

ANNEXURE A

REPLACEMENT TRUST DEED

OF

THE VAL DE VIE FOUNDATION



THEMIS
COMMERCIAL LEGAL ADVISORS (PVT) LTD

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THE VAL DE VIE FOUNDATION

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TRUST DEED

IN RESPECT OF

THE VAL DE VIE FOUNDATION

ENTERED INTO BETWEEN

VAL DE VIE INVESTMENTS (PTY) LTD

(Registration Number: 2014/016853/07)

(hereinafter referred to as "the Founder")

and

SAREL DANIËL GOTTLIEB ROSSOUW

Identity Number [REDACTED]

and

JAN MORNÉ BOSCH

Identity Number [REDACTED]

and

SIMONÉ ANDREA DE WET

Identity Number [REDACTED]

(hereinafter referred to as "the Trustees")

WHEREAS the Founder is desirous of establishing a trust for the purposes and upon the terms and subject to the conditions as hereinafter set out

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AND WHEREAS the Trustees have declared themselves prepared to accept and to hold and invest the donation of the Founder on behalf of the Eligible Beneficiaries subject to the terms and conditions stipulated in this Trust Deed

NOW THEREFORE the Founder and the Trustees agree as set out in this Trust Deed.

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THE VAL DE VIE FOUNDATION

1 INTERPRETATION

- 1.1 In this Trust Deed, unless inconsistent with or otherwise indicated by the context –
- 1.1.1 “**Auditors**” means the auditors of the Trust appointed by the Trustees from time to time;
- 1.1.2 “**Commissioner**” means the Commissioner of the South African Revenue Service;
- 1.1.3 “**Eligible Beneficiaries**” means such individuals and juristic persons, as may from time to time be eligible to receive benefits from the Trust in pursuant of its objects, having regard to the Prescribed Fiscal Conditions;
- 1.1.4 “**the Founder**” means Val de Vie Investments Proprietary Limited, with registration number 2014/016853/07, a private company with limited liability duly incorporated in accordance with the laws of the Republic of South Africa;
- 1.1.5 “**Income Tax Act**” means the Income Tax Act, 58 of 1962, as amended;
- 1.1.6 “**the Master**” means the Master of the High Court of South Africa who has jurisdiction over the Trust;
- 1.1.7 “**Minister**” means the Minister of Finance;
- 1.1.8 “**Prescribed Fiscal Conditions**” means the provisions set out in clause 5, being applicable to Public Benefit Organisations, approved as such by the Commission for the purposes of section



10(1)(cN) and for the purposes of section 18A, as amended by the Income Tax Act from time to time;

- 1.1.9 **"Public Benefit Activities"** means the activities designated as public benefit activities as set out in the Ninth Schedule to the Income Tax Act and any such other activities determined by the Minister as such in terms of section 30(1) of the Income Tax Act;
- 1.1.10 **"the Trust"** means the trust to be known as the VAL DE VIE FOUNDATION created in terms of this Trust Deed;
- 1.1.11 **"Trust Fund"** means the trust property or capital vested in the Trustees, or in respect of which they have a claim, namely the original donation and any additions thereto, irrespective of the source from which such additions are derived;
- 1.1.12 **"the Trustees"** means the trustees of the Trust that may be appointed in terms of this Trust Deed from time to time, as evidenced by a certificate issued by the Master;
- 1.1.13 **"Trust Property Control Act"** means the Trust Property Control Act, No 57 of 1988, as amended;
- 1.1.14 any reference to the singular includes the plural and vice versa; and
- 1.1.15 any reference to one gender includes the other genders.
- 1.2 The clause headings in the Trust Deed have been inserted for convenience only and shall not be taken into account in its interpretation.
- 1.3 This Trust Deed shall be governed by the laws of the Republic of South Africa.

2 DONATIONS

The Founder undertakes unconditionally and irrevocably to make a donation of R100,00 (one hundred Rand) to the Trustees in their capacities as such and the Trustees hereby accept the donation.

3 ESTABLISHMENT OF THE TRUST

The Trust shall forthwith be known as the VAL DE VIE FOUNDATION.

4 PURPOSE AND OBJECTS

4.1 The purpose of the Trust is to provide relief to the disadvantage communities in the greater Cape Winelands, with specific focus on the Drakenstein Valley.

4.2 The Trustees shall achieve the purpose of the Trust by focussing their efforts on the following objects –

4.2.1 promotion and support of youth development, including leadership development;

4.2.2 community development for poor and needy persons and anti-poverty initiatives, including –

4.2.2.1 the promotion of community-based projects relating to empowerment, capacity building and skills development;

4.2.2.2 the provision of training, support or assistance to community-based projects relating to empowerment, capacity building and skills development;

4.2.3 promotion and support of educational activities for the poor and needy;

4.2.4 educational enrichment, academic support, supplementary tuition or outreach programmes for the poor and needy;

- 4.2.5 the provision of scholarships, bursaries and awards for study, research and teaching, subject to the provisions of clause 5.4;
- 4.2.6 undertaking and support of projects of spiritual concern for the relief of communities in distress;
- 4.2.7 the promotion of religion which encompasses acts of worship, witness, teaching and comminute service based on belief in a diety;
- 4.2.8 the promotion of a belief;
- 4.2.9 the promotion of and engaging in philosophical activities; and
- 4.2.10 promotion and support of projects which create jobs.
- 4.3 It is envisaged that the Trustees shall apply for exemption from Income Tax and related taxes in terms of the Income Tax Act and classification in terms of Section 18A of the Income Tax Act or such other exemption or classification as the Commissioner may allow.
- 4.4 To give effect to the object of the Trust, the Trustees shall from time to time be entitled in their sole discretion to -
- 4.4.1 accept donations and to allocate same to the capital and income of the Trust;
- 4.4.2 donate income and/or capital of the Trust to any one or more of the Eligible Beneficiaries.
- 4.5 Notwithstanding any provision to the contrary contained in this Trust Deed, no Eligible Beneficiary shall acquire any right to or in respect of any benefits from the Trust, whether actual or contingent, unless and until such benefits are actually paid or conferred by the Trustees to or for the benefit of such Eligible Beneficiary in terms of the Trust Deed, and then only in respect of and to the extent of the benefit so paid or conferred.

4.6 No benefits conferred by the Trustees in terms of the provisions of this Trust Deed shall confer any right in favour of any Eligible Beneficiary to receive any further benefits or to acquire any other rights in respect of the Trust Fund or any part thereof.



5 SPECIAL PROVISIONS RELATING TO TAX EXEMPTION

5.1 Notwithstanding anything to the contrary contained in this Trust Deed, the powers of the Trustees and the Trust are subject to due compliance with the conditions stipulated in terms of section 30, and insofar as it may be applicable, in terms of section 18A of the Income Tax Act, as read with the Ninth Schedule thereto, in order thereby to facilitate the eligibility of the Trust (hereinafter referred to as "**the Organisation**") for tax-exempt status in terms of section 10(1)(cN) and (to the extent that this may be applicable) its eligibility for the further fiscal benefit envisaged by section 18A of the Income Tax Act.

5.2 The Trust Fund shall be applied solely towards the promotion of the objects of the Organisation set out in this Trust Deed, and no portion thereof shall be paid or transferred directly or indirectly, by way of dividend, bonus or otherwise to the Trustees, provided that nothing herein shall prevent –

5.2.1 the Organisation from giving financial or other assistance to approved Public Benefit Organisations, and in support of Public Benefit Activities, to the extent that such assistance serves to promote the objects of the Organisation; or

5.2.2 the payment in good faith by the Organisation of reasonable remuneration (commensurate with services rendered) to any officer or servant of the Organisation, including a Trustee, in return for services actually rendered as aforesaid, but subject to due compliance with the other limitations set out in this clause 5.



5

- 5.3 As a Public Benefit Organisation to be approved by the Commissioner for purposes of section 18(A)(1) of the Income Tax Act, the Trustees shall undertake the following:
- 5.3.1 Ensure that any eligible donations actually paid for or transferred to the Organisation, are applied solely to undertake, or to enable other Eligible Beneficiaries to undertake Public Benefit Activities as listed from time to time in Part II of the Ninth Schedule of the Income Tax Act; including the provision of funds or assets to assist other Eligible Beneficiary organisations, institutions, boards or bodies to conduct such Public Benefit Activities, including such as may be determined by the Minister from time to time for purposes of section 18A of the Income Tax Act. The terms "Eligible Beneficiaries" shall include the Government itself, and any provincial administration or local authority contemplated in section 10(1)(a) or (b) of the Income Tax Act.
- 5.3.2 Ensure that during each year of assessment preceding the year of assessment of the Organisation during which a qualifying donation is received, it distributes or incurs the obligation to distribute at least 75% (seventy five percent) of the funds so received by or accrued to it by way of donations which qualify for a deduction in terms of section 18A of the Income Tax Act; unless the Commissioner upon good cause shown agrees to waive, defer or reduce such obligation to distribute, as contemplated by the proviso to section 18A(1)(b)(ii) of the Income Tax Act, and in that event, subject to any such conditions as the Commissioner may determine.
- 5.3.3 Comply with, and have regard to, any such additional requirements as may be prescribed by the Minister from time to time in terms of section of the Income Tax Act 18(A)(1), or as may be otherwise imposed by the Commissioner in terms of the Income Tax Act, including any additional requirements prescribed by the Minister as binding upon Eligible Beneficiaries carrying on any specified activity

before donations shall be allowed as a deduction for purposes of section 18A.

- 5.3.4 Ensure that an audit certificate is provided upon submission by the Organisation to the Commissioner of its annual return for each year of assessment, confirming that all donations received or accrued by the Organisation in that year, in respect of which section 18A receipts were issued by the Organisation, were utilised in the manner contemplated by that section.
- 5.4 As a Public Benefit Organisation that will provide scholarships, bursaries and awards for study, research or teaching –
- 5.4.1 all scholarships, bursaries or awards granted by the Organisation shall be *bona fide* and shall be granted to individuals on grounds on objective merit or need;
- 5.4.2 no scholarship, bursary or award granted by the Organisation may –
- 5.4.2.1 be revocable, otherwise than for reasons of a material failure to conform to the designated purposes and conditions of that scholarship, bursary or award;
- 5.4.2.2 be subject to conditions which would enable the donor of the funds of that scholarship, bursary or award or any connected person in relation to that donor, to derive some direct benefit from the application of that scholarship, bursary or award; and
- 5.4.2.3 be granted to –
- 5.4.2.3.1 any person who is or will become an employee of the donor of the funds of that scholarship, bursary or award or of the Organisation or any associated institution in relation to such donor or the Organisation; or
- 5.4.2.3.2 any relative of a person described in clause 5.4.2.3.1,

unless circumstances indicate that the scholarship, bursary or award would be granted to that person or his/her relative even if that person had not been an employee of the Organisation, relevant donor or any of their associated institutions;

- 5.4.3 all decisions regarding the granting of scholarships, bursaries or awards must be made by a duly constituted committee consisting of at least 3 (three) persons who are not connected persons in relation to the donor of the funds of that scholarship, bursary or award or the person to whom the scholarship, bursary or award is granted;
- 5.4.4 all scholarships, bursaries and awards granted by the Organisation in respect of any overseas study, research or teaching will be subject to an undertaking by the person to whom the scholarship, bursary or award is granted –
- 5.4.4.1 to apply the knowledge obtained from the study, research or teaching immediately after completion thereof, in the Republic of South Africa for a period of at least the period that the study, research or training was funded by the Organisation; or
- 5.4.4.2 to refund the full amount of the scholarship, bursary or award should he or she decide not to apply the knowledge as contemplated in clause 5.4.4.1; and
- 5.4.5 the Trustees shall, upon request by the Commissioner, make available to the Commissioner copies of all documents and information relating to any scholarship, bursary or award granted by the Organisation, including minutes of any meeting relating thereto.
- 5.5 As a Public Benefit Organisation to be approved by the Commissioner for purposes of section 30 of the Income Tax Act, the Trustees shall be responsible for the following –
- 5.5.1 Carry on the public benefit activities of the Organisation in a non-profit manner, and with an altruistic or philanthropic intent.

- 5.5.2 Ensure that no such activity is intended to directly or indirectly promote the economic self-interest of any Trustee, fiduciary, or employee, of the Organisation, otherwise than by way of reasonable remuneration payable to that Trustee, fiduciary or employee.
- 5.5.3 Procure that at least 85% (eighty five percent) of its public benefit activities, measured as either cost related to the activities or the time expended in respect thereof, are carried out for the benefit of persons in the Republic of South Africa, unless the Minister, having regard to the circumstances of the case, directs otherwise; provided that the cost incurred for the benefit of persons outside the Republic shall be disregarded to the extent of donations received by the Organisation from persons who are not resident in the Republic, and receipts and accruals derived directly or indirectly therefrom, which donations, receipts, and accruals have not previously been taken into account for purposes of this proviso.
- 5.5.4 Take reasonable steps to ensure that each such public benefit activity as is carried on by the Organisation is for the benefit of, or is widely accessible to, the general public at large, including any sector thereof (other than small and exclusive groups).
- 5.5.5 Comply with such conditions, if any, as the Minister may prescribe by way of regulation to ensure that the activities and resources of the Organisation are directed in the furtherance of its objects.
- 5.5.6 Submit to the Commissioner a copy of this Trust Deed, including any amendments thereof.
- 5.5.7 Shall be prohibited from distributing the Trust Funds, or any part thereof, to any person otherwise than in the course of undertaking any public benefit activity, and be required to utilise the Trust Funds solely for the objects for which it has been established, or to invest the Trust Funds –

- 5.5.7.1 with a financial institution as defined in section 1 of the Financial Services Board Act, 1990 (Act No. 97 of 1990); and/or
- 5.5.7.2 in securities listed on a stock exchange as defined in section 1 of the Stock Exchanges Control Act, 1985 (Act No. 1 of 1985); and/or
- 5.5.7.3 in such other prudent investments in financial instruments and assets as the Commissioner may determine after consultation with the Executive Officer of the Financial Services Board and the Director of Non-Profit Organisations,

provided that the provisions of this sub-paragraph do not prohibit the Organisation from retaining any investment (other than any investment in the form of a business undertaking or trading activity or asset which is used in such business undertaking or trading activity) in the form that it was acquired by way of donation, bequest or inheritance.

- 5.5.8 Shall be required on dissolution to transfer its assets to –
 - 5.5.8.1 any similar public benefit organisation which has been approved in terms of section 30(3) of the Income Tax Act;
 - 5.5.8.2 any institution, board or body which is exempt from tax under the provisions of section 10(1)(cA)(i) of the Income Tax Act, which has as its sole or principal object the carrying on or any public benefit activity; or
 - 5.5.8.3 any department of state or administration in the national or provincial or local sphere of government of the Republic of South Africa, contemplated in section 10(1)(a) or (b) of the Income Tax Act.

- 5.5.9 Shall be prohibited from carrying on any business undertaking or trading activity, otherwise than to the extent that –
- 5.5.9.1 the gross income derived from such business undertaking or trading activity does not exceed the greater of:
- 5.5.9.1.1 fifteen percent (15%) of the gross receipts of the Organisation; or
- 5.5.9.1.2 R25,000 (twenty five thousand Rand);
- 5.5.9.2 the undertaking or activity is –
- 5.5.9.2.1 integral and directly related to the objects of the Organisation; and
- 5.5.9.2.2 carried out or conducted on a basis substantially the whole of which is directed towards the recovery of cost, and which would not result in unfair competition in relation to taxable entities;
- 5.5.9.3 the undertaking or activity, if not integral and directly related to the sole object of the Organisation as contemplated in clause 5.5.9.2, is of an occasional nature and undertaken substantially with assistance on a voluntary basis without compensation; or
- 5.5.9.4 the undertaking or activity is approved by the Minister by notice in the Gazette, having regard to:
- 5.5.9.4.1 the direct connection and interrelationship of the undertaking or activity with the sole purpose of the Organisation;
- 5.5.9.4.2 the profitability of the undertaking or activity; and

5.5.9.4.3 the level of economic distortion that may be caused by the tax-exempt status of the Organisation carrying out the undertaking or activity;

provided that, notwithstanding the terms of clause 5.5.9 above, any business or trading activity acquired before 1 January 2001, may be retained or continued, as the case may be, in the form so acquired for a period of five years after that date.

5.5.10 Be prohibited from accepting any donation which is revocable at the instance of the donor for reasons other than a material failure to conform to the designated purposes and conditions of such donation, including any misrepresentation with regard to the tax deductibility thereof in terms of section 18A; provided that a donor (other than a donor which is an approved Public Benefit Organisation or an institution, board or body which is exempt from tax in terms of section 10(1)(cA)(i), which has as its sole or principal object the carrying on of any Public Benefit Activity) may not impose conditions which could enable such donor or any connected person in relation to such donor to derive some direct or indirect benefit from the application of such donation.

5.5.11 Be required to submit to the Commissioner a copy of any amendment to this Trust Deed.

5.5.12 Ensure that it is not knowingly a party to, and does not knowingly permit itself to be used as part of any transaction, operation or scheme of which the sole or main purpose is or was the reduction, postponement or avoidance of liability for any tax, duty or levy, which, but for such transaction, operation or scheme, would have been or would have become payable by any person under the Income Tax Act or any other legislation administered by the Commissioner.

- 5.5.13 Not pay any remuneration, as defined in the Fourth Schedule to the Income Tax Act, to any Trustee, employee, office bearer, member or other person which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered; and has not and will not economically benefit any person in a manner which is not consistent with its objects.
- 5.5.14 Comply with such reporting requirements as may be determined by the Commissioner.
- 5.5.15 Take reasonable steps to ensure that the funds which it may provide to any association of persons as contemplated in paragraph (b)(iii) of the definition of "Public Benefit Activities" in section 30 of the Income Tax Act, are utilised for the purpose for which they are provided.
- 5.5.16 Take all necessary steps to procure that, within such period as the Commissioner may determine, it is registered in terms of section 13(5) of the Non-Profit Organisations Act, 1997 (Act No. 71 of 1997), and complies with any other requirements imposed in terms of that Act, unless the Commissioner in consultation with the Director of Nonprofit Organisations designated in terms of section 8 of the Nonprofit Organisations Act, 1997, on good cause shown, otherwise directs.
- 5.5.17 Shall not use its resources directly or indirectly to support, advance or oppose any political party.
- 5.5.18 Ensure that any books of account, records and other documents relating to its affairs are –
- 5.5.18.1 where kept in book form, retained and carefully preserved by any person in control of the organisation, for a period of at least four years after the date of the last entry in any such book; or

5.5.18.2 where not kept in book form, are retained and carefully preserved by any person in control of the organisation, for a period of four years after the completion of the transaction, act or operation to which they relate.

5.6 Upon the winding-up, deregistration or dissolution, the assets of the Organisation remaining after the satisfaction of all its liabilities shall be given or transferred to one or more other Public Benefit Organisation and/or Eligible Beneficiaries having the same or similar objects to those of the Organisation, as may be determined by the Trustees at or before the time of such dissolution, or failing determination by them, then by the Court, and with the approval of the Commissioner.

6 THE FIRST TRUSTEES

6.1 The first Trustees of the Trust are –

6.1.1 Sarel Daniël Gottlieb Rossouw;

6.1.2 Jan Morné Bosch; and

6.1.3 Simoné Andrea De Wet.

6.2 The Trust shall at all times have not less than 3 (three) Trustees and not more than 5 (five) Trustees who shall be individual persons, who are not connected persons in relation to each other, to accept the fiduciary responsibility of the Trust.

6.3 If the number of Trustees in office falls below the required minimum, the remaining Trustee/s will be authorised to exercise all the powers of Trustees for the maintenance and administration of the Trust Fund, provided that an additional Trustee/s shall be appointed by , within 90 (ninety) days, subject to clause 6.8.

6.4 If the number of Trustees in office falls below the required minimum for a period longer than 90 (ninety) days, the Auditor, shall ipso facto become

a Trustee, and shall either remain in office or appoint a suitable person to succeed him.

6.5 For as long as the number of Trustees in office falls below the required minimum, the Trustees in office shall not be entitled to pass a valid resolution for the distribution of the Trust Fund or portion thereof or for the variation of the Trust Deed.

6.6 The Founder shall, for as long as the Founder operates its business from and in respect of Val de Vie Estate, be entitled to nominate 3 (three) unconnected individuals for appointment as Trustee, including a Trustee required to replace any Trustee whose office is terminated.

6.7 Val de Vie Winelands Lifestyle Homeowners Association shall, be entitled, but not obliged to nominate for appointment as Trustee, including a Trustee required to replace any Trustee whose office is terminated –

6.7.1 2 (two) unconnected natural persons, for as long as the Founder is entitled to nominate in terms of clause 6.6; and

6.7.2 5 (five) unconnected natural persons, in the event of the Founder no longer being entitled to nominate in terms of clause 6.6.

6.8 The Trustees shall be obliged to appoint as additional Trustees, the persons nominated by the Founder and the Val de Vie Winelands Lifestyle Homeowners Association in accordance with clause 6.6 and 6.7 above.

6.9 The first Trustees referred to in clause 6.1 shall be deemed to have been nominated by the Founder for the purposes of clause 6.6.

7 VACATION OF OFFICE BY TRUSTEE

The office of a Trustee shall terminate if the Trustee –

- 7.1 resigns by written notice to that effect being given to its co-Trustees; or
- 7.2 becomes unfit or incapable of acting as Trustee; or
- 7.3 is found by a competent court to be of unsound mind and mentally incapable of managing his affairs; or
- 7.4 has been placed in sequestration, whether provisional or final; or
- 7.5 has committed an offence under the laws of any country involving dishonesty; or
- 7.6 he is removed from office by order of court; or
- 7.7 he is removed on written notice signed by all of his co-Trustees and the Founder.

8 MASTER OF THE HIGH COURT

- 8.1 The Master of the High Court of South Africa or any other government official in a similar capacity with similar powers shall have no control over the Trust Fund or any income of the Trust Fund.
- 8.2 None of the Trustees from time to time may be required by the Master or any other official to furnish security in connection with their appointment and/or for the due administration of the Trust Fund in terms of any law applicable from time to time, and the Master and any such officer are hereby specifically directed to dispense with any such security.
- 8.3 For the avoidance of doubt, the Trustees are hereby exempted from any obligation to furnish security for the due administration of the Trust in terms of the Trust Property Control Act or any law hereinafter in force.

9 POWERS OF TRUSTEES

Subject to due compliance with the Prescribed Fiscal Conditions, the Trustees shall have all such powers as may be necessary to manage the

affairs of the Trust in such manner as will in their discretion be in the best interest of the Trust and the purpose and objects of the Trust, without prejudice to the generality of the foregoing and in addition to all powers enjoyed by them under the common law and by statute, have the following powers, namely –

- 9.1 to invest any monies of the Trust in such manner and in such place as they may deem fit in terms of investment criteria determined by the Trustees;
- 9.2 to purchase or otherwise acquire any property rights or assets whether movable or immovable, corporeal or incorporeal, and of whatsoever nature and wheresoever situated;
- 9.3 to borrow such sums of money on such terms and conditions and for such purposes related to the Trust with powers to consent to any alteration or variation to the terms and conditions of any loan agreement entered into by the Trust as the borrower;
- 9.4 to exchange, sell alienate, lease or otherwise deal with any assets forming part of the Trust Fund, and in exercising any powers of sale, whether conferred in this sub-clause or otherwise, they shall be entitled to cause any such sale to be effected by public auction or by private treaty;
- 9.5 to collect and receive rents, and , if necessary, cancel any lease or other tenancy and take all legal proceedings for ejectment or otherwise in connection with such lease or other tenancy or the cancellation thereof;
- 9.6 to grant credit in respect of the whole or any portion of the purchase price against suitable security and with applicable interest whenever affecting any sale of any part of the Trust Fund, as they in their sole and absolute discretion deem fit;
- 9.7 to improve an/or develop and/or redevelop immovable property forming part of the Trust Fund, by *inter alia*, demolishing, constructing or altering



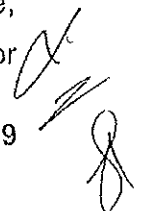
buildings and improvements thereon and to expend portions of the trust fund or the income thereof upon the preservation, maintenance and upkeep of any such property;

- 9.8 to hold the whole or any part of the Trust Assets in the name or names of any other legal persons nominated by them for that purpose;
- 9.9 to treat as income any periodic receipts although received from wasting assets, without being required to make provision for amortisation of wasting assets;
- 9.10 to decide whether any monies or assets are to be treated as capital or income, including in respect of any liquidation dividend, or return of capital, or capitalisation of profits in the case of companies whose shares are being held as part of the trust fund and to decide on the nature of income received by the Trust, *inter alia*, whether it shall be rental, dividends, interest , or of any other nature;
- 9.11 to allocate all amounts received by the Trust between capital and income as they may determine, and to add all amounts allocated as capital to the capital of the trust fund;
- 9.12 to decide whether any expense incurred is to be paid out of capital or income;
- 9.13 to pay cash or to distribute *in specie*, or to pay partly in cash and partly distribute *in specie*, the income or capital forming part of the Trust Assets, provided that in the case of a distribution in specie the Trustees shall be entitled to place such value as they in their sole and absolute discretion deem fit on the assets so distributed *in specie*. For the purposes of this clause, the word "*specie*" shall be deemed to include capital or assets at the time held as portion of the trust fund which is in a form other than cash;
- 9.14 to reimburse themselves and pay and discharge out of the trust fund and any income accruing therefrom, all expenses which may be incurred by



them in or about the administration of the Trust and the exercise of the powers conferred upon them;

- 9.15 to decide on questions and matters of whatsoever description arising in the administration of the Trust;
- 9.16 to employ and remunerate one or more property management companies, accountants, auditors, attorneys, advocates, consultants, engineers, quantity surveyors, surveyors, agents, brokers, or others to transact all or any business of whatsoever nature required to be done pursuant to the affairs of the Trust;
- 9.17 to obtain such legal, tax, accounting and other professional advice required by the Trust;
- 9.18 to open and operate (either themselves or by a person or persons authorised by them) a banking account or accounts in the name of the Trust;
- 9.19 to sue for, recover and receive all debts or sums of money, goods, effects and things whatsoever, which may become due, owing, payable or belonging to the Trust;
- 9.20 to defend, oppose, settle, compromise or submit to arbitration all accounts, debts, claims, demands, disputes, legal proceedings and matters which may subsist or arise between the Trust and any person, company, corporation or body whatsoever, and for the purposes aforesaid to do and execute all necessary acts and documents;
- 9.21 to allow time for the payment of any debts due to them as they may think fit;
- 9.22 to attend all meetings of creditors of any person or persons, company, corporation or body whatsoever indebted to the Trust, whether in provisional or final insolvency, liquidation, business rescue or otherwise, and to vote for the election of the trustee and/or liquidators and/or

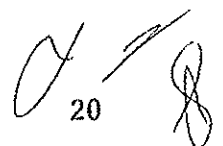


business rescue practitioner, and also to vote on all questions submitted to any such meeting of creditors and generally to exercise all rights accruing to a creditor;

- 9.23 to compromise, compound or submit to arbitration any debt due to the Trust or any claim made against the Trust;
- 9.24 to enter into any contracts, to sign all deeds, powers of attorney and other documents;
- 9.25 to enter into any partnership, joint venture or other association with any other person, firm or company for the doing or performance of any transaction or series of transactions within the powers of the Trustees in terms hereof;
- 9.26 to determine the form and content of any legal act undertaken by them and to do all such things as may be necessary or desirable from time to time to give effect to the exercise of the powers contained herein as they in their sole and absolute discretion may consider necessary or desirable in the interests of the Trust;
- 9.27 to determine the manner in which all contracts, deeds and other documents which are required to be signed on behalf of the Trust shall be signed from time to time.

10 REMUNERATION OF TRUSTEES AND PROFESSIONAL SERVICES

- 10.1 Save for the reimbursement of expenses referred to in clause 10.2, the Trustees shall receive no remuneration for the execution of the duties and powers conferred upon them in terms of this Trust Deed.
- 10.2 The Trustees shall be entitled to reimburse themselves and pay and discharge out of the Trust Fund and out of any income accruing therefrom, all expenses which may be incurred by them during or in relation to the execution of the duties and powers conferred upon them.


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10.3 The Trustees shall be entitled from time to time to employ accountants, attorneys, agents or brokers to transact all or any business of whatsoever nature required to be done pursuant to this Trust Deed and shall be entitled to pay all such charges and expenses so incurred as a first charge, and shall not be responsible for the default of any such accountants, attorneys, agents or brokers or for any loss occasioned by such employment.

11 MEETING AND RESOLUTIONS OF TRUSTEES

11.1 The business of the Trust shall be conducted by the Trustees who shall meet at such times and places as they may deem necessary.

11.2 Any majority of Trustees acting jointly shall be entitled at any time and upon notice reasonable in the circumstances to summon a meeting of the Trustees.

11.3 The Trustees shall convene an annual general meeting within a period of 6 (six) months from the financial year end of the Trust. The following business shall be transacted at the annual general meeting –

11.3.1 the presentation and adoption of the Trustee's annual report;

11.3.2 the consideration of the annual financial statements;




11.3.3 the appointment or re-appointment of the Auditors; and

11.3.4 such other matters as the Trustees deem fit.

11.4 In addition to the annual general meeting referred to in 11.3, the Trustees shall convene a meeting at least once every 3 (three) months during the financial year of the Trust.

11.5 A quorum at any meeting of Trustees shall be all the Trustees, unless otherwise determined by the Trustees.




- 11.6 Any Trustee who is absent from a meeting may be represented by a proxy, in which event such Trustees shall be deemed to be present at the meeting for the purpose of establishing a quorum, provided that such Trustee shall have given its appointed proxy instructions as to the exercise of the Trustee's voting rights in respect of each resolution proposed at such meeting.
- 11.7 Subject to them giving effect to the terms and conditions of this Trust Deed, the Trustees shall, in administering the Trust, adopt such procedures and take such administrative or other steps as they shall from time to time deem necessary.
- 11.8 The Trustees may elect one of their number to act as chairman of Trustees' meetings. The chairman shall not have a casting vote.
- 11.9 All decisions of the Trustees shall be approved once it is supported by the majority of the Trustees.
- 11.10 Each Trustee shall have 1 (one) vote in respect of all matters to be determined by the Trustees.
- 11.11 A resolution in writing signed by all the Trustees shall be valid and effective as if it had been passed at a duly convened meeting of Trustees.
- 11.12 Any decision duly made by the Trustees in terms of the powers conferred upon them in terms of this Trust Deed shall be final and binding on the Eligible Beneficiaries.
- 11.13 The Trustees may from time to time establish special purpose sub-committees from time to time which may include persons that are not Trustees and the Trustees may delegate any of its powers and duties to such sub-committees from time to time, as the Trustees may deem fit, provided that –

  
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- 11.13.1 any such sub-committee shall be at all times be subject to the ultimate control and directions of the Trustees;
- 11.13.2 the Trustees shall not be divested of any of their powers, authorities and fiduciary responsibilities as a result of such delegation; and
- 11.13.3 any committee appointed for the purpose of decisions regarding the granting of scholarships, bursaries or awards for study, research or teaching shall be subject to the provisions of clause 5.4.3.
- 11.14 The Trustees shall be entitled to appoint, remove and replace any person on the sub-committee, who is not a Trustee.

12 ADMINISTRATION

- 12.1 The financial year of the Trust shall commence on 1 March in each year and shall terminate on the last date of February in each year. The Trustees shall be entitled to change the financial year of the Trust, subject to the prior approval of the Commissioner.
- 12.2 The Trustees shall cause to be kept proper records, minute books and books of account, truly and correctly reflecting their administration of the Trust.
- 12.3 The financial statements of the Trust shall be prepared annually in respect of each financial year of the Trust and shall reflect the financial position and affairs of the Trust. The annual financial statements shall be audited by the Auditors, it being agreed that such audit shall be completed not later than 5 (five) months following the financial year end of the Trust.
- 12.4 For the purposes of clause 12.3, the Auditors shall at all times have access to all books of account, vouchers and written records of the Trust and be entitled to such information and explanations from the Trustees or their agents as they shall reasonably require.

 
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- 12.5 The Trustees shall open and operate at least 2 (two) bank accounts and
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- 12.5.1 all monies which are to be applied by the Trustees solely in the furtherance of the objects of the Trust which form part of the Public Benefit Activities as identified from time to time in terms of Part II of the Ninth Schedule to the Income Tax Act, including donations in respect of which the Trustees have issued a receipt in terms of section 18A of the Income Tax Act, shall be held separately in one bank account; and
- 12.5.2 all other monies forming part of the Trust Fund shall be held in the other bank account.
- 12.6 All monies received on behalf of the Trust shall be deposited into the bank account of the Trust and all payments to be made on behalf of the Trust shall be made by cheque drawn on such banking account, provided that the Trustees may at any time by agreement in writing change the banking details of the Trust.
- 12.7 All monies which are not invested shall be placed in the bank account referred to in 12.5 above.
- 12.8 A Trustee or any firm of which he is a member or partner may be employed to act in any matter relating to the Trust and the administration thereof and shall be entitled to charge and be paid for any services rendered by him or his firm in a professional capacity, including acts which any Trustee could have done personally.

13 NO PERSONAL INTEREST

The Trust Fund shall always be deemed to be held on and for the account of the Trust and at no time shall the Trustees acquire for themselves or their personal account any vested right in the Trust, notwithstanding the manner in which the assets forming part of the Trust Fund are held or registered.

14 DISCRETION OF TRUSTEES

In areas of administration of this Trust where the Trustees have discretionary powers, the exercise of such powers by them shall be complete and absolute and any decision made by them pursuant to any such discretionary powers shall not be open to challenge by the Founder or any other person.

15 INDEMNITY

Subject to the provisions of the Trust Property Control Act –

- 15.1 no Trustee shall be liable to the Trust or the Eligible Beneficiaries for any loss suffered by any cause, unless caused by his own gross negligence, dishonesty or wilful act or omission;
- 15.2 no Trustee shall be liable for any act, omission or negligence of any other Trustee of which he was unaware;
- 15.3 the Trustees are hereby indemnified against any loss they may suffer or any claim against them by any person by reason of any *bona fide* exercise of their powers, which indemnity shall apply in favour of any former Trustees and the estate of any former Trustee;
- 15.4 if the Trustees *bona fide* make payment to any person whom they assume to be entitled thereto in terms of this Trust Deed or any contract entered into by the Trustees, and it be subsequently found that some other person or persons is or are entitled to such payment, the Trustees shall nevertheless not be responsible for any loss suffered by the Trust or the Eligible Beneficiaries in respect of the monies so paid; and
- 15.5 should the Founder or any other person become liable for any form of tax on or in respect of the Trust Fund not accruing to, vesting in or enjoyed by him, the Trustees shall be entitled to refund to the Founder or such other person out of the Trust Fund, the amount of the tax for which he becomes so liable on the basis that the rate of tax payable to him or in respect of such income or assets in the highest rate at which he pays


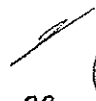

tax and with the intent of affording him a full indemnity against the additional tax for which he becomes liable.

16 DISTRIBUTIONS

- 16.1 The Trustees may distribute any part of the Trust Fund to an Eligible Beneficiary, subject to the Prescribed Fiscal Conditions, in such portions as the Trustees deem fit. The distributions shall be made in such manner and upon such terms and subject to such conditions, limitations and restrictions in all respects as the Trustees may from time to time in their sole and absolute discretion determine.
- 16.2 Until the date of payment of a distribution to an Eligible Beneficiary, the Trustees shall, subject to the Prescribed Fiscal Conditions, have the power from time to time and at any time, to accumulate any part of the income of the Trust Fund for periods continuous or discontinuous as the Trustees shall think fit and shall hold any accumulations so made as part of the capital of the Trust Fund for all the purposes hereof, but so that the Trustees may at any time and from time to time pay, apply, or appoint in their sole discretion, the whole of any part/parts of the said accumulations as if the same were income arising in the then current year.
- 16.3 No funds may be distributed to any natural person and the funds of the Trust will be utilised solely for the object for which the Trust has been established.

17 VARIATION OF TRUST DEED

- 17.1 This Trust Deed may be amended provided that any amendments to this Trust Deed must be consented to by all the Trustees and the Founder in writing, including any amendment to this clause 17.
- 17.2 A copy of any amendments to the Trust Deed must be submitted to the Commissioner.

  
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18 DISPUTE RESOLUTION

18.1 Should any dispute arise between the Trustees and the Founder in connection with -

18.1.1 the formation or existence of;

18.1.2 the implementation of;

18.1.3 the interpretation or application of the provisions of;

18.1.4 the Trustees' respective rights and obligations in terms of or arising out of;

18.1.5 the validity, enforceability, rectification, termination or cancellation, whether in whole or in part of;

18.1.6 any documents furnished by the Trustees pursuant to,

the provisions of this Trust Deed, such dispute shall be determined in terms of this clause 18, upon written notice given by any party to the dispute to the other party/parties in accordance with the Expedited Rules of the Arbitration Foundation of Southern Africa ("AFSA").

18.2 This clause shall not prevent any party to a dispute from obtaining interim relief on an urgent basis from a court of competent jurisdiction, pending the decision of an arbitrator.

18.3 The parties hereby consent to the arbitration being dealt with on an urgent basis in terms of the Rules of AFSA should either party to the dispute, by written notice, require the arbitration to be held on an urgent basis. In such event either Party may apply to the AFSA Secretariat as required in terms of the said Rules to facilitate such urgent arbitration.

18.4 The arbitration shall be held –

18.4.1 at Cape Town;

- 18.4.2 with only the legal and other representatives of the Parties to the dispute present thereat; and
- 18.4.3 otherwise in terms of the Arbitration Act, No 42 of 1965 ("**Arbitration Act**"), unless otherwise provided for herein.
- 18.5 The arbitrator shall be a practising advocate of the Cape Bar of at least ten years' standing, appointed by agreement between the parties to the dispute, subject to clause 18.6.
- 18.6 Should the Parties fail to agree on an arbitrator within 14 (fourteen) days after the giving of notice in terms of clause 18.1, the arbitrator shall be appointed by the Chairperson of the Cape Bar Council (or by AFSA if the Cape Bar Council no longer exists), at the request of either party to the dispute.
- 18.7 The Parties hereby consent to the jurisdiction of the High Court of South Africa in respect of the proceedings referred to in clause 18.8.
- 18.8 The decision of the arbitrator shall be final and binding on the Parties to the dispute and may be made an order of the court referred to in clause 18.7, at the instance of any of the parties to the dispute.
- 18.9 In the event that a party to a dispute wishes to appeal the decision of the arbitrator, such party shall apply to the arbitrator for leave to appeal within 14 (fourteen) days from the date of the decision of the arbitrator.
- 18.10 In the event that a party to the dispute is granted leave to appeal the decision of the arbitrator, such appeal shall be held before 3 (three) arbitrators appointed in accordance with clauses 18.5 and 18.6, it being agreed that for the purposes of appeal the appointed arbitrators may include a retired judge otherwise appointed in accordance with clause 18.5 and 18.6.
- 18.11 In the event that a party to the dispute is granted leave to appeal the decision of the arbitrator such party shall furnish security for the costs of

the appeal in an amount of R150 000 (one hundred and fifty thousand Rand) within 10 (ten) days from the date on which leave to appeal is granted. Should the relevant party fail to furnish security to this effect the leave to appeal shall lapse and the prospective appellant will no longer be entitled to proceed with an appeal and the arbitrator's decision shall be final and binding upon the Parties.

18.12 The Parties agree to keep the arbitration including the subject matter of the arbitration and the evidence heard during the arbitration confidential and not to disclose it to anyone except for purposes of obtaining an order as contemplated herein.

18.13 It is recorded that it is the intention of the Parties, that any dispute referred to arbitration in terms of clause 18.1 shall be resolved strictly in accordance with the provisions of this clause 18. The Parties accordingly agree and undertake as follows -

18.13.1 that it shall not make any application to Court as contemplated in terms of section 3(2) of the Arbitration Act;


18.13.2 that it shall not make any application to the arbitration tribunal as contemplated in terms of section 20(1); and

18.13.3 the periods set out in section 23 of the Arbitration Act shall not be applicable to any arbitration proceedings arising out of this Agreement.

18.14 The provisions of this clause 18 are severable from the rest of this Agreement and shall remain in effect despite the termination of or invalidity for any reason of this Agreement.

19 ACCEPTANCE

The Trustees, by affixing their signature hereto, hereby accept the donations referred to in sub-clause 2 hereof and undertake to carry out the terms, conditions and stipulations contained in this Trust Deed.

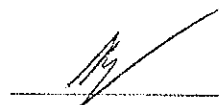


VAL DE VIE INVESTMENTS (PTY)
LTD

2015/09/08
Date:

PAARL
Place:

FOUNDER

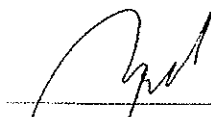


SAREL DANIËL GOTTLIEB
ROSSOUW

2015/09/08
Date:

PAARL
Place:

TRUSTEE




JAN MORNÉ BOSCH

2015/09/08
Date:

PAARL
Place:

TRUSTEE



SIMONÉ ANDREA DE WET

2015/09/08
Date:

PAARL
Place:

TRUSTEE

THE VAL DE VIE FOUNDATION

Master's reference number: IT38/2015 (C)

("the Trust")

UNANIMOUS CONSENT OF THE FOUNDER AND TRUSTEES

WHEREAS the trust deed of the Trust ("Trust Deed") provides, in clause 17, that the Trust Deed may be amended.

WHEREAS the Trust does not have any specifically identified beneficiaries.

NOW THEREFORE the Trustees wish to amend the Trust Deed as set out hereafter.

1 Resolution Number One

IT IS RESOLVED THAT the Trust Deed is hereby replaced in its entirety by the Replacement Trust Deed attached hereto and marked "Annexure A" and initialed by all the Parties hereto for purposes of identification.

2 Resolution Number Two

IT IS RESOLVED THAT Themis Commercial Legal Advisors (Pty) Ltd be and is hereby instructed to effect the registration of the amendments at the Master of the High Court.



VAL DE VIE INVESTMENTS (PTY)
LTD


FOUNDER

2015/04/08

Date:

PAARL

Place:



SAREL DANIËL GOTTLIEB
ROSSOUW

2015/09/08

Date:

PAARL

Place:

TRUSTEE



JAN MORNÉ BOSCH

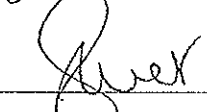
2015/09/08

Date:

PAARL

Place:

TRUSTEE



SIMONÉ ANDREA DE WET

2015/09/08

Date:

PAARL

Place:

TRUSTEE