayment of these loans was at the sole discretion of the Huso group companies and were therefore classified as equity by these entities.

During March 2018, the terms of the loans were amended by a resolution of directors of Huso and Northern Namibian Development Company (Pty) Ltd (NNDC). The amendment meant that the loan repayment was no longer at the discretion of Huso but would now be due within a stipulated period. As a result of this change, which imposed an unavoidable obligation to repay the loans, the loans became classified as financial liabilities. Before and after this amendment these loans remained in the beneficial interest of Dr Q Van Rooyen and did not in any way affect the sale of shares agreement between the parties as these loan interests had always been excluded from the Huso Transaction from the onset.

The Huso Transaction subsequently became effective and Dr Q van Rooyen's shares in Huso were acquired by Trustco Resources. Subsequent to the finalisation of the Huso Transaction Dr Q Van Rooyen elected to waive repayment of the Huso Loan from the Huso group companies (which had by this time become a part of the Trustco group). The loans, as financial liabilities falling within the scope of IFRS 9, were therefore derecognised upon the waiver in accordance with the requirements of that standard with the resulting effect being recognised in profit or loss.

The JSE contends that the Huso Transaction (a common control business combination) and the subsequent waiver of the Huso group company loans by Dr Q Van Rooyen in his capacity as a lender to those businesses, be treated as a single transaction. On this understanding the loans due to Dr Q Van Rooyen would not have been recognised as financial liabilities and the waiver would not have had an impact to be recognised in profit or loss. Trustco disagrees with the JSE's understanding of the Huso transaction, specifically that the loan waiver forms part of an indivisible single transaction.

# NOTES TO THE FINANCIAL STATEMENTS (CONTINUED)

## TREATMENT OF LOAN WAIVERS - RELATED PARTY LOAN

On 8 October 2018, Dr Q Van Rooyen, through Next Capital Ltd (Next), concluded an agreement to loan up to NAD 1 billion to Trustco Group for the purpose of funding the acquisition of a 51% shareholding interest in Meya Mining from Germinate Sierra Leone Limited. The loan terms were explicit with respect to imposing an obligation of repayment and was therefore classified as a financial liability by Trustco.

On 1 October 2019, repayment of the Related Party Loan was waived by Dr Q Van Rooyen at his sole discretion. The loan was derecognised in a manner consistent with the application described above with respect to the Huso loans and as a consequence impacted profit or loss.

The JSE contends that whilst the loan terms would have met the requirements of IAS 32 to be classified as a financial liability at initial recognition, the subsequent waiver in substance was equity in nature, following a similar approach as in the Huso loan noted above, and should thus have been initially recognised directly in equity, with the subsequent waiver thereof being recognised directly in equity, and not through profit and loss. Trustco disagrees with the opinion of the JSE regarding the Related Party Loan, specifically in that the loan should be accounted for in equity due to it being waived in the following financial period.

For more information the Review Application filed on 31 January 2022 can be found on <https://www.tghna/downloads/> \*

## 40. CAPITAL COMMITMENTS AUTHORISED CAPITAL EXPENDITURE

FIGURES IN NAMIBIA **31 AUGUST 2021** **30 SEPTEMBER 2020**  
DOLLAR THOUSAND

NOT YET CONTRACTED FOR BUT AUTHORISED BY DIRECTORS	1 275 000	1 300 000
The group intends to finance this expenditure from borrowing facilities. No part of this expenditure has been contracted for at reporting date.		

## 41. CHANGE OF REPORTING PERIOD

The reporting period of the company was changed from 30 September to 31 August. The reason for the change in the reporting period was to align the timing of the release of full-year results to coincide with the group's capital raising working calendar and the funders budgetary process for the preceding reporting period.

## 42. SHAREHOLDER INFORMATION

Details of the shareholders were as follows:

## LARGE SHAREHOLDERS (AS AT 31 AUGUST 2021)

NAME	DIRECT SHAREHOLDING	INDIRECT SHAREHOLDING	TOTAL SHAREHOLDING	TOTAL SHAREHOLDING %
VAN ROOYEN, QUINTON	307 137 454	696 862 606	1 004 000 060	63.97
PROTEA ASSET MANAGEMENT LLC	339 525 604		339 525 604	21.64
- RISKOWITZ VALUE FUND	212 935 148			
- ITHUBA INVESTMENTS	126 590 456			
GERMINATE SL LTD	85 416 666		85 416 666	5.44
CONSTANTIA INSURANCE COMPANY LIMITED	44 856 616		44 856 616	2.86
MIDBROOK LANE PROPRIETARY LIMITED	6 205 000		6 205 000	0.40
SAXO BANK AS - CLIENT ASSETS	6 015 305		6 015 305	0.39
GOVERNMENT EMPLOYEES PENSION FUND PUBLIC INVESTMENT CORPORATION	5 461 236		5 461 236	0.35
CITICLIENT NOMINEES NO 8 NY GW	5 343 021		5 343 021	0.34
SEAFWELL INVESTMENTS CC	5 006 088		5 006 088	0.32
<b>GRAND TOTAL</b>	<b>804 966 990</b>	<b>696 862 606</b>	<b>1 501 829 596</b>	<b>95.71</b>

\* Total issued shares as at 31 August 2021 - 1 616 038 581

\* Treasury shares as at 31 August 2021 - 46 520 138

\* Shares calculated net of treasury shares as at 31 August 2021 - 1 569 518 443

## LARGE SHAREHOLDERS (AS AT 30 SEPTEMBER 2020)

NAME	DIRECT SHAREHOLDING	INDIRECT SHAREHOLDING	TOTAL SHAREHOLDING	TOTAL SHAREHOLDING %
VAN ROOYEN, QUINTON	307 137 454	696 862 606	1 004 000 060	63.94
PERSHING LLC	340 301 835	-	340 301 835	21.67
- RISKOWITZ VALUE FUND	213 429 696			
- ITHUBA INVESTMENTS	126 872 139			
GERMINATE SL LTD	85 416 666		85 416 666	5.44
SNOWBALL WEALTH PTY LTD	30 583 770		30 583 770	1.95
CONSTANTIA INSURANCE COMPANY LTD	8 151 152		8 151 152	0.52
MIDBROOK LANE (PTY) LTD	12 415 530		12 415 530	0.79
GOVERNMENT EMPLOYEES PENSION FUND PUBLIC INVESTMENT CORPORATION	5 461 236		5 461 236	0.35
SAXO BANK AS - CLIENT ASSETS	5 372 346		5 372 346	0.34
<b>GRAND TOTAL</b>	<b>794 839 989</b>	<b>696 862 606</b>	<b>1 491 702 595</b>	<b>95.00</b>

\* Total issued shares as at 30 September 2020 - 1 616 038 581

\* Treasury shares as at 30 September 2020 - 45 800 647

\* Shares calculated net of treasury shares as at 30 September 2020 - 1 570 237 934

14 February 2022

The Company Secretary  
Trustco Group Holdings Limited

Johannesburg Stock Exchange  
One Exchange Square Gwen Lane Sandown South Africa  
Private Bag X991174 Sandton 2146  
T +27 11 520 7000 | F +27 11 520 8584  
[jse.co.za](http://jse.co.za)

Via email: [C/O dsteinbuch@vunanicapital.co.za](mailto:C/O_dsteinbuch@vunanicapital.co.za)

Dear Sirs

**JSE LIMITED ("THE JSE") // TRUSTCO GROUP HOLDINGS LIMITED ("TRUSTCO"): SUSPENSION OF LISTING OF SECURITIES**

1. We refer to the JSE's decision to suspend the listing of Trustco's securities ("**the Suspension Decision**") and following:
  - 1.1 the correspondence exchanged between the JSE, Trustco and the parties' respective legal representatives between 3 December 2021 to date, with particular reference to:
    - 1.1.1 the JSE's letter to Trustco, dated 11 November 2020 ("**the JSE's Decision**");
    - 1.1.2 the JSE's letter to Trustco confirming the Suspension Decision, dated 13 December 2021;
    - 1.1.3 the letter from Norton Rose Fulbright to the JSE setting out its objections to the Suspension Decision, dated 17 December 2021 ("**the Objection Letter**");
    - 1.1.4 the letter from Webber Wentzel to Norton Rose Fulbright, dated 20 January 2022 and Norton Rose Fulbright's response thereto, dated 26 January 2022;
  - 1.2 Trustco's audited financial statements for the year ending 31 August 2021, published on 1 February 2022 ("**Trustco's AFS**").
2. As you are aware, following receipt of the Objection Letter, in which it was contended that the implementation of the Suspension Decision would be premature prior to the publication of Trustco's AFS, the JSE confirmed, through Webber Wentzel's 20 January 2022 letter, that it would await sight of Trustco's AFS before making its decision on whether to uphold Trustco's objection to the Suspension Decision.
3. Having considered Trustco's AFS, as well as all other relevant facts and information contained in the Objection Letter, the JSE has decided to dismiss Trustco's objection to the Suspension Decision. In doing so, and having regard

**Executive Directors:** Dr L Fourie (Group CEO), A Takoordeen (CFO)

**Non-Executive Directors:** N Nyembezi (Chairman), ZBM Bassa, MS Cleary, VN Fakude, Dr SP Kana, FN Khanyile, IM Kirk, BJ Kruger, Dr MA Matooane, P Nhleko

**Group Company Secretary:** GA Brookes

**JSE Limited Reg No:** 2005/022939/06 Member of the World Federation of Exchanges

to the significance of the Suspension Decision, the JSE will simultaneously with the sending of this letter, publish a SENS announcement confirming its decision, a copy of which is annexed to this letter marked "A".

4. As Trustco has made clear its intention to seek a suspension of the Suspension Decision, the JSE confirms that it will not immediately implement the Suspension Decision. In this regard, we are instructed to record that:

4.1 should Trustco wish to initiate any legal proceedings, and obtain the relief it deems necessary to obtain, on an urgent basis, in the form of an order from a competent tribunal directing that the implementation of the Suspension Decision is suspended pending the outcome of an application for reconsideration of such decision, such process must be initiated and delivered by 15h00 on Friday, 18 February 2022;

4.2 upon receipt of such process, the JSE will suspend the implementation of the Suspension Decision until 15h00 on 11 March 2022, to allow for these proceedings of first instance to run their course;

4.3 if Trustco does not initiate and deliver any legal process by 15h00 on 18 February 2022, or if it does so, but in any event fails to obtain the appropriate relief by 15h00 on 11 March 2022, the JSE will immediately implement the Suspension Decision without further notice to Trustco.

5. We confirm that Webber Wentzel is authorised to accept service of any process in this regard on behalf of the JSE.

Yours faithfully



**A F VISSER: DIRECTOR  
ISSUER REGULATION**

**B**

**REPUBLIC OF SOUTH AFRICA**  
**COMPANIES ACT 71 OF 2008, AS AMENDED**

**MEMORANDUM OF INCORPORATION**

**OF**

**JSE LIMITED**

**Registration number 2005/022939/06**

**("the Company")**

This memorandum of incorporation was adopted by a special resolution in terms of section 16(1)(c) passed by the shareholders of the Company on **25 April 2013**, in substitution for the then existing memorandum and articles of association of the Company.

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Chairperson



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## 1. Definitions and interpretation

1.1 In this memorandum of incorporation ("**MOI**") the following words shall bear the following meanings and other words derived from the same origin as such words (that is cognate words) shall bear corresponding meanings, unless the context indicates otherwise:

1.1.1 "**Beneficial Interest**", when used in relation to the Company's Securities, means the right or entitlement of a person, through ownership, agreement, relationship or otherwise, alone or together with another person, to:

1.1.1.1 receive or participate in any distribution in respect of the Company's Securities;

1.1.1.2 exercise or cause to be exercised, in the ordinary course, any or all of the rights attaching to the Company's Securities; or

1.1.1.3 dispose or direct the disposition of the Company's Securities, or any part of a Distribution in respect of the Securities,

but does not include any interest held by a person in a unit trust or collective investment scheme in terms of the Collective Investment Schemes Act 45 of 2002;

1.1.2 "**Board**" means the board of Directors of the Company from time to time;

1.1.3 "**Commission**" means the Companies and Intellectual Property Commission established in terms of section 185;

1.1.4 "**Companies Act**" means the Companies Act 71 of 2008;

1.1.5 "**Companies Regulations**" means the Companies Regulations, 2011 promulgated by the Minister in terms of section 223;

1.1.6 "**CSD**" means a "central securities depository" as defined in section 1 of the Securities Services Act;

1.1.7 "**CSDP**" means a depository institution accepted by a CSD as a "participant" in terms of section 34 of the Securities Services Act;

1.1.8               **"Director"** means a member of the Board as contemplated in section 66, or an alternate Director, and includes any person occupying the position of a Director or alternate Director, by whatever name designated;

1.1.9               **"Distribution"** means a direct or indirect:

1.1.9.1               transfer by the Company of money or other property of the Company, other than its own Shares, to or for the benefit of one or more holders of any of the Shares, or to the holder of a Beneficial Interest in any such Shares, of the Company or of another company within the same group of companies, whether:

1.1.9.1.1               in the form of a dividend;

1.1.9.1.2               as a payment in lieu of a capitalisation share, as contemplated in section 47;

1.1.9.1.3               as consideration for the acquisition:

1.1.9.1.3.1               by the Company of any of its Shares, as contemplated in section 48; or

1.1.9.1.3.2               by any company within the Company's group of companies, of any shares of a company within that group of companies; or

1.1.9.1.4               otherwise in respect of any of the Shares of the Company or of another company within the Company's group of companies, subject to section 164(19);

1.1.9.2               incurrence of a debt or other obligation by the Company for the benefit of one or more holders of any of the Shares of the Company or of another company within the same group of companies; or

1.1.9.3               forgiveness or waiver by the Company of a debt or other obligation owed to the Company by one or more holders of any of the Shares of the Company or of another company within the same group of companies,

but does not include any such action taken upon the final liquidation of the Company;

- 1.1.10        "**Electronic Communication**" has the meaning set out in section 1 of the Electronic Communications and Transactions Act 25 of 2002;
- 1.1.11        "**File**", when used as a verb, means to deliver a document to the Commission in the manner and form, if any, prescribed for that document;
- 1.1.12        "**Inter-Related**", when used in respect of three or more persons, means persons who are Related to one another in a linked series of relationships, such that two of such persons are Related and one of them is Related to the third, and so forth in an unbroken series;
- 1.1.13        "**JSE**" means the securities exchange operated by the Company as a licensed exchange under the Securities Services Act;
- 1.1.14        "**Listings Requirements**" means the listings requirements of the JSE;
- 1.1.15        "**Ordinary Resolution**" means a resolution adopted with the support of more than 50% of the voting rights exercised on the resolution (a) at a Shareholders' meeting or (b) by holders of the Company's Securities acting other than at a meeting in accordance with section 60;
- 1.1.16        "**Ordinary Shareholder**" means a Shareholder reflected in the Securities Register as holding Ordinary Shares;
- 1.1.17        "**Ordinary Shares**" means the authorised ordinary Shares in the Company contemplated in article 5;
- 1.1.18        "**Prescribed Officer**" means, in respect of a company, a person that exercises, or regularly participates to a material degree in the exercise of, general executive control over and management of the whole, or a significant portion, of the business and activities of that company;<sup>1</sup>
- 1.1.19        "**present at a meeting**" means to be present in person, or able to participate in the meeting by Electronic Communication, or to be represented by a proxy who is present in person or able to participate in the meeting by Electronic Communication;

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<sup>1</sup> Regulation 38.

- 1.1.20            "**publish**" or "**deliver**" means, in relation to any document that is required to be published or delivered to Shareholders in terms of this MOI, that the document in question is prepared in plain language and, if applicable, in the prescribed form, in accordance with sections 6(4) and (5), and is delivered to each Shareholder at that Shareholder's registered address (either its business, postal or residential address, or by e-mail) as recorded in the Securities Register of the Company;<sup>2</sup>
- 1.1.21            "**Registrar**" means the Registrar of Securities Services under the Securities Services Act or such other person as may from time to time have the authority to exercise regulatory oversight over the Company in terms of the Securities Services Act or any replacement thereof;
- 1.1.22            "**Related**", when used in respect of two persons, means persons who are connected to one another in the manner contemplated in section 2(1)(a) to (c), subject to section 75(1)(b);
- 1.1.23            "**Securities**" means any Shares, debentures or other instruments, irrespective of their form or title, issued or authorised to be issued by the Company;
- 1.1.24            "**Securities Register**" means the register required to be established by the Company in terms of section 50(1);
- 1.1.25            "**Securities Services Act**" means the Securities Services Act 36 of 2004;
- 1.1.26            "**Shareholder**" means:<sup>3</sup>
- 1.1.26.1            the holder of a Share who is entered as such in the Securities register of the Company, being the person who shall be regarded for purposes of this MOI as the person who, in relation to the Company, is the person entitled to exercise the rights attaching to the Shares so registered; and
- 1.1.26.2            for purposes of articles 10 to 12, a person who is entitled to exercise any voting rights in relation to the Company, irrespective of the form,

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<sup>2</sup> Regulation 32(2)(a); article 15.1.

<sup>3</sup> Sections 1 and 57(1).

title or nature of the Securities to which those voting rights are attached;

- 1.1.27            "**Shares**" means the Ordinary Shares and any other shares issued by the Company from time to time;
- 1.1.28            "**Solvency and Liquidity Test**" means the test set out in section 4(1);
- 1.1.29            "**Special Resolution**" means a resolution adopted with the support of at least 75% of the votes exercised on that resolution by the holders of the Ordinary Shares present in person or by proxy at a meeting of Shareholders;<sup>4</sup>
- 1.1.30            "**Subsidiary**" has the meaning determined in accordance with section 3 and, for purposes of the Listings Requirements, includes a juristic person or other undertaking which would have been a subsidiary as defined in section 1:
- 1.1.30.1            had the juristic person or other undertaking been a company; and/or
- 1.1.30.2            but for the fact that it is incorporated outside of the Republic of South Africa;
- 1.1.31            a reference to an "**article**" by number refers to the corresponding article in this MOI;
- 1.1.32            a reference to a "**regulation**" by number refers to the corresponding regulation in the Companies Regulations;
- 1.1.33            a reference to a "**section**" by number refers to the corresponding section of the Companies Act;
- 1.1.34            a reference to "**days**" shall be construed as calendar days unless qualified by the word "business", in which instance a "**business day**" will be any day other than a Saturday, Sunday or public holiday as gazetted by the government of the Republic of South Africa from time to time;

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<sup>4</sup> LR Schedule 10 para 10.11(a).



- 1.1.35 a reference to "**law**" means any law of general application and includes the common law and any statute, constitution, decree, treaty, regulation, directive, ordinance, by-law, order or any other enactment or legislative measure of government (including local and provincial government) statutory or regulatory body which has the force of law and a reference to any statutory enactment shall be construed as a reference to that enactment as amended or substituted from time to time;
- 1.1.36 a reference to "**writing**" means legible writing and in English and includes printing, typewriting or any other mechanical process, as well as any Electronic Communication in a manner and a form such that it can conveniently be printed by the recipient within a reasonable time and at a reasonable cost;
- 1.1.37 words and expressions which are defined and used or have a particular meaning ascribed to them in a particular context in the Companies Act shall when used in this MOI in a similar context bear the same meaning, unless excluded by the subject or the context, or unless this MOI provides otherwise;
- 1.1.38 where a particular number of business days is provided for between the happening of one event and another, the number of days must be calculated by excluding the day on which the first event occurs and including the day on which or by which the second event is to occur;
- 1.1.39 any reference to a notice shall be construed as a reference to a written notice, and shall include a notice which is transmitted electronically in a manner and form such that the notice can conveniently be printed by the recipient within a reasonable time and at a reasonable cost;
- 1.1.40 each provision and each sentence and each part of a sentence in this MOI is separate and severable from each other, and to the extent any provision or sentence or part thereof is found to be illegal or unenforceable or inconsistent with or contravenes any provision of the Companies Act, or void, such may to that extent only be modified or severed from the MOI, so that the remaining part of that provision or sentence or part thereof, as the case may be, is legal, enforceable or consistent with or does not contravene the Companies Act or is not void;

- 1.1.41 words signifying the singular shall include the plural, and *vice versa*;
- 1.1.42 words signifying one gender include the other genders; and
- 1.1.43 any reference contained in footnotes to a section of the Companies Act, to a regulation of the Regulations, to a paragraph of the Listings Requirements (denoted by the letters "LR") or to a paragraph of the King Code on Corporate Governance (denoted by "King") are for guidance only and do not form part of and are not to be used in the interpretation of this MOI.
- 1.2 The standard form of memorandum of incorporation for a public company referred to in regulation 15(1)(b) shall not apply to the Company. This MOI is in a form unique to the Company, as contemplated in section 13(1)(a)(ii).

## 2. **Juristic personality**

### 2.1 **incorporation and nature of the Company**

The Company is a pre-existing public company as contemplated in section 8(2)(d).

### 2.2 **constitution of the Company**

The Company is constituted in terms of section 19(1)(c) in accordance with and governed by:

- 2.2.1 the unalterable provisions of the Companies Act (subject to any higher standards, greater restrictions, longer periods of time or more onerous requirements set out in this MOI in accordance with section 15(2)(a)(iii)); and
- 2.2.2 the alterable provisions of the Companies Act (subject to any negation, restriction, limitation, qualification, extension or other alteration set out in this MOI in accordance with section 1 read with section 15(2)(a)(ii)); and
- 2.2.3 the provisions of this MOI.

## 2.3 **amending the MOI**

### 2.3.1 **by Special Resolution**

2.3.1.1 In terms of section 16(1), the MOI may be amended at any time if a Special Resolution to amend it is proposed by:

2.3.1.1.1 the Board; or

2.3.1.1.2 Shareholders entitled to exercise at least 10% of the voting rights that may be exercised on such a resolution,

and adopted.

2.3.1.2 While the Shares of the Company remain listed on the Company's securities exchange, the Board must, prior to proposing any amendments for approval by the Ordinary Shareholders, submit any proposed amendments to the MOI to the Registrar for approval in accordance with the Listings Requirements.<sup>5</sup>

2.3.1.3 If any proposed amendment of this MOI relates to the variation of any preferences, rights, limitations or other terms attaching to any class of Shares already in issue, other than the Ordinary Shares, that amendment must be approved by a Special Resolution of the holders of Shares in that class at a separate meeting of holders of those Shares prior to proposing such amendment for approval by the Shareholders.<sup>6</sup> In such instances the holders of Shares in the relevant class will be allowed to vote also at the meeting of Ordinary Shareholders where the amendment to this MOI is proposed to be passed, subject to any applicable limitation on their voting rights.<sup>7</sup>

2.3.1.4 Preferences, rights, limitations or other terms of any class of Shares must not be varied and no resolution may be proposed to Shareholders for rights to include such variation in response to any

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<sup>5</sup> LR Schedule 10 para 2.

<sup>6</sup> LR Schedule 10 para 10.5(d) and (e).

<sup>7</sup> LR Schedule 10 para 10.5(e).

objectively ascertainable external fact or facts as provided for in section 37(6) and (7).<sup>8</sup>

## 2.4 **alteration of the MOI by the Board**

If the Board, or any person authorised by the Board to do so, proposes to alter any of the provisions of this MOI in terms of section 17(1), then the Board shall, together with the notice convening the next general meeting of Shareholders, deliver to each Shareholder a copy of the final notice of alteration Filed with the Commission together with a written explanation of the reason for and effects of each alteration and confirmation that each alteration was permitted in terms of section 17.

## 2.5 **powers and capacity of the Company**

2.5.1 The Company is not subject to any restrictive conditions or prohibitions as contemplated in section 15(2)(b) or (c) and section 11(3)(b)

2.5.2 The Company has all the legal powers and capacity of an individual, in terms of section 19(1)(b), except to the extent that:

2.5.2.1 a juristic person is incapable of exercising any such power, or having any such capacity; or

2.5.2.2 this MOI provides otherwise.

## 2.6 **change of name**

Any change of the name of the Company must be approved by a Special Resolution of the Shareholders and the proposed new name must comply with the requirements of the Companies Act.<sup>9</sup>

## 2.7 **rules**

The Board may not make, amend or repeal any rules for the Company as contemplated in section 15(3) to (5).<sup>10</sup>

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<sup>8</sup> Section 37(3)(a); LR Schedule 10 para 10.5(g).

<sup>9</sup> LR Schedule 10 para 10.5(d)(vii).

<sup>10</sup> LR Schedule 10 para 10.4.

## 2.8 **ratification of *ultra vires* acts**

Save to the extent otherwise agreed with the Registrar, it shall not be competent for any resolution to be proposed to the Shareholders for adoption in terms of sections 20(2) and/or 20(6), if such resolutions would lead to the ratification of an act on behalf of the Company that is contrary to the Listings Requirements.<sup>11</sup>

## 3. **Company's records and accounting records**

3.1 All the Company's records contemplated by section 24 and all accounting records contemplated by section 28 shall be kept and be accessible at the registered office of the Company from time to time.<sup>12</sup>

### 3.2 **annual financial statements**

3.2.1 Each year the Company shall prepare annual financial statements within six months after the end of its financial year, or such shorter period as may be appropriate to provide the required notice of an annual general meeting of the Company.<sup>13</sup>

3.2.2 The annual financial statements must include information relating to the remuneration and benefits, including pension and issued Securities, received by each Director and any individual holding any prescribed office in the Company, as required in terms of sections 30(4) and (5).

3.2.3 The annual financial statements in respect of any financial year of the Company must be audited by the auditor appointed as contemplated in article 4.1.2.2.<sup>14</sup>

3.2.4 The annual financial statements must be distributed to the Shareholders at least 15 business days prior to the annual general meeting at which the annual financial statements will be considered.<sup>15</sup>

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<sup>11</sup> LR Schedule 10 para 10.3.

<sup>12</sup> Sections 25 and 28(2).

<sup>13</sup> Section 30(1); LR paragraph 3.19; article 10.6.

<sup>14</sup> Section 30(2)(a).

<sup>15</sup> LR Schedule 10 para 10.19.

3.2.5 The annual financial statements of the Company and all of its Subsidiaries must comply with the relevant provisions of the Listings Requirements.<sup>16</sup>

### 3.3 **annual returns**

3.3.1 The Company shall File an annual return in the prescribed form with the prescribed fee, in compliance with section 33(1).

3.3.2 The annual return of the Company shall include a copy of its annual financial statements and other prescribed information to the extent it applies to the Company.<sup>17</sup>

3.3.3 The company secretary (whose duty to do so is prescribed in section 88(2)(g)) or, in the absence of a company secretary for the time being, a director, employee or other person designated as such in terms of section 33(3) shall be responsible for the Company's compliance with the requirements of Part C of Chapter 2 (*Transparency, accountability and integrity of companies*) and Chapter 3 (*Enhanced Accountability and Transparency*) of the Companies Act, for purposes of section 33(3).

## 4. **Extended accountability requirements in Chapter 3**

### 4.1 **application of Chapter 3 to the Company**

4.1.1 The Company, being a public company, is required in terms of section 34(1) to comply with the provisions of Chapter 3 (*Enhanced Accountability and Transparency*) of the Companies Act.

4.1.2 The Company must:

4.1.2.1 appoint a person to serve as company secretary in the manner and for the purposes set out in Part B of Chapter 3 of the Companies Act;<sup>18</sup>

4.1.2.2 appoint a person to serve as an auditor, in the manner and for the purposes set out in Part C of Chapter 3 of the Companies Act;<sup>19</sup> and

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<sup>16</sup> LR Schedule 10 para 10.22.

<sup>17</sup> Section 33(1)(a) and (b).

<sup>18</sup> Sections 86 to 89.

4.1.2.3 establish a statutory audit committee, in the manner and for the purposes set out in Part D of Chapter 3 of the Companies Act,<sup>20</sup>

provided that no person who is ineligible (other than by virtue of being a juristic person) or disqualified from serving as a Director of the Company in terms of section 69(7) or (8) or article 12.7 shall be appointed as the company secretary, auditor or a member of the statutory audit committee.<sup>21</sup>

4.1.3 In terms of section 72(4) read with regulation 43, the Company must, unless exempted, appoint a social and ethics committee.

## 4.2 register of company secretary and auditor

4.2.1 The Company shall, in accordance with section 85, establish or cause to be established, and maintain, a register of its company secretary and auditor.<sup>22</sup>

4.2.2 Within 10 business days of appointing a company secretary or auditor, or of termination of such an appointment, the Company must File with the Commission a notice of the appointment or termination, as the case may be.<sup>23</sup>

## 5. Securities of the Company

### 5.1 authorisation for Shares

The Company is authorised to issue 400 000 000 ordinary shares with a par value of R0.10 each, each of which ranks *pari passu* in all respects and entitles the holder to:<sup>24</sup>

5.1.1 the right to be entered in the Securities Register as the registered holder of an Ordinary Share;

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<sup>19</sup> Sections 90 to 93.

<sup>20</sup> Section 94; LR paragraph 3.84(d) and King III Chapter 3.

<sup>21</sup> Section 84(5).

<sup>22</sup> Section 85(1).

<sup>23</sup> Section 85(3).

<sup>24</sup> LR Schedule 10 para 10.5(a).

- 5.1.2 one vote in respect of each Ordinary Share held by the holder and the right in person or by proxy to attend, speak at and vote on any matter to be considered at, any meeting of Ordinary Shareholders;<sup>25</sup>
- 5.1.3 the right to receive any Distribution by the Company, if and when declared on the Ordinary Shares, to be made in proportion to the number of Ordinary Shares held by each Ordinary Shareholder;
- 5.1.4 the right to receive a portion of the total net assets of the Company remaining upon its liquidation; and
- 5.1.5 any other rights attaching to the Ordinary Shares in terms of the Companies Act or any other law.

5.2 **authority to alter authorised Shares**<sup>26</sup>

- 5.2.1 The Board shall not have the powers contained in section 36(3).
  - 5.2.2 The Shareholders shall have the sole authority to undertake the following actions by a Special Resolution, which amends this MOI, namely to:
    - 5.2.2.1 increase or decrease the number of authorised but unissued Shares of any class;<sup>27</sup>
    - 5.2.2.2 create any new class or classes of authorised Shares;<sup>28</sup>
    - 5.2.2.3 consolidate or subdivide any:
      - 5.2.2.3.1 authorised but unissued no par value Shares of any class; and
      - 5.2.2.3.2 issued no par value Shares of any class,
- provided that the holders of the class of issued Shares so consolidated or subdivided approve that action by Special Resolution;<sup>29</sup>

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<sup>25</sup> LR Schedule 10 para 10.5(b).

<sup>26</sup> LR Schedule 10 para 10.9(c).

<sup>27</sup> LR Schedule 10 para 10.5(d)(iv).

<sup>28</sup> LR Schedule 10 para 10.5(d)(i).

<sup>29</sup> LR Schedule 10 para 10.5(d)(v) and (vi).



- 5.2.2.4 reclassify any Shares that have been authorised but not issued;
- 5.2.2.5 classify any unclassified Shares that have been authorised but are not issued;
- 5.2.2.6 determine the preferences, rights, limitations and other terms of any Shares that have been authorised but not issued;
- 5.2.2.7 vary the preferences, rights, limitations and other terms of any issued or unissued Shares,<sup>30</sup>
- 5.2.2.8 convert any class of Shares into Shares of another class,<sup>31</sup> and
- 5.2.2.9 convert any par value Shares to no par value Shares.<sup>32</sup>
- 5.2.3 If the Shareholders act pursuant to the authority contemplated in article 5.2.2, the Company must File a notice of amendment of this MOI in accordance with section 16(7).

### 5.3 **issue of Shares**

- 5.3.1 Notwithstanding section 38 or anything contained in this MOI to the contrary, Shareholders of the Company in general meeting may by Ordinary Resolution authorise the Directors to issue unissued Shares and to grant options to subscribe for unissued Shares, as the Directors in their discretion may deem fit, provided that such corporate actions have been approved by the Registrar (if necessary) and comply with the Listings Requirements and the Companies Act.<sup>33</sup>
- 5.3.2 Subject to article 5.3.1, if the Company proposes to issue any Shares (or options) other than:
  - 5.3.2.1 Shares issued in terms of options or conversion rights; or

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<sup>30</sup> LR Schedule 10 para 10.5(d)(ii).

<sup>31</sup> LR Schedule 10 para 10.5(d)(iii).

<sup>32</sup> Regulation 31.

<sup>33</sup> LR Schedule 10 para 10.1.

- 5.3.2.2 Shares to be held under any share option scheme or share incentive scheme which complies with the provisions of Schedule 14 of the Listings Requirements and the Companies Act; or
- 5.3.2.3 capitalisation Shares contemplated in section 47; or
- 5.3.2.4 Shares issued or to be issued as consideration for any assets or for services rendered; or
- 5.3.2.5 Shares issued pursuant to a general or specific approval given by the Shareholders in general meeting,
- such issues may only be made (i) *pro rata* to the holdings of the holders of the class of Shares to be issued and (ii) out of authorised Shares of the relevant class, and any such corporate action shall take place in accordance with the Listings Requirements (to the extent applicable).<sup>34</sup>
- 5.3.3 A *pro rata* offer of any Securities to any person may be made be subject to the possible exclusion from participation in that offer of any persons who are prohibited by any law of any country to whose jurisdiction they are subject.
- 5.3.4 When the Company has received the consideration approved by the Board for the issue of any Shares:
- 5.3.4.1 those Shares are fully paid up and freely transferable;<sup>35</sup> and
- 5.3.4.2 the Company must issue those Shares (unless the Board has resolved that the shares are to be issued at a different time) and cause the name of the holder to be entered in the Securities Register in accordance with sections 49 to 51.<sup>36</sup>
- 5.3.5 At all times whilst the Company's Shares are listed on the JSE, the Company shall not issue any Shares in terms of sections 40(5) to 40(7).<sup>37</sup>

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<sup>34</sup> LR Schedule 10 para 10.1 and 10.9(a).

<sup>35</sup> Section 40(4)(a); LR Schedule 10 para 10.2(a).

<sup>36</sup> Section 40(4)(b).

<sup>37</sup> LR para 4.17 and Schedule 10 para 10.2(a).

5.3.6 The Company may pay to any person (i) a commission for subscribing or agreeing to subscribe (whether absolutely or conditionally) or (ii) a brokerage for procuring or agreeing to procure subscriptions (whether absolutely or conditionally) for any Securities issued or to be issued by the Company, provided that, for so long as any Securities of the Company are listed on the JSE, any such commission shall not exceed 10% of the subscription price of the Securities subscribed for.<sup>38</sup>

#### 5.4 **provision of information by a holder of Securities to the Company**

5.4.1 A person to whom Securities have been issued or transferred shall, in order for that person's name to be entered in the Securities Register or the records to be administered and maintained by a CSDP or CSD as the Company's uncertificated Securities Register in terms of section 50(3), provide to the Company or the CSDP or CSD, as the case may be, all the information relating to that person which is required to be included in the Securities Register, including the uncertificated Securities Register in terms of the Companies Act and the Companies Regulations or in terms of this MOI.<sup>39</sup>

5.4.2 If any Securities of the Company are registered in the name of a person who is not the sole holder of the Beneficial Interest in all of the Securities in the Company held by that person, that registered holder of such Securities must in accordance with section 56 disclose to the Company:

5.4.2.1 the identity of the person on whose behalf any such Securities are held; and

5.4.2.2 the identity of each person with a Beneficial Interest in the Securities so held, the number and class of Securities held for each such person with a Beneficial Interest, and the extent of each such Beneficial Interest.<sup>40</sup>

5.4.3 A person is regarded to have a Beneficial Interest in a Security of the Company, if the Security is held *nomine officii* by another person on that

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<sup>38</sup> LR Schedule 10 para 10.14.

<sup>39</sup> Regulations 32 to 34.

<sup>40</sup> Section 56(3).

first person's behalf, or if that first person falls into the categories set out in section 56(2).

## 5.5 **Securities Register**

5.5.1 The Company shall, in accordance with sections 24(4)(a) and 50, establish or cause to be established a register of its issued Securities in the prescribed form and maintain its Securities Register in accordance with the prescribed standards.<sup>41</sup>

5.5.2 In the case of any Security registered in the names of two or more persons as joint holders, the person first named in the Securities Register shall, save as is provided in article 5.5.4 or 5.8.8, be the only person recognised by the Company as having any title to such Security and to the related certificate of title.

5.5.3 Upon the death, insolvency or placing under curatorship by reason of insanity or prodigality of any joint holder of any Security, the sole remaining holder or the first named of two or more remaining joint holders, as the case may be, shall, save as permitted in articles 5.5.4 and 5.8.8, be the only person recognised by the Company as having any title to such security.

5.5.4 The Company shall be entitled to recognise any person who is not a registered Security holder in respect of any Securities as the person having title to such Securities or holding or having any beneficial right in or to such Securities, on such terms and subject to such conditions and for such period(s) as the Board deems fit.

5.5.5 The Company shall, as soon as practicable after issuing any Securities, enter or cause to be entered in its Securities Register, in respect of every class of Securities issued:

5.5.5.1 the total number of those Securities that are held in uncertificated form; and

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<sup>41</sup> Regulations 32, 33 and 34.

- 5.5.5.2 with respect to certificated Securities, the names and addresses of the persons to whom the certificated Securities were issued and the number of certificated Securities issued to each of them, and such other information that is required to be entered into the certificated Securities Register in terms of section 50(2).<sup>42</sup>
- 5.5.6 The Company shall be entitled (but not required or obliged, even if given notice of it, except as required by law or as ordered by a court of competent jurisdiction) to recognise or have any regard to any one or more persons who are not registered Securities holders in respect of any Securities as the person or persons having title (including joint title) to such Securities or holding or having any beneficial right or any other interest (including any joint beneficial right or other interest) in or to such Securities and/or in or to any rights, preferences, privileges or benefits attaching to any such Securities, on such terms and subject to such conditions and for such period(s) as the Board in its discretion may from time to time determine.
- 5.5.7 To the extent required by the Companies Act, the Company shall maintain records of disclosures of Beneficial Interests made to the Company as contemplated in section 56(3).
- 5.5.8 The Board may, in its discretion, record in the Securities Register that any Security is held in trust or by a nominee, and may disclose in the Securities Register for whom that Security is held.
- 5.5.9 The Company shall be under no obligation to verify the existence of the beneficial holder (or registered holder) in respect of any Securities, or to verify the legal status of any person who holds a Security as a trustee or nominee, or to ensure the carrying out by the trustee or nominee of any trusts or mandates (whether express or implied) in respect of any such Security.

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<sup>42</sup> Section 50(2); regulation 32.

## 5.6 **certificates evidencing Securities**

5.6.1 A certificate evidencing any Securities of the Company:<sup>43</sup>

5.6.1.1 must state on its face:

5.6.1.1.1 the name of the Company;

5.6.1.1.2 the name of the person to whom the Securities were issued or transferred, as the case may be;

5.6.1.1.3 the number and class of Securities and the designation of the series, if any, evidenced by that certificate; and

5.6.1.1.4 an restriction on the transfer of the Securities evidenced by the certificate;

5.6.1.2 must be signed by two persons authorised by the Board; and

5.6.1.3 may otherwise be in such form as the Board prescribes from time to time.

5.6.2 Every registered Securities holder shall be entitled to be issued a certificate evidencing ownership of the Securities on the initial issue or transfer of Securities to the Securities holder, free of charge, (or, on request, more than one certificate, subject to the discretion of the company secretary, at such charge as the Board may from time to time think fit) but for every subsequent certificate the Board may make such charge as the Board may from time to time think fit.

5.6.3 Where a Securities holder has transferred part only of his Securities evidenced by a particular certificate, he shall be entitled, free of charge, to be issued with a new certificate for the balance of his Securities.

5.6.4 The Company shall, within two business days after the issue of any certificated Securities or the lodgement of an instrument of transfer for any certificated Securities, have ready for delivery the relevant certificate/s of title.

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<sup>43</sup> Section 51(1)(a) and (b).

5.6.5 A Securities certificate complying with article 5.6.1 is proof that the named Security holder owns the Securities specified in the certificate, in the absence of evidence to the contrary.<sup>44</sup>

5.6.6 If a certificate is defaced, lost or destroyed, it may be replaced with a duplicate certificate endorsed "Duplicate Certificate" on payment of such reasonable fee, if any, and on such terms, if any, as to evidence and indemnity as the Board may think fit.

5.6.7 A certificate registered in the names of two or more persons shall be delivered to the person first named in the Securities Register as a holder thereof, and delivery of a certificate to that person shall be a sufficient delivery to all joint holders of that Security.

## 5.7 **uncertificated Securities**

### 5.7.1 **evidence of uncertificated Securities**

5.7.1.1 In terms of section 52(4), the CSDP or CSD, and not the Company, must provide a regular statement to each person for whom any uncertificated Securities are held in an uncertificated Securities register. The Company shall not issue certificates or statements evidencing or purporting to evidence title to uncertificated Securities of the Company.

5.7.1.2 A person who is entitled to and wishes to inspect an uncertificated Securities Register, may do so only through the Company in terms of section 52(2) read with section 26 and article 3.1.

### 5.7.2 **substitution of certificated or uncertificated Securities**

5.7.2.1 A registered holder of uncertificated Securities may withdraw all or part of the uncertificated Securities held by the person in an uncertificated Securities register, and obtain a certificate in respect of those withdrawn Securities, by notifying the applicable CSDP or the CSD only (and not the Company), in terms of section 54(1).

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<sup>44</sup> Section 51(1)(c).

5.7.2.2 If the Company receives from the CSDP or CSD concerned only (not from the registered holder of uncertificated Securities) a notice to provide the relevant certificate in respect of any withdrawn uncertificated Securities in terms of section 54(1)(a), the Company shall make the necessary entries in the Securities register of the Company, and prepare and deliver the relevant certificate, in terms of section 54(2):

5.7.2.2.1 against receipt by the Company of any fee charged by the Company from time to time in terms of section 54(3); and

5.7.2.2.2 against the holder of the Securities in question providing to the Company the necessary information required by the Company in terms of this MOI.

## 5.8 **transfer of Securities**

### 5.8.1 **restriction on transfer of Shares other than Ordinary Shares**

The right of any Shareholder to transfer any Shares of any class of Shares shall be limited or restricted only to the extent provided for in respect of that class of Shares.

### 5.8.2 **no liens**

Securities shall not be subject to any lien in favour of the Company.<sup>45</sup>

### 5.8.3 **Board's power to decline to register a transfer of certificated Securities**

5.8.3.1 The Board may not decline to register the transfer of any certificated Securities in terms of a proper instrument of transfer, except if and for so long as:

5.8.3.1.1 the transfer in question is not in accordance with the requirements for such transfer, if any, set out in this MOI; and/or

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<sup>45</sup> LR Schedule 10 para 10.12.



5.8.3.1.2 the securities transfer tax in respect of such transfer (if any) has not been paid.

5.8.3.2 The transferor shall be deemed to remain the holder of such Securities until the name of the transferee is entered in the Securities Register.

5.8.4 **proper instrument of transfer of certificated Securities**

For purposes of section 51(6)(a) and this MOI, a "**proper instrument of transfer**" means an instrument in writing, in any form, which has been signed by or on behalf of the registered Securities holder as transferor and signed by or on behalf of the transferee, specifying (a) the full name of the transferor (being the name of a person entered in the Securities Register as the registered holder of the Securities being transferred), (b) the full name of the transferee and (c) the number of and the class of Securities being transferred.

5.8.5 **documents required for registration of transfer of certificated Securities**

5.8.5.1 Any person wishing the Company to register the transfer of any certificated Securities shall deliver to the Company for registration:

5.8.5.1.1 a proper instrument of transfer; and

5.8.5.1.2 the original certificate/s (or a duplicate certificate/s issued pursuant to article 5.6.6) of the Securities being transferred or, in the absence of such original or duplicate certificate, such other evidence as the Company may require to prove the right or title of the transferor to transfer the Securities.

5.8.5.2 The instrument of transfer, cancelled original or duplicate certificate/s of title in the name of the transferor and such other documentary evidence shall remain in the custody of the Company at its registered office.

## 5.8.6 **mandates to sign instruments of transfer of certificated Securities**

5.8.6.1 All mandates or authorities to sign instruments of transfer granted by holders of Securities for the purpose of transferring Securities, which have been lodged, produced or exhibited with or to the Company, shall be held in custody by the Company at its registered office.

5.8.6.2 Such mandates or authorities shall, as between the Company and the grantor of such mandate or authorities be deemed to continue and remain in full force and effect, and the Board may allow such instruments of transfer signed for the holders of Securities as transferor pursuant to such mandate or authority to be acted upon, until express written notice of its revocation signed by or on behalf of the Securities is lodged at the Company's registered office. Even after the lodging of such notice of revocation, the Company shall be entitled to give effect to any instrument of transfer signed under the mandate or authority to sign and certified by any officer of the Company as being in order before the lodging of such written notice of revocation.<sup>46</sup>

## 5.8.7 **transfer of uncertificated Securities**

A transfer of uncertificated Securities of the Company shall be effected in terms of section 53 read with the rules of the relevant CSD.

## 5.8.8 **recognition of title**

The parent or guardian of a Shareholder who is a minor, the executor or administrator of a Shareholder who is deceased, the trustee of a Shareholder who is an insolvent or the *curator bonis* of a Shareholder who is mentally incapacitated or prodigal or any person duly appointed by competent authority to represent or act for any Shareholder shall, subject to the provisions of articles 5.5.2 and 5.5.3 regarding joint holders, be the only person recognised by the Company as having any title to any Shares registered in the name of such Shareholder, including for voting purposes.

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<sup>46</sup> LR Schedule 10 para 10.2(b).

## 5.8.9 **transmission of Securities**

5.8.9.1 Subject to any laws for the time being in force relating to taxation or duty upon the estates of deceased persons, any person recognised by the Company in terms of articles 5.5.2 and 5.5.3 or article 5.8.8 as having any title to any Securities (and also the legal guardian of any minor Securities holder and any person who obtains title to any Securities by operation of law in any other manner) may, upon producing such evidence as the Board deems sufficient as to the capacity in which he claims to act under this article or as to his title to any Securities, and subject to the transfer provisions in this MOI, transfer such Securities to himself or to any other person.

5.8.9.2 A person who submits proof of his appointment as the executor, administrator, trustee, curator or guardian in respect of the estate of a Securities holder who is deceased or the estate of a Securities holder whose estate has been sequestrated or who is otherwise under a disability or of his appointment as the liquidator of anybody corporate which is a Securities holder, shall be entered in the Securities Register *nominee officii*, and shall thereafter, for all purposes, be deemed to be a Securities holder.

## 5.9 **fractions**

If, on any issue of Shares or other Securities, or on any consolidation or subdivision of Shares or other Securities, or on any other transaction with the Company, Shareholders or other Securities holders would, but for the provisions of this article, become entitled to fractions of Shares or other Securities, all allocations of such Shares or other Securities shall be rounded up or down based on standard rounding convention (ie allocations will be rounded up to the nearest whole number if they are equal to or greater than 0.5, or rounded down to the nearest whole number if they are less than 0.5), resulting in the allocations of whole Shares or other Securities and no fractional entitlements.

5.10 **odd lot offers**<sup>47</sup>

5.10.1 For purposes of this article 5.10:

5.10.1.1 "**odd lot**" means any total holding by a Shareholder of less than 100 Shares (or such other number as may be permitted by the Registrar), or any total holding by a Securities holder of less than 100 Securities (or such other number as may be permitted by the Registrar) or a minimum number of Securities with an aggregate nominal value of less than R100.00 (or such other Rand amount as may be permitted by the Registrar); and

5.10.1.2 "**odd lot offer**" means an offer by the Company to the holders of odd lots, in terms of which the holders of the odd lots may elect to retain their holdings or sell their odd lots, subject to the Listings Requirements to the extent applicable.

5.10.2 The Company may make and implement odd lot offers in accordance with the Listings Requirements or as otherwise permitted by the Registrar and if it does so and any Shareholder or Securities holder who qualifies to participate in that odd lot offer does not elect any of the election alternatives (namely to retain their odd lots or to sell their odd lots) in accordance with the terms of the odd lot offer, such holder (and any person with a Beneficial Interest in such odd lots) shall be deemed to have agreed to sell odd lots, and the Company shall be entitled (on implementation of the odd lot offer) to cause the odd lots to be sold on behalf of such persons to any party (including the Company) on such terms and conditions as the Board may determine, provided that the Company shall account to the registered holders, after deducting the costs of the sales, if any, for the remaining proceeds attributable to them pursuant to the sale of such odd lots.

5.10.3 All unclaimed proceeds of odd lot sales may be invested or otherwise made use of by the Board for the benefit of the Company until claimed.

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<sup>47</sup> LR paragraphs 5.123 to 5.124.

5.10.4 Whenever Shares or other Securities are to be offered or issued by the Company *pro rata* to any persons, such offer and issue shall be subject to any rounding off of entitlements to avoid odd lots of such Securities.<sup>48</sup>

#### 5.11 **capitalisation Shares**

The Board shall have the authority, as contemplated in section 47, to:<sup>49</sup>

5.11.1 approve the issuing of any authorised Shares as capitalisation Shares on a *pro rata* basis to the Shareholders of one or more classes of Shares;

5.11.2 issue Shares of one class as capitalisation Shares in respect of Shares of another class; or

5.11.3 resolve to permit Shareholders to elect to receive a cash payment in lieu of a capitalisation Share, provided that the Board may not resolve to do so unless it:

5.11.3.1 has considered the Solvency and Liquidity Test, as required by section 46, on the assumption that every such Shareholder would elect to receive cash; and

5.11.3.2 is satisfied that the Company would satisfy the Solvency and Liquidity Test immediately upon the completion of the distribution.

#### 5.12 **Beneficial Interest in Securities**

5.12.1 The Company's issued Securities may be held by, and registered in the name of, one person for the Beneficial Interest of another person as set out in section 56(1).

5.12.2 The Company shall be entitled (but not required or obliged, even if given notice of it, except as required by law or as ordered by a court of competent jurisdiction) to recognise or have any regard to any one or more persons who is or are not a registered Securities holder in respect of any Securities as the person or persons having title (including joint title) to such Securities or holding or having any beneficial right or any other interest (including any

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<sup>48</sup> LR para 5.123 to 5.127, 11.53 and 16.35.

<sup>49</sup> Section 47; LR para 7.C.15, 11.16, 16.16 and Schedule 10 para 10.6/7.

joint beneficial right or other interest) in or to such Securities and/or in or to any rights, preferences, privileges or benefits attaching to any such Securities, on such terms and subject to such conditions and for such period(s) as the Board in its discretion may from time to time determine.

5.12.3 To the extent required by the Companies Act, the Company shall maintain records of disclosures of Beneficial Interests made to the Company as contemplated in section 56(3).

5.12.4 The Board may, in its discretion, record in the Securities Register that any Security is held in trust or by a nominee, and may disclose in the Securities Register for whom that Security is held.

5.12.5 The Company is under no obligation to verify the existence of the beneficial holder (or registered holder) in respect of any Securities, or to verify the legal status of any person who holds a Security as a trustee or nominee, or to ensure the carrying out by the trustee or nominee of any trusts or mandates (whether express or implied) in respect of any such Security.

#### 5.13 **Securities other than Shares (debt instruments)**

5.13.1 The Board is authorised to issue secured or unsecured debt instruments, as contemplated in section 43(2).

5.13.2 Debt instruments shall not be issued with special privileges, including attending and voting at general meetings and the appointment of Directors.<sup>50</sup>

### 6. **Financial assistance**

#### 6.1 **for the acquisition of options or Securities**

The Board may authorise the Company to provide financial assistance to any person for the purpose of, or in connection with, the subscription for any option or Securities of the Company or of any company Related or Inter-Related to the Company, of for the purchase of any Securities of the Company or of any company Related or Inter-Related to the Company, subject to and in accordance with section 44.

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<sup>50</sup> LR Schedule 10 para 10.10.

## 6.2 **to Directors, Prescribed Officers or Related persons**

The Board may authorise the Company to provide financial assistance to:

- 6.2.1 Directors or Prescribed Officers of the Company or of Related or Inter-Related companies;
- 6.2.2 Related or Inter-Related companies or corporations;
- 6.2.3 members of Related or Inter-Related corporations; or
- 6.2.4 persons Related to any of the aforementioned companies, corporations, Directors, Prescribed Officers or members,

subject to and in accordance with section 45.

## 7. **Corporate actions required to comply with the Listings Requirements**

The Company shall, for so long as the Company's Shares are listed on the JSE, ensure that all of the Company's corporate actions comply with the Listings Requirements.<sup>51</sup>

## 8. **Distributions**

- 8.1 In respect of Distributions to Securities holders holding Securities listed on the JSE, payments to such Securities holders must be provided for in accordance with the Listings Requirements, to the extent applicable, and must not provide that capital shall be repaid on the basis that it may be called up again.<sup>52</sup>
- 8.2 The Board, may at any time authorise and/or declare a Distribution, subject to compliance with section 46, to be paid to the Shareholders of any class in proportion to the number of Shares held by them in that class.<sup>53</sup>
- 8.3 Distributions shall be declared payable or distributable to Shareholders registered as such on the record date with respect to such Distribution determined in terms

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<sup>51</sup> LR Schedule 10 para 10.9.

<sup>52</sup> LR Schedule 10 para 10.8.

<sup>53</sup> LR Schedule 10 para 10.17(a).

of article 10.4, which must be a date subsequent to the date of sanctioning of the Distribution or declaring the Distribution by the Board.<sup>54</sup>

- 8.4 Distributions payable in cash shall be declared in the currency of the Republic of South Africa. The Board may resolve that Distributions to be paid to Shareholders whose registered addresses are outside of the Republic of South Africa or who have given written instructions requesting payment at addresses outside the Republic of South Africa shall be paid in such other currency or currencies as may be determined by the Board. The Board may, acting reasonably, determine the exchange rate applicable to Distributions to be paid in such other currencies.
- 8.5 Any Distribution declared may be paid and satisfied either wholly or in part by the distribution of specific assets or in cash or in one or more of such ways, subject to the provisions of the Companies Act, as the Board may at the time of authorising the Distribution determine and direct. Where any difficulty arises in regard to the Distribution of such specific assets or any part thereof, the Board may settle same as it considers expedient and in particular may, if as a result of the declaration of a Distribution any Shareholders become entitled to fractions of any specific assets of the Company, sell the assets represented by such fractions and, after deducting the expenses of such sale, distribute the balance of the proceeds of the sale amongst the Shareholders entitled to the fractions in proportion to their entitlement.
- 8.6 In the case where several persons are registered as the joint holders of any Shares, any one of such persons may give to the Company effective receipts for all or any Distributions and payments on account of Distributions in respect of such Shares.
- 8.7 All cash Distributions (including dividends, interest or other moneys) payable to Shareholders shall be paid by electronic funds transfer, cheque or otherwise, as the Board may from time to time determine. Payment by electronic funds transfer into the bank account recorded in the Company's bank account register nominated by the Shareholder, or in the case of joint Shareholders into the bank account nominated by the Shareholder whose name stands first in the Securities Register in respect of the Share, shall be a good discharge by the Company.

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<sup>54</sup> LR Schedule 10 para 10.17(b).



Payment sent by post to the last registered address nominated by a Shareholder or, in the case of joint holders, to the address nominated by the one of them first named in the Securities Register in respect of such joint holdings, shall be a good discharge by the Company. For the purpose of this article 8, no notice of change of registered address or instructions as to payment being made at any other address which is received by the Company between the record date for the Distribution and the respective date of payment of the Distribution (both dates inclusive), and which would have the effect of changing the currency in which such payment would be made, shall become effective until after such date of payment.

- 8.8 Every payment of a Distribution made by electronic funds transfer or by post shall be made at the risk of the Shareholders or joint Shareholders. The Company shall not be responsible for the loss or misdirection of any electronic funds transfer, cheque or other document.
- 8.9 No Distribution shall carry interest as against the Company, unless otherwise resolved by the Board.
- 8.10 Any unclaimed Distributions payable or distributable to a Shareholder may be invested or otherwise made use of by the Board, as it deems fit, for the benefit of the Company until it is claimed by the person entitled to the Distribution in question.
- 8.11 Any cash Distributions made by the Company from time to time shall be held by the Company in trust indefinitely until lawfully claimed by the relevant Shareholders or holder of Securities, but subject to the laws of prescription applicable from time to time, or until the Company is wound up.<sup>55</sup>

## 9. **Company or its Subsidiary acquiring Company's Shares**<sup>56</sup>

9.1 The Board may, with the approval of a Special Resolution of the Shareholders, determine that:

9.1.1 the Company will acquire a number of its own Shares; or

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<sup>55</sup> LR Schedule 10 para 10.17(c).

<sup>56</sup> LR Schedule 10 para 10.9(b).

- 9.1.2 a Subsidiary of the Company will acquire a number of Shares, subject to the provisions of section 48 and the Listings Requirements, provided that a *pro rata* repurchase by the Company of Shares from all its Shareholders will not require Shareholder approval other than in the circumstances contemplated in article 9.2.<sup>57</sup>
- 9.2 A decision by the Board contemplated in article 9.1.1:
- 9.2.1 must be approved by a Special Resolution of the Shareholders if any Shares are to be acquired by the Company from a Director or Prescribed Officer of the Company;
- 9.2.2 is subject to the requirements of sections 114 and 115 if, considered alone or together with other transactions in an integrated series of transactions, it involves the acquisition by the Company of more than 5% of the issued Shares of any particular class of the Company's Shares.

## 10. Shareholders' meetings

### 10.1 person entitled to attend, speak and vote at meetings

- 10.1.1 No person other than a Shareholder (or its representatives or proxies) in respect of a class of Shares, held by that Shareholder as reflected in the Securities Register, shall be entitled to attend, speak and vote at a meeting of that class of Shareholders.
- 10.1.2 Directors and representatives and advisers of the Company, such as legal and financial advisers or auditors, shall be entitled to attend a meeting but shall have no right to speak (unless invited to speak by the chairperson of the meeting) or vote at such meeting.

### 10.2 representation of Shareholders at meetings

- 10.2.1 A company that is a Shareholder of the Company, in respect of a class of Shares may (in order for that Shareholder to be personally present),

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<sup>57</sup> LR para 5.67(B).

authorise any individual to act as the representative of that Shareholder at any meeting of that class of Shareholders.<sup>58</sup>

10.2.2 The governing body of any other person or group of persons (not being an individual), including but not limited to the trustees for the time being of a trust or the general partner of an *en commandite* partnership or the managing partner/s of a partnership or the managing members of a close corporation, etc. that is a Shareholder of the Company in respect of any class of Shares may (in order for that Shareholder to be personally present) authorise any individual to act as the representative of that Shareholder at any meeting of that class of Shareholders.

10.2.3 A person authorised to act as a representative of a Shareholder may exercise the same powers as the authorising Shareholder could have exercised as if it were the Shareholder.<sup>59</sup>

10.2.4 The Company shall be entitled to disregard any authorisation of a person as the representative of the Shareholder in question, and to disregard the vote of any representative or purported representative, if:

10.2.4.1 the authorisation is not in writing signed by or on behalf of the Shareholder; or

10.2.4.2 the authorisation does not specify the name of the Shareholder and the names of the members of the Board, or other governing body of the Shareholder and confirm the power and authority of that board or other governing body to appoint and authorise a representative of the Shareholder to attend, speak and vote at the meeting of Shareholders of the Company in question (either as a general authority or as a specific authority); or

10.2.4.3 a copy of the written authorisation has not been received by the Company at the registered office of the Company, marked for the attention of the Board (or received at such other location and/or received by such other person on behalf of the Company, as may be specified in the notice convening the meeting), at least 48 hours

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<sup>58</sup> Section 57(5).

<sup>59</sup> Section 57(6).

before the appointed time for the beginning of the meeting or, if the meeting is adjourned, the appointed time for the resumption of the adjourned meeting.

10.2.5 Any person who is a representative or purported representative specified in a written authorisation which is disregarded, or the voting of whom is disregarded, shall not be entitled to attend or speak or vote at the meeting of Shareholders in question, and shall forthwith remove himself from the meeting in question at the request of the chairperson of the meeting or at the request of any one or more Directors or any one or more Shareholders of the Company, failing which he may be removed from the meeting at the cost of the Shareholder for whom the representative purports to act.

10.2.6 A vote given by a representative in accordance with the terms of the written authorisation authorising that representative shall be valid, notwithstanding the previous revocation of the authority, unless notice in writing of the revocation has been received by the Company before the commencement of the meeting of Shareholders concerned.

### 10.3 **proxies**

10.3.1 At any time a Shareholder may, in respect of any class of Shares held by that Shareholder, appoint any individual, including an individual who is not a Shareholder of the Company, as a proxy to participate in, and speak and vote at, a meeting of that class of Shareholders (or to give or withhold written consent in respect of a decision contemplated in section 60) on behalf of the Shareholder, provided that the Shareholder may appoint more than one proxy to exercise voting rights attached to different Shares of that class of Shares held by that Shareholder.<sup>60</sup>

10.3.2 In order for the appointment by a Shareholder of a proxy to be valid, both the appointment and the proxy form (or instrument appointing a proxy), must comply with the requisite formalities, and with the requirements as to content, set out in section 58 read with this article 10.3. The proxy form (or

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<sup>60</sup> Section 58(1)(a); LR Schedule 10 para 10.5(b).

instrument appointing a proxy) must be in writing, dated and signed by the Shareholder.<sup>61</sup>

10.3.3 If a Shareholder requests a "standard" proxy form from the Company, the company secretary shall prepare or cause to be prepared a standard proxy form, subject to and in compliance with section 58(9) and article 10.3.2.

10.3.4 The following limitations with respect to the appointment and authority of a proxy shall apply.<sup>62</sup>

10.3.4.1 a Shareholder of the Company may not appoint two or more persons concurrently as proxies in respect of the same voting rights,<sup>63</sup>

10.3.4.2 a proxy may not delegate the proxy's authority to act on behalf of a shareholder to another person;<sup>64</sup> and

10.3.4.3 a copy of the instrument appointing a proxy must be delivered to the registered office of the Company marked for the attention of the company secretary (or delivered to such other location and/or person on behalf of the Company as may be specified in the notice convening the meeting), to be received by the Company not less than 48 hours before the appointed time for the beginning of the meeting or, if the meeting is adjourned, the appointed time for the resumption of the adjourned meeting.<sup>65</sup>

10.3.5 The Company shall be entitled to disregard any proxy form or instrument appointing a proxy, and to disregard the vote of any proxy or purported proxy, if:

10.3.5.1 the proxy form or instrument of proxy does not comply with the requisite formalities, or with the requirements as to content, as prescribed in section 58 or is inconsistent with or contravenes article 10.3.2 or 10.3.4 in any way;

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<sup>61</sup> Section 58(2)(a).

<sup>62</sup> Section 58(3).

<sup>63</sup> Section 58(3)(a).

<sup>64</sup> Section 58(3)(b).

<sup>65</sup> Section 58(3)(c).

- 10.3.5.2 the Shareholder (if applicable, through its authorised representative) chooses at any time to exercise all or some of the voting rights attached to the Shares registered in the name of the Shareholder;<sup>66</sup>
- 10.3.5.3 the authority of the proxy has been revoked by the Shareholder (if applicable, through its authorised representative) in terms of section 58(4)(b) and (c); or
- 10.3.5.4 the vote of the proxy is not in accordance with the express directions as to voting the Shares in question specified by the Shareholder and set out in the applicable proxy form or instrument appointing the proxy.<sup>67</sup>
- 10.3.6 Any person who is a proxy or purported proxy specified in a proxy form or instrument appointing a proxy which is disregarded, or the voting of whom is disregarded, shall not be entitled to attend or speak or vote at the meeting of Shareholders in question and shall forthwith remove himself from the meeting in question at the request of the chairperson of the meeting or at the request of any one or more Directors or any one or more Shareholders of the Company, failing which he may be removed from the meeting at the cost of the Shareholders for whom the proxy purports to act.
- 10.3.7 A vote given by a proxy in accordance with the terms of the proxy form or instrument appointing that proxy shall be valid, notwithstanding the previous death or insanity of the principal, or revocation of the authority, unless notice in writing of the death, insanity or revocation has been received by the Company before the commencement of the meeting of Shareholders concerned.
- 10.4 **record date for determining Shareholder rights**
- 10.4.1 While the Shares of the Company remain listed on the JSE, the record date for the purposes of determining Shareholder rights shall be determined in

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<sup>66</sup> Section 58(4)(a).

<sup>67</sup> Section 58(7).

accordance with the Listings Requirements and, where applicable, the rules of the CSD.<sup>68</sup>

10.4.2 If the Listings Requirements or rules of the CSD do not provide a manner for determining the record date in any specific circumstance, or should the Shares of the Company no longer be listed on the JSE or none of its issued Shares are in uncertificated form, the Board may, in terms of section 59(1), set a record date or dates for the purposes of determining Shareholder rights to:<sup>69</sup>

10.4.2.1 receive notice of a Shareholders' meeting;

10.4.2.2 participate in and vote at a Shareholders' meeting;

10.4.2.3 decide on any matter in terms of section 60;

10.4.2.4 exercise pre-emptive rights (where applicable);

10.4.2.5 receive a Distribution; or

10.4.2.6 be allotted or exercise other rights.

10.4.3 The record date determined by the Board:

10.4.3.1 may not be earlier than the date on which the record date is determined (ie may not be retrospective);<sup>70</sup> or

10.4.3.2 may not be more than 10 business days before the date on which the event or action for which the date is being set is scheduled to occur;<sup>71</sup> and

10.4.3.3 must be published to Shareholders in a manner that satisfies any prescribed requirements.<sup>72</sup>

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<sup>68</sup> LR Schedule 10 para 10.15; regulation 37.

<sup>69</sup> Section 59(1).

<sup>70</sup> Section 59(2)(a)(i).

<sup>71</sup> Section 59(2)(a)(ii).

<sup>72</sup> Section 59(2)(b).

10.4.4 If the Board fails to determine a record date for any event or action and neither the Listings Requirements nor rules of the CSD provide a manner for determining the record date in any specific circumstance, the record date will be:

10.4.4.1 the Friday immediately preceding the date of such action or event (or if such Friday is a public holiday, the business day immediately preceding it), if such day is at least three business days prior to the date of such action or event; or

10.4.4.2 the second Friday preceding the date of such action or event (or if such Friday is a public holiday, the business day immediately preceding it), in any other case.

## 10.5 **calling a Shareholders' meeting**

10.5.1 The Board or any Director may call a meeting of any class of Shareholders at any time.<sup>73</sup>

10.5.2 The Board or any Director must call a meeting of any class of Shareholders if one or more written and signed demands for such a meeting are delivered to the Company and:<sup>74</sup>

10.5.2.1 each such demand describes the specific purpose for which the meeting is proposed; and

10.5.2.2 in aggregate, demands for substantially the same purpose are made and signed by the holders, as of the earliest time specified in any of those demands, of at least 10% of the voting rights entitled to be exercised in relation to the matter proposed to be considered at the meeting.

10.5.3 If there are no Directors or all of the Directors are incapacitated, the Company authorises the company secretary or, failing him, the auditors for the time being of the Company to call a Shareholders' meeting.<sup>75</sup>

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<sup>73</sup> Section 61(1).

<sup>74</sup> Section 61(3).

<sup>75</sup> Section 61(11).



10.5.4 All Shareholders' meetings that are called for by the issuer or applicant issuer as defined in the Listing Requirements must be convened by the Board for purposes of the Shareholders considering and, if deemed fit, approving those resolutions required by the Listings Requirements.<sup>76</sup>

#### 10.6 **calling an annual general meeting**

The Company must convene an annual general meeting once in every calendar year, but not more than 15 months after the date of the previous annual general meeting (or within an extended time allowed by the Companies Tribunal on good cause shown), for the following purposes:

10.6.1 presentation to the Shareholders of the Directors' report, any company secretary's statement contemplated in section 89(4), the audited financial statements for the immediately preceding financial year, as well as the audit committee report;<sup>77</sup>

10.6.2 appointment of the Company's auditor and the Company's audit committee for the ensuing financial year;<sup>78</sup>

10.6.3 approval of the remuneration of Directors for the ensuing two financial years of the Company; and

10.6.4 any other matters raised by any Shareholders in relation to the Company, with or without advance notice to the Company.<sup>79</sup>

#### 10.7 **location of Shareholders' meetings**

The Board, Directors, company secretary or auditor, as the case may be, of the Company convening a Shareholders' meeting may determine the location of the meeting (including the location of a meeting which has been adjourned), provided that the location shall allow for electronic participation by Shareholders in the manner contemplated in section 63(2).<sup>80</sup>

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<sup>76</sup> LR Schedule 10 para 10.11(d).

<sup>77</sup> Section 61(8)(a).

<sup>78</sup> Section 61(8)(c).

<sup>79</sup> Section 61(8)(d).

<sup>80</sup> Section 61(9).

## 10.8 **electronic participation at Shareholders' meetings**

10.8.1 Every meeting of Shareholders must be reasonably accessible within the Republic of South Africa for electronic participation by Shareholders, irrespective of the physical location of the meeting.<sup>81</sup>

10.8.2 Registered Shareholders (or, if applicable, their representatives or proxies) may participate in a meeting (including the meeting as adjourned) which they are entitled to attend by Electronic Communication, at their own expense.<sup>82</sup>

10.8.3 The Electronic Communication employed by the Company must ordinarily enable all participants in the meeting to communicate concurrently with each other, without an intermediary, and to participate reasonably effectively in the meeting.<sup>83</sup>

## 10.9 **notice of Shareholders' meetings**

10.9.1 A notice of a meeting of Shareholders must be delivered:

10.9.1.1 to each of the Shareholders as of the applicable record date for delivery of that notice and entitled to vote at such meeting;<sup>84</sup>

10.9.1.2 to the auditors for the time being of the Company in terms of section 93(1)(c)(ii); and

10.9.1.3 if expressly required in terms of an instrument appointing a proxy which has been delivered to the Company, to the proxy or proxies of a Shareholder,<sup>85</sup>

in form and content as prescribed in section 62(3), at least 15 business days before the date on which the meeting is to begin in the case of both

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<sup>81</sup> Sections 61(10) and 63(2).

<sup>82</sup> Sections 63(2)(b) and 63(3)(b).

<sup>83</sup> Section 63(2).

<sup>84</sup> LR Schedule 10 para 10.11(e).

<sup>85</sup> Section 58(6).

Ordinary Resolutions and Special Resolutions unless, in terms of section 62(2A), the meeting is called on a shorter period of notice.<sup>86</sup>

10.9.2 If there is an invitation by the Company to Shareholders to appoint one or more persons named by the Shareholder as a proxy, or if the Company intends to supply a form or instrument for appointing a proxy, then the invitation and/or instrument must comply with the requirements of section 58(8) and must accompany the notice calling the Shareholders' meeting in question and must be delivered to all Shareholders entitled from time to time to receive notice of the meeting.<sup>87</sup> For as long as the Shares of the Company are listed on the JSE, a proxy form shall, together with the notice of Shareholders' meeting, be sent to each person entitled to vote at such meeting.<sup>88</sup>

10.9.3 The notice of a meeting (or of an adjourned meeting) must be in writing and:

10.9.3.1 must inform Shareholders of the availability of participation in the meeting (and in any postponement or adjournment of the meeting) by Electronic Communication and must provide the necessary information to enable Shareholders (or their proxies) to access the available medium or means of Electronic Communication, for the meeting and as it may be postponed or adjourned;<sup>89</sup> and

10.9.3.2 must include:

10.9.3.2.1 the date, time and place for the meeting, and the record date for the meeting;

10.9.3.2.2 the general purpose of the meeting, and any specific purpose contemplated in section 61(3)(a), if applicable;

10.9.3.2.3 a copy of any proposed resolution of which the Company has received notice, and which is to be considered at the meeting,

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<sup>86</sup> Section 62(1)(a); LR Schedule 10 para 10.11(a) and (b).

<sup>87</sup> Section 58(8)(a) and 59(1)(a).

<sup>88</sup> LR para 3.52(a).

<sup>89</sup> Section 63(3)(a); article 10.8.

and a notice of the percentage of voting rights that will be required for that resolution to be adopted;

10.9.3.2.4 in the case of an annual general meeting, (a) the annual financial statements for the preceding financial year to be presented or (b) a summarised form thereof and directions for obtaining a copy of the complete annual financial statements; and

10.9.3.2.5 a reasonably prominent statement that:

10.9.3.2.5.1 a Shareholder entitled to attend and vote at the meeting is entitled to appoint a proxy to attend, participate in and vote at the meeting in the place of the Shareholder, or two or more proxies to the extent permitted by the MOI;

10.9.3.2.5.2 a proxy need not also be a Shareholder of the Company; and

10.9.3.2.5.3 section 63(1) requires that meeting participants provide satisfactory identification.

## 10.10 **chairperson of a Shareholders' meeting**

10.10.1 The chairperson of the Board for the time being shall chair Shareholders' meetings. If, however, there is no chairperson of the Board or if he has notified his inability or unwillingness to attend a Shareholders' meeting or if at any meeting he is not present within the 15 minutes after the appointed time for the meeting to begin, then the Shareholders present or represented at the meeting shall choose another Director to chair the meeting. If no Director is present or if none of the Directors present is willing to chair the meeting, then the Shareholders present at the meeting shall choose one of their number to chair the meeting.

10.10.2 Notwithstanding anything to the contrary in this MOI, the chairperson of a Shareholders' meeting shall be entitled, in his reasonable discretion, to waive any administration and/or procedural requirement, and/or to condone and/or accept any action or document that does not strictly comply with any administrative and/or procedural requirement, of this MOI (including but not limited to the requirements of articles 10.3.5.1 and 12.6.2.3), except to the

extent that such procedure or requirement is an unalterable requirement of the Companies Act.

## 10.11 **identification of attendees before a Shareholders' meeting**

- 10.11.1 A person wishing to attend or speak at or participate in or vote at a Shareholders' meeting (as a Shareholder personally or as a representative or as a proxy for a Shareholder, or as the parent, guardian, executor, administrator, trustee or curator with respect to a Shareholder or as the auditor or representative of the auditor) must present reasonably satisfactory identification to the chairperson of the meeting 30 minutes before the appointed time for that meeting to begin or, if the meeting is adjourned, 30 minutes before the appointed time for that adjourned meeting to resume, as the case may be, stipulated in the notice of the meeting or adjourned meeting in question.<sup>90</sup>
- 10.11.2 The chairperson of the meeting must be reasonably satisfied that the right of the Shareholder or its representative or proxy/ies or any other person to participate and vote has been reasonably verified.<sup>91</sup>
- 10.11.3 If the identification process is not completed by the appointed time for that meeting to begin or adjourned meeting to resume (as specified in the notice of that meeting or adjourned meeting if applicable), then the commencement of the meeting or resumption of the adjourned meeting, as the case may be, shall be delayed until the identification process is complete.
- 10.11.4 The auditors for the time being of the Company shall be entitled to be heard on any part of the business of the meeting that concerns the auditor's duties or functions.<sup>92</sup>

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<sup>90</sup> Section 63(1)(a).

<sup>91</sup> Section 63(1)(a).

<sup>92</sup> Section 93(1)(c)(i) and (iii).

## 10.12 **quorum**

10.12.1 A Shareholders' meeting may not begin until:

10.12.1.1 if the Company has more than two Shareholders, at least three Shareholders are present at the meeting; and

10.12.1.2 sufficient Shareholders are present or represented at the meeting to exercise, in aggregate, at least 25% of all the voting rights that are entitled to be exercised in respect of at least one matter to be decided at the meeting.<sup>93</sup>

10.12.2 A matter to be decided at the meeting may not begin to be considered unless:

10.12.2.1 if the Company has more than two Shareholders, at least three Shareholders are present at the meeting; and

10.12.2.2 sufficient Shareholders are present or represented at the meeting to exercise, in aggregate at least 25% of all the voting rights that are entitled to be exercised on that matter at the time the matter is called on the agenda.<sup>94</sup>

10.12.3 Once a quorum has been established, sufficient Shareholders to comprise a quorum must remain present at the meeting to deal with any matter to be considered at and on the agenda for the meeting.<sup>95</sup>

## 10.13 **automatic postponement of a meeting**

If, within 30 minutes of the appointed time for a meeting to begin, a quorum is not present, the meeting will be automatically postponed for one week at the same time and venue.<sup>96</sup> The 30 minute limit may be extended for a reasonable period by the chairperson of the meeting in the circumstances described in section 64(5).

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<sup>93</sup> Section 64(1)(a); LR Schedule 10 para 10.11(h).

<sup>94</sup> Section 64(1)(b); LR Schedule 10 para 10.11(h).

<sup>95</sup> LR Schedule 10 para 10.11(h).

<sup>96</sup> Section 64(4)(a).

**10.14 automatic adjournment of a meeting**

If, at the time a matter is to be considered at a meeting, a quorum is not present with respect to that matter and there is no other business on the agenda, the meeting will be automatically adjourned for one week at the same time and venue.<sup>97</sup>

**10.15 voluntary postponement of a particular matter to later in the meeting**

If at the time a particular matter is to be considered at the meeting, a quorum is not present with respect to that matter, but there is other business remaining on the agenda, consideration of that matter may be postponed by the chairperson of the meeting to a later time in the meeting.<sup>98</sup>

**10.16 further notice required for postponed/adjourned meeting**

The Company shall not be required to give further notice of a meeting that is postponed or adjourned unless:

10.16.1 the location for the meeting is different from:

10.16.1.1 the location of the postponed or adjourned meeting;<sup>99</sup> or

10.16.1.2 the location announced at the time of adjournment, in the case of an adjourned meeting;<sup>100</sup> or

10.16.2 it is necessary to inform Shareholders of the availability of participation in the postponed or adjourned meeting by Electronic Communication; or

10.16.3 the meeting has been adjourned "until further notice".

**10.17 deemed quorum at a postponed or adjourned meeting**

If at the appointed time for a postponed meeting to begin or an adjourned meeting to resume, the quorum requirements are not met, then those

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<sup>97</sup> Section 64(4)(b)(ii).

<sup>98</sup> Section 64(4)(b)(i).

<sup>99</sup> Section 64(7)(a).

<sup>100</sup> Section 64(7)(b).

Shareholders present at the meeting including those participating electronically will be deemed to constitute a quorum.<sup>101</sup>

## 10.18 adjournment of a meeting by Shareholders

10.18.1 A Shareholders' meeting, or the consideration of any matter being debated at the meeting, may be adjourned from time to time on a motion supported by persons entitled to exercise, in aggregate, a majority of the voting rights:

10.18.1.1 held by all of the Shareholders who are present at the meeting at the time;<sup>102</sup> and

10.18.1.2 that are entitled to be exercised on at least one matter remaining on the agenda of the meeting, or on the matter under debate, as the case may be.<sup>103</sup>

10.18.2 Any such adjournment by motion of Shareholders at a meeting may be either:

10.18.2.1 "to a fixed time and place", in which event no further notice need be given to Shareholders of the adjourned meeting;<sup>104</sup> or

10.18.2.2 "until further notice", as agreed at the meeting, in which event a further notice of the adjourned meeting must be given to all the Shareholders at the applicable record date for the giving of such notice.<sup>105</sup>

## 10.19 limit on period of adjournment

A Shareholders' meeting may not be adjourned beyond the earlier of:

10.19.1 a date that is 30 business days after the record date determining which shareholders are entitled to attend and vote at the meeting;<sup>106</sup> or

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<sup>101</sup> Section 64(8).

<sup>102</sup> Section 64(1)(a).

<sup>103</sup> Section 64(1)(b).

<sup>104</sup> Sections 64(10) and 64(11)(a)(i).

<sup>105</sup> Sections 64(11)(a)(ii) and (b) and 59(1)(a).

<sup>106</sup> Section 64(12)(a) and (13).



10.19.2 a date that is 15 business days after the date on which the adjournment occurred.<sup>107</sup>

10.20 **business at adjourned meeting**

No business shall be transacted at an adjourned meeting other than the business left unfinished at the meeting which was adjourned.

10.21 **Shareholders voting (by polling)**

10.21.1 At a meeting of Shareholders voting shall be by polling.<sup>108</sup>

10.21.2 Any Shareholder who is present at the meeting has the number of votes determined in accordance with the voting rights associated with the Shares registered in the name of the Shareholder in question.<sup>109</sup>

10.21.3 The chairperson of the meeting will not, in his capacity as chairperson, have a casting vote in addition to any vote he may have by virtue of being a Shareholder.

10.21.4 Scrutineers shall be appointed by the chairperson to count the votes on a poll and to declare the result of the poll, and their declaration, which shall be announced by the chairperson of the meeting at the meeting, shall be deemed to be the resolution of the meeting at which the poll was demanded. In case of any dispute as to the admission or rejection of a vote, the chairperson of the meeting shall determine the dispute and his determination made in good faith shall be final and conclusive.

10.21.5 On a poll a Shareholder (or its representative or proxy) entitled to more than one vote is in relation to the Company free to vote, in his discretion, all or any of his Shares the same way or differently or to abstain from voting in respect of all or any of his Shares, as he chooses.

10.21.6 When there are joint registered holders of any Shares, any one of such persons may vote at any meeting in respect of such Shares as if he were solely entitled to do so, but if more than one of the joint holders is present

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<sup>107</sup> Section 64(12)(b) and (13).

<sup>108</sup> Section 63(4).

<sup>109</sup> Section 63(6).

or represented at any meeting, that joint holder whose name appears first in the Securities Register in respect of such Shares or his proxy, as the case may be, shall alone be entitled to vote in respect of such Shares. Several executors or administrators of a deceased shareholder in whose name any Shares stand shall be deemed joint holders of those Shares.

- 10.21.7 The parent or guardian of a Shareholder who is a minor, the executor or administrator of a Shareholders who is deceased, the trustee of a Shareholder who is insolvent and the *curator bonis* of a Shareholder who is mentally incapacitated or prodigal, may vote at any general meeting in the same manner as if he were the registered holder of those Shares, provided that during the business day immediately preceding the date appointed for the meeting to begin or if the meeting is adjourned the date appointed for the resumption of the adjourned meeting at which he proposes to vote, he satisfies the Board that he is such parent, guardian, executor, administrator, trustee or curator or that the Board has previously admitted his right to vote in respect of those Shares.

## 11. Shareholders acting other than at a meeting

- 11.1 In terms of section 60, a resolution that could be voted on at a Shareholders' meeting may instead be:<sup>110</sup>
- 11.1.1 submitted for consideration to the Shareholders entitled to exercise voting rights in relation to the resolution; and
- 11.1.2 voted on in writing by Shareholders (or their proxies as contemplated in article 10.3) entitled to exercise voting rights in relation to the resolution within 20 business days after the resolution was submitted to them.
- 11.2 A resolution contemplated in article 11.1 will have been adopted if it supported by persons entitled to exercise sufficient voting rights for it to have been adopted at a properly constituted Shareholders' meeting.<sup>111</sup>
- 11.3 Within 10 business days after adopting a resolution as contemplated in article 11.1, the Company must deliver a statement describing the results of the

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<sup>114</sup> LR Schedule 10 para 10.11(c).

<sup>114</sup> LR Schedule 10 para 10.11(c).

vote or consent process to every Shareholder who was entitled to vote on or consent to the resolution.<sup>112</sup>

11.4 The business of the Company required by the Companies Act or this MOI to be conducted at an annual general meeting of the Company may not be conducted in the manner contemplated in this article 11.<sup>113</sup>

11.5 Where the Listings Requirements require a resolution of the Shareholders for any reason, such a resolution shall be proposed to the Shareholders at a meeting of the Shareholders and shall not be submitted to them in terms of section 60.<sup>114</sup>

## 12. **Directors and the Board**

For purposes of articles 12.2, 12.5 and 12.6, the term "Director" shall not include alternate Directors, unless expressly provided otherwise.

### 12.1 **powers of the Board**

The business and affairs of the Company shall be managed by or under the direction of the Board, which has the authority to exercise all the powers and perform any of the functions of the Company, except to the extent that the Companies Act, this MOI or the Listings Requirements provides otherwise.<sup>115</sup>

### 12.2 **composition of the Board**

12.2.1 The Board shall comprise not less than six Directors.<sup>116</sup>

12.2.2 The majority of the Directors shall be non-executive Directors.<sup>117</sup>

### 12.3 **election and appointment of Directors**

12.3.1 The Ordinary Shareholders shall be entitled, at a general meeting of the Company, to elect all of the Directors of the Company (and their

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<sup>114</sup> LR Schedule 10 para 10.11(c).

<sup>114</sup> LR Schedule 10 para 10.11(c).

<sup>114</sup> LR Schedule 10 para 10.11(c).

<sup>115</sup> Section 66(1).

<sup>116</sup> Section 66(2)(b); LR Schedule 10 para 10.16(a).

<sup>117</sup> King III principle 2.18 para 64.

alternates), by a separate Ordinary Resolution with respect to each such Director and each alternate, subject to articles 12.3.6 and 12.4.2.<sup>118</sup>

12.3.2 If the Ordinary Shareholders do not elect an alternate with respect to any Director as contemplated in article 12.3.1, the Board shall be entitled to appoint such alternate/s, unless such alternate is a person previously proposed to the Ordinary Shareholders as an alternate or as a Director and was not elected by the Ordinary Shareholders when put to the vote (subject thereto that at least 50% of the alternate Directors from time to time must be elected by the Shareholders).<sup>119</sup>

12.3.3 In any election of Directors:<sup>120</sup>

12.3.3.1 the election is to be conducted as a series of votes, each of which is on the candidacy of a single individual to fill a single vacancy, with the series of votes continuing until all vacancies on the Board have been filled;

12.3.3.2 in each vote to fill a vacancy:

12.3.3.2.1 each vote entitled to be exercised may be exercised once; and

12.3.3.2.2 the vacancy is filled only if a majority of the votes exercised support the candidate;

12.3.3.3 if the election process results therein that:

12.3.3.3.1 more nominees are elected as Directors than there are vacancies, those nominees (being a number of the nominees that are equal to the number of vacancies) that received the most votes will be the elected Directors, provided that in the event that a number of nominees that compete for a lesser number of vacancies received an equal number of votes, the Director or Directors elected to fill those vacancies will be determined by lot in the manner that the chairperson will determine;

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<sup>118</sup> Section 66(4)(b); LR Schedule 10 para 10.16(b).

<sup>119</sup> Section 66(4)(a)(iii) and 66(4)(b).

<sup>120</sup> Section 68(2).

12.3.3.3.2 less nominees are elected as Directors than there are vacancies, the remaining vacancies will remain, unless filled in terms of article 12.3.4.

12.3.4 The Directors shall have power at any time and from time to time to appoint any person as a Director, either to fill a vacancy or as an additional Director, provided that at least 50% of the Directors (and alternates) from time to time must be elected by the Shareholders.<sup>121</sup> Any person so appointed shall retain office only until the next annual general meeting of the Company and shall then retire and be eligible for re-election.<sup>122</sup>

12.3.5 If the number of Directors falls below the minimum provided for in article 12.2.1, the remaining Directors must as soon as possible and within three months from the date that the number of Directors fell below the minimum fill the vacancies or call a general meeting for that purpose. The failure by the Company to have the minimum number of Directors during the three month period does not limit or negate the authority of the Board or invalidate anything done by the Board or the Company. After the expiry of the three month period the remaining Directors shall only be permitted to act for the purpose of filling vacancies or calling general meetings of Shareholders.<sup>123</sup>

12.3.6 **ineligible or disqualified persons: appointment a nullity**

12.3.6.1 No person may be appointed or elected as a Director (or his alternate), or be an *ex officio* Director (or his alternate), or be entitled to serve or continue to serve as a Director (or an alternate Director) of the Company, if that person is or becomes ineligible or disqualified from being entitled to serve as a Director in terms of section 69 read with article 12.7, and if at the time of his appointment or election that person is so ineligible or disqualified then his appointment is a nullity in terms of section 66(6).<sup>124</sup>

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<sup>121</sup> Section 66(4)(b).

<sup>122</sup> Section 68(3); LR Schedule 10 para 10.16(c).

<sup>123</sup> LR Schedule 10 para 10.16(d).

<sup>124</sup> Sections 66(5)(a), 69 and 66(6).

12.3.6.2 Any person whose appointment as a Director is a nullity in terms of section 66(6) shall not be counted towards a quorum of Directors and his vote shall be disregarded with effect from the time it was purportedly cast, with the possible consequence that a decision or approval by the Board in which such person participated might need to be reversed with effect from the time it was made, if the application of this article results in the meeting or resolution of the Directors not being quorate or the decision or vote not being passed by the requisite majority.

12.3.7 **alternate Directors**

If a person (for whom another person has been appointed or elected as an alternate Director) ceases to be a Director of the Company for any reason, then such other person will at the same time cease to be the alternate for that person.

12.3.8 **filing a notice with the Commission**

The Company shall File with the Commission a notice within 10 business days after a person becomes or ceases to be a Director of the Company.<sup>125</sup>

12.4 **register of Directors**

12.4.1 The Company must establish and maintain a record of its Directors, including all the details about each Director required in terms of and for the periods stipulated in the Companies Act and the Regulations, in a register of Directors.<sup>126</sup>

12.4.2 No person shall be entitled to serve or act as a Director (including as an alternate Director) of the Company, or have his name entered in the register of Directors of the Company, unless and until that person has been appointed in terms of article 12.3 and has delivered to the Company:

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<sup>125</sup> Section 70(6).

<sup>126</sup> Section 24(3)(b) and (5); regulation 23.

- 12.4.2.1 all the details about that person which are required to be included in the register of Directors in terms of the Companies Act and the Companies Regulations;<sup>127</sup>
- 12.4.2.2 a written undertaking signed by that person representing and warranting to the Company that he is not and will not be, at the time of his proposed appointment, ineligible or disqualified in terms of the Companies Act or this MOI from being entitled to serve as a Director of the Company<sup>128</sup>, and a written undertaking signed by that person undertaking to disclose in writing to the Board any facts, circumstances or events from time to time, which might or are likely to result in his being or becoming ineligible or disqualified in terms of the Companies Act or this MOI from being entitled to serve as a Director of the Company, within five business days of his becoming aware of any such facts, circumstances or events, and indemnifying the Company for any direct or indirect or consequential damages, loss, costs or expenses of whatsoever nature suffered or incurred by the Company at any time arising out of or in connection with a breach of such undertaking or any decision or approval of the Board being reversed;
- 12.4.2.3 a written undertaking signed by that person, undertaking to disclose in writing to the Board from time to time any facts, circumstances or events from time to time, which might or are likely to result in him or a person Related to him, having or acquiring a personal financial interest as contemplated in section 75 within five business days of his becoming aware of any such facts, circumstances or events, and indemnifying the Company for any direct or indirect or consequential damages, loss, costs or expenses of whatsoever nature suffered or incurred by the Company, at any time arising out of or in connection with a breach of such undertaking or any transaction or agreement approved by the Board, being invalid as a result thereof as contemplated in section 75(7) or (8); and

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<sup>127</sup> Article 12.4.1.

<sup>128</sup> Sections 66(5)(a) and (6) and 69(2) read with article 12.7.

12.4.2.4 a written statement signed by that person confirming that he has read and is familiar with the provisions of the constitution of the Company and understands that he will in his capacity as a Director of the Company be bound by the terms of this MOI in terms of section 15(6) and consenting to serve as a Director of the Company.<sup>129</sup>

## 12.5 remuneration of Directors and alternate Directors

12.5.1 Subject to article 12.5.2, the Company shall be entitled to pay to a Director, for services as a Director, such remuneration as has been approved by a Special Resolution of the Ordinary Shareholders, adopted within the period of two years immediately before the date of any proposed payment of any such remuneration.<sup>130</sup> The remuneration so payable shall accrue from day to day and shall be paid as determined by the Board from time to time.

12.5.2 Executive Directors shall not be entitled to any remuneration for their services as Director in addition to the remuneration they may receive as employees of the Company.

12.5.3 An alternate Director shall not be entitled to any remuneration from the Company for services as an alternate, but may be remunerated by the Director for whom he acts as an alternate.

12.5.4 The Directors shall be paid all their travelling and other expenses properly and necessarily incurred by them in and about the business of the Company, and in attending meetings of the Directors or of committees thereof from any place in the Republic. If any Director is required to perform extra services or to reside abroad or shall be specifically occupied about the Company's business or perform services which, in the opinion of the Board, are outside of the scope of the ordinary duties of a Director, he may receive such remuneration as is determined by a disinterested quorum of Directors, which may be either in addition to or in substitution for any other remuneration.<sup>131</sup>

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<sup>129</sup> Section 66(7)(b).

<sup>130</sup> Section 66(8) and (9).

<sup>131</sup> LR Schedule 10 para 10.16(f).



12.6 **period for holding office and nomination of Directors for election**

12.6.1 **fixed term/rotation**<sup>132</sup>

12.6.1.1 At each annual general meeting one third of all Directors or, if their number is not a multiple of three, the number nearest to but not less than one third shall retire from office.

12.6.1.2 The Directors so to retire at each annual general meeting shall, firstly, be those retiring in terms of article 12.3.3 or 12.8 and, secondly, those who have been longest in office since their last election or appointment. As between Directors of equal seniority, the Directors to retire shall, in the absence of agreement, be selected from among them by lot.

12.6.1.3 If at the date of any annual general meeting any Director has held office for a period of three years since his last election or appointment, he shall retire at such meeting, either as one of the Directors to retire pursuant to articles 12.6.1.1 and 12.6.1.2 or additionally thereto.

12.6.1.4 A retiring Director shall continue to be and act as a Director throughout the meeting at which he retires.

12.6.1.5 The length of time a Director has been in office shall, save in respect of Directors appointed or elected in terms of articles 12.3.3 and 12.8, be computed from the date of his last election or appointment

12.6.1.6 Life directorships and directorships for an indefinite period shall not be permitted.

12.6.2 **nomination process**

12.6.2.1 Retiring Directors may be re-elected if eligible.

12.6.2.2 The Board, through the nomination committee, should recommend eligible persons for election to the Board, taking into account past performance and contribution made.<sup>133</sup>

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<sup>132</sup> LR Schedule 10 para 10.16(g) and (k).

12.6.2.3 Any Shareholder who will be entitled to attend and speak at that meeting may:

12.6.2.3.1 during the period of two months following the end of the financial year of the Company which immediately precedes the annual general meeting; or

12.6.2.3.2 in respect of any other Shareholders' meeting, not less than six days nor more than 14 days before the day appointed for the meeting,

lodge at the registered office of the Company a written notice proposing a person as a Director (and his alternate, if required), together with the details, written undertakings and consents of the proposed candidate referred to in article 12.4.2.

## 12.7 **additional grounds of ineligibility**

In addition to the grounds of eligibility set out in section 69(7)(a) and (b), a person is ineligible to be a Director of the Company if the person:

12.7.1 becomes insolvent, is sequestrated and/or compromises with his creditors;

12.7.2 is, or a Related person is, in the reasonable opinion of the Board, a Director of, or employed or otherwise engaged by, or in any way interested in (including but not limited to having a personal financial interest in), in any capacity whatsoever, any person who carries on activities in competition with any of the businesses or activities of the Company;<sup>134</sup> or

12.7.3 has at any time been placed under an order of probation in terms of section 162 or in terms of section 47 of the Close Corporations Act 69 of 1984;<sup>135</sup> or

12.7.4 has, in the reasonable opinion of the Board, not delivered to the Company to the reasonable satisfaction of the Board any of the details, statements,

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<sup>133</sup> LR Schedule 10 para 10.16(g).

<sup>134</sup> Section 69(7)(c).

<sup>135</sup> Section 69(7)(c).

undertakings, indemnities or consents required in terms of article 12.4.2;<sup>136</sup>  
or

12.7.5 has, in the reasonable opinion of the Board, at any time been involved in, or is involved in, as the subject or one of the subjects of any investigation, audit, enquiry, charge, court proceeding or other proceeding of any nature whatsoever, in any jurisdiction, which is contemplated in or similar to any contemplated in section 69(8), whether or not that person is or is likely to be disqualified from serving as a Director in terms of section 69(8);<sup>137</sup> or

12.7.6 is, or is accepts any appointment as, a director and/or employees of a competitor of the Company;

12.7.7 is prohibited from being a Director as a result of a legitimate directive or requirement by the Financial Services Board, as the regulator of the JSE, for so long as the JSE is a self regulatory organisation, as defined in the Securities Services Act; or

12.7.8 has, in the reasonable opinion of the Board, been absent without good cause shown from Board meetings for six consecutive months without the leave of the Board and without being represented at such meetings by an alternate Director, and the Board resolves that his office be vacated.<sup>138</sup>

## 12.8 **removal of an elected Director by Ordinary Shareholders**

12.8.1 In terms of section 71(1), a Director may be removed by an Ordinary Resolution of the Shareholders before the expiry of his period of office, and by Ordinary Resolution may elect another person in his stead. A person so elected shall hold office only for such time as the Director in whose place he is elected would have held office.<sup>139</sup>

12.8.2 In terms of section 71(2), before the Shareholders of the Company may consider a resolution contemplated in section 71(1):

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<sup>136</sup> Section 69(7)(c).

<sup>137</sup> Section 69(7)(c).

<sup>138</sup> Section 69(7)(c).

<sup>139</sup> Section 71(1).

12.8.2.1 the Director concerned must be given notice of the meeting and the resolution, at least equivalent to that which a Shareholder is entitled to receive, irrespective of whether or not the Director is a Shareholder of the Company; and

12.8.2.2 the Director must be afforded a reasonable opportunity to make a presentation, in person or through a representative, to the meeting, before the resolution is put to a vote.

## 12.9 **removal of a Director by the Board**

If a Shareholder or a Director contends that a Director should be removed as a Director of the Company on any of the grounds contemplated in section 71(3), being:

12.9.1 ineligibility or disqualification in terms of section 69, other than on the grounds contemplated in section 69(8)(a); or

12.9.2 incapacity to the extent that the Director is unable to perform the functions of a director, and is unlikely to regain that capacity within a reasonable time; or

12.9.3 neglecting, or being derelict in the performance of, the functions of director, that Shareholder or Director shall first submit to the Board in writing each of its contentions and the specific grounds of each such allegation, together with all supporting evidence available to that Shareholder or Director. On receipt the Board must investigate the allegation(s) and determine the matter by resolution in accordance with and subject to the procedures and its power to do so as set out in section 71(3) to (10).

## 12.10 **resignation by Directors**

A Director shall be entitled to resign as a Director on one month's written notice to the Company (or such shorter period as may be determined by the Board).

## 12.11 **Board committees**

12.11.1 Subject to this article 12.11, the Board may appoint any number of committees of Directors and delegate to any such committee any of the

authority of the Board, provided that all members of these committees must be Directors.<sup>140</sup>

12.11.2 Any committee so appointed by the Board shall, in the exercise of the authority so delegated to it, have the full authority of the Board in respect of the matter referred to it save that it must conform to any requirements that may from time to time be imposed by the Board.<sup>141</sup>

12.11.3 The meetings and proceedings of any such Board committee consisting of two or more members shall *mutatis mutandis* be governed by the provisions in this MOI for the regulation of Board meetings and proceedings of the Directors (unless provided otherwise in the terms of reference of a committee as approved by the Board), save that in the case of an equality of votes the chairperson shall not have a second or casting vote.

12.11.4 Any committee appointed by the Board may invite persons who are not Directors of the Company to attend such committee meetings, provided that any such non-Director may not vote on any matter to be decided by the committee and will not be or be regarded as a member of the committee.

12.11.5 The Company has established a social and ethics committee as required by section 72(4) and regulation 43(2), which committee shall comprise not less than three Directors or Prescribed Officers of the Company, at least one of whom must be a Director who is not involved in the day to day management of the Company's business, and must not have been so involved within the previous three financial years.<sup>142</sup>

## 12.12 Executives

12.12.1 The Board may from time to time appoint a Director or Directors to be managing Director, chief executive officer or joint managing Directors/chief executive officers of the Company, or acting managing Director or chief executive officer, or chief financial officer, or to be the holder of any other executive office in the Company, may determine the period of office of such appointee and may, subject to any contract between him or them and the

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<sup>140</sup> Section 72(1).

<sup>141</sup> Section 72(2)(c).

<sup>142</sup> Regulation 43(2) and (4).

Company, from time to time terminate his or their appointment and appoint another or others in his or their place or places.

- 12.12.2 A managing Director or chief executive officer, or chief financial officer, may be appointed by contract for a maximum period of three years at any one time or for an indefinite period, provided the managing Director's or chief executive officer's contract may be terminated upon reasonable notice. Subject to the terms of his contract he shall be subject to the same provisions as to removal as the other Directors, and if he ceases to hold the office of Director from any cause he shall *ipso facto* cease to be managing Director or chief executive officer. The managing Director or chief executive officer shall be eligible for re-appointment at the expiry of any period of appointment.
- 12.12.3 A managing Director or chief executive officer, or chief financial officer, so appointed shall, notwithstanding 12.12.1 and 12.2.2 above, while holding such office, be subject to retirement by rotation and be taken into account in determining the rotation of retirement of Directors.
- 12.12.4 A Director who is appointed in terms of the provisions of article 12.12.1 to the office of managing Director or chief executive officer of the Company, or chief financial officer, or to any other executive office in the Company, may be paid such remuneration not exceeding a reasonable maximum in each year in respect of such office or services as may be determined by a disinterested quorum of the Directors.
- 12.12.5 The Directors may from time to time entrust and confer upon a managing Director or chief executive officer, chief financial officer or other executive officer appointed under article 12.12.1 from time to time such of the powers and authorities vested in them as they think fit, and may confer such powers and authorities for such time, and to be exercised for such objects and purposes and upon such terms and conditions and with such restrictions as they may think expedient, and may from time to time revoke, withdraw, alter or vary all or any of such powers and authorities.

## 12.13 Board meetings

### 12.13.1 calling a Board meeting

A Director authorised by the Board to do so:

12.13.1.1 may call a Board meeting at any time;<sup>143</sup> or

12.13.1.2 must call a Board meeting if required to do so by at least one Director,<sup>144</sup>

provided that there shall be at least four Board meetings per annum.

### 12.13.2 location of Board meetings

The Director/s of the Company convening a Board meeting may determine the location of the meeting or an adjourned meeting.

### 12.13.3 electronic participation at Board meetings

12.13.3.1 Every meeting of the Board must be reasonably accessible within the Republic of South Africa for electronic participation by Directors, irrespective of the physical location of the meeting.<sup>145</sup>

12.13.3.2 Except if the Companies Act provides otherwise, a Director may participate in a Board meeting (including the meeting as adjourned) by Electronic Communication, at the expense of the Company.<sup>146</sup>

12.13.3.3 The Electronic Communication facility employed by the Company must ordinarily enable all persons participating in the meeting to communicate concurrently with each other without an intermediary, and to participate effectively in the meeting.<sup>147</sup>

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<sup>143</sup> Section 73(1)(a).

<sup>144</sup> Section 73(1)(b)(ii) and 73(2).

<sup>145</sup> Section 73(3).

<sup>146</sup> Section 73(3)(b).

<sup>147</sup> Section 73(3).

#### 12.13.4 **regulation of Board meetings**

The Directors may regulate the conduct of Board meetings as they think fit, subject to the provisions of the Companies Act and the MOI.

#### 12.13.5 **notice of Board meetings**

12.13.5.1 Subject to section 73(5)(a), a notice of a Board meeting must be in writing and delivered to each Director of the Company (including each alternate Director):

12.13.5.1.1 at his business address nominated by him for such purpose;

12.13.5.1.2 so as to be received by the Director in question in the ordinary course not less than 48 hours before the date appointed for the Board meeting, unless:

12.13.5.1.2.1 the managing Director/chief executive officer and chairperson determine, in their sole discretion, that the business to be conducted is of sufficient urgency to justify a shorter notice period; or

12.13.5.1.2.2 all the Directors waive such notice.<sup>148</sup>

12.13.5.2 Such notice of a Board meeting may be in any form determined by the Board but must at a minimum include:

12.13.5.2.1 the date, time and place for the meeting;

12.13.5.2.2 a detailed agenda for the meeting;

12.13.5.2.3 information with respect to the availability of participation in the meeting (and in the postponement or adjournment of the meeting) by Electronic Communication and the necessary information to enable Directors (including their alternates), to access the available medium or means of communication;

12.13.5.2.4 the general purpose of the meeting;

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<sup>148</sup> Section 73(4) and (5)(a).



- 12.13.5.2.5 any specific purpose of the meeting; and
- 12.13.5.2.6 as a standing agenda item an opportunity for any Director to disclose any personal financial interest relevant to a decision to be taken by the Board.
- 12.13.6 **quorum**
- 12.13.6.1 A Board meeting may not begin unless at least three Directors are present, the majority of which must be non-executive<sup>149</sup>
- 12.13.6.2 A matter to be decided at the Board meeting may not begin to be considered unless the requirement as set out in 12.13.6.1 is satisfied.
- 12.13.6.3 A person whose appointment as a Director (including as an alternate Director) is a nullity in terms of section 66(6), or who ceases to be a Director in terms of section 70, shall not be counted towards any quorum of Directors.
- 12.13.7 **chairperson of the meeting**
- 12.13.7.1 The Board may elect one of the non-executive Directors as chairperson of their meetings, and one or more non-executive Directors as deputy chairperson/s to preside in the absence of the chairperson, and may determine a period for which the chairperson and deputy chairperson/s are to hold office, which period shall not exceed three years. The chairperson and deputy chairperson/s shall be eligible for re-election.
- 12.13.7.2 If no such chairperson or deputy chairperson is elected by the Board or if at any meeting neither the chairperson nor a deputy chairperson is present at the time appointed for the beginning of the Board meeting, the Directors then present shall choose one of their number to be chairperson of such meeting.<sup>150</sup>

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<sup>149</sup> Section 73(5)(b).

<sup>150</sup> LR Schedule 10 para 10.16(i).

**12.13.8 automatic postponement of a meeting**

12.13.8.1 If within 30 minutes of the appointed time for a Board meeting to begin a quorum is not present, then the meeting is automatically postponed for one week at the same time and venue.

12.13.8.2 The 30 minute limit may be extended for a reasonable period not exceeding two hours by the chairman of the meeting.

**12.13.9 automatic adjournment of a meeting**

If at the time a matter is to be considered at a meeting, a quorum is not present and there is no other business on the agenda, the meeting will be automatically adjourned for one week at the same time and venue.

**12.13.10 voluntary postponement of a particular matter to later in the meeting**

If at the time a particular matter is to be considered at the meeting, a quorum is not present, but there is other business remaining on the agenda, consideration of that matter may be postponed to a later time in the meeting.

**12.13.11 further notice required for postponed/adjourned meeting**

The Company shall not be required, to give further notice of a Board meeting that is postponed or adjourned unless:

12.13.11.1 the location for the meeting is different from:

12.13.11.1.1 the location of the postponed or adjourned meeting; or

12.13.11.1.2 the location announced at the time of adjournment, in the case of an adjourned meeting; or

12.13.11.2 it is necessary to inform Directors of the availability of participation in the postponed or adjourned meeting by Electronic Communication.

**12.13.12 deemed quorum at a postponed or adjourned meeting**

If at the appointed time for a postponed meeting to begin or an adjourned meeting to resume, the quorum requirements are not met, then those

Directors present in person at the meeting including those participating electronically will be deemed to constitute a quorum.

**12.13.13 continuing quorum during meeting**

After a quorum has been established for a meeting or for a matter to be considered at a meeting, the meeting may continue or the matter may be considered, so long as at least one Director is present at the meeting.

**12.13.14 adjournment by Directors**

A Board meeting may be adjourned by majority vote of the Directors present at the meeting.

**12.13.15 voting by Directors**

12.13.15.1 Each Director has one vote on a matter before the Board,<sup>151</sup> save that:

12.13.15.1.1 a Director whose eligibility or ineligibility to serve as a Director is being determined shall not have a vote in respect of that matter;<sup>152</sup>

12.13.15.1.2 a Director who has been suspended in terms of section 70(2), shall not have a vote on any matter before the Board;<sup>153</sup>

12.13.15.1.3 a Director who has a personal financial interest in respect of a matter to be considered by the Board, or who knows that a Related person has a personal financial interest in the matter must comply with the requirements of section 75.

12.13.15.2 A majority of the votes of the Directors present and entitled to exercise their vote on a matter is sufficient to approve a Board resolution, provided that there is at least a quorum of Directors present.<sup>154</sup>

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<sup>151</sup> Section 73(5)(c).

<sup>152</sup> Section 71(3).

<sup>153</sup> Section 70(2).

<sup>154</sup> Section 73(5)(d).

12.13.15.3 Where the vote is tied the chairperson may cast a deciding vote..<sup>155</sup>

12.13.16 **recusal by Directors from Board meetings**

A Director (or in his absence his alternate) shall be required to attend all Board meetings in person or electronically, and to vote on all matters before the Board at Board meetings or by round robin resolution, as the case may be, unless that Director (and/or his alternate) is required not to do so in terms of the Companies Act or this MOI.

12.13.17 **minutes**

12.13.17.1 Minutes of Board and Board committee meetings must be kept and minutes must include all resolutions adopted by the Board or Board committees, as the case may be, and must include all declarations of personal financial interests given by notice or made by a Director in terms of section 75.<sup>156</sup>

12.13.17.2 Each resolution adopted by the Board must be dated and sequentially numbered.<sup>157</sup> Signature of the minutes or of a resolution by the chairperson of the meeting (or by the chairperson of the next meeting) is evidence of the proceedings of that meeting or adoption of the resolution, as the case may be.<sup>158</sup>

12.13.17.3 Any extract from such minutes or extract from any resolution in writing, if signed by any Director or the company secretary, shall be evidence of the matters stated in such minutes or extract.

12.13.17.4 Minutes of Board meetings called on less than 48 hours' notice shall be circulated to all Directors as soon as reasonably possible after such meeting.

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<sup>155</sup> Section 73(5)(e)(ii); LR Schedule 10 para 10.16(i).

<sup>156</sup> Section 73(6).

<sup>157</sup> Section 73(7)(a).

<sup>158</sup> Section 73(8).

## 12.14 round robin resolutions by the Board

12.14.1 A resolution that could be voted on at a Board meeting (other than a Board resolution that the Company voluntarily begin business rescue proceedings and place the Company under supervision as contemplated in section 129(1)) may, instead of being voted on at a meeting, be:

12.14.1.1 submitted (by the Directors proposing the resolution) for consideration to each Director;<sup>159</sup> and

12.14.1.2 voted on in writing by Directors entitled to exercise voting rights on that matter within 10 business days after the resolution was submitted to them.

12.14.2 A round robin resolution will have been adopted as a Board resolution if it has been supported in writing by a majority of the Directors, in person or by Electronic Communication, who are entitled to exercise voting rights on the resolution proposed, and, if so adopted, such a resolution will have the same effect as if it had been adopted at a Board meeting.<sup>160</sup>

12.14.3 A round robin resolution shall be deemed to have been passed on the date specified in the resolution as the effective date of the resolution, provided that effective date is not a date earlier than the date the resolution was submitted to Directors for their consideration and, if deemed fit, adoption. If an effective date has not been specified, the resolution shall be deemed to have been passed on the date on which the resolution was approved in writing by the last of the Directors entitled to do so.<sup>161</sup>

12.14.4 Within 10 business days after the adoption or failing of a round robin resolution, the Company shall:

12.14.4.1 deliver to each Director a copy of the resolution proposed, accompanied by a statement describing the results of the vote; and

12.14.4.2 insert a copy of the resolution and statement in the minute book of the Company.

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<sup>159</sup> Section 74(1).

<sup>160</sup> Section 74 (1) and (2).

<sup>161</sup> Section 73(7)(b); LR Schedule 10 para 10.16(j).

## 12.15 **contracting with and employment of Directors, and Directors' financial interests**

12.15.1 No Director or intending Director shall be disqualified by his office from contracting with the Company, whether with regard to such office or as vendor or purchaser or otherwise, nor shall any such contract, or any contract or arrangement entered into by or on behalf of the Company, in which any Director shall in any way be interested, be or be liable to be avoided. A Director so contracting or being so interested shall not be liable to account to the Company for any profit realised by any such contract or arrangement by reason of such Director holding that office or of the fiduciary relationship thereby established, but the nature of this interest shall be declared by him in accordance with the provisions of section 75 and this article 12.15.

12.15.2 For the purposes of this article 12.15:

12.15.2.1 "**Director**" includes a Prescribed Officer and a person who is a member of a Board committee of the Company;<sup>162</sup>

12.15.2.2 "**Related Person**", in addition to the meaning set out in article 1.1.21, also includes a second company of which the Director or Related person is also a director, or a close corporation of which the Director or Related person is a member.

12.15.3 At any time, a Director may disclose any personal financial interest in advance, by delivering to the Board a notice in writing setting out the nature and extent of that interest, to be used generally for the purposes of section 75 and this article 12.15 until changed or withdrawn by further written notice from that Director.<sup>163</sup>

12.15.4 If a Director has a personal financial interest in respect of a matter to be considered at a Board meeting, or knows that a Related Person has a personal financial interest in the matter, the Director:<sup>164</sup>

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<sup>162</sup> Section 75(1)(a).

<sup>163</sup> Section 75(4).

<sup>164</sup> Section 75(5).

- 12.15.4.1 must disclose the interest and its general nature before the matter is considered at the meeting;
- 12.15.4.2 must disclose to the meeting any material information relating to the matter and known to the Director;
- 12.15.4.3 may disclose any observations or pertinent insights relating to the matter if requested to do so by the other Directors;
- 12.15.4.4 if present at the meeting, must leave the meeting immediately after making any disclosure contemplated in article 12.15.4.2 or 12.15.4.3;
- 12.15.4.5 must not take part in the consideration of the matter, except to the extent contemplated in articles 12.15.4.2 and 12.15.4.3;
- 12.15.4.6 while absent from the meeting in terms of this article 12.15.4:
- 12.15.4.6.1 is to be regarded as being present at the meeting for the purpose of determining whether sufficient Directors are present to constitute the meeting; and
- 12.15.4.6.2 is not to be regarded as being present at the meeting for the purpose of determining whether a resolution has sufficient support to be adopted; and
- 12.15.4.7 must not execute any document on behalf of the Company in relation to the matter unless specifically requested or directed to do so by the Board.
- 12.15.5 If a Director acquires a personal financial interest in an agreement or other matter in which the Company has a material interest, or knows that a Related Person has acquired a personal financial interest in the matter, after the agreement or other matter has been approved by the Company, the Director must promptly disclose to the Board the nature and extent of that interest, and the material circumstances relating to the Director or Related Person's acquisition of that interest.<sup>165</sup>

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<sup>165</sup> Section 75(6).

12.15.6 A decision by the Board, or a transaction or agreement approved by the Board, is valid despite any personal financial interest of a Director or person Related to the Director, only if:<sup>166</sup>

12.15.6.1 it was approved following disclosure of that interest in the manner contemplated in this article 12.15; or

12.15.6.2 despite having been approved without disclosure of that interest, it:

12.15.6.2.1 has subsequently been ratified by an Ordinary Resolution of the Shareholders following disclosure of that interest; or

12.15.6.2.2 has been declared to be valid by a court in terms of section 75(8).

12.15.7 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 Subsidiary of, the Company and in this event, his appointment and remuneration in respect of such other office must be determined by a disinterested quorum of Directors.<sup>167</sup>

## 12.16 **indemnification and Director's insurance**

The Company may, subject to the limitations set out in section 78:

12.16.1 advance expenses to a Director of the Company to defend litigation in any proceedings arising out of the Director's service, as a Director, to the Company;<sup>168</sup>

12.16.2 directly or indirectly indemnify a Director for expenses contemplated in article 12.16.1, irrespective of whether the Company has advanced those expenses, if the proceedings in question:

12.16.2.1 are abandoned or exculpate the Director;<sup>169</sup> or

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<sup>166</sup> Section 75(7).

<sup>167</sup> LR Schedule 10 para 10.16(e).

<sup>168</sup> Section 78(4)(a).

<sup>169</sup> Section 78(4)(b)(i).



12.16.2.2 arise in respect of any liability for which the Company may, indemnify the Director in terms of section 78(5) and (6);<sup>170</sup> and

12.16.3 purchase market related insurance to protect the Directors of the Company as contemplated in section 78(7).

### 13. **Winding up**

13.1 While the Company is:

13.1.1 solvent, the Company may be wound-up in terms of Part G (*Winding-up of solvent companies and deregistering companies*) of Chapter 2 of the Companies Act;<sup>171</sup> or

13.1.2 insolvent, the Company may be wound-up as an insolvent company in terms of the applicable laws of insolvency prevailing.<sup>172</sup>

13.2 If the Company is to be wound up, the assets remaining after payment of the debts and liabilities of the Company and the costs of the liquidation shall be distributed, among the Shareholders in proportion to the number of ordinary Shares held by each of them, provided that the provisions of this article shall be subject to the rights of the holders of Shares (if any) issued upon special conditions.

13.3 In a winding-up of the Company, any part of the assets of the Company, including any securities of other companies may, with the sanction of a Special Resolution of the Company, be paid to the Shareholders of the Company *in specie*, or may, with the same sanction, be vested in trustees for the benefit of such Shareholders, and the liquidation of the Company may be closed and the Company dissolved.

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<sup>170</sup> Section 78(4)(b)(ii).

<sup>171</sup> Section 79(1).

<sup>172</sup> Section 79(3).

## 14. Remedies and enforcement

### 14.1 protection for whistle-blowers

The Company must establish and maintain a system to receive disclosures contemplated in section 159 confidentially, and act on them, where appropriate.<sup>173</sup>

### 14.2 dispute resolution

Any dispute between any one or more persons bound by the provisions of this MOI, which cannot be resolved by negotiation and agreement within seven business days of any party to the dispute or any other person bound by this MOI requesting such resolution, may be dealt with by any such party to the dispute in terms of Chapter 7 (*Remedies and Enforcement*) of the Companies Act. The persons bound by this MOI shall use their respective best endeavours to negotiate in good faith with each other and any applicable third party for purposes of reaching a resolution of the dispute in question within such seven business day period.

## 15. Notices

15.1 A notice required in terms of the Companies Act or this MOI to be given to Shareholders shall be delivered by the Company to all Shareholders by any method prescribed by regulation 7 and Table CR 3 in Annexure 3 to the Companies Regulations, to any of the registered addresses provided by the Shareholders and recorded in the Securities Register. If a Shareholder has not nominated an address, or an e-mail address, as required by the Companies Act, that Shareholder shall be deemed to have waived his right to be served with notices.

15.2 All notices with respect to any Shares to which persons are jointly entitled may be given to whichever of such persons is recognised by the Company as having any title to such Shares in terms of article 5.5.2 and notice so given shall be sufficient notice to all the holders of such Shares.

15.3 A notice may be given by the Company to the persons entitled to a Share in consequence of the death or insolvency of a Shareholder, or by sending it

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<sup>173</sup> Section 159(7).

through the post in a prepaid envelope addressed to them by name, or by the title of representatives of the deceased, or trustees of the insolvent or by any like description, at the address (if any) supplied for the purpose by the persons claiming to be so entitled, or (until such address has been so supplied) by giving the notice in any manner in which same might have been given if the death or insolvency had not occurred.

- 15.4 Any notice shall be deemed to have been delivered at the time stipulated in Table CR 3 in Annexure 3 to the Companies Regulations, and in proving the giving of the notice by post, it shall be sufficient to prove that the letter containing the notice was properly addressed and delivered to the post office.
- 15.5 A notice given to any Shareholder shall be binding on all persons claiming on his death or on any transmission of his interests.
- 15.6 Notices for Shareholders' meetings must be sent to the Registrar at the same time as the notice is given to the Shareholders. Notices for Shareholders' meetings must, also be published via the Stock Exchange News Service of the JSE, or any successor service.<sup>174</sup>

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<sup>174</sup> LR Schedule 10 para 10.11(f).