

Republic of South Africa Companies Act, 2008

MEMORANDUM OF INCORPORATION

Sasol South Africa Limited
Registration No: 1968/013914/06

This MOI was adopted by Special Resolution passed on 12 February 2018 in substitution for the existing memorandum of incorporation of the Company

1. INTERPRETATION

In this MOI:-

- 1.1. words that are defined in the Companies Act (which are contained in **Schedule 1** for easy reference but which do not form part of this MOI for purposes of interpretation) but not defined in this MOI will bear the same meaning in this MOI as in the Companies Act. For ease of reading, defined terms have been capitalised in this MOI;
- 1.2. unless the context otherwise requires:-
 - 1.2.1. "**B-BBEE**" means broad-based black economic empowerment, as contemplated or defined in the B-BBEE Act and the Codes;
 - 1.2.2. "**B-BBEE Act**" means the Broad-Based Black Economic Empowerment Act, 2003 and any regulations promulgated thereunder, including the Codes;
 - 1.2.3. "**B-BBEE Controlled Company**" has the meaning ascribed to it in the Codes;
 - 1.2.4. "**BEE Investor**" means each of:-
 - 1.2.4.1. FundCo;
 - 1.2.4.2. the Trust;
 - 1.2.5. "**B-BBEE Owned Company**" has the meaning ascribed to it in the Codes;
 - 1.2.6. "**Black Company**" means a company incorporated and registered in accordance with the laws of South Africa and which is both:-
 - 1.2.6.1. a B-BBEE Owned Company; and
 - 1.2.6.2. a B-BBEE Controlled Company,and, for the purposes hereof, a reference to a **company** shall include a reference to a **close corporation**, and **Black Companies** shall have a corresponding meaning;
 - 1.2.7. "**Black Entity**" means a trust, partnership, joint venture, "stokvel", Broad-Based Ownership Scheme (as contemplated in the Codes) or other such unincorporated entity or association, which has as the majority of its beneficiaries and trustees or other such representative of its governing body (as the case may be), Black Companies and/or Black People;

- 1.2.8. **"Black People"** or **"Black Person"** means those persons who fall within the definition of "black people" (or any comparable term) contained in the B-BBEE Act and the Codes, which currently means Africans, Coloureds and Indians who are South African citizens by (a) birth or descent or (b) who became citizens of South Africa by naturalisation occurring (i) before 27 April 1994; (ii) on or after 27 April 1994 and who would have been entitled to acquire citizenship by naturalisation prior to that date;
- 1.2.9. **"Board"** means the board of Directors of the Company from time to time;
- 1.2.10. **"Business Day"** means any day which is not a Saturday, Sunday or an official public holiday in South Africa;
- 1.2.11. **"Chairperson"** means the chairperson appointed in terms of clause 21.5;
- 1.2.12. **"Codes"** means the Broad-Based Black Economic Empowerment Codes of Good Practice gazetted under the B-BBEE Act as they may exist from time to time;
- 1.2.13. **"Companies Act"** means the Companies Act 71 of 2008;
- 1.2.14. **"Company"** means Sasol South Africa Limited or by whatever other name it may be known from time to time;
- 1.2.15. **"DoA"** means a document currently entitled Sasol Limited and Sasol Group Limits and Delegations of Authority comprising the governance framework of delegation levels of all operating model entities within the Sasol Group as it exists from time to time;
- 1.2.16. **"Deliver"** means deliver in the manner in which the Company is entitled to give notice or deliver documents in accordance with clause 19.3, the Companies Act and the Regulations;
- 1.2.17. **"Dispose"** means, in relation to any Share:-
- 1.2.17.1. to sell, transfer, cede, swap, surrender, gift, or otherwise dispose of (including but not limited *eiusdem generis* by way of donation or dividend or Distribution *in specie*), deal with or Encumber, any interest in the Share;
- 1.2.17.2. to do anything which has the effect of placing a person in substantially the same position as that person would have been in, had any of the things mentioned in clause 1.2.17.1 been done; or

1.2.17.3. to authorise, agree to or attempt to do any of the things mentioned in clause 1.2.17.1 or 1.2.17.2,

and the term **Disposal** has a corresponding meaning;

- 1.2.18. "**Effective Date**" means 1 June 2018 or such other date as Sasol in its sole discretion may determine;
- 1.2.19. "**Electronic Address**" means in regard to Electronic Communication, any email or other electronic address furnished to the Company by a Shareholder or Director or an Alternate Director;
- 1.2.20. "**Empowerment Period**" means a period expiring on the 10th (tenth) anniversary of the Effective Date or such shorter period as may be determined by Sasol in its sole discretion;
- 1.2.21. "**Encumber**" means any mortgage, charge, pledge, hypothecation, lien, cession or assignment by way of security, option, right to acquire, right of pre-emption, preferential right or arrangement, right of retention or agreement to confer security or any restriction or other arrangement whatsoever which has the same or similar effect to the granting of security;
- 1.2.22. "**Financial Markets Act**" means the Financial Markets Act, 2012;
- 1.2.23. "**FundCo**" means Sasol Khanyisa FundCo (RF) Limited registration number 2017/662953/06;
- 1.2.24. "**Group**" means the Company and all of its Subsidiaries, from time to time, and **Member of the Group** means any one of them;
- 1.2.25. "**Holders**" or "**Shareholders**" means the registered holders of Shares;
- 1.2.26. "**Ineligible**" or "**Disqualified**" means, as regards Directors and Alternative Directors, members of Board committees and Prescribed Officers, those Persons who are ineligible or disqualified as contemplated in the Companies Act (a list of which is in **Schedule 2** for ease of reference but which does not form part of this MOI for purposes of interpretation);
- 1.2.27. "**JSE**" means the stock exchange operated by the JSE Limited, a company duly registered and incorporated under the company laws of South Africa with registration number 2005/022939/06, licensed as an exchange under the Financial Markets Act, or that company's successor in title;

- 1.2.28. "**JSE Listings Requirements**" means the listings requirements of the JSE, as amended from time to time;
- 1.2.29. "**MOI**" means this Memorandum of Incorporation, as amended from time to time;
- 1.2.30. "**Operating Model**" means the framework from time to time of how Sasol organises itself and each of the companies which is a member of the Sasol Group (including the Company);
- 1.2.31. "**Ordinary Shares**" means the ordinary shares of no par value in the share capital of the Company;
- 1.2.32. "**Preference Share Funding**" means the funding provided by Sasol to FundCo through the subscription by Sasol for Preference Shares in terms of the Preference Share Subscription Agreement;
- 1.2.33. "**Preference Shares**" means redeemable preference shares in the capital of FundCo;
- 1.2.34. "**Preference Share Subscription Agreement**" means the preference share subscription agreement to be concluded between Sasol and FundCo pursuant to which Sasol will subscribe for preference shares in FundCo, the proceeds of which FundCo will apply to subscribe for Ordinary Shares in the Company;
- 1.2.35. "**Regulations**" means regulations published pursuant to the Companies Act from time to time;
- 1.2.36. "**Required BEE Status**" means the B-BBEE credentials that each BEE Investor is required to maintain for the duration of the Empowerment Period, as contemplated in clauses 32.1.1 and 32.2.1;
- 1.2.37. "**Restrictive Conditions**" means the restrictive conditions applicable to FundCo and/or Sasol Khanyisa (as contemplated in section 15(2)(b) of the Companies Act) details of which are more fully set out in the memoranda of incorporation of each of FundCo and Sasol Khanyisa;
- 1.2.38. "**RF Preference Share**" means the preference Share of no par value in the capital of FundCo;
- 1.2.39. "**Sasol**" means Sasol Limited registration number 1979/003231/06 and its successors in title which are Members of the Sasol Group in respect of all or some of its Ordinary Shares;

- 1.2.40. "**Sasol Board**" means the board of directors of Sasol from time to time;
- 1.2.41. "**Sasol Group**" means Sasol, all of its direct and indirect subsidiaries, and for the purposes of the Operating Model, all entities described in the Operating Model;
- 1.2.42. "**Sasol Khanyisa**" means Sasol Khanyisa (RF) Limited registration number 2017/663901/06;
- 1.2.43. "**Share**" means a share in the Company, including an Ordinary Share;
- 1.2.44. "**Special Resolution**" means a resolution adopted with the support of at least 61% (sixty one percent) of the Voting Rights exercised on the resolution at a shareholders meeting or by Holders acting other than at a meeting, as contemplated in section 60;
- 1.2.45. "**Trust**" means the trust to be established in accordance with the laws of South Africa under the name the Sasol Khanyisa Employee Share Ownership Plan Trust;
- 1.2.46. "**Trustees**" means the trustees for the time being of the Trust; and
- 1.2.47. "**Writing**" includes Electronic Communication but as regards any Holder entitled to vote, only to the extent that such Holder has notified the Company of an Electronic Address;
- 1.3. any reference to an enactment is to that enactment as at the date on which this MOI is adopted and as amended or re-enacted from time to time and includes any subordinate legislation made from time to time under such enactment. Any reference to a particular section in an enactment is to that section as at the date on which this MOI is adopted, and as amended or re-enacted from time to time and/or an equivalent measure in an enactment, provided that if as a result of such amendment or re-enactment, the specific requirements of a section referred to in this MOI are changed, the relevant provision of this MOI shall be read also as if it had been amended as necessary, without the necessity for an actual amendment;
- 1.4. references to Holders represented by proxy shall include Holders entitled to vote represented by an agent appointed under a general or special power of attorney;
- 1.5. references to Holders entitled to vote Present at a Meeting or acting in person shall include Juristic Persons represented by duly authorised representative or acting in the manner prescribed in the Companies Act;

- 1.6. all references to "section/s" in this MOI refer to the sections of the Companies Act unless the context indicates otherwise;
- 1.7. the headings are for reference purposes only and shall not affect the interpretation of this MOI;
- 1.8. words in the singular shall include the plural, and words in the plural shall include the singular, words importing the masculine gender shall include the female gender, and words importing persons shall include created entities (corporate or not);
- 1.9. if any term is defined within the context of any particular clause in this MOI, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the meaning ascribed to it for all purposes in terms of this MOI, notwithstanding that that term has not been defined in this interpretation provision;
- 1.10. if the provisions of this MOI are in any way inconsistent with the provisions of the Companies Act, the provisions of the Companies Act shall prevail, and this MOI shall be read in all respects subject to the Companies Act;
- 1.11. to the extent that any provisions of this MOI are based on any Unalterable Provisions or mandatory provisions of the Companies Act or the Regulations and any of those provisions is amended in such a way that the provisions of this MOI would contravene the Companies Act or the Regulations, the Board is authorised to amend this MOI to reflect such amendments, in addition to its rights to amend the MOI in terms of section 17 and in so doing eliminate the risk that if there is a conflict between any provision of this MOI and the Unalterable Provisions or mandatory provisions of the Companies Act or the Regulations as amended, the relevant provision of this MOI will be void to the extent that it contravenes, or is inconsistent with the amended Unalterable Provisions or mandatory provisions of the Companies Act or the Regulations, as the case may be;
- 1.12. the rule of construction that a contract shall be interpreted against the party responsible for the drafting or preparation of the contract, shall not apply to this MOI.

2. **CALCULATION OF BUSINESS DAYS**

When 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:-

- 2.1. excluding the day on which the first such event occurs;
- 2.2. including the day on or by which the second event is to occur; and

- 2.3. excluding any public holiday (as contemplated in section 1 of the Public Holidays Act, 1994), Saturday or Sunday that falls on or between the days contemplated in clauses 2.1 and 2.2 respectively.

3. PUBLIC COMPANY

The Company is a Public Company as it is not a Private Company or a State-Owned Company or a Personal Liability Company.

4. POWERS AND CAPACITY OF THE COMPANY

The Company has the powers and capacity of an Individual. Notwithstanding the omission from this MOI of any provision to that effect, the Company may do anything which the Companies Act empowers a company to do if so authorised by its MOI.

5. CORPORATE OPPORTUNITIES

- 5.1. Each of the BEE Investors acknowledges that corporate opportunities may arise from time to time concerning the businesses of the Sasol Group and that Sasol will determine whether any such corporate opportunity will be made available to the Company for the Board to determine whether it wishes to undertake such opportunity.
- 5.2. If Sasol determines, in its sole discretion, that the corporate opportunity will not be made available to the Company, the Company shall not be entitled to object to such determination. If the corporate opportunity was brought to the attention of Sasol by the Company and Sasol determines that the opportunity will not be undertaken by the Company, Sasol shall inform the Company as soon as reasonably possible of its determination.
- 5.3. If Sasol determines, in its sole discretion, that the corporate opportunity will be made available to the Company, the Board shall consider any such corporate opportunity. The Board shall inform Sasol in Writing as soon as reasonably possible of its decision whether the Company will undertake the corporate opportunity. If the Board determines that the Company will not undertake the corporate opportunity, Sasol shall be entitled to determine which member of the Sasol Group will undertake the corporate opportunity.

6. THE OPERATING MODEL AND FUNDING OF THE COMPANY

- 6.1. The Company and each of the BEE Investors acknowledge and recognise that as a Subsidiary of the Sasol Group there are benefits and obligations for the Company which flow from being managed on an integrated basis with the rest of the Sasol Group. Businesses and functions within the Sasol Group, based on their unique capabilities and areas of specialisation, are arranged along the Sasol Group's integrated value chain and operate co-dependently, leveraging economies of scale and scope, focusing on upstream activities, on

operations, or on sales and marketing. Sasol Group functions deliver fit-for-purpose business support services and solutions that enable the whole Sasol Group globally. Each of the businesses and functions within the Sasol Group has clear accountabilities, which drives focus and delivery aligned to the Sasol Group's long-term strategy. In particular, capital projects will be prioritised and funding in relation thereto allocated to the Company in accordance with the Sasol Group's strategy.

- 6.2. The Company has adopted its own management model which is aligned with and subject to the Operating Model. To the extent that Operating Model is changed from time to time, the Company will align its own management model with the Operating Model.
- 6.3. The Company acknowledges that all members of the Sasol Group (including itself) are subject to the DoA and the procedures, policies, rules, governance measures, controls and guidelines applicable to the Sasol Group in general. The Company in adopting its own policies, procedures, rules, governance measures, controls and guidelines shall align them with those of the Sasol Group.
- 6.4. If Sasol requires Members of the Group to obtain management or specialised services from Sasol or any other company within the Sasol Group which it nominates, or requires any member of the Sasol Group to obtain management or specialised services from any Members of the Group which it nominates, the Company shall (and shall procure that all Members of the Group shall) be obliged to obtain or provide such management or specialised services in the same way and shall pay for them and be paid on an arms-length basis.
- 6.5. In particular, but without limiting the foregoing, the Company shall (and shall procure that all Members of the Group shall) be obliged, for the purpose contemplated in clause 6.4 to accept the secondment of any personnel or to second personnel, as directed by Sasol.
- 6.6. Any funding or funding support required by the Company and which is not covered by retained earnings, shall be sought based on recommendations made by Sasol's treasury function. Any funding provided by any member of the Sasol Group or claims on loan account held by Sasol against the Company from time to time shall be paid by the Company in priority to any payments or Distributions to Shareholders.
- 6.7. Notwithstanding the foregoing, any advice shall be duly and properly considered by the management or the Board or the board of the relevant Member of the Group, which shall have the ultimate responsibility in respect thereof. Accordingly, the Board of the Company or the board of the relevant Member of the Group shall not be obliged to implement or follow such advice if after proper consideration it is of the view that it is not in the best interests of the Company or the Member of the Group, as may be applicable.

6.8. It is recorded that members of the Sasol Group (excluding Members of the Group) may have given guarantees and suretyships to third parties in respect of the obligations of Members of the Group. If any member of the Sasol Group (excluding Members of the Group) makes a payment under any such guarantees and/or suretyships, it shall have a claim against the relevant Member of the Group for immediate payment thereof. The Company undertakes that payment thereof shall be made to the relevant member of the Sasol Group (excluding Members of the Group) on demand, failing which the Company shall pay such amount. For this purpose if it does not have the necessary cash resources, the Company shall act pursuant to clause 6.6.

7. AMENDMENTS TO THE MOI

7.1. Save for correcting errors substantiated as such from objective evidence or which are self evident errors (including, but without limitation *ejusdem generis*, spelling, punctuation, reference, grammar or similar defects) in the MOI, which the Board is empowered to do, all other amendments of the MOI shall be effected in accordance with section 16(1) and 16(4) and a Special Resolution passed by the Shareholders.

7.2. If in order for any Black Person, Black Entity and/or Black Company to agree to subscribe for Ordinary Shares, Sasol requires any amendments to be made to this MOI to give any rights or impose any obligations to any such Black Person, Black Entity, Black Company and/or Sasol, the Company shall propose such amendments to be passed by Special Resolution and each Shareholder shall be obliged to vote in favour thereof. Each Shareholder, other than Sasol, grants Sasol an irrevocable power of attorney to exercise its Voting Rights in favour of such Special Resolution. Each Shareholder agrees that in such circumstances it shall not have any right contemplated in section 164.

7.3. If errors in the MOI are corrected as referred to in clause 7.1, the Board shall furnish Shareholders with Written notice of such correction effected by the Board, within 14 (fourteen) days of filing the notice of correction with the Commission.

8. THE MAKING OF RULES

The Board may make, amend or repeal any necessary or incidental rules relating to the governance of the Company in accordance with the Companies Act.

9. AUTHORISED SECURITIES, PREFERENCES, RIGHTS AND OTHER SHARE TERMS

9.1. The Company is authorised to issue the following numbers and classes of Shares (which includes Shares already issued at any time) 400 000 000 (four hundred million) Ordinary Shares such Share having 1 (one) vote in respect of every matter that may be decided by voting, shall rank after all other classes of Shares in the Company which do not rank *pari*

passu with the Ordinary Shares as regards Distributions and returns of capital, but save as aforesaid and shall be entitled to receive the net assets of the Company upon its liquidation.

9.2. The Board shall have the power to amend the authorisation (including increasing or decreasing the number) and classification of Shares (including determining rights, limitations, other terms and preferences) as contemplated in sections 36(2)(b) or 36(3).

9.3. All Securities of a class shall rank *pari passu* in all respects.

9.4. No rights, privileges or conditions for the time being attached to any class of Securities of the Company, nor any interests of that class of Securities may (unless otherwise provided by the terms of issue of the Securities of that class) whether or not the Company is being wound up, be varied in any manner adverse to the Holders of that class of Securities, nor may any variations be made to the rights, privileges or conditions of any class of Securities, such that the interests of another class of Securities is adversely affected, unless the consent in Writing of the Holders of not less than 61% (sixty one per cent) of the issued Securities of that adversely affected class has been obtained, or a Special Resolution has been passed by the Holders of that adversely affected class of Securities at a separate meeting of the Holders of that class. The provisions of this MOI relating to Shareholders Meetings shall *mutatis mutandis* apply to any such separate meeting except that:-

9.4.1. the necessary quorum shall be 25% (twenty-five per cent);

9.4.2. if at any adjourned meeting of such Shareholders, the required quorum contemplated in clause 9.4.1 is not present, those Persons entitled to vote who are Present at the Shareholders Meeting shall be a quorum.

9.5. Notwithstanding any implication in this MOI to the contrary, the Board may not authorise any financial assistance by the Company in connection with the subscription for or purchase of its Securities or those of a Related or Inter-Related company without complying with section 44(3) and any other provision in this MOI.

10. **ISSUE AND TRANSFER OF SHARES**

10.1. The Company must not issue any Shares or register the transfer of any Shares unless the issue or transfer is made in accordance with the Companies Act and this MOI.

10.2. There shall be no rights of pre-emption in respect of the issue of any Securities.

10.3. The Company shall be entitled to issue any Shares, provided it has first received the prior written approval of Sasol and any such new shareholder agrees to become bound to any shareholders agreement in force then.

- 10.4. The Shareholders agree that if any Shareholder does not have the finances to follow its rights, the undertaking of a rights issue and the price at which it is undertaken shall not constitute unfairly prejudicial, unjust or inequitable conduct.
- 10.5. As regards the issue of Shares contemplated in sections 41(1) and (3), the Board shall not have the power to allot or issue same without the prior approval of a Special Resolution.

11. **LIEN**

- 11.1. The Company shall have a first lien on all Securities registered in the name of any Holder either alone or jointly with any other Person for all the Holder's liabilities to the Company, whether solely or jointly with any other Person, whether or not the time for the payment or discharge thereof shall have arrived and such lien shall extend to all Distributions from time to time declared in respect of such Securities. The Directors may, however, at any time declare any Securities to be exempt, wholly or partially, from the provisions of this clause 11.
- 11.2. The Directors may sell the Securities subject to any such lien at such times and in such manner as they think fit, but no sale shall be made until such time as the moneys or part thereof in respect of which such lien exists shall have become payable or the liability in respect of which such lien exists shall have become liable to be discharged and until a Written notice stating the amount due or specifying the liability, demanding payment or discharge thereof and stating an intention to sell in default shall have been Delivered to the Holder, and default in payment or discharge shall have been made by him/her/it for 14 (fourteen) days after Delivery of such notice.
- 11.3. The net proceeds of any sale pursuant to clause 11.2 shall be received by the Company and be applied in or towards the satisfaction of the liability to the Company, and the balance, if any, shall be paid to the Holder.
- 11.4. To give effect to any such sale the Directors may authorise any Person to transfer the Securities sold to the purchaser thereof. The purchaser shall be registered as the holder of the Securities comprised in any transfer effected as aforesaid, and he/she/it shall not be bound to see to the application of the purchase money, nor shall his/her/its title to the Securities be affected by any irregularity or invalidity in the proceedings in reference to the sale.

12. **CERTIFICATES EVIDENCING ISSUED SECURITIES**

- 12.1. The Securities issued by the Company shall be evidenced by certificates.
- 12.2. Securities certificates shall be issued in such manner and form as the Board shall from time to time prescribe, save that they must state on the face:-

- 12.2.1. the name of the Company;
 - 12.2.2. the name of the Person to whom the Securities were issued;
 - 12.2.3. the number and class of Shares and the designation of the series, if any, evidenced by that certificate; and
 - 12.2.4. any restriction on the transfer of the Securities evidenced by that certificate.
- 12.3. Every certificate for Securities must be signed by either two Directors or one Director and the company secretary by autographic, mechanical or electronic means.
- 12.4. Each class of Shares, and any other Securities, must be distinguished by an appropriate numbering system.
- 12.5. Each Holder shall be entitled to 1 (one) certificate for all the Securities of a particular class registered in its name, or to several certificates, each for a part of such Securities.
- 12.6. If a certificate for Securities is defaced, lost or destroyed, it may be renewed, on such terms, as to evidence and indemnity and payment of such fee as the Board thinks fit, and (in case of defacement) on delivery of the old certificate to the Company.
- 12.7. As soon as practicable after:-
- 12.7.1. issuing any Securities the Company must enter or cause to be entered in its Securities Register the total number of those Securities that are held in uncertificated form, and in respect of every class of Securities evidenced by certificates that it has issued:-
 - 12.7.1.1. the names and addresses and identity numbers of the Persons to whom the Securities were issued (and note therein any changes to these details forthwith after receipt of Written notice from the Holder of such changes);
 - 12.7.1.2. those Persons' Electronic Addresses who have furnished them;
 - 12.7.1.3. the number and class of Securities issued to each of them, the date of issue, distinguishing numbers and the consideration;
 - 12.7.1.4. the total number of Securities of a class held by any Person;
 - 12.7.1.5. the date on which any such Securities were transferred by the Holder or by operation of law to another Person or re-acquired by or surrendered to the Company;

- 12.7.1.6. the number of, and prescribed circumstances relating to, any Securities:-
 - 12.7.1.6.1. that have been placed in trust as contemplated in section 40(6)(d) by reason of not having been fully paid for; or
 - 12.7.1.6.2. whose transfer has been restricted;
- 12.7.2. the re-acquisition or surrender of any Securities the Company must enter or cause to be entered in its Securities Register, in respect of Securities re-acquired or surrendered:-
 - 12.7.2.1. the date on which the Securities were re-acquired or surrendered to the Company;
 - 12.7.2.2. the distinguishing number or numbers of any certificated Securities re-acquired or surrendered to the Company;
 - 12.7.2.3. the consideration for which the Securities were re-acquired by, or surrendered to the Company; and
 - 12.7.2.4. the name of the Person from or by whom the Securities were re-acquired or surrendered, as the case may be;
- 12.7.3. transferring any Securities, the Company must enter or cause to be entered in its Securities Register, in respect of Securities evidenced by certificates that it has transferred:-
 - 12.7.3.1. the name and address of the transferee;
 - 12.7.3.2. the description of the Securities, or interest transferred;
 - 12.7.3.3. the date of the transfer; and
 - 12.7.3.4. the value of any Consideration still to be received by the Company on each Security or interest, in the case of a transfer of Securities the subscription price for which has not been fully paid;
 - 12.7.3.5. any other information contemplated in clause 12.7.1, any reference to issue being read as a reference to transfer,

provided that such entry may only be made if the transfer:-

12.7.3.6. is evidenced by a proper instrument of transfer that has been delivered to the Company; or

12.7.3.7. was effected by operation of law.

13. **SECURITIES REGISTER**

13.1. The Company will maintain a Securities Register and must enter or cause to be entered in its Securities Register all information prescribed in terms of the Companies Act from time to time.

13.2. A Person:-

13.2.1. acquires the rights associated with any particular Securities of the Company when that Person's name is entered in the Company's Securities Register as a Person to whom those Securities have been issued or transferred; and

13.2.2. ceases to have the rights associated with any particular Securities of the Company when the transfer to another Person, re-acquisition by the Company, or surrender to the Company of those Securities has been entered in the Company's Securities Register.

14. **REPURCHASES OF SECURITIES**

The Company is authorised to repurchase Securities subject to compliance with the Companies Act. The Shareholders agree that if the provisions of section 48(8)(b) of the Companies Act apply to any such repurchase this provision constitutes the requisite approval.

15. **RESTRICTIONS ON DISPOSAL, PERMITTED TRANSFERS OF SECURITIES AND MERGER**

15.1. Each of the BEE Investors shall not Dispose of its Ordinary Shares during the Empowerment Period, save as provided in terms of this MOI or unless with the prior approval of Sasol.

15.2. Sasol shall be entitled to freely Dispose of its Shares or any portion thereof to any third party whether a member of the Sasol Group or not.

15.3. Each Shareholder, other than Sasol, agrees to vote in favour of any Special Resolution necessary to permit of a merger or amalgamation between the Company and any member of the Sasol Group, provided that a Shareholder may request that an independent expert determines whether the terms of the merger and amalgamation are fair to the Company, but not whether it is in the strategic interest of the Company or not. The independent expert shall be appointed by agreement between Sasol, FundCo and the Trustees (and failing agreement between them within 48 (forty eight) hours of suggestion by Sasol, as determined by the Chairman (or the equivalent office no matter what it may be titled) of the Bar Council

or instead the voluntary association constituted for the benefit of a majority of attorneys in South Africa)). The independent expert shall act as an expert and not as an arbitrator and his/her decision shall be final and binding on Sasol, FundCo and the Trustees and shall be implemented instead of such direction by Sasol. The independent expert's costs shall be borne by Sasol.

15.4. Subject to this clause 15, the Company must enter in its Securities Register every transfer of any certificated Securities, including in the entry:-

15.4.1. the name and address of the transferee;

15.4.2. the description of the Securities, or interest transferred;

15.4.3. the date of the transfer; and

15.4.4. the value of any Consideration still to be received by the Company on each Security or interest, in the case of a transfer of Securities the subscription price for which it has not been fully paid,

provided that such entry may be made only if the transfer is evidenced by a proper instrument of transfer that has been delivered to the Company.

15.5. All authorities to sign transfer deeds granted by Holders for the purpose of transferring Securities that may be lodged, produced or exhibited with or to the Company at any of its transfer offices shall as between the Company and the grantor of such authorities, be taken and deemed to continue and remain in full force and effect, and the Company may allow the same to be acted upon until such time as express notice in Writing of the revocation of the same shall have been given and lodged at the Company's transfer offices at which the authority was lodged, produced or exhibited. Even after the giving and lodging of such notices the Company shall be entitled to give effect to any instruments signed under the authority to sign, and certified by any officer of the Company, as being in order before the giving and lodging of such notice.

16. **PROHIBITION REGARDING BENEFICIAL INTERESTS**

The Company shall not permit Securities to be held by one Person for the Beneficial Interest of another.

17. **ACCOUNTING RECORDS AND FINANCIAL STATEMENTS**

17.1. The Company shall maintain the necessary Accounting Records which shall be kept at its Registered Office.

- 17.2. The Company shall prepare its Financial Statements in accordance with the Companies Act and the International Financial Reporting Standards.
- 17.3. No Person shall be entitled to access any information of the Company, save as contemplated in the Companies Act or any other applicable legislation.
- 17.4. The Company shall provide the Holders with a copy of the annual Financial Statements of the Company free of charge.

18. **DISCLOSURE OF COMPANY INFORMATION**

- 18.1. The Board shall be entitled, at any time, to make available any information that it chooses to any person for any legitimate purpose of the Company, subject to imposing any terms it may deem appropriate, including confidentiality.
- 18.2. Any individual Directors may disclose to the Shareholder which appointed him/her or nominated him/her for election to the Board, any information relating to the Company, provided that:-
 - 18.2.1. such information does not constitute “inside information” (as defined in the Financial Markets Act) or “price sensitive information” (as defined in the JSE Listings Requirements), unless that Director is able to rely on the defence set out in section 78(4)(b) of the Financial Markets Act, as contemplated in paragraph 3.6 of the JSE Listings Requirements, by proving on a balance of probabilities that he/she disclosed the inside information because it was necessary to do so for the purpose of the proper performance of the functions of his/her employment, office or profession in circumstances unrelated to dealing in any of the securities issued by Sasol and that he/she at the same time disclosed that the information was inside information; and/or
 - 18.2.2. any such disclosure by a Director of the Company does not result in that Director contravening his/her obligations under section 76(2) of the Companies Act; and/or
 - 18.2.3. any such disclosure does not result in a breach of any applicable law; and/or
 - 18.2.4. any such Shareholder has previously agreed in writing, delivered to the Board, to maintain the confidentiality of that information, if and for so long as such information is confidential.
- 18.3. The Shareholders and the Board acknowledge that it is in the best interests of the Company that employees of the Company can disclose information of the Company to members of the Sasol Group (other than the Company), where necessary for reporting purposes and to

discharge their functions in accordance with the existing management model of the Company.

19. **SHAREHOLDERS MEETINGS**

19.1. Convening or Holding of Shareholders Meetings

19.1.1. The Company shall convene an Annual General Meeting once in every calendar year, but no more than 15 (fifteen) months after the date of the previous Annual General Meeting, or within an extended time allowed by the Companies Tribunal, on good cause shown, which must, at a minimum, provide for the following business to be transacted:-

19.1.1.1. presentation of:-

19.1.1.1.1. the Directors' report;

19.1.1.1.2. Audited Financial Statements for the immediately preceding financial year;

19.1.1.1.3. an Audit committee report;

19.1.1.2. election of Directors, to the extent required by the Companies Act or this MOI;

19.1.1.3. appointment of:-

19.1.1.3.1. an Auditor for the ensuing year;

19.1.1.3.2. an Audit committee;

19.1.1.4. any matters raised by Holders, with or without advance notice to the Company.

19.1.2. The Company shall hold a Shareholders Meeting in order to consider one or more resolutions.

19.1.3. The Company shall permit resolution/s that could be voted on at a Shareholders Meeting to be dealt with in accordance with section 60 by Written resolutions of those Persons entitled to vote. A Company must hold a Shareholders Meeting at any time that the Board is obliged by the Companies Act to refer a matter to Holders entitled to vote for decision.

19.1.4. The following Persons may convene a Shareholders Meeting:-

- 19.1.4.1. the Board whenever it thinks fit; or
 - 19.1.4.2. Holder/s holding not less than 10% (ten per cent) of the Voting Rights attached to the Securities, or Holder/s holding not less than 10% (ten per cent) of Securities whenever they think fit; or
 - 19.1.4.3. the company secretary, but only in circumstances where the Company is unable to convene a Shareholders Meeting because it has no Directors or all of its Directors are incapacitated. If the Company does not have a company secretary, the company secretary of its Holding Company will be so authorised.
- 19.1.5. A Company must hold a Shareholders Meeting or put the proposed resolution by way of a Written resolution of Shareholders:-
- 19.1.5.1. at any time that the Board is required by the Companies Act or this MOI to refer a matter to Holders entitled to vote for decision;
 - 19.1.5.2. whenever as required in terms of section 70(3) to fill a vacancy on the Board.
- 19.1.6. A Shareholders Meeting must be convened if one or more Written and signed demands for such a Shareholders Meeting is/are delivered to the Company, and:-
- 19.1.6.1. each such demand describes the specific purpose for which the Shareholders Meeting is proposed, which shall be the consideration of specific resolutions proposed to be considered at such meeting and which are capable of being adopted by the Shareholders either in accordance with the provisions of the Companies Act, the common law or this MOI; and
 - 19.1.6.2. in aggregate, demands for substantially the same purpose are made and signed by the Holders at the earliest time specified in any of those demands, of at least 10% (ten per cent) of the Voting Rights entitled to be Exercised in relation to the matter proposed to be considered at the Shareholders Meeting.
- 19.1.7. Every Shareholders Meeting shall be held where the Board or, in the case of a meeting convened in terms of clause 19.1.6, where the company secretary determines from time to time. The authority of the Company to conduct a Shareholders Meeting entirely by Electronic Communication, or to provide for participation in a Shareholders Meeting by Electronic Communication so long as

the Electronic Communication employed ordinarily enables all Persons participating in that Shareholders Meeting to communicate concurrently with each other without an intermediary, and to participate reasonably effectively in the Shareholders Meeting, as set out in section 63(2), is not limited or restricted.

19.2. Notice of Shareholders Meetings

19.2.1. A Shareholders Meeting shall be called by at least 10 (ten) Business Days' notice Delivered by the Company to all Shareholders entitled to vote or otherwise entitled to receive notice.

19.2.2. The Company may call a meeting with less notice than required in clause 19.2.1, but such a meeting may proceed only if every person who is entitled to Exercise Voting Rights in respect of any item on the meeting agenda:-

19.2.2.1. is Present at the Shareholders Meeting; and

19.2.2.2. votes to waive the required minimum notice of the Shareholders Meeting.

19.2.3. A Holder entitled to vote, who is Present at a Shareholders Meeting:-

19.2.3.1. is regarded as having received or waived notice of the Shareholders Meeting if at least the required minimum notice was given;

19.2.3.2. has a right to:-

19.2.3.2.1. allege a Material defect in the form of notice for a particular item on the agenda for the Shareholders Meeting; and

19.2.3.2.2. participate in the determination whether to waive the requirements for notice, if less than the required minimum notice was given, or to ratify a defective notice; and

19.2.3.3. except to the extent set out in clause 19.2.3.2 is regarded to have waived any right based on an actual or alleged Material defect in the notice of the Shareholders Meeting.

19.2.4. A notice of a Shareholders Meeting must be in Writing, in plain language and must include:-

- 19.2.4.1. the date, time and place for the Shareholders Meeting, and the Record Date for the Shareholders Meeting;
- 19.2.4.2. the general purpose of the Shareholders Meeting, and any specific purpose contemplated in clause 19.8.2, if applicable;
- 19.2.4.3. a copy of any proposed resolution of which the Company has received notice, and which is to be considered at the Shareholders Meeting, and a notice of the percentage of Voting Rights that will be required for that resolution to be adopted;
- 19.2.4.4. a reasonably prominent statement that:-
 - 19.2.4.4.1. a Holder entitled to attend and vote at the Shareholders Meeting shall be entitled to appoint a proxy to attend, participate in, speak and vote at the Shareholders Meeting in the place of the Holder entitled to vote;
 - 19.2.4.4.2. a proxy need not be a Holder;
 - 19.2.4.4.3. a Holder entitled to vote may only appoint 1 (one) proxy and 1 (one) alternate to that proxy to Exercise Voting Rights attached to different Securities held by that Holder entitled to vote in respect of any Shareholders Meeting and may only appoint 1 (one) proxy and 1 (one) alternate to that proxy to Exercise Voting Rights attached to different Securities held by the Holder which entitle him/it to vote;
 - 19.2.4.4.4. the proxy may delegate the authority granted to him/it as proxy to 1 (one) other person, subject to any restriction in the proxy itself;
 - 19.2.4.4.5. participants in a Shareholders Meeting are required to furnish satisfactory identification in terms of section 63(1) in order to reasonably satisfy the Person presiding at the Shareholders Meeting that the right of that Person to participate and vote, either as a Shareholder, or as a proxy for a Shareholder has been reasonable verified;

- 19.2.4.4.6. participation in the Shareholders Meeting by Electronic Communication is available, and provide any necessary information to enable Holders entitled to vote or their proxies to access the available medium or means of Electronic Communication and advise that access to the medium or means of Electronic Communication is at the expense of the Holder entitled to vote or proxy, except to the extent that the Company determines otherwise.
- 19.2.5. A Shareholders Meeting may proceed notwithstanding a Material defect in the giving of the notice, subject to clause 19.2.6, only if every Person who is entitled to Exercise Voting Rights in respect of each item on the agenda of the Shareholders Meeting is present at the Shareholders Meeting and votes to approve the ratification of the defective notice.
- 19.2.6. If a Material defect in the form or manner of giving notice of a Shareholders Meeting relates only to one or more particular matters on the agenda for the Shareholders Meeting:-
- 19.2.6.1. any such matter may be severed from the agenda, and the notice remains valid with respect to any remaining matters on the agenda; and
- 19.2.6.2. the Shareholders Meeting may proceed to consider a severed matter, if the defective notice in respect of that matter has been ratified in terms of clause 19.2.5.
- 19.2.7. An immaterial defect in the form or manner of Delivering notice of a Shareholders Meeting, or an accidental or inadvertent failure in the Delivery of the notice to any particular Holder to whom it was addressed if the Company elects to do so, does not invalidate any action taken at the Shareholders Meeting.

19.3. Notices to Holders

- 19.3.1. The Company may give notices, documents, records or statements by personal Delivery to the Holders. The Company must give notice of availability of a document, record or statement to the Holder either to its last known Delivery address or last Electronic Address.
- 19.3.2. Any Holder who/which has furnished an Electronic Address to the Company, by doing so:-
- 19.3.2.1. authorises the Company to use Electronic Communication to give notices, documents, records or statements or notices of availability of the foregoing to him/it; and
- 19.3.2.2. confirms that same can conveniently be printed by the Holder within a reasonable time and at a reasonable cost.
- 19.3.3. A Holder or Person entitled to Securities shall be bound by every notice in respect of the Securities Delivered to the Person who was, at the date on which that notice was Delivered, shown in the Securities Register or established to the satisfaction of the Board (as the case may be) as the Holder of or Person entitled to the Securities, notwithstanding that the Holder or Person entitled to Securities may then have been or become otherwise incapable of acting in respect of the Securities, and notwithstanding any transfer of the Securities was not registered at that date. The Company shall not be bound to enter any Person in the Securities Register as entitled to any Securities until that Person gives the Company an address for entry on the Securities Register.
- 19.3.4. The Company shall not be bound to use any method of giving notice, documents, records or statements or notices of availability of the foregoing, contemplated in the Regulations in respect of which provision is made for deemed Delivery, but if the Company does use such a method, the notice, document, record or statement or notice of availability of the foregoing shall be deemed to be Delivered on the day determined in accordance with the Regulations (which is included as **Schedule 3** for ease of reference but which does not form part of this MOI for purposes of interpretation). In any other case, when a given number of days' notice or notice extending over any period is required to be given (which are not Business Days which shall be calculated in accordance with clause 2), the provisions of clause 2 shall also be applied.

19.4. Signature of an Electronic Communication by a Holder

As regards the signature of an Electronic Communication by a Holder, it shall be in such form as the Board may specify to demonstrate that the Electronic Communication is genuine, or failing any such specification by the Board, it shall be constituted by the Holder indicating in the Electronic Communication that it is the Holder's intention to use the Electronic Communication as the medium to indicate the Holder's approval of the information in, or the Holder's signature of the document in or attached to, the Electronic Communication which contains the name of the Holder sending it in the body of the Electronic Communication.

19.5. Quorum at Shareholders Meetings

19.5.1. Business may be transacted at any Shareholders Meeting only while a quorum is present.

19.5.2. The quorum necessary for the commencement of a Shareholders Meeting shall be sufficient Persons present at the Shareholders Meeting to Exercise, in aggregate, at least 25% (twenty-five per cent) of all of the Voting Rights that are entitled to be Exercised in respect of at least one matter to be decided at the Shareholders Meeting but if the Company:-

19.5.2.1. has more than 2 (two) Persons entitled to vote, the Shareholders Meeting may not begin unless at least 3 (three) Persons entitled to vote are Present; and/or

19.5.2.2. is a Subsidiary of a company, those constituting the quorum must include its Holding Company Present at the Shareholders Meeting;

19.5.3. A matter to be decided at the Shareholders Meeting may not begin to be considered unless those who fulfilled the quorum requirements in clause 19.5.2, continue to be Present at the Shareholders Meeting.

19.5.4. If within 30 (thirty) minutes from the time appointed for the Shareholders Meeting to commence, a quorum is not present or if the quorum requirements in clause 19.5.3 cannot be achieved for any one or more matters, the Shareholders Meeting shall be postponed, without motion, vote or further notice, subject to clause 19.6.4, to the next succeeding Business Day, and if at such adjourned Shareholders Meeting a quorum is not present within 30 (thirty) minutes from the time appointed for the Shareholders Meeting then, the Person/s entitled to vote Present shall be deemed to be the requisite quorum provided that the Holding Company is Present.

19.6. Postponement / Adjournment

19.6.1. A Shareholders Meeting, or the consideration of any matter being debated at the Shareholders Meeting, may be adjourned from time to time without further notice on a motion supported by Persons entitled to Exercise, in aggregate, a majority of the Voting Rights:-

19.6.1.1. held by all of the Persons who are present at the Shareholders Meeting at the time; and

19.6.1.2. that are entitled to be Exercised on at least one matter remaining on the agenda of the Shareholders Meeting, or on the matter under debate, as the case may be.

Such adjournment may be either to a fixed time and place or until further notice (in which latter case a further notice shall be Delivered to Holders), as agreed at the Shareholders Meeting.

19.6.2. The Chairperson may, with the consent of any Shareholders Meeting at which a quorum is present (and shall if so directed by the Shareholders Meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned Shareholders Meeting other than the business left unfinished at the Shareholders Meeting from which the adjournment took place.

19.6.3. A Shareholders Meeting may be adjourned for an indefinite period until further notice.

19.6.4. No further notice is required to be Delivered by the Company of a Shareholders Meeting that is postponed or adjourned as contemplated in clause 19.5.4, unless the location or the time for the Shareholders Meeting is different from:-

19.6.4.1. the location or the time of the postponed or adjourned Shareholders Meeting; or

19.6.4.2. a location or time announced at the time of adjournment, in the case of an adjourned Shareholders Meeting.

19.7. Chairman of Shareholders Meetings

19.7.1. The Chairperson, if any, of the Board shall preside as chairman at every Shareholders Meeting.

19.7.2. If there is no such Chairperson, or if at any Shareholders Meeting the Chairperson is not present within 10 (ten) minutes after the time appointed for holding the Shareholders Meeting or is unwilling to act as chairman:-

19.7.2.1. the Directors present shall select a Director present at the Shareholders Meeting; or

19.7.2.2. if no Director is present at the Shareholders Meeting as contemplated in clause 19.7.2, or if all the Directors present decline to take the chair, the Persons entitled to vote shall select one of their number which is Present to be chairman of the Shareholders Meeting.

19.8. Voting

19.8.1. Every resolution of Shareholders is either an Ordinary Resolution or a Special Resolution. An Ordinary Resolution, save to the extent expressly provided in respect of a particular matter contemplated in this MOI, shall require to be adopted with the support of more than 50% (fifty per cent) of the Voting Rights Exercised on the resolution. A Special Resolution, save to the extent expressly provided in respect of any particular matter contemplated in this MOI, shall require to be adopted with the support of at least 61% (sixty one per cent) of the Voting Rights Exercised on the resolution.

19.8.2. Each resolution shall be expressed with sufficient clarity and specificity and accompanied by sufficient information / explanatory material to enable a Person who is entitled to vote on the resolution to determine whether to participate in the Shareholders Meeting, if applicable, and to seek to influence the outcome of the vote on the resolution.

19.8.3. Once a resolution has been approved, it may not be challenged or impugned on the ground that it did not comply with clause 19.8.2.

19.8.4. At any Shareholders Meeting a resolution put to the vote may be decided either on a show of hands or by polling. The Chairperson of the meeting shall, before voting on a particular matter is to begin, determine whether voting shall be by poll or on a show of hands.

- 19.8.5. Despite any other provisions of this MOI, before or on the declaration of the result of voting on a matter by the show of hands, a poll shall be taken if demanded by a Person/s entitled to Exercise not less than 1/10th (one tenth) of the total Voting Rights entitled to vote on that matter.
- 19.8.6. If a poll is not demanded as contemplated by clause 19.8.5, a declaration by the Chairperson that a resolution has either on a show of hands unanimously, or by a particular majority been carried, or that a resolution has been lost, and an entry to that effect in the minutes of the Company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, such resolution.
- 19.8.7. An objection to the admissibility of any vote may only be raised at the Shareholders Meeting or adjourned Shareholders Meeting at which such vote is given or tendered and every vote not disallowed at such Shareholders Meeting shall be valid for all purposes. Any such objection shall be referred to the Chairperson of the Shareholders Meeting, whose decision shall be final and conclusive.
- 19.8.8. If a poll is duly demanded it shall be taken in such manner as the Chairperson directs, and the result of the poll shall be deemed to be the resolution of the Shareholders Meeting at which the poll was demanded. The demand for a poll shall not prevent the continuation of a Shareholders Meeting for the transaction of any business other than the question upon which the poll has been demanded. The demand for a poll may be withdrawn.
- 19.8.9. In the case of an equality of votes, whether on a show of hands or on a poll, the Chairperson of the Shareholders Meeting shall not be entitled to a second or casting vote and the resolution shall fail.
- 19.8.10. On a show of hands a Person entitled to vote and who is Present at the Meeting including a proxy shall have only 1 (one) vote, irrespective of the number of Voting Rights that Person would be entitled to Exercise.
- 19.8.11. On a poll every Person entitled to vote who is Present at the Meeting shall have the number of votes determined in accordance with the Voting Rights associated with the Securities in question.

19.9. Proxies

- 19.9.1. No form appointing a proxy shall be valid after the expiration of 1 (one) year from the date when it was signed, unless the proxy itself provides for a longer or shorter duration, but it may be revoked at any time.
- 19.9.2. The appointment of a proxy is revocable unless the proxy appointment expressly states otherwise, and may be revoked by cancelling it in writing, or making a later inconsistent appointment of a proxy, and delivering a copy of the revocation instrument to the proxy, and to the Company.
- 19.9.3. The appointment is suspended at any time and to the extent that the Holder entitled to vote chooses to act directly and in person in the Exercise of any Voting Rights.
- 19.9.4. The form appointing a proxy and the power of attorney or other authority under which it is signed, or a notarially certified copy of such power of attorney or authority, shall be delivered to the Company or any Person which it has identified in the notice of meeting as being a Person to whom proxies may be Delivered on behalf of the Company, at least 24 (twenty four) hours prior to the time scheduled for the commencement of the Shareholders Meeting (or such shorter period as permitted in the discretion of the Board, Chairperson or company secretary (or his/her nominee)).
- 19.9.5. A vote given in accordance with the terms of a proxy shall be valid notwithstanding the revocation of the proxy or of the authority under which the proxy was executed, or the transfer of the Securities in respect of which the proxy is given, provided that no intimation in writing of such revocation or transfer as aforesaid shall have been received by the Company at its Registered Office before the commencement of the Shareholders Meeting or adjourned Shareholders Meeting at which the proxy was used.
- 19.9.6. Subject to the provisions of the Companies Act, a form appointing a proxy may be in any form permitted by the Companies Act. The Company may supply a generally available standard form of proxy upon request by a Holder entitled to vote, in which case the Holder will be obliged to use such form of proxy.
- 19.9.7. If a proxy is received duly signed but with no indication as to how the Person named therein should vote on any resolution, the proxy may vote or abstain from voting as he/it sees fit.
- 19.9.8. If a proxy is received duly signed but without naming a Person to vote, the Chairperson shall be entitled to vote on the Holder's behalf in accordance with

the instructions of the Holder, or if no indication was given as to how to vote on any resolution, the Chairperson may vote or abstain from voting as he/she sees fit.

20. RECORD DATE

- 20.1. If the Board determines the Record Date, it may not be earlier than the date on which the Record Date is determined or more than 10 (ten) Business Days before the date on which the event or action, for which the Record Date is being set, is scheduled to occur.
- 20.2. If, at any time, the Board fails to determine a Record Date, the Record Date for the relevant matter is 10 (ten) Business Days before the actual event or action occurs.
- 20.3. The Company must publish a notice of a Record Date by Delivering a copy to each Holder (and clause 19.3.3 shall not apply).

21. DIRECTORS, ALTERNATE DIRECTORS, ELECTION, APPOINTMENT AND VACANCIES

21.1. Number of Directors

The minimum number of Directors shall be 3 (three) and the maximum number of Directors shall be 13 (thirteen). Any failure by the Company at any time to have the minimum number of Directors, does not limit or negate the authority of the Board, or invalidate anything done by the Board or the Company.

21.2. Election of Directors and Alternate Directors

21.2.1. For so long as they are Shareholders, each of FundCo and the Trustees shall be entitled and obliged to appoint 1 (one) Director and 1 (one) Alternate Director to the Board, all of whom shall be Black Persons and in the case of the FundCo appointee, shall be a Black woman. If any of FundCo or the Trustees Disposes of all its Ordinary Shares, any Director appointed by that Shareholder shall be deemed to have resigned with effect from the date of the disposal of such Ordinary Shares.

21.2.2. Each of the Directors and the Alternate Directors, other than a Director or Alternate Director appointed by each of FundCo and the Trustees in terms of clause 21.2.1, shall be elected as a Director or Alternate Director by Shareholders at a Shareholders Meeting or by any other means.

21.3. No director of a competitive business to that carried on by any Member of the Group from time to time shall be appointed as a Director of the Company or any of its Subsidiaries.

- 21.3.1. A Written confirmation of the result of the election, signed by the Chairperson will be conclusive confirmation of those persons elected as Directors or Alternate Directors by the Holders.
- 21.3.2. An Alternate Director shall serve in the place of 1 (one) or more Director/s named in his/her Written appointment or the resolution electing him/her during the Director's/s' absence or inability to act as Director. If a Person is an Alternate Director to more than 1 (one) Director or if an Alternate Director is also a Director, he/she shall have a separate vote, on behalf of each Director he/she is representing in addition to his/her own vote, if any.
- 21.3.3. There are no general qualifications prescribed by the Company for a Person to serve as a Director or an Alternate Director in addition to the requirements of the Companies Act.
- 21.3.4. No Director shall be entitled to appoint any Person as an Alternate Director to himself.
- 21.3.5. No Person shall be appointed or elected as a Director or Alternate Director, if he/she is Ineligible or Disqualified and any such appointment or election shall be a nullity. A Person who is Ineligible or Disqualified must not consent to be elected as a Director or Alternate Director nor act as a Director or Alternate Director. A Person placed under probation by a court must not serve as a Director or an Alternate Director unless the order of court so permits.
- 21.3.6. Any Director or Alternate Director appointed or elected to the Board in terms of clauses 21.2.1 and 21.2.2 shall resign and/or be deemed to have resigned as a Director or Alternate Director, without any claims for compensation for loss of office, if the Shareholder who appointed him/her or nominated him/her for election is no longer a Shareholder.
- 21.3.7. Any Director or Alternate Director who resigns or is deemed to have resigned in terms of clause 21.3.6 gives to the Shareholder which nominated him/her an irrevocable power of attorney for that Shareholder or its nominee to sign on his/her behalf a written letter of resignation from his/her office as a Director or Alternate Director, as the case may be. The resignation will take effect on the date on which the resignation letter is lodged with the Company. The relevant Shareholder will give notice to the other Shareholders of such resignation for information purposes only and a failure to do so will not in any way affect the resignation. Each Director and/or Alternate Director acknowledges that but for the giving of this power of attorney he/she would not have been nominated as a Director or Alternate Director, as the case may be. If for any reason the power

of attorney given in this clause is found to be invalid and/or unenforceable the Board shall be entitled to remove that Director or Alternate Director with effect from the date of lodgement by that Shareholder of the resignation letter with the Company.

21.3.8. No appointment or election of a Director or Alternate Director shall take effect until he/she has delivered to the Company a Written consent to serve as a Director or Alternate Director. A Director shall in addition furnish the Company with a postal and e-mail address at which notice of meetings shall be delivered to him/her.

21.3.9. All acts performed by a meeting of the Board or Board committee, or by a Person acting as a Director, shall, notwithstanding the fact that it shall afterwards be discovered that there was some defect in the election of such Directors or Person acting as Director be as valid as if every such Person had been duly elected as a Director.

21.4. Vacancies on the Board

21.4.1. Any vacancy occurring on the Board as contemplated in section 70 may be filled on a temporary basis by the Board as contemplated in section 68(3) until the vacancy can be filled by election in terms of clause 21.2.

21.4.2. Such person shall have all of the powers, functions and duties and is subject to all of the liabilities of any other Director.

21.4.3. The continuing Directors (or sole continuing Director) may act notwithstanding any vacancy on the Board, but, if and so long as their number is reduced below the minimum number provided in this MOI, the continuing Directors or Director may act only for the purpose of summoning a Shareholders Meeting.

21.4.4. If there is no Director able and willing to act, then any Shareholder entitled to Exercise Voting Rights in the election of a Director may convene a Shareholders Meeting for the purpose of electing Directors.

21.5. Chairperson

21.5.1. The Chairperson shall be appointed by Sasol, failing which, he/she shall be appointed by the Board.

21.5.2. The Chairperson shall preside as the chairperson of each meeting of the Board and at any Shareholders meetings provided that, if the Chairperson is not present within 10 (ten) minutes after the time appointed for holding the meeting,

or willing to act, the Directors present at that meeting may appoint 1 (one) of the Directors who had been nominated by Sasol to be the chairperson of that meeting.

21.5.3. The Chairperson of a meeting shall, subject to the Companies Act and this MOI and any decision of the Board, determine the procedure to be followed at that meeting.

22. **DIRECTOR OR ALTERNATE DIRECTOR CEASING TO HOLD OFFICE**

22.1. A Director or Alternate Director shall cease (without any claims of any nature against the Company) to hold office as such if:

22.1.1. any circumstance requiring a Director to cease to hold office in terms of the Companies Act occurs;

22.1.2. when he/she resigns by Written notice to the Company;

22.1.3. if he/she files a petition for the surrender of his/her estate or an application for an administration order, or if he/she commits an act of insolvency as defined in the insolvency law for the time being in force, or if he/she makes any arrangement or composition with his creditors generally; or

22.1.4. if a Director appointed by FundCo ceases to be a director of FundCo or a Director appointed by the Trust ceases to be a trustee of the Trust;

22.1.5. if he/she is absent from 2 (two) consecutive meetings of the Board, without leave of the Board, and the Board resolves that the office be vacated.

22.2. Any executive Director (including the managing Director) or any non-executive Director employed by the Sasol Group nominated for election by Sasol, shall automatically cease to be a Director or Alternate Director upon the termination of his/her employment in the Sasol Group.

22.3. Pending the date upon which the cessation of office as a Director or Alternate Director takes effect and during the period of his/her suspension, if applicable:-

22.3.1. he/she will not be entitled to receive notices of meetings of the Directors, nor to attend any meetings of the Directors and shall not have authority to act as a Director or Alternative Director;

22.3.2. the requirement for a quorum set out in clause 28.3 shall be reduced by 1 (one) Director.

23. REMUNERATION OF DIRECTORS AND ALTERNATE DIRECTORS AND MEMBERS OF BOARD COMMITTEES

23.1. The Directors or Alternate Directors or members of Board committees appointed by the BEE Investors shall be entitled to remuneration for their services as Directors or Alternate Directors or members of Board committees, the basis of which must have been approved from time to time by Special Resolution within the previous 2 (two) years. The Directors or Alternate Directors or members of Board committees nominated by Sasol for election to the Board, who are employed by the Sasol Group, shall not be entitled to any remuneration for their services as Directors or Alternate Directors or members of Board committees.

23.2. In addition, the Directors and Alternate Directors or members of Board committees shall be entitled to be reimbursed by the Company for all reasonable expenses incurred in travelling to and from meetings of the Board, the Shareholders meetings and meetings of Board committees, as the case may be, as determined by the disinterested Directors.

23.3. A Director nominated for election by Sasol 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.

24. GENERAL POWERS AND DUTIES OF DIRECTORS

24.1. The powers of management granted to the Board in terms of section 66(1) are limited in that for so long as the Company remains a Subsidiary of Sasol:

24.1.1. the Board shall, in compiling its own management model, including its delegation of authority framework and remuneration policy in respect of its employees, take into account and apply the DoA and the Operating Model;

24.1.2. the following matters are reserved for decision by the Shareholders by Ordinary Resolution unless the Companies Act requires a Special Resolution, and the Directors' powers shall be limited accordingly:-

24.1.2.1. the undertaking by the Company of transactions in excess of R4 000 000 000.00 (four billion Rand), which are mergers or acquisitions or disposals, including, but not limited to:-

24.1.2.1.1. formation of a joint venture (incorporated and unincorporated);

24.1.2.1.2. intra-group mergers or acquisitions;

24.1.2.1.3. acquisitions or disposals of a business (via asset or share purchase, the purchase, divestment or

transfer of shares or an interest in a legal entity, partnership or consortium (including any land, property or asset sale or purchase);

- 24.1.2.1.4. acquisitions or disposals of any instrument (contractual or otherwise) that could give rise to the acquisition or divestment of shares or an interest in any of the foregoing (for example option agreements);
- 24.1.2.1.5. disposals, encumbrances (contractual or real) or transfer of tangible or intangible property/assets not in the normal course of business or below market value;
- 24.1.2.2. the discontinuance or suspension of any business activities of the Company;
- 24.1.2.3. capital expenditure (including costs for feasibility studies) exceeding an end of job cost of R4 000 000 000.00 (four billion Rand);
- 24.1.2.4. providing financial assistance (including, but without limitation, the provision of any guarantee), other than as contemplated in sections 44 and 45 of the Companies Act, in excess of R4 000 000 000.00 (four billion Rand);
- 24.1.2.5. incurring of debt to any third party in respect of borrowings in excess of R4 000 000 000.00 (four billion Rand);
- 24.1.2.6. initiation, defence, settlement or withdrawal of any legal proceedings (including matters relating to labour disputes but excluding matters referred to in clause 24.1.2.7) in excess of R1 000 000 000.00 (one billion Rand);
- 24.1.2.7. initiation, defence, settlement or withdrawal of any legal proceedings against or by a government or provincial body in excess of R700 000 000 (seven hundred million Rand) or any lesser amount if such legal proceedings could potentially have a negative impact on the relationship with such government or provincial body;
- 24.1.2.8. the increase, alteration, acquisition or repurchase or reduction by the Company of the issued and/or authorised share capital of the Company and the classification of Shares (including determining

rights, limitations, other terms and preferences) as contemplated in section 36(2)(b) or section 36, including the allotment and issue of shares in the Company;

24.1.2.9. the granting of any share options by the Company or the creation of any employee share schemes or any incentive share scheme which involves the issue of Ordinary Shares to employees;

24.1.2.10. the winding up of the Company or any application for business rescue as contemplated in chapter 6 of the Companies Act.

For the avoidance of doubt, transactions impacting on the Sasol Group capital commitments and its rolling capital plan, including approval for any ongoing development and other capital requirements as a result of a transaction, will be obtained pursuant to the capital approval process contemplated in clause 6.

If the DoA provides for thresholds from time to time which are different from those contained in this clause 24.1, the thresholds in this clause 24.1 will be deemed to have been adjusted.

24.2. The Board shall approve the budget of the Company on an annual basis.

24.3. The Board may:-

24.3.1. establish and maintain any non-contributory or contributory pension, superannuation, provident and benefit funds for the benefit of; and

24.3.2. give pensions, gratuities and allowances to and make payments for or towards the insurance of,

any persons who are employees or ex-employees (including Directors or ex-Directors) of the Company, or of any company which is or was a Subsidiary of the Company or is or was in any way allied to or associated with it or any such Subsidiary, and the wives, widows, families and dependants of such persons.

24.4. The Board may from time to time appoint one or more of the Directors to the office of chief executive officer or managing Director or manager and may from time to time remove or dismiss the chief executive officer or managing Director or manager from office and appoint another or others in his/her or their place or places, provided such appointment shall be for such period and at such remuneration and on such terms it may think fit.

24.5. The Board may from time to time entrust to and confer upon a chief executive officer or managing Director or manager any of the powers vested in the Board as it may think fit for a period of time and to be exercised for general or specific objects and upon such terms and

with such restrictions as it may think fit; and the Board may from time to time revoke or vary all or any of such powers.

24.6. A Director may not appoint a proxy.

25. **AUDIT COMMITTEE AND AUDITOR**

25.1. While the Company is a Subsidiary of Sasol, Sasol's Audit Committee will perform those functions required in terms of the Companies Act in respect of the Company to be performed by an audit committee, and the Shareholders shall, for purposes of the Companies Act, appoint such committee accordingly.

25.2. The Company shall appoint an Auditor at its Annual General Meeting provided that if an Annual General Meeting does not appoint or reappoint an Auditor, the Directors must fill the vacancy in the office in terms of the procedure contemplated in section 91 within 40 (forty) Business Days after the date of the Annual General Meeting. Each of the Shareholders undertakes, for so long as the Company is a Subsidiary of Sasol, to vote in favour of any resolution to appoint the same Auditor/s as Sasol.

26. **BOARD COMMITTEES**

26.1. For so long as the Company is a Subsidiary of Sasol, Sasol's Safety, Social and Ethics Committee will perform those functions required in terms of the Companies Act to be performed by a social and ethics committee in respect of the Company, and the Board shall, for purposes of the Companies Act, appoint such committee accordingly.

26.2. Save in relation to the audit committee and the committees referred to in clauses 26.1 and 26.2, subject to and in accordance with the DOA, the Board may appoint any number of Board committees and delegate to such committees such authority of the Board as the Board thinks fit, provided any such delegations are in accordance with the terms of reference applicable to such committee. The members of such committees may include Persons who are not Directors.

26.3. Subject to and in accordance with the DoA, the Board may delegate to any one or more persons any powers and the doing of all any acts (including the right to sub-delegate) which the Board may undertake.

26.4. The Board shall adopt terms of reference for every committee appointed by the Board.

26.5. A Director may be appointed to more than one Board committee.

26.6. No Person shall be appointed as a member of a Board committee, if he/she is Ineligible or Disqualified and any such appointment shall be a nullity. A Person placed under probation

by a court must not serve as a member of a Board committee unless the order of court so permits.

26.7. A member of a Board committee shall cease to hold office as such immediately he/she becomes Ineligible or Disqualified in terms of the Companies Act or is removed as a member of the Board committee by the Board.

26.8. Committees of the Board may consult with or receive advice from any Person as outlined in the terms of reference of the relevant Board committee.

26.9. Meetings and other proceedings of a committee of the Board consisting of more than 1 (one) member shall be governed by the provisions of this MOI regulating the meetings and proceedings of the Board, unless otherwise indicated in the terms of reference of the relevant Board committee.

27. **PERSONAL FINANCIAL INTERESTS OF DIRECTORS**

27.1. For the purposes of this clause:-

27.1.1. "**Director**" includes an Alternate Director, a Prescribed Officer, and a person who is a member of a committee of the Board, irrespective of whether or not the Person is also a member of the Board;

27.1.2. "**Related Person**" when used in reference to a Director, has the meaning set out in section 1 but also includes a second company of which the Director or a Related Person is also a director, or a close corporation of which the Director or a Related Person is also a member.

27.2. This clause shall not apply to a Director in respect of a decision that may generally affect:-

27.2.1. all of the Directors in their capacity as Directors, but in that case all the Directors shall act in accordance with and as if section 75(3) were applicable unless the Directors are acting pursuant to an authorisation given by the Holders for the Directors to make a decision within certain thresholds, relating to their capacity as Directors; or

27.2.2. a class of Persons, despite the fact that the Director is one member of that class of Persons, unless the only members of the class are the Director or Persons Related or Inter-Related to the Director. In such event the Director shall be treated as not having a Personal Financial Interest, unless the class is predominantly made up of Directors and Persons Related or Inter-Related to such Directors and in the circumstances the conflict of the Director requires the provisions of this clause to apply.

- 27.3. If a Person is the only Director, but does not hold all of the issued Securities of the Company, that Person may not:-
- 27.3.1. approve or enter into any agreement in which the Person or a Related Person has a Personal Financial Interest; or
- 27.3.2. as a Director, determine any other matter in which the Person or a Related Person has a Personal Financial Interest,
- unless the agreement or determination is approved by an Ordinary Resolution after the Director has disclosed the nature and extent of that Personal Financial Interest to those entitled to vote on such Ordinary Resolution.
- 27.4. At any time, a Director may disclose any Personal Financial Interest in advance, by delivering to the Board, or Holders (while the circumstances contemplated in clause 27.3 prevail), a notice in Writing setting out the nature and extent of that Personal Financial Interest, to be used generally by the Company until changed or withdrawn by further Written notice from that Director.
- 27.5. If, in the reasonable view of the other non-conflicted Directors, a Director or the Related Person in respect of such Director acts in competition with the Company relating to the matter to be considered at the meeting of the Board, the Director shall only be entitled to such information concerning the matter to be considered at the meeting of the Board as shall be necessary to enable the Director to identify that such Personal Financial Interest exists or continues to exist.
- 27.6. If a Director (while the circumstances contemplated in clause 27.3 are not applicable), has a Personal Financial Interest in respect of a matter to be considered at a meeting of the Board, or Knows that a Related Person has a Personal Financial Interest in the matter, the Director must comply with the requirements set out in section 75(5).
- 27.7. 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, or to the Shareholders (if the circumstances contemplated in clause 27.3 are not applicable), the nature and extent of that Personal Financial Interest, and the Material circumstances relating to the Director or Related Person's acquisition of that Personal Financial Interest.
- 27.8. A decision by the Board, or a transaction or agreement approved by the Board, or by the Shareholders, is valid despite any Personal Financial Interest of a Director or Person Related to the Director, only if:-

27.8.1. it was approved following the disclosure of the Personal Financial Interest in the manner contemplated in this clause 27; or

27.8.2. despite having been approved without disclosure of that Personal Financial Interest, it has been ratified by an Ordinary Resolution following disclosure of that Personal Financial Interest or has been declared to be valid by a court.

For the avoidance of doubt, if a decision may generally affect all of the Directors of the Company in their capacity as Directors, that decisions shall be taken by the Holders.

28. **PROCEEDINGS OF THE BOARD**

28.1. Convening or Holding of Board Meetings

28.1.1. The Chairperson (or the company secretary on the request of the Chairperson):-

28.1.1.1. may, at any time, summon a meeting of the Board;

28.1.1.2. must call a meeting of the Board if required to do so by at least:-

28.1.1.2.1. 25% (twenty-five per cent) of the Board, in the case of a Board that has at least 12 (twelve) members;
or

28.1.1.2.2. 2 (two) Directors in any other case.

28.1.2. The Board may meet to conduct business, adjourn and otherwise regulate its meetings as it thinks fit.

28.1.3. All meetings shall be held at the place determined by the Chairperson and in the absence of determination of a venue by the Chairperson, shall be held in the city or town where the Company's Registered Office is situated.

28.1.4. A meeting of the Board may be conducted by Electronic Communication and any of the Directors may participate in a meeting by Electronic Communication provided that the Electronic Communication facility employed ordinarily enables all Persons participating in that meeting to communicate concurrently with each other without an intermediary, and to participate effectively in the meeting.

28.2. Notice of Board Meetings

28.2.1. Notice of Board meetings shall be given to all Directors at least 24 (twenty four) hours before the Board meeting takes place in any form which may include telephone, fax or Electronic Communication.

28.2.2. If all of the Directors:-

28.2.2.1. acknowledge actual receipt of the notice;

28.2.2.2. are present at a meeting of the Board; or

28.2.2.3. waive notice of the meeting,

the meeting may proceed even if the Company failed to give the required notice of that meeting, or there was a defect in the giving of the notice.

28.3. Quorum

28.3.1. The quorum for a Board meeting is 50% (fifty per cent) of the Directors, at least 1 (one) of whom shall be a Director nominated for election by Sasol.

28.3.2. If within 30 (thirty) minutes from the time appointed for the Directors' meeting to commence, a quorum is not present, the Directors' meeting shall be postponed, without motion, vote or further notice to the same time on the:-

28.3.2.1. next day if the business to be dealt with by the meeting is in the opinion of the Chairperson of such an urgent nature that the period in clause 28.3.2.2 results in too lengthy a delay; or

28.3.2.2. same day in the next week or, if that day be a public holiday, to the next succeeding day which is not a public holiday,

and if at such adjourned Directors' meeting a quorum is not present within 30 (thirty) minutes from the time appointed for the Directors' meeting then, the Individual/s entitled to vote who are present shall be deemed to be the requisite quorum. No further notice is required to be Delivered by the Company of a Directors' meeting that is postponed, unless the location or time for the Directors' meeting is different.

28.4. Voting

28.4.1. Each of the Directors or the Alternate Director voting instead of a Director shall have as many votes as the number of Ordinary Shares which the Shareholder appointing or nominating him/her holds divided by the number of Directors

appointed or nominated by that particular Shareholder, who vote on the particular resolution.

- 28.4.2. The Company must keep minutes of all Board and Board committee meetings and resolutions as prescribed in sections 24(3)(f) and 73(6).
- 28.4.3. Resolutions adopted by the Board are effective as of the date of the resolution, unless the resolution states otherwise.
- 28.4.4. Any minutes of a meeting, or a resolution, signed by the Chairperson of the meeting, or by the Chairperson of the next meeting of the Board, are/is evidence of the proceedings of that meeting, or adoption of that resolution, as the case may be without the necessity for further proof of the facts stated. The company secretary may sign an extract from the minutes of a Board meeting, or a resolution, which shall constitute evidence of the proceedings of that meeting, or adoption of that resolution, as the case may be without the necessity for further proof of the facts stated.
- 28.4.5. A decision that could be voted on at a Board meeting, may be adopted by Written consent of a majority of the Directors, given in Person or in any other form including counterparts and transmitting such consent to the Company by Electronic Communication, provided that each Director has received notice of the matter to be decided upon. For the purposes of this clause a resolution shall be deemed to have been signed if consent thereto has been given in a message transmitted by Electronic Communication and purporting to emanate from the person whose signature to such resolution is required.

29. **PRESCRIBED OFFICERS**

- 29.1. No Person shall hold office as a Prescribed Officer, if he/she is Ineligible or Disqualified. A Person who is Ineligible or Disqualified must not consent to be appointed to an office or undertake any functions which would result in him being a Prescribed Officer nor act in such office nor undertake any such functions. A Person placed under probation by a court must not consent to be appointed to an office or undertake any functions which would result in him being a Prescribed Officer nor act in such office nor undertake any such functions unless the order of court so permits.
- 29.2. A Prescribed Officer shall cease to hold office as such immediately after he/she becomes Ineligible or Disqualified or ineligible or disqualified in terms of the Companies Act or the Company's human resources policies.

30. APPOINTMENT OF SECRETARY

- 30.1. The Directors must appoint the secretary of the Company from time to time, who:-
- 30.1.1. shall be a permanent resident of South Africa and remain so while serving as secretary; and
 - 30.1.2. shall have the requisite knowledge of, or experience in, relevant laws; and
 - 30.1.3. may be a Juristic Person subject to the following:-
 - 30.1.3.1. every employee of that Juristic Person who provides company secretary services, or partner and employee of that partnership, as the case may be, is not Ineligible or Disqualified;
 - 30.1.3.2. at least 1 (one) employee of that Juristic Person, or 1 (one) partner or employee of that partnership, as the case may be, satisfies the requirements in clauses 30.1.1 and 30.1.2.
- 30.2. Within 60 (sixty) Business Days after a vacancy arises in the office of company secretary, the Board must fill the vacancy by appointing a Person whom the Directors consider to have the requisite knowledge and experience. A change in the membership of a Juristic Person or partnership that holds office as company secretary does not constitute a vacancy in the office of company secretary, if the Juristic Person or partnership continues to satisfy the requirements of clause 30.1.3.
- 30.3. If at any time a Juristic Person or partnership holds office as company secretary of the Company:-
- 30.3.1. the Juristic Person or partnership must immediately notify the Directors if the Juristic Person or partnership no longer satisfies the requirements of clause 30.1.3, and is regarded to have resigned as company secretary upon giving that notice to the Company;
 - 30.3.2. the Company is entitled to assume that the Juristic Person or partnership satisfies the requirements of clause 30.1.3, until the Company has received a notice contemplated in clause 30.3.1; and
 - 30.3.3. any action taken by the Juristic Person or partnership in the performance of its functions as company secretary is not invalidated merely because the Juristic Person or partnership had ceased to satisfy the requirements of clause 30.1.3 at the time of that action.

- 30.4. The company secretary may resign from office by giving the Company 1 (one) month's Written notice or less than that with the prior Written approval of the Board.
- 30.5. If the company secretary is removed from office by the Board, the company secretary may, by giving Written notice to that effect to the Company by not later than the end of the financial year in which the removal took place, require the Company to include a statement in its annual Financial Statements relating to that financial year, not exceeding a reasonable length, setting out the company secretary's contention as to the circumstances that resulted in the removal. The Company must include this statement in the Directors' report in its annual Financial Statements.

31. **DISTRIBUTIONS**

- 31.1. The Board shall determine from time to time the Distributions to be made to the Shareholders and shall take into account the Sasol Group Funding Policy from time to time, the requirements of the Companies Act, any other applicable law and prudent management, as well as working capital requirements and short term capital requirements.
- 31.2. The Company may make Distributions from time to time, provided that:-
- 31.2.1. any such Distribution is pursuant to an existing legal obligation of the Company or a court order or the Board, by resolution, has authorised the Distribution;
 - 31.2.2. it reasonably appears that the Company will satisfy the Solvency and Liquidity Test immediately after completing the proposed Distribution; and
 - 31.2.3. the Board, by resolution, has acknowledged that it has applied the Solvency and Liquidity Test and reasonably concluded that the Company will satisfy the Solvency and Liquidity Test immediately after completing the proposed Distribution.
- 31.3. The Company must, before incurring any debt or other obligation for the benefit of any Holders, comply with the requirements in clause 31.1.
- 31.4. The Company must complete any such Distribution fully within 120 (one hundred and twenty) Business Days after the acknowledgement referred to in clause 31.2.3, failing which it must again comply with the foregoing.
- 31.5. When applying the Solvency and Liquidity Test in respect of a Distribution contemplated in paragraph (a) of the definition of 'distribution' in section 1, a Person is not to include as a liability any amount that would be required, if the Company were to be liquidated at the time of the Distribution, to satisfy the preferential rights upon liquidation of Holders whose

preferential rights upon liquidation are superior to the preferential rights upon liquidation of those receiving the Distribution.

31.6. Dividends

31.6.1. The Company shall, subject to clause 31.1 and within 4 (four) months from 30 June and within 4 (four) months from 31 December each year (or as otherwise determined by the Board), resolve during each of the aforementioned periods whether to declare a dividend for the immediately preceding 6 (six) months period ending on 30 June or 31 December, as the case may be, and, if so resolved, pay any dividends declared within the 120 (one hundred and twenty) Business Day period contemplated in clause 31.4.

31.6.2. Dividends may be paid in any manner determined by the Company, including electronic funds transfer. FundCo agrees for so long as the Preference Share Funding is outstanding any dividends payable to it shall be paid into its account which is designated as a "Collection Account" for purposes of the Preference Share Subscription Agreement.

31.6.3. No notice of change of address or instructions as to payment given after the Record Date shall become effective until after the dividend or other Distribution has been made, unless the Board so determines at the time the dividend or other Distribution is approved.

31.6.4. The Company shall be entitled to declare dividends in foreign currency and, subject to any legal requirements, pay the dividends in foreign currency.

31.6.5. Any distribution or other money payable on or in respect of a Share:-

31.6.5.1. which is unclaimed, may be retained by the Company, subject to clause 31.6.5.2 below and may be invested or used as the Board may deem fit for the benefit of the Company until claimed by, or paid to, the Shareholder concerned;

31.6.5.2. which is retained by the Company and unclaimed by a Shareholder:-

31.6.5.2.1. for 3 (three) years; or

31.6.5.2.2. for a lesser period, should the Company be wound up or deregistered,

from the payment date on which it became payable to the Shareholders, shall be forfeited and revert to the Company or its assigns and may be dealt with by the Directors or such assigns as they deem fit;

31.6.5.3. shall not bear interest against the Company; and

31.6.5.4. the Board shall for the purpose of facilitating the winding-up or deregistration of the Company before the date of any such forfeit, be entitled to delegate to any bank registered as such in accordance with the laws of South Africa the liability for payment of any such distribution or other money, payment of which has not been forfeited in terms of the foregoing.

31.6.6. The Company shall be entitled to withhold the amount of dividends tax or any other tax or duties that the Company is required by law to withhold from any dividend declared and paid by the Company, without any obligation to gross up such dividend. For purposes of this MOI, any amount so withheld and paid by the Company to the relevant governmental tax authority in respect of any dividend will be deemed to have been actually paid by the Company to the Shareholder owning the Shares to which any distribution relates.

32. **BEE INVESTORS UNDERTAKINGS**

Each BEE Investor undertakes to Sasol and the Company, during the Empowerment Period, that:-

32.1. in relation to FundCo:-

32.1.1. its sole ordinary shareholder will be Sasol Khanyisa, which must be a Black Company the holder of its RF Preference Share will be Sasol Financing Proprietary Limited and/or any other member of the Sasol Group, and the holder of its Preference Shares will be Sasol and/or any other member of the Sasol Group;

32.1.2. it will not permit the transfer of the ordinary share held by Sasol Khanyisa without the approval of the holder of the Preference Share;

32.1.3. it will not Dispose of its Ordinary Shares save for any Encumbrance in favour of the holder of the Preference Share;

32.1.4. it will not register its ordinary shares other than in the name of Sasol Khanyisa;

32.1.5. it will, whilst it is a Shareholder, always be the beneficial as well as the registered holder of its Ordinary Shares;

- 32.1.6. it will cause all the Ordinary Shares held by it from time to time to be registered in its own name while it is a Shareholder, and not that of a nominee, subject to the pledge and cession of such shares in favour of Sasol;
- 32.1.7. it will not be voluntarily or compulsorily wound up or placed under business rescue or deregistered;
- 32.1.8. it will not do anything which is inconsistent with the restrictive conditions in terms section 15(2)(b) of the Companies Act set out in its memorandum of incorporation;
- 32.1.9. it will not without the prior written consent of the Company and Sasol:-
 - 32.1.9.1. issue any further shares to any person;
 - 32.1.9.2. vary, amend or otherwise alter the rights attaching to any class of shares in its share capital;
 - 32.1.9.3. consolidate, subdivide or convert any of its share capital or in any way alter the rights attaching thereto;
 - 32.1.9.4. repurchase any of its shares;
- 32.1.10. it will not omit to do anything, as regards:-
 - 32.1.10.1. maintaining the Required BEE Status;
 - 32.1.10.2. achieving Board and Board committee representation by Black Person/s appointed by it to the Board, to the extent within its power;
- 32.1.11. it will not breach the provisions of any agreement it is permitted by Sasol to conclude which is a material breach in terms of the provisions of such agreement, provided that this clause shall not apply to:-
 - 32.1.11.1. a failure to make any payment by the BEE Investor in respect of any preference share funding provided by Sasol solely by reason of the size of the Distributions from the Company not being sufficient;
 - 32.1.11.2. the breach of any warranty or representation by it if the event giving rise to the breach occurred prior to the Effective Date;
- 32.1.12. it will at all times pay all taxes or any fees incurred by it in relation to compliance with its statutory and common law obligations from cash on hand when they fall due and payable;

- 32.1.13. it will deliver to the Company and Sasol by no later than 30 June of each year:
 - 32.1.13.1. a certificate:-
 - 32.1.13.1.1. issued by an accredited verification agency which is current and in a form acceptable to the Company and Sasol, verifying that it has the Required BEE Status. FundCo shall bear the costs of the certificate contemplated herein; and
 - 32.1.13.1.2. duly signed by it certifying its compliance with the provisions of this MOI and the Required BEE Status, giving full details of its structure including details of its shareholder, certifying that no change has occurred regarding it since the last certificate, that it knows of no breaches of this MOI; and
 - 32.1.13.2. any other documents reasonably required by the Company and notified to FundCo by not later than 31 May of each year, to demonstrate whether the Required BEE Status has been achieved and/or maintained;
 - 32.1.14. it will deliver to the Company and Sasol such information as may be required by:-
 - 32.1.14.1. the Company from time to time in order to comply with its obligations under this MOI; and/or
 - 32.1.14.2. Sasol;
 - 32.1.15. it will permit the Company and Sasol to undertake any inspections and/or due diligence investigations which the Company and Sasol may consider necessary from time to time;
 - 32.1.16. it will not misrepresent that it has the Required BEE Status;
- 32.2. in relation to the Trust:-
- 32.2.1. its beneficiaries with vested rights in Ordinary Shares will only be the “Khanyisa Tier 2 Participants” contemplated in the trust deed constituting the Trust and who must be Black People;
 - 32.2.2. it will deliver to the Company and Sasol by no later than 30 June of each year:

32.2.2.1. a certificate:-

32.2.2.1.1. issued by an accredited verification agency which is current and in a form acceptable to the Company and Sasol, verifying that it has the Required BEE Status. FundCo shall bear the costs of the certificate contemplated herein; and

32.2.2.1.2. duly signed by it certifying its compliance with the provisions of this MOI and the Required BEE Status, giving full details of its structure including details of its beneficiaries, certifying that no change has occurred regarding it since the last certificate, that it knows of no breaches of this MOI;

32.2.2.2. any other documents reasonably required by the Company and notified to the Trust by not later than 31 May of each year, to demonstrate whether the Required BEE Status has been achieved and/or maintained;

32.2.3. it will deliver to the Company and Sasol such information as may be required by:-

32.2.3.1. the Company from time to time in order to comply with its obligations under this MOI; and/or

32.2.3.2. Sasol;

32.2.4. it will permit the Company and/or Sasol to undertake any inspections and/or due diligence investigations which the Company and/or Sasol may consider necessary from time to time;

32.2.5. it will not misrepresent that it has the Required BEE Status.

33. FORCED SALES BY REASON OF A BREACH BY FUNDSCO

33.1. If:

33.1.1. FundCo commits a breach of its undertakings in clause 32 or the Restrictive Conditions in its memorandum of incorporation; or

33.1.2. Sasol Khanyisa commits a breach of the Restrictive Conditions in its memorandum of incorporation,

which results in the Ordinary Shares held by FundCo or beneficial interest in the Ordinary Shares held by FundCo, being transferred to a third party:

- 33.1.3. Sasol and/or the Company shall, by written notice to FundCo, be entitled to compel FundCo to offer its Ordinary Share for sale to the Company, which will repurchase such shares, at an aggregate price of R1,00 (one Rand); and/or
- 33.1.4. Sasol and/or the Company shall, by written notice to FundCo, be entitled to compel FundCo to:
 - 33.1.4.1. remove (and/or procure that Sasol Khanyisa removes) any director of FundCo who took any action that, or failed to take any action and which failure, resulted in the breach by FundCo of its undertakings in clause 32 or the Restrictive Conditions in its memorandum of incorporation; and
 - 33.1.4.2. enforce the provision of its memorandum of incorporation pursuant to which Sasol Khanyisa must remove any director/s of Sasol Khanyisa who took any action that, or failed to take any action and which failure, resulted in the breach by Sasol Khanyisa of the Restrictive Conditions in its memorandum of incorporation.
- 33.1.5. The provisions of clause 22.1.4 shall apply to any director of FundCo or Sasol Khanyisa who is removed as such as contemplated in clause 33.1.4.
- 33.2. The effective date of the repurchase of the Ordinary Shares held by FundCo shall be the day prior to the date upon which the event which triggered the offer occurs. The Company will pay the purchase price for the Ordinary Shares to FundCo 3 (three) Business Days after obtaining all necessary approvals in relation to the repurchase.
- 33.3. FundCo shall deliver (or procure the delivery of) the Ordinary Shares being repurchased in transferrable form and the share certificate/s relating thereto to the Company against payment of the purchase price. If FundCo does not deliver (or procure delivery of) the Ordinary Shares in transferrable form and the share certificate/s on due date, the Company is irrevocably and *in rem suam* appointed as the attorney and agent of FundCo to sign the necessary transfer forms relating to the Ordinary Shares and FundCo agrees to the cancellation of the share certificate/s without the delivery of same being necessary.
- 33.4. Following the repurchase by the Company of the Ordinary Shares held by FundCo as contemplated in clause 33.1, the Company and Sasol shall, if the breach was committed by:

33.4.1. FundCo, allow FundCo a period of 90 (ninety) days from the date of the repurchase of the Ordinary Shares by the Company an opportunity to remedy the breach;

33.4.2. Sasol Khanyisa, allow FundCo a period of 90 (ninety) days from the date of the repurchase of the Ordinary Shares by the Company an opportunity to procure that Sasol Khanyisa remedies the breach,

which remedy shall be to the satisfaction of Sasol and the Company.

33.5. Sasol shall notify FundCo in Writing within 10 (ten) Business Days of the expiry of the 90 (ninety) days contemplated in clause 33.4 whether on or not it is satisfied with the action taken by FundCo or Sasol Khanyisa, as the case may be, to remedy the breach.

33.6. If Sasol notifies FundCo that it is satisfied with the action taken by FundCo or Sasol Khanyisa, as the case may be, to remedy the breach:

33.6.1. the Company shall allot and issue to FundCo at an aggregate price of R1,00 (one Rand) such number of Ordinary Shares equal to the Ordinary Shares repurchased by the Company in terms of clause 33.1 or as will result in FundCo holding the same percentage of Ordinary Shares held by it prior to the repurchase. Sasol shall pass all necessary Shareholder resolutions as may be required in order procure the allotment and issue by the Company of the Ordinary Shares to FundCo;

33.6.2. FundCo shall:

33.6.2.1. appoint and/or procure that Sasol Khanyisa appoints new director/s to the FundCo board in place of the director/s removed as contemplated in clause 33.1.4.1, in accordance with the provisions of its memorandum of incorporation;

33.6.2.2. procure that Sasol Khanyisa appoints new director/s to the Sasol Khanyisa board in place of the director/s removed as contemplated in clause 33.1.4.1, in accordance with the provisions of Sasol Khanyisa memorandum of incorporation;

33.6.2.3. appoint a new Director to the Board in accordance with the provisions of clause 21.2, in place of the Director removed in terms of clause 33.1.5.

33.7. If the breach is not remedied within the period of 90 (ninety) days contemplated in clause 33.4 or Sasol notifies FundCo that it is not satisfied with the action taken by FundCo or

Sasol Khanyisa, as the case may be, to remedy the breach, then the Company shall not issue any Ordinary Shares to FundCo and FundCo shall have ceased to hold any shares in the Company following the offer by it and the repurchase by the Company of its Ordinary Shares, as contemplated in clause 33.1.

34. **PROHIBITION ON WINDING UP OF BEE INVESTOR**

Each of the BEE Investors undertakes that it will, as the case may be, not do or omit to do anything, in whatever capacity, which would have the effect of or result in it being wound up, whether voluntarily or compulsorily, or of being deregistered, or which is calculated to have that effect.

35. **LOSS OF DOCUMENTS**

The Company shall not be responsible for the loss in transmission of any cheque, certificate or (without any limitation *eiusdem generis*) other document sent through the post either to the registered address of any Holder or to any other address requested by the Holder.

36. **INDEMNITY**

36.1. For the purposes of this clause 36, "**Director**" includes a former Director, an Alternate Director, a Prescribed Officer, a person who is a member of a committee of the Board, irrespective of whether or not the person is also a member of the Board.

36.2. The Company may:-

36.2.1. not directly or indirectly pay any fine that may be imposed on a Director, or on a Director of a Related Company, as a consequence of that Director having been convicted of an offence in terms of any national legislation unless the conviction was based on strict liability;

36.2.2. subject to clause 36.3, advance expenses to a Director to defend litigation in any proceedings arising out of the Director's service to the Company;

36.2.3. subject to clause 36.3, directly or indirectly indemnify a Director for:-

36.2.3.1. any liability, other than in respect of:-

36.2.3.1.1. any liability arising in terms of section 77(3)(a), (b) or (c) or from wilful misconduct or wilful breach of trust on the part of the Director; or

36.2.3.1.2. any fine contemplated in clause 36.2.1;

36.2.3.2. any expenses contemplated in clause 36.2.2, irrespective of whether it has advanced those expenses, if the proceedings:-

36.2.3.2.1. are abandoned or exculpate the Director; or

36.2.3.2.2. arise in respect of any other liability for which the Company may indemnify the Director in terms of clause 36.2.3.

36.3. The Company may, in terms of clause 36.2.2, advance expenses to a Director to defend litigation in any proceedings arising out of the Director's service to the Company or, in terms of clause 36.2.3, indemnify a Director as provided in clause 36.2.3, provided that the prior written approval of the disinterested Directors has been obtained, failing which the prior written approval of the Holding Company, if the company is a Subsidiary of Sasol, has been obtained.

36.4. The Company may purchase insurance to protect:-

36.4.1. a Director against any liability or expenses contemplated in clause 36.2.2 or 36.2.3; or

36.4.2. the Company against any contingency including but not limited to:-

36.4.2.1. any expenses:-

36.4.2.1.1. that the Company is permitted to advance in accordance with clause 36.2.2; or

36.4.2.1.2. for which the Company is permitted to indemnify a Director in accordance with clause 36.2.3.2; or

36.4.2.2. any liability for which the Company is permitted to indemnify a Director in accordance with clause 36.2.3.1.

36.5. The Company is entitled to claim restitution from a Director or of a Related company for any money paid directly or indirectly by the Company to or on behalf of that Director in any manner inconsistent with section 78.

37. **WINDING-UP**

37.1. Should the Company be wound up, whether such winding-up be voluntary or compulsory, the assets remaining after the payment of the debts and liabilities of the Company and the costs of liquidation shall be distributed to the Shareholders in proportion to their Voting Rights, provided that the provisions of this MOI shall be subject to the rights of the Holders of Securities issued upon special conditions.

37.2. Upon winding-up, any part of the assets of the Company, including Securities of other companies, may, with the sanction of a Special Resolution, be divided in specie among the Shareholders, or may, with the same sanction, be vested in trustees for the benefit of the Shareholders, and the liquidation of the Company may be finalised and the Company dissolved.

38. **ARBITRATION**

38.1. Save in respect of those provisions of this MOI which provide for their own remedies which would be incompatible with arbitration, a dispute which arises in regard to this MOI or out of or pursuant to this MOI (other than where an interdict is sought or urgent relief may be obtained from a court of competent jurisdiction, shall be submitted to and decided by arbitration.

38.2. That arbitration shall be held with only the parties to the arbitration and their representatives present thereat.

38.3. The seat of the arbitration shall be Johannesburg.

38.4. Save as expressly provided in this MOI to the contrary, the arbitration shall be subject to the rules of the Arbitration Foundation of Southern Africa in force at the time the arbitration takes place, unless the parties to the arbitration and the arbitrator agree in writing to any departure therefrom. If any provision of this clause 38 is inconsistent with the rules of the Arbitration Foundation of Southern Africa in force at that time, the provisions of this clause 38 shall prevail. If there is any dispute in relation to such inconsistency or alleged inconsistency and/or as to which rules prevail, the arbitrator shall determine such dispute (which determination shall be final and binding on the parties to the arbitration) applying such rules and procedures as the arbitrator considers appropriate.

38.5. The arbitrator shall be, if the matter in dispute is principally:-

38.5.1. a legal matter, an impartial retired judge, or an impartial practising advocate of not less than 15 (fifteen) years' standing, or an impartial admitted attorney of not less than 15 (fifteen) years' standing;

38.5.2. an accounting matter, an impartial practising chartered accountant of not less than 15 (fifteen) years' standing;

38.5.3. any other matter, an impartial person with not less than 15 (fifteen) years' appropriate expertise.

38.6. If the parties to the arbitration fail to agree on an arbitrator within 14 (fourteen) days after the arbitration has been demanded, the arbitrator shall be nominated, at the request of any one

of the parties to the arbitration by the Chairman (or the equivalent office no matter what it may be titled) of the Bar Council or instead the voluntary association constituted for the benefit of a majority of attorneys in South Africa) who shall take the provisions of clauses 38.5.1 to 38.5.3 into account in nominating the arbitrator, whereupon the parties to the arbitration shall forthwith appoint such person as the arbitrator. If that person fails or refuses to make the nomination or if any such office does not exist, any party to the arbitration may approach the High Court of South Africa to make such an appointment. To the extent necessary, the court is expressly empowered to do so.

38.7. If the parties to the arbitration fail to agree whether the dispute is of a legal, accounting or other nature within 14 (fourteen) days after the arbitration has been demanded, it shall be considered a matter referred to in clause 38.5.1.

38.8. Within 14 (fourteen) days after the pleadings have closed, the arbitrator shall determine the period within which the hearing will be concluded, taking into account the particular circumstances of the dispute. Upon making such a determination the arbitrator shall:-

38.8.1. provide written notice to the parties to the arbitration in which the arbitrator sets out the period within which the hearing will be concluded, together with a list of all the dates within a 6 (six) month period from the date of such notice on which the arbitrator is available to commence with the hearing;

38.8.2. determine the date on which the hearing will commence, which determination shall be made in accordance with the following procedure:-

38.8.2.1. each party to the arbitration shall, within 3 (three) Business Days after delivery of the notice referred to in clause 38.8.1 provide to the arbitrator and to the other parties to the arbitration a list of at least 5 (five) dates on which that party's legal representative is available provided that, each of those dates:-

38.8.2.1.1. must fall on a Business Day;

38.8.2.1.2. must fall within a period not exceeding 6 (six) months from the date of delivery of such notice;

38.8.2.1.3. must coincide with the dates on which the arbitrator is available;

38.8.2.1.4. may not be on consecutive days;

38.8.2.1.5. must be proposed in good faith;

38.8.2.2. if:-

38.8.2.2.1. any party to the arbitration does not provide a list of at least 5 (five) dates on which that party's legal representative is available in compliance with clause 38.8.2.1, the arbitrator may select a commencement date on a date on which the arbitrator and the other parties to the arbitration that have complied with clause 38.8.2.1 are available;

38.8.2.2.2. each party to the arbitration provides a list of at least 5 (five) dates on which that party's legal representative is available in compliance with clause 38.8.2.1, but none of those dates coincide with each other, then the arbitrator must call a meeting between the parties to the arbitration within a period not exceeding 14 (fourteen) days, for the purposes of selecting a date upon which the arbitrator and the parties to the arbitration and their legal representatives are all available. If the parties to the arbitration are unable to reach agreement, the arbitrator shall, in the arbitrator's discretion, determine the commencement date provided that:-

38.8.2.2.2.1. the commencement date must fall within a period not exceeding 6 (six) months from the date of delivery of the notice referred to in clause 38.8.2.1;

38.8.2.2.2.2. if the period that the arbitrator has determined for the hearing is not more than 5 (five) Business Days, the commencement date must be at least 30 (thirty) days after the date on which the arbitrator makes a determination as to the commencement date;

38.8.2.2.2.3. if the period that the arbitrator has determined for the hearing is more than 5 (five) Business Days, the commencement date must be at

least 60 (sixty) days after the date on which the arbitrator makes a determination as to the commencement date,

and the arbitration may commence on that date regardless of the absence of any party to the arbitration or its legal representative;

38.8.3. if the arbitration hearing is not completed within the period determined by the arbitrator, determine the date for recommencement of the hearing in accordance with clause 38.8.2.1.

38.9. The determination made by the arbitrator as regards the period within which the hearing will be concluded and/or the commencement date and/or the recommencement date shall be final and, provided that there has been compliance with clause 38.8, no party to the arbitration may raise as good and sufficient cause for the absence of that party at the arbitration proceedings, the unavailability of that party's legal representative.

38.10. The arbitrator shall, subject to the provisions of this clause, have the fullest and freest discretion with regard to the proceedings save that the arbitrator, shall be obliged to give his/her award in writing fully supported by reasons and shall adopt procedures suitable to the circumstances of the particular case, avoiding unnecessary delay or expense, so as to provide a fair means for the resolution of the matters falling to be determined.

38.11. Furthermore the arbitrator:-

38.11.1. may by notice to the parties to the arbitration within 14 (fourteen) after his/her appointment, dispense wholly or in part with formal submissions or pleadings provided that the parties to the arbitration are given the opportunity to make submissions;

38.11.2. shall not be bound by strict rules of evidence;

38.11.3. shall allow any party to the arbitration to call any witnesses he/she determines and shall permit cross examination of witnesses;

38.11.4. may, in addition to any other award he/she may be able to make:-

38.11.4.1. require specific performance, with an award of damages or without an award of damages, but may not award cancellation of this MOI;

38.11.4.2. take into account the practicality or otherwise of ordering the continuance of any legal relationship between disputants;

- 38.11.4.3. award interest with effect from any date, and on any other basis, he/she considers appropriate in the circumstances;
- 38.11.5. shall make such order as to costs as he/she deems just.
- 38.12. Any party to the arbitration shall be entitled to have the award made an order of court of competent jurisdiction.
- 38.13. Any dispute shall be deemed to have been referred or subjected to arbitration hereunder when any party gives written notice to the others of the dispute, demands an arbitration and requests agreement on an arbitrator.
- 38.14. The parties to the arbitration shall keep the evidence in the arbitration proceedings and any order made by any arbitrator confidential.
- 38.15. The arbitrator shall have the power to give default judgment if any party to the arbitration fails to make submissions on due date and/or fails to appear at the arbitration.
- 38.16. The arbitrator's award shall be final and binding on the parties to the arbitration. There shall be a right of appeal against any award of the arbitrator provided that:-
- 38.16.1. the appeal is noted within 14 (fourteen) days of the arbitrator's award;
- 38.16.2. the appellant delivers the record to the respondent/s within 14 (fourteen) days of the record becoming available to the appellant. The relevant provisions of this arbitration clause shall apply *mutatis mutandis* in regard to the appeal;
- 38.16.3. the appeal shall be heard before a panel of 3 (three) arbitrators and the provisions of clauses 38.5 and 38.6 shall apply.
- 38.17. The parties to the arbitration, together with the arbitrator will agree from time to time on the arbitrator's remuneration and when and how it shall be paid in the interim. The parties to the arbitration shall, pending the final determination of the arbitrator as to which of the parties to the arbitration shall ultimately be liable for the costs of the arbitration, fund the costs (such as costs of any venue, arbitrator's remuneration, recording, transcription and other costs and expenses ancillary to the arbitration) which need to be paid in the interim. If at any time a party to the arbitration does not pay his/her/its portion of the costs when required in the interim, that party will be excluded from participating in the arbitration and the other parties to the arbitration shall be entitled to request a final award from the arbitrator as regards that party. Within 10 (ten) days of the making by the arbitrator of a final determination as to which party to the arbitration shall bear the costs of the arbitration, the party against which such determination has been made shall reimburse to the other parties the costs borne by

such parties in the interim together with interest thereon, if the arbitrator so awards in terms of clause 38.11.4.

38.18. If it is alleged that this MOI was induced by a fraudulent misrepresentation or if this MOI is void or voidable on any other ground, then notwithstanding that the remainder of this MOI may be void or voidable the parties agree that the provisions of this clause are severable from the rest of this MOI and shall remain in effect. In such circumstances any dispute relating to any such fraudulent misrepresentation or relating to whether this MOI is void or voidable shall be submitted to and decided by arbitration in accordance with this clause.

39. **NOTICES**

39.1. The Company may give notices, documents, records or statements by personal delivery to the Shareholder or a Director or an Alternate Director, or by sending them prepaid through the post or by transmitting them by fax or by Electronic Communication to such Person's last known address (including such Person's last known Electronic Address). The Company must give notice of availability of a document, record or statement to the Shareholder either to its last known delivery address or last known Electronic Address.

39.2. Any Shareholder who/which has furnished an Electronic Address to the Company for whatever reason, by doing so:-

39.2.1. authorises the Company to use Electronic Communication to give notices, documents, records or statements or notices of availability of the foregoing to it; and

39.2.2. confirms that same can conveniently be printed by the Shareholder or within a reasonable time and at a reasonable cost.

39.3. Any notice required to be given by the Company to the Shareholders, or holder of a Share warrant to bearer, and in respect of which the Companies Act does not expressly prohibit the provisions of this clause from applying, shall be sufficiently given by posting it on the Company's website until at least the date when the event to which the notice refers occurs, provided that the Company gives a notice similar to a notice of availability in the manner contemplated in clause 39.1.

39.4. A Shareholder or Person entitled to Shares (or his/her executor) shall be bound by every notice in respect of the Shares Delivered to the Person who was, at the date on which that notice was Delivered, shown in the Securities Register or established to the satisfaction of the Directors (as the case may be) as the Shareholder of or Person entitled to the Shares, notwithstanding that the Shareholder or Person entitled to Shares may then have been dead or may subsequently have died or have been or become otherwise incapable of acting in respect of the Shares, and notwithstanding any transfer of the Shares was not registered at

that date. The Company shall not be bound to enter any Person in the Securities Register as entitled to any Shares until that Person gives the Company an address for entry on the Securities Register.

- 39.5. If joint Shareholders are registered in respect of any Shares or if more than 1 (one) Person is entitled to Shares, all notices shall be given to the Person named first in the Securities Register in respect of the Shares, and notice so Delivered shall be sufficient notice to all the Shareholders of or Persons entitled to or otherwise interested in the Shares.
- 39.6. The Company shall not be bound to use any method of giving notice, documents, records or statements or notices of availability of the foregoing, contemplated in the Regulations in respect of which provision is made for deemed delivery.
- 39.7. The holder of a Share warrant to bearer shall not, unless it be otherwise expressed in the warrant, be entitled in respect thereof to notice of any Shareholders Meeting or otherwise.
- 39.8. As regards the signature of an Electronic Communication by a Shareholder, it shall be in such form as the Directors may specify to demonstrate that the Electronic Communication is genuine, or failing any such specification by the Directors, it shall be constituted by the Shareholder indicating in the Electronic Communication that it is the Shareholder's intention to use the Electronic Communication as the medium to indicate the Shareholder's approval of the information in, or the Shareholder's signature of the document in or attached to, the Electronic Communication which contains the name of the Shareholder sending it in the body of the Electronic Communication.

Schedule 1 – Definitions in the Companies Act

"accounting records" means information in written or electronic form concerning the financial affairs of a company as required in terms of this Act including, but not limited to, purchase and sales records, general and subsidiary ledgers and other documents and books used in the preparation of financial statements;¹

"alternate director" means a person elected or appointed to serve, as the occasion requires, as a member of the board of a company in substitution for a particular elected or appointed director of that company;

"amalgamation or merger" means a transaction a transaction, or series of transactions, pursuant to an agreement between two or more companies, resulting in—

- (a) the formation of one or more new companies, which together hold all of the assets and liabilities that were held by any of the amalgamating or merging companies immediately before the implementation of the agreement, and the dissolution of each of the amalgamating or merging companies; or
- (b) the survival of at least one of the amalgamating or merging companies, with or without the formation of one or more new companies, and the vesting in the surviving company or companies, together with any such new company or companies, of all of the assets and liabilities that were held by any of the amalgamating or merging companies immediately before the implementation of the agreement;

"annual general meeting" means the meeting of a public company required by section 61(7);

"audit" has the meaning set out in the Auditing Profession Act, but does not include an "independent review" of annual financial statements, as contemplated in section 30(2)(b)(ii)(bb);

"Auditing Profession Act" means the Auditing Profession Act, 2005 (Act No. 26 of 2005);

"auditor" has the meaning set out in the Auditing Profession Act;

"Banks Act" means the Banks Act, 1990 (Act No. 1194 of 1990);

"beneficial interest", when used in relation to a company's securities, means the right or entitlement of a person, through ownership, agreement, relationship or otherwise, alone or together with another person to—

- (a) receive or participate in any distribution in respect of the company's securities;
- (b) exercise or cause to be exercised, in the ordinary course, any or all of the rights attaching to the company's securities; or
- (c) 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, 2002 (Act No. 45 of 2002);

¹ Regulation 25(3) contains requirements as to what the accounting records must include.

"**board**" means the board of directors of a company;

"**business days**" has the meaning determined in accordance with section 5(3);

"**central securities depository**" has the meaning set out in section 1 of the Securities Services Act, 2004 (Act No. 36 of 2004);

"**Commission**" means the Companies and Intellectual Property Commission established by section 185;

"**Commissioner**" means the person appointed to or acting in the office of that name, as contemplated in section 189;

"**company**" means a juristic person incorporated in terms of this Act, a domesticated company, or a juristic person that, immediately before the effective date—

- (a) was registered in terms of the—
 - (i) Companies Act, 1973 (Act No. 61 of 1973), other than as an external company as defined in that Act; or
 - (ii) Close Corporations Act, 1984 (Act No. 69 of 1984), if it has subsequently been converted in terms of **Schedule 2**;
- (b) was in existence and recognised as an 'existing company' in terms of the Companies Act, 1973 (Act No. 61 of 1973); or
- (c) was deregistered in terms of the Companies Act, 1973 (Act No. 61 of 1973), and has subsequently been re-registered in terms of this Act;

"**Competition Act**", means the Competition Act, 1998 (Act No. 89 of 1998);

"**consideration**" means anything of value given and accepted in exchange for any property, service, act, omission or forbearance or any other thing of value, including—

- (a) any money, property, negotiable instrument, securities, investment credit facility, token or ticket;
- (b) any labour, barter or similar exchange of one thing for another; or
- (c) any other thing, undertaking, promise, agreement or assurance, irrespective of its apparent or intrinsic value, or whether it is transferred directly or indirectly;

"**Constitution**" means the Constitution of the Republic of South Africa, 1996;

"**convertible**", when used in relation to any securities of a company, means securities that may, by their terms, be converted into other securities of the company, including—

- (a) any non-voting securities issued by the company and which will become voting securities—
 - (i) on the happening of a designated event; or
 - (ii) if the holder of those securities so elects at some time after acquiring them; and

- (b) Options to acquire securities to be issued by the company, irrespective of whether those securities may be voting securities, or non-voting securities contemplated in paragraph (a);

"**director**" means a member of the board of a company, as contemplated in section 66, or an alternate director of a company and includes any person occupying the position of a director or alternative director, by whatever name designated;

"**distribution**" means a direct or indirect—

- (a) transfer by a 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 that company or of another company within the same group of companies, whether—
- (i) in the form of a dividend;
 - (ii) as a payment in lieu of a capitalisation share, as contemplated in section 47;
 - (iii) as consideration for the acquisition—
 - (aa) by the company of any of its shares, as contemplated in section 48; or
 - (bb) by any company within the same group of companies, of any shares of a company within that group of companies; or
 - (iv) otherwise in respect of any of the shares of that company or of another company within the same group of companies, subject to section 164(19);
- (b) incurrence of a debt or other obligation by a company for the benefit of one or more holders of any of the shares of that company or of another company within the same group of companies; or
- (c) forgiveness or waiver by a company of a debt or other obligation owed to the company by one or more holders of any of the shares of that 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;

"**effective date**", with reference to any particular provision of this Act, means the date on which that provision came into operation in terms of section 225;

"**electronic communication**" has the meaning set out in section 1 of the Electronic Communications and Transactions Act;

"**Electronic Communications and Transactions Act**" means the Electronic Communications and Transactions Act, 2002 (Act No. 25 of 2002);

"**employee share scheme**" has the meaning set out in section 95(1)(c);

"**exchange**" when used as a noun, has the meaning set out in section 1 of the Securities Services Act, 2004 (Act No. 36 of 2004);

"**exercise**", when used in relation to voting rights, includes voting by proxy, nominee, trustee or other person in a similar capacity;

"ex officio director" means a person who holds office as a director of a particular company solely as a consequence of that person holding some other office, title, designation or similar status specified in the company's Memorandum of Incorporation;

"external company" means a foreign company that is carrying on business, or non-profit activities, as the case may be, within the Republic, subject to section 23(2);

"financial statement" includes—

- (a) annual financial statements and provisional annual financial statements;
- (b) interim or preliminary reports;
- (c) group and consolidated financial statements in the case of a group of companies; and
- (d) financial information in a circular, prospectus or provisional announcement of results, that an actual or prospective creditor or holder of the company's securities, or the Commission, Panel or other regulatory authority, may reasonably be expected to rely on;

"group of companies" means a holding company and all of its subsidiaries;

"holding company", in relation to a subsidiary, means a juristic person that controls that subsidiary as a result of any circumstances contemplated in section 2(2)(a) or 3(1)(a);

"incorporator", when used—

- (a) with respect to a company incorporated in terms of this Act, means a person who incorporated that company, as contemplated in section 13; or
- (b) with respect to a pre-existing company, means a person who took the relevant actions comparable to those contemplated in section 13 to bring about the incorporation of that company;

"individual" means a natural person;

"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 the persons are related in a manner contemplated in section 2(1) and one of them is related to the third in any such manner, and so forth in an unbroken series;

"juristic person" includes—

- (a) a foreign company; and
- (b) a trust, irrespective of whether or not it was established within or outside the Republic;

"knowing", "knowingly" or "knows", when used with respect to a person, and in relation to a particular matter, means that the person either—

- (a) had actual knowledge of the matter; or
- (b) was in a position in which the person reasonably ought to have—
 - (i) had actual knowledge;

- (ii) investigated the matter to an extent that would have provided the person with actual knowledge; or
- (iii) taken other measures which, if taken, could reasonably be expected to have provided the person with actual knowledge of the matter;

"**material**", when used as an adjective, means significant in the circumstances of a particular matter, to a degree that is—

- (a) of consequence in determining the matter; or
- (b) might reasonably affect a person's judgment or decision-making in the matter;

"**nominee**" has the meaning set out in section 1 of the Securities Services Act, 2004 (Act No. 36 of 2004);

"**ordinary resolution**" means a resolution adopted with the support of more than 50% of the voting rights exercised on the resolution, or a higher percentage as contemplated in section 65(8)—

- (a) at a shareholders meeting; or
- (b) by holders of the company's securities acting other than at a meeting, as contemplated in section 60;

"**person**" includes a juristic person;

"**personal financial interest**", when used with respect to any person—

- (a) means a direct material interest of that person, of a financial, monetary or economic nature, or to which a monetary value may be attributed; but
- (b) 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, 2002 (Act No. 45 of 2002), unless that person has direct control over the investment decisions of that fund or investment;

"**prescribed officer**" means a person who, within a company, performs any function that has been designated by the Minister in terms of section 66(10);

"**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;

"**private company**" means a profit company that—

- (a) is not a public, personal liability or state-owned company; and
- (b) satisfies the criteria set out in section 8(2)(b);

"**profit company**" means a company incorporated for the purpose of financial gain for its shareholders;

"**public company**" means a profit company that is not a state-owned company, a private company or a personal liability company;

"record date" means the date established under section 59 on which a company determines the identity of its shareholders and their shareholdings for the purposes of this Act;

"registered auditor" has the meaning set out in the Auditing Profession Act;

"registered office" means the office of a company, or of an external company, that is registered as required by section 23;

"related", when used in respect of two persons, means persons who are connected to one another in any manner contemplated in section 2(1)(a) to (c);

"rules" and **"rules of a company"** means any rules made by a company as contemplated in section 15(3) to (5);

"securities" means any shares, debentures or other instruments, irrespective of their form or title, issued or authorised to be issued by a profit company;

"securities register" means the register required to be established by a profit company in terms of section 50(1);

"share" means one of the units into which the proprietary interest in a profit company is divided;

"shareholder", subject to section 57(1), means the holder of a share issued by a company and who is entered as such in the certificated or uncertificated securities register, as the case may be;

"shareholders meeting", with respect to any particular matter concerning a company, means a meeting of those holders of that company's issued securities who are entitled to Exercise Voting Rights in relation to that matter;

"solvency and liquidity test" means the test set out in section 4(1);

"special resolution" means—

- (a) in the case of a company, a resolution adopted with the support of at least 75% of the voting rights exercised on the resolution, or a different percentage as contemplated in section 65(10) -
 - (i) at a shareholders meeting; or
 - (ii) by holders of the company's securities acting other than at a meeting, as contemplated in section 60; or
- (b) in the case of any other juristic person, a decision by the owner or owners of that person, or by another authorised person, that requires the highest level of support in order to be adopted, in terms of the relevant law under which that juristic person was incorporated;

"subsidiary" has the meaning determined in accordance with section 3;

"voting power", with respect to any matter to be decided by a company, means the voting rights that may be exercised in connection with that matter by a particular person, as a percentage of all such voting rights;

"voting rights", with respect to any matter to be decided by a company, means—

- (a) the rights of any holder of the company's securities to vote in connection with that matter, in the case of a profit company; or
- (b) the rights of a member to vote in connection with the matter, in the case of a non-profit company;

"voting securities", with respect to any particular matter, means securities that—

- (a) carry voting rights with respect to that matter; or
- (b) are presently convertible to securities that carry voting rights with respect to that matter;

"wholly-owned subsidiary" has the meaning determined in accordance with section 3(1)(b).

Schedule 2 – Ineligible / disqualified in terms of section 69(7) and (8) of the Companies Act read with Regulation 39(3)

1. A person is ineligible to be a Director if the Person –
 - 1.1. is a juristic person;
 - 1.2. is an unemancipated minor, or is under a similar legal disability; or
 - 1.3. does not satisfy any qualification set out in the MOI.

2. A person is disqualified to be a Director if –
 - 2.1. a court has prohibited that Person to be a Director, or declared the Person to be delinquent in terms of section 162, or in terms of section 47 of the Close Corporations Act, 1984 (Act No. 69 of 1984); or
 - 2.2. the Person –
 - 2.2.1. is an unrehabilitated insolvent;
 - 2.2.2. is prohibited in terms of any public regulation to be a Director;
 - 2.2.3. has been removed from an office of trust, on the grounds of misconduct involving dishonesty; or
 - 2.2.4. has been convicted, in the Republic or elsewhere, and imprisoned without the option of a fine, or fined more than R1 000,00 (one thousand rand) amount, for theft, fraud, forgery, perjury or an offence –
 - 2.2.4.1. involving fraud, misrepresentation or dishonesty;
 - 2.2.4.2. in connection with the promotion, formation or management of a company, or in connection with any act contemplated in subsection (2) or (5); or
 - 2.2.4.3. under the Companies Act, the Insolvency Act, 1936 (Act No. 24 of 1936), the Close Corporations Act, 1984, the Competition Act, the Financial Intelligence Centre Act, 2001 (Act No. 38 of 2001), the Securities Services Act, 2004 (Act No. 36 of 2004), or Chapter 2 of the Prevention and Combating of Corruption Activities Act, 2004 (Act No. 12 of 2004).

Schedule 3 – Prescribed Methods of Delivery in the Regulations

Person to whom the document is to be delivered	Method of delivery	Date and Time of Deemed delivery
Any Person	<p>By faxing the notice or a certified copy of the document to the Person, if the Person has a fax number;</p> <p>By sending the notice or a copy of the document by electronic mail, if the Person has an Electronic Address;</p> <p>By sending the notice or a certified copy of the document by registered post to the Person's last known address;</p> <p>By any other means authorised by the High Court; or</p> <p>By any other method allowed for that Person in terms of the following rows of this Table.</p>	<p>On the date and at the time recorded by the fax receiver, unless there is conclusive evidence that it was delivered on a different date or at a different time.</p> <p>On the date and at the time recorded by the computer used by the Company, unless there is conclusive evidence that it was delivered on a different date or at a different time.</p> <p>On the 7th (seventh) day following the day on which the notice or document was posted as recorded by a post office, unless there is conclusive evidence that it was delivered on a different day.</p> <p>In accordance with the order of the High Court.</p> <p>As provided for that method of delivery.</p>
Any natural Person	<p>By handing the notice or a certified copy of the document to the Person, or to any representative authorised in writing to accept service on behalf of the Person;</p> <p>By leaving the notice or a certified copy of the document at the Person's place of residence or business with any other Person who is apparently at least 16 (sixteen) years old and in charge of the premises at the time;</p> <p>By leaving the notice or a certified copy of the document at the Person's place of employment with any Person who is apparently at least 16 (sixteen) years old and apparently in authority.</p>	<p>On the date and at the time recorded on a receipt for the delivery.</p> <p>On the date and at the time recorded on a receipt for the delivery.</p> <p>On the date and at the time recorded on a receipt for the delivery.</p>
A company or similar body corporate	By handing the notice or a certified copy of the document to a responsible employee of the company or body corporate at its registered office or its principal place of business within	On the date and at the time recorded on a receipt for the delivery.

Person to whom the document is to be delivered	Method of delivery	Date and Time of Deemed delivery
	<p>South Africa;</p> <p>If there is no employee willing to accept service, by affixing the notice or a certified copy of the document to the main door of the office or place of business.</p>	<p>On the date and at the time sworn to by affidavit of the Person who affixed the document, unless there is conclusive evidence that the document was affixed on a different date or at a different time.</p>
The state or a province	By handing the notice or a certified copy of the document to a responsible employee in any office of the State Attorney.	On the date and at the time recorded on a receipt for the delivery.
A municipality	By handing the notice or a certified copy of the document to the town clerk, assistant town clerk or any Person acting on behalf of that Person.	On the date and at the time recorded on a receipt for the delivery.
A trade union	<p>By handing the notice or a certified copy of the document to a responsible employee who is apparently in charge of the main office of the union</p> <p>or for the purposes of section 13(2), if there is a union office within the magisterial district of the firm required to notify its employees, in terms of the Regulations at the office.</p> <p>If there is no Person willing to accept service, by affixing a certified copy of the notice or document to the main door of that office.</p>	<p>On the date and at the time recorded on a receipt for the delivery.</p> <p>On the date and at the time sworn to by affidavit of the Person who affixed the document, unless there is conclusive evidence that the document was affixed on a different date or at a different time.</p>
Employees of the Company	By fixing the notice or certified copy of the document, in a prominent place in the workplace where it can be easily read by employees.	On the date and at the time sworn to by affidavit of the Person who affixed the document, unless there is conclusive evidence that the document was affixed on a different date or at a different time.

Person to whom the document is to be delivered	Method of delivery	Date and Time of Deemed delivery
A partnership, firm or association	<p>By handing the notice or a certified copy of the document to a Person who is apparently in charge of the premises and apparently at least 16 (sixteen) years of age, at the place of business of the partnership, firm or association;</p> <p>If the partnership, firm or association has no place of business, by handing the notice or a certified copy of the document to a partner, the owner of the firm, or the chairman or secretary of the managing or other controlling body of the association, as the case may be.</p>	<p>On the date and at the time recorded on a receipt for the delivery.</p> <p>On the date and at the time recorded on a receipt for the delivery.</p>