Annexure “DD”

Issue: 2019-01-26_12:01:08

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Page: 925 of 1250
EDITION ZA

NEWS 07/11/2017 08:56 SAST | **Updated** 07/11/2017 08:56 SAST

'Controversial Company' Sponsored Jacob Zuma's Birthday Parties

"Mr Jacob Zuma, may we take this opportunity to thank you for the splendid birthday dinner planned at a short notice."

By Staff Reporter



GIANLUIGI GUERCIA VIA GETTY IMAGES

In a Fin24 exclusive, it has been reported that President Jacob Zuma's birthday parties in 2015 and 2016 were sponsored by controversial facilities management company Bosasa.

Bosasa, which is led by CEO Gavin Watson, is under criminal investigation by the Hawks after it was found to have bribed prison officials for tenders by the Special Investigating Unit (SIU).

News24 revealed that Bosasa paid about R3.5-million for the parties through Zuma's foundation, led by former SAA chair Dudu Myeni.

Zuma Denies Receiving R1-Million 'Monthly Salary'

thday parties were hosted at Dube House, Zuma's presidential residence in Durban. Zuma's family was in attendance, as well as Watson and other Bosasa executives.

Issue: 2019-01-26_12:01:08

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Page: 926 of 1250

> **"Mr Jacob Zuma, may we take this opportunity to thank you for the splendid birthday dinner planned at a short notice."**
>
> —Dudu Myeni Letter

Myeni, who chairs the Jacob Zuma Foundation, has denied any wrongdoing.

Bosasa paid for the catering and decor at the parties and handed Zuma a specially crafted chess gift set at his April 12, 2015 function.



Bosasa executives hand over a gift to Zuma

NEWS24

Myeni thanked Watson for hosting Zuma's 74th birthday party in a letter written on April 16, 2016.

"On behalf of the Patron of the Jacob G Zuma Foundation, His Excellency, the President of public of South Africa, Mr Jacob Zuma, may we take this opportunity to thank you splendid birthday dinner planned at a short notice.

Issue: 2019-01-26_12:01:08

SCC-_QUFfRmluYWxfMjIwMTIwMTlfMDcK
AA-918
Page: 927 of 1250

> "In the case of Bosasa, it provided its services of catering to the party."

"The family was thrilled to have a memorable time with their father, intimately enjoying the wonderful dinner, prepared with care. The chef's creativity and professionalism was (sic) commended by everyone.

"Thank you for your generosity and time spent to ensure that the first family had the grandest birthday," Myeni concluded.



Zuma enjoys a moment at his 73rd birthday party

NEWS24

Bosasa constructed a marquee on the presidential house's helipad and front gardens. Two sources confirmed to News24 that the two parties amounted to R3.5-million in expenses for Bosasa.

admitted that Bosasa had hosted the birthday parties.

case of Bosasa, it provided its services of catering to the party."

Issue: 2019-01-26_12:01:08

AA-919
Page: 928 of 1250



GETTY IMAGES/ISTOCKPHOTO

Myeni explained that her relationship with donors or any company that had supported the foundation was above board.

"We have no special relationship with Gavin Watson."

African Global/Bosasa spokesperson Papa Leshabane said News24's questions were part of an "emerging agenda-driven campaign to discredit the company".

"Your questions, regrettably, insinuates that African Global has a special relationship with President Jacob Zuma and ANC.

"African Global has no special relationship with President Zuma. Like any other corporate entity anywhere in the world, African Global does interact with the ANC as the current ruling party of our republic.

be naive of any business operating in any country not to assess the state of stability licies for business continuity", Leshabane said.

ess revealed in 2011 that an Special Investigating Unit investigation had found Bosasa bribed former prisons boss Linda Mti and department chief financial officer Patrick

Issue: 2019-01-26 12:01:08

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Page: 929 of 1250
AA-920

Gillingham with houses and cars to win state tenders. The case was given to the Hawks in 2009, but the National Prosecuting Authority has failed to institute a prosecution.

Suggest a correction

Staff Reporter

MORE:

Bosasa Group | Dudu Myeni | Gavin Watson | Hawks | jacob zuma | News

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Part of

COMMISSION OF INQUIRY INTO STATE CAPTURE

Issue: 2019-01-26_12:01:08

EXHIBIT “S8”

Issue: 2019-01-26_12:01:08

Affidavit of Petrus Stephanus Venter
Identity Number 7101245040083
Of Noordheuwel Krugersdorp
Gauteng

Context of TAX Fraud and Racketeering by Gavin Watson

My full names are Petrus Stephanus Venter, a white male aged 46, resident at Noordheuwel Krugersdorp hereby declare that the attached affidavit and the Annexures labeled Files 1 to 2 are a true reflection of the occurrences at Bosasa Group of Companies / African Global Operations and the dealings of Mr. Gavin Joseph Watson

The statements made are in my opinion factual, substantiated by records and copies of invoices and receipts, the intention hereof is not to seek monetary gain, but to clear mine and related parties' names, after being coerced and forced to conduct what we realize what instructions from Gavin Joseph Watson. This matter has affected my health and relationships.

This affidavit is done without any duress or pressure and is done subsequent to the meetings held with Gavin Watson as detailed.

COMMISSION OF INQUIRY INTO STATE CAPTURE

1.

I was employed as an auditor with The South African Revenue Services (SARS) from December 1991 to August 2004.

2.

During my last year with SARS I met Andries van Tonder and Tony Perry from the Bosasa Group. My colleague Johan Terblanche, a Chartered Accountant by profession, conducted an audit on Bosasa Operations (Pty)Ltd.
Johan Terblanche involved me in the audit and we went to the premises of Bosasa Operations where we met with Andries van Tonder and Tony Perry about the audit queries we had.
Before we could conclude the audit, we terminated our Services with SARS. The reason for the termination of my service was the roll out of the Siyaka Project. As a result of the Siyaka Project all the SARS auditors were redeployed to Megawatt Park, Sunninghill.

3.

Two acquaintances of mine approached me and asked me to join their auditing and accounting practice.
I resigned from SARS on 31 August 2004 and joined their firm BesterViljoen Inc. on 1 September 2004.

4

A couple of months later, after joining the BesterViljoen practice, one of the partners and I, approached Tony Perry and Andries van Tonder of Bosasa Operations to take over the audit and tax services of the Group.
Shortly thereafter BesterViljoen Inc. was appointed as the auditors and tax consultant.

Issue: 2019-01-26_12:01:08

INITIAL

5

Over the years I have built up a good relationship with Tony Perry, Andries van Tonder, Gavin Watson, Jacques van Zyl, Carlos Bonifacio, all the directors and other employees of the Bosasa Group.
Gavin Watson realized this and wanted me to get more involved in the business, in the form of a consultant from an external point of view. I was therefore not just a tax consultant for the Bosasa Group.

7

Although I had to attend to the normal duties of a tax consultant, Gavin Watson wanted more from me:

- Gavin Watson informed all the directors that I will be handling their annual personal tax returns and the company will pay for this service.
- I was also instructed to do the annual tax return of Patrick Gillingham and
- The annual tax return of L Mti

8

At the beginning of 2016 Gavin Watson approached me to take over Consilium Business Consultants (Pty)Ltd, a company which belonged to Dr. Jurgen Smith. Dr. Smith was diagnosed with cancer and wanted to exit the company as soon as he could.
Consilium is a labour broker company who employs people for the Bosasa Group of Companies.

9

All Gavin Watson's family members, who renders no services to the Bosasa Group, are also on the payroll. Gavin Watson instructed me to keep this very confidential and I wasn't allowed to discuss this with anybody else other than him.

10

During the middle of August 2017, Gavin Watson approached me to assist him to pay the legal costs of Mr. Hlaudi Motsoeneng.
On 17th August 2017, I received an invoice from Walter Jele from Majavu Attorneys – proof attached

I have paid the total invoice amount of R 1,187,656.82 in two installments:

- 1st payment of R 600,000 on 20 August 2017 – proof attached
- 2nd payment of R 587,656.82 on 21 August 2017 proof attached

11

During September 2017, Gavin Watson approached me to assist him and Syvion Dhlamini to make three payments to Moroko Consultants, Training & Development (Pty)Ltd.
Lindsay Watson prepared a consulting agreement between Miotto Trading & Advisory Holdings (Pty)Ltd and Moroko Consultants, Training & Development (Pty)Ltd – attached – No services have been provided as this is merely a front for other intentions.
I had to make three payments of R 450,000 each to Moroko Consultants. The first payment was made on 30th September 2017 – proof attached.

The second payment was made on 28th October 2017 – proof of payment attached.

The final payment is only due by the end of November 2017.

The agreement mentions that Moroko Consultants will "provide and render consulting services to Miotto for a turnaround business strategy and to provide the necessary training and development to implement such"

12

Gavin Watson approached me once again on 17th October 2017. He wanted me to assist him with a payment towards the purchase of a residential property for Ms. Lindie Gouws.

The amount was for R 2.5 million and I had to consider the amount to be a loan (Ms. Gouws insisted that a loan agreement be drawn up)

Gavin Watson took me to Natasha Olivier and instructed her to pay R 3 million from his personal account into Miotto Trading & Advisory Holdings (Pty)Ltd bank acc.

It must be noted that I could not question Gavin Watson as he would get upset with me, so I made the payments even though I knew that this was not correct

- R 2.5 million was for the purchase of Ms. Gouws residential property and
- R 500,000 to Efg2 with an ABSA Bank account, I was merely told it was for a foundation / trust of Andile Ramaphosa, the son of the Deputy President of the republic of South Africa, I found this strange but wouldn't dare question Gavin Watson.

The R 3 million was paid on 17 October 2017 into Miotto's bank account.

13

On the morning of 6th November 2017, Ms. Gouws called and informed me that she is not going ahead with the transaction and I should repay Gavin Watson's money immediately.

I recall she had a meeting with her attorney, Darryl Ackerman about issues pertaining to Angelo Agrizzi, whom she was paranoid about earlier that morning.
After her meeting with the attorney, she instructed me to repay Gavin Watson' money which I did.

The attorneys who handled the property transaction was Louise Tonkin Inc. and the contact person was Joan Fourie – Attached are all the emails in this regard.

14

I was instructed to pay the R 500,000 (part of the R 3 million payment which was received) to Efg2 into an ABSA account.
Gavin Watson mentioned that the payment is towards Andile Ramaphosa Foundation – proof of payment attached

15

Gavin Watson asked me to assist Lindie Gouws on many occasions, from calming her down to getting her to focus. One of the tasks he instructed me to do was to register a company called The Exchange Space (Pty)Ltd.
The purpose of the company is to do the marketing and Branding of the Bosasa / African Global Group.

Over and above her monthly salary I had to now pay Lindie Gouws a Gross salary of R 42,000 per month in order to clear a net amount of R 24,000. This amount had to go toward Ms. Gouws' bond repayment (R 1 million bond repayable over 10 years – just estimated). Proof of the pay slip is attached.
I want to emphasize the fact that the salary from The Exchange Space (Pty)Ltd was purely for the bond repayment, as Ms. Gouws gets paid from Consilium Business Consultants for her services. Her monthly cost to Company is R 137,717.00

16

I would complain that this practice was incorrect and morally disturbing, but Gavin Watson threatened that my services and those of my company will be terminated. I had to do what was asked from me or else what had happened to so many would happen to me.

17

Gavin Watson always wants someone else to blame for his actions. An example of this was when I had to ask Mr. Angelo Agrizzi what kind of Christian he is. When Mr. Agrizzi took Mr. Watson on about this, I had to take the blame for the attack on Mr. Agrizzi's character. It is a constant and disturbing pattern, that Gavin Watson would instruct people to act illegally and then discard them, or get rid of them as he felt it got rid of the evidence.

Interestingly Gavin Watson would never sign anything, so as to exonerate himself from any wrongdoing. This was evident in the fact that his intention with Graham Richards was to implicate Agrizzi and Van Tonder whereas they never benefitted.

18

Mr. Gavin Watson just kept on making illegal demands and I just couldn't take it anymore. The last nail in the coffin was when he told me to meet with Mr. Patrick Gillingham and to hand him a parcel containing cash, I knew it was cash because it was wrapped in a bank secure bag.
This happened on Friday the 27th of October 2017. I had to go to the office of Bosasa/African Global where Lindsay Watson, the daughter of Gavin Watson, handed me a parcel.
I reluctantly called Mr. Gillingham who met me at my office, at 269 Voortrekker Road Monument Krugersdorp, an hour later. I handed him the parcel and he left. I decided that this will never happen again.

19

Mr. Gavin Watson promoted Louis Passano and Colleen Passano to handle the company and Group finances.
Louis Passano approached me during October 2017 to make changes to his pay slip. He is an employee of Consilium Business Consultants (Pty)Ltd.
He instructed me on behalf of Gavin Watson to reduce his salary from R 137,000 cost to company per month to R 90,000 cost to company per month.

20

When I confronted him about this he was very vague about this, but then he mentioned something about his estate. It was then when I realized that he was sequestrated and should not be in the position of running a company's finances. The second thing is that he wants to show his curator that he earns less than he does. By doing this he will pay a lower amount to his creditors.
I have attached the before and after pay slips. Louis Passano also mentioned that Mr. Gavin Watson will pay the balance in cash. By doing this he defrauds SARS as well as the curator. The actions could eventually impact on Consilium as amounts to a fraudulent

transaction, besides Louis Passano already has a 5-year suspended sentence.

21

Pursuant to the closure of SeaArk, Gavin Watson in a meeting clearly stipulated that he did not want lose the assessed loss of ZAR 138,498,378 as at the 2012 tax year and Gavin Watson insisted, rather more instructed that both Andries van Tonder and I do everything possible to maximize the use of the loss, by filtering the tax exposure of profits in other operations via the entity.

22

Andries van Tonder was instructed to change the main business of the Company to incorporate provision for the Company to utilize the assessed loss by inflating the purchase price of the raw material to other contracts, thereby utilizing the Company (SeaArk) as the newly changed Bosasa Supply Chain, which would handle all major purchases for the Group, reselling the goods at a markup, thereby effectively reducing the profits of the other entities, and averting having to pay the tax on profits.

23

The value of this created an opportunity to evade tax on an amount of R38,779,546.00. I was told that documents and processes were fraudulently manufactured in order to win the SARS investigation by satisfying them that SeaArk did trade for tax purposes which allowed the company to carry forward the assessed loss to future tax years.

24

SARS stipulated that proof had to be submitted to substantiate the claims and the argument of "trade", such proof was then fraudulently drawn up. As a result of the changes made and the submissions made, SARS granted the allowance of the assessed loss.

25

The value of the fraudulent claims on SeaArk is as follows;

CALCULATION

Assessed Loss	-	R 138,498,378.00
At 28%	-	R 38,779,546.00

Expenses and Equipment write offs allowed by SARS pursuant to an investigation triggered.

26

During the period 2015 to 2017, Gavin Watson decided to build residential homes for his newly married son Roth Watson and his daughter Lindsay Watson in Morningside, Sandton.

The houses were to be registered on Gavin Watson's name, to the best of my knowledge.

27

Gavin Watson instructed Andries van Tonder, the Chief Financial Officer of the Group, to oversee the payments to suppliers via the company financial processes and allocate the costs thereof to the various property companies, such as Luipaardsvlei Property, Leading Prospect Trading – Lindela etc., where large revamps were underway. These costs were either capitalized or expensed within the existing property companies that held properties within the Group of Companies. This means from order to invoice and payment the invoices would've had to look authentic.
The invoices were made out to the various entities and Peter Reiger was tasked to attend to the paperwork. I am aware Peter Reiger was instructed to make these fraudulent entries, as he mentioned the matter to me during consultation, I am also aware that he has kept records, due to the fact that Joe Gumede, a director actually enquired as to the rising costs at the Lindela Repatriation Centre. Carlos Bonifacio also queried the rising costs.
I was later tasked to retrench Peter Reiger

This resulted in the costs being absorbed by the Company as Cost of Sales and therefore having been expensed reduced the tax liability on the Company, allowing Gavin Watson the benefit of not paying for the houses personally but also allowing for the benefit to be passed onto the children.

Christo Viljoen, an employee of the company is used to oversee the construction.

28

Mark Taverner, brother in law to Gavin Watson retains Patrick Gillingham on the payroll of BEE foods, on a salary of R65,000 per month and a Company Car Mercedes GLA 200, the full costs are then added to the invoicing of BEE foods

29

During 2015 Gavin Watson, Lindsay Watson and Roth Watson instructed me to assist them with the restructuring of the Watson family entities in order to gain financially from the Bosasa Companies. They've identified the Software license agreements, also known as the Trustmaster Fleet and Trustmaster Youth Centers to be sold to a newly formed entity called Lamozest (Pty)Ltd. Agreements were prepared and the Intellectual Property (IP) was sold via a Phezulu Fencing to Lamozest (Pty).
Lamozest invoices Bosasa Youth Development Centers from August 2015 on average between R 348,000 and R 371,000 per month and Lamozest started off by invoicing Kgwerano Financial Services from August 2015 an amount of R 437,000 per month. This amount came down as the number of vehicles on the contract came down.
I don't think the directors or shareholders of the Bosasa Group are aware of the Profits which are effectively extracted from the Bosasa entities and only the Watson family is gaining from this.

30

The Watson family also wanted me to assist them to move a company called Phezulu Fencing (Pty)Ltd away from the shareholders who were, Bopa and Phafoga into the Watson family structure.
We managed to achieve that and by doing that they got their hands on a R 63 million loan account which Bosasa Operations owes to

Phezulu Fencing. The loan carries interest which means that the loan account just increases on an annual basis.
As far as I know, the directors nor shareholders of the Bosasa Group are aware of the financial gain which the Watson family is getting from this transaction.

Secondly, Phezulu Fencing was involved in a transaction with a company called Dealstream. Three payments of approximately R10 million, R 10 million and R 17 million have been paid from Dealstream to Phezulu Fencing (Pty)Ltd. Gavin Watson did not want to pay tax on these receipts because the company found themselves under cash flow pressure at the time. He insisted that we hide the receipts under contingent liability in the balance sheet instead of income, avoiding paying tax of R 10.3 million.

31

During January and February 2016, Gavin Watson and his daughter Lindsay Watson approached me to review the top shareholding structure of the Bosasa Group. I had to involve top professionals to assist us with this task. I approached Antonie van Wyk, Consultant to TRM Daniel Erasmus Tax Court Practitioners. Antonie drew up the Shareholders Agreement – annexure ...
Clause 16 of the Shareholders agreement refers to a "Call option" – an extract of clause 16

'EXTRACT FROM FILE"

1. ***CALL OPTION***

1.1 Mpako shall have a call option to purchase the BEE Equity of Mela or Nzunzo (or both of them) in the circumstances set out in this clause 1 ("the Call Option").

1.2 Mpako shall have a call option to acquire the BEE Equity of either Mela or Nzunzo should one or more of the following events occur (or the BEE Equity of both should the event occur in respect of both):

1.2.1 in the event that a Fault-based BEE Event, which results in a Rating Failure that is not rectified within 20 business days of the happening of such event, occurs;

1.2.2 any direct or indirect change in the extent of a Specified Interest held by any Entity or natural person in Mela or Nzunzo including, for the avoidance of any

doubt, any direct or indirect change in the extent of a Specified Interest in Mela or Nzunzo as the result of the dissolution of a marriage of Oliveria or Mkele;

1.2.3 *any change in Control of Mela or Nzunzo;*

1.2.4 *any breach of any warranty given by Mela, Nzunzo, Oliveria or the Mkele Trust under clause* ***Error! Reference source not found.*** *above; or*

1.2.5 *in the event of Oliveria or Mkele, as the case may be, being dismissed from the employ of the Company for any reason other than for the operational requirements of the Company (retrenchment) or disability (incapacity due to ill health);*

which event shall be referred to as an "Option Event.

1.3 *At any time following the happening of an Option Event, Mpako may exercise the Call Option by giving written notice to that effect to Mela and/or Nzunzo, as the circumstances may require.*

1.4 *If Mpako duly exercises the Call Option then the sale and purchase which results shall be subject to the following terms:*

1.4.1 *the effective date of the sale shall be the date on which the Call Option Price is determined ("the Call Option Date");*

1.4.2 *if Mpako exercises the Call Option the option price of the Shares ("Call Option Price") shall be determined in accordance with the provisions of clause* ***Error! Reference source not found.****, provided that when any Option Event also qualifies as a Trigger Event the option price shall be 25% of the Call Option Price ("the Default Price");*

1.4.3 *the purchase price for the Loan Account of Mela and/or Nzunzo, as the case may be, shall be the face value thereof as at the Call Option Date;*

1.4.4 *the Call Option Price or the Default Price, as the case may be, shall be payable by Mpako to Mela and/or Nzunzo, as the circumstances may require, in cash in the currency of the Republic of South Africa, within 30 (thirty) days of the Call Option Date and only against fulfilment of all the requirements of Transfer of the Equity Interest of Mela and/or Nzunzo to Mpako as contemplated in clause* ***Error! Reference source not found.****.*

1.5 *In the event of Mpako exercising the Call Option, and insofar as there are any debts owed by Mela or Nzunzo, as the case may be (each of them being referred to as "the Offending Shareholder") to the Company, all such debts shall become immediately due and payable to the Company by the Offending Shareholder. A certificate issued by the Auditors stating the reason and amount so due, shall be prima facie proof of the contents thereof and the Auditor's appointment need not be*

proved. Mela and/or Nzunzo shall be obliged to utilise the proceeds from the sale of their Equity Interest to Mpako to settle such debts.

32

It is important to me to reveal the truth and allow a new start, as I have not unduly benefitted from the corruption and dishonesty created by Gavin Watson.

33

An important note is that on a previous occasion the servers at Bosasa "crashed" resulting in a massive data loss, pursuant to years dealing with Mr. Gavin Watson I learnt that he had arranged that they previously ensured the "crash" so that the SIU could not gather information, Mr. Andries Van Tonder and Mr. Angelo Agrizzi were aware of this. Concerning is during October I had a meeting with Mr. Gavin Watson in the office adjoining Mr. Andries Van Tonder's Mr. Watson then called Ms. Elise Eland to schedule another computer crash, this was discussed in my presence, that he then mentioned that a further circular had to go out notifying the employees that they were supposedly experiencing server issues, so that they would be aware there was "issues" this would ensure that the staff would be under the impression that the failure or crash could not be avoided, that way no one would be suspicious and they could get rid of potentially hazardous data files that could incriminate the Company and its Directors.

34

On the 13th of November 2017, after Carlos Bonifacio had been confronted by Gavin Watson. Gavin Watson contacted me and insisted to see me. I agreed to this and he came to see me at my office on this Friday afternoon (he wanted to meet at his office, but I said no). Carlos told Gavin Watson about my affidavit as well as the affidavits of Andries van Tonder, Frans Vorster and Leon van Tonder. Carlos also informed Gavin about the meeting we had at Angelo Agrizzi's home, the previous evening.

Gavin wanted to know whether I have signed my affidavit. He was very relieved when I told him that I haven't signed the document.

He asked me whether I am prepared to put my hand on the bible, that I haven't signed the affidavit. I told him that I haven't signed the document and that I am prepared to put my hand on the bible.

We had a two-hour meeting. During this meeting I have explained to him that the evidence against him will destroy him. He asked me to believe in him and he assured me that he will get through all of this. He kept on saying that Angelo Agrizzi and Andries van Tonder signed off all the documents in the company and they are also implicated.

Over the past few weeks he kept on saying that he is not going to deny the fact that there were cash transactions in the business. As a matter of fact, he is going to acknowledge this, and testify that Angelo Agrizzi and Andries van Tonder were the creators of the systems and procedures involving these transactions. He knew about this and if the three of them must go to jail, then so be it.

He went down to Port Elizabeth to meet with a friend and his personal legal advisor. The person' name is Graham Richards. He wrote a statement while he was with Graham Richards and he disclosed all of the above in his personal statement. About two weeks ago he called his daughter Lindsay Watson and he told her to come and show me his personal statement, which she did.

35

I kept on telling Gavin Watson that any unlawful transactions will bring the company down. He showed me the name of the Senior SARS official who manages the investigation department. According to Watson he met with this gentleman, who will handle the matter should somebody report him or his companies to SARS. Gavin Watson showed me the name of the SARS official on his phone. The gentleman' name is "Gorbi".

36

In support of any court application I would request that the honorable court subpoena the following persons to testify on the statements made and the truth of the allegations stemming from my statement.

These are as follows;

Carlos Bonifacio	Carien Daubert	Hennie & Christo Viljoen
Christina Herbst	Rika Humdermark	Natasha Olivier
Jacques Van Zyl	Colleen Passano	Muniriah Oliveria
Tony Perry	Louis Passano	Andries van Tonder
Lindie Gouws	Magda Van Rensburg	Elise Eland
Andries Erasmus	Richmond Mti	Patrick Gillingham
Frans Vorster	Gavin Watson	Linda Mti
Angelo Agrizzi	Joe Gumede	Patrick Gillingham

Signed by Petrus Stephanus Venter

19th Day of December 2017 at George, Western Cape, South Africa

- SIGNED and SWORN/AFFIRMED to before me at NCOP **day** 18 of December **2017**, the Deponent having acknowledged that she knows and understands the contents of this Affidavit, which is deposed to in accordance with the regulations governing the administration of an oath as more fully set out in Government Notice R 1258 of the 21st July 1972, as amended by Government Notice 1648 dated the 19th of August 1977 and Government Notice 903 dated the 10th July 1998.

COMMISSIONER OF OATHS

2017 -12- 18

DA GAMADKOP
CSC
SOUTH AFRICAN POLICE SERVICE

FULL NAMES: Andries Mare
STATUS: WO
STREET ADDRESS: Mosselstreet, Mosselbay

W/O 0452575-2

MONO

COMMISSIONER

OF OATHS

FULL NAMES: Andries Mare

STATUS: W/o

STREET ADDRESS: Mosselbreek, Mossel Bay

SOUTH AFRICAN POLICE SERVICE
STATION COMMANDER
COMMUNITY SERVICE CENTRE
2017 -12- 18
DA GAMASKOP
CSC
SOUTH AFRICAN POLICE SERVICE

COMMISSION OF INQUIRY INTO STATE CAPTURE

Issue date: 2017-10-13 10:08

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Page: 947 of 1250

WORKPOOL

For AMEZEST (PTY)LTD
From eet Venter [peet@dah.co.za]
To : Peet Venter
Cc :
Sent On : [2017/11/12 23:59]
Priority : Normal
Attachments : Memorandum of Incorporation 10 Feb 2017(2).doc

FW: RE: Shareholders Agreement, MOI, Resolutions, etc

Peet Venter | Associate
Professional Accountant (S.A)
General Tax Practitioner (S.A)™
D'Arcy-Herrman & Co Inc
Chartered Accountants (S.A) | Registered Auditors

011 954-5016 | Cell: 082 462-9527 | www.dah.co.za

Help save paper - do you really need to print this email ?

-----Original Message-----
From: Peet Venter [mailto:peet@dah.co.za]
Sent: 2017/02/10 10:56
To: lindsay.watson@bosasa.com
Subject: FW: RE: Shareholders Agreement, MOI, Resolutions, etc

Hi Lindsay,

Are you okay with all of this?
Please shout if you need assistance!

Regards

Peet Venter | Associate
Professional Accountant (S.A)
General Tax Practitioner (S.A)™
D'Arcy-Herrman & Co Inc
Chartered Accountants (S.A) | Registered Auditors

011 954-5016 | Cell: 082 462-9527 | www.dah.co.za

AA-938

Issue: 2019-01-26 13:01:08

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Page: 948 of 1250

-----Original Message-----
From: Antonie van Wyk [mailto:antonie@avwattorneys.co.za]
Sent: 2017/02/10 08:40
To: peet@dah.co.za
CC: lindsay.watson@bosasa.com
Subject: RE: Shareholders Agreement, MOI, Resolutions, etc

Hi Peet,

Unfortunately it's in Lindsay's hands as I cannot make a call on the limitations contained in clause 32 – it's a commercial issue that is particular to the business and I don't have sufficient insight to suggest figures. My suggestion is that she fills in the blanks at the meeting and I've left space to allow her to do so.

The MOI needs to be initialled at the bottom of every page (and where the blanks have been filled in) by the authorised director.

Regards,

Antonie van Wyk
Consultant to TRM Daniel Erasmus Tax Court Practitioners



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From: Peet Venter [mailto:peet@dah.co.za]
Sent: Friday, 10 February 2017 08:31
To: antonie@avwattorneys.co.za
Cc: lindsay.watson@bosasa.com
Subject: RE: Shareholders Agreement, MOI, Resolutions, etc

AA-939

Issue: 2019-01-26 12:01:08

Tha e.

Lindsay, I am out of office for most of the day, will you please attend to the documents, to get them 100% complete and ready to be signed.

Thank you

Peet Venter | Associate
Professional Accountant (S.A)
General Tax Practitioner (S.A)™
D'Arcy-Herrman & Co Inc
Chartered Accountants (S.A) | Registered Auditors

011 954-5016 | Cell: 082 462-9527 | www.dah.co.za

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-----Original Message-----
From: Antonie van Wyk [mailto:antonie@avwattorneys.co.za]
Sent: 2017/02/10 08:11
To: peet@dah.co.za
CC: lindsay.watson@bosasa.com
Subject: RE: Shareholders Agreement, MOI, Resolutions, etc

Hi Peet,

Apolgies, when I got to the office last night someone had closed a latch on one of the doors and I couldn't get in.

I've had a look at the latest version of the MOI that was mailed to Natasha last year, and have cleared all tracking. Note that clause 32 still needs to be populated here and there, and the date of the resolution adopting the MOI (second last page) also needs to be filled in. I've dated the MOI as of today so we can keep track of versions. I shall forward my last e-mail with the Shareholders Agreement and supporting documentation attached in a separate mail. As always, let me know if you have any questions.

Regards,

Antonie van Wyk
Consultant to TRM Daniel Erasmus Tax Court Practitioners

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ANTONIE VAN WYK AND ASSOCIATES

Antonie van Wyk
BA LL.B LL.M H.Dip Tax
Direct Dial: +27 (0) 21 671 8876
Fax: +27 (0) 86 610 7578
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E-mail: antonie@avwattorneys.co.za

From: Peet Venter [mailto:peet@dah.co.za]
Sent: Thursday, 09 February 2017 21:44
To: antonie@avwattorneys.co.za
Cc: lindsay.watson@bosasa.com
Subject: Shareholders Agreement, MOI, Resolutions, etc

Hi Antonie,

Ek vertrou jy is veilig by die huis.

Sal jy asb. onthou om die inligting vir ons te stuur.

Baie dankie

D'Arcy-Herrman & Co / Kie
Chartered Accountants
Geoktrooieerde Rekenmeesters

Peet Venter | Associate
Professional Accountant (S.A)
General Tax Practitioner (S.A)™
D'Arcy-Herrman & Co Inc
Chartered Accountants (S.A) | Registered Auditors

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Page: 950 of 1250
AA-941

SHAREHOLDERS AGREEMENT

Made and entered into by and between

MELA WOMANS INVESTMENTS (PTY) LTD

and

NZUNZO INVESTMENTS (PTY) LTD

and

THE TRUSTEES FOR THE TIME BEING OF THE EMPLOYEES TRUST

and

MPAKO INVESTMENTS (PTY) LTD

and

BOSASA EMPOWERMENT AND MANAGEMENT SERVICES (PTY) LTD

and

MUNIRAH OLIVERIA

and

THE TRUSTEES FOR THE TIME BEING OF THE A MKELE BUSINESS TRUST

and

VELILE ARCHIE MKELE

Issue: 2019-01-26_12:01:08

TABLE OF CONTENTS

1. INTERPRETATION AND PRELIMINARY 1
2. RECORDAL 10
3. MEMORANDUM OF INCORPORATION 10
4. STATUTORY MATTERS 11
5. MANAGEMENT OF THE COMPANY 12
6. MEETINGS OF DIRECTORS AND SHAREHOLDERS 12
7. CONTRIBUTIONS BY MPAKO 12
8. LOAN ACCOUNTS 13
9. GUARANTEES 15
10. ADDITIONAL SHARES 15
11. DISTRIBUTION POLICY 16
12. BEE SHAREHOLDING 17
13. BEE EVENTS 18
14. DISPOSAL OF SHARES 19
15. PRE-EMPTIVE RIGHTS 19
16. CALL OPTION 22
17. VALUATION OF SHARES 23
18. INSURANCE POLICIES 25
19. DEEMED SALES 26
20. COME ALONG 27
21. Minority Protection 27
22. CO-OPERATION 29
23. CORPORATE OPPORTUNITIES 29
24. RESTRAINT 29
25. WHOLE AGREEMENT, NO AMENDMENT 30
26. INDULGENCES 31
27. DOMICILIA CITANDI ET EXECUTANDI 31
28. COSTS AND FEES 34
29. SEVERABILITY 34
30. CONFIDENTIALITY 34
31. BREACH 35
32. GOVERNING LAW 36
33. COUNTERPARTS 36

ANNEXURE A : ACCESSION AGREEMENT

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Issue: 2019-01-26_12:01:08

SHAREHOLDERS AGREEMENT

1. INTERPRETATION AND PRELIMINARY

1.1 The headings of the clauses in this Agreement are for the purpose of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms of this Agreement nor any clause hereof.

1.2 Unless a contrary intention clearly appears, words importing: -

1.2.1 any one gender includes the other two genders;

1.2.2 the singular includes the plural and *vice versa*; and

1.2.3 natural persons include created entities (corporate or unincorporated) and the state and *vice versa*.

1.3 The following terms shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings, namely: -

1.3.1 "**Accession Agreement**" means an accession agreement substantially in the form set out in Annexure A;

1.3.2 **"Act"** means the Companies Act, 71 of 2008, as amended or re-enacted and for the time being in force, including any regulations promulgated thereunder for the time being in force;

1.3.3 **"Agreement"** means this agreement together with the annexures thereto, which shall be initialled by the Parties for identification purposes;

1.3.4 **"Auditors"** means the Company's auditors appointed from time to time;

1.3.5 "**Black Person**" has the meaning assigned thereto in the BEE ACT read together with the Codes;

1.3.6 "**BEE**" means broad-based black economic empowerment as defined in the BEE Act;

1.3.7 **"BEE Act"** means the Broad-Based Black Economic Empowerment Act, 53 of 2003;

1.3.8 "**BEE Benefit**" means any benefit enjoyed or exploited or capable of being enjoyed or exploited by the Company in consequence of and including, without limitation:

Issue: 2019-01-26_12:01:08

1.3.8.1 the number of Ownership Scorecard Points; and

1.3.8.2 the holding by Mela of any Shares; and

1.3.8.3 the holding by Nzunzo of any Shares; and

1.3.8.4 the involvement of Mkele and Oliveria in the management of the Company

1.3.9 "**BEE Equity**" means the Equity Interests of Mela and Nzunzo separately and respectively;

1.3.10 **"BEE Event"** means any amendment, modification, replacement or novation of, or any action or omission of the Relevant Authority under the BEE Act or the Codes or the coming into effect of any Laws of South Africa or any action of any Relevant Authority which occurs at any time during the period commencing on the date of signature and terminating at the end of the Term and which results or is likely to result in a Rating Failure or the loss or diminution of a BEE Benefit;

1.3.11 **"Board"** means the board of directors of the Company as appointed from time to time;

1.3.12 **"Bosasa Properties"** means Bosasa Properties (Pty) Limited, (Registration number: **1989/005154/07**) a private company duly registered and incorporated under the company laws of the Republic of South Africa;

1.3.13 **"business day"** means any day other than a Saturday, Sunday or official public holiday in the Republic of South Africa;

1.3.14 **"Codes"** means the codes of good practice on BEE gazetted on 9 February 2007 by the Department of Trade and Industry in terms of the BEE Act, or any codes of good practice or legislation on BEE which replaces it;

1.3.15 **"Company"** means Bosasa Empowerment and Management Services (Pty) Limited, (Registration number: 1999/020406/07) a private company duly registered and incorporated under the company laws of the Republic of South Africa;

1.3.16 **"the Company Business"** means the business of the Company, namely to invest in movable and immovable property, to manage accommodation and to render catering services;

1.3.17 "**Control**" means,

1.3.17.1 in relation to a company, an ability of another juristic or natural person to:

Issue: 2019-01-26_12:01:08

1.3.17.1.1 directly or indirectly exercise, or direct the exercise of, a majority of the general voting rights associated with issued securities of that company, whether pursuant to a shareholders agreement or otherwise; and/or

1.3.17.1.2 appoint or elect, or control the appointment or election of, directors, should more than one director be appointed, who control a majority of the votes at a meeting of the board, or a singular director of that company;

1.3.17.2 in relation to a natural person ("the Controlled Person"), an ability of any other person, whether juristic or natural, and whether by agreement, by virtue of a marriage in community of property and/or any other legal means, and whether directly or indirectly, to control and/or prevent the exercising by the Controlled Person of any rights that such Controlled Person may have by virtue of the holding of any interest and/or office in any Entity;

1.3.18 "**Controlling Stakeholders**" means,

1.3.18.1 in respect of any association or statutory entity which may be or become a shareholder in the Company, the persons who, by virtue of their office, control the management and/or decision making processes of such entity;

1.3.18.2 in respect of a trust which may be or become a shareholder in the Company, its capital beneficiaries (whether discretionary or vested) and/or its trustees from time to time;

1.3.18.3 in respect of any company and/or close corporation which may be or become a shareholder in the Company, the registered holders of the controlling shares in such company or controlling interest in such close corporation, as the case may be, as at the date on which that company and/or close corporation acquired or was allotted shares in the Company;

1.3.19 "**Dispose**" means to sell, transfer, Encumber or otherwise dispose of a legal or beneficial interest in any Equity Interest;

1.3.20 "**Distribution**" means any:

1.3.20.1 payment of dividends or other distribution (whether in cash or in kind, including any distribution as defined in the Act) and any bonus issue or any return of capital including any payment in respect of, or on the redemption, of any share capital whether at a premium or otherwise made by the Company to a Shareholder or its nominee; or

1.3.20.2 payment of interest, principal or any other amount in respect of any Loan Account, or in respect of any financial indebtedness owed by

Issue: 2019-01-26_12:01:08

the Company to a Shareholder including any purchase by the Company of any Loan Account; or

1.3.20.3 discharge by way of set-off, counterclaim or otherwise in respect of financial indebtedness made by the Company to a Shareholder or in respect of Loan Accounts;

1.3.21 **"Effective Date"** means 18 April 2016, notwithstanding the signature date;

1.3.22 **"the Employees Trust"** means the trustees for the time being of the Employees Trust, (Registration number: IT No. 3305/02), a trust duly registered under the trust laws of the Republic of South Africa, herein represented by N L T Makoko, she being duly authorised thereto by the trustees;

1.3.23 **"the Employment Agreements"** means all Employment Contracts entered into;

1.3.24 **"Encumbrance"** means any right of first refusal, purchase right, option or any other restriction of any kind of ownership, transfer, use, possession, receipt of income from or any other exercise of any attribute of ownership, including any mortgage, pledge, cession, lien or other security interest and "Encumber", or "Encumbered" have equivalent meanings;

1.3.25 **"Entity"** means any company, trust, partnership, joint venture, association, close corporation or statutory entity by whatever name called and whether or not capable of suing or being sued in its own name;

1.3.26 **"Equity Interest"** in relation to a Shareholder, means all (and not less than all) of its Shares in and the whole of its Loan Account against the Company at the time in question;

1.3.27 **"Fault-based BEE Event"** means any BEE event, being a BEE event other than a BEE Event contemplated in clause **Error! Reference source not found.**, which shall include, without limitation, the change of Control of Mela and/or Nzunzo or any other event resulting in the loss or dilution of the BEE Benefit to the Company, but excluding the death and/or disability of Oliveria and/or Mkele;

1.3.28 "**Financially Distressed**" means:

1.3.28.1 it appears to be reasonably unlikely to be able to pay all of its debts as they become due and payable within the immediately ensuing six months; or

1.3.28.2 it appears to be reasonably likely to become insolvent within the immediately ensuing six months;

Issue: 2019-01-26_12:01:08

1.3.29 **"Financial Year"** means a 12-month period commencing on 1 March and ending the last day of February each year;

1.3.30 **"Guarantee"** in the context of this Agreement includes (without limiting the generality thereof) reference to the obligations of a surety and co-principal debtor and the term "obligation" includes (without limiting the generality thereof) reference to existing as well as prospective obligations and the words "Guarantee" has an equivalent meanings as does the use of such word or words as a verb;

1.3.31 **"Independent Expert"** means:

1.3.31.1 a chartered accountant of not less than 10 (ten) years professional experience, agreed to between the Parties, and failing agreement nominated by the President for the time being of the South African Institute of Chartered Accountants or its replacement body, if the matter relates primarily to a financial or financial management matter; or

1.3.31.2 an attorney or advocate of not less than 10 (ten) years professional experience agreed to between the Parties, and failing agreement nominated (at the request of either Party) by the Chairman for the time being of the Johannesburg Council of the Bar or its replacement body, if the matter relates primarily to a legal matter;

1.3.32 "**Insolvency Event**" means when:

1.3.32.1 a receiver, liquidator, business rescue practitioner, curator, trustee or similar official is appointed over any of the assets or undertaking of an Entity or the estate of a natural person;

1.3.32.2 an Entity suspends payment of its debts generally;

1.3.32.3 an Entity is or becomes Financially Distressed;

1.3.32.4 an Entity passes a resolution for its voluntary liquidation;

1.3.32.5 an Entity enters into or resolves to enter into any arrangement, scheme or compromise with, or assignment for the benefit of, its creditors generally or any class of them;

1.3.32.6 an application or order is made for the winding-up or dissolution of, or the appointment of a provisional liquidator for, an Entity or a resolution is passed or steps are taken to pass a resolution for the winding-up or dissolution of an Entity otherwise than for the purpose of an amalgamation or reconstruction which has the prior consent of all Shareholders, or steps are taken to commence business rescue proceedings under the Act; and/or

Issue: 2019-01-26_12:01:08

1.3.32.7 an application or order is made for the sequestration or voluntary surrender of the estate of, or the appointment of a provisional liquidator for, a natural person;

1.3.33 **"Loan Account/s"** means all amounts standing to the credit of a Shareholder in the accounts of the Company from time to time, excluding the Initial Loan as defined in clause 7.1.1;

1.3.34 **"IP Agreement"** means the agreement entered into and in between Mpako and the Company, in terms of which Mpako has granted the use of certain of its intellectual property to the Company, as more fully described in terms of that agreement;

1.3.35 **"Mela"** means Mela Womans Investments (Pty) Ltd, (Registration number: 2002/030534/07), a private company duly registered and incorporated under the company laws of the Republic of South Africa, herein represented by Munirah Oliveria, she being duly authorised thereto by the directors;

1.3.36 "**Mkele**" means Velile Archie Mkele, an adult male with ID no. 540908 5770 087.

1.3.37 **"the Mkele Trust"** means the trustees for the time being of The Archie Mkele Business Trust, (Registration number: IT No. 3305/02), a trust duly registered under the trust laws of the Republic of South Africa, herein represented by VA Mkele, he being duly authorised thereto by the trustees;

1.3.38 **"MOI"** means the Company's Memorandum of Incorporation to be approved by the Board simultaneously with this Agreement and thereafter lodged in the offices of the Companies and Intellectual Property Commission ("the CIPC") for registration;

1.3.39 **"Mpako"** means Mpako Investments (Pty) Ltd, (Registration number: 1997/015059/07), a private company duly registered and incorporated under the company laws of the Republic of South Africa, herein represented by G J Watson, he being duly authorised thereto by the directors;

1.3.40 **"Nzunzo"** means Nzunzo Investments (Pty) Ltd, (Registration number: 2002/023124/07), a private company duly registered and incorporated under the company laws of the Republic of South Africa, herein represented by VA Mkele, he being duly authorised thereto by the directors;

1.3.41 **"Oliveria"** means Munirah Oliveria, an adult female with ID no. 591010 0094 087;

1.3.42 **"Ownership Scorecard"** means the general ownership scorecard for the measurement of the ownership element of BEE contained in the Codes;

Issue: 2019-01-26_12:01:08

1.3.43 **"Ownership Scorecard Points"** means the ownership points earned or capable of being earned by the Company from time to time in terms of the Ownership Scorecard;

1.3.44 **"Party/Parties"** means the parties who are signatories to this Agreement, jointly or individually, as the context may indicate and shall include their heirs, successors and assigns;

1.3.45 **"Prime Rate"** means the publicly quoted basic rate of interest, compounded monthly in arrears and calculated on a 365 day year irrespective of whether or not the year is a leap year, from time to time published by First National Bank, a division of Rand Merchant Bank Limited (or any replacement bank which may be nominated by the majority of the Board) as being its prime overdraft rate, as certified by any branch manager of that bank whose appointment and designation it shall not be necessary to prove;

1.3.46 **"Rating Failure"** means a failure by the Company to continue to achieve and/or maintain the Ownership Scorecard Points as at the signature date;

1.3.47 **"Relevant Authority"** means the Broad-Based Black Economic Empowerment Commission established in terms of the BEE Act, and/or the Commissioner and/or Acting Commissioner thereof from time to time, or their successors or replacements from time to time;

1.3.48 **"Shareholders"** means the shareholders that are registered as such in the share register of the Company from time to time and "Shareholder" means any of them as the context may require;

1.3.49 **"Shares"** means the shares in the authorised share capital of the Company from time to time, whether issued or not;

1.3.50 **"signature date"** means the date of signature of this Agreement by the Party signing last in time;

1.3.51 **"Specified Interest"** means an interest in any Entity which permits the holder of such interest to receive in excess of 5% of the economic benefits derived from such Entity in any form or manner whatsoever;

1.3.52 **"Specified Portion"** means, in relation to one or more Shareholders, the proportion which the number of Shares held by that or those Shareholders bears to the total number of Shares held by all Shareholders and "Specified Portions" has an equivalent meaning;

1.3.53 **"Subsidiaries"** means all Entities, whether local or foreign, of which the Company holds a beneficial interest in excess of 50% (fifty percent), but excluding Bosasa Properties;

Issue: 2019-01-26_12:01:08

1.3.54 **"Term"** means the period commencing on the Effective Date and ending on the fifth anniversary of the Effective Date, irrespective of whether such date is a Business Day or not;

1.3.55 **"Transfer"** means:

1.3.55.1 in relation to a Share, the transfer of any Share that has been Disposed of by a Shareholder ("the Transferring Shareholder") to a third party, which transfer shall be effected by the:

1.3.55.1.1 delivery to the Company of a valid written deed of transfer in a format reasonably acceptable to the Company;

1.3.55.1.2 delivery to the Company of the resignation of any director nominated by the Transferring Shareholder;

1.3.55.1.3 acceptance of the transfer and resignation of the said director by the Board by way of written resolution;

1.3.55.1.4 recording of the transfer in the Company's share register; and

1.3.55.1.5 cancellation of the Transferring Shareholder's share certificates and the issue by the Company of new share certificates to evidence the transfer of ownership;

1.3.55.2 in relation to a Loan Account, the cession of the whole or any portion of such Loan Account by a Shareholder to a third party, which cession shall be effected by the:

1.3.55.2.1 delivery to the Company of a valid deed of cession in a format reasonably acceptable to the Company; and

1.3.55.2.2 acceptance of such cession by the Board by way of written resolution; and

1.3.55.3 in relation to an Equity Interest, the transfer of both the Shares and Loan Accounts of a Shareholder as contemplated above;

provided that such transfer shall only be effected if it complies with all the provisions of this Agreement, the MOI and the Act;

1.3.56 **"Trigger Event"** in relation to a Shareholder (which shall exclude Mpako), subject to clause 1.3.56.9, means:

1.3.56.1 a person (other than the Shareholder) acquiring any interest in Shares held by the Shareholder contrary to the provisions of this Agreement, unless the Parties have agreed thereto in writing;

Issue: 2019-01-26_12:01:08

1.3.56.2 the Shareholder being, or taking steps to be, deregistered in terms of the Act or any other applicable legislation;

1.3.56.3 a third party taking Control of the Shareholder without written notification to the other Shareholders of at least 30 (thirty) business days prior to the event;

1.3.56.4 any Shareholder ceasing to be ultimately controlled (directly or indirectly) by all or some of its Controlling Stakeholders without written notification to the other Shareholders of at least 30 (thirty) business days prior to such event;

1.3.56.5 the Shareholder being the subject of an Insolvency Event;

1.3.56.6 the Shares held by a Shareholder being Encumbered contrary to the provisions of this Agreement;

1.3.56.7 the Shareholder breaching this Agreement and the breach remaining unremedied as contemplated in clause 31.1;

1.3.56.8 the Shareholder repudiating this Agreement and the repudiation being accepted as contemplated in clause 31.1;

1.3.56.9 a breach by any of the holders of BEE Equity of their obligations and/or warranties under this Agreement.

1.4 Any reference to an enactment is to that enactment as at the signature date and as amended or re-enacted from time to time.

1.5 If any provision in a definition is a substantive provision conferring rights or imposing obligations on any Party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in the body of this Agreement.

1.6 When any number of days is prescribed in this Agreement, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or public holiday, in which case the last day shall be the next succeeding business day.

1.7 Where figures are referred to in numerals and in words, if there is any conflict between the two, the numerals shall prevail.

1.8 Expressions defined in this Agreement shall bear the same meanings in schedules or annexures to this Agreement which do not themselves contain their own definitions.

1.9 Where any term is defined within the context of any particular clause in this Agreement, 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

Issue: 2019-01-26_12:01:08

bear the meaning ascribed to it for all purposes in terms of this Agreement, notwithstanding that that term has not been defined in this interpretation clause.

1.10 The expiration or termination of this Agreement shall not affect such of the provisions of this Agreement as expressly provide that they shall operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this.

1.11 The terms of the Agreement have been negotiated and accordingly the rule that this Agreement be interpreted against the drafter thereof shall not apply in the interpretation of this Agreement.

2. RECORDAL

2.1 The Parties are desirous of entering into this Agreement to provide for and regulate :

2.1.1 the funding, business activities, management and administration of the Company;

2.1.2 their relationship as shareholders of the Company;

2.1.3 the relationship between the Company and the Shareholders;

and certain matters incidental thereto.

2.2 The Parties have therefore agreed upon the following terms and conditions recorded in this Agreement.

3. MEMORANDUM OF INCORPORATION

3.1 It is recorded that the MOI shall be lodged for registration by the CIPC as soon as possible after the signature date. The Parties agree that they shall act in accordance with the provisions of the MOI whether it has been registered as such or not.

3.2 To the extent that the provisions of this Agreement may conflict with the provisions of the MOI, the provisions of the MOI shall prevail and be carried into effect.

3.3 To the extent that the provisions of the MOI may be inconsistent or conflict with the provisions of this Agreement:

3.3.1 any Party may require the MOI to be amended accordingly; and

Issue: 2019-01-26_12:01:08

3.3.2 the Shareholders undertake to vote in favour of all resolutions of the Company necessary to amend the MOI in terms of clause 3.3.1.

3.4 The Shareholders undertake not to vote in favour of any resolution that shall result in the MOI being inconsistent or conflicting with the provisions of this Agreement.

3.5 Any disagreement between the Parties as to the content of the Memorandum of Incorporation pursuant to this clause 3 shall be resolved by the Independent Expert, acting as an expert and not as an arbitrator, and whose decision shall be final and binding on the Parties, save in the case of a manifest error or fraud.

4. STATUTORY MATTERS

4.1 The Parties record that as at the date of entering into this Agreement:

4.1.1 the Company is a private company incorporated under the Act;

4.1.2 the name of the Company is "Bosasa Empowerment and Management Services Proprietary Limited";

4.1.3 the authorised share capital of the Company shall be 4 000 (four thousand) ordinary shares having those rights and conditions specified in the MOI, and 100 issued ordinary Shares allocated as at the date of signature a s follows:

4.1.3.1 Mpako – 26 Shares;

4.1.3.2 Mela – 34 Shares;

4.1.3.3 Nzunzo – 18 Shares; and

4.1.3.4 The Trust – 22 Shares;

4.1.4 the financial year of the Company ends on the last day of February of each year;

4.1.5 the registered office of the Company is 1 Windsor Road, Luipaardsvlei, Mogale City.

4.1.6 the auditors of the Company are D'Arcy Herman & Company Inc.

Issue: 2019-01-26_12:01:08

5. **MANAGEMENT OF THE COMPANY**

5.1 The Board shall consist of a minimum of 3 (three) directors.

5.2 Mpako shall be entitled by written notice to the Company to nominate the directors of the Company from time to time (including their replacements) and such persons shall be appointed as such provided that, if all of the other Shareholders object to the appointment of any person as a director based on reasonable grounds that have been set out in writing, Mpako shall nominate an alternative director in such person's stead.

5.3 Each Shareholder undertakes, if required, to exercise its vote(s) at a meeting of the Shareholders of the Company in order to give effect to the provisions of this clause 5.

5.4 The Company Business and affairs of the Company shall be managed by or under the direction of the Board, which shall have the authority to exercise all the powers and perform any of the functions of the Company and shall be entitled to establish and delegate its powers to such committees and/or sub-committees with such authority as the Board may deem appropriate.

6. **MEETINGS OF DIRECTORS AND SHAREHOLDERS**

Meetings of Shareholders shall be governed by articles 28 to 32 of the MOI, and meetings of the Board shall be governed by article 38 of the MOI.

7. **CONTRIBUTIONS BY MPAKO**

7.1 It is recorded that Mpako has:

7.1.1 advanced to the Company a loan in the amount of R15 000 000 (fifteen million rand) ("the Initial Loan"); and

7.1.2 made available to the Company the use of its intellectual property in terms of the IP Agreement.

7.2 It is recorded that the Initial Loan was granted on the following terms and conditions:

7.2.1 the Initial Loan does not bear interest from the date on which it was granted until the Effective Date. With effect from the Effective Date until the date on which the Initial Loan plus all interest has been repaid in full (both days inclusive), the Initial Loan shall bear interest at the Prime Rate plus 2% compounded monthly in arrears;

7.2.2 the Initial Loan as well as the interest thereon shall be repaid in 24 (twenty four) equal monthly instalments commencing at the beginning of the month following the month in which the Effective Date falls; and

Issue: 2019-01-26_12:01:08

7.2.3 the Initial Loan as well as all interest in respect thereof shall be unsecured and shall be subordinated in favour of the Company's third party creditors.

7.3 Save for the Initial Loan it is the intention of the Parties that the Company shall be self-financing. However, if the Company requires any additional funding ("the Additional Funding"), the Board shall decide whether such Additional Funding shall be:

7.3.1 in the form of loan capital, in which case each Shareholder shall make a *pro rata* loan to the Company of the Additional Funding required on the basis contemplated in clause 8 below;

7.3.2 in the form of share capital, in which case each Shareholder shall, subject to the provisions of the Act as well as the MOI and in accordance with the provisions of clause **Error! Reference source not found.** below:

7.3.2.1 if required, vote in favour of a special resolution to increase the authorised share capital of the Company; and

7.3.2.2 subject to the provisions of clause 7.4 and 10.2, subscribe for such additional Shares as may be determined by the Board; or

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7.3.3 raised from external sources (such as commercial banks, financial institutions and/or other external sources) on the most favourable commercial arm's-length terms reasonably obtainable as to interest, repayment and security, but without allowing any prospective lender a right to participate in the equity share capital of the Company as a condition of any loan, or to take security over the Shares from any of the Shareholders. However, to the extent required, the Shareholders undertake to provide such Guarantees as may be required to secure the Additional Funding in accordance with the provisions of clause 9.

7.4 In order to determine the number of Shares to be issued to each Shareholder pursuant to the provisions of clause ~~7.3.2.2~~ 10 ("the Additional Shares"), the price or value of an Additional Share ("the Share Price") shall be the fair market value thereof as determined by the Auditors. Once the Share Price has been determined, the Company shall issue such number of Additional Shares to the Shareholders as may be required to raise the Additional Funding against payment of the issue price for such Additional Shares, and such Additional Shares shall rank *pari passu* with the other Shares in issue. If any Shareholder does not have the financial wherewithal to subscribe for such Additional Shares, the undertaking of an issue of Additional Shares pursuant to clause **Error! Reference source not found.** that excludes such Shareholder shall not by virtue of that fact alone be regarded as constituting unfairly prejudicial, unjust or inequitable conduct by the Company and/or the Board and/or the remaining Shareholders vis-à-vis such Shareholder.

8. LOAN ACCOUNTS

8.1 The provisions of this clause 8 shall not apply to the Initial Loan.

COMMISSION OF INQUIRY INTO STATE CAPTURE

8.2 In the event that the Company requires Additional Funding and the Board resolves that the Shareholders shall contribute such Additional Funding in the form of loan capital as envisaged in clause 7.3.1, each Shareholder shall contribute a Specified Portion of such Additional Funding in accordance with the provisions of this clause 8.

8.3 No repayment of any loan account shall take place otherwise than in accordance with the provisions of this clause 8.

8.4 To each Shareholder's Loan Account shall be:

8.4.1 credited or debited, as the case may be, such Shareholder's Specified Portion of the distributed profits of the Company;

8.4.2 credited, any amount such Shareholder has disbursed personally on behalf of the Company in the course of the Company Business;

8.4.3 debited, such Shareholder's drawings against any anticipated distribution of profits of the Company, as may be agreed to by the Shareholders in writing.

8.5 The Shareholders shall endeavour to maintain Loan Accounts in the Specified Portions.

8.6 The Loan Accounts shall:

8.6.1 bear interest at a rate equal to the Prime Rate or such other rate as the Shareholders and the Board may agree to in writing from time to time;

8.6.2 be in the Specified Portion or as close as possible thereto ("Proportionate Loans");

8.6.3 be on the same terms and conditions;

8.6.4 be unsecured;

8.6.5 be advanced simultaneously to the Company;

8.6.6 be repayable to the Shareholders simultaneously;

8.6.7 not be repaid until the Initial Loan and interest thereon have been repaid;

8.6.8 be repaid prior to the declaration of any other Distributions.

8.7 In the event of the Loan Account of any Shareholder exceeding the proportionate amount which such Shareholder is obliged to contribute (the "Base Amount") any excess in such Loan Account above the Base Amount ("the Disproportionate Loans") shall bear interest at the Prime Rate plus 2%

Issue: 2019-01-26_12:01:08

compounded monthly in arrears, which interest shall be paid by the Company to each Shareholder on the first business day of each month.

8.8 Subject to clauses 8.6 and 19, the Loan Accounts shall not be repayable except on the authority of the Board, and in the manner as such resolution directs, provided however that any repayments which are made shall:

8.8.1 first be made to expunge the Disproportionate Loans by which any Shareholder has contributed on Loan Account beyond its Specified Portion;

8.8.2 thereafter, be made to the Shareholders in the Specified Portions.

8.9 Notwithstanding anything to the contrary, the Loan Accounts shall forthwith become due and payable if:

8.9.1 the Company ceases to carry on the Company Business;

8.9.2 any application is made for the liquidation or winding up of the Company or if the Company suffers any other Insolvency Event;

8.9.3 a judgment is entered against the Company which remains unsatisfied for a period of 14 (fourteen) days after it becomes final.

9. GUARANTEES

9.1 No Shareholder shall Guarantee any of the Company's obligations unless the Board shall have resolved that the obligations in question should be guaranteed.

9.2 The Parties shall use their respective best endeavours to give all Guarantees which may be given by them, to meet the obligations of the Company, jointly but then on the basis that *inter se* their liability thereunder shall be in the Specified Portions.

9.3 In the event, however, of the Shareholders Guaranteeing the Company's obligations jointly and severally, or of any Guarantee so provided being enforced against some but not all of the Shareholders, or to the extent that there are at the date of signature any Guarantees in existence for the obligations of the Company, then upon the enforcement of any of the Guarantees each Shareholder shall have recourse against the others of them in all respects so that all liabilities and losses under each such Guarantee which is enforced shall be borne by them in the Specified Portions.

10. ADDITIONAL SHARES

10.1 If the Board determines that it requires the subscription by Shareholders of Additional Shares in terms of clause 7.3.2 (and as an alternative to the provision of loans by Shareholders in terms of clause 7.3.1), the Board shall

Issue: 2019-01-26_12:01:08

be required to refer such determination for consideration by the Shareholders and the Board's decision shall only be valid and be capable of implementation on unanimous agreement by the Shareholders. On the attainment of the unanimous agreement by the Shareholders, the Board shall give written notice to each Shareholder to subscribe for Additional shares in the Specified Portions.

10.2 If a Shareholder (the "Defaulting Shareholder") fails to comply with its obligations in terms of clause 10.1 and remains in default for 30 (thirty) days after receipt of a notice from the other Shareholders (the "Financing Shareholders") calling upon it to provide its share of the funding by subscription for additional Shares, then the Financing Shareholders shall be entitled, but not obliged, within a period of 10 (ten) days after the end of the 30 (thirty) day period referred to above, to provide the amount which the Defaulting Shareholder was required to provide ("the Shortfall Amount"), *pro rata* to their respective shareholding calculated by excluding the shareholding of any Defaulting Shareholder. Should the Financing Shareholders elect to provide the Shortfall Amount, the Financing Shareholders shall be entitled, but not obliged, to subscribe for the Additional Shares that would have been issued to the Defaulting Shareholder. In such event any Financing Shareholder shall be entitled due to the passage of time to challenge the Share Price determined under clause 7.4, which Share Price shall be calculated on the same basis provided for in that clause. However if the valuation of the Share Price is within 5% of the Share Price originally determined by the Auditors, then the costs of obtaining such valuation shall be for the account of and paid for by the Financing Shareholder calling for the revaluation.

10.3 If the Financing Shareholders elect:

10.3.1 to subscribe for Additional Shares, the Company shall, against receipt of the Shortfall Amount, issue the Additional Shares to each of the Financing Shareholders in accordance with their *pro* rata contribution to the Shortfall Amount and shall record the said issue in the Company's share register; or

10.3.2 not to subscribe for Additional Shares, any Shortfall Amount shall be treated as a Disproportionate Loan in respect of the *pro rata* contribution by each Financing Shareholder on the basis provided for in clause 8 above.

11. DISTRIBUTION POLICY

11.1 Subject to the provisions of section 46 of the Act , the provisions of the MOI and the remainder of this clause 11, and also with due regard to the financial requirements of the Company from time to time, Distributions shall be made to the Shareholders as determined by the Board from time to time.

Issue: 2019-01-26_12:01:08

11.2 Should a Shareholder become disqualified from holding Shares at any time during a Financial Year other than upon the date of any such Financial Year end, such Shareholder shall not be entitled to receive a Distribution.

11.3 No Distribution shall be declared by the Board:

11.3.1 unless the Distribution has been unanimously authorised by the Shareholders in writing;

11.3.2 unless all Loan Accounts have been repaid in full, together with any interest accruing on such Loan Accounts; and/or

11.3.3 for as long as any amount in terms of the IP Agreement remains outstanding, or the Company remains in breach of any obligations under the IP Agreement.

12. **BEE SHAREHOLDING**

12.1 Mela and Nzunzo represent and warrant in favour of the Company and Mpako that as at the date of signature, each of them shall be the beneficial as well as the registered holder of their Shares as recorded in clause 4 above and that such Shares shall not be Encumbered.

12.2 Oliveria and the Mkele Trust respectively represent and warrant in favour of the Company and Mpako that as at the date of signature and for the duration of the Term :

12.2.1 Oliveria shall be the sole shareholder of Mela;

12.2.2 the Mkele Trust shall be the sole shareholder of Nzunzo; and

12.2.3 Mkele shall be the only holder of a beneficial interest in the Mkele Trust, whether discretionary or vested.

12.3 Unless the Board has given its prior written consent, for the duration of the Term, neither Mela nor Nzunzo :

12.3.1 shall Dispose of any of their respective Equity Interests, unless such Disposal is made to a Black Person who is not a competitor of the Company and does not hold a Specified Interest in a competitor of the Company, and Mela and/or Nzunzo, as the case may be:

12.3.1.1 provides evidence to the satisfaction of the Company that such person:

12.3.1.1.1 is a Black Person; and

12.3.1.1.2 is not a competitor of the Company; and

Issue: 2019-01-26_12:01:08

12.3.1.1.3 does not hold a Specified Interest in a competitor of the Company; and

12.3.1.2 shall procure that such person warrants to each of the remaining Shareholders and the Company that it is a Black Person and that it shall remain a Black Person for the duration of the Term;

12.3.2 shall Dispose any of their respective Equity Interests if it shall result in any loss or diminution by the Company of any BEE Benefit which it enjoyed or could have enjoyed prior to such Disposal;

12.3.3 shall permit, consent to or otherwise facilitate the Transfer of any of its Equity Interest;

12.3.4 shall Encumber any of its Equity Interest;

12.3.5 shall cease being a company in accordance with the Act; and

12.3.6 shall cease being a Black Person.

12.4 In addition to the above, each of Oliveria and the Mkele Trust warrants and represents that, for the duration of the Term, they shall remain the holders of the entire issued capital in Mela and Nzunzo respectively, and that no person has any right (including, *inter alia*, any option, pre-emptive right or right of first refusal) to acquire any shares held by Oliveria in Mela or the shares held by the Mkele Trust in Nzunzo.

12.5 Oliveria and the Mkele Trust shall notify the Company within 2 (two) business days of becoming aware of any possible change respectively in their shareholding in and/or Control of Mela or Nzunzo and shall include in such notice full details of the identity and composition of any Entity or person who intends to hold shares in and/or exert Control over Mela and/or Nzunzo, as the case may be.

13. **BEE EVENTS**

13.1 If a BEE Event occurs during the Term, Mela and Nzunzo shall as soon as is possible after the occurrence of the BEE Event but in any event not later than 10 business days from that occurrence, meet at a convenient time to discuss ways to prevent, rectify or reverse the Rating Failure or any loss or diminution by the Company of any BEE Benefit as a result of the BEE Event, and shall communicate the outcome of their discussions to Mpako.

13.2 Provided that all the Parties agree thereto in writing, the Parties shall co-operate to implement such measures as may be required to prevent, rectify or reverse the Rating Failure or any loss or diminution by the Company of any BEE Benefit as a result of the BEE Event.

13.3 Mela and Nzunzo shall at all times (whether before or after the BEE Event) use all reasonable and commercial endeavours and act in good faith to

Issue: 2019-01-26_12:01:08

prevent, rectify or reverse the Rating Failure or any loss or diminution by the Company of any BEE Benefit as a result of an BEE Event.

14. **DISPOSAL OF SHARES**

14.1 With the exception of Mpako, no Shareholder shall, except in accordance with the provisions of this Agreement, the Act and the MOI:

14.1.1 Encumber its Equity Interest or any of the rights attached to its Equity Interest;

14.1.2 Dispose or enter into any contract to Dispose of its Equity Interest or any of the rights attached to its Equity Interest;

14.1.3 enter into any agreement in respect of the votes attached to its Shares or any of the other rights attached to its Shares; or

14.1.4 agree, whether or not subject to any suspensive or resolutive condition, to do any of the foregoing.

14.2 The Parties agree and shall accordingly procure that:

14.2.1 before any person or Entity (other than a person who is already a Shareholder) is registered as a holder of any Share, such person or Entity shall enter into an Accession Agreement;

14.2.2 the Company shall not register any such person as the holder of any Share until such Accession Agreement has been duly executed.

14.3 Subject to the provisions of the Act and the MOI, the Parties also agree and shall accordingly procure that the Company shall not register any Transfer of Shares made in breach of this Agreement, the Act or the MOI; and the Shares comprised in any Disposal so made shall carry no rights whatsoever unless and until, in each case, the breach is rectified.

14.4 No Transfer of any Share/s shall be registered and given effect to unless, in the same indivisible transaction, the transferring Shareholder Transfers to the transferee a portion of the transferring Shareholder's Loan Account that bears the same proportion to the total amount of that Shareholder's Loan Account immediately before such Disposal as the number of Shares being transferred bears to the aggregate number of Shares held by such Shareholder immediately before such Disposal.

15. **PRE-EMPTIVE RIGHTS**

15.1 For the purposes of this clause 15:-

Issue: 2019-01-26_12:01:08

15.1.1 "Disposing Shareholder" means a Shareholder who wishes to Dispose of its Shares or who receives a Third Party Offer and wishes to accept that offer as provided for in this clause 15;

15.1.2 "Offer Date" means the date on which the offer referred to in clause 15.3 is received or deemed to be received by the Offeree or the date on which the Disposing Shareholder receives a Third Party Offer;

15.1.3 "Offer Shares" means all the Shares in the Company held by the Disposing Shareholder at the Offer Date;

15.1.4 "Offeree" means any Shareholder to whom an offer has been made in terms of clause 15.3;

15.1.5 "Third Party Offer" means a *bona fide* offer which has been received by a Shareholder from a third party for the purchase of all its Shares in the Company and its Loan Account, which offer must be in writing, expressed in the currency of South African Rand and contain sufficient detail to enable the Shareholders to meaningfully consider its terms and conditions.

15.2 This entire clause 15 shall be subject to the limitations on any Disposal of BEE Equity as set out in clause 12 above.

15.3 Save as provided for in clauses 16, 19 and 20, no Shareholder may Dispose of its Equity Interest without first offering a portion of its Equity Interest to each of the other Shareholders equal to their Specified Portion provided that, while the Company is performing any obligations (other than contingent obligations) in terms of any tender contract or has submitted a tender for the purpose of being awarded any contract and is yet to hear of the outcome of the award of such tender, no Transfer of any Equity Interest may be effected.

15.4 A Share may be transferred by a Shareholder to its *bona fide* nominee, or from one *bona fide* nominee to another *bona fide* nominee, provided that there is no change in the beneficial ownership of that Share and no dilution of a BEE Benefit resulting therefrom.

15.5 Any offer referred to in clause 15.3 shall-

15.5.1 be in writing;

15.5.2 be dispatched to the Offerees at their addresses specified for acceptance of such notice in terms of clause 27;

15.5.3 be irrevocable for a period of 30 (thirty) days after the Offer Date;

15.5.4 if the Disposing Shareholder has received a Third Party Offer which it wants to accept-

Issue: 2019-01-26_12:01:08

15.5.4.1 be at a price and on terms and conditions for the Equity Interest which are not less favourable than that specified in that Third Party Offer;

15.5.4.2 be accompanied by a copy of the Third Party Offer;

15.5.5 in all other cases, be at a price-

15.5.5.1 as regards the Offer Shares, specified by the Disposing Shareholder in the offer referred to in clause 15.3 above, and

15.5.5.2 as regards the relevant Loan Account, equal to the face value thereof on the Offer Date;

15.5.6 be subject to the conditions that -

15.5.6.1 the sale is for the whole of the Equity Interest;

15.5.6.2 the offer is accepted by all of the Shareholders;

15.5.6.3 the purchase price is payable in cash (in Rand) against delivery of the Offer Shares and cession of the Loan Account to the Offerees; and

15.5.6.4 the sale of the Equity Interest is one indivisible transaction.

15.6 Should the Offerees not accept the whole of the offer within the 30 (thirty) day period referred to in clause 15.5.3, then the Disposing Shareholder shall be entitled, within 30 (thirty) days after the last rejection or expiry of the offer period, as the case may be, to Dispose of all (but not a part only) of the Equity Interest -

15.6.1 to the third party specified in the Third Party Offer, on the terms and conditions set out in the Third Party Offer; or

15.6.2 to a *bona fide* third party but only at a price which is not less than, and on terms and conditions no more favourable to the third party than the price and terms and conditions at which the Equity Interest was offered to the Offerees,

provided that during the Term, Mela and Nzunzo shall only be permitted to Dispose of their Equity Interest to a third party (pursuant to the Third Party Offer or otherwise) subject to the provisions of clause 12.3 above.

15.7 Should a sale be made by the Disposing Shareholder in terms of this clause 15 subject to the Act and the MOI, the Directors shall be obliged to register the Transfer of the Offer Shares unless:

Issue: 2019-01-26_12:01:08

15.7.1 they have not been satisfied in such manner as they may reasonably require that that sale is *bona fide* and conforms to the requirements of this clause 15;

15.7.2 they have good and reasonable grounds (which shall be given in writing) for believing that the admission of the proposed transferee is not in the interests of the Company; or

15.7.3 the purchaser of the Equity Interest refuses to conclude an Accession Agreement.

15.8 The Shareholders shall use all reasonable endeavours to obtain any regulatory or other consents that may be needed to enable the Disposal of the Equity Interest to be completed and, if such consents are refused, the Disposal shall become void and the Disposing Shareholder and the Offeree shall be released from their obligations under this clause 15.

16. **CALL OPTION**

16.1 Mpako shall have a call option to purchase the BEE Equity of Mela or Nzunzo (or both of them) in the circumstances set out in this clause 16 ("the Call Option").

16.2 Mpako shall have a call option to acquire the BEE Equity of either Mela or Nzunzo should one or more of the following events occur (or the BEE Equity of both should the event occur in respect of both):

16.2.1 in the event that a Fault-based BEE Event, which results in a Rating Failure that is not rectified within 20 (twenty) business days of the happening of such event, occurs;

16.2.2 a third party taking Control of Mela or Nzunzo after written notification to the other Shareholders of at least 30 (thirty) business days prior to the event;

16.2.3 Mela or Nzunzo ceasing to be ultimately controlled (directly or indirectly) by all or some of its Controlling Stakeholders after written notification to the other Shareholders of at least 30 (thirty) business days prior to such event;

16.2.4 any breach of any warranty given by Mela, Nzunzo, Oliveria or the Mkele Trust under clause 12.4 above; and/or

16.2.5 in the event of Oliveria or Mkele, as the case may be, being dismissed from the employ of the Company for any reason other than for the operational requirements of the Company (retrenchment) or disability (incapacity due to ill health), in which case an event shall be deemed to have occurred in respect of Mela (if Oliveria's employment is terminated) or Nzunzo (if Mkele's employment is terminated) as the case may be;

Issue: 2019-01-26_12:01:08

which event shall be referred to as an "Option Event".

16.3 At any time following the happening of an Option Event, Mpako may exercise the Call Option by giving written notice to that effect to Mela and/or Nzunzo, as the circumstances may require.

16.4 If Mpako duly exercises the Call Option then the sale and purchase which results shall be subject to the following terms:

16.4.1 the effective date of the sale shall be the date on which the Call Option Price is determined ("the Call Option Date");

16.4.2 if Mpako exercises the Call Option the option price of the Shares ("Call Option Price") shall be determined in accordance with the provisions of clause 17;

16.4.3 the purchase price for the Loan Account of Mela and/or Nzunzo, as the case may be, shall be the face value thereof as at the Call Option Date;

16.4.4 the Call Option Price or the Default Price, as the case may be, shall be payable by Mpako to Mela and/or Nzunzo, as the circumstances may require, in cash in the currency of the Republic of South Africa, within 30 (thirty) days of the Call Option Date and only against fulfilment of all the requirements of Transfer of the Equity Interest of Mela and/or Nzunzo to Mpako as contemplated in clause 1.3.55.

16.5 In the event of Mpako exercising the Call Option, and insofar as there are any debts owed by Mela or Nzunzo, as the case may be (each of them being referred to as "the Offending Shareholder") to the Company, all such debts shall become immediately due and payable to the Company by the Offending Shareholder. A certificate issued by the Auditors stating the reason and amount so due, shall be *prima facie* proof of the contents thereof and the Auditor's appointment need not be proved. Mela and/or Nzunzo shall be obliged to utilise the proceeds from the sale of their Equity Interest to Mpako to settle such debts.

17. VALUATION OF SHARES

17.1 If and to the extent that the value of the Shares is required to be determined for defined purposes in terms of this Agreement, the formula referred to in this clause 17 shall be applied by the Auditors, who shall thereafter prepare a report on the valuation of the Shares at the Company's cost.

17.2 In determining the value of the Shares the Auditors shall calculate the value of the business of the Company based a price-earnings ratio in accordance with the following formula:

$$\text{Value} = ((E \times F) + S + P) \times D$$

Issue: 2019-01-26_12:01:08

where,

17.2.1 "E" means the aggregate of all pre-tax and pre-cost revenue to be earned by the Company in the future in respect of all valid tender contracts ("the Contracts") duly concluded by it as at the date that the formula is applied by the Auditors;

17.2.2 "F" means a discount factor based on the remaining duration of each Contract as follows:

17.2.2.1 less than 3 years - 0,02

17.2.2.2 between 3 to 10 years - 0,7

17.2.2.3 more than 10 years - 0,1

17.2.3 "S" means 25% (twenty-five percent) of the aggregate net asset value of any of the Subsidiaries as determined by the Auditors;

17.2.4 "P" means 25% of the value of all immovable property owned by Bosasa Properties as determined by a sworn valuer appointed by the Company, who shall act as an expert and not an arbitrator; and

17.2.5 "D" means an overall discount factor to be applied in the sole discretion of the Auditors should, in their opinion, there be objectively ascertainable factors that have a negative impact on the value of any Contract.

17.3 The Auditors shall be obliged to take into account the following factors for the purposes of determining the discount factor as referred to in clause 17.2.5 (if any):

General Economic Conditions

17.3.1 prevailing economic circumstances;

17.3.2 prevailing tax rates;

17.3.3 prevailing inflation rates;

Operating and Financial Conditions

17.3.4 the capital structure of the Company;

17.3.5 the dividend policy of the Company;

Issue: 2019-01-26_12:01:08

17.3.6 the fact that the Company is reliant on the person of Gavin Watson to secure Contracts;

17.3.7 the fact that the Company is mainly reliant on tender business from Government and the fact that Government's payment record is erratic and may be influenced by the devaluation of the Rand and/or other unpredictable economic drivers;

17.3.8 the fact that the Company is not able to renew Contracts and needs to successfully undergo a tender process to secure new Contracts;

17.3.9 the obligations of the Company towards Mpako in terms of the IP Agreement;

Market Conditions

17.3.10 the fact that Shares are not tradable in the open market and hence have a limited marketability;

17.3.11 the provisions of this Agreement and the binding nature of the Agreement to any successor in title of any Shareholder;

17.3.12 that individual Shareholder's shares (as opposed to all the Shares collectively) are to be valued for the purposes of any proposed Transfer;

17.3.13 the limitations applicable to minority shareholders in terms of this Agreement and the provisions of the MOI; and

17.3.14 the limitations on any Disposal of Shares specifically in relation to Mela and Nzunzo.

17.4 In applying the formula above the Auditors shall act as experts and not as arbitrators, and their valuation shall, in the absence of manifest error or fraud, be final and binding on the Parties.

18. INSURANCE POLICIES

18.1 The Company undertakes to take out and keep current, "key person"-type insurance policies ("the Policies") in favour of the Company, which policies shall become redeemable on the termination of employment as a result of the death of Oliveria and/or Mkele, being respectively the sole shareholder of Mela and the sole beneficiary of the Mkele Trust, which in turn is the sole shareholder of Nzunzo (Mela and Nzunzo hereinafter referred to as "the Affected Shareholders"), for any reason whatsoever.

18.2 The purpose of the Policies shall be to:

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Commented [NO1]: Just need to verify the beneficiaries on these Trust (whether they are sole beneficiaries?)

Issue: 2019-01-26_12:01:08

18.2.1 prevent any of the successors in title of interests in the Affected Shareholders (or their shareholders) from having an indirect influence on the affairs of the Company, which might impact on and affect the day-to-day running of the Company as they may not have the necessary skill and knowledge to do so; and

18.2.2 enable the Company to buy back the Shares of the Affected Shareholders in the event of a Trigger Event occurring.

18.3 The amount of cover purchased under the Policies from time to time shall be equal to the value of the Shares of Mela and Nzunzo, which shall determined at the beginning of each financial year of the Company in accordance with the procedure set out in clause 17.

18.4 In order to give effect to this clause, the Company undertakes to do all such things and sign all such documents necessary in order to submit claims in terms of the Policies in the event of the termination of the employment as a result of the Death of Oliveria and/or Mkele.

Commented [MOU2]: Oliviera'a is insured for death and incapacity where as Mkele is only insured for death.

~~18.5 Oliveria and Mkele undertake to:~~

~~18.5.1 comply in utmost good faith with all their obligations under the Policies and to procure that Mela and Nzunzo comply similarly;~~

~~18.5.2 to undergo all or any medicals necessary to effect the Policies.~~

~~and should the relevant insurer refuse to issue a Policy or repudiate any claim or otherwise reduce the amount thereof by virtue of a breach of a provision of this clause **Error! Reference source not found.**.18? by Oliveria, Mkele, Mela or Nzunzo, then the Affected Shareholders acknowledge and agree that they shall waive any entitlement to any amount that might have been paid by the said insurer but for the said breach.~~

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~~18.19~~ **DEEMED SALES**

~~18.1~~19.1 If a Trigger Event occurs in relation to a Shareholder, excluding Mpako ("the Defaulting Shareholder"), the Defaulting Shareholder's Shares ("the Deemed Sale Shares") shall be acquired by the Company ("the Deemed Sale") and the Defaulting Shareholders's Loan Account shall be repaid by the Company, subject to the following terms:

~~18.1.1~~19.1.1 the value of the Deemed Sale Shares shall be 75% (seventy five percent) of the net after-tax proceeds of the Policies;

~~18.1.2~~19.1.2 the value of the Defaulting Shareholder's Loan Account (including interest thereon, if any) shall be determined as at the business day immediately preceding the day on which the Trigger Event giving rise to such Deemed Sale occurred ("the Trigger Event Date"); and

Issue: 2019-01-26_12:01:08

~~18.1.3~~19.1.3 the Deemed Sale shall be deemed to have taken place on the Trigger Event Date, irrespective of the date on which the Deemed Sale Notice is given or the value of the Deemed Sale Shares is determined.

~~18.2~~19.2 As soon as reasonably possible after the value of the Deemed Sale Shares is determined as contemplated in clause 19.1, the Board shall:

~~18.2.1~~19.2.1 take steps to redeem the relevant Policy and shall pay the proceeds (after provision for any taxes payable by the Company in respect thereof) to the relevant Defaulting Shareholder; or

~~18.2.2~~19.2.2 should, for any reason whatsoever, no valid Policy be in existence as at the Trigger Event Date in respect of the Defaulting Party, authorise payment by the Company for the purchase of the Deemed Sale Shares,

and shall simultaneously with the above repay the Defaulting Shareholder's Loan Account.

~~18.3~~19.3 The provisions of clause 8.8 shall not be applicable to this clause 19.

~~18.4~~19.4 In the event of any Trigger Event other than the Trigger Event referred to in clause 1.3.56.9 1.3.56? occurring in respect of Mela and/or Nzunzo, Oliveria and/or Mkele, as the case may be, shall immediately tender their resignation as employees of the Company and they irrevocably agree that such resignation shall be reasonable given the extreme prejudice that will have been suffered by the Company as a result of the occurrence of the Trigger Event in question as well as their contribution thereto.

~~19.~~20. COME ALONG

Should an offer be received: -

~~19.1~~20.1 from a third party to purchase all of the Shares and the Loan Accounts and Mpako wishes to accept such offer, then it shall be entitled to require the remaining Shareholders to sell their Equity Interest on the same terms and conditions as that contained in the offer. Each of the Shareholders hereby irrevocably appoints Mpako as its attorney and agent to accept the offer on its behalf and to do all such things as may be necessary to comply with the provisions of this clause 20.

~~19.2~~20.2 For avoidance of doubt, no Shareholder other than Mpako shall enjoy any come along rights as contemplated in clause 20.1.

~~20.~~21. MINORITY PROTECTION

~~20.1~~21.1 Notwithstanding anything to the contrary contained in this Agreement none of the following actions may be taken or done without the written consent of Mpako:

Issue: 2019-01-26_12:01:08

20.1.121.1.1 the issue of any shares and/or instruments of debt;

20.1.221.1.2 the introduction of any share incentive scheme;

20.1.321.1.3 the giving of guarantees (other than guarantees required for tenders submitted by the Company in the normal course of business), suretyships, undertakings, indemnities or other forms of intercession by the Company or its directors;

20.1.421.1.4 the granting of any share option or the conclusion of any profit sharing arrangement by the Company;

20.1.521.1.5 a change in any of the shareholding in the Company, other than is permitted in terms of this Agreement;

20.1.621.1.6 the sale, lease, exchange or disposition of the entire undertaking or assets of the Company or any substantial part thereof;

20.1.721.1.7 the entering into of an amalgamation, merger or consolidation with any other body corporate;

20.1.821.1.8 the listing of the Company on any stock exchange;

20.1.921.1.9 any matter that would require a special resolution in terms of the Act;

20.1.1021.1.10 any amendment of the MOI;

20.1.1121.1.11 any increase, decrease or variation of the Company's share capital;

20.1.1221.1.12 the appointment or substitution of the Auditors;

20.1.1321.1.13 any major capital expansion; and/or

20.1.1421.1.14 any decision to liquidate the Company, place it in business rescue or to contemplate a compromise with its creditors;

20.221.2 Notwithstanding anything to the contrary contained in this Agreement Mpako may, in writing, veto any of the following actions:

20.2.121.2.1 the conclusion by the Company of any material contract, or the amendment of any existing contract to which the Company is already a party;

20.2.221.2.2 any sale, assignment, transfer or other disposition by the Company of any of its material intangible and tangible assets;

Issue: 2019-01-26_12:01:08

~~20.2.3~~21.2.3 any material change in the accounting policies used for the audited financial statements of the Company;

~~20.2.4~~21.2.4 any change in the financial year end of the Company;

~~20.2.5~~21.2.5 any material borrowing by the Company, or the entering into or amendment of any agreement and/or transaction as contemplated in the National Credit Act, 34 of 2005, as amended or re-enacted and for the time being in force, including any regulations promulgated thereunder for the time being in force;

~~20.2.6~~21.2.6 the institution of any legal proceeding of any nature by the Company other than proceedings instituted for the collection of debts in the ordinary and regular course of the Company Business;

~~20.2.7~~21.2.7 the entering into of any lease or license, or agreement for, or in the nature of, a lease or license, as Lessor or Licensor, as the case may be; and/or

~~20.2.8~~21.2.8 the pledging, mortgaging, hypothecating or encumbering of any of the assets of the Company in any manner whatsoever.

~~21.~~22. **CO-OPERATION**

~~21.1~~22.1 Each of the Shareholders undertakes to co-operate fully and consult with one another regarding the affairs of the Company in developing the Company Business, it being the intention that the Company Business shall be promoted with the highest degree of integrity between the Shareholders.

~~21.2~~22.2 The relationship between the Shareholders as such shall not be construed as that of *quasi* partners.

~~22.~~23. **CORPORATE OPPORTUNITIES**

The Shareholders agree that any opportunities that fall within the scope of the Company Business that are offered to them or to any business or entity in which they, directly or indirectly, hold the majority or controlling interest from time to time shall be offered in the first instance to the Company to undertake. If the Company determines not to undertake any such opportunity (and for the purposes hereof, the particular Shareholder shall recuse itself from voting at the relevant meeting), that Shareholder shall be entitled to undertake such opportunity for its own account.

~~23.~~24. **RESTRAINT**

~~23.1~~24.1 In amplification of the already existing restraint agreement between the Parties, each of the Parties (excluding the Company) undertakes that, for as long as it holds any Shares or is employed by the Company and for a period of 12 months after it ceases to be a Shareholder or employee, as the case may be, it shall not, either alone or jointly or together with or as agent for any

Issue: 2019-01-26_12:01:08

other person, partnership, body corporate or association of any nature whatsoever: -

23.1.124.1.1 be engaged in, interested or concerned with, whether financially or otherwise or whether directly or indirectly, in any capacity, including without being limited to, as agent, advisor, consultant, employee, financier, manager, member of a close corporation, member of a voluntary association, partner, proprietor, beneficiary or trustee in; or

23.1.224.1.2 be a director of or a shareholder in a company carrying on or concerned directly or indirectly with, any business which is the same or similar to the Company Business or any company or other body corporate carrying on business which is the same or similar to the Company Business.

23.224.2 Each of the Parties undertakes that neither it nor any Entity in which it is engaged in, interested and/or concerned with pursuant to clause 24.1 above shall: -

23.2.124.2.1 encourage or entice or persuade or induce any employee of the Company to terminate such employee's employment with the Company; or

23.2.224.2.2 entice or solicit or canvass any of the clients of the Company away from the Company. For the purpose of this sub-clause "client" means any person or Entity who was a client of the Company at any time during the 12 months immediately preceding the date on which the Shareholder in question ceases to hold any Shares.

23.324.3 The restraints referred to in clause 24.1 shall apply to the Republic of South Africa.

23.424.4 The Shareholders agree that each of the undertakings given in terms of clauses 24.1 and 24.2 above is fair and reasonable as regards its nature, restraint and period and necessary to protect the Shareholders' interests and the interests of the Company.

23.524.5 Each of the restraints set out in clauses 24.1 and 24.2 above shall be construed as severable and divisible and given effect to as such.

23.624.6 It is specifically recorded that the restraint of trade provisions contained in this Agreement shall be in addition to the restraint of trade provisions contained in the Employment Agreements. Insofar as there is a conflict between the provisions of this Agreement and an Employment Agreement, the provisions of the Employment Agreement shall prevail.

24.25 **WHOLE AGREEMENT, NO AMENDMENT**

24.125.1 This Agreement constitutes the whole agreement between the Parties relating to the subject matter hereof.

Issue: 2019-01-26_12:01:08

24.225.2 No amendment or consensual cancellation of this Agreement and no settlement of any disputes arising under this Agreement and no extension of time, waiver or relaxation or suspension of or agreement not to enforce or to suspend or postpone the enforcement of any of the provisions or terms of this Agreement shall be binding unless recorded in a written document signed by the Parties.

24.325.3 No extension of time or waiver or relaxation of any of the provisions or terms of this Agreement shall operate as an estoppel against any Party in respect of its rights under this Agreement, nor shall it operate so as to preclude such Party thereafter from exercising its rights strictly in accordance with this Agreement.

24.425.4 To the extent permissible by law no Party shall be bound by any express, residual or implied term, representation, warranty, promise or the like not recorded herein.

25.26 INDULGENCES

No indulgence granted by a Party shall constitute a waiver of any of that Party's rights under this Agreement. Accordingly, that Party shall not be precluded as a consequence of having granted such indulgence, from exercising any rights against the other which may have arisen in the past or which may arise in the future.

26.27 DOMICILIA CITANDI ET EXECUTANDI

26.127.1 The Parties choose as their *domicilia citandi et executandi* for all purposes under this Agreement, whether in respect of court process, notices or other documents or communications of whatsoever nature, the following addresses:

26.1.127 Mela:

Physical address	1 Windsor Road Luipaardsvlei Mogale City
Postal address	Private Bag 2002 Krugersdorp 1740
Fax Number	(011) 662-6138

26.1.227 Nzunzo:

Physical address	1 Windsor Road Luipaardsvlei

Issue: 2019-01-26_12:01:08

	Mogale City
Postal address	Private Bag 2002 Krugersdorp 1740
Fax Number	(011) 662-6138

26.1.327 The Employees Trust:

Physical address	1 Windsor Road Luipaardsvlei Mogale City
Postal address	Private Bag 2002 Krugersdorp 1740
Fax Number	(011) 662-6138

26.1.427 Mpako:

Physical address	1 Windsor Road Luipaardsvlei Mogale City
Postal address	Private Bag 2002 Krugersdorp 1740
Fax Number	(011) 662-6138

26.1.527 The Company:

Physical address	1 Windsor Road Luipaardsvlei Mogale City
Postal address	Private Bag 2002 Krugersdorp 1740
Fax Number	(011) 662-6138

26.1.627 Oliveria:

Physical address	96 Mowbray Street Newton Park Port Elizabeth 6001

Issue: 2019-01-26_12:01:08

Postal address 96 Mowbray Street
Newton Park
Port Elizabeth
6001

Fax Number

26.1.727 The Mkele Trust:

Physical address 74 Brighton Drive
Summerstrand
Port Elizabeth
6001

Postal address 74 Brighton Drive
Summerstrand
Port Elizabeth
6001

Fax number

27.1.8 Mkele:

Physical address 74 Brighton Drive
Summerstrand
Port Elizabeth
6001

Postal address 74 Brighton Drive
Summerstrand
Port Elizabeth
6001

Fax number

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26.227.2 Any notice or communication required or permitted to be given in terms of this Agreement shall be valid and effective only if in writing.

26.327.3 Any Party may by notice to the other Parties change its chosen *domicilia* details, provided that the change shall become effective *vis-à-vis* that addressee on the 7th business day from the receipt of the notice by the addressee.

26.427.4 Any notice to a Party: -

26.4.127.4.1 sent by prepaid registered post in a correctly addressed envelope to it at an address chosen as its *domicilium citandi et executandi* to which post is delivered shall be deemed to have been received on the 7th business day after posting (unless the contrary is proved);

Issue: 2019-01-26_12:01:08

~~26.4.2~~27.4.2 delivered by hand to a responsible person during ordinary business hours at the physical address chosen as its *domicilium citandi et executandi* shall be deemed to have been received on the day of delivery; or

~~26.4.3~~27.4.3 sent by telefax to its chosen telefax number stipulated in this clause, shall be deemed to have been received on the date of despatch (unless the contrary is proved).

~~26.5~~27.5 Notwithstanding anything to the contrary herein contained a written notice or communication actually received by a Party shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen *domicilium citandi et executandi*.

~~27.~~28. **COSTS AND FEES**

~~27.1~~28.1 The Company shall bear all of the costs in respect of and incidental to the preparation of this Agreement (including prior drafts and consultations).

~~27.2~~28.2 All legal charges, disbursements and fees, including costs on an attorney and own client scale and costs of Counsel on brief, incurred by a Party in successfully enforcing or defending any of the provisions of this Agreement shall be recoverable from the defaulting Party/Parties to this Agreement, jointly and severally as the case may be.

~~28.~~29. **SEVERABILITY**

Any provision in this Agreement which is or may become illegal, invalid or unenforceable in any jurisdiction affected by this Agreement shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be treated *pro non scripto* and severed from the balance of this Agreement, without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

~~29.~~30. **CONFIDENTIALITY**

Any information obtained by any Party to this Agreement in terms of, or arising from the implementation of this Agreement shall be treated as confidential by the Parties and shall not be divulged or permitted to be divulged to any person not being a Party to this Agreement and shall not be utilised by the receiving party for its own benefit, without the prior written consent of the other Parties save that: -

~~29.1~~30.1 any information which is required to be furnished by law or by existing contract may be so furnished;

~~29.2~~30.2 no Party shall be precluded from divulging any information to any person who is negotiating with such Party for the acquisition of its Shares, provided that the person to whom any disclosure is made in the aforesaid circumstances shall first have undertaken in writing not to divulge such information to any other person and to use it only for the purpose of evaluating the Company's Business;

Issue: 2019-01-26_12:01:08

29.330.3 no Party shall be precluded from using or divulging such information in order to pursue any legal remedy available to it;

29.430.4 the provisions of this clause shall not apply to information already in the receiving party's possession at the date of disclosure, information which was generally known to the public or which had entered the public domain at the time of disclosure or which after disclosure became generally known to the public and information which the receiving party becomes obliged to disclose under an order of Court or in terms of any statutes.

30 31. **BREACH**

30.131.1 If any Party ("the Defaulting Party") breaches any provision of this Agreement and remains in breach for 14 (fourteen) days after receipt of written notice to the Defaulting Party requiring it to rectify the breach, or if a Party ("the Repudiating Party") repudiates this Agreement, the other Parties shall be entitled at that their option to:

30.1.131.1.1 sue for the immediate specific performance of any of the Defaulting Party's obligations under this Agreement, whether or not such obligation is then due;

30.1.231.1.2 cancel this Agreement as against the Defaulting Party. Written notice of such cancellation shall be given to the Defaulting Party and the cancellation shall take effect on the giving of that notice; or

30.1.331.1.3 accept the Repudiating Party's repudiation of this Agreement and exercise what rights they have in law.

30.231.2 If the breach is a breach of warranty or undertaking as at a particular date, notice to remedy shall nevertheless be given and the breach shall be deemed to have been remedied if:

30.2.131.2.1 the Defaulting Party is able, within the period of notice, to prevent the other Parties from being prejudiced or to make good any prejudice suffered and does so; or

30.2.231.2.2 the Defaulting Party is able, but not within the period of notice, to prevent the other Parties being prejudiced or to make good any prejudice suffered and within the period of notice undertakes to do so and furnishes such security in support of the undertaking as the other Parties may reasonably require.

30.331.3 The innocent Parties' remedies in terms of this clause are without prejudice to any other remedies to which they may be entitled in law.

30.431.4 Notwithstanding the provisions of clause 31.1 above, no Party shall be entitled to cancel this Agreement on the grounds of a breach by another Party unless the breach is a breach of terms which goes to the root of this Agreement.

Issue: 2019-01-26_12:01:08

~~31~~ 32. **GOVERNING LAW**

The laws of the Republic of South Africa shall govern the validity, interpretation and performance of this Agreement.

~~32~~ 33. **COUNTERPARTS**

This Agreement may be executed in separate counterparts by the Parties hereto, each of which so executed, shall be deemed to be an original and all of which, when taken together, shall constitute one and the same agreement.

THUS DONE AND SIGNED AT _____ ON THIS THE _____ DAY OF _____ 2016 IN THE PRESENCE OF THE UNDERSIGNED WITNESSES.

AS WITNESSES:-

1. _____

2. _____

_____
For and on behalf of MELA

_____
For and on behalf of NZUNZO

_____
For and on behalf of THE EMPLOYEES TRUST

_____
For and on behalf of MPAKO

_____
For and on behalf of THE COMPANY

_____
OLIVERIA

_____
For and on behalf of THE MKELE TRUST

_____
MKELE

Issue: 2019-01-26_12:01:08

ANNEXURE A

ACCESSION AGREEMENT

dated

Name

Address

("the Acceding Party")

1 Introduction

This Accession Agreement is supplemental to the Shareholders Agreement of Bosasa Empowerment and Management Services (Pty) Ltd ("the Company") dated _____ ("the Shareholders Agreement").

2 Operative part

2.1 The Acceding Party confirms that:

2.1.1 it has been supplied with a copy of the Shareholders Agreement and is aware that the Shareholders Agreements requires all shareholders of the Company (whether original or by accession) to observe, perform and be bound by the Shareholders Agreement so that the Acceding Party is deemed, from the date on which the Acceding Party is registered as a holder of shares in the Company, to be a party to the Shareholders Agreement;

2.1.2 it is accordingly bound to the terms and conditions of the Shareholders Agreement from the date that it is registered as a shareholder of the Company;

2.1.3 this Accession Agreement is governed by the laws applicable in South Africa; and

2.1.4 the Acceding Party's address details for services of notices under the Shareholders Agreement shall be:

Name:

Attention:

Address:

Facsimile no:

Electronic mail address:

Issue: 2019-01-26_12:01:08

Signed at _____ on the _____ day of _____.

For and on behalf of

_____

_____
Name:

Capacity:

COMMISSION OF INQUIRY INTO STATE CAPTURE

TRUST DEED

EMPLOYEES TRUST

COMMISSION OF INQUIRY INTO STATE CAPTURE

INDEX

EMPLOYEES TRUST

NO	CLAUSE HEADING	PAGE
1	DEFINITIONS	1
2	PROVISIONS CONCERNING THE NUMBER OF TRUSTEES, TERMINATION OF OFFICE AND SUCCEEDING TRUSTEES	3
3	FURNISHING OF SECURITY BY TRUSTEES	4
4	ABSENCE OF A TRUSTEE	4
5	RESOLUTIONS BY TRUSTEES	5
6	POWERS OF TRUSTEES	5
7	POWERS RELATING TO BANK LOANS	9
8	EMPLOYMENT OF CAPITAL	9
9	EMPLOYMENT OF INCOME	10
10	CREATION OF FURTHER TRUSTS	11
11	DUTIES OF TRUSTEES	11
12	TERMINATION OF THE TRUST	12
13	PROFESSIONAL SERVICES	12
14	PERSONAL LIABILITY OF TRUSTEE	12
15	AMENDMENT TO THE TRUST DEED	13
16	REMUNERATION OF TRUSTEES	13
17	RESTRICTIONS ON BENEFICIARIES	13
18	MARRIAGE OF A BENEFICIARY	14
19	MEETINGS OF TRUSTEES AND RESOLUTIONS	14

Issue: 2019-01-26_12:01:08

WHEREAS the Trust was created for the benefit of a certain class of beneficiaries during the course of 2002 under registration number IT3305/02 (T);

AND WHEREAS the trustees of the Trust have resolved to amend the trust deed of the Trust by replacing it in its entirety with the deed contained in this document;

AND WHEREAS the sole discretionary income and capital beneficiary as at the date of the said resolution is Munirah Oliveria, identity number 591016 0094 087, who has no vested capital or income interest in the trust fund;

THEREFORE THE TRUST DEED PROVIDES AS FOLLOWS –

1 DEFINITIONS

In this Trust Deed, unless the context indicates otherwise, the following words or expressions shall have the following definitions, namely-

1.1 **"beneficiaries"** refer collectively to both capital and income beneficiaries in so far as the reference to beneficiaries relates to the trust fund;

1.2 **"Class"** means persons, whether male or female, who are:

1.2.1 'Black Persons' as defined in the *Broad-Based Black Economic Empowerment Act*, No 53 of 2003, and more fully described in the Codes of Good Practice on Black Economic Empowerment gazetted on 9 February 2007 by the Department of Trade and Industry in terms of the said Act, or any codes of good practice or legislation which replaces it; and

1.2.2 employees of the Company and/or any of its subsidiaries;

1.3 **"Company"** means Bosasa Empowerment and Management Services (Pty) Ltd (Registration Number 1999/020406/07);

1.4 **"Directors"** means the Board of Directors of the Company from time to time, acting in accordance with the procedures described in the Memorandum of Incorporation of the Company;

Issue: 2019-01-26_12:01:08

1.5 **"income beneficiaries"** refers, in relation to the trust income, to:

1.5.1 the income beneficiaries nominated in terms of this trust deed, or

1.5.2 such additional or other persons as are from time to time nominated by the trustees to benefit from the trust income on discretionary terms and in accordance with the powers vested in the trustees in terms of this trust deed,

provided that such income beneficiaries or persons shall at all times be members of the Class only;

1.6 **"capital beneficiaries"** refers, in relation to the trust capital, to

1.6.1 the capital beneficiaries nominated in terms of this trust deed, or

1.6.2 such additional or other persons as are from time to time nominated by the trustees in their discretion to benefit from the trust capital,

provided that such capital beneficiaries or persons shall at all times be members of the Class only;

1.7 **"trusteeship"** refers to the office held by the trustees of the trust;

1.8 **"trustees"** refer to the incumbents of the office of trustee;

1.9 **"trust fund or trust property"** refers to the trust property or capital vested in the trustees, or in respect of which they have a claim, irrespective of the source from which such additions are derived. Trust income not allocated by the trustees within six (6) months from the financial year end, unless the trustees resolve that such income shall form part of the trust capital, shall be deemed to be undistributed profits which shall remain part of the trust income and not the trust capital. The aggregate of all trust property constitutes the trust fund;

Issue: 2019-01-26_12:01:08

1.10 **"trust deed or trust document"** refers to this document as a whole;

1.11 **"vesting date"** means the date on which the trust fund or part thereof shall vest in the beneficiaries in whose favour this trust has been created. The distribution date shall be any of the following dates, namely:

(i) the date on which trustees make interim distributions of capital or income in terms of the powers vested in them;

(ii) the date that the trustees unanimously resolve to terminate the trust;

1.12 reference to the singular includes reference to the plural and *vice versa*;

1.13 reference to a gender includes reference to the other genders;

1.14 reference to a natural person includes reference to any juristic person or association of persons and *vice versa*.

2 PROVISIONS CONCERNING THE NUMBER OF TRUSTEES, TERMINATION OF OFFICE AND SUCCEEDING TRUSTEES

2.1 There shall at all times be a minimum of 3 (three) trustees in office, provided that if, temporarily, there are only 2 (two) trustees as a result of the resignation or death of a co-trustee, the remaining trustees shall be authorised to exercise all the power of trustees for the maintenance and administration of the trust fund until such time as another trustee has been appointed, which appointment the trustees so in office shall make within 90 (ninety) days of the resignation or death of a trustee.

2.2 The trustees shall at all times be appointed by resolution of the Directors.

2.3 On the written acceptance of his appointment as a trustee, a succeeding trustee shall be vested with all the powers and be subject to all the duties of a trustee as if he had been one of the original trustees of this trust.

Issue: 2019-01-26_12:01:08

2.4 A trustee shall cease to act as a trustee -

2.4.1 if he resigns as trustee, which he is entitled to do by giving 30 (thirty) days written notice to his co-trustee(s) to this effect;

2.4.2 if he is called upon to resign by a majority resolution of the trustees;

2.4.3 if he is called upon to resign by resolution of the Directors;

2.4.4 if he is certified to be mentally disturbed;

2.4.5 if his estate is sequestrated, either provisionally or finally, or if he surrenders his estate on behalf of his creditors or makes a compromise with his creditors;

2.4.6 if, in terms of the provisions of the *Companies Act*, No 71 of 2008, or its replacement from time to time, he is disqualified from serving as a director of a company.

3 FURNISHING OF SECURITY BY TRUSTEES

A trustee serving as such is exempted from furnishing security to the Master of the High Court, or any other person or body in terms of the *Trust Property Control Act*, No 57 of 1988, or in terms of any other statutory provision, for the proper performance of his duties as trustee.

4 ABSENCE OF A TRUSTEE

A trustee who is temporarily absent from the address from where the trust transacts its business, shall have the right to nominate a co-trustee by means of a written proxy to act on his behalf. If all the serving trustees are to be absent in this way, they shall have the right by way of a joint proxy to nominate a person or persons to act as trustees for the duration of their absence.

Issue: 2019-01-26_12:01:08

5 RESOLUTIONS BY TRUSTEES

5.1 Where the deed refers to the discretion of the trustees such discretion means an exclusive and absolute discretion vesting in the trustees.

5.2 Trustees shall pass resolutions by way of a majority decision of all acting trustees, provided that if the number of trustees temporarily reduces to 2 (two) trustees as contemplated in clause 2.1, such trustees shall pass resolutions by way of an unanimous decision.

5.3 The trustees may appoint a single trustee to represent and act on behalf of the trust.

6 POWERS OF TRUSTEES

6.1 The powers of the trustees defined in this trust deed are powers which relate to that of the office of trustee, to enable them to administer the trust fund on behalf of the beneficiaries and not for their personal benefit. The extent of the powers vested in trustees must be interpreted subject to the main objective of the trust, namely, to benefit the beneficiaries.

6.2 The trustees shall at all times be vested with such powers to deal with the trust assets which they in their exclusive discretion deem necessary to best control the trust fund for the benefit of the beneficiaries. Without restricting the general powers of the trustees, the trustees shall have powers to -

6.2.1 open a bank account for the trust, draw cheques on such account or deposit moneys into it, issue bills and guarantees in favour of third parties against the account and to hand bills for collection in favour of the trust to the bank. For the purposes of this sub-paragraph the signature of any of the trustees shall be a proper authority for any transaction from the bank account, provided that the authority was given to such trustee by a proper resolution passed by the Board of Trustees;

Issue: 2019-01-26_12:01:08

6.2.2 buy, sell or exchange goods of any kind, movable and immovable, corporeal and incorporeal, shares, stocks, debentures and securities on such terms and conditions as the trustees may decide;

6.2.3 invest moneys which form part of the trust fund in such securities and on such terms and conditions as the trustees may determine;

6.2.4 retain existing investments or investments made by the trustees in that form, or to re-invest in any other form;

6.2.5 grant loans to a beneficiary or any other person, with or without interest against or free of security, or on such terms and conditions as the trustees may in their discretion determine;

6.2.6 negotiate loans in favour of the trust, with or without interest, with or without security, and on such terms and conditions as are agreed with the lender;

6.2.7 mortgage, hypothecate or grant a lien on any asset of the trust;

6.2.8 sell, let, improve, alter and maintain any fixed property forming part of the trust fund, and if need be, to demolish fixed improvements and erect new improvements and to do township and/or sectional title development of property;

6.2.9 collect, rent and cancel leases, and to evict a lessee from property belonging to the trust;

6.2.10 institute or defend legal actions;

6.2.11 attend meetings of creditors of a private individual, company or body that is a debtor of the trust, irrespective of whether the meeting is in connection with insolvency, liquidation or judicial management, to vote on any matter submitted to the meeting, and generally to exercise all the rights a creditor would have had in

Issue: 2019-01-26_12:01:08

similar circumstances;

6.2.12 guarantee as surety, or co-principal debtor, the due performance by any person or company for compensation or free of charge, and to bind an asset of the trust, as collateral security for this purpose;

6.2.13 issue receipts, discharges or indemnities in respect of any repayment or discharge of obligations;

6.2.14 make use of the services of professional advisers and trades men for the affairs of the trust and to pay for such services out of the trust fund;

6.2.15 pay any costs incurred in connection with the administration of the trust out of the trust fund;

6.2.16 make donations to the beneficiaries of the trust;

6.2.17 accept donations or bequests on behalf of the trust from anybody subject to the terms and conditions of this trust deed and subject to the terms and conditions attached to such further donation and/or bequest;

6.2.18 carry on any form of business operation in the name of the trust for profit or otherwise, alone or in partnership or association;

6.2.19 form companies in any part of the world for such purposes as the trustees may determine, to enter into shareholders or equivalent agreements, to exercise the vote attaching to shares vesting in the trustees, and generally to exercise any or all of the rights a shareholder may have in a company by virtue of its Memorandum of Incorporation and or by virtue of the provisions of any shareholders agreement, or by virtue of the company laws in force in the Republic of South Africa from time to time;

Issue: 2019-01-26_12:01:08

6.2.20 hold investments in their personal names on behalf of the trust, if necessary, in circumstances where investments are made in a company or Unit Trust Scheme of which the Memorandum of Incorporation or regulations prohibit the registration of such investments in the name of a trust;

6.2.21 decide whether any receipt of a liquidation dividend by the trust shall form part of the trust income or capital;

6.2.22 enter into contracts with themselves in their personal capacity, jointly or severally, provided that the trustees make prior disclosure of their personal interests in such contracts;

6.2.23 sign all documents and take all such steps deemed necessary for the meaningful exercise of any of the abovementioned powers;

6.2.24 make interim distributions of capital and/or income to beneficiaries of the trust in such circumstances and at such times, and in such form as the trustees may deem fit in their sole discretion;

6.2.25 effect an assurance policy on the life of a trustee and/or a beneficiary or to take cession of such a policy and to pay the premiums for such policy out of the trust income. If during the currency of the trust a person so assured should die while the assurance policy on his life is still in operation, the proceeds of such policy shall form part of the trust fund;

6.2.26 grant cession of any assurance policy owned by the trust in favour of a beneficiary of the trust as a distribution, or in favour of a trustee or third party in return for a market related consideration;

6.2.27 exercise all the powers which directors of a private company have in terms of the *Companies Act*;

6.2.28 apply on behalf of the trust for membership of a co-operative

Issue: 2019-01-26_12:01:08

company or association, or any other body or society; to enjoy the benefits derived from such membership, and to subject the trust property to mortgage, pledge or hypothecation as security if so required;

6.2.29 exercise all the powers, rights and obligations granted in terms of this Trust Deed in any country outside the Republic of South Africa.

7 POWERS RELATING TO BANK LOANS

Trustees are empowered to apply to any financial institution (hereinafter collectively referred to as the Bank) for a loan or loans against security of the trust assets, movable and immovable, subject to such conditions as are imposed by the Bank and which conditions have been accepted in writing by the trustees.

8 EMPLOYMENT OF CAPITAL

The trustees are empowered, in their absolute discretion to -

8.1 make any payments in the furtherance of the activities of the trust, which they are otherwise empowered to make from the trust income, from the trust capital;

8.2 distribute trust property during the currency of the trust to or for the benefit of the capital beneficiaries, or any one of them, in such manner and in such proportions and subject to such terms and conditions as the trustees shall deem fit in their sole discretion;

8.3 effect payment in cash or in kind, or partly in cash and partly in kind whenever any portion of the trust fund is distributed to a beneficiary in terms of this trust deed. The value placed by the trustees on any goods or property forming part of such a distribution shall be final and binding on all concerned;

8.4 decide whether any recipient of an interim benefit in terms of clause 8.2

Issue: 2019-01-26_12:01:08

shall continue to be a beneficiary of the trust or whether the interim distribution shall constitute a final distribution to the beneficiary concerned;

8.5 treat any periodic receipts of the trust as income, notwithstanding that such receipts are derived from wasting assets, and they are not obliged to make provision for the replacement thereof;

8.6 decide at their absolute discretion and in any manner they deem fit whether any receipts of the trust constitute income or capital, notwithstanding that the nature of the receipt may be otherwise. The trustees' discretion in this regard shall be final and binding on all parties concerned.

9 EMPLOYMENT OF INCOME

The trust is a discretionary trust as far as the employment, allocation and distribution of trust income is concerned and the trustees may in their absolute discretion allocate income to any beneficiary who may qualify as an income beneficiary, and in particular they are entitled to -

9.1 pay all costs incurred by the trustees in connection with the administration of the trust;

9.2 pay such amounts to any beneficiary as the trustees may deem reasonable and desirable for the maintenance, education and general welfare of such beneficiary;

9.3 reimburse themselves from the trust fund in respect of any expenses that they personally may incur in connection with the performance of their duties as trustees;

9.4 accumulate income in the trust fund in order to supplement the capital of the trust fund;

9.5 decide to accumulate undistributed profits as part of the income of the trust fund available for distribution, at their discretion, to the income beneficiaries.

Issue: 2019-01-26_12:01:08

10 CREATION OF FURTHER TRUSTS

10.1 The trustees shall have the right to distribute the trust income and/or capital in the creation of further trust for the benefit of a beneficiary and/or his or her spouse and/or his or her widow/widower and/or his or her children on such terms and conditions as the trustees may deem fit. Without in any way detracting from the generality of the foregoing, the trustees shall have the right to -

10.1.1 provide in such trust deeds for a vesting date before or after the vesting date contained in this trust deed;

10.1.2 appoint separate trustees for such trusts.

10.2 The trustees shall be relieved of any further responsibilities in respect of such amounts transferred from the trust fund to such separate trusts.

10.3 If a beneficiary repudiates the benefits stipulated for him prior to the vesting date of this trust, his legal descendants shall be substituted for him and the trustees shall have the right to create a new trust or trusts for the substituted beneficiary/beneficiaries in terms of the relevant provisions of clause 10.1.

11 DUTIES OF TRUSTEES

Apart from the common law duties which attach to the office of trustee, the trustees shall be subject to the duties enunciated in the *Trust Property Control Act*, namely, to -

11.1 ensure that the original trust document is filed with the Master of the High Court;

11.2 refrain from acting as trustees until they are in possession of a letter of authority from the Master of the High Court so to act;

11.3 open a trust account with a bank or building society in the name of the trust

Issue: 2019-01-26_12:01:08

in which all money received by them for purposes of the trust shall be deposited;

11.4 take possession of all title deeds and documents relating to the affairs of the trust for safekeeping;

11.5 ensure that proper books are kept of the affairs of the trust;

11.6 keep all trust property separate and register it in the name of the trust so that it can be identified as trust property;

11.7 to refrain from holding or disposing of trust property for their personal benefit, or for the benefit of their estates, and generally to act in a prudent and responsible manner as would be expected from persons who are in charge of the affairs of another person.

12 TERMINATION OF THE TRUST

Apart from any interim capital or income distributions the trustees may have made, the trust shall continue until the vesting date as defined.

13 PROFESSIONAL SERVICES

13.1 The trustees shall keep a proper set of books recording the affairs of the trust. The trust's financial year shall close on the last day of February every year unless otherwise elected. At this date financial statements shall be prepared. Every beneficiary of the trust shall on request be entitled to a copy of the annual financial statements of the trust.

13.2 The trustees shall have the right to make use of the services of professional persons in so far as such services are deemed to be necessary or desirable for the purposes of the trust.

14 PERSONAL LIABILITY OF TRUSTEE

A trustee shall not be personally liable for any loss the trust may suffer,

Issue: 2019-01-26_12:01:08

irrespective of the reason for such loss, unless such loss results from a dishonest act committed by a trustee. A trustee shall not be liable for a dishonest act committed by a co-trustee unless there was collusion between them.

15 AMENDMENT TO THE TRUST DEED

15.1 The trust deed may, subject to the provisions of clause 15.3, be amended by a majority vote of the trustees.

15.2 The power to amend shall, subject to the provisions of clause 15.3, include the power to add to, or make substitutions for, the nominated capital and income beneficiaries, provided that such additional or substitutive beneficiaries may only be selected from the Class.

15.3 If any beneficiary has a vested income and/or capital interest in the trust fund such beneficiary shall be required to agree to any amendment of the trust deed in writing. For the avoidance of doubt it is recorded that a beneficiary may only have been afforded a temporary vested income and/or capital interest in the trust fund by the trustees, and that such beneficiary's written permission for an amendment shall only be required during the time that he has such temporary vested interest. The permission of a beneficiary who does not have a vested interest in the trust fund shall not be required for an amendment.

16 REMUNERATION OF TRUSTEES

16.1 The trustees are entitled to remuneration for their services at a rate they deem equitable.

16.2 The fact that a trustee conducts a profession or business shall not be an impediment for him or his firm to render professional or business services to the trust, and to be remunerated according to such capacity, irrespective of the fact that he may be a trustee of the trust.

17 RESTRICTIONS ON BENEFICIARIES

Issue: 2019-01-26_12:01:08

17.1 Since the trust fund vests in the trustees, the beneficiaries have no claim to the trust property and shall have no right in any way to deal with such property for the duration of the trust.

17.2 The trust fund cannot be attached for the satisfaction of any claim against a beneficiary.

17.3 If a the estate of a beneficiary is sequestrated, or if he enters into a compromise with his creditors, the trustees shall have the right to extend the vesting date in respect of that beneficiary until a date determined by them.

18 MARRIAGE OF A BENEFICIARY

All benefits accruing to a beneficiary in terms of this trust deed shall for all purposes be excluded from any community of property, or community of profit and loss. The accrual system in terms of the *Matrimonial Property Act*, No 88 of 1984, shall not apply to benefits derived from the trust.

19 MEETINGS OF TRUSTEES AND RESOLUTIONS

19.1 The trustees shall meet from time to time to discuss and/or resolve the business of the trust. For this purpose the following shall apply -

19.1.1 at their first meeting the trustees shall elect a chairperson and he or she shall act in this capacity for the period as laid down by the trustees;

19.1.2 resolutions passed at meetings shall be duly recorded and, for all intents and purposes, the procedure shall be as is prescribed by the Memorandum of Incorporation of the Company;

19.1.3 every trustee has the right to call a meeting of trustees; and

19.1.4 the trustees themselves shall determine the policy and procedures to be followed at meetings.

Issue: 2019-01-26_12:01:08

19.2 A written resolution signed by all the trustees has the same legal implication as a resolution passed at a meeting of trustees.

19.3 The trustees shall meet at least once a year to consider the passing of resolutions allocating and/or distributing income earned during the preceding financial year. The trustees shall meet as soon as possible after the end of the financial year of the trust to exercise their discretionary powers. The resolutions distributing or allocating income shall be retrospective to the last day of the immediate past financial year.

19.4 The trustees, in their administration of the trust and to enable them to give effect to any formal legal requirement, may authorise one or more of their number to sign all documents required to be signed for the execution of any transaction concerning the business of the trust. Any resolution certified by a trustee to be a true extract from the minutes of a resolution passed by all the trustees shall in all respects have the same legal force as a resolution signed by all the trustees.

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Issue: 2019-01-26 13:07:08

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Page: 1008 of 1250

Fol AMEZEST (PTY)LTD, Peet Venter
Fro eet Venter [peet@dah.co.za]
To : eet Venter
Cc :
Sent On : [2017/11/12 21:00]
Priority : Normal
Attachments : logo-1413530644161.png logo-1413530644161-1423719824565.png

FW: Re: Dealstream / Phezulu

Peet Venter | Associate
Professional Accountant (S.A)
General Tax Practitioner (S.A)™
D'Arcy-Herrman & Co Inc
Chartered Accountants (S.A) | Registered Auditors

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-----Original Message-----
From: Natasha Olivier [mailto:Natasha.Olivier@bosasa.com]
Sent: 2015/02/12 10:30
To: peet@dah.co.za
CC: Andries.vanTonder@bosasa.com; Philip@dah.co.za; Lindsay.Watson@bosasa.com
Subject: Re: Dealstream / Phezulu

Morning all,

I'm fine with the proposed time and date. See you then.

Sent from my iPad

On 12 Feb 2015, at 7:46 AM, Peet Venter <peet@dah.co.za> wrote:

> Can we make it at 09h00 on Wednesday morning?
>
> Regards
>
> <logo- **Peet Venter** | Associate

AA-999

Issue: 2019-01-26 12:01:08

530644161.png> Professional Accountant (S.A)
General Tax Practitioner (S.A)™
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-----Original Message-----
From: Lindsay Watson [mailto:Lindsay.Watson@bosasa.com]
Sent: 2015/02/12 07:41
To: peet@dah.co.za
CC: Andries.vanTonder@bosasa.com; Philip@dah.co.za; Natasha.Olivier@bosasa.com
Subject: Re: Dealstream / Phezulu

Wednesday suits me perfectly.

Lindsay Watson

On 12 Feb 2015, at 07:40, Peet Venter <peet@dah.co.za> wrote:

> Morning Lindsay,
>
> Next week is fine.
> Could we perhaps look at the Wednesday morning?
>
> Regards
>
> **Peet Venter** | Associate
> Professional Accountant (S.A)
> <logo-1413530644161-1423719824565.png> General Tax Practitioner (S.A)™
> **D'Arcy-Herrman & Co Inc**
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>
> 011 954-5016 | Cell: 082 462-9527 | www.dah.co.za
>
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-----Original Message-----
From: Lindsay Watson [mailto:Lindsay.Watson@bosasa.com]
Sent: 2015/02/11 23:39
To: peet@dah.co.za

SCC-_QUFRmluYWxfMjIwMTIwMTlfMDcK
Page: 1009 of 1250
AA-1000

Issue: 2019-01-26 12:01:08

SCC-_QUFRmluYWxfMjIwMTIwMTlfMDcK
Page: 1010 of 1250

CC: Natasha.Olivier@bosasa.com, Andries.vanTonder@bosasa.com; Philip@dah.co.za
Subject: Re: Dealstream / Phezulu

Hi Peet,

That's perfect. Maybe next week sometime if that's ok?

Lindsay Watson

On 11 Feb 2015, at 23:12, Peet Venter <peet@dah.co.za> wrote:

Dear All,

Now that we have confirmed what the situation is, I think we should meet one more time, just to make the final decisions, there after we can finalize the AFS of Phezulu.

Could we please schedule the meeting for early next week.

Regards

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Peet Venter | Associate
Professional Accountant (S.A)
General Tax Practitioner (S.A)™
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-----Original Message-----
From: Natasha Olivier [mailto:Natasha.Olivier@bosasa.com]
Sent: 2015/02/11 16:07
To: Philip@dah.co.za; peet@dah.co.za
CC: Andries.vanTonder@bosasa.com; Lindsay.Watson@bosasa.com
Subject: Dealstream / Phezulu

Gentlemen,

We have managed to get the attached two pages from Vulisango Holdings.

In light of the above, we wish to advise that upon advice from their auditors, the 2008 Financials are the last set that was signed off and no amounts reflected in the Dealstream transactions are reflected in their financials at all.

AA-1001

Issue: 2019-01-26 12:01:08

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Page: 1011 of 1250

In the circumstances, we should look at the situation on hand regarding Phezulu's 2014 financials, tax implications etc and see which way to best deal with this going forward.

Regards

Natasha Olivier
Bosasa Operations (Pty) Ltd
Mogale Business Park
Tel: + 27 11 662-6223
Fax: + 27 11 662-6138
Fax2Email: +27 11 662-6323
Mobile: 082 410 3412
e-mail: Natasha.Olivier@bosasa.com
website: www.bosasa.com

<image001-1423663727892-1423692810432.jpg>

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Issue: 2019-01-26 12:01:08

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Page: 1012 of 1250

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AA-1003

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Page: 1013 of 1250

Fol VT PROPERTIES (PTY) LTD, LAMEZEST (PTY)LTD, SUN WORX (PTY)LTD
Fro eet Venter [peet@dah.co.za]
To : Peet Venter
Cc :
Sent On : [2017/11/12 23:26]
Priority : Normal
Sensitivity : Confidential
Attachments : Employees Trust Deed Amendment.pdf

FW: RE: RE: RE: Valuation per share - Bosasa Empowerment & Management Services (Pty)Ltd

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Chartered Accountants
Geoktrooieerde Rekenmeesters

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-----Original Message-----
From: Peet Venter [mailto:peet@dah.co.za]
Sent: 2016/07/27 21:28
To: natasha.olivier@bosasa.com
CC: andries.vantonder@bosasa.com; lindsay.watson@bosasa.com
Subject: FW: RE: RE: RE: Valuation per share - Bosasa Empowerment & Management Services (Pty)Ltd

Hi Natasha,

Herewith, please find the final version of The Employees Trust Deed (the only amendment was done to par. 15.1 - we replaced Gavin Watson with Gavin Watson Family Trust - this was done for succession planning purposes).
All the other documents remain the same - documents mailed to us by Antonie on the 19th of July.

We had a meeting with Gavin yesterday morning re. the signing of all the documents.
Gavin will discuss this with you. All the documents should be signed on a round Robin basis (this was confirmed with Antonie van Wyk)

Gavin also has a set of copies with him, he will most probably give it to you.
Please copy the two documents relating to the share incentive scheme onto the letterhead of Bosasa Empowerment and Management Services (Pty)Ltd

AA-1004

Reg...

Peet Venter | Associate
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From: Antonie van Wyk [mailto:antonie@avwattorneys.co.za]
Sent: 2016/07/25 16:23
To: peet@dah.co.za
CC: daniel.n.erasmus@me.com
Subject: RE: RE: RE: Valuation per share - Bosasa Empowerment & Management Services (Pty)Ltd

Hi Peet,

Ek het dit sommer gedoen en heg dit hierby aan. Laat my weet as daar verdere vrae is.

Groete,

Antonie van Wyk
BA LL.B LL.M H.Dip Tax
Direk: +27 (0) 21 762 3387
Faks: +27 (0) 86 610 7578
Sel: +27 (0) 83 600 9809
E-pos: antonie@avwattorneys.co.za

From: Peet Venter [mailto:peet@dah.co.za]
Sent: Monday, 25 July 2016 14:27
To: antonie@avwattorneys.co.za

SCC-_QUFRmluYWxfMjIwMTIwMTlfMDck
Page: 1014 of 1250
AA-1005

Issue:2016-01-26 13:01:08

Cc: us@me.com
Sub : Valuation per share - Bosasa Empowerment & Management Services (Pty)Ltd

Hi Antonie,

Dankie vir jou terugvoer.
Kan ons sommer self die Trust se naam en Trust nommer op die Employees Trust se Trust Akte voltooi (waar ons Gavin vervang het met sy Familie Trust)
Of wil jy dit sommer van jou kant af doen?

Groete

D'Arcy-Herrman & Co / Kie
Chartered Accountants
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General Tax Practitioner (S.A)™
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From: Antonie van Wyk [mailto:antonie@avwattorneys.co.za]
Sent: 2016/07/25 14:18
To: peet@dah.co.za
CC: daniel.n.erasmus@me.com
Subject: RE: RE: RE: Valuation per share - Bosasa Empowerment & Management Services (Pty)Ltd

Hi Peet,

Die familiestrust sal goed inskakel met die Employees Trust.

Groete,

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Page: 1015 of 1250
AA-1006

Issue: 2019-01-36-120108

ANTONIE VAN WYK EN ASSOSIATE

Antonie van Wyk
BA LL.B LL.M H.Dip Tax

Direk: +27 (0) 21 762 3387
Faks: +27 (0) 86 610 7578
Sel: +27 (0) 83 600 9809
E-pos: antonie@avwattorneys.co.za

From: Peet Venter [mailto:peet@dah.co.za]
Sent: Monday, 25 July 2016 13:16
To: antonie@avwattorneys.co.za
Cc: daniel.n.erasmus@me.com
Subject: RE: RE: RE: Valuation per share - Bosasa Empowerment & Management Services (Pty)Ltd

More Antonie,

Dankie, ek wil net he ons moet seker maak dit skakel mooi in by die Employees Trust (ons het Gavin mos vervang met The Gavin Watson Family Trust).

Groete

D'Arcy-Herrman & Co / Kie
Chartered Accountants
Geoktrooieerde Rekenmeesters

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General Tax Practitioner (S.A)™
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-----Original Message-----
From: Antonie van Wyk [mailto:antonie@avwattorneys.co.za]
Sent: 2016/07/25 08:43
To: peet@dah.co.za

SCC-_QUFRmluYWxfMjIwMTIwMTlfMDck
Page: 1016 of 1250
AA-1007

Issue: 2019-01-26 12:01:08

CC: smus@me.com
Su RE: Valuation per share - Bosasa Empowerment & Management Services (Pty)Ltd

More Peet,

Ek het vinnig deur beide trustaktes gegaan en dit lyk in orde. Ek sal vandag 'n bietjie meer tyd daarop spandeer, maar twyfel dat daar enige probleme gaan wees. Die trustaktes is nie gekoppel aan Gavin se testament nie, en dit mag dalk die moeite werd wees om dit te doen. Dis egter nie krities dat dit onmiddellik gebeur nie. Ek sal dit waardeer indien jy mettertyd vir my ook 'n afskrif van die testament kan stuur.

Groete,

AW
ANTONIE VAN WYK
EN ASSOSIATE

Antonie van Wyk
BA LL.B LL.M H.Dip Tax

Direk: +27 (0) 21 762 3387
Faks: +27 (0) 86 610 7578
Sel: +27 (0) 83 600 9809
E-pos: antonie@avwattorneys.co.za

From: Peet Venter [mailto:peet@dah.co.za]
Sent: Friday, 22 July 2016 15:01
To: antonie@avwattorneys.co.za
Cc: daniel.n.erasmus@me.com
Subject: FW: RE: RE: Valuation per share - Bosasa Empowerment & Management Services (Pty)Ltd
Sensitivity: Confidential

Hi Antonie,

Sal jy asb. hierna loer - Heather het dit vir ons hanteer.

Ons het mos Gavin vervang met sy Familie Trust (in die Employees Trust) - sal jy net loer om te kyk of ons wel die Gavin Watson Family Trust kan gebruik en of daar enige veranderinge aangebring moet word, sodat alles sinvol geimplimenteer kan word.

Ek sien Gavin Maandag-oggend.
Sal jy dalk, kort kennisgewing, oor die naweek kan kyk en vir my terugvoer gee.

Dankie

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Page: 1017 of 1250
AA-1008

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From: Natasha Olivier [mailto:Natasha.Olivier@bosasa.com]
Sent: 2016/07/22 09:03
To: antonie@avwattorneys.co.za; peet@dah.co.za
CC: Andries.vanTonder@bosasa.com; daniel.n.erasmus@me.com; Lindsay.Watson@bosasa.com; philip@dah.co.za
Subject: RE: RE: Valuation per share - Bosasa Empowerment & Management Services (Pty)Ltd

Morning Peet,

Please find attached the Trust Deeds for everyone's perusal.

Regards

Natasha Olivier
Bosasa Operations (Pty) Ltd
Mogale Business Park
Tel: + 27 11 662-6223
Fax: + 27 11 662-6138
Fax2Email: +27 11 662-6323
Mobile: 082 410 3412
e-mail: Natasha.Olivier@bosasa.com
website: www.bosasa.com

From: Peet Venter [mailto:peet@dah.co.za]
Sent: Wednesday, July 20, 2016 10:26 AM
To: antonie@avwattorneys.co.za; Natasha Olivier <Natasha.Olivier@bosasa.com>

SCC-_QUFRmluYWxfMjIwMTIwMTlfMDcK
Page: 1018 of 1250
AA-1009

Issue: 2019-01-26 12:01:08

Cc: za; Lindsay Watson <Lindsay.Watson@bosasa.com>; daniel.n.erasmus@me.com; Andries van Tonder <Andries.vanTonder@bosasa.com>
Sub luation per share - Bosasa Empowerment & Management Services (Pty)Ltd

Noted - Thank you

Peet Venter | Associate
Professional Accountant (S.A)
General Tax Practitioner (S.A)™
D'Arcy-Herrman & Co Inc
Chartered Accountants (S.A) | Registered Auditors

011 954-5016 | Cell: 082 462-9527 | www.dah.co.za

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-----Original Message-----
From: Natasha Olivier [mailto:Natasha.Olivier@bosasa.com]
Sent: 2016/07/20 08:01
To: antonie@avwattorneys.co.za; peet@dah.co.za
CC: Andries.vanTonder@bosasa.com; daniel.n.erasmus@me.com; Lindsay.Watson@bosasa.com; philip@dah.co.za
Subject: RE: RE: Valuation per share - Bosasa Empowerment & Management Services (Pty)Ltd

Good morning all,

Your mail below is noted.

Kindly note that we are still awaiting the amended Trust Deeds from Heather as there seems to be some issues at the Masters Office. I will request copies from her and send it on as soon as same is on hand.

Regards

Natasha Olivier
Bosasa Operations (Pty) Ltd
Mogale Business Park
Tel: + 27 11 662-6223
Fax: + 27 11 662-6138
Fax2Email: +27 11 662-6323
Mobile: 082 410 3412

SCC_QUFRmluYWxfMjIwMTIwMTlfMDcK
Page: 1019 of 1250
AA-1010

e-m Olivier@bosasa.com
we asa.com

From: Peet Venter [mailto:peet@dah.co.za]
Sent: Tuesday, July 19, 2016 8:37 PM
To: antonie@avwattorneys.co.za
Cc: Lindsay Watson <Lindsay.Watson@bosasa.com>; Andries van Tonder <Andries.vanTonder@bosasa.com>; daniel.n.erasmus@me.com; Natasha Olivier <Natasha.Olivier@bosasa.com>; philip@dah.co.za
Subject: RE: RE: Valuation per share - Bosasa Empowerment & Management Services (Pty)Ltd
Sensitivity: Confidential

Hi Antonie,

I think we had a good discussion re. all the documents this afternoon & thank you for updating and circulating all of them.

Lindsay & Natasha, please forward to us the "NEW" Trust Deed for The Gavin Watson Family Trust & The Thula Trust
(the amended Trust Deeds done by Heather)

NB! The plan is to add a clause for succession planning purposes - by replacing Gavin with the Trustees of his family Trust.

Thank you

Peet Venter | Associate
Professional Accountant (S.A)
General Tax Practitioner (S.A)™
D'Arcy-Herrman & Co Inc
Chartered Accountants (S.A) | Registered Auditors

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-----Original Message-----
From: Antonie van Wyk [mailto:antonie@avwattorneys.co.za]
Sent: 2016/07/19 16:41
To: peet@dah.co.za

SCC-_QUFRmluYWxfMjIwMTIwMTlfMDcK
Page: 1020 of 1250
AA-1011

Issue: 2016-01-26 17:01:08

CC vier@bosasa.com; daniel.n.erasmus@me.com; Andries.vanTonder@bosasa.com; Lindsay.Watson@bosasa.com; philip@dah.co.za
Su : Valuation per share - Bosasa Empowerment & Management Services (Pty)Ltd

Hi Peet,

As discussed this afternoon it is important that we all work on the same documentation and accordingly attach the up to date versions that correspond with our recent communications.

I have amended the resolutions by inserting the correct date (Trust Resolution 1 -with Recordal annexed - and Trust Resolution 2) and allowing for round-robin approval. I have also amended Trust Resolution 3 to allow for the resolution to be circulated for signature and have amended the new trust deed by replacing Gavin with the trustees of his family trust in clauses 2.2 and 15.1 (the trust registration number still needs to be inserted). For the sake of completeness I also attach the most recent versions of the 'Option letter' and the 'Letter to cancel Option'.

Regards,

Antonie van Wyk
Consultant to TRM Daniel Erasmus Tax Court Practitioners

AW
ANTONIE VAN WYK
AND ASSOCIATES

Antonie van Wyk
BA LL.B LL.M H.Dip Tax

Direct Dial: +27 (0) 21 762 3387
Fax: +27 (0) 86 610 7578
Mobile: +27 (0) 83 600 9809
E-mail: antonie@avwattorneys.co.za

From: Antonie van Wyk [mailto:antonie@avwattorneys.co.za]
Sent: Tuesday, 19 July 2016 12:29
To: 'Peet Venter' <peet@dah.co.za>
Cc: 'philip@dah.co.za' <philip@dah.co.za>; 'Lindsay.Watson@bosasa.com' <Lindsay.Watson@bosasa.com>; 'Andries.vanTonder@bosasa.com' <Andries.vanTonder@bosasa.com>; 'daniel.n.erasmus@me.com' <daniel.n.erasmus@me.com>; 'Natasha.Olivier@bosasa.com' <Natasha.Olivier@bosasa.com>
Subject: RE: RE: Valuation per share - Bosasa Empowerment & Management Services (Pty)Ltd
Sensitivity: Confidential

Hi Peet,

SCC-_QUFRmluYWxfMjIwMTIwMTlfMDck
Page: 1021 of 1250
AA-1012

Issue: 2015-01-26 12:01:08

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Page: 1022 of 1250

Qu

The date should be 24th November 2015 for the following documentation:

Recordal

Trust Resolution 1

Trust Resolution 2

Option letter

The date should be the actual date of signature (i.e. current) for:

Employees Trust Deed Amendment (which includes Trust Resolution 3)

Letter to Cancel Option (I used 16th March 2016 in the document, but please amend to actual signature date when printing on letterhead)

Appointment of new trustees (I did not prepare the documentation for this - not sure if required)

Question 2

I agree.

General

I obviously cannot comment on the sensitivities of getting the documentation signed, but do appreciate that it may be controversial. I don't believe that the structure of our proposal has ever changed, but obviously the contents of the implementation documentation had to be fine-tuned over time. In a way we have all been engaged in a 'cleaning up' process as the Employees Trust wasn't adapted in response to the 2004 restructure and accordingly wasn't functional. We are now implementing what should have been implemented long ago, whilst at the same time 'activating' the trust by introducing Munirah as an incentive beneficiary. Having said that, the politics around it clearly need to managed carefully. Hope it helps.

Regards,

Antonie van Wyk

AA-1013

Issue: 2025-10-26-10108

ANTONIE VAN WYK AND ASSOCIATES

Antonie van Wyk
BA LL.B LL.M H.Dip Tax
Direct Dial: +27 (0) 21 762 3387
Fax: +27 (0) 86 610 7578
Mobile: +27 (0) 83 600 9809
E-mail: antonie@avwattorneys.co.za

From: Peet Venter [mailto:peet@dah.co.za]
Sent: Tuesday, 19 July 2016 00:07
To: antonie@avwattorneys.co.za; Natasha.Olivier@bosasa.com
Cc: philip@dah.co.za; Lindsay.Watson@bosasa.com; Andries.vanTonder@bosasa.com; daniel.n.erasmus@me.com
Subject: RE: RE: Valuation per share - Bosasa Empowerment & Management Services (Pty)Ltd
Sensitivity: Confidential

Hi Antonie,

With reference to Natasha's mail below, could you please give us clarity on the following:

1. What should the dates be?
   (Keeping in mind that the option and valuation dates were 24 November 2015)

2. Your mentioned in your mail dated 1 December 2015 that "I see no problem if Mr. Serobe is left off the list of people signing the recordal"
   Please reconfirm that all is in order and Natasha could remove his name accordingly.

Natasha, I agree, it is a sensitive matter.
I will discuss this with Gavin and come back to you.

Regards

Peet Venter | Associate
Professional Accountant (S.A)

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Page: 1023 of 1250
AA-1014

Issue: 20151126121038

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Chartered Accountants
Geoktrooieerde Rekenmeesters

General Tax Practitioner (S.A)TM
D'Arcy-Herrman & Co Inc
Chartered Accountants (S.A) | Registered Auditors

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-----Original Message-----
From: Natasha Olivier [mailto:Natasha.Olivier@bosasa.com]
Sent: 2016/07/18 15:18
To: peet@dah.co.za; antonie@avwattorneys.co.za
CC: daniel.n.erasmus@me.com; Andries.vanTonder@bosasa.com; Lindsay.Watson@bosasa.com; philip@dah.co.za
Subject: RE: RE: Valuation per share - Bosasa Empowerment & Management Services (Pty)Ltd

Afternoon everyone,

I am working through the documentation provided. I have a query regarding the dates left open to be completed. Are these to be specific dates for the 2015 period (i.e. 24 November?) The balance of the 2016 dates, can they be as at today's date? In addition I had a query in December 2015 regarding Mr Serobe as he is no longer with us. I attach hereto the e-mail where it was queried and will remove his name accordingly - please look at e-mail dated 1 December 2015 - purely for reference purposes.

Lastly, I am of the opinion that I cannot just present this for signature to our directors as a result of the sensitive nature thereof. We would have to discuss the manner in which we are going to present this to the board and in turn follow through on this. We had initiated this matter to the board a while back when we commenced with the restructuring but we have changed our route quite substantially sine them and we need to address this matter accordingly.

I await your comments hereon.

Regards

Natasha Olivier
Bosasa Operations (Pty) Ltd
Mogale Business Park
Tel: + 27 11 662-6223
Fax: + 27 11 662-6138
Fax2Email: +27 11 662-6323
Mobile: 082 410 3412

SCC-_QUFRmluYWxfMjIwMTIwMTlfMDck
Page: 1024 of 1250
AA-1015

e-m...livier@bosasa.com
web...asa.com

From: Antonie van Wyk [mailto:antonie@avwattorneys.co.za]
Sent: Monday, July 11, 2016 4:18 PM
To: 'Peet Venter' <peet@dah.co.za>
Cc: philip@dah.co.za; Andries van Tonder <Andries.vanTonder@bosasa.com>; Natasha Olivier <Natasha.Olivier@bosasa.com>; Lindsay Watson <Lindsay.Watson@bosasa.com>; 'Daniel N Erasmus' <daniel.n.erasmus@me.com>
Subject: RE: RE: Valuation per share - Bosasa Empowerment & Management Services (Pty)Ltd
Sensitivity: Confidential

Hi Peet,

I have perused all the relevant documentation again to ensure that everything accords with the structure and planning. To recap:

Bosasa Management and Empowerment Services (Pty) Ltd has an authorised share capital of 4,000 ordinary shares, of which 100 have been issued.

The share allocation in terms of the restructure has been corrected and the Employees Trust accordingly owns 22 ordinary shares, plus a 20% undivided share in 1 ordinary share, in BEMS.

On the 24th November 2015 Munirah Oliveria was granted an option to acquire all the above shares at a price of (as now determined) R9,237,800 per share.

The option has not been exercised.

The trust deed is to be replaced and the option needs to be cancelled.

I have noticed that some of the documents that I drafted refer to "A" shares, and have corrected it. Due to the time delays I cannot recall whether the errors were communicated to you and the corrections effected or not. I accordingly attach the entire suite of documentation again and suggest that they be compared to any signed documentation to establish whether the correct versions are being/have been used. I have marked the amended documentation with today's date so that they are easier to identify.

Note that I have also updated the Option Letter to reflect the price per share as determined and have entered the resolution date in the Letter to cancel Option.

At this point everything just needs to be duly signed and submitted to the Master to be noted/registered and the restructure will then be complete. As always, please advise if you have any questions.

Regards,

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Page: 1025 of 1250
AA-1016

Issue: 2019-10-30 12:01:08

Anto
Consultant to TRM Daniel Erasmus Tax Court Practitioners

AW
ANTONIE VAN WYK
AND ASSOCIATES

Antonie van Wyk
BA LL.B LL.M H.Dip Tax
Direct Dial: +27 (0) 21 762 3387
Fax: +27 (0) 86 610 7578
Mobile: +27 (0) 83 600 9809
E-mail: antonie@avwattorneys.co.za

From: Peet Venter [mailto:peet@dah.co.za]
Sent: Tuesday, 05 July 2016 23:14
To: antonie@avwattorneys.co.za; natasha.olivier@bosasa.com; lindsay.watson@bosasa.com
Cc: philip@dah.co.za; andries.vantonder@bosasa.com
Subject: FW: RE: Valuation per share - Bosasa Empowerment & Management Services (Pty)Ltd
Sensitivity: Confidential

Hi Antonie,

Thank you for your mail.

I have calculated the value per share based on 1,000 issued shares.
I have now amended my calculation, as your mail below refers to 100 issued shares - please refer to the amended attachment
Antonie, can I ask you just to double check on this, before we move on.

Natasha & Lindsay, once Antonie has confirmed the above, please go-ahead with all the paperwork.
(I don't know whether you want to circulate the final documents for one last review, before you get them signed)

Thank you

Peet Venter | Associate
Professional Accountant (S.A)
General Tax Practitioner (S.A)™

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Page: 1026 of 1250
AA-1017

Issue: 2015-01-26 12:01:08

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Chartered Accountants (S.A) | Registered Auditors

011 954-5016 | Cell: 082 462-9527 | www.dah.co.za

D'Arcy-Herrman & Co / Kie
Chartered Accountants
Geoktrooieerde Rekenmeesters

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-----Original Message-----
From: Antonie van Wyk [mailto:antonie@avwattorneys.co.za]
Sent: 2016/07/05 16:56
To: peet@dah.co.za
CC: lindsay.watson@bosasa.com; natasha.olivier@bosasa.com; philip@dah.co.za; andries.vantonder@bosasa.com
Subject: RE: Valuation per share - Bosasa Empowerment & Management Services (Pty)Ltd

Thank you for the documentation Peet.

Below is an extract from one of my earlier e-mails, which sets out the amendments that were required to be made to the Shareholders Agreement. I also attach a copy of an e-mail that lists the steps to be taken as regards the implementation of the structure from the Employees Trust's perspective.

Shareholders Agreement

Clause 4.1.3 needs to be amended to read as follows:

4.1.3 the authorised share capital of the Company shall be 4 000 ordinary shares having those rights and conditions specified in the MOI, and 100 issued ordinary Shares allocated as at the date of signature as follows:

4.1.3.1 Mpako - 26 Shares;

4.1.3.2 Mela - 33 Shares;

4.1.3.3 Nzunzo - 18 Shares;

4.1.3.4 The Trust - 22 Shares; and

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Page: 1027 of 1250
AA-1018

3.5 Mela (30%), Nzunzo (50%) and the Trust (20%) joint undivided owners of 1 Share in the aforementioned percentages.

Let me know if you have any further questions.

Regards,

Antonie van Wyk
Consultant to TRM Daniel Erasmus Tax Court Practitioners



Antonie van Wyk
BA LL.B LL.M H.Dip Tax
Direct Dial: +27 (0) 21 762 3387
Fax: +27 (0) 86 610 7578
Mobile: +27 (0) 83 600 9809
E-mail: antonie@avwattorneys.co.za

From: Peet Venter [mailto:peet@dah.co.za]
Sent: Monday, 04 July 2016 19:33
To: antonie@avwattorneys.co.za
Cc: lindsay.watson@bosasa.com; natasha.olivier@bosasa.com; andries.vantonder@bosasa.com; philip@dah.co.za
Subject: Valuation per share - Bosasa Empowerment & Management Services (Pty)Ltd
Sensitivity: Confidential

Hi Antonie,

Herewith, please find the valuation / value per share for Bosasa Empowerment & Management Services (Pty)Ltd.

Could I ask you, again, just to recap on all outstanding documents that needs to be attended too (The option letter to be issued Bosasa Empowerment & Management Services to Ms. Oliveria + Resolution authorising and implementing the granting of an option to Ms. Oliveria, etc).
I just want to make 100% sure we don't leave out anything.

Regards

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Page: 1028 of 1250
AA-1019

Issue: 2015-01-26 12:01:08

Peet Venter | Associate
Professional Accountant (S.A)
General Tax Practitioner (S.A)™
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Page: 1029 of 1250
AA-1020

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Page: 1030 of 1250

Fold GRIZZI A, LAMEZEST (PTY)LTD
Fro et Venter [peet@dah.co.za]
To : Peet Venter
Cc :
Sent On : [2017/11/13 00:23]
Priority : Normal
Sensitivity : Confidential
Attachments : Shareholders' Agreement (amended 7 March 2017).docx

FW: SHAREHOLDERS AGREEMENT

Peet Venter | Associate
Professional Accountant (S.A)
General Tax Practitioner (S.A)™
D'Arcy-Herrman & Co Inc
Chartered Accountants (S.A) | Registered Auditors

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-----Original Message-----
From: Peet Venter [mailto:peet@dah.co.za]
Sent: 2017/03/07 11:00
To: angelo.agrizzi@me.com
Subject: FW: SHAREHOLDERS AGREEMENT

Peet Venter | Associate
Professional Accountant (S.A)
General Tax Practitioner (S.A)™
D'Arcy-Herrman & Co Inc
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Issue: 2019-01-26 12:01:08

-----Original Message-----
From: Lindsay Watson [mailto:Lindsay.Watson@bosasa.com]
Sent: 2017/03/07 09:06
To: antonie@avwattorneys.co.za
CC: Natasha.Olivier@bosasa.com; peet@dah.co.za
Subject: SHAREHOLDERS AGREEMENT

Hi Antonie,

I trust you are well.

Could you kindly have a final look before we get it signed this week.

We just want to make sure that this is finally put to bed, once and for all and covered all the necessary.

Thanks a mil.

Regards,

Lindsay Watson
Legal Department
Bosasa Group of Companies

The Bosasa Group
Mogale Business Park
Windsor Road | Mogale City | 1739 | Gauteng | South Africa
Tel: +27 (0) 11 662 6096
Mobile:+27 (0) 83 607 1542
Website: www.bosasa.com

COMMISSION OF INQUIRY INTO STATE CAPTURE

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Page: 1031 of 1250
AA-1022

Issue: 2019-01-26 12:01:08



BOSASA
Future Technology Solutions

Mogale Business Park, 1 Windsor Road, Mogale City 1739
Gauteng, Republic of South Africa

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Page: 1032 of 1250
AA-1023

MEMORANDUM OF INCORPORATION

BOSASA EMPOWERMENT AND MANAGEMENT SERVICES PROPRIETARY LIMITED

1999/020406/07

being a profit company which is classified as a private company

("the Company")

The Company has adopted this unique form of Memorandum of Incorporation and, accordingly, the prescribed standard form, of Memorandum of Incorporation for private companies which is contained in the Companies Regulations shall not apply to the Company.

Rushmere Noach

ATTORNEYS

Issue: 2019-01-26_12:01:08

TABLE OF CONTENTS

1. INTERPRETATION 1
2. CONFLICTS WITH THE MOI 4
3. AMENDMENT OF THE MOI 5
4. RULES 6
5. STATUS AS PRIVATE COMPANY 6
6. POWERS OF THE COMPANY 6
7. LIMITATION OF LIABILITY 7
8. ELECTIONS IN RESPECT OF OPTIONAL PROVISIONS OF THE ACT 7
9. SHARE CAPITAL 7
10. RIGHTS OF THE ORDINARY SHARES 8
11. VOTES OF SHAREHOLDERS 8
12. VARIATION OF SHARE CAPITAL 9
13. ISSUE OF SECURITIES 9
14. REGISTER AND CERTIFICATES 9
15. TRANSFER OF SECURITIES 10
16. CAPITALISATION SHARES 11
17. DEBT INSTRUMENTS 11
18. BENEFICIAL INTERESTS 12
19. JOINT HOLDERS OF SECURITIES 12
20. LEGAL REPRESENTATIVES 13
21. SHAREHOLDERS RIGHT TO INFORMATION 14
22. SINGLE SHAREHOLDER'S AUTHORITY TO ACT 14
23. PROXY REPRESENTATION 14
24. RECORD DATES 16
25. SHAREHOLDERS MEETINGS 16

Issue: 2019-01-26_12:01:08

26. NOTICE OF SHAREHOLDERS MEETINGS 17
27. CONDUCT OF MEETINGS 17
28. SHAREHOLDERS MEETING QUORUM AND ADJOURNMENT 19
29. CHAIRPERSON OF SHAREHOLDER MEETINGS 21
30. SHAREHOLDER RESOLUTIONS 21
31. WRITTEN RESOLUTIONS BY SHAREHOLDERS 22
32. RESERVED MATTERS 23
33. AUTHORITY OF THE BOARD OF DIRECTORS 25
34. APPOINTMENT OF DIRECTORS 26
35. ALTERNATE DIRECTOR 27
36. BOARD COMMITTEES 28
37. CHAIRPERSON 29
38. DIRECTORS MEETINGS 29
39. WRITTEN RESOLUTIONS BY DIRECTORS 32
40. EXECUTIVE DIRECTORS 33
41. PAYMENTS TO DIRECTORS 33
42. INDEMNIFICATION AND INSURANCE FOR DIRECTORS 33
43. FINANCIAL STATEMENTS AND ACCESS TO COMPANY INFORMATION 37
44. FINANCIAL ASSISTANCE 38
45. DISTRIBUTIONS 38
46. NOTICES 39

Issue: 2019-01-26_12:01:08

PART A - THE MOI AND RULES

1. INTERPRETATION

In this MOI, clause headings are used for convenience only and shall not be used in its interpretation and, unless the context clearly indicates a contrary intention, -

1.1 an expression that denotes –

1.1.1 any gender, includes the other gender;

1.1.2 a natural Person, includes an artificial or Juristic Person and vice versa;

1.1.3 the singular, includes the plural and vice versa;

1.2 the following expressions shall bear the meanings assigned to them below and cognate expressions shall bear corresponding meanings, -

1.2.1 **"Mela"** means **MELA WOMANS INVESTMENTS PROPRIETARY LIMITED**, a private company duly incorporated in terms of the Act, with registration no. 2002/030534/07;

1.2.2 **"Mpako"** means **MPAKO INVESTMENTS PROPRIETARY LIMITED**, a private company duly incorporated in terms of the Act, with registration no. 1997/015059/07);

1.2.3 **"Nzunzo"** means **NZUNZO INVESTMENTS (PTY) LTD** a private company duly incorporated in terms of the Act, with registration no. 2002/023124/07;

1.2.4 **"the Trust"** means **THE TRUSTEES FOR THE TIME BEING OF THE EMPLOYEES TRUST**, a trust established under the Trust property Control Act, 57 of 1987 and issued with letters of authority under reference IT3305/02;

Issue: 2019-01-26_12:01:08

1.2.5 **"Act"** means the Companies Act 71 of 2008, as amended or re-enacted and for the time being in force, including any regulations promulgated thereunder for the time being in force;

1.2.6 **"Auditors"** means the auditors of the Company appointed from time to time by the Board;

1.2.7 **"Board"** means the board of Directors of the Company from time to time;

1.2.8 **"Business"** means the business of the Company being to invest in movable and immovable property, to manage accommodation and to render catering services;

1.2.9 **"Company"** means the company defined as such on the front page of this MOI;

1.2.10 **"Director"** means a director of the Company;

1.2.11 **"Dispose"** means cede, donate, dispose of, distribute, exchange, give, make over, sell, transfer, unbundle or otherwise alienate, or any agreement, arrangement or obligation to do any of the aforegoing, and **"Disposal"** shall be construed accordingly;

1.2.1 **"Filing Date"** means the date on which this MOI is filed with the Companies and Intellectual Property Commission in accordance with section 16(7) of the Act;

1.2.2 **"Group"** means the Company and all its Subsidiaries for the time being and from time to time;

1.2.3 **"Legal Representative"** means any Person who has submitted proof (which is satisfactory to the Board) of his appointment (and, to the extent required by the Board, the continuation of that appointment) as:

Issue: 2019-01-26_12:01:08

1.2.3.1 an executor of the estate of a deceased Shareholder, or a curator, guardian or trustee of a Shareholder whose estate has been sequestrated or who is otherwise under any disability;

1.2.3.2 the liquidator of any Shareholder that is a body corporate in the course of being wound-up; or

1.2.3.3 the business rescue practitioner of any Shareholder which is a company undergoing business rescue proceedings.

1.2.4 **"Memorandum of Incorporation"** or "**MoI**" means the Memorandum of Incorporation of the Company, being this document (and including any Schedule hereto) as amended or replaced from time to time;

1.2.5 **"Ordinary Share"** means an ordinary share in the capital of the Company, having the preferences, rights, limitations and other terms contemplated in clause 10 hereof;

1.2.6 **"Ordinary Shareholder"** means a Shareholder who holds an Ordinary Share;

1.2.7 **"Regulations"** means the Companies Regulations of 2011 for so long as they remain of force and effect and any other regulations made in terms of the Act from time to time;

1.2.8 **"Republic"** means the Republic of South Africa;

1.2.9 **"Reserved Matters"** shall include the matters set out in clause 32;

1.2.10 **"Share"** means a share (as defined in the Act) of the Company, which shall include Ordinary Shares;

1.2.11 "**Shareholder**" means a holder of a Share who is entered as such in the Securities Register of the Company;

1.2.12 **"Shareholders Agreement"** at any time means, irrespective of whether it is described as a shareholders' agreement, any written agreement/s to

Issue: 2019-01-26_12:01:08

which all of the Shareholders at that time are party and which relates in whole or in part to their rights' and obligations in relation to each other and/or the Company as Shareholders.

1.3 if any provision in a definition is a substantive provision conferring a right or imposing an obligation on any Person, then, notwithstanding that it is only in a definition, effect shall be given to that provision as if it were a substantive provision in the body of this MOI;

1.4 the use of the word **"including"**, **"includes"** and **"include"**, followed by a specific example/s, shall not be construed as limiting the meaning of the general wording preceding it and the *eiusdem generis* rule shall not be applied in the interpretation of that general wording or those specific example/s;

1.5 where any term is defined within a particular clause other than this clause 1, that term shall bear the meaning ascribed to it in that clause wherever it is used in this MOI;

1.6 any capitalized word or expression that is not otherwise defined in this MOI shall be construed in accordance with the Act. For the avoidance of doubt, it is recorded that any reference to "Present at such Meeting" or "Present at the Meeting" shall be construed in accordance with the definition of "Present at a Meeting" in the Act;

1.7 a reference to a **"section"** refers to the corresponding section of the Act.

2. CONFLICTS WITH THE MOI

In accordance with the Act, in any instance where there is a conflict between a provision (be it express or tacit) of this MOI and -

2.1 a provision of the Shareholders Agreement, the provision of this MOI shall prevail to the extent of the conflict; provided that, if any provision of the Shareholders Agreement merely supplements, but is not inconsistent with, this MOI the provisions of the Shareholders Agreement shall prevail;

Issue: 2019-01-26_12:01:08

2.2 an alterable or elective provision of the Act, the provision of this MOI shall prevail to the extent of the conflict, provided that such alterable or elective provision of the Act expressly allows for the Company to adopt the conflicting provision;

2.3 an unalterable or non-elective provision of the Act, the unalterable or non-elective provision of the Act shall prevail to the extent of the conflict.

3. AMENDMENT OF THE MOI

3.1 Subject to clause 6.3 this MOI may be altered or amended –

3.1.1 in compliance with a court order on the basis set out in section 16(1)(a) of the Act and any other applicable provisions of the Act;

3.1.2 by way of a Special Resolution of the Shareholders passed in accordance with section 16(1)(c) of the Act, read in conjunction with the remaining provisions of the Act and this MOI; or

3.1.3 as contemplated in section 17 and 152(6)(b) of the Act.

3.2 Save as specifically provided for in clause 3.1, this MOI is not capable of amendment by any other method. Accordingly, the provision of section 16(1)(b) of the Act shall not apply, nor shall any other alterable provisions of the Act that allows for a method for the alteration or amendment of the MOI other than those methods contemplated in clause 3.1 apply.

3.3 After amending its MOI, the Company must file a Notice of Amendment with the Commission in accordance with the requirements of section 16(7) and (8).

3.4 Should this MOI be altered or altered in order to correct this MOI in accordance with section 17(1) of the Act the Company must:

3.4.1 deliver a notice of alteration to the Shareholders in the manner contemplated in clause 47; and

Issue: 2019-01-26_12:01:08

3.4.2 file a notice of alteration with the Commission.

4. RULES

4.1 The Board may, subject to section 15(4) of the Act, make, amend or repeal any necessary or incidental Rules relating to the governance of the Company in respect of matters that are not addressed in the Act or this MOI, and the authority of the Board in this regard is not limited or restricted in any manner by this MOI.

4.2 The Company shall publish a copy of those Rules and a notice of any alteration to those Rules in accordance with section 17(1) of the Act by delivering a copy thereof to each Shareholder in accordance with clause 44 or in such other manner as may be required by those Rules.

PART B - STATUS AND POWERS OF THE COMPANY

5. STATUS AS PRIVATE COMPANY

5.1 The Company was incorporated in 1999 as a private company and is a profit company.

5.2 The Company shall not offer any of its Shares or other Securities to the public and the transferability of the Company's Securities is restricted by clause 15.

5.3 The Company is, accordingly, classified as a private company, in terms of section 8(2)(b) of the Act.

6. POWERS OF THE COMPANY

6.1 The Company is governed by, -

6.1.1 the Unalterable Provisions of the Act;

6.1.2 the Alterable Provisions of the Act, subject to such extensions, limitations, qualifications, restrictions and alterations contained in this MOI or in the Shareholders Agreement;

Issue: 2019-01-26_12:01:08

6.1.3 the other provisions of this MOI.

6.2 The Company has, subject to section 19(1)(b)(i) of the Act, all of the legal powers and capacity of an individual, and the legal powers and capacity of the Company are not subject to any restrictions, limitations or qualifications contemplated in section 19(1)(b)(ii) of the Act.

6.3 The sole purpose, object and business of the Company shall be the Business.

7. LIMITATION OF LIABILITY

No Person shall, solely by reason of being an Incorporator, Shareholder or Director of the Company, be liable for any liabilities or obligations of the Company.

8. ELECTIONS IN RESPECT OF OPTIONAL PROVISIONS OF THE ACT

8.1 The Company does not elect, in terms of section 30(2)(b)(ii)(aa) of the Act, to voluntarily require an audit of its annual Financial Statements.

8.2 The Company does not elect, in terms of section 34(2) of the Act, to comply voluntarily with the provisions of Chapter 3 of the Act.

8.3 The Company does not elect, in terms of section 118(1)(c)(ii) of the Act, to submit itself voluntarily to the provisions of Parts B and C of Chapter 5 of the Act and to the Takeover Regulations.

PART C CAPITALISATION AND SECURITIES OF THE COMPANY

9. SHARE CAPITAL

The numbers and classes of Shares which the Company is authorised to issue are set out in Schedule 1 to this MOI.

Issue: 2019-01-26_12:01:08

10. **RIGHTS OF THE ORDINARY SHARES**

Each Ordinary Share in the issued capital of the Company ranks *pari passu* with all other Ordinary Shares in respect of all rights, and entitles its holder to –

10.1 exercise a vote on any matter to be decided by a vote of the Ordinary Shareholders of the Company;

10.2 participate equally with every other Ordinary Share in any Distribution (excluding any payment in lieu of a capitalisation Share and any consideration payable by the Company for any of its own Shares or for any shares of a another company within the same group, as contemplated in paragraphs (ii) and (iii) of the definition of Distribution in the Act) to Ordinary Shareholders, whether during the existence of the Company or upon its dissolution.

11. **VOTES OF SHAREHOLDERS**

11.1 Subject to the Act and subject to any special terms as to voting upon which any Share may be issued or may for the time being be held, if voting on a particular matter is:

11.1.1 by a show of hands, any person present and entitled to exercise voting rights has one vote, irrespective of the number of voting rights that person would otherwise be entitled to exercise; and

11.1.2 by polling, any person who is present at the meeting, whether in person or by proxy, and is entitled to exercise voting rights has one vote per ordinary share.

11.2 In the case of joint holders of a Share, only the vote of the senior holder shall be accepted, whether in person or by proxy. For the purpose of this clause, seniority shall be determined by the order in which the names appear in the register or, in the case of persons entitled to a share by transmission, the order in which their names were given in the notice to the Company of that transmission.

Issue: 2019-01-26_12:01:08

11.3 Any entity holding Shares conferring the right to vote may, by resolution of the Directors or other governing body of that entity, authorise one person to act as its representative at any Shareholders meeting. The representative shall be entitled to exercise the same powers as that entity could exercise if it were an individual Shareholder. The Board may require proof to their satisfaction of the appointment or authority of a representative to act.

12. VARIATION OF SHARE CAPITAL

12.1 In accordance with of section 36(3) of the Act but subject to clause 32 below, the Board shall have the power to –

12.1.1 increase or decrease the number of authorised Shares of any class of the Shares;

12.1.2 reclassify any classified Shares that have been authorised but not issued;

12.1.3 classify any unclassified Shares that have been authorised but not issued; or

12.1.4 determine the preferences, rights, limitations or other terms of any Shares, which powers shall be reserved for the Shareholders as contemplated in clause 32.

13. ISSUE OF SECURITIES

No issue of Shares or Securities convertible into Shares, or grant of options contemplated in section 42 of the Act, or grant of any other rights exercisable for Securities may be effected by the Company unless it has been unanimously approved by the Shareholders.

14. REGISTER AND CERTIFICATES

14.1 The Securities issued by the Company shall be issued in certificated form.

Issue: 2019-01-26_12:01:08

14.2 The Company shall establish or cause to be established, and shall maintain, a Securities Register in accordance with the Act and the Regulations and, to the extent that the form of and the manner of maintaining the Securities Register is not prescribed, the Board shall determine the form and manner thereof.

14.3 The Company shall enter into its Securities Register the transfer of any certificated Securities which is effected in accordance with clause 15 and shall include in such entry the information required by section 51(5) of the Act.

14.4 The certificates evidencing any certificated Securities of the Company shall comply with the requirements set out in section 51(1) of the Act and shall otherwise be in such form as may be determined by the Board.

14.5 If any certificate is defaced, lost or destroyed, it may be replaced on payment of such fee, if any, and on such terms as the Board may determine.

15. TRANSFER OF SECURITIES

15.1 No Shareholder may transfer the registered or beneficial ownership of any Shares in the Company to any other Person without first complying with the requirements for transfer and following the principles and procedures as set out in this MOI and the Shareholders' Agreement;

15.2 The Company shall not enter into its Securities Register the transfer of any certificated Securities, unless:

15.2.1 the transfer is evidenced by a proper instrument of transfer signed by the transferor and transferee, the form of which shall be determined by the Board from time to time, which has been delivered to the Company at its Registered Office together with :

15.2.1.1 such proof as the Board may require of the authority of the signatory/ies to that Instrument of transfer; and

15.2.1.2 the certificate in respect of Securities being transferred; or

Issue: 2019-01-26_12:01:08

15.2.2 the transfer is effected by operation of law.

16. CAPITALISATION SHARES

16.1 The Board shall not, save to the extent specifically authorised by the Shareholders by means of a Special Resolution authorising the specific transaction contemplated, have the power or the authority to –

16.1.1 approve the issuing of any authorised Shares as capitalisation Shares; or

16.1.2 issue Shares of one class as capitalisation Shares in respect of the Shares of another class; or

16.1.3 resolve to permit the Shareholders to elect to receive a cash payment in lieu of a capitalisation Share,

and the authority of the Board to issue capitalisation Shares in accordance with section 47(1) of the Act is, accordingly, limited and restricted by this MOI.

16.2 If, on any capitalisation issue, Shareholders would, but for the provisions of this clause 16, become entitled to fractions of Shares, the Board shall, subject to any contrary provisions in the Resolution authorising the capitalisation issue, be entitled to round off the number of capitalisation Shares to be received to the nearest whole number or to sell the Shares resulting from the aggregation of those fractions, on such terms and conditions as it deems fit, for the benefit of the relevant Shareholders, and any Director shall be empowered to sign any instrument of transfer or other instrument necessary to give effect to that sale.

17. DEBT INSTRUMENTS

17.1 The Board may authorise the Company to issue secured or unsecured debt instruments, as set out in section 43(2) of the Act provided that the Board shall not be entitled, without the approval of the Shareholders by way of a

Issue: 2019-01-26_12:01:08

Special Resolution, to issue any debt instruments that grant the holder thereof any rights regarding:

17.1.1 attending and voting at general meetings, and the appointment of Directors; and

17.1.2 the receipt by the holder thereof of anything other than repayment of the capital amount thereof and payment of interest thereon, all in cash. Without limiting the foregoing, it is recorded that a debt instrument may not confer on its holder any right to receive any Shares or other Securities of the Company or any other Entity or any other property (whether on conversion or redemption or repurchase of the debt instrument or otherwise) without the approval of a Special Resolution.

17.2 The authority of the Board to authorise the Company to issue secured or unsecured debt instruments, as set out in section 43(2), is accordingly limited and restricted by this MOI.

18. BENEFICIAL INTERESTS

Securities issued by the Company may be held by, and registered in the name of, one Person for the beneficial interest of another Person, but no Person other than the registered holder of a Security shall (save to the extent expressly provided for in this MOI) be entitled to exercise any of the rights associated with that Security and the Company shall not recognise any Person other than the registered holder of a Security as the holder (whether beneficial or otherwise) of that Security. The holding of the Company's Securities by a registered holder for the beneficial interest of another Person is accordingly limited and restricted by this MOI.

19. JOINT HOLDERS OF SECURITIES

Where two or more Persons are registered as the holders of any Security, they shall be deemed to hold that Security jointly, and:

19.1 notwithstanding anything to the contrary contained anywhere else in this MOI, on the death, sequestration, liquidation or legal disability of anyone of

Issue: 2019-01-26_12:01:08

those joint holders, the remaining joint holders may be recognised, at the discretion of the Board, as the only Persons having title to that Security;

19.2 anyone of those joint holders may give effective receipts for any Distributions or other payments or accruals payable to those joint holders;

19.3 only the joint holder whose name stands first in the Securities Register shall be entitled to delivery of the certificate relating to that Security, or to receive notices or payments from the Company (and any notice or payment given to that joint holder shall be deemed to be notice or payment, as the case may be to all of the joint holders);

19.4 anyone of the joint holders of any Security conferring a right to vote on any matter may vote either personally or by proxy at any meeting in respect of that Security as if he were solely entitled to exercise that vote, and, if more than one of those joint holders is present at any meeting of Shareholders, either personally or by proxy, the joint holder who tenders a vote (including an abstention) and whose name stands in the Securities Register before the other joint holders who are present, in person or by proxy, shall be the joint holder who is entitled to vote in respect of that Security;

19.5 the Company shall be entitled to refuse to register more than five Persons as the joint holders of a Security.

20. LEGAL REPRESENTATIVES

A Legal Representative of the holder of any Security issued by the Company **("Security Holder")** shall:

20.1 be the only Person recognised by the Company as having any rights in respect of or title to a Security registered in the name of the Security Holder whom he represents; and

20.2 if so required by that Legal Representative or by the Board, be entered into the Securities Register of the Company *nomine officio* in the place and on behalf of that Security Holder,

Issue: 2019-01-26_12:01:08

provided that if the Legal Representative so entered into the Securities Register ceases to be the Legal Representative of that Security Holder, the Board shall, pending transfer of that Security Holder or another Legal Representative of that Security Holder or any other Person who is entitled to become the holder of that Security, be entitled to suspend the rights of the holder of that Security to vote and shall be entitled to withhold (and retain until such transfer has occurred) all Distributions payable to the holder of that Security.

PART D – SHAREHOLDERS' RIGHTS AND PROCEEDINGS

21. SHAREHOLDERS' RIGHT TO INFORMATION

Each Shareholder and each Person who is the registered holder of, or holds a beneficial interest in, any Securities issued by the Company shall have the information rights set out in section 26(1) of the Act and, in addition, shall have the rights to receive information to which such Person may be entitled in terms of the Shareholders Agreement.

22. SINGLE SHAREHOLDER'S AUTHORITY TO ACT

As contemplated in section 57(2) of the Act, if, at any time, the Company has only one Shareholder –

22.1 that Shareholder may exercise any and all of the Voting Rights pertaining to the Company, at any time, without notice or compliance with any other internal formalities, and that power is not limited or restricted by this MOI; and

22.2 the provisions of clauses 24 (Record Dates), 26 (Notice of Shareholders Meetings), 27 (Conduct of Shareholders Meetings), 28 (Shareholder Meeting Quorum and Adjournment), 30 (Shareholder Resolutions) and 31 (Shareholders Acting Other Than at a Meeting) shall not apply.

23. PROXY REPRESENTATION

23.1 A Shareholder may, at any time by written proxy appointment, appoint any individual, including an individual who is not a Shareholder of the Company, as a proxy to –

Issue: 2019-01-26_12:01:08

23.1.1 participate in, and speak and vote at, a Shareholders Meeting on behalf of the Shareholder; or

23.1.2 give or withhold written consent on behalf of the Shareholder to a decision contemplated in clause 31 hereof,

and any such proxy appointment (and any invitation by the Company to appoint a proxy and any form supplied by the Company for the appointment of a proxy) shall be governed by section 58 of the Act and this clause 23.

23.2 The Board may determine a standard form of proxy appointment and make it available to Shareholders on request.

23.3 A Shareholder may not appoint more than one Person concurrently as proxies, and may not appoint more than one proxy to exercise Voting Rights attached to different Securities held by the Shareholder.

23.4 A proxy may not delegate the proxy's authority to act on behalf of the Shareholder to another person, unless the right to delegate is specifically contained in the proxy appointment and the delegation occurs by way of a further proxy appointment which itself complies with the requirements of the Act and this MOI for a proxy appointment.

23.5 A proxy shall not be entitled to exercise any rights of the Shareholder who appointed that proxy –

23.5.1 until the expiry of two Business Days after the date on which the instrument containing; or

23.5.2 after midnight on the day on which the instrument revoking,

the appointment of that proxy was delivered to the Registered Office of the Company (marked urgent and for the attention of the Company Secretary, Chairperson or Managing Director of the Company and accompanied by such proof of the identity and authority of the signatory as may reasonably be required by the Board or the chairperson of any meeting referred to in the proviso to this clause 23.5) or to any other Person entitled to accept the

Issue: 2019-01-26_12:01:08

proxy appointment or revocation on behalf of the Company; provided that the Board, or the chairperson of any meeting at which the proxy wishes to exercise any rights of the Shareholder, may agree to allow any such proxy appointment or revocation to become effective prior to the time when it would otherwise have become effective in terms of this clause 23.

23.6 A proxy shall, as contemplated in section 58(7) of the Act, be entitled, in the proxy's own discretion, to exercise, or abstain from exercising, any voting right of the Shareholder; provided that if the instrument appointing the proxy specifically provides otherwise then the specific provisions of the proxy appointment shall prevail.

24. RECORD DATES

The Board may, in accordance with section 59 of the Act and the Regulations, determine and publish a Record Date for the purposes of determining which Shareholders are entitled to:

24.1 receive a notice of a Shareholders Meeting;

24.2 participate in and vote at a Shareholders Meeting;

24.3 decide any matter by written consent or by Electronic Communication;

24.4 receive a Distribution; or

24.5 be allotted or exercise any other rights;

provided that if the Board does not determine a Record Date for any action or event, as contemplated in this clause 24, the Record Date shall be as determined in accordance with section 59(3) of the Act.

25. SHAREHOLDERS MEETINGS

25.1 The Company shall not be required to hold any meetings of Shareholders other than those required by the Act.

Issue: 2019-01-26_12:01:08

25.2 The Company shall hold a Shareholders meeting in the circumstances contemplated in section 61(2) of the Act.

25.3 The chairperson shall convene a Shareholders meeting if in aggregate, written and signed demands for a meeting with substantially the same purpose are made by the holders of at least 10% of the Voting Rights entitled to be exercised in relation to the matter to be considered at the meeting, provided that each such demand describes the specific purpose for which the meeting is proposed.

25.4 Notwithstanding clause 25.3, the Board or the Chief Executive Officer, if any, may convene a Shareholders Meeting if requested to do so by any Shareholder if there is good reason for doing so.

25.5 The Board shall determine the location for any Shareholders Meeting of the Company and the Company may hold any such meeting in the Republic or any foreign country and accordingly, the authority of the Board, as contemplated in section 61(9) of the Act, is not limited or restricted by this MOI.

26. NOTICE OF SHAREHOLDERS MEETINGS

26.1 The Company must deliver notice of each Shareholders Meeting to all Shareholders as of the Record Date for the meeting at least ten Business Days (or such shorter period as may be agreed to in writing by all of the Persons who are Shareholders at the time of that Shareholders Meeting) before that Shareholders Meeting is to begin.

26.2 The notice of a Shareholders Meeting shall be in writing and shall include the items set out in section 62(3) of the Act.

26.3 The notice of a Shareholders Meeting must be delivered in accordance with the provisions of clause 47 hereof.

27. CONDUCT OF MEETINGS

27.1 The Company -

Issue: 2019-01-26_12:01:08

27.1.1 may, as contemplated in section 63 of the Act, provide for a Shareholders Meeting to be conducted in whole or in part by Electronic Communication; and

27.1.2 must always make provision for any Shareholder, or proxy for a Shareholder, to participate by Electronic Communication in every Shareholders Meeting that is being held in person at any place other than the Registered Office of the Company,

and any Electronic Communication facility so employed must ordinarily enable all Persons participating in the meeting to at least speak and hear each other at approximately the same time and to participate reasonably effectively in the meeting, with or without an Intermediary. The authority of the Company shall be limited and restricted accordingly.

27.2 The responsibility for and expense of gaining access to the medium or means of Electronic Communication employed for any Shareholders Meeting shall be that of the Shareholder or proxy. If a provision has been made for a Shareholders Meeting to be conducted by Electronic Communication or for participation in a Shareholders Meeting by Electronic Communication and the medium or means of such Electronic Communication is available and functioning, then the Shareholders Meeting shall be entitled to proceed even if a Shareholder or proxy is not able to gain access to the medium or means of Electronic Communication so employed.

27.3 The Company shall ensure that any notice of any meeting of Shareholders, at which it will be possible for Shareholders to participate by way of Electronic Communication, shall inform Shareholders of that form of participation and shall provide any necessary information to enable Shareholders or their proxies to access the available medium or means of Electronic Communication.

27.4 A resolution passed at any meeting that employs Electronic Communication shall, notwithstanding that the Shareholders are not present together in one place at the time of the meeting, be deemed to have been passed at a meeting duly called and constituted on the day on which; and at the time at

Issue: 2019-01-26_12:01:08

which, the meeting was so held. For the avoidance of doubt, it is recorded that all of the provisions of clauses 27 to 31 shall apply to these meetings.

28. SHAREHOLDERS MEETING QUORUM AND ADJOURNMENT

28.1 Subject to clause 32:

28.1.1 a Shareholders meeting shall not begin until sufficient Persons, including at all meetings an authorised representative of Mpako, are present at such meeting (as contemplated in the definition of "Present at a Meeting" in the Act) to exercise 80% of all Voting Rights that are entitled to be exercised in respect of at least one matter to be decided at the meeting; and

28.1.2 a matter to be decided at the meeting may not begin to be considered unless sufficient Persons are present at such meeting at the time when that matter is called for consideration to exercise 80% of all Voting Rights that are entitled to be exercised on that matter.

28.2 Notwithstanding clause 28.1, where the Company has more than two Shareholders, a meeting may not begin, or matters begin to be considered, unless all Shareholders are present.

28.3 If, within thirty minutes after the appointed time for a meeting:

28.3.1 the quorum requirements for a meeting to begin have not been satisfied, the meeting shall automatically be postponed without motion or vote to the same day (or if that day is not a Business Day, the next Business Day) in the next week;

28.3.2 the quorum requirements for consideration of a particular matter to begin have not been satisfied, then:

28.3.2.1 if there is other business on the agenda of the meeting, consideration of that matter may be postponed to a later time in the meeting without motion or vote; or

Issue: 2019-01-26_12:01:08

28.3.2.2 if there is no other business on the agenda of the meeting, the meeting shall be adjourned, without motion or vote, to the same day (or if that day is not a Business Day, the next Business Day) in the next week.

28.4 If within thirty minutes of the time appointed for the adjourned meeting to resume, or for the postponed meeting to begin the quorum requirements have still not been met then, the Shareholders present in person or by proxy will be deemed to constitute a quorum.

28.5 The adjourned or postponed meetings may only deal with the matters that were on the agenda of the meeting that was adjourned or postponed.

28.6 The chairperson of the meeting shall be entitled to extend the thirty minute limit referred to in clause 28.3 hereof in the circumstances contemplated in section 64(5) of the Act.

28.7 After a quorum has been established for a meeting, or for a matter to be considered at a meeting, the meeting may continue, or the matter may be considered, so long as at least one Shareholder with Voting Rights entitled to be exercised at the meeting, or on that matter, is present at the meeting.

28.8 A Shareholders Meeting, or the consideration of any matter being debated at a Shareholders Meeting, may be adjourned as contemplated in sections 64(10), 64(11) and 64(12) of the Act, it being recorded that the periods of adjournment set out in section 64(12) shall apply without variation.

28.9 The Board may, at any time after notice of a Shareholders Meeting (other than a Shareholders Meeting required to be held in terms of clause 25 hereof) has been given but prior to the commencement of that meeting, postpone that meeting to such later date as may be determined by the Board at the time of determining to postpone the meeting, or may be postponed to an unspecified date to be decided by the Board at a later stage; provided that the Board may not so postpone the date of any such meeting beyond that date (if any) by which that meeting is required by the Act or this MOI to be held.

Issue: 2019-01-26_12:01:08

28.10 If a Shareholders Meeting is postponed or adjourned, whether in terms of clause 28.9 or otherwise, the Company must give notice to all Shareholders who were entitled to receive notice of the meeting of the postponement or adjournment and that notice must contain the time and date of, and the location for, the continuation or resumption of the meeting and any other information which the Board may decide to include therein.

29. CHAIRPERSON OF SHAREHOLDER MEETINGS

29.1 The chairperson of the Board or, failing him, the deputy chairperson of the Board (or if, more than one of them is present and willing to act, the most senior of them) shall preside as the chairperson of each Shareholders Meeting; provided that, if no chairperson or deputy chairperson is present and willing to act, the Shareholders present shall elect one of the Directors or, if no Director is present and willing to act, a Shareholder, to be the chairperson of that Shareholders Meeting.

29.2 The chairperson of a meeting referred to in clause 29.1 above shall, subject to the Act and this MOI and any Rules, determine the procedure to be followed at that meeting.

30. SHAREHOLDER RESOLUTIONS

30.1 At any meeting of Shareholders, any Person who is present at the meeting, whether as a Shareholder or as a proxy for a Shareholder, shall be entitled to exercise the number of Voting Rights associated with the Securities held by such Shareholder, which Voting Rights shall be determined in accordance with the preferences, rights, limitations and other terms of the Shares, as set out in this MOI.

30.2 Subject to clause 32, in order for -

30.2.1 an Ordinary Resolution to be approved, it must be supported by more than 70% of the Voting Rights exercised on the Ordinary Resolution, as contemplated in section 65(7); and

Issue: 2019-01-26_12:01:08

30.2.2 a Special Resolution to be approved, it must be supported by at least 80% of the Voting Rights exercised on the Special Resolution, as provided in section 65(9),

at a quorate meeting of Shareholders which is quorate in relation to that resolution; provided that this clause 30 shall not detract from the Shareholders ability to adopt resolutions by written vote as referred to in clause 30.

30.3 If any Shareholder abstains from voting in respect of any resolution, that Shareholder will, for the purposes of determining the number of votes exercised in respect of that resolution, be deemed not to have exercised a vote in respect of that resolution.

30.4 Except for those matters which require the approval or authority of a Special Resolution in terms of section 65(11) or any other section of the Act or any provision of the Regulations or this MOI, no other matters which the Company may undertake require the approval or authority of a Special Resolution of the Shareholders.

31. WRITTEN RESOLUTIONS BY SHAREHOLDERS

31.1 A resolution that could be voted on at a Shareholders Meeting may instead be adopted by written vote of the Shareholders, as contemplated in section 60 of the Act, if it is supported by Persons entitled to exercise sufficient Voting Rights for it to have been adopted as an Ordinary or Special Resolution, as the case may be, at a properly constituted Shareholders Meeting.

31.2 Unless the contrary is stated in the resolution, any such resolution shall be deemed to have been adopted on the date on which the Company received the written vote of the Shareholder or the proxy of the Shareholder whose vote resulted in the resolution being supported by sufficient votes for its adoption.

Issue: 2019-01-26_12:01:08

32. RESERVED MATTERS

32.1 No resolution of Shareholders shall be passed without the approval of at least 80% of the Voting Rights exercised on the resolution, provided that Mpako shall be required to vote in favour of such resolution, and no resolution of the Board shall be passed unless approved by all Directors (or their alternates) present at the meeting, where such resolution would have any of the following effects in relation to the Company:

32.1.1 a material change in the Business;

32.1.2 any variation of the share capital under clause 12 above;

32.1.3 the undertaking of any act which requires a special resolution of the Shareholders;

32.1.4 the issue of guarantees or suretyships or indemnities other than those issued in the ordinary course of the business;

32.1.5 the execution of any guarantee or indemnity to secure the liabilities or obligations of any person;

32.1.6 the creation and modification of mortgages, liens or other charges on the Company's assets;

32.1.7 the taking over or acquisition of the whole or the substantial part of the business of any other person or any merger or amalgamation with other companies, or with any other business which would constitute a material transaction for the Company, having regard to its assets and business;

32.1.8 cessation of any of the material business activities or alteration of the nature of the business or the carrying on of any other business that is not directly related to the business;

32.1.9 the sale or other disposal of the whole or the greater part of the assets of the business and/or the Company;

Issue: 2019-01-26_12:01:08

32.1.10 the sale, encumbrance, or other disposal of all or the greater part of the Company's assets or the rights attaching thereto;

32.1.11 a compromise generally with the Company's creditors;

32.1.12 the incurring of capital expenditure for the Company for any single item in excess of R_____ in and in aggregate in excess of R_____ in respect of the Company, in any one financial year of the Company;

32.1.13 any change in the appointment of the auditors, or the basis of accounting used for the previous accounting periods or to its financial year end;

32.1.14 the conclusion, extension, renewal or modification of any long-term contracts (i.e. exceeding 6 months), other than in the normal, ordinary and regular course of business or any unusual or onerous contract;

32.1.15 the entering into any transaction outside the normal ordinary and regular course of business;

32.1.16 the conclusion of any lease of movable or immovable property in terms of which the total rental payable is in excess of R_____ per month;

32.1.17 the institution of any legal proceedings of any nature whatsoever other than those arising in the ordinary, normal and regular course of business;

32.1.18 the appointment of board committees and delegations of the powers of the Board and the appointment and removal of senior executives;

32.1.19 the approval of remuneration of directors and any changes to such remuneration and the conclusion of contracts with any director or shareholder;

32.1.20 the re-valuation of the Company's assets;

Issue: 2019-01-26_12:01:08

32.1.21 the engagement of any employee or the hiring of any consultant or independent contractor, whose total cost to company exceeds R_____ per annum;

32.1.22 the submission of any tenders/quotes for services to be rendered or for goods to be supplied by the Company in excess of R_____;

32.1.23 the formation or finalization of the Company's business plan and budgets;

32.1.24 the conclusion of any related party transactions with any of the Shareholders including the conclusion of any agreements by any subsidiary and/or associate company of the Company with any Shareholder and/or any member of the Board of Directors of such subsidiary and/or associate company;

32.1.25 the implementation of any share option and or share purchase scheme or profit sharing arrangements with employees;

32.1.26 the termination of any material contract other than in the ordinary course of business;

32.1.27 the borrowing of monies by the Company in excess of the approved facilities;

32.1.28 the declaration of Distributions as well as any change to the company's dividend policy; and/or

32.1.29 contravening any of the provisions contained in clause 21 of the Shareholders Agreement dated _____.

PART E - DIRECTORS' POWERS AND PROCEEDINGS

33. AUTHORITY OF THE BOARD OF DIRECTORS

33.1 The business and affairs of the Company shall be managed by or under the direction of the Board, which shall have the authority to exercise all of the

Issue: 2019-01-26_12:01:08

powers and perform all of the functions of the Company, except to the extent that the Act or this MOI provides otherwise.

33.2 The Board may delegate to anyone or more Persons all such powers and delegate to any one or more Persons the doing of all such acts (including the right to sub-delegate).

33.3 If the Company has only one Director:

33.3.1 that Director may exercise any power or perform any function of the Board at any time, without notice or compliance with any other internal formalities; and

33.3.2 sections 71(3) to (7) of the Act shall not apply to the governance of the Company.

33.3.3 the provisions of clauses 38 and 39 shall not apply to the governance of the Company.

34. APPOINTMENT OF DIRECTORS

34.1 The Board shall comprise not more than ten Directors and ten Alternate Directors.

34.2 Mpako shall be entitled by written notice to the Company to nominate the Directors of the Company from time to time (including their replacements) and such persons shall be appointed as such provided that, if all of the other Shareholders object to the appointment of any person as a Director based on reasonable grounds that have been set out in writing, Mpako shall nominate an alternative Director in such person's stead.

34.3 There shall no *ex officio* directors, as contemplated in section 66(4)(a)(ii) of the Act.

34.4 All Shareholders shall exercise their votes in favour of the appointment or removal of any Director nominated or removed in terms of clause 34.2.

Issue: 2019-01-26_12:01:08

34.5 The Board shall be entitled to co-opt further non-executive Directors if required, provided that the total number of non-executive Directors shall not exceed 7 (seven) at any time.

34.6 The provisions of section 68(2) of the Act shall not apply to the election of Directors and a Director may be elected by written vote in accordance with clause 31.

34.7 The Board may appoint a Person who satisfies the requirements for election as a Director to fill any vacancy and serve as a Director of the Company on a temporary basis until the vacancy has been filled by in terms of clause 34.2 and during that period any Person so appointed has all of the powers, functions and duties, and is subject to all of the liabilities, of any other Director of the Company. The authority of the Board in this regard shall not be limited or restricted by this MOI.

34.8 Each Director shall serve for an indefinite term, as contemplated in section 68(1) of the Act.

34.9 The Company must not knowingly permit a Person to serve as Director if that Person is ineligible or disqualified in terms of the Act.

34.10 This MOI does not impose any minimum shareholding or other qualifications to be met by the Directors of the Company in addition to the ineligibility and disqualification provisions of the Act.

34.11 Section 70 of the Act shall apply to any vacancy on the Board which may arise from time to time.

35. ALTERNATE DIRECTOR

35.1 Each Director may, by notice to the Company at any time -

35.1.1 nominate any one or more than one person in the alternative (including any of his co-Directors) to be his Alternate Director; and

35.1.2 terminate any such appointment

Issue: 2019-01-26_12:01:08

provided that such nomination and/or termination is accepted by Mpako in writing.

35.2 The appointment of an Alternate Director shall terminate when the Director to whom he is an Alternate Director –

35.2.1 ceases to be a Director; or

35.2.2 terminates his appointment.

35.3 An Alternate Director shall, subject to this MOI –

35.3.1 act as a Director and generally exercise all the rights of the Director to whom he is an Alternate Director, but only during the absence or incapacity of that Director; and

35.3.2 in all respects be subject to the terms and conditions existing with reference to the appointment, rights and duties and the holding of office of the Director to whom he is an Alternate Director, but shall not have any claim of any nature whatsoever against the Company for any remuneration of any nature whatsoever.

36. BOARD COMMITTEES

36.1 The Board may –

36.1.1 appoint any number of committees of Directors; and

36.1.2 delegate to any committee any of the authority of the Board (including the authority to sub-delegate);

36.1.3 include any person who is not a Director of the Company in such committees,

and accordingly, the authority of the Board in this regard is not limited or restricted by this MOI.

Issue: 2019-01-26_12:01:08

36.2 The authority and power of any committees established by the Board, as contemplated in section 72(2) of the Act, is not limited or restricted by this MOI, but may be restricted by the Board when establishing any committee or by subsequent resolution.

37. CHAIRPERSON

37.1 The chairperson of the Board shall be elected, from one of its number, by way of an Ordinary Resolution of Shareholders, provided that the chairperson so elected may serve as such for a maximum period of two years, unless otherwise unanimously agreed by the Shareholders.

37.2 The chairperson of the Board or, failing him, the deputy chairperson of the Board (or if more than one of them is present and willing to act, the most senior of them) shall preside as the chairperson of each meeting of the Board; provided that, if no chairperson or deputy chairperson is present and willing to act, the Board present shall elect one of the Directors to be the chairperson of that meeting of the Board.

37.3 The chairperson of a meeting referred to in clause 37.2 shall, subject to the Act and this MOI and any Rules or decision of the Board, determine the procedure to be followed at that meeting.

37.4 Notwithstanding the provisions of section 73(5)(e)of the Act, the chairperson shall not have a second or casting vote in addition to his deliberative vote.

38. DIRECTORS MEETINGS

38.1 The Board may –

38.1.1 meet, adjourn and otherwise regulate its meetings as it thinks fit; provided that, in accordance with section 73(1) of the Act, any Director shall be entitled to convene or direct the Person so authorised by the Board to convene a meeting of the Board;

Issue: 2019-01-26_12:01:08

38.1.2 determine the form and time of the notice that shall be given of its meetings and the means of giving that notice, as contemplated in section 73(4) of the Act; provided that:

38.1.2.1 no meeting may be convened without notice to all of the Directors; and

38.1.2.2 any such prior determination may be varied, depending on the circumstances and reasons for the Board meeting in question,

and the authority of the Board in this regard is not limited or restricted by this MOI.

38.2 If all of the Directors of the Company –

38.2.1 acknowledge actual receipt of the notice and agree that the meeting should proceed;

38.2.2 are present at a meeting; or

38.2.3 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.

38.3 The Board may provide for a meeting of the Board to be conducted in whole or in part by Electronic Communication, and any Electronic Communication facility so employed must ordinarily enable all Persons participating in that meeting to at least speak and hear each other at approximately the same time, and to participate reasonably effectively in the meeting, with or without an intermediary. The authority of the Board in this regard is not limited or restricted by this MOI.

38.4 As set out in section 73(5)(b) of the Act, the quorum for meetings of the Board shall be a majority in number of the Directors then in office, provided that:

Issue: 2019-01-26_12:01:08

38.4.1 if a quorum is not present within thirty minutes after the time appointed for the commencement of any meeting of the Board, that meeting shall automatically be postponed without motion or vote to the same day in the following week (or if that day is not a Business Day, the next Business Day), at the same time and place. The postponed meeting may only deal with the matters that were on the agenda of the meeting that was postponed; and

38.4.2 if at any such postponed meeting a quorum is not present within thirty minutes after the time appointed for the commencement of that meeting, then, notwithstanding the provisions of section 73(5)(b) of the Act, the Directors present shall be deemed to constitute a quorum and shall be sufficient to vote on any resolution 'which is tabled at that meeting.

38.5 At any meeting of the Board, -

38.5.1 an Alternate Director shall not be entitled to attend, speak or vote unless the Director to whom he is an Alternate Director is absent from that meeting;

38.5.2 each Director has one vote on every matter to be decided by the Board; and

38.5.3 A resolution of the Board shall be passed by a majority of the votes cast in the manner set out in clause 38.5.2 at a quorate meeting of the Board and there is no casting vote, so in the case of a tied vote on a resolution, that resolution is not adopted. This clause 38.5.3 shall not detract from the Board's ability to adopt resolutions as set out in clause 39 hereof.

38.6 The Company shall keep minutes of the meetings of the Board, and any of its committees, and include in those minutes:

38.6.1 any declaration given by notice or made by a Director, as required by section 75 of the Act; and

38.6.2 every resolution adopted by the Board.

Issue: 2019-01-26_12:01:08

38.7 Resolutions adopted by the Board –

38.7.1 must be dated and sequentially numbered; and

38.7.2 are effective as of the date of the resolution, unless the resolution states otherwise.

38.8 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, is evidence of the proceedings of that meeting, or adoption of that resolution, as the case may be.

39. WRITTEN RESOLUTIONS BY DIRECTORS

39.1 A decision that could be voted on at a meeting of the Board may instead be adopted by a written resolution that has been submitted to all of the Directors and signed by at least that number of the directors (or their Alternate Directors) having a majority of the Voting Rights that could be exercised upon that resolution if it were considered by a meeting of the Board.

39.2 Any such resolution shall be as valid and effective as if it had been adopted by a duly convened and constituted meeting of Directors.

39.3 Unless the contrary is stated in the resolution, any such resolution shall be deemed to have been passed on the date on which it was signed by or on behalf of the Director (or Alternate Director) who signed it last.

39.4 The resolution may consist of one or more counterpart documents, each signed by one or more Directors (or their Alternates).

39.5 An Alternate Director shall only be entitled to sign such a written resolution if the Director to whom he is an Alternate Director is, at the time of the Alternate Director's signature, absent from the Republic, or is incapacitated.

Issue: 2019-01-26_12:01:08

40. EXECUTIVE DIRECTORS

40.1 The Board may appoint, from time to time, one or more of the Directors as executive Directors, who shall be employees of the Company, on such terms and conditions of employment as to remuneration and otherwise as may be determined from time to time by the Board.

40.2 The appointment of an executive Director shall, without prejudice to any claim of any nature whatever which any such Director may have against the Company, cease if for any reason he ceases to be an employee the Company .

41. PAYMENTS TO DIRECTORS

41.1 The Company may remunerate its Directors for for performing their duties as Directors, provided that such remuneration must be approved by a Special Resolution passed by the Shareholders within the two previous years and the authority of the Board in this regard is not restricted or limited by this MOI. For the avoidance of doubt it is recorded that this clause does not apply to remuneration paid to executive directors for their services as employees of the Company, which is governed by clause 40.1 above.

41.2 The Directors shall not be paid any travelling, subsistence or other expenses incurred by them in the execution of their duties as a Director, unless such expenses shall first have been authorised or ratified by the Directors.

42. INDEMNIFICATION AND INSURANCE FOR DIRECTORS

42.1 For the purposes of this clause 42, a Director includes:

42.1.1 a former Director and an Alternate Director;

42.1.2 a Prescribed Officer; and

42.1.3 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.

Issue: 2019-01-26_12:01:08

42.2 The Board may, on behalf of the Company, as contemplated in sections 78(4), 78(5) and 78(7) of the Act, -

42.2.1 advance expenses to a Director to defend litigation in any proceedings arising out of the Director's service to the Company; and

42.2.2 directly or indirectly indemnify a Director for expenses contemplated in 42.2.1 above, irrespective of whether or not it has advanced those expenses, if the proceedings –

42.2.2.1 are abandoned or exculpate that Director; or

42.2.2.2 arise in respect of any liability for which the Company may indemnify the Director, in terms of 42.2.3;

42.2.3 indemnify a Director against any liability arising from the conduct of that Director, other than a liability set out in section 78(6) of the Act;

42.2.4 purchase insurance to protect :

42.2.4.1 a Director against any liability or expense for which the Company is permitted to indemnify the Director in accordance with 42.2.3;

42.2.4.2 the Company against any contingency, including –

42.2.4.2.1 any expenses –

42.2.4.2.1.1 that the Company is permitted to advance in accordance with 42.2.1; or

42.2.4.2.1.2 for which the Company is permitted to indemnify a Director in accordance with 42.2.2; or

42.2.4.2.2 any liability for which the Company is permitted to indemnify a Director in accordance with 42.2.3,

Issue: 2019-01-26_12:01:08

and the authority of the Board in this regard is not limited or restricted by this MOI.

42.3 The Company shall and is hereby obliged to indemnify each Director against (and pay to each Director, on demand by that Director, the amount of) any loss, liability, damage, cost (including all legal costs reasonably incurred by the Director in dealing with or defending any claim) or expense ("Loss") which that Director may suffer as a result of any act or omission of that Director in his capacity as a Director; provided that:

42.3.1 this indemnity shall not extend to any Loss –

42.3.1.1 against which the Company is not permitted to indemnify a Director by section 78(6) of the Act; or

42.3.1.2 any Loss arising from wilful misconduct or wilful breach of trust on the part of that Director, or

42.3.1.3 any loss of or damage to reputation;

42.3.1.4 in the event and to the extent that the Director has recovered or is entitled and able to recover the amount of that Loss in terms of any insurance policy (whether taken out or paid for by the Company or otherwise);

and Directors shall not be entitled to recover the Losses referred to in this clause 42.3.1 from the Company. All losses other than those referred to in this 42.3.1 are referred to herein as **"Indemnified Losses"**;

42.3.2 each Director's right to be indemnified by the Company in terms of this indemnity shall exist automatically upon his/her becoming a Director and shall endure even after he/she ceases to be a Director until he/she can no longer suffer or incur any Indemnified Loss;

42.3.3 then:

Issue: 2019-01-26_12:01:08

42.3.3.1 if any claim is made against a Director in respect of any Indemnified Loss, the Director shall not admit any liability in respect thereof and the Director shall notify the Company of any such claim within a reasonable time after the Director becomes aware of such claim, in order to enable the Company to contest such claim. Notwithstanding the aforegoing provisions of this 42.3.3, the Company's liability in terms of this indemnity shall not be affected by any failure of the Director to comply with this 42.3.3, save in the event and to the extent that the Company proves that such failure has resulted in the Indemnified Loss being greater than it would have been had the Director complied with this clause 42.3.3;

42.3.3.2 the Company shall, at its own expense and with the assistance of its own legal advisers, be entitled to contest any such claim in the name of the Director until finally determined by the highest court to which appeal may be made (or which may review any decision or judgment made or given in relation thereto) or to settle any such claim and shall be entitled to control the proceedings in regard thereto; provided that –

42.3.3.2.1 the Director shall (at the expense of the Company and, if the Director so requires, with the involvement of the Director's own legal advisers) render to the Company such assistance as the Company may reasonably require of the Director in order to contest such claim;

42.3.3.2.2 the Company shall regularly, and in any event on demand by the Director, inform the Director fully of the status of the contested claim and furnish the Director with all documents and information relating thereto which may reasonably be requested by the Director;

42.3.3.2.3 the Company shall consult with the Director prior to taking any major steps in relation to or settling such contested claim and, in particular, before making or agreeing to any announcement or other publicity in relation to such claim;

Issue: 2019-01-26_12:01:08

42.3.4 to the extent that any Loss consists of or arises from a claim or potential claim that the Company might otherwise have had against the Director, then the effect of this indemnity shall be to prevent the Company from making such claim against the Director, who shall be immune to such claim, and such claim shall therefore be deemed to not arise;

42.3.5 if this clause 42 is amended at any time, no such amendment shall detract from the rights of the Directors in terms of this clause in respect of any period prior to the date on which the resolution effecting such amendment is adopted by the Shareholders;

42.3.6 all provisions of this clause 42.3 are, notwithstanding the manner in which they have been grouped together or linked grammatically, severable from each other. Any provision of this clause 42.3 which is or becomes unenforceable, whether due to voidness, invalidity, illegality, unlawfulness or for any other reason whatever, shall, only to the extent that it, is, so unenforceable, be treated as pro non scripto and the remaining provisions of this clause 42.3 shall remain of full force and effect;

42.3.7 this indemnity shall not detract from any separate indemnity that the Company may sign in favour of the Director.

PART F - GENERAL PROVISIONS

43. FINANCIAL STATEMENTS AND ACCESS TO COMPANY INFORMATION

43.1 The Company shall prepare annual Financial Statements in accordance with the Act and the Regulations and shall, only to the extent required by the Act or the Regulations, have those annual Financial Statements audited or reviewed.

43.2 A copy of the annual Financial Statements of the Company shall be delivered to all Shareholders in accordance with clause 47 hereof as soon as possible after those annual Financial Statements have been approved by the Board.

43.3 Except as set out in this clause 43, no information rights are established by this MOI in favour of a Person who holds or has a beneficial interest in any

Issue: 2019-01-26_12:01:08

Securities issued by the Company in addition to those rights created by section 26 of the Act.

44. FINANCIAL ASSISTANCE

44.1 The Board may, as contemplated in section 44 of the Act and subject to the requirements of that section, authorise the Company to provide financial assistance by way of a loan, guarantee, the provision of security or otherwise, to any Person for the purpose of, or in connection with, the subscription for any option, or any Securities, issued or to be issued by the Company or a Related or Inter-related company, or for the purchase of any such Securities. The authority of the Board in this regard is, accordingly, not limited or restricted by this MOI.

45. FINANCIAL ASSISTANCE TO DIRECTORS, PRESCRIBED OFFICERS AND RELATED AND INTER-RELATED COMPANIES.

45.1 The Board may, as contemplated in section 45 of Act and subject to the requirements of that section, authorise the Company to provide direct or indirect financial assistance to a Director or Prescribed Officer of the Company, or of a Related or Inter-related Company or corporation, or to a Related or Inter-related Company/or to a Member of a Related or Inter-related Company, or to a Person Related to any such Company, corporation, Director, Prescribed Officer or Member. The authority of the Board in this regard is, accordingly, not limited or restricted by this MOI.

46. DISTRIBUTIONS

46.1 The Company may transmit any Distribution or amount payable in respect of a Share by:

46.1.1 ordinary post to the postal address of the Shareholder thereof (or, where two or more Persons are registered as the joint Shareholders of any Share, to the address of the joint holder whose name stands first in the Securities Register) recorded in the Securities Register or such other address as the holder thereof may previously have notified to the Company in writing for this purpose; or

Issue: 2019-01-26_12:01:08

46.1.2 electronic bank transfer to such bank account as the holder thereof may have notified to the Company in writing for this purpose,

and the Company shall not be responsible for any loss in transmission.

46.2 Any Distribution or other money payable on or in respect of a Share -

46.2.1 which is unclaimed, may be retained by the Company and may be invested or used as the Board may deem fit for the benefit of the Company until claimed by the Shareholder concerned;

46.2.2 which is retained and unclaimed:

46.2.2.1 for twelve years; or

46.2.2.2 for three years, should the Company be wound-up or deregistered,

after the payment date of the Distribution or money in question, 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;

46.3 shall not bear interest against the Company; and

46.4 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 the Republic, the liability for payment of any such Distribution or other money, payment of which has not been forfeited in terms of the aforegoing.

47. NOTICES

47.1 Any notice that is required to be given to Shareholders or Directors may be given in any manner prescribed in the Table CR3 to the Regulations and the notice shall be deemed to have been delivered as provided for in the Regulations as a result of the relevant method of delivery.

47.2 Each Shareholder and Director shall:

Issue: 2019-01-26_12:01:08

47.2.1 notify the Company in writing of a postal address, which address shall be his registered address for the purposes of receiving written notices from the Company by post and, if he has not named such an address, he shall be deemed to have waived his right to be so served with notices; and

47.2.2 unless otherwise agreed with the Company, notify in writing to the Company an e-mail address and facsimile number, which address shall be his address for the purposes of receiving notices by way of e-mail or facsimile, respectively.

ADOPTION OF MOI

This MOI was adopted by special resolution at a Shareholders meeting held on _____.

Issue: 2019-01-26_12:01:08

SCHEDULE 1 - SHARE CAPITAL

The numbers and classes of Shares which the Company is authorised to issue are set out below.

4,000 Ordinary Shares having the rights and limitations set out in the MOI.

COMMISSION OF INQUIRY INTO STATE CAPTURE

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Fol ...AMEZEST (PTY)LTD
Fro ...eet Venter [peet@dah.co.za]
To : Peet Venter
Cc :
Sent On : [2017/11/12 23:54]
Priority : Normal
Attachments : Software License Agreement - Bosasa Youth Development Centre Execution copy.doc Software License Agreement - Kgwerano Financial Services Execution copy.doc

FW: RE: License agreements mark-up - please accept amendments to finally execute

Peet Venter | Associate
Professional Accountant (S.A)
General Tax Practitioner (S.A)™
D'Arcy-Herrman & Co Inc
Chartered Accountants (S.A) | Registered Auditors

011 954-5016 | Cell: 082 462-9527 | www.dah.co.za

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-----Original Message-----
From: Peet Venter [mailto:peet@dah.co.za]
Sent: 2017/01/30 00:01
To: antonie@avwattorneys.co.za
Subject: FW: RE: License agreements mark-up - please accept amendments to finally execute

Hi Antonie,

Het Lindsay die finale dokumente vir jou gestuur?
(oor die Software License agreements)

Dankie

Peet Venter | Associate
Professional Accountant (S.A)
General Tax Practitioner (S.A)™
D'Arcy-Herrman & Co Inc
Chartered Accountants (S.A) | Registered Auditors

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Page: 1077 of 1250
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Issue: 2015-01-26 12:01:08

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Geoktrooieerde Rekenmeesters

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-----Original Message-----
From: Antonie van Wyk [mailto:antonie@avwattorneys.co.za]
Sent: 2015/12/14 16:35
To: daniel.n.erasmus@me.com; Lindsay.Watson@bosasa.com
CC: Andries.vanTonder@bosasa.com; kerry@taxriskmanagement.com; peet@dah.co.za
Subject: RE: License agreements mark-up - please accept amendments to finally execute

Dear All,

I attach the execution copies of the agreements. Please note that the following still needs to be populated before signature:

Kgwerano

- Clause 15.1 and 15.2 : e-mail addresses and names of company respresentatives
- Annexure A : detailed description of the software. This could itemise modules, components and/or distinguishing features of the software.

Bosasa

- Clause 16.1 and 16.2 : e-mail addresses and names of company respresentatives
- Annexure A : as above

Please let me know if you have any queries.

Regards,

Antonie van Wyk
Consultant to TRM Daniel Erasmus Tax Court Practitioners

COMMISSION OF INQUIRY STATE CAPTURE

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Page: 1078 of 1250

AA-1069

ANTONIE VAN WYK AND ASSOCIATES

Antonie van Wyk
BA LL.B LL.M H.Dip Tax
Direct Dial: +27 (0) 21 762 3387
Fax: +27 (0) 86 610 7578
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E-mail: antonie@avwattorneys.co.za

From: Daniel N Erasmus [mailto:daniel.n.erasmus@me.com]
Sent: 14 December 2015 07:56
To: Lindsay Watson <Lindsay.Watson@bosasa.com>
Cc: Peet Venter <peet@dah.co.za>; Andries van Tonder <Andries.vanTonder@bosasa.com>; Antonie van Wyk <antonie@avwattorneys.co.za>; Kerry Watkin <kerry@taxriskmanagement.com>
Subject: Re: License agreements mark-up - please accept amendments to finally execute

Thanks all.

Antonie will you effect the latest suggested amendments by Peet and circulate finals.

Thanks,

Dr. Daniel N Erasmus
TRM Daniel Erasmus Tax Court Practioners
Trial Counsel
daniel.n.erasmus@me.com
+1 561 568 7115
+27 83 458 8422
Alliances in:
USA
South Africa
France
Nigeria
Zimbabwe
Mauritius

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Page: 1079 of 1250
AA-1070

Issue: 2019-01-26 12:01:08

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Page: 1080 of 1250

On Dec 14, 2015, at 7:54 AM, Lindsay Watson <Lindsay.Watson@bosasa.com> wrote:

Hi All,

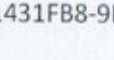
I am satisfied with the amendments.

Many thanks.

Regards,

Lindsay Watson
Legal Department
Bosasa Group of Companies

The Bosasa Group
Mogale Business Park
Windsor Road | Mogale City | 1739 | Gauteng | South Africa
Tel: +27 (0) 11 662 6069
Mobile:+27 (0) 83 607 1542
Website: www.bosasa.com



From: Daniel N Erasmus
Date: Friday, December 11, 2015 at 5:49 PM
To: Peet Venter, Andries van Tonder, LINDSAY WATSON
Cc: Antonie van Wyk, Kerry Watkin
Subject: License agreements mark-up - please accept amendments to finally execute

Dr. Daniel N Erasmus

AA-1071

Erasmus Tax Court Practioners

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COMMISSION INTO STATE CAPTURE

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SOFTWARE LICENSE AGREEMENT

entered into between

LAMOZEST (PROPRIETARY) LIMITED

and

BOSASA YOUTH DEVELOPMENT CENTRE (PROPRIETARY) LIMITED

COMMISSION OF INQUIRY INTO STATE CAPTURE

INDEX

1. PARTIES 1
2. PREAMBLE 1
3. INTERPRETATION 1
4. GRANT OF LICENSE 4
5. DELIVERY 4
6. CONSIDERATION 4
7. AGENCY 5
8. ENHANCEMENT SERVICES 5
9. PROPRIETARY RIGHTS 6
10. LICENSEE'S DUTIES 7
11. LICENSOR'S DUTIES 8
12. DURATION 9
13. TERMINATION 9
14. LIMITED WARRANTIES 10
15. FORCE MAJEURE 11
16. NOTICES 11
17. ARBITRATION 12
18. MUTUAL SUPPORT 14
19. INFRINGEMENT 14
20. INDEMNIFICATION 15
21. EXCLUSION OF DAMAGES AND LIMITATION OF LIABILITY 15
22. CONFIDENTIALITY 16
23. PUBLICITY 17
24. SEVERANCE 18
25. CONTRACT VARIATION 18
26. NO WAIVER 18
27. ASSIGNMENT, SUB-CONTRACTING AND RESPONSIBILITY 18
28. NO PARTNERSHIP 18
29. ENTIRE AGREEMENT 18
30. PROPER LAW AND JURISDICTION 19

Annexure A

Issue: 2019-01-26_12:01:08

SOFTWARE LICENSE AGREEMENT

1. PARTIES

1.1 Lamozest (Pty) Ltd ("the Licensor");

and

1.2 Bosasa Youth Development Centres (Pty) Ltd ("the Licensee").

2. PREAMBLE

WHEREAS

2.1 The Licensor is the owner of the Software (as hereinafter defined).

2.2 The Licensee is desirous of obtaining, and the Licensor is desirous of granting to the Licensee, the right to use the Software inside South Africa; and furthermore

2.3 the Licensor is desirous of appointing the Licensee as its agent to market and distribute the Software outside of South Africa, and the Licensee is desirous of accepting such appointment,

upon the terms and subject to the conditions as set out herein

IT IS NOW AGREED AS SET OUT BELOW

3. INTERPRETATION

In this Agreement unless the context otherwise requires -

3.1 The singular shall import and include the plural and vice versa.

3.2 Words indicating one gender shall import and include other genders.

3.3 Words indicating natural persons shall import and include artificial persons.

3.4 The headnotes to this Agreement are used for the sake of convenience only and shall not govern the interpretation of the clauses to which they relate.

Issue: 2019-01-26_12:01:08

DEFINITIONS

3.5 Unless such meaning is inconsistent with the context, the following terms shall throughout this Agreement have the meanings respectively ascribed to them, namely:

3.5.1 "***Agreement***" - shall mean this agreement and all annexures;

3.5.2 "***Confidential Information***" – shall mean any information of whatever nature, which has been or may be obtained by either of the Parties from the other, whether in writing or in electronic form or pursuant to discussions between the Parties, or which can be obtained by examination, testing, visual inspection or analysis, including without limitation, scientific, business or financial data, know-how, formulae, processes, designs, sketches, photographs, plans, drawings, specification, models, Customer lists, price lists, studies, computer software, software source code, inventions or ideas and/or analyses, concepts, compilations, studies, instruction manuals and other material prepared by or in the possession or in the control of the recipient which contain or otherwise reflect or are generated from any such information as is specified in this definition: And in any dispute between the Parties resulting from any contractual relationship between them it is recorded that the following information shall, for the purposes of interpreting what constitutes Confidential Information, not be considered to be Confidential Information: Information that either of the Parties had prior to the date that it was received from the other Party, or information known to the public or generally available to the public prior to the date that it was disclosed by either of the Parties to the other, or information which becomes known to the public or becomes generally available to the public subsequent to the date that it was disclosed by either of the Parties to other through no act or failure to act on the part of the recipient of such information or information which either of the Parties, in writing authorises the other to disclose;

3.5.3 "***Customers***" shall mean such Persons within the Territory with whom the Licensee contracts for the use of the Software pursuant to the license granted by the Licensor in favour of the Licensee as contemplated in this Agreement;

3.5.4 "***Deliver***" – shall mean, in relation to the Licensor making available the Software (including any updates and enhancement thereto) to the Licensee in terms of this Agreement, actual physical delivery, or where the Software is readily available for access by the Licensee through electronic or web-enabled means, then the date that the Software is made accessible to the Licensee or any Customer designated by it;

3.5.5 "***Effective Date***" – shall mean 1 August 2015 notwithstanding the Signature Date;

3.5.6 "***External Territory***" - shall mean the United States of America and the entire continent of Africa, excluding the Territory;

3.5.7 "***Intellectual Property Rights***" – shall mean all vested existing and contingent and all future intellectual property rights in and to the Software, including but not limited to

Issue: 2019-01-26_12:01:08

copyright, trademarks, service marks, design rights (whether registered or unregistered), patents, know-how, trade secrets, inventions, get-up, database rights and any applications for the protection or registration of these rights, and all renewals and extensions thereof existing in any part of the world whether now known or in the future created, to which the Licensor, as owner of the Software, may be entitled;

3.5.8 "***Licensee***" - shall mean Bosasa Youth Development Centres (Pty) Ltd, a private company with limited liability registered in accordance with the laws applicable in the Republic of South African under registration number 2003/002608/07;

3.5.9 "***Licensor***" – shall mean Lamozest (Pty) Ltd, a private company with limited liability registered in accordance with the laws applicable in the Republic of South African under registration number 2012/126413/07;

3.5.10 "***Mandate***" – shall mean the mandate granted by the Licensor to the Licensee in terms of 7.1;

3.5.11 "***Parties***" – shall mean the parties to this Agreement as reflected in clause 1 of this Agreement, and the term "Party" shall, as the context may indicate, mean any one of them;

3.5.12 "***Person***" – shall include a natural person, a juristic person, a partnership, trust or association, as the case may be;

3.5.13 "***Protected Marks***" – shall mean the names "trustMASTER", "trustMASTER Child & Youth Care System", as well as any other registered names or marks created or acquired by the Licensor relating to the Software during the operation of this Agreement (including any goodwill related thereto, which is owned or licensed by the Licensor);

3.5.14 "***Signature Date***" - shall mean the date of signature of this Agreement by the Party signing last in time;

3.5.15 "***Software***" - shall mean the Intellectual Property Rights, Protected Marks, source code and related specifications that comprise an holistic Youth Development Software Solution with integrated biometrics for child identification, case management and healthcare management that complies with the Child Justice Act, known as the trustMASTER Child & Youth Care System as more fully described in Annexure A attached hereto;

3.5.16 "***Taxes***" – shall mean all taxes imposed by any governmental authority, including (without limitation) on income, profits, stamp, ad valorem, value added, excise, payroll, unemployment, disability, employees' income withholding, social security and/or withholding taxes;

3.5.17 "***Territory***" – shall mean the Republic of South Africa.

Issue: 2019-01-26_12:01:08

PART A - LICENSING

4. GRANT OF LICENSE

4.1 As from the Effective Date the Licensor hereby grants the Licensee the right to use the Software within the Territory subject to the terms of this Agreement, and the Licensee accepts such right.

4.2 Subject to the provisions of 7 the Licensee shall not:

4.2.1.1 license, market, deliver, implement, exploit or otherwise distribute the Software outside the Territory or to any Person whom it knows, or ought reasonably to know, intends to sub-license or otherwise use or make available the Software outside the Territory, without the expressive written prior approval of the Licensor; or

4.2.1.2 procure, import and/or source any other product that is similar to or competes with the Software from any other Person, save under the provisions of this Agreement.

5. DELIVERY

5.1 The Licensor shall, on the Effective Date, Deliver one copy of the Software to the Licensee together with a copy of all documentation and other materials required by the Licensee for the proper implementation of this Agreement.

5.2 The Licensor shall provide sufficient adequately skilled technical staff to give technical assistance to the Licensee to install the Software and ensure that it is fully functional and operational, provided that the computer hardware of the Licensee on which the Software is to be installed complies with the minimum hardware requirements stipulated by the Licensor, and remains compliant thereafter.

5.3 In commissioning the Software the Licensor shall co-operate and assist the Licensee with product testing and staff training that may be necessary to ensure that the Software can be utilised as intended and in accordance with quality control standards set by the Licensor.

6. CONSIDERATION

6.1 In consideration of the rights and licence granted and the duties and obligations of the Licensor as set out herein, the Licensee shall pay to the Licensor an amount of three hundred and eighty five Rand (R385.00) per month for each Customer who uses the Software ("the License Fee") at any time during the course of that month.

6.2 The License Fee shall be payable by the Licensee to the Licensor free from exchange and

Issue: 2019-01-26_12:01:08

bank fees on the first business day of each and every month, commencing the month following the Effective Date, into a bank account nominated by the Licensee in writing from time to time.

6.3 The Licensee shall not have the right to defer or withhold any of the Licence Fees due to the Licensor in terms of this Agreement or apply for deferment of any such payment or deferment of any execution of a judgment by reason of any set-off or counter claim of whatsoever nature and howsoever arising.

6.4 All amounts payable by the Licensee to the Licensor in terms of this Agreement and which are not paid on due date shall bear interest at the prime rate of the Licensor's bank from time to time. The interest shall be calculated monthly in advance from the due date and shall be compounded.

6.5 The Licensor's right to charge interest on outstanding amounts shall not detract from any other rights that the Licensor may have in terms of this Agreement.

PART B - AGENCY

7. AGENCY

7.1 The Licensor hereby appoints the Licensee as its sole agent and representative with a view to the marketing and distribution, on behalf of the Licensor, of the Software in the External Territory. In performing the Mandate the Licensee shall at all times act strictly in accordance with the written instructions of the Licensor from time to time. Any act by the Licensee outside of the scope of the Mandate shall not be binding on the Licensor, and the Licensee shall be liable for any claims against or damages caused to the Licensor as a result thereof.

7.2 The Licensee hereby accepts its appointment as marketing and distribution agent of the Software on behalf of the Licensor on the basis set out in 7.1.

7.3 The Licensor shall pay the Licensee an agreed fee for any Software that is sold and implemented by the Licensor and/or the Licensee pursuant to the Mandate, which fee shall incorporate a compensation for reasonable direct costs incurred by the Licensee in performing its duties in terms of the Mandate. The said fee as well as the terms of payment thereof shall be negotiated between the Parties and documented in writing from time to time.

PART C - GENERAL

Issue: 2019-01-26_12:01:08

8. ENHANCEMENT SERVICES

8.1 In addition to the Licensee's duties outlined in 10 below, the Licensee shall for the benefit of the Licensor, provide the following services, namely-

8.1.1 market and grow the Intellectual Property Rights and the Protected Marks within the Territory, and promote the Software on the basis that all goodwill created thereby in the Territory shall become the sole exclusive property of the Licensor, and on termination of this Agreement for any reason whatsoever, the goodwill shall become the sole and exclusive property of the Licensor;

8.1.2 on an ongoing basis provide the Licensor with technical and operational feedback and advice in relation to the Software and its experience in promoting the Software within the Territory, and on the basis that all know-how provided by the Licensee shall be utilised by the Licensor in order to enhance and further develop the software for application inside or outside of the Territory;

8.1.3 to rigorously test the Software and investigate further refinements thereto, and to provide periodic written reports as to the performance of the Software, suggestions as to enhancement thereto, illustration of the identified strengths and weaknesses of the Software, its usability and market acceptance within the Territory.

8.2 All of the enhancement services provided for in 8 above shall be made by the Licensee for no consideration whatsoever, on the basis that all such know-how shall become the sole and exclusive property of the Licensor, save that any such enhancement to the Software created as a result of such enhancement services may be utilised free of charge by the Licensee in the course of its exploitation of the Software within the Territory, but only for the duration of this Agreement.

8.3 In the course of the Licensee rendering its enhancement services contemplated above, the Licensee shall make its recommendations to the Licensor as to suggested modifications and enhancements to the Software including replacing or adapting portions thereof with other applications, convert the Software to another programming language or modify such Software for use under another system to create updated, related or derivative works. All such recommendations which have the effect of materially altering the general infrastructure, design or functionality of the Software shall require the prior written approval of the Licensor, and all development costs relating thereto shall be paid for by the Licensor. Any costs associated with changes to the Software which in the opinion of the Licensor relate to the maintenance of the Software, or relate specifically to the application of the Software in the Territory exclusively, shall be for the account of the Licensee.

9. PROPRIETARY RIGHTS

9.1 The Software embodies substantial creative efforts, Confidential Information, ideas and expressions. All trade secrets, Intellectual Property Rights, Protected Marks and other proprietary rights therein shall at all times remain the sole and exclusive property of the Licensor.

9.2 The Licensee acknowledges that the Licensor shall also be the sole owner of all and any

Issue: 2019-01-26_12:01:08

goodwill created by virtue of the exploitation by the Licensee of the Software in the Territory during the term of this Agreement.

10. LICENSEE'S DUTIES

The Licensee shall :

10.1 comply strictly with its enhancement services obligations outlined in 8;

10.2 advise the Licensor promptly of all enquiries relating to the Software which emanate from outside the Territory, free of consideration or commission;

10.3 conduct an effective Software promotion programme and advertising campaign within the Territory in a form agreed between the Licensor and the Licensee from time to time;

10.4 be responsible for all Software hosting, marketing, management and advertising costs incurred in the promotion and use of the Software in the Territory;

10.5 provide adequate facilities for the storage of the Software under secure and electronic virus free conditions and otherwise under conditions reasonably acceptable to the Licensor from time to time;

10.6 obey reasonable directives from the Licensor in relation to all matters affecting the description, presentation, marketing and implementation of the Software;

10.7 from time to time and on the written request of the Licensor, supply to the Licensor reasonable reports, returns and other information relating to the Software and the development of the market therefor in the Territory;

10.8 except as envisaged under 7, not license, provide or otherwise exploit the Software with any Customers outside the Territory, or establish any branch or maintain any distribution facilities for the Software outside the Territory;

10.9 not be entitled to assign or transfer or attempt to assign or transfer any of its rights or obligations under or in terms of this Agreement;

10.10 not do or permit to be done anything which prejudices the reputation of the Licensor, the Intellectual Property or the Software itself;

10.11 not contest the Licensor's title to any of the Intellectual Property Rights and Protected Marks;

10.12 not effect or permit the removal or alteration of any Protected Marks, including any other copyright, trademark, brand mark or brand name forming part of the Software;

10.13 not engage in a policy, trade practice or advertising method which, in the Licensor's opinion, may be injurious to the reputation of the Licensor and/or the Software;

Issue: 2019-01-26_12:01:08

10.14 not modify the brand name or trademark or trade name graphics of the Software, without the prior written consent of the Licensor;

10.15 not give any guarantees and/or warranties with regard to the Software, save for such guarantees and/or warranties that have been agreed to in writing by the Licensor;

10.16 not appoint any sub-agent, sub-licensee or sub-distributor, save with the prior written consent of the Licensor. Such consent shall be withheld if the appointee fails or refuses to bind itself *mutatis mutandis* to the terms and conditions of this Agreement;

10.17 be solely responsible for obtaining in its own name, and thereafter maintaining, such consents, licenses, approvals, registrations and authorisations required by the laws or regulations of the Territory for the marketing, and other exploitation of the Software and all costs associated therewith;

10.18 effect and maintain adequate security measures to safeguard the Intellectual Property Rights in and to the Software from use by any unauthorised person;

10.19 maintain a full and accurate record of its use and disclosure of the Software and shall produce such record to the Licensor on request from time to time;

10.20 not transfer, sell, sub-license or otherwise transfer rights granted to the Licensee in terms of this Agreement to any third party, it being understood by the Licensee that the Licensing of the Software in its favour in terms of this Agreement is non-transferrable;

10.21 not reverse-engineer, decompile or disassemble, tamper with or copy any aspect comprising the Software, and shall not remove, overprint or deface any notice of copyright or confidentiality, trade mark, logo, legend, or other notices of ownership from any version of the Software as it is required to be displayed online based on the instructions of the Licensor;

10.22 not obtain any financial benefit whatsoever, whether directly or indirectly, or whether vested or contingent, with respect to the utilisation, exploitation or other use of the Software by any third party (or the Licensee itself) outside the borders of the Territory.

11. LICENSOR'S DUTIES

The Licensor shall:

11.1 provide reasonable ongoing technical support and upgrades of the Software (as may be appropriate for the Territory) in favour of the Licensee, free of any consideration;

11.2 advise the Licensee promptly of all inquiries for the Software from potential Customers within the Territory that come to its knowledge, free of consideration or commission;

11.3 where lawfully required to protect the rights in favour of the Licensee in terms of this

Issue: 2019-01-26_12:01:08

Agreement, obtain the consent of any of its holding companies, subsidiaries and associated companies to abide by the same terms and conditions outlined in this Agreement as applies to the Licensor, to the extent that the Software is required to be licensed from such other entities to the Licensee.

12. DURATION

This Agreement shall commence on the Effective Date and shall, subject to the provisions of 13 and 14, endure indefinitely, provided that either Party shall have the right to terminate this Agreement on 2 (two) months written notice.

13. TERMINATION

13.1 At any time after the Effective Date the Licensor may unilaterally on 24 (twenty four) hours written notice terminate this Agreement on the happening of any one of the following events, namely-

13.1.1 the Licensee fails to observe its obligations to provide the enhancement services as outlined in 8 of this Agreement;

13.1.2 the Licensee acts outside of the scope of the Mandate;

13.1.3 the Licensee commits an act of insolvency (as contemplated in the relevant insolvency laws in the Republic of South Africa), or is otherwise placed into liquidation (whether voluntarily or at the instance of creditors) or is the object of a judicial management order; and/or

13.1.4 there is any change in the shareholding of the Licensee to that which existed as at the Effective Date.

13.2 Upon termination of this Agreement for any reason whatsoever :

13.2.1 the Licensee shall immediately cease to use the Software as well as all and any technical information, price lists, promotional material, trademarks, trade names, Protected Marks and Intellectual Property Rights relating to the Software and shall return to the Licensor the Software and all such technical information, price lists, advertising material and the like (at the cost of the Licensor).

13.2.2 the Licensee shall immediately discontinue the use of all signs, stationery, advertising and other material, which identify the Licensee with the Software or any of its trademarks or trade names.

3.2.3 the Licensee shall provide the Licensor with a detailed list of all Customers who are using the Software at the termination of this Agreement, as well as the details of all other prior Customers who used the Software at any time during the operation of this

Issue: 2019-01-26_12:01:08

Agreement.

14. LIMITED WARRANTIES

14.1 The Licensor provides in favour of the Licensee the following exclusive list of expressed warranties, namely-

14.1.1 the Licensor is the sole and exclusive owner of the Software and its related Intellectual Property Rights and Protected Marks;

14.1.2 the Licensor is under no restriction whatsoever with the respect of the exploitation of the Software, and in particular is entitled to license the Software to the Licensee within the Territory;

14.1.3 to the best of the Licensor's knowledge and belief, no aspect of the Software, the Intellectual Property Rights and the Protected Marks contravenes any other Intellectual Property Rights of third parties;

14.1.4 the Software does not breach any applicable law within the Territory or the External Territory or with respect to the international laws governing the worldwide web as to its intended application and function.

14.2 Save for the expressed warranties outlined in 14.1 above, which constitute a sole and exclusive list of warranties given by the Licensor to the Licensee relating to the Software, the Licensor makes no representation or warranty of any kind, whether expressed or implied, with respect to the Software, the Intellectual Property Rights and the Protected Marks, and in particular, without in any way limiting the generality of the foregoing, -

14.2.1 the Licensor expresses no representation of whatsoever as to the integrity, correctness, suitability, accurateness, completeness, effectiveness, reliability or commercial viability of the Software for the purposes required by the Licensee within the Territory;

14.2.2 the Licensor disclaims all representations and warranties as to any actual or perceived benefit, including but not limited to the implied warranties of merchantability and fitness and suitability for a particular purposes, of the Software in the hands of the Licensee;

14.2.3 the Software is licensed to the Licensee by the Licensor on an "as is" basis, and on the strict understanding that the Licensee shall assume the entire risk as to the results and performances arising out of any benefits, whether actual or perceived, arising by virtue of the application and/or utilisation of the Software.

Issue: 2019-01-26_12:01:08

15. FORCE MAJEURE

15.1 A Party shall not be liable for any loss suffered by the other Party arising out of delay in or prevention of performance of a Party's obligations due to any cause, the adverse effects of which the relevant Party could not and cannot reasonably and practicably avoid in the ordinary conduct of the Party's business.

15.2 The Party whose performance is delayed or prevented shall immediately give notice in writing of such delay or prevention to the other Party.

15.3 If a Party's performance is delayed by such a cause, the Party shall be entitled to a reasonable extension, not exceeding 90 (ninety) days, for performance. If performance is and shall be delayed for longer than this period, the performance shall be regarded as having been prevented.

15.4 If a Party's performance is prevented by such a cause, the Parties shall:

15.4.1 if the obligation or obligations of which performance is prevented are not material, make such financial adjustment between them as may be equitable.

15.4.2 if the obligation or obligations of which performance is prevented are material, endeavour in good faith to agree on an alternative basis for achieving the object of this Agreement.

15.5 If a Party's performance of a specific material obligation has been prevented by a cause referred to in this clause 15 and such cause shall prevent the performance of further obligations in terms of this Agreement in the future, with the effect that there is no reasonable prospect of one or other Party being able to perform its obligations in terms of this Agreement and if no alternative basis for achieving the object of this Agreement has been agreed between the Party's in terms of clause 15.4.2 hereof, then either Party shall be entitled, by written notice to the other to terminate this Agreement.

16. NOTICES

Any notices to be given to the parties in terms of this Agreement shall be in writing and delivered by hand during ordinary business hours or posted by prepaid registered post or dispatched by tele facsimile or by email, during normal business hours to the addresses mentioned hereunder, which respective addresses the parties choose as their *domicile* addresses for the delivery or service of all notices, communications or legal processes arising out of this Agreement:

16.1 The Licensor : Address: Mogale Business Park
1 Windsor Road
Luipaardsvlei
Mogale City, 1740

Issue: 2019-01-26_12:01:08

		Email:	.....
		Contact Person:	.....
16.2	The Licensee:	Address:	Mogale Business Park 1 Windsor Road Luipaardsvlei Mogale City, 1740
		Email:	.....
		Contact Person:	.....

or such other address as either Party may choose by written notice to the other from time to time.

16.3 Every notice shall be deemed to have been properly given :

16.3.1 if delivered by hand, on the date of delivery;

16.3.2 if sent by prepaid registered post, 7 (seven) days after the date on which the notice is posted;

16.3.3 if sent to a Party at its telefax number or email address, (in the absence of proof to the contrary) on the date of transmission where it is transmitted during normal business hours of the receiving instrument, and on the next business day where it is transmitted outside those business hours.

17. ARBITRATION

17.1 Should any dispute arise between the Parties in connection with:

17.1.1 the formation or existence of;

17.1.2 the implementation of;

17.1.3 the interpretation or application of the provisions of;

17.1.4 the Parties' respective rights and obligations in terms of or arising out of this Agreement or with regard to the breach or termination of;

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

17.1.6 any documents furnished by the Parties pursuant to the provisions of;

17.1.7 any Party's resolution which must be passed in terms of this Agreement or which relates in any way to any matter affecting the interests of the Parties outlined in terms of,

Issue: 2019-01-26_12:01:08

this Agreement, that dispute shall, unless resolved by the Parties, be referred to and be determined by dispute resolution in terms of this clause 17.

17.2 Should any dispute, disagreement or claim arise between the Parties (hereafter referred to as the "Dispute") concerning this Agreement, the Parties shall try to resolve the Dispute by negotiation. This entails that the one Party invites the other in writing to meet at a mutually convenient place and time in order to attempt to resolve the Dispute within 20 (twenty) days from the date of the written invitation.

17.3 Failing such a resolution within 45 (forty five) days form the date of written invitation referred to in 17.2 above, the Dispute shall be held –

17.3.1 at Johannesburg;

17.3.2 with only the legal and other representatives of the parties to the dispute present thereat;

17.3.3 *mutatis mutandis* in accordance with the provisions of the Superior Court Act, No. 10 of 2013 and the rules made in terms of that Act;

17.3.4 otherwise in terms of the Arbitration Act, No. 42 of 1965;

17.3.5 it being the intention that the arbitration shall be held and completed as soon as possible.

17.4 The Arbitrator in this regard shall be, if the matter in issue is –

17.4.1 primarily an accounting matter, an independent chartered accountant of not less than 10 (ten) years standing;

17.4.2 primarily a legal matter, an independent practising attorney or advocate of not less than 10 (ten) years standing; or

17.4.3 any other matter, an independent person agreed to between the Parties.

17.5 The arbitrator shall be obliged to give reasons and a detailed written opinion supporting any decision made by him in the course of the arbitration.

17.6 The Parties undertake to keep the arbitration (which arbitration shall be held in camera), including the subject matter of the arbitration and the evidence heard during the arbitration confidential, and not to disclose it to anyone except for the purposes of an order to be made in terms of 17.7.

7.7 Each of the Parties irrevocably agree that the decision in any such arbitration proceedings shall be binding on them and shall be carried into effect and may be made an order of any competent court having jurisdiction.

Issue: 2019-01-26_12:01:08

17.8 Nothing in this clause 17 shall preclude either Party from seeking any interim relief from any competent court having jurisdiction pending the institution of any arbitration proceedings in terms of this clause 17.

17.9 The parties agree to keep the dispute resolution, including the subject matter of the dispute confidential and not to disclose it to anyone except for purposes of an order to be made in terms of 17.7.

17.10 The provisions of this clause -

17.10.1 constitute an irrevocable consent by the Parties to any proceedings in terms hereof and they shall not be entitled to withdraw therefrom or claim at any such proceedings that they are not bound by such provisions;

17.10.2 are severable from the rest of this Agreement and shall remain in effect despite the termination or invalidity for any reason of this Agreement.

18. MUTUAL SUPPORT

18.1 The Parties undertake at all times to do all such things, to perform all such acts and to take all such steps and to procure the doing of all such things, the performance of all such actions and the taking of all such steps, as may be open to them and necessary for or incidental to, the putting into effect or maintenance of the terms, conditions and import of this Agreement.

18.2 The Parties agree that their relationship to each other, whilst not being one of partnership, shall be based upon the utmost good faith as between them.

19. INFRINGEMENT

19.1 The Licensee must promptly notify and keep the Licensor informed regularly of:

19.1.1 any actual or suspected infringement of the Software and Protected Marks; or

19.1.2 any relevant passing off in relation to the Software and Protected Marks; or

19.1.3 any application to register a trade mark which may conflict with or be confused with the Software and Licensed Mark;

that comes to its attention (each an "Infringement").

19.2 The Licensee shall take such action as it (acting reasonably) considers necessary to protect the Intellectual Property Rights, value, reputation and/or validity of the Software and Protected Marks in the Territory, including initiating legal proceedings in respect of any Infringement. The Licensor shall be responsible for the cost of any legal proceedings it brings. The Licensee shall, at the reasonable cost of the Licensor, provide all reasonable

Issue: 2019-01-26_12:01:08

assistance to the Licensee in relation to any legal proceedings for Infringement brought by the Licensee (including, for the avoidance of doubt, joining any proceedings brought by the Licensee where so required by applicable laws).

19.3 The Licensee shall have the right to conduct the defence of any claim made by a third party in relation to the Protected Marks in the Territory. If requested to do so by the Licensee, The Licensor shall at its cost, provide all information and assistance reasonably required by the Licensee to enable the Licensee to conduct such a defence (including, for the avoidance of doubt, joining any proceedings brought by the Licensee where so required by applicable laws).

19.4 The Licensee shall not do anything, or assist any third party, to invalidate the Protected Marks or community trade mark registrations and/or applications.

20. INDEMNIFICATION

20.1 The Licensor shall indemnify and hold harmless the Licensee from and against any and all claims, liability, loss, damages, fines, costs, legal costs, professional and other expenses of any nature whatsoever incurred or suffered by the Licensee strictly arising out or in connection with any claim that the Licensee's marketing of the Software or reference to the Protected Marks in the Territory, or the execution of the Mandate in the External Territory, in accordance with this Agreement, infringes a third party's intellectual property rights.

20.2 The Licensee shall indemnify and hold harmless the Licensor and its associates and group companies from and against any and all claims, liability, loss, damages, fines, costs, legal costs, professional and other expenses of any nature whatsoever incurred or suffered by the Licensor and its associates and group companies arising out or in connection with any misuse by any Person of the Software or Protected Marks within the Territory or the External Territory or breach of the terms of this Agreement.

21. EXCLUSION OF DAMAGES AND LIMITATION OF LIABILITY

21.1 Under no circumstances shall the Licensor be liable to the Licensee for any consequential, indirect, special, punitive or incidental damages, including damages caused by force majeure, whether forcible or enforceable, based on claims by the Licensee or any of its Customers (including, but not limited to, claims for loss of data, goodwill, profits, use of money or use of hardware or software, interruption in use of availability of data, hardware or software, stoppage or other work or impairment of other assets), for breach or failure of expressed or implied warranty, breach of contract, misrepresentation, negligence, strict liability in delict or otherwise, whether based on this Agreement, any commitment performed or undertaken under or in connection with the use of the Software pursuant to this Agreement, or otherwise.

Issue: 2019-01-26_12:01:08

21.2 Under no circumstances shall the aggregate liability which the Licensor may incur in respect of any claim by the Licensee exceed a value of USD1,000 (one thousand United States Dollars), and in aggregate in respect of all claims arising out of and during the course of this Agreement shall not exceed a sum of USD10,000 (ten thousand United States Dollars): Provided that the Licensor shall incur no liability whatsoever unless it receives written notice of the claim and the notice as served within 1 (one) month of the date on which the Licensee became aware of any claim or ought reasonably to have become so aware.

21.3 Notwithstanding any provisions of this clause 21, the Licensor shall be discharged of any liability it may have towards the Licensee as a result of damages suffered by the Licensee if the Licensee, its employees, representatives, agents, assignees and successors attempt to perform, or allow third parties to perform, any obligations which shall have a responsibility of or shall have the effect on the responsibility of the Licensee, without the prior written consent of the Licensor having been obtained.

22. CONFIDENTIALITY

22.1 Each Party ("the Receiving Party") agrees that all Confidential Information received from the other Party ("the Disclosing Party") shall –

22.1.1 be treated as strictly confidential;

22.1.2 be disclosed, save for the exceptions provided for in 22.2 below only to those directors, offices, employees, legal advisors and accountants of the Receiving Party who have a need to know and shall be used by such persons solely as required in connection with-

22.1.2.1 the performance of this Agreement; or

22.1.2.2 the operation of the Disclosing Party's business in the course of the exploitation of the Software as may be reasonably necessary;

22.1.3 not be disclosed to any third Party except if expressly permitted in this Agreement, not limited to but including the expressed exclusion provided for in 22.2 below, unless agreed in writing by the Disclosing Party, and only if such Party is bound by confidential obligations in form and substance similar to the provisions of this clause 22.1;

22.1.4 not be used in order to solicit or endeavour to solicit, interfere with or endeavour to interfere with, entice or endeavour to entice away from the Disclosing Party any Person who is employed by the Disclosing Party or who was a Customer of the Disclosing Party.

22.2 Notwithstanding the provisions outlined in 22.1, nothing in this Agreement or the provisions of this clause 22 shall be construed as limiting, restricting or prohibiting-

Issue: 2019-01-26_12:01:08

22.2.1 the Licensee from disclosing to online publishers and advertisers in the course of utilising the Software within the Territory or performing the Mandate within the External Territory, such aspects of the Confidential Information as the Licensee at its discretion considers appropriate in order to market, promote and generally exploit the Software without unduly risking the reverse-engineering, copying or other unlawful exploitation of the Software by third Parties contrary to the purposes and intentions contemplated in this Agreement;

22.2.2 the Licensee disclosing such components of the Confidential Information as may be necessary in order to assist it with obtaining the necessary rights, licenses and other permissions that the Licensee may require to comply with internet based laws (including consumer protection and personal data protection laws) applicable within the Territory and the External Territory;

22.2.3 the Licensor disclosing such aspects of the Confidential Information arising from the enhancement services provided by the Licensee pursuant to 8 of this Agreement for the purposes of the requirements of potential investors, funders, financial institutions and government agencies to whom the Licensor at its discretion considers it necessary to disclose the Confidential Information.

22.3 Upon termination of the contractual relationship between the Parties for whatever reason, the recipient of any Confidential Information shall immediately return same, or at the discretion of the original owner thereof destroy such Confidential Information, and shall not retain copies, samples or excerpts thereof.

22.4 In the event of a breach of either of the Parties of the provisions of this clause 22, the Receiving Party acknowledges that the Disclosing Party shall likely suffer irreparable damages that cannot be fully remedied by monetary damages, and in respect of which the arbitration proceedings provided for in 17 may be inappropriate or cause further harm. Therefore, in addition to any remedy that the Disclosing Party may possess pursuant to this Agreement, the Disclosing Party retains the right to seek and obtain urgent injunctive and/or interlocutory relief against such breach in any court of competent jurisdiction. In the event that any such breach results in a claim by a third Party, the Receiving Party shall indemnify, defend and hold harmless the Disclosing Party from any claims, damages, legal fees, penalties, costs and expenses arising out of claims by such third Parties.

23. PUBLICITY

Neither Party shall make any public disclosures regarding this Agreement or the subject matter hereof without the prior written consent of the other.

Issue: 2019-01-26_12:01:08

24. SEVERANCE

24.1 If any provision of this Agreement is held to be invalid or unenforceable by any judicial or other competent authority, all other provisions of this Agreement shall remain in full force and effect and shall not in any way be impaired.

24.2 If any provision of this Agreement is held to be invalid or unenforceable but would be valid or enforceable if some part of the provision were deleted, the provision in question shall apply with the minimum modifications necessary to make it valid and enforceable.

25. CONTRACT VARIATION

No variation or modification to this Agreement is valid unless it is in writing and signed by both Parties.

26. NO WAIVER

Failure by either Party at any time to enforce any one or more of the provisions of this Agreement or to require performance by the other Party of any of the provisions shall not constitute or be construed as a waiver of the provision or of the right at any time subsequently to enforce all terms and conditions of this Agreement nor affect the validity of this Agreement or any part of it or the right of the Parties to enforce any provision in accordance with its terms.

27. ASSIGNMENT, SUB-CONTRACTING AND RESPONSIBILITY

Subject to any express provision of this Agreement, the Licensee shall not without the prior written consent of the Licensor assign all or any benefit, right or interest under this Agreement.

28. NO PARTNERSHIP

Nothing contained in this Agreement, and no action taken by the Parties pursuant to this Agreement shall be deemed to constitute a relationship between the Parties of partnership or employer and employee. Neither Party has, nor may it represent that it has, any authority to act or make any commitments on the other Party's behalf other than in terms of the Mandate.

29. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the Parties relating to the provision of Software and Protected Marks and supersedes all prior negotiations, representations and undertakings, whether written or oral, except that this clause 29 shall not exclude liability in respect of any fraud or fraudulent misrepresentation.

Issue: 2019-01-26_12:01:08

30. PROPER LAW AND JURISDICTION

This Agreement and all matters arising from it and any dispute resolutions referred to above shall be governed by and construed in accordance with South African law.

Signed at _____ on _____ 2015

For: **THE LICENSOR**

_____
(Duly Authorised)

Signed at _____ on _____ 2015

For: **THE LICENSEE**

_____
(Duly Authorised)

COMMISSION OF INQUIRY INTO STATE CAPTURE

ANNEXURE "A"

SOFTWARE DESCRIPTION

The Licensor is the owner of the trustMASTER Child & Youth Care System software. The Software is made up of components as detailed below.

COMMISSION OF INQUIRY INTO STATE CAPTURE

SOFTWARE LICENSE AGREEMENT

entered into between

LAMOZEST (PROPRIETARY) LIMITED

and

KGWERANO FINANCIAL SERVICES (PROPRIETARY) LIMITED

COMMISSION OF INQUIRY INTO STATE CAPTURE

INDEX

1. PARTIES 1
2. PREAMBLE 1
3. INTERPRETATION 1
4. GRANT OF LICENSE 3
5. DELIVERY 4
6. DURATION 4
7. CONSIDERATION 4
8. ENHANCEMENT SERVICES 5
9. PROPRIETARY RIGHTS 6
10. LIMITED WARRANTIES 6
11. LICENSEE'S DUTIES 7
12. LICENSOR'S DUTIES 9
13. TERMINATION 9
14. FORCE MAJEURE 10
15. NOTICES 11
16. ARBITRATION 12
17. MUTUAL SUPPORT 13
18. INFRINGEMENT 14
19. INDEMNIFICATION 14
20. EXCLUSION OF DAMAGES AND LIMITATION OF LIABILITY 15
21. CONFIDENTIALITY 15
22. PUBLICITY 17
23. SEVERANCE 17
24. CONTRACT VARIATION 17
25. NO WAIVER 17
26. ASSIGNMENT, SUB-CONTRACTING AND RESPONSIBILITY 18
27. NO AGENCY OR PARTNERSHIP 18
28. ENTIRE AGREEMENT 18
29. PROPER LAW AND JURISDICTION 18

Annexure A

Issue: 2019-01-26_12:01:08

SOFTWARE LICENSE AGREEMENT

1. PARTIES

1.1 Lamozest (Pty) Ltd ("the Licensor");

and

1.2 Kgwerano Financial Services (Pty) Ltd ("the Licensee").

2. PREAMBLE

WHEREAS

2.1 The Licensor is the owner of the Software (as hereinafter defined).

2.2 The Licensee is desirous of obtaining, and the Licensor is desirous of granting to the Licensee, the right to use the Software upon the terms and subject to the conditions as set out herein.

IT IS NOW AGREED AS SET OUT BELOW.

3. INTERPRETATION

In this Agreement unless the context otherwise requires -

3.1 The singular shall import and include the plural and vice versa.

3.2 Words indicating one gender shall import and include other genders.

3.3 Words indicating natural persons shall import and include artificial persons.

3.4 The headnotes to this Agreement are used for the sake of convenience only and shall not govern the interpretation of the clauses to which they relate.

Issue: 2019-01-26_12:01:08

DEFINITIONS

3.5 Unless such meaning is inconsistent with the context, the following terms shall throughout this Agreement have the meanings respectively ascribed to them, namely:

3.5.1 "***Agreement***" - shall mean this agreement and all annexures;

3.5.2 "***Confidential Information***" – shall mean any information of whatever nature, which has been or may be obtained by either of the Parties from the other, whether in writing or in electronic form or pursuant to discussions between the Parties, or which can be obtained by examination, testing, visual inspection or analysis, including without limitation, scientific, business or financial data, know-how, formulae, processes, designs, sketches, photographs, plans, drawings, specification, models, Customer lists, price lists, studies, computer software, software source code, inventions or ideas and/or analyses, concepts, compilations, studies, instruction manuals and other material prepared by or in the possession or in the control of the recipient which contain or otherwise reflect or are generated from any such information as is specified in this definition: And in any dispute between the Parties resulting from any contractual relationship between them it is recorded that the following information shall, for the purposes of interpreting what constitutes Confidential Information, not be considered to be Confidential Information: Information that either of the Parties had prior to the date that it was received from the other Party, or information known to the public or generally available to the public prior to the date that it was disclosed by either of the Parties to the other, or information which becomes known to the public or becomes generally available to the public subsequent to the date that it was disclosed by either of the Parties to other through no act or failure to act on the part of the recipient of such information or information which either of the Parties, in writing authorises the other to disclose;

3.5.3 "***Customers***" shall mean such Persons within the Territory with whom the Licensee contracts for the use of the Software pursuant to the license granted by the Licensor in favour of the Licensee as contemplated in this Agreement;

3.5.4 "***Deliver***" – shall mean, in relation to the Licensor making available the Software (including any updates and enhancement thereto) to the Licensee in terms of this Agreement, actual physical delivery, or where the Software is readily available for access by the Licensee through electronic or web-enabled means, then the date that the Software is made accessible to the Licensee or any Customer designated by it;

3.5.5 "***Effective Date***" – shall mean 1 August 2015 notwithstanding the Signature Date ;

3.5.6 "***Intellectual Property Rights***" – shall mean all vested existing and contingent and all future intellectual property rights in and to the Software, including but not limited to copyright, trademarks, service marks, design rights (whether registered or unregistered), patents, know-how, trade secrets, inventions, get-up, database rights and any

Issue: 2019-01-26_12:01:08

applications for the protection or registration of these rights, and all renewals and extensions thereof existing in any part of the world whether now known or in the future created, to which the Licensor, as owner of the Software, may be entitled;

3.5.7 "***Licensee***" - shall mean Kgwerano Financial Services (Pty) Ltd, a private company with limited liability registered in accordance with the laws applicable in the Republic of South African under registration number 1999/010331/07;

3.5.8 "***Licensor***" – shall mean Lamozest (Pty) Ltd, a private company with limited liability registered in accordance with the laws applicable in the Republic of South African under registration number 2012/126413/07;

3.5.9 "***Parties***" – shall mean the parties to this Agreement as reflected in clause 1 of this Agreement, and the term "Party" shall, as the context may indicate, mean any one of them;

3.5.10 "***Person***" – shall include a natural person, a juristic person, a partnership, trust or association, as the case may be;

3.5.11 "***Protected Marks***" – shall mean the names "trustMASTER", "trustMASTER Fleet", as well as any other registered names or marks created or acquired by the Licensor relating to the Software during the operation of this Agreement (including any goodwill related thereto, which is owned or licensed by the Licensor);

3.5.12 "***Signature Date***" - shall mean the date of signature of this Agreement by the Party signing last in time;

3.5.13 "***Software***" - shall mean the Intellectual Property Rights, Protected Marks, source code and related specifications that comprise a fully integrated and automated, web-based Fleet Management Software Solution developed and customized for fleet maintenance, fuel administration, finance management and information analysis., known as trustMASTER Fleet as more fully described in Annexure A attached hereto;

3.5.14 "***Taxes"*** – shall mean all taxes imposed by any governmental authority, including (without limitation) on income, profits, stamp, ad valorem, value added, excise, payroll, unemployment, disability, employees' income withholding, social security and/or withholding taxes;

3.5.15 "***Territory***" – shall mean the Republic of South Africa.

4. GRANT OF LICENSE

4.1 As from the Effective Date the Licensor hereby grants the Licensee the right to use the Software within the Territory subject to the terms of this Agreement, and the Licensee accepts such right.

Issue: 2019-01-26_12:01:08

4.2 The Licensee shall not:

4.2.1.1 license, market, deliver, implement, exploit or otherwise distribute the Software outside the Territory or to any Person whom it knows, or ought reasonably to know, intends to sub-license or otherwise use or make available the Software outside the Territory, without the expressive written prior approval of the Licensor; or

4.2.1.2 procure, import and/or source any other product that is similar to or competes with the Software from any other Person, save under the provisions of this Agreement.

4.3 Notwithstanding clause 4.2, it is recognised and acknowledged that existing relationships and/or Customers who operate globally across various territories may require the Licensee (or another distributor in another territory, as the case may be) to make available the Software for use outside of the Territory. In such cases, the Licensee may license, supply and/or implement the Software outside of the Territory, subject to prior written consent from the Licensor (which consent shall not unreasonably be withheld).

5. DELIVERY

5.1 The Licensor shall, on the Effective Date, Deliver one copy of the Software to the Licensee together with a copy of all documentation and other materials required by the Licensee for the proper implementation of this Agreement.

5.2 The Licensor shall provide sufficient adequately skilled technical staff to give technical assistance to the Licensee to install the Software and ensure that it is fully functional and operational, provided that the computer hardware of the Licensee on which the Software is to be installed complies with the minimum hardware requirements stipulated by the Licensor, and remains compliant thereafter.

5.3 In commissioning the Software the Licensor shall co-operate and assist the Licensee with product testing and staff training that may be necessary to ensure that the Software can be utilised as intended and in accordance with quality control standards set by the Licensor.

6. DURATION

This Agreement shall commence on the Effective Date and shall, subject to the provisions of 12 and 13, endure indefinitely, provided that either Party shall have the right to terminate this Agreement on 2 (two) months written notice.

Issue: 2019-01-26_12:01:08

7. CONSIDERATION

7.1 In consideration of the rights and licence granted and the duties and obligations of the Licensor as set out herein, the Licensee shall pay to the Licensor an amount per month per vehicle for each Customer who uses the Software ("the License Fee") in a vehicle at any

time during the course of that month, based on the total number of vehicles in which the Software is employed by Customers, calculated as follows:

Number of Vehicles	Cost per vehicle
0 – 5,000	R57.00 per vehicle
5,001 – 7,500	R52.25 per vehicle
7,501 – 10,000	R47.50 per vehicle
10,001 – 12,500	R42.75 per vehicle
12,501 – 15,000	R38.00 per vehicle
15,000 and above	R33.25 per vehicle

7.2 The License Fee shall be payable by the Licensee to the Licensor free from exchange and bank fees on the first business day of each and every month, commencing the month following the Effective Date, into a bank account nominated by the Licensee in writing from time to time.

7.3 The Licensee shall not have the right to defer or withhold any of the Licence Fees due to the Licensor in terms of this Agreement or apply for deferment of any such payment or deferment of any execution of a judgment by reason of any set-off or counter claim of whatsoever nature and howsoever arising.

7.4 All amounts payable by the Licensee to the Licensor in terms of this Agreement and which are not paid on due date shall bear interest at the prime rate of the Licensor's bank from time to time. The interest shall be calculated monthly in advance from the due date and shall be compounded.

7.5 The Licensor's right to charge interest on outstanding amounts shall not detract from any other rights that the Licensor may have in terms of this Agreement.

8. ENHANCEMENT SERVICES

8.1 In addition to the Licensee's duties outlined in 11 below, the Licensee shall for the benefit of the Licensor, provide the following services, namely-

8.1.1 market and grow the Intellectual Property Rights and the Protected Marks within the Territory, and promote the Software on the basis that all goodwill created thereby in the Territory shall become the sole exclusive property of the Licensor, and on termination of this Agreement for any reason whatsoever, the reputation shall become the sole and exclusive property of the Licensor;

8.1.2 on an ongoing basis provide the Licensor with technical and operational feedback and advice in relation to the Software and its experience in promoting the Software within the Territory, and on the basis that all know-how provided by the Licensee shall be utilised by the Licensor in order to enhance and further develop the software for application inside or outside of the Territory;

Issue: 2019-01-26_12:01:08

8.1.3 to rigorously test the Software and investigate further refinements thereto, and to provide periodic written reports as to the performance of the Software, suggestions as to enhancement thereto, illustration of the identified strengths and weaknesses of the Software, its usability and market acceptance within the Territory.

8.2 All of the enhancement services provided for in 8.1 above shall be made by the Licensee for no consideration whatsoever, on the basis that all such know-how shall become the sole and exclusive property of the Licensor, save that any such enhancement to the Software created as a result of such enhancement services may be utilised free of charge by the Licensee in the course of its exploitation of the Software within the Territory, but only for the duration of this Agreement.

8.3 In the course of the Licensee rendering its Enhancement Services contemplated above, the Licensee shall make its recommendations to the Licensor as to suggested modifications and enhancements to the Software including replacing or adapting portions thereof with other applications, convert the Software to another programming language or modify such Software for use under another system to create updated, related or derivative works. All such recommendations which have the effect of materially altering the general infrastructure, design or functionality of the Software shall require the prior written approval of the Licensor, and all development costs relating thereto shall be paid for by the Licensor. Any costs associated with changes to the Software which in the opinion of the Licensor relate to the maintenance of the Software, or relate specifically to the application of the Software in the Territory exclusively, shall be for the account of the Licensee.

9. PROPRIETARY RIGHTS

9.1 The Software embodies substantial creative efforts, Confidential Information, ideas and expressions. All trade secrets, Intellectual Property Rights, Protected Marks and other proprietary rights therein shall at all times remain the sole and exclusive property of the Licensor.

9.2 The Licensee acknowledges that the Licensor shall also be the sole owner of all and any goodwill created by virtue of the exploitation by the Licensee of the Software in the Territory during the term of this Agreement.

10. LIMITED WARRANTIES

10.1 The Licensor provides in favour of the Licensee the following exclusive list of expressed warranties, namely-

10.1.1 the Licensor is the sole and exclusive owner of the Software and its related Intellectual Property Rights and Protected Marks;

10.1.2 the Licensor is under no restriction whatsoever with the respect of the exploitation of

Issue: 2019-01-26_12:01:08

the Software, and in particular is entitled to license the Software to the Licensee within the Territory;

10.1.3 to the best of the Licensor's knowledge and belief, no aspect of the Software, the Intellectual Property Rights and the Protected Marks contravenes any other Intellectual Property Rights of third parties;

10.1.4 the Software does not breach any applicable law within the Territory or with respect to the international laws governing the worldwide web as to its intended application and function.

10.2 Save for the expressed warranties outlined in 10.1 above, which constitute a sole and exclusive list of warranties given by the Licensor to the Licensee relating to the Software, the Licensor makes no representation or warranty of any kind, whether expressed or implied, with respect to the Software, the Intellectual Property Rights and the Protected Marks, and in particular, without in any way limiting the generality of the foregoing, -

10.2.1 the Licensor expresses no representation of whatsoever as to the integrity, correctness, suitability, accurateness, completeness, effectiveness, reliability or commercial viability of the Software for the purposes required by the Licensee within the Territory;

10.2.2 the Licensor disclaims all representations and warranties as to any actual or perceived benefit, including but not limited to the implied warranties of merchantability and fitness and suitability for a particular purposes, of the Software in the hands of the Licensee;

10.2.3 the Software is licensed to the Licensee by the Licensor on an "as is" basis, and on the strict understanding that the Licensee shall assume the entire risk as to the results and performances arising out of any benefits, whether actual or perceived, arising by virtue of the application and/or utilisation of the Software.

11. LICENSEE'S DUTIES

The Licensee shall :

11.1 comply strictly with its enhancement services obligations outlined in 8;

11.2 advise the Licensor promptly of all enquiries relating to the Software which emanate from outside the Territory, free of consideration or commission;

11.3 conduct an effective Software promotion programme and advertising campaign within the Territory in a form agreed between the Licensor and the Licensee from time to time;

11.4 be responsible for all Software hosting, marketing, management and advertising costs

Issue: 2019-01-26_12:01:08

incurred in the promotion and use of the Software in the Territory;

11.5 provide adequate facilities for the storage of the Software under secure and electronic virus free conditions and otherwise under conditions reasonably acceptable to the Licensor from time to time;

11.6 obey reasonable directives from the Licensor in relation to all matters affecting the description, presentation, marketing and implementation of the Software;

11.7 from time to time and on the written request of the Licensor, supply to the Licensor reasonable reports, returns and other information relating to the Software and the development of the market therefor in the Territory;

11.8 except as envisaged under 4.3, not license, provide or otherwise exploit the Software with any Customers outside the Territory, or establish any branch or maintain any distribution facilities for the Software outside the Territory;

11.9 not be entitled to assign or transfer or attempt to assign or transfer any of its rights or obligations under or in terms of this Agreement;

11.10 not do or permit to be done anything which prejudices the reputation of the Licensor, the Intellectual Property or the Software itself;

11.11 not contest the Licensor's title to any of the Intellectual Property Rights and Protected Marks;

11.12 not effect or permit the removal or alteration of any Protected Marks, including any other copyright, trademark, brand mark or brand name forming part of the Software;

11.13 not engage in a policy, trade practice or advertising method which, in the Licensor's opinion, may be injurious to the reputation of the Licensor and/or the Software;

11.14 not modify the brand name or trademark or trade name graphics of the Software, without the prior written consent of the Licensor;

11.15 not give any guarantees and/or warranties with regard to the Software, save for such guarantees and/or warranties that have been agreed to in writing by the Licensor;

11.16 not appoint any sub-agent, sub-licensee or sub-distributor, save with the prior written consent of the Licensor. Such consent shall be withheld if the appointee fails or refuses to bind itself *mutatis mutandis* to the terms and conditions of this Agreement;

11.17 be solely responsible for obtaining in its own name, and thereafter maintaining, such consents, licenses, approvals, registrations and authorisations required by the laws or regulations of the Territory for the marketing, and other exploitation of the Software and all costs associated therewith;

11.18 effect and maintain adequate security measures to safeguard the Intellectual Property Rights

Issue: 2019-01-26_12:01:08

in and to the Software from use by any unauthorised person;

11.19 maintain a full and accurate record of its use and disclosure of the Software and shall produce such record to the Licensor on request from time to time;

11.20 not transfer, sell, sub-license or otherwise transfer rights granted to the Licensee in terms of this Agreement to any third party, it being understood by the Licensee that the Licensing of the Software in its favour in terms of this Agreement is non-transferrable;

11.21 not reverse-engineer, decompile or disassemble, tamper with or copy any aspect comprising the Software, and shall not remove, overprint or deface any notice of copyright or confidentiality, trade mark, logo, legend, or other notices of ownership from any version of the Software as it is required to be displayed online based on the instructions of the Licensor;

11.22 not obtain any financial benefit whatsoever, whether directly or indirectly, or whether vested or contingent, with respect to the utilisation, exploitation or other use of the Software by any third party (or the Licensee itself) outside the borders of the Territory.

12. LICENSOR'S DUTIES

12.1 The Licensor shall:

12.1.1 provide reasonable ongoing technical support and upgrades of the Software (as may be appropriate for the Territory) in favour of the Licensee, free of any consideration;

12.1.2 advise the Licensee promptly of all inquiries for the Software from potential Customers within the Territory that come to its knowledge, free of consideration or commission;

12.1.3 where lawfully required to protect the rights in favour of the Licensee in terms of this Agreement, obtain the consent of any of its holding companies, subsidiaries and associated companies to abide by the same terms and conditions outlined in this Agreement as applies to the Licensor, to the extent that the Software is required to be licensed from such other entities to the Licensee.

13. TERMINATION

13.1 At any time after the Effective Date the Licensor may unilaterally on 24 (twenty four) hours written notice terminate this Agreement on the happening of any one of the following events, namely-

13.1.1 the Licensee fails to observe its obligations to provide the enhancement services as outlined in 8 of this Agreement;

13.1.2 the Licensee commits an act of insolvency (as contemplated in the relevant insolvency

Issue: 2019-01-26_12:01:08

laws in the Republic of South Africa), or is otherwise placed into liquidation (whether voluntarily or at the instance of creditors) or is the object of a judicial management order;

13.1.3 there is any change in the shareholding of the Licensee to that which existed as at the Effective Date.

13.2 Upon termination of this Agreement for any reason whatsoever :

13.2.1 the Licensee shall immediately cease to use the Software as well as all and any technical information, price lists, promotional material, trademarks, trade names, Protected Marks and Intellectual Property Rights relating to the Software and shall return to the Licensor the Software and all such technical information, price lists, advertising material and the like (at the cost of the Licensor).

13.2.2 the Licensee shall immediately discontinue the use of all signs, stationery, advertising and other material, which identify the Licensee with the Software or any of its trademarks or trade names.

13.2.3 the Licensee shall provide the Licensor with a detailed list of all Customers who are using the Software at the termination of this Agreement, as well as the details of all other prior Customers who used the Software at any time during the operation of this Agreement.

14. FORCE MAJEURE

14.1 A Party shall not be liable for any loss suffered by the other Party arising out of delay in or prevention of performance of a Party's obligations due to any cause, the adverse effects of which the relevant Party could not and cannot reasonably and practicably avoid in the ordinary conduct of the Party's business.

14.2 The Party whose performance is delayed or prevented shall immediately give notice in writing of such delay or prevention to the other Party.

14.3 If a Party's performance is delayed by such a cause, the Party shall be entitled to a reasonable extension, not exceeding 90 (ninety) days, for performance. If performance is and shall be delayed for longer than this period, the performance shall be regarded as having been prevented.

14.4 If a Party's performance is prevented by such a cause, the Parties shall:

14.4.1 if the obligation or obligations of which performance is prevented are not material, make such financial adjustment between them as may be equitable.

14.4.2 if the obligation or obligations of which performance is prevented are material,

Issue: 2019-01-26_12:01:08

endeavour in good faith to agree on an alternative basis for achieving the object of this Agreement.

14.5 If a Party's performance of a specific material obligation has been prevented by a cause referred to in this clause 14 and such cause shall prevent the performance of further obligations in terms of this Agreement in the future, with the effect that there is no reasonable prospect of one or other Party being able to perform its obligations in terms of this Agreement and if no alternative basis for achieving the object of this Agreement has been agreed between the Party's in terms of clause 14.4.2 hereof, then either Party shall be entitled, by written notice to the other to terminate this Agreement.

15. NOTICES

Any notices to be given to the parties in terms of this Agreement shall be in writing and delivered by hand during ordinary business hours or posted by prepaid registered post or dispatched by telefacsimile or by email, during normal business hours to the addresses mentioned hereunder, which respective addresses the parties choose as their *domicile* addresses for the delivery or service of all notices, communications or legal processes arising out of this Agreement:

15.1 The Licensor : Address: Mogale Business Park
1 Windsor Road
Luipaardsvlei
Mogale City, 1740

Email: .....

Contact Person: .....

15.2 The Licensee: Address: Mogale Business Park
1 Windsor Road
Luipaardsvlei
Mogale City, 1740

Email: .....

Contact Person: .....

or such other address as either Party may choose by written notice to the other from time to time.

15.3 Every notice shall be deemed to have been properly given :

15.3.1 if delivered by hand, on the date of delivery;

15.3.2 if sent by prepaid registered post, 7 (seven) days after the date on which the notice is posted;

15.3.3 if sent to a Party at its telefax number or email address, (in the absence of proof to the

Issue: 2019-01-26_12:01:08

contrary) on the date of transmission where it is transmitted during normal business hours of the receiving instrument, and on the next business day where it is transmitted outside those business hours.

16. ARBITRATION

16.1 Should any dispute arise between the Parties in connection with:

16.1.1 the formation or existence of;

16.1.2 the implementation of;

16.1.3 the interpretation or application of the provisions of;

16.1.4 the Parties' respective rights and obligations in terms of or arising out of this Agreement or with regard to the breach or termination of;

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

16.1.6 any documents furnished by the Parties pursuant to the provisions of;

16.1.7 any Party's resolution which must be passed in terms of this Agreement or which relates in any way to any matter affecting the interests of the Parties outlined in terms of,

this Agreement, that dispute shall, unless resolved by the Parties, be referred to and be determined by dispute resolution in terms of this clause 16.

16.2 Should any dispute, disagreement or claim arise between the Parties (hereafter referred to as the "Dispute") concerning this Agreement, the Parties shall try to resolve the Dispute by negotiation. This entails that the one Party invites the other in writing to meet at a mutually convenient place and time in order to attempt to resolve the Dispute within 20 (twenty) days from the date of the written invitation.

16.3 Failing such a resolution within 45 (forty five) days form the date of written invitation referred to in 16.2 above, the Dispute shall be held –

16.3.1 at Johannesburg;

16.3.2 with only the legal and other representatives of the parties to the dispute present thereat;

16.3.3 *mutatis mutandis* in accordance with the provisions of the Superior Court Act, No. 10 of 2013 and the rules made in terms of that Act;

16.3.4 otherwise in terms of the Arbitration Act, No. 42 of 1965;

Issue: 2019-01-26_12:01:08

16.3.5 it being the intention that the arbitration shall be held and completed as soon as possible.

16.4 The Arbitrator in this regard shall be, if the matter in issue is –

16.4.1 primarily an accounting matter, an independent chartered accountant of not less than 10 (ten) years standing;

16.4.2 primarily a legal matter, an independent practising attorney or advocate of not less than 10 (ten) years standing; or

16.4.3 any other matter, an independent person agreed to between the Parties.

16.5 The arbitrator shall be obliged to give reasons and a detailed written opinion supporting any decision made by him in the course of the arbitration.

16.6 The Parties undertake to keep the arbitration(which arbitration shall be held in camera), including the subject matter of the arbitration and the evidence heard during the arbitration confidential, and not to disclose it to anyone except for the purposes of an order to be made in terms of 16.7.

16.7 Each of the Parties irrevocably agree that the decision in any such arbitration proceedings shall be binding on them and shall be carried into effect and may be made an order of any competent court having jurisdiction.

16.8 Nothing in this clause 16 shall preclude either Party from seeking any interim relief from any competent court having jurisdiction pending the institution of any arbitration proceedings in terms of this clause 16.

16.9 The parties agree to keep the dispute resolution, including the subject matter of the dispute confidential and not to disclose it to anyone except for purposes of an order to be made in terms of 16.7.

16.10 The provisions of this clause -

16.10.1 constitute an irrevocable consent by the Parties to any proceedings in terms hereof and they shall not be entitled to withdraw therefrom or claim at any such proceedings that they are not bound by such provisions;

16.10.2 are severable from the rest of this Agreement and shall remain in effect despite the termination or invalidity for any reason of this Agreement.

17. MUTUAL SUPPORT

17.1 The Parties undertake at all times to do all such things, to perform all such acts and to take all such steps and to procure the doing of all such things, the performance of all such actions

Issue: 2019-01-26_12:01:08

and the taking of all such steps, as may be open to them and necessary for or incidental to, the putting into effect or maintenance of the terms, conditions and import of this Agreement.

17.2 The Parties agree that their relationship to each other, whilst not being one of partnership, shall be based upon the utmost good faith as between them.

18. INFRINGEMENT

18.1 The Licensee must promptly notify and keep the Licensor informed regularly of:

18.1.1 any actual or suspected infringement of the Software and Protected Marks; or

18.1.2 any relevant passing off in relation to the Software and Protected Marks; or

18.1.3 any application to register a trade mark which may conflict with or be confused with the Software and Licensed Mark;

that comes to its attention (each an "Infringement").

18.2 The Licensee shall take such action as it (acting reasonably) considers necessary to protect the Intellectual Property Rights, value, reputation and/or validity of the Software and Protected Marks in the Territory, including initiating legal proceedings in respect of any Infringement. The Licensor shall be responsible for the cost of any legal proceedings it brings. The Licensee shall, at the reasonable cost of the Licensor, provide all reasonable assistance to the Licensee in relation to any legal proceedings for Infringement brought by the Licensee (including, for the avoidance of doubt, joining any proceedings brought by the Licensee where so required by applicable laws).

18.3 The Licensee shall have the right to conduct the defence of any claim made by a third party in relation to the Protected Marks in the Territory. If requested to do so by the Licensee, The Licensor shall at its cost, provide all information and assistance reasonably required by the Licensee to enable the Licensee to conduct such a defence (including, for the avoidance of doubt, joining any proceedings brought by the Licensee where so required by applicable laws).

18.4 The Licensee shall not do anything, or assist any third party, to invalidate the Protected Marks or community trade mark registrations and/or applications.

19. INDEMNIFICATION

19.1 The Licensor shall indemnify and hold harmless the Licensee from and against any and all claims, liability, loss, damages, fines, costs, legal costs, professional and other expenses of any nature whatsoever incurred or suffered by the Licensee strictly arising out or in connection with any claim that the Licensee's marketing of the Software or reference to the Protected Marks in the Territory in accordance with this Agreement infringes a third party's

Issue: 2019-01-26_12:01:08

intellectual property rights.

19.2 The Licensee shall indemnify and hold harmless the Licensor and its associates and group companies from and against any and all claims, liability, loss, damages, fines, costs, legal costs, professional and other expenses of any nature whatsoever incurred or suffered by the Licensor and its associates and group companies arising out or in connection with any misuse by any Person of the Software or Protected Marks within the Territory or breach of the terms of this Agreement.

20. EXCLUSION OF DAMAGES AND LIMITATION OF LIABILITY

20.1 Under no circumstances shall the Licensor be liable to the Licensee for any consequential, indirect, special, punitive or incidental damages, including damages caused by force majeure, whether forcible or enforceable, based on claims by the Licensee or any of its Customers (including, but not limited to, claims for loss of data, goodwill, profits, use of money or use of hardware or software, interruption in use of availability of data, hardware or software, stoppage or other work or impairment of other assets), for breach or failure of expressed or implied warranty, breach of contract, misrepresentation, negligence, strict liability in delict or otherwise, whether based on this Agreement, any commitment performed or undertaken under or in connection with the use of the Software pursuant to this Agreement, or otherwise.

20.2 Under no circumstances shall the aggregate liability which the Licensor may incur in respect of any claim by the Licensee exceed a value of USD1,000 (one thousand United States Dollars), and in aggregate in respect of all claims arising out of and during the course of this Agreement shall not exceed a sum of USD10,000 (ten thousand United States Dollars): Provided that the Licensor shall incur no liability whatsoever unless it receives written notice of the claim and the notice as served within 1 (one) month of the date on which the Licensee became aware of any claim or ought reasonably to have become so aware.

20.3 Notwithstanding any provisions of this clause 20, the Licensor shall be discharged of any liability it may have towards the Licensee as a result of damages suffered by the Licensee if the Licensee, its employees, representatives, agents, assignees and successors attempt to perform, or allow third parties to perform, any obligations which shall have a responsibility of or shall have the effect on the responsibility of the Licensee, without the prior written consent of the Licensor having been obtained.

21. CONFIDENTIALITY

21.1 Each Party ("the Receiving Party") agrees that all Confidential Information received from the other Party ("the Disclosing Party") shall –

21.1.1 be treated as strictly confidential;

Issue: 2019-01-26_12:01:08

21.1.2 be disclosed, save for the exceptions provided for in 21.2 below only to those directors, offices, employees, legal advisors and accountants of the Receiving Party who have a need to know and shall be used by such persons solely as required in connection with-

21.1.2.1 the performance of this Agreement; or

21.1.2.2 the operation of the Disclosing Party's business in the course of the exploitation of the Software as may be reasonably necessary;

21.1.3 not be disclosed to any third Party except if expressly permitted in this Agreement, not limited to but including the expressed exclusion provided for in 21.2 below, unless agreed in writing by the Disclosing Party, and only if such Party is bound by confidential obligations in form and substance similar to the provisions of this clause 21.1;

21.1.4 not be used in order to solicit or endeavour to solicit, interfere with or endeavour to interfere with, entice or endeavour to entice away from the Disclosing Party any Person who is employed by the Disclosing Party or who was a Customer of the Disclosing Party.

21.2 Notwithstanding the provisions outlined in 21.1, nothing in this Agreement or the provisions of this clause 21 shall be construed as limiting, restricting or prohibiting-

21.2.1 the Licensee from disclosing to online publishers and advertisers in the course of utilising the Software within the Territory such aspects of the Confidential Information as the Licensee at its discretion considers appropriate in order to market, promote and generally exploit the Software without unduly risking the reverse-engineering, copying or other unlawful exploitation of the Software by third Parties contrary to the purposes and intentions contemplated in this Agreement;

21.2.2 the Licensee disclosing such components of the Confidential Information as may be necessary in order to assist it with obtaining the necessary rights, licenses and other permissions that the Licensee may require to comply with internet based laws (including consumer protection and personal data protection laws) applicable within the Territory;

21.2.3 the Licensor disclosing such aspects of the Confidential Information arising from the enhancement services provided by the Licensee pursuant to 8 of this Agreement for the purposes of the requirements of potential investors, funders, financial institutions and government agencies to whom the Licensor at its discretion considers it necessary to disclose the Confidential Information.

21.3 Upon termination of the contractual relationship between the Parties for whatever reason, the recipient of any Confidential Information shall immediately return same, or at the

Issue: 2019-01-26_12:01:08

discretion of the original owner thereof destroy such Confidential Information, and shall not retain copies, samples or excerpts thereof.

21.4 In the event of a breach of either of the Parties of the provisions of this clause 21, the Receiving Party acknowledges that the Disclosing Party shall likely suffer irreparable damages that cannot be fully remedied by monetary damages, and in respect of which the arbitration proceedings provided for in 16 may be inappropriate or cause further harm. Therefore, in addition to any remedy that the Disclosing Party may possess pursuant to this Agreement, the Disclosing Party retains the right to seek and obtain urgent injunctive and/or interlocutory relief against such breach in any court of competent jurisdiction. In the event that any such breach results in a claim by a third Party, the Receiving Party shall indemnify, defend and hold harmless the Disclosing Party from any claims, damages, legal fees, penalties, costs and expenses arising out of claims by such third Parties.

22. PUBLICITY

Neither Party shall make any public disclosures regarding this Agreement or the subject matter hereof without the prior written consent of the other.

23. SEVERANCE

23.1 If any provision of this Agreement is held to be invalid or unenforceable by any judicial or other competent authority, all other provisions of this Agreement shall remain in full force and effect and shall not in any way be impaired.

23.2 If any provision of this Agreement is held to be invalid or unenforceable but would be valid or enforceable if some part of the provision were deleted, the provision in question shall apply with the minimum modifications necessary to make it valid and enforceable.

24. CONTRACT VARIATION

No variation or modification to this Agreement is valid unless it is in writing and signed by both Parties.

25. NO WAIVER

Failure by either Party at any time to enforce any one or more of the provisions of this Agreement or to require performance by the other Party of any of the provisions shall not constitute or be construed as a waiver of the provision or of the right at any time subsequently to enforce all terms and conditions of this Agreement nor affect the validity of this Agreement or any part of it or the right of the Parties to enforce any provision in accordance with its terms.

Issue: 2019-01-26_12:01:08

26. ASSIGNMENT, SUB-CONTRACTING AND RESPONSIBILITY

Subject to any express provision of this Agreement, the Licensee shall not without the prior written consent of the Licensor assign all or any benefit, right or interest under this Agreement.

27. NO AGENCY OR PARTNERSHIP

Nothing contained in this Agreement, and no action taken by the Parties pursuant to this Agreement, shall be deemed to constitute a relationship between the Parties of partnership, joint venture, principal and agent or employer and employee. Neither Party has, nor may it represent that it has, any authority to act or make any commitments on the other Party's behalf.

28. ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the Parties relating to the provision of Software and Protected Marks and supersedes all prior negotiations, representations and undertakings, whether written or oral, except that this clause 28 shall not exclude liability in respect of any fraud or fraudulent misrepresentation.

29. PROPER LAW AND JURISDICTION

This Agreement and all matters arising from it and any dispute resolutions referred to above shall be governed by and construed in accordance with South African law.

Signed at _____ on _____ 2015

For: **THE LICENSOR**

_____
(Duly Authorised)

Signed at _____ on _____ 2015

For: **THE LICENSEE**

_____
(Duly Authorised)

Issue: 2019-01-26_12:01:08

ANNEXURE "A"

SOFTWARE DESCRIPTION

The Licensor is the owner of the trustMASTER Fleet software. The Software is made up of components as detailed below.

Issue: 2019-01-26_12:01:08

RESOLUTION OF

THE DIRECTORS OF BOSASA OPERATIONS (PTY) LTD
REGISTRATION NUMBER 1981/012426/07

AND

THE TRUSTEES OF THE EMPLOYEES TRUST ("the Trust")
REGISTRATION NUMBER IT3305/02

CIRCULATED FOR APPROVAL
AT MOGALE CITY ON THE _____ 2016

SIGNATORY DIRECTORS:

T I Dikani
J Gumede
P F Leshabane
J S A Leyds
N L T Makoko
S S D T Mathenjwa
B J Mkangisa
M Oliveria
G J Watson

SIGNATORY TRUSTEES:

N L T Makoko
N M Modungwa
G J Watson

RECORDED THAT:

1. The Trust was established pursuant to an employee share incentive scheme for the benefit of the leadership of the operating company of the Bosasa group, now Bosasa Empowerment and Management Services (Pty) Ltd ("the Company"), and more particularly to provide an incentive to such employees to remain in the employment of the Bosasa group and to promote its continued growth by giving them an opportunity to acquire shares in the Company.

2. The objective of the Trust has changed as a decision has been made to only allow 'Black Persons' as defined in the Broad-Based Black Economic Empowerment Act, No 53 of 2003, to be beneficiaries of the Trust, thereby ensuring that the Company will continue to qualify for the requisite scorecard points to ensure its B-BBEE status in terms of the said Act. The change in objective of the Trust also necessitates a change in the mechanisms provided for in the Trust deed to appoint and/or replace beneficiaries.

Issue: 2019-01-26_12:01:08

3. The trustees of the Trust ("the Trustees") accordingly wish to amend the Trust deed by replacing it in its entirety with a new trust deed.

4. The Trust deed provides in clause 28.1 thereof that the Trust deed may be amended by the directors of Bosasa Operations (Pty) Ltd ("the Directors") and the Trustees.

5. In addition, clause 28.1.1. of the Trust deed provides that any amendment to the Trust deed may not result in the alteration of the terms or conditions of allotment of any Scheme Shares or Capitalisation Shares or of any Option (as defined in the Trust deed and collectively hereinafter referred to as "the Instruments") without the consent of the beneficiaries of the Trust if such consent would be required by the articles of association of the Company for a variation or cancellation of the rights attached to the Instruments.

6. The articles of association of the Company (as replaced by its Memorandum of Incorporation) do not require the consent of the beneficiaries of the Trust for a variation or cancellation of the rights attached to the Instruments. However, the Trustees and the Directors have nevertheless decided to obtain the written consent of the sole non-vested beneficiary of the Trust, Munirah Oliveria ("Oliveria"), to the amendment of the Trust deed in terms of the provisions of this resolution, due to the extensive nature thereof.

7. Oliveria, who is also a Director, by her signature hereto acknowledges and confirms that:

   7.1. she is acting herein in her capacity both as Director and as sole non-vested beneficiary of the Trust;
   7.2. she is a non-vested beneficiary of the Trust by virtue of an Option (as defined in the Trust deed) that has been granted to her in terms of the Trust deed, which Option has not been exercised by her; and
   7.3. for reasons set out in paragraph 3 and 4 above she is not required to give her consent to the amendment to the Trust deed as contemplated in this resolution. The proposed amendment will not prejudice any of her rights as non-vested beneficiary of the Trust and she accordingly nevertheless gives her consent to the extent that it may be required.

8. Simultaneously with the amendment of the Trust deed in terms of this resolution, the Company and Oliveria will enter into an agreement in terms of which the Option is withdrawn by the Company and accordingly cancelled. It is recorded, however, that the cancellation of the Option will in no way affect Oliveria's status as non-vested beneficiary of the Trust, as such status is provided for in terms of the replacement deed attached hereto, which supercedes the original Trust deed, and the Option is accordingly no longer relevant or appropriate.

RESOLVED THAT:

In terms of clause 28.1 of the Trust deed the Trust deed be amended with effect from the date of this resolution by scrapping it in its entirety and replacing it with the deed attached hereto as Annexure "A", which is initialled by all the signatories to this resolution for identification purposes.

By their signatures hereto the directors and trustees confirm that they are in agreement with the contents of the resolution.

Issue: 2019-01-26_12:01:08

T I DIKANI
(Director)

J GUMEDE
(Director)

P F LESHABANE
(Director)

J S A LEYDS
(Director)

S S D T MATHENJWA
(Director)

B J MKANGISA
(Director)

M OLIVERIA
(Director)

G J WATSON
(Director and Trustee)

N L T MAKOKO
(Director and Trustee)

N M MODUNGWA
(Trustee)

COMMISSION OF INQUIRY INTO STATE CAPTURE

ANNEXURE "A"

TRUST DEED

EMPLOYEES TRUST

COMMISSION OF INQUIRY INTO STATE CAPTURE

Issue: 2019-01-26_12:01:08

INDEX

EMPLOYEES TRUST

NO	CLAUSE HEADING	PAGE
1	DEFINITIONS	1
2	PROVISIONS CONCERNING THE NUMBER OF TRUSTEES, TERMINATION OF OFFICE AND SUCCEEDING TRUSTEES	3
3	FURNISHING OF SECURITY BY TRUSTEES	4
4	ABSENCE OF A TRUSTEE	4
5	RESOLUTIONS BY TRUSTEES	5
6	POWERS OF TRUSTEES	5
7	POWERS RELATING TO BANK LOANS	9
8	EMPLOYMENT OF CAPITAL	9
9	EMPLOYMENT OF INCOME	10
10	CREATION OF FURTHER TRUSTS	11
11	DUTIES OF TRUSTEES	11
12	TERMINATION OF THE TRUST	12
13	PROFESSIONAL SERVICES	12
14	PERSONAL LIABILITY OF TRUSTEE	13
15	AMENDMENT TO THE TRUST DEED	13
16	REMUNERATION OF TRUSTEES	14
17	RESTRICTIONS ON BENEFICIARIES	14
18	MARRIAGE OF A BENEFICIARY	14
19	MEETINGS OF TRUSTEES AND RESOLUTIONS	14

Issue: 2019-01-26_12:01:08

WHEREAS the Trust was created for the benefit of a certain class of beneficiaries during the course of 2002 under registration number IT3305/02 (T);

AND WHEREAS the trustees of the Trust have resolved to amend the trust deed of the Trust by replacing it in its entirety with the deed contained in this document;

AND WHEREAS the sole discretionary income and capital beneficiary as at the date of the said resolution is Munirah Oliveria, identity number 591016 0094 087, who has no vested capital or income interest in the trust fund;

THEREFORE THE TRUST DEED PROVIDES AS FOLLOWS –

1 **DEFINITIONS**

In this Trust Deed, unless the context indicates otherwise, the following words or expressions shall have the following definitions, namely-

1.1 **"beneficiaries"** refer collectively to both capital and income beneficiaries in so far as the reference to beneficiaries relates to the trust fund;

1.2 **"Class"** means persons, whether male or female, who are:

1.2.1 'Black Persons' as defined in the *Broad-Based Black Economic Empowerment Act*, No 53 of 2003, and more fully described in the Codes of Good Practice on Black Economic Empowerment gazetted on 9 February 2007 by the Department of Trade and Industry in terms of the said Act, or any codes of good practice or legislation which replaces it; and

1.2.2 employees of the Company and/or any of its subsidiaries;

1.3 **"Company"** means Bosasa Empowerment and Management Services (Pty) Ltd (Registration Number 1999/020406/07);

Issue: 2019-01-26_12:01:08

1.4 **"Directors"** means the Board of Directors of the Company from time to time, acting in accordance with the procedures described in the Memorandum of Incorporation of the Company;

1.5 **"income beneficiaries"** refers, in relation to the trust income, to:

1.5.1 the income beneficiaries nominated in terms of this trust deed, or

1.5.2 such additional or other persons as are from time to time nominated by the trustees to benefit from the trust income on discretionary terms and in accordance with the powers vested in the trustees in terms of this trust deed,

provided that such income beneficiaries or persons shall at all times be members of the Class only;

1.6 **"capital beneficiaries"** refers, in relation to the trust capital, to

1.6.1 the capital beneficiaries nominated in terms of this trust deed, or

1.6.2 such additional or other persons as are from time to time nominated by the trustees in their discretion to benefit from the trust capital,

provided that such capital beneficiaries or persons shall at all times be members of the Class only;

1.7 **"trusteeship"** refers to the office held by the trustees of the trust;

1.8 **"trustees"** refer to the incumbents of the office of trustee;

1.9 **"trust fund or trust property"** refers to the trust property or capital vested in the trustees, or in respect of which they have a claim, irrespective of the source from which such additions are derived. Trust income not allocated by the trustees within six (6) months from the

Issue: 2019-01-26_12:01:08

financial year end, unless the trustees resolve that such income shall form part of the trust capital, shall be deemed to be undistributed profits which shall remain part of the trust income and not the trust capital. The aggregate of all trust property constitutes the trust fund;

1.10 **"trust deed or trust document"** refers to this document as a whole;

1.11 **"vesting date"** means the date on which the trust fund or part thereof shall vest in the beneficiaries in whose favour this trust has been created. The distribution date shall be any of the following dates, namely:

(i) the date on which trustees make interim distributions of capital or income in terms of the powers vested in them;

(ii) the date that the trustees unanimously resolve to terminate the trust;

1.12 reference to the singular includes reference to the plural and *vice versa*;

1.13 reference to a gender includes reference to the other genders;

1.14 reference to a natural person includes reference to any juristic person or association of persons and *vice versa*.

2 PROVISIONS CONCERNING THE NUMBER OF TRUSTEES, TERMINATION OF OFFICE AND SUCCEEDING TRUSTEES

2.1 There shall at all times be a minimum of 3 (three) trustees in office, provided that if, temporarily, there are only 2 (two) trustees as a result of the resignation or death of a co-trustee, the remaining trustees shall be authorised to exercise all the power of trustees for the maintenance and administration of the trust fund until such time as another trustee has been appointed, which appointment the trustees so in office shall make within 90 (ninety) days of the resignation or death of a trustee.

2.2 The trustees shall at all times be appointed by resolution of the Directors

Issue: 2019-01-26_12:01:08

provided that the trustees for the time being of the Gavin Watson Family Trust (registration number 608/2000) agree in writing to such appointment.

2.3 On the written acceptance of his appointment as a trustee, a succeeding trustee shall be vested with all the powers and be subject to all the duties of a trustee as if he had been one of the original trustees of this trust.

2.4 A trustee shall cease to act as a trustee -

2.4.1 if he resigns as trustee, which he is entitled to do by giving 30 (thirty) days written notice to his co-trustee(s) to this effect;

2.4.2 if he is called upon to resign by a majority resolution of the trustees;

2.4.3 if he is called upon to resign by resolution of the Directors;

2.4.4 if he is certified to be mentally disturbed;

2.4.5 if his estate is sequestrated, either provisionally or finally, or if he surrenders his estate on behalf of his creditors or makes a compromise with his creditors;

2.4.6 if, in terms of the provisions of the *Companies Act*, No 71 of 2008, or its replacement from time to time, he is disqualified from serving as a director of a company.

3 FURNISHING OF SECURITY BY TRUSTEES

A trustee serving as such is exempted from furnishing security to the Master of the High Court, or any other person or body in terms of the *Trust Property Control Act,* No 57 of 1988, or in terms of any other statutory provision, for the proper performance of his duties as trustee.

4 ABSENCE OF A TRUSTEE

A trustee who is temporarily absent from the address from where the trust

Issue: 2019-01-26_12:01:08

transacts its business, shall have the right to nominate a co-trustee by means of a written proxy to act on his behalf. If all the serving trustees are to be absent in this way, they shall have the right by way of a joint proxy to nominate a person or persons to act as trustees for the duration of their absence.

5 RESOLUTIONS BY TRUSTEES

5.1 Where the deed refers to the discretion of the trustees such discretion means an exclusive and absolute discretion vesting in the trustees.

5.2 Trustees shall pass resolutions by way of a majority decision of all acting trustees, provided that if the number of trustees temporarily reduces to 2 (two) trustees as contemplated in clause 2.1, such trustees shall pass resolutions by way of an unanimous decision.

5.3 The trustees may appoint a single trustee to represent and act on behalf of the trust.

6 POWERS OF TRUSTEES

6.1 The powers of the trustees defined in this trust deed are powers which relate to that of the office of trustee, to enable them to administer the trust fund on behalf of the beneficiaries and not for their personal benefit. The extent of the powers vested in trustees must be interpreted subject to the main objective of the trust, namely, to benefit the beneficiaries.

6.2 The trustees shall at all times be vested with such powers to deal with the trust assets which they in their exclusive discretion deem necessary to best control the trust fund for the benefit of the beneficiaries. Without restricting the general powers of the trustees, the trustees shall have powers to -

6.2.1 open a bank account for the trust, draw cheques on such account or deposit moneys into it, issue bills and guarantees in favour of third parties against the account and to hand bills for collection in favour of the trust to the bank. For the purposes of this sub-

Issue: 2019-01-26_12:01:08

paragraph the signature of any of the trustees shall be a proper authority for any transaction from the bank account, provided that the authority was given to such trustee by a proper resolution passed by the Board of Trustees;

6.2.2 buy, sell or exchange goods of any kind, movable and immovable, corporeal and incorporeal, shares, stocks, debentures and securities on such terms and conditions as the trustees may decide;

6.2.3 invest moneys which form part of the trust fund in such securities and on such terms and conditions as the trustees may determine;

6.2.4 retain existing investments or investments made by the trustees in that form, or to re-invest in any other form;

6.2.5 grant loans to a beneficiary or any other person, with or without interest against or free of security, or on such terms and conditions as the trustees may in their discretion determine;

6.2.6 negotiate loans in favour of the trust, with or without interest, with or without security, and on such terms and conditions as are agreed with the lender;

6.2.7 mortgage, hypothecate or grant a lien on any asset of the trust;

6.2.8 sell, let, improve, alter and maintain any fixed property forming part of the trust fund, and if need be, to demolish fixed improvements and erect new improvements and to do township and/or sectional title development of property;

6.2.9 collect, rent and cancel leases, and to evict a lessee from property belonging to the trust;

6.2.10 institute or defend legal actions;

Issue: 2019-01-26_12:01:08

6.2.11 attend meetings of creditors of a private individual, company or body that is a debtor of the trust, irrespective of whether the meeting is in connection with insolvency, liquidation or judicial management, to vote on any matter submitted to the meeting, and generally to exercise all the rights a creditor would have had in similar circumstances;

6.2.12 guarantee as surety, or co-principal debtor, the due performance by any person or company for compensation or free of charge, and to bind an asset of the trust, as collateral security for this purpose;

6.2.13 issue receipts, discharges or indemnities in respect of any repayment or discharge of obligations;

6.2.14 make use of the services of professional advisers and trades men for the affairs of the trust and to pay for such services out of the trust fund;

6.2.15 pay any costs incurred in connection with the administration of the trust out of the trust fund;

6.2.16 make donations to the beneficiaries of the trust;

6.2.17 accept donations or bequests on behalf of the trust from anybody subject to the terms and conditions of this trust deed and subject to the terms and conditions attached to such further donation and/or bequest;

6.2.18 carry on any form of business operation in the name of the trust for profit or otherwise, alone or in partnership or association;

6.2.19 form companies in any part of the world for such purposes as the trustees may determine, to enter into shareholders or equivalent agreements, to exercise the vote attaching to shares vesting in the

Issue: 2019-01-26_12:01:08

trustees, and generally to exercise any or all of the rights a shareholder may have in a company by virtue of its Memorandum of Incorporation and or by virtue of the provisions of any shareholders agreement, or by virtue of the company laws in force in the Republic of South Africa from time to time;

6.2.20 hold investments in their personal names on behalf of the trust, if necessary, in circumstances where investments are made in a company or Unit Trust Scheme of which the Memorandum of Incorporation or regulations prohibit the registration of such investments in the name of a trust;

6.2.21 decide whether any receipt of a liquidation dividend by the trust shall form part of the trust income or capital;

6.2.22 enter into contracts with themselves in their personal capacity, jointly or severally, provided that the trustees make prior disclosure of their personal interests in such contracts;

6.2.23 sign all documents and take all such steps deemed necessary for the meaningful exercise of any of the abovementioned powers;

6.2.24 make interim distributions of capital and/or income to beneficiaries of the trust in such circumstances and at such times, and in such form as the trustees may deem fit in their sole discretion;

6.2.25 effect an assurance policy on the life of a trustee and/or a beneficiary or to take cession of such a policy and to pay the premiums for such policy out of the trust income. If during the currency of the trust a person so assured should die while the assurance policy on his life is still in operation, the proceeds of such policy shall form part of the trust fund;

6.2.26 grant cession of any assurance policy owned by the trust in favour of a beneficiary of the trust as a distribution, or in favour of a

Issue: 2019-01-26_12:01:08

trustee or third party in return for a market related consideration;

6.2.27 exercise all the powers which directors of a private company have in terms of the *Companies Act*;

6.2.28 apply on behalf of the trust for membership of a co-operative company or association, or any other body or society; to enjoy the benefits derived from such membership, and to subject the trust property to mortgage, pledge or hypothecation as security if so required;

6.2.29 exercise all the powers, rights and obligations granted in terms of this Trust Deed in any country outside the Republic of South Africa.

7 POWERS RELATING TO BANK LOANS

Trustees are empowered to apply to any financial institution (hereinafter collectively referred to as the Bank) for a loan or loans against security of the trust assets, movable and immovable, subject to such conditions as are imposed by the Bank and which conditions have been accepted in writing by the trustees.

8 EMPLOYMENT OF CAPITAL

The trustees are empowered, in their absolute discretion to -

8.1 make any payments in the furtherance of the activities of the trust, which they are otherwise empowered to make from the trust income, from the trust capital;

8.2 distribute trust property during the currency of the trust to or for the benefit of the capital beneficiaries, or any one of them, in such manner and in such proportions and subject to such terms and conditions as the trustees shall deem fit in their sole discretion;

8.3 effect payment in cash or in kind, or partly in cash and partly in kind

Issue: 2019-01-26_12:01:08

whenever any portion of the trust fund is distributed to a beneficiary in terms of this trust deed. The value placed by the trustees on any goods or property forming part of such a distribution shall be final and binding on all concerned;

8.4 decide whether any recipient of an interim benefit in terms of clause 8.2 shall continue to be a beneficiary of the trust or whether the interim distribution shall constitute a final distribution to the beneficiary concerned;

8.5 treat any periodic receipts of the trust as income, notwithstanding that such receipts are derived from wasting assets, and they are not obliged to make provision for the replacement thereof;

8.6 decide at their absolute discretion and in any manner they deem fit whether any receipts of the trust constitute income or capital, notwithstanding that the nature of the receipt may be otherwise. The trustees' discretion in this regard shall be final and binding on all parties concerned.

9 EMPLOYMENT OF INCOME

The trust is a discretionary trust as far as the employment, allocation and distribution of trust income is concerned and the trustees may in their absolute discretion allocate income to any beneficiary who may qualify as an income beneficiary, and in particular they are entitled to -

9.1 pay all costs incurred by the trustees in connection with the administration of the trust;

9.2 pay such amounts to any beneficiary as the trustees may deem reasonable and desirable for the maintenance, education and general welfare of such beneficiary;

9.3 reimburse themselves from the trust fund in respect of any expenses that they personally may incur in connection with the performance of their duties as trustees;

Issue: 2019-01-26_12:01:08

9.4 accumulate income in the trust fund in order to supplement the capital of the trust fund;

9.5 decide to accumulate undistributed profits as part of the income of the trust fund available for distribution, at their discretion, to the income beneficiaries.

10 CREATION OF FURTHER TRUSTS

10.1 The trustees shall have the right to distribute the trust income and/or capital in the creation of further trust for the benefit of a beneficiary and/or his or her spouse and/or his or her widow/widower and/or his or her children on such terms and conditions as the trustees may deem fit. Without in any way detracting from the generality of the foregoing, the trustees shall have the right to -

10.1.1 provide in such trust deeds for a vesting date before or after the vesting date contained in this trust deed;

10.1.2 appoint separate trustees for such trusts.

10.2 The trustees shall be relieved of any further responsibilities in respect of such amounts transferred from the trust fund to such separate trusts.

10.3 If a beneficiary repudiates the benefits stipulated for him prior to the vesting date of this trust, his legal descendants shall be substituted for him and the trustees shall have the right to create a new trust or trusts for the substituted beneficiary/beneficiaries in terms of the relevant provisions of clause 10.1.

11 DUTIES OF TRUSTEES

Apart from the common law duties which attach to the office of trustee, the trustees shall be subject to the duties enunciated in the *Trust Property Control Act*, namely, to -

Issue: 2019-01-26_12:01:08

11.1 ensure that the original trust document is filed with the Master of the High Court;

11.2 refrain from acting as trustees until they are in possession of a letter of authority from the Master of the High Court so to act;

11.3 open a trust account with a bank or building society in the name of the trust in which all money received by them for purposes of the trust shall be deposited;

11.4 take possession of all title deeds and documents relating to the affairs of the trust for safekeeping;

11.5 ensure that proper books are kept of the affairs of the trust;

11.6 keep all trust property separate and register it in the name of the trust so that it can be identified as trust property;

11.7 to refrain from holding or disposing of trust property for their personal benefit, or for the benefit of their estates, and generally to act in a prudent and responsible manner as would be expected from persons who are in charge of the affairs of another person.

12 TERMINATION OF THE TRUST

Apart from any interim capital or income distributions the trustees may have made, the trust shall continue until the vesting date as defined.

13 PROFESSIONAL SERVICES

13.1 The trustees shall keep a proper set of books recording the affairs of the trust. The trust's financial year shall close on the last day of February every year unless otherwise elected. At this date financial statements shall be prepared. Every beneficiary of the trust shall on request be entitled to a copy of the annual financial statements of the trust.

Issue: 2019-01-26_12:01:08

13.2 The trustees shall have the right to make use of the services of professional persons in so far as such services are deemed to be necessary or desirable for the purposes of the trust.

14 PERSONAL LIABILITY OF TRUSTEE

A trustee shall not be personally liable for any loss the trust may suffer, irrespective of the reason for such loss, unless such loss results from a dishonest act committed by a trustee. A trustee shall not be liable for a dishonest act committed by a co-trustee unless there was collusion between them.

15 AMENDMENT TO THE TRUST DEED

15.1 The trust deed may, subject to the provisions of clause 15.3, be amended by a majority vote of the trustees provided that the prior written consent of the trustees for the time being of the Gavin Watson Family Trust (registration number 608/2000) has been obtained in respect of such amendment.

15.2 The power to amend shall, subject to the provisions of clause 15.3, include the power to add to, or make substitutions for, the nominated capital and income beneficiaries, provided that such additional or substitutive beneficiaries may only be selected from the Class.

15.3 If any beneficiary has a vested income and/or capital interest in the trust fund such beneficiary shall be required to agree to any amendment of the trust deed in writing. For the avoidance of doubt it is recorded that a beneficiary may only have been afforded a temporary vested income and/or capital interest in the trust fund by the trustees, and that such beneficiary's written permission for an amendment shall only be required during the time that he has such temporary vested interest. The permission of a beneficiary who does not have a vested interest in the trust fund shall not be required for an amendment.

Issue: 2019-01-26_12:01:08

16 REMUNERATION OF TRUSTEES

16.1 The trustees are entitled to remuneration for their services at a rate they deem equitable.

16.2 The fact that a trustee conducts a profession or business shall not be an impediment for him or his firm to render professional or business services to the trust, and to be remunerated according to such capacity, irrespective of the fact that he may be a trustee of the trust.

17 RESTRICTIONS ON BENEFICIARIES

17.1 Since the trust fund vests in the trustees, the beneficiaries have no claim to the trust property and shall have no right in any way to deal with such property for the duration of the trust.

17.2 The trust fund cannot be attached for the satisfaction of any claim against a beneficiary.

17.3 If a the estate of a beneficiary is sequestrated, or if he enters into a compromise with his creditors, the trustees shall have the right to extend the vesting date in respect of that beneficiary until a date determined by them.

18 MARRIAGE OF A BENEFICIARY

All benefits accruing to a beneficiary in terms of this trust deed shall for all purposes be excluded from any community of property, or community of profit and loss. The accrual system in terms of the *Matrimonial Property Act*, No 88 of 1984, shall not apply to benefits derived from the trust.

19 MEETINGS OF TRUSTEES AND RESOLUTIONS

19.1 The trustees shall meet from time to time to discuss and/or resolve the business of the trust. For this purpose the following shall apply -

Issue: 2019-01-26_12:01:08

19.1.1 at their first meeting the trustees shall elect a chairperson and he or she shall act in this capacity for the period as laid down by the trustees;

19.1.2 resolutions passed at meetings shall be duly recorded and, for all intents and purposes, the procedure shall be as is prescribed by the Memorandum of Incorporation of the Company;

19.1.3 every trustee has the right to call a meeting of trustees; and

19.1.4 the trustees themselves shall determine the policy and procedures to be followed at meetings.

19.2 A written resolution signed by all the trustees has the same legal implication as a resolution passed at a meeting of trustees.

19.3 The trustees shall meet at least once a year to consider the passing of resolutions allocating and/or distributing income earned during the preceding financial year. The trustees shall meet as soon as possible after the end of the financial year of the trust to exercise their discretionary powers. The resolutions distributing or allocating income shall be retrospective to the last day of the immediate past financial year.

19.4 The trustees, in their administration of the trust and to enable them to give effect to any formal legal requirement, may authorise one or more of their number to sign all documents required to be signed for the execution of any transaction concerning the business of the trust. Any resolution certified by a trustee to be a true extract from the minutes of a resolution passed by all the trustees shall in all respects have the same legal force as a resolution signed by all the trustees.

Issue: 2019-01-26_12:01:08

[ON BOSASA EMPOWERMENT AND MANAGEMENT SERVICES (PTY) LTD LETTERHEAD]

16th March 2016

Ms Munirah Oliveria
96 Mowbray Street
Newton Park
Port Elizabeth

Dear Ms Oliveria

SHARE INCENTIVE SCHEME
OPTION TO ACQUIRE SHARES

We confirm that, pursuant to the provisions of the trust deed of the Employees Trust ("the Trust"), we granted you an Option to subscribe for certain Ordinary Shares in the capital of the Company on the _____.

For the reasons set out in a resolution of the Trustees and directors of Bosasa Operations (Pty) Ltd ("the Resolution"), a copy of which has been made available to you, the Trustees and said directors wish to replace the Trust deed in its entirety, which will result in the Option being rendered irrelevant and inappropriate as it will no longer serve any function in terms of the replacement Trust deed.

We accordingly withdraw and cancel the Option as from the date of valid adoption of the Resolution and resulting coming into effect of the replacement Trust deed attached thereto.

Please confirm your acceptance of the cancellation of the Option by signing this letter at the bottom thereof.

Signed at _____ this _____ day of _____ 2016

As witnesses:

1 _____

2 _____ _____

For : The Company
(duly authorised)

Cancellation of the Option accepted as set out above at _____ this _____ day of _____ 2016

As witnesses:

1 _____

_____ _____

Munirah Oliveria

Issue: 2019-01-26_12:01:08

RESOLUTION OF A JOINT MEETING OF

THE DIRECTORS OF BOSASA OPERATIONS (PTY) LTD
REGISTRATION NUMBER 1981/012426/07

AND

THE TRUSTEES OF THE EMPLOYEES TRUST ("the Trust")
REGISTRATION NUMBER IT3305/02

HELD AT MOGALE CITY ON THE _____ 2016

DIRECTORS PRESENT:

T I Dikani
J Gumede
P F Leshabane
J S A Leyds
N L T Makoko
S S D T Mathenjwa
B J Mkangisa
M Oliveria
G J Watson

TRUSTEES PRESENT:

M L T Makoko
N M Modungwa
G J Watson

RECORDED THAT:

1. The Trust was established pursuant to an employee share incentive scheme for the benefit of the leadership of the operating company of the Bosasa group, now Bosasa Empowerment and Management Services (Pty) Ltd ("the Company"), and more particularly to provide an incentive to such employees to remain in the employment of the Bosasa group and to promote its continued growth by giving them an opportunity to acquire shares in the Company.

2. The objective of the Trust has changed as a decision has been made to only allow 'Black Persons' as defined in the Broad-Based Black Economic Empowerment Act, No 53 of 2003, to be beneficiaries of the Trust, thereby ensuring that the Company will continue to qualify for the requisite scorecard points to ensure its B-BBEE status in terms of the said Act. The change in objective of the Trust also necessitates a change in the mechanisms provided for in the Trust deed to appoint and/or replace beneficiaries.

3. The trustees of the Trust ("the Trustees") accordingly wish to amend the Trust deed by replacing it in its entirety with a new trust deed.

Issue: 2019-01-26_12:01:08

4. The Trust deed provides in clause 28.1 thereof that the Trust deed may be amended by the directors of Bosasa Operations (Pty) Ltd ("the Directors") and the Trustees.

5. In addition, clause 28.1.1. of the Trust deed provides that any amendment to the Trust deed may not result in the alteration of the terms or conditions of allotment of any Scheme Shares or Capitalisation Shares or of any Option (as defined in the Trust deed and collectively hereinafter referred to as "the Instruments") without the consent of the beneficiaries of the Trust if such consent would be required by the articles of association of the Company for a variation or cancellation of the rights attached to the Instruments.

6. The articles of association of the Company (as replaced by its Memorandum of Incorporation) do not require the consent of the beneficiaries of the Trust for a variation or cancellation of the rights attached to the Instruments. However, the Trustees and the Directors have nevertheless decided to obtain the written consent of the sole non-vested beneficiary of the Trust, Munirah Oliveria ("Oliveria"), to the amendment of the Trust deed in terms of the provisions of this resolution, due to the extensive nature thereof.

7. Oliveria, who is also a Director, by her signature hereto acknowledges and confirms that:

   7.1. she is acting herein in her capacity both as Director and as sole non-vested beneficiary of the Trust;
   7.2. she is a non-vested beneficiary of the Trust by virtue of an Option (as defined in the Trust deed) that has been granted to her in terms of the Trust deed, which Option has not been exercised by her; and
   7.3. for reasons set out in paragraph 3 and 4 above she is not required to give her consent to the amendment to the Trust deed as contemplated in this resolution. The proposed amendment will not prejudice any of her rights as non-vested beneficiary of the Trust and she accordingly nevertheless gives her consent to the extent that it may be required.

8. Simultaneously with the amendment of the Trust deed in terms of this resolution, the Company and Oliveria will enter into an agreement in terms of which the Option is withdrawn by the Company and accordingly cancelled. It is recorded, however, that the cancellation of the Option will in no way affect Oliveria's status as non-vested beneficiary of the Trust, as such status is provided for in terms of the replacement deed attached hereto, which supercedes the original Trust deed, and the Option is accordingly no longer relevant or appropriate.

RESOLVED THAT:

In terms of clause 28.1 of the Trust deed the Trust deed be amended with effect from the date of this resolution by scrapping it in its entirety and replacing it with the deed attached hereto as Annexure "A", which is initialled by all the signatories to this resolution for identification purposes.

There being no further business, the meeting has terminated.

_____	_____	_____
T I DIKANI (Director)	DATE	PLACE

Issue: 2019-01-26_12:01:08

J GUMEDE (Director)	DATE	PLACE
P F LESHABANE (Director)	DATE	PLACE
J S A LEYDS (Director)	DATE	PLACE
N L T MAKOKO (Director)	DATE	PLACE
S S D T MATHENJWA (Director)	DATE	PLACE
B J MKANGISA (Director)	DATE	PLACE
M OLIVERIA (Director and beneficiary)	DATE	PLACE
G J WATSON (Director)	DATE	PLACE
N L T MAKOKO (Trustee)	DATE	PLACE

COMMISSION OF INQUIRY INTO STATE CAPTURE

Issue: 2019-01-26_12:01:08

N M MODUNGWA (Trustee)	DATE	PLACE
G J WATSON (Trustee)	DATE	PLACE

Issue: 2019-01-26_12:01:08

ANNEXURE "A"

TRUST DEED

EMPLOYEES TRUST

COMMISSION OF INQUIRY INTO STATE CAPTURE

Issue: 2019-01-26_12:01:08

INDEX

EMPLOYEES TRUST

NO	CLAUSE HEADING	PAGE
1	DEFINITIONS	1
2	PROVISIONS CONCERNING THE NUMBER OF TRUSTEES, TERMINATION OF OFFICE AND SUCCEEDING TRUSTEES	3
3	FURNISHING OF SECURITY BY TRUSTEES	4
4	ABSENCE OF A TRUSTEE	4
5	RESOLUTIONS BY TRUSTEES	5
6	POWERS OF TRUSTEES	5
7	POWERS RELATING TO BANK LOANS	9
8	EMPLOYMENT OF CAPITAL	9
9	EMPLOYMENT OF INCOME	10
10	CREATION OF FURTHER TRUSTS	11
11	DUTIES OF TRUSTEES	11
12	TERMINATION OF THE TRUST	12
13	PROFESSIONAL SERVICES	12
14	PERSONAL LIABILITY OF TRUSTEE	13
15	AMENDMENT TO THE TRUST DEED	13
16	REMUNERATION OF TRUSTEES	14
17	RESTRICTIONS ON BENEFICIARIES	14
18	MARRIAGE OF A BENEFICIARY	14
19	MEETINGS OF TRUSTEES AND RESOLUTIONS	14

Issue: 2019-01-26_12:01:08

WHEREAS the Trust was created for the benefit of a certain class of beneficiaries during the course of 2002 under registration number IT3305/02 (T);

AND WHEREAS the trustees of the Trust have resolved to amend the trust deed of the Trust by replacing it in its entirety with the deed contained in this document;

AND WHEREAS the sole discretionary income and capital beneficiary as at the date of the said resolution is Munirah Oliveria, identity number 591016 0094 087, who has no vested capital or income interest in the trust fund;

THEREFORE THE TRUST DEED PROVIDES AS FOLLOWS –

1 **DEFINITIONS**

In this Trust Deed, unless the context indicates otherwise, the following words or expressions shall have the following definitions, namely-

1.1 **"beneficiaries"** refer collectively to both capital and income beneficiaries in so far as the reference to beneficiaries relates to the trust fund;

1.2 **"Class"** means persons, whether male or female, who are:

1.2.1 'Black Persons' as defined in the *Broad-Based Black Economic Empowerment Act*, No 53 of 2003, and more fully described in the Codes of Good Practice on Black Economic Empowerment gazetted on 9 February 2007 by the Department of Trade and Industry in terms of the said Act, or any codes of good practice or legislation which replaces it; and

1.2.2 employees of the Company and/or any of its subsidiaries;

1.3 **"Company"** means Bosasa Empowerment and Management Services (Pty) Ltd (Registration Number 1999/020406/07);

Issue: 2019-01-26_12:01:08

1.4 **"Directors"** means the Board of Directors of the Company from time to time, acting in accordance with the procedures described in the Memorandum of Incorporation of the Company;

1.5 **"income beneficiaries"** refers, in relation to the trust income, to:

1.5.1 the income beneficiaries nominated in terms of this trust deed, or

1.5.2 such additional or other persons as are from time to time nominated by the trustees to benefit from the trust income on discretionary terms and in accordance with the powers vested in the trustees in terms of this trust deed,

provided that such income beneficiaries or persons shall at all times be members of the Class only;

1.6 **"capital beneficiaries"** refers, in relation to the trust capital, to

1.6.1 the capital beneficiaries nominated in terms of this trust deed, or

1.6.2 such additional or other persons as are from time to time nominated by the trustees in their discretion to benefit from the trust capital,

provided that such capital beneficiaries or persons shall at all times be members of the Class only;

1.7 **"trusteeship"** refers to the office held by the trustees of the trust;

1.8 **"trustees"** refer to the incumbents of the office of trustee;

1.9 **"trust fund or trust property"** refers to the trust property or capital vested in the trustees, or in respect of which they have a claim, irrespective of the source from which such additions are derived. Trust income not allocated by the trustees within six (6) months from the

Issue: 2019-01-26_12:01:08

financial year end, unless the trustees resolve that such income shall form part of the trust capital, shall be deemed to be undistributed profits which shall remain part of the trust income and not the trust capital. The aggregate of all trust property constitutes the trust fund;

1.10 **"trust deed or trust document"** refers to this document as a whole;

1.11 **"vesting date"** means the date on which the trust fund or part thereof shall vest in the beneficiaries in whose favour this trust has been created. The distribution date shall be any of the following dates, namely:

(i) the date on which trustees make interim distributions of capital or income in terms of the powers vested in them;

(ii) the date that the trustees unanimously resolve to terminate the trust;

1.12 reference to the singular includes reference to the plural and *vice versa*;

1.13 reference to a gender includes reference to the other genders;

1.14 reference to a natural person includes reference to any juristic person or association of persons and *vice versa*.

2 PROVISIONS CONCERNING THE NUMBER OF TRUSTEES, TERMINATION OF OFFICE AND SUCCEEDING TRUSTEES

2.1 There shall at all times be a minimum of 3 (three) trustees in office, provided that if, temporarily, there are only 2 (two) trustees as a result of the resignation or death of a co-trustee, the remaining trustees shall be authorised to exercise all the power of trustees for the maintenance and administration of the trust fund until such time as another trustee has been appointed, which appointment the trustees so in office shall make within 90 (ninety) days of the resignation or death of a trustee.

2.2 The trustees shall at all times be appointed by resolution of the Directors.

Issue: 2019-01-26_12:01:08

2.3 On the written acceptance of his appointment as a trustee, a succeeding trustee shall be vested with all the powers and be subject to all the duties of a trustee as if he had been one of the original trustees of this trust.

2.4 A trustee shall cease to act as a trustee -

2.4.1 if he resigns as trustee, which he is entitled to do by giving 30 (thirty) days written notice to his co-trustee(s) to this effect;

2.4.2 if he is called upon to resign by a majority resolution of the trustees;

2.4.3 if he is called upon to resign by resolution of the Directors;

2.4.4 if he is certified to be mentally disturbed;

2.4.5 if his estate is sequestrated, either provisionally or finally, or if he surrenders his estate on behalf of his creditors or makes a compromise with his creditors;

2.4.6 if, in terms of the provisions of the *Companies Act*, No 71 of 2008, or its replacement from time to time, he is disqualified from serving as a director of a company.

3 FURNISHING OF SECURITY BY TRUSTEES

A trustee serving as such is exempted from furnishing security to the Master of the High Court, or any other person or body in terms of the *Trust Property Control Act,* No 57 of 1988, or in terms of any other statutory provision, for the proper performance of his duties as trustee.

4 ABSENCE OF A TRUSTEE

A trustee who is temporarily absent from the address from where the trust transacts its business, shall have the right to nominate a co-trustee by means of a written proxy to act on his behalf. If all the serving trustees are to be absent in

Issue: 2019-01-26_12:01:08

this way, they shall have the right by way of a joint proxy to nominate a person or persons to act as trustees for the duration of their absence.

5 RESOLUTIONS BY TRUSTEES

5.1 Where the deed refers to the discretion of the trustees such discretion means an exclusive and absolute discretion vesting in the trustees.

5.2 Trustees shall pass resolutions by way of a majority decision of all acting trustees, provided that if the number of trustees temporarily reduces to 2 (two) trustees as contemplated in clause 2.1, such trustees shall pass resolutions by way of an unanimous decision.

5.3 The trustees may appoint a single trustee to represent and act on behalf of the trust.

6 POWERS OF TRUSTEES

6.1 The powers of the trustees defined in this trust deed are powers which relate to that of the office of trustee, to enable them to administer the trust fund on behalf of the beneficiaries and not for their personal benefit. The extent of the powers vested in trustees must be interpreted subject to the main objective of the trust, namely, to benefit the beneficiaries.

6.2 The trustees shall at all times be vested with such powers to deal with the trust assets which they in their exclusive discretion deem necessary to best control the trust fund for the benefit of the beneficiaries. Without restricting the general powers of the trustees, the trustees shall have powers to -

6.2.1 open a bank account for the trust, draw cheques on such account or deposit moneys into it, issue bills and guarantees in favour of third parties against the account and to hand bills for collection in favour of the trust to the bank. For the purposes of this sub-paragraph the signature of any of the trustees shall be a proper authority for any transaction from the bank account, provided that

Issue: 2019-01-26_12:01:08

the authority was given to such trustee by a proper resolution passed by the Board of Trustees;

6.2.2 buy, sell or exchange goods of any kind, movable and immovable, corporeal and incorporeal, shares, stocks, debentures and securities on such terms and conditions as the trustees may decide;

6.2.3 invest moneys which form part of the trust fund in such securities and on such terms and conditions as the trustees may determine;

6.2.4 retain existing investments or investments made by the trustees in that form, or to re-invest in any other form;

6.2.5 grant loans to a beneficiary or any other person, with or without interest against or free of security, or on such terms and conditions as the trustees may in their discretion determine;

6.2.6 negotiate loans in favour of the trust, with or without interest, with or without security, and on such terms and conditions as are agreed with the lender;

6.2.7 mortgage, hypothecate or grant a lien on any asset of the trust;

6.2.8 sell, let, improve, alter and maintain any fixed property forming part of the trust fund, and if need be, to demolish fixed improvements and erect new improvements and to do township and/or sectional title development of property;

6.2.9 collect, rent and cancel leases, and to evict a lessee from property belonging to the trust;

6.2.10 institute or defend legal actions;

6.2.11 attend meetings of creditors of a private individual, company or body that is a debtor of the trust, irrespective of whether the

Issue: 2019-01-26_12:01:08

meeting is in connection with insolvency, liquidation or judicial management, to vote on any matter submitted to the meeting, and generally to exercise all the rights a creditor would have had in similar circumstances;

6.2.12 guarantee as surety, or co-principal debtor, the due performance by any person or company for compensation or free of charge, and to bind an asset of the trust, as collateral security for this purpose;

6.2.13 issue receipts, discharges or indemnities in respect of any repayment or discharge of obligations;

6.2.14 make use of the services of professional advisers and trades men for the affairs of the trust and to pay for such services out of the trust fund;

6.2.15 pay any costs incurred in connection with the administration of the trust out of the trust fund;

6.2.16 make donations to the beneficiaries of the trust;

6.2.17 accept donations or bequests on behalf of the trust from anybody subject to the terms and conditions of this trust deed and subject to the terms and conditions attached to such further donation and/or bequest;

6.2.18 carry on any form of business operation in the name of the trust for profit or otherwise, alone or in partnership or association;

6.2.19 form companies in any part of the world for such purposes as the trustees may determine, to enter into shareholders or equivalent agreements, to exercise the vote attaching to shares vesting in the trustees, and generally to exercise any or all of the rights a shareholder may have in a company by virtue of its Memorandum

Issue: 2019-01-26_12:01:08

of Incorporation and or by virtue of the provisions of any shareholders agreement, or by virtue of the company laws in force in the Republic of South Africa from time to time;

6.2.20 hold investments in their personal names on behalf of the trust, if necessary, in circumstances where investments are made in a company or Unit Trust Scheme of which the Memorandum of Incorporation or regulations prohibit the registration of such investments in the name of a trust;

6.2.21 decide whether any receipt of a liquidation dividend by the trust shall form part of the trust income or capital;

6.2.22 enter into contracts with themselves in their personal capacity, jointly or severally, provided that the trustees make prior disclosure of their personal interests in such contracts;

6.2.23 sign all documents and take all such steps deemed necessary for the meaningful exercise of any of the abovementioned powers;

6.2.24 make interim distributions of capital and/or income to beneficiaries of the trust in such circumstances and at such times, and in such form as the trustees may deem fit in their sole discretion;

6.2.25 effect an assurance policy on the life of a trustee and/or a beneficiary or to take cession of such a policy and to pay the premiums for such policy out of the trust income. If during the currency of the trust a person so assured should die while the assurance policy on his life is still in operation, the proceeds of such policy shall form part of the trust fund;

6.2.26 grant cession of any assurance policy owned by the trust in favour of a beneficiary of the trust as a distribution, or in favour of a trustee or third party in return for a market related consideration;

Issue: 2019-01-26_12:01:08

6.2.27 exercise all the powers which directors of a private company have in terms of the *Companies Act*;

6.2.28 apply on behalf of the trust for membership of a co-operative company or association, or any other body or society; to enjoy the benefits derived from such membership, and to subject the trust property to mortgage, pledge or hypothecation as security if so required;

6.2.29 exercise all the powers, rights and obligations granted in terms of this Trust Deed in any country outside the Republic of South Africa.

7 POWERS RELATING TO BANK LOANS

Trustees are empowered to apply to any financial institution (hereinafter collectively referred to as the Bank) for a loan or loans against security of the trust assets, movable and immovable, subject to such conditions as are imposed by the Bank and which conditions have been accepted in writing by the trustees.

8 EMPLOYMENT OF CAPITAL

The trustees are empowered, in their absolute discretion to -

8.1 make any payments in the furtherance of the activities of the trust, which they are otherwise empowered to make from the trust income, from the trust capital;

8.2 distribute trust property during the currency of the trust to or for the benefit of the capital beneficiaries, or any one of them, in such manner and in such proportions and subject to such terms and conditions as the trustees shall deem fit in their sole discretion;

8.3 effect payment in cash or in kind, or partly in cash and partly in kind whenever any portion of the trust fund is distributed to a beneficiary in

Issue: 2019-01-26_12:01:08

terms of this trust deed. The value placed by the trustees on any goods or property forming part of such a distribution shall be final and binding on all concerned;

8.4 decide whether any recipient of an interim benefit in terms of clause 8.2 shall continue to be a beneficiary of the trust or whether the interim distribution shall constitute a final distribution to the beneficiary concerned;

8.5 treat any periodic receipts of the trust as income, notwithstanding that such receipts are derived from wasting assets, and they are not obliged to make provision for the replacement thereof;

8.6 decide at their absolute discretion and in any manner they deem fit whether any receipts of the trust constitute income or capital, notwithstanding that the nature of the receipt may be otherwise. The trustees' discretion in this regard shall be final and binding on all parties concerned.

9 EMPLOYMENT OF INCOME

The trust is a discretionary trust as far as the employment, allocation and distribution of trust income is concerned and the trustees may in their absolute discretion allocate income to any beneficiary who may qualify as an income beneficiary, and in particular they are entitled to -

9.1 pay all costs incurred by the trustees in connection with the administration of the trust;

9.2 pay such amounts to any beneficiary as the trustees may deem reasonable and desirable for the maintenance, education and general welfare of such beneficiary;

9.3 reimburse themselves from the trust fund in respect of any expenses that they personally may incur in connection with the performance of their duties as trustees;

Issue: 2019-01-26_12:01:08

9.4 accumulate income in the trust fund in order to supplement the capital of the trust fund;

9.5 decide to accumulate undistributed profits as part of the income of the trust fund available for distribution, at their discretion, to the income beneficiaries.

10 CREATION OF FURTHER TRUSTS

10.1 The trustees shall have the right to distribute the trust income and/or capital in the creation of further trust for the benefit of a beneficiary and/or his or her spouse and/or his or her widow/widower and/or his or her children on such terms and conditions as the trustees may deem fit. Without in any way detracting from the generality of the foregoing, the trustees shall have the right to -

10.1.1 provide in such trust deeds for a vesting date before or after the vesting date contained in this trust deed;

10.1.2 appoint separate trustees for such trusts.

10.2 The trustees shall be relieved of any further responsibilities in respect of such amounts transferred from the trust fund to such separate trusts.

10.3 If a beneficiary repudiates the benefits stipulated for him prior to the vesting date of this trust, his legal descendants shall be substituted for him and the trustees shall have the right to create a new trust or trusts for the substituted beneficiary/beneficiaries in terms of the relevant provisions of clause 10.1.

11 DUTIES OF TRUSTEES

Apart from the common law duties which attach to the office of trustee, the trustees shall be subject to the duties enunciated in the *Trust Property Control Act*, namely, to -

Issue: 2019-01-26_12:01:08

11.1 ensure that the original trust document is filed with the Master of the High Court;

11.2 refrain from acting as trustees until they are in possession of a letter of authority from the Master of the High Court so to act;

11.3 open a trust account with a bank or building society in the name of the trust in which all money received by them for purposes of the trust shall be deposited;

11.4 take possession of all title deeds and documents relating to the affairs of the trust for safekeeping;

11.5 ensure that proper books are kept of the affairs of the trust;

11.6 keep all trust property separate and register it in the name of the trust so that it can be identified as trust property;

11.7 to refrain from holding or disposing of trust property for their personal benefit, or for the benefit of their estates, and generally to act in a prudent and responsible manner as would be expected from persons who are in charge of the affairs of another person.

12 TERMINATION OF THE TRUST

Apart from any interim capital or income distributions the trustees may have made, the trust shall continue until the vesting date as defined.

13 PROFESSIONAL SERVICES

13.1 The trustees shall keep a proper set of books recording the affairs of the trust. The trust's financial year shall close on the last day of February every year unless otherwise elected. At this date financial statements shall be prepared. Every beneficiary of the trust shall on request be entitled to a copy of the annual financial statements of the trust.

Issue: 2019-01-26_12:01:08

13.2 The trustees shall have the right to make use of the services of professional persons in so far as such services are deemed to be necessary or desirable for the purposes of the trust.

14 PERSONAL LIABILITY OF TRUSTEE

A trustee shall not be personally liable for any loss the trust may suffer, irrespective of the reason for such loss, unless such loss results from a dishonest act committed by a trustee. A trustee shall not be liable for a dishonest act committed by a co-trustee unless there was collusion between them.

15 AMENDMENT TO THE TRUST DEED

15.1 The trust deed may, subject to the provisions of clause 15.3, be amended by a majority vote of the trustees provided that, during his lifetime, the prior written consent of Gavin Joseph Watson (identity number 480712 5182 083) has been obtained in respect of such amendment.

15.2 The power to amend shall, subject to the provisions of clause 15.3, include the power to add to, or make substitutions for, the nominated capital and income beneficiaries, provided that such additional or substitutive beneficiaries may only be selected from the Class.

15.3 If any beneficiary has a vested income and/or capital interest in the trust fund such beneficiary shall be required to agree to any amendment of the trust deed in writing. For the avoidance of doubt it is recorded that a beneficiary may only have been afforded a temporary vested income and/or capital interest in the trust fund by the trustees, and that such beneficiary's written permission for an amendment shall only be required during the time that he has such temporary vested interest. The permission of a beneficiary who does not have a vested interest in the trust fund shall not be required for an amendment.

Issue: 2019-01-26_12:01:08

16 REMUNERATION OF TRUSTEES

16.1 The trustees are entitled to remuneration for their services at a rate they deem equitable.

16.2 The fact that a trustee conducts a profession or business shall not be an impediment for him or his firm to render professional or business services to the trust, and to be remunerated according to such capacity, irrespective of the fact that he may be a trustee of the trust.

17 RESTRICTIONS ON BENEFICIARIES

17.1 Since the trust fund vests in the trustees, the beneficiaries have no claim to the trust property and shall have no right in any way to deal with such property for the duration of the trust.

17.2 The trust fund cannot be attached for the satisfaction of any claim against a beneficiary.

17.3 If a the estate of a beneficiary is sequestrated, or if he enters into a compromise with his creditors, the trustees shall have the right to extend the vesting date in respect of that beneficiary until a date determined by them.

18 MARRIAGE OF A BENEFICIARY

All benefits accruing to a beneficiary in terms of this trust deed shall for all purposes be excluded from any community of property, or community of profit and loss. The accrual system in terms of the *Matrimonial Property Act*, No 88 of 1984, shall not apply to benefits derived from the trust.

19 MEETINGS OF TRUSTEES AND RESOLUTIONS

19.1 The trustees shall meet from time to time to discuss and/or resolve the business of the trust. For this purpose the following shall apply -

Issue: 2019-01-26_12:01:08

19.1.1 at their first meeting the trustees shall elect a chairperson and he or she shall act in this capacity for the period as laid down by the trustees;

19.1.2 resolutions passed at meetings shall be duly recorded and, for all intents and purposes, the procedure shall be as is prescribed by the Memorandum of Incorporation of the Company;

19.1.3 every trustee has the right to call a meeting of trustees; and

19.1.4 the trustees themselves shall determine the policy and procedures to be followed at meetings.

19.2 A written resolution signed by all the trustees has the same legal implication as a resolution passed at a meeting of trustees.

19.3 The trustees shall meet at least once a year to consider the passing of resolutions allocating and/or distributing income earned during the preceding financial year. The trustees shall meet as soon as possible after the end of the financial year of the trust to exercise their discretionary powers. The resolutions distributing or allocating income shall be retrospective to the last day of the immediate past financial year.

19.4 The trustees, in their administration of the trust and to enable them to give effect to any formal legal requirement, may authorise one or more of their number to sign all documents required to be signed for the execution of any transaction concerning the business of the trust. Any resolution certified by a trustee to be a true extract from the minutes of a resolution passed by all the trustees shall in all respects have the same legal force as a resolution signed by all the trustees.

Issue: 2019-01-26_12:01:08

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Page: 1167 of 1250

Fol AMEZEST (PTY)LTD
Fro eet Venter [peet@dah.co.za]
To : Peet Venter
Cc :
Sent On : [2017/11/12 23:20]
Priority : Normal
Attachments : SUN WORX - MOI 20-03-16 (002).docx

MOI - Sunworx

Peet Venter | Associate
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General Tax Practitioner (S.A)™
D'Arcy-Herrman & Co Inc
Chartered Accountants (S.A) | Registered Auditors

011 954-5016 | Cell: 082 462-9527 | www.dah.co.za

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-----Original Message-----
From: Peet Venter [mailto:peet@dah.co.za]
Sent: 2016/05/25 10:07
To: antonie@avwattorneys.co.za
Subject: FW: Re: Sunworx shareholders agreement

Hi Antonie,

Hier is die MOI vir Sunworx.

Groete

Peet Venter | Associate
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General Tax Practitioner (S.A)™
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AA-1158

Issue: 2015-01-26 12:01:08

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-----Original Message-----
From: Lindsay Watson [mailto:Lindsay.Watson@bosasa.com]
Sent: 2016/05/25 09:42
To: peet@dah.co.za
Subject: Re: Sunworx shareholders agreement

Hi Peet,

Attached is Christo's updated version of the MOI.

Regards,

Lindsay Watson
Legal Department
Bosasa Group of Companies

The Bosasa Group
Mogale Business Park
Windsor Road | Mogale City | 1739 | Gauteng | South Africa
Tel: +27 (0) 11 662 6069
Mobile:+27 (0) 83 607 1542
Website: www.bosasa.com



BOSASA
Future Technology Solutions

Mogale Business Park | Windsor Road | Mogale City 1739
Gauteng | Republic of South Africa

-----Original Message-----
From: Lindsay Watson [mailto:Lindsay.Watson@bosasa.com]
Sent: 2016/05/25 08:39
To: peet@dah.co.za

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Page: 1168 of 1250
AA-1159

Sub orx shareholders agreement

Hi Peet,

I think it is important that Antonie has a look at the MOI as well.

Thanks.

Regards,

Lindsay Watson
Legal Department
Bosasa Group of Companies

The Bosasa Group
Mogale Business Park
Windsor Road | Mogale City | 1739 | Gauteng | South Africa
Tel: +27 (0) 11 662 6069
Mobile:+27 (0) 83 607 1542
Website: www.bosasa.com



BOSASA
Future Technology Solutions

Mogale Business Park | Windsor Road, Mogale City | 1739
Gauteng, Republic of South Africa

From: Peet Venter
Date: Tuesday, May 24, 2016 at 11:41 PM
To: LINDSAY WATSON
Subject: Sunworx shareholders agreement

Hi Lindsay,

Herewith, please find the SHA from Antonie.
I have asked him to activate the track changes - as per the document, he made quite a bit of changes!

NB! 1. He also mentioned that he thinks the MOI might require significant input - I think it is also a good plan if we ask Antonie to review that for us - as the SHA & MOI goes hand-in-hand.

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Page: 1169 of 1250
AA-1160

Issue: 2019-01-26 12:01:08

...ke to you about the restructuring - he ... thinks it is the better route to go to get Carryn Bateman out + the possible sale to Bidvest.

Reg

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Chartered Accountants
Geoktrooieerde Rekenmeesters

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-----Original Message-----
From: Antonie van Wyk [mailto:antonie@avwattorneys.co.za]
Sent: 2016/05/24 17:38
To: peet@dah.co.za
CC: daniel.n.erasmus@me.com
Subject: RE: FW: Re: Sunworx shareholders agreement

Thanks Peet. I have now finalised my input and attach the Shareholders Agreement with my amendments marked. I anticipate that the MOI will also require significant input. Let me know as soon as the first draft is available so I can have a look at it.

Please also bear in mind that the provisions of the Shareholders Agreement will not contribute to the end-goal, which is to get shod of Carryn Bateman. I still believe that a restructure of the company might be required. But let's at least get the Shareholders Agreement in good shape first.

Regards,

Antonie van Wyk
Consultant to TRM Daniel Erasmus Tax Court Practitioners

AW
ANTONIE VAN WYK
AND ASSOCIATES

Antonie van Wyk
BA LL.B LL.M H.Dip Tax
Direct Dial: +27 (0) 21 762 3387
Fax: +27 (0) 86 610 7578
Mobile: +27 (0) 83 600 9809
E-mail: antonie@avwattorneys.co.za

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Page: 1170 of 1250
AA-1161

Issue: 2015-01-26 12:01:08

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Page: 1171 of 1250

From: Peet Venter [mailto:peet@dah.co.za]
Sent: Tuesday, 24 May 2016 11:51
To: antonie@avwattorneys.co.za
Cc: daniel.n.erasmus@me.com
Subject: RE: FW: Re: Sunworx shareholders agreement

Hi Antonie,

I understand - and will explain this to the client.
Please don't rush the process. Let's rather take a day or two longer and produce a good final product.

Regards

Peet Venter | Associate
Professional Accountant (S.A)
General Tax Practitioner (S.A)™
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-----Original Message-----
From: Antonie van Wyk [mailto:antonie@avwattorneys.co.za]
Sent: 2016/05/24 09:09
To: peet@dah.co.za
CC: daniel.n.erasmus@me.com
Subject: FW: Re: Sunworx shareholders agreement

Morning Peet.

Apologies - this is taking far longer than I anticipated. When I cast my eye over the agreement initially everything seemed in reasonable shape, but going through it with a fine toothcomb has revealed may drafting errors and I've had to correct quite a bit. I've progressed to beyond the most important clause, which deals with

AA-1162

valu nhill from there, but still quite a bit to go. I'm busy with it as a priority and will mail the document to you as soon as I'm done, which will be during the cour

Regards,

Antonie van Wyk
Consultant to TRM Daniel Erasmus Tax Court Practitioners

AW
ANTONIE VAN WYK
AND ASSOCIATES

Antonie van Wyk
BA LL.B LL.M H.Dip Tax

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E-mail: antonie@avwattorneys.co.za

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Page: 1172 of 1250
AA-1163

Issue: 2019-06-12 10:08

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Page: 1173 of 1250

Fol AMEZEST (PTY)LTD, SUN WORX (PTY)LTD
Fro eet Venter [peet@dah.co.za]
To : Peet Venter
Cc :
Sent On : [2017/11/12 23:17]
Priority : Normal
Attachments : Summary of Shareholding.pdf Sunworx MOI.pdf

FW: MOI

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Chartered Accountants
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-----Original Message-----
From: Peet Venter [mailto:peet@dah.co.za]
Sent: 2016/04/13 15:57
To: antonie@avwattorneys.co.za
Subject: MOI

Hi Antonie,

There was a special resolution and the MOI has been changed - see the COR 15.2 submitted to CIPC = dated 05 December 2014.

- Article 2 of the MOI explains the Securities of the company in detail.
- 2.1 (5) deals with the pre-emptive rights
- For an ordinary resolution to be adopted = more than 50% of the voting rights
- For a Special resolution at least 75% of the voting rights exercised
- I think we should change this. Carren Bateman only has a 5% share in the company, but thinking ahead where Bidvest might acquire a 51% interest in the company, I think we must up these percentages.
  The client could decide on this, but we could go as high as 90% for Special & 80% for Ordinary resolutions
- We could include under "General" on the MOI, the part of the discounted percentages which you referred too. Could you just elaborate on that, as I want to discuss this with the client.

Please go through all of this, then I will give you a call tomorrow.

AA-1164

Re

Peet Venter | Associate
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General Tax Practitioner (S.A)™
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COMMISSION OF INQUIRY INTO STATE CAPTURE

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Page: 1174 of 1250
AA-1165

Issue: 2019-01-26 12:01:08

S shareholding as at 16/09/2014 per R Watson

Authorised Shares as per MOI	100	
Issued shares		100
Additional shares to be authorised as per R Watson		9 900
Total amount of shares		10 000

Total new issued shares	
Shares already issued as per the above	100
Additional shares to be issued	900

	Percentage Shareholding	Number of shares
Sondolo	51%	510
R Watson	17.3%	173
C Bateman	5%	50
Uer Investment	17.2%	172
CO Bonilla	2%	20
Barylis Financieel Management B.V	5%	50
Amaxak Limited	2.5%	25
	100%	1 000

				New Issue				
Cert no:	Distinctive no's		Total shares	Distinctive No's			TOTAL SHARES	Certificate no's
2	101	152	51	204	663	459	510	5
3	153	189	36	664	801	137	173	6
4	190	203	13	802	839	37	50	7
	-	-	-	840	1 012	172	172	8
	-	-	-	1 013	1 033	20	20	9
	-	-	-	1 034	1 084	50	50	10
	-	-	-	1 085	1 110	25	25	11
		-	-			-	-	
							1 000	

1 000

COMMISSION OF INQUIRY INTO STATE CAPTURE

Issue: 2019-01-26 12:01:08

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Page: 1176 of 1250

Fo AMEZEST (PTY)LTD
Fr Peet Venter [peet@dah.co.za]
To : Peet Venter
Cc :
Sent On : [2017/11/12 22:41]
Priority : Normal
Attachments : Employees Trust Deed.docx

FW: Employees Trust - New Trust Deed

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Chartered Accountants
Geoktrooieerde Rekenmeesters

Peet Venter | Associate
Professional Accountant (S.A)
General Tax Practitioner (S.A)TM
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-----Original Message-----
From: Antonie van Wyk [mailto:antonie@avwattorneys.co.za]
Sent: 2016/01/28 17:21
To: peet@dah.co.za
CC: daniel.n.erasmus@me.com; Lindsay.Watson@bosasa.com; Andries.vanTonder@bosasa.com; Natasha.Olivier@bosasa.com
Subject: Employees Trust - New Trust Deed

Good afternoon Peet.

In accordance with our discussion last week (and subsequent to that as regards valuation methodology), the outstanding items in order to implement the restructuring of the Employees Trust are:

<![if !supportLists]>• <![endif]>Amend valuation methodology in terms of trust resolution dated 24th November 2015. There is still uncertainty regarding the methodology to be used (a decision has been made that it needs to correspond with the Shareholders Agreement methodology), and the amendment can accordingly not be implemented as yet. For the record, I do not agree that the "market value" concept used in the Employees Trust deed should be amended. It serves a completely different purpose to the Shareholders Agreement. However, you have had discussions with Angelo in this regard and he prefers a consistent approach.

<![if !supportLists]>• <![endif]>Replace existing Trust deed in its entirety. New Trust deed to reflect a class of beneficiaries consisting of 'black persons'. I have prepared a draft and attach it hereto for comment.

AA-1167

Issue: 2019-01-26 12:01:08

Lists]>• <![endif]>Submit amended Trust deed to the Master to be recorded and cancel option that has been granted to Ms Oliveria at the same

For the rest the documentation that I have mailed to you before, i.e. the recordal and trustee resolution no 2, as well as the option letter, need to be duly signed. I confirm that the trustees of the Trust are not to be replaced.

Let me know if you have any questions.

Regards,

Antonie van Wyk
Consultant to TRM Daniel Erasmus Tax Court Practitioners

AW
ANTONIE VAN WYK
AND ASSOCIATES

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COMMISSION OF INQUIRY INTO STATE CAPTURE

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Page: 1177 of 1250
AA-1168

COR15.2

Companies and Intellectual Property Commission
a division of the dti group

Date: 05/12/2014

Our Reference: 111021014
Box: 168445
Sequence: 1

NATASHA OLIVIER
PRIVATE BAG 2002
KRUGERSDORP
MOGALE CITY
1740

RE: Amendment to Company Information
Company Number: 2012/071437/07
Company Name: SUN WORX (PTY) LTD

We have received a COR15.2 (Amendment of Memorandum of Incorporation) from you dated 16/09/2014.

The Amendment of Memorandum of Incorporation (1) was accepted and placed on file.

The Increase/Decrease of Authorised Captial (2) was accepted and placed on file.

Yours truly

Commissioner: CIPC
BKT BKT

Please Note:

The attached certificate can be validated on the CIPC web site at www.cipc.co.za.
The contents of the attached certificate was electronically transmitted to the South African Revenue Services.

Issue: 2019-01-26_12:01:08

COR15.2

Certificate issued by the Companies and Intellectual Property Commission on Friday, December 05, 2014 02:16
Certificate of Confirmation

Companies and Intellectual Property Commission
a division of the dti group

Registration number	2012 / 071437 / 07
Enterprise Name	SUN WORX (PTY) LTD
Enterprise Shortened Name	None provided.
Enterprise Translated Name	None provided.
Registration Date	18/04/2012
Business Start Date	18/04/2012
Enterprise Type	Private Company
Enterprise Status	In Business
Financial year end	February
Main Business/Main Object	
Postal address	PO BOX 2121 RIVONIA GAUTENG 2128
Address of registered office	GROUND FLOOR 12 SUMMER STREET RIVONIA GAUTENG 2128
Location of Company Records	ALL COMPANY STATUTORY RECORDS 1 WINDSOR ROAD LUIPAARDVLEI

COMMISSION OF INQUIRY INTO STATE CAPTURE

COR15.2

MOGALE CITY
1739

Companies and Intellectual Property Commission
a member of the dti group

COMMISSION OF INQUIRY INTO STATE CAPTURE

The Companies and Intellectual Property Commission
of South Africa
P.O. BOX 429, PRETORIA, 0001, Republic of South Africa. Docex 256, PRETORIA
Call Centre Tel 086 100 2472, Website www.cipc.co.za

Issue: 2019-01-26_12:01:08

COR15.2

Certificate issued by the Companies and Intellectual Property Commission on Friday, December 05, 2014 02:16
Certificate of Confirmation

Companies and Intellectual Property Commission
a member of the dti group

Registration number	2012/071437/07
Enterprise Name	SUN WORX (PTY) LTD

Auditor

Name	DARCY-HERRMAN AND COMPANY
Postal Address	P O BOX 2121 RIVONIA 2128

Designated Auditor

Name	NELLIS WOLMARANS
Postal Address	P O BOX 2121 RIVONIA 2128

Active Directors / Officers

Surname and first names	ID number or date of birth	Director type	Appoint-ment date	Addresses
LEYDS, JACQUELINE SUE-ANNE ACQUILA	7702200057085	Director	11/10/2013	Postal: PRIVATE BAG 2002, KRUGERSDORP, KRUGERSDORP, 1740 Residential: 13 GULFSTREAM BOULEVARD, IRENE VIEW ESTATE, HIGHVELD, 0184
MAKOKO, NOMAZULU LENAH THANDI	5609270776084	Director	08/11/2013	Postal: PRIVATE BAG 2002, KRUGERSDORP, KRUGERSDORP, 1740 Residential: PLOT 110, 2ND STREET, SUURBEKOM, 1767
WATSON, ROTH GAVIN	8210035197083	Director	21/08/2013	Postal: 92 MORNINGSIDE VILLAGE, CNR BALLYCLARE AND OUTSPAN ROAD, CNR BALLYCLARE AND OUTSPAN ROAD, MORNINGSIDE, 2196 Residential: 92 MORNINGSIDE VILLAGE, CNR BALLYCLARE AND OUTSPAN ROAD, MORNINGSIDE, SANDTON, 2196
BATEMAN, CARRYN	8212090104087	Director	18/04/2012	Postal: PO BOX 2941, CRAIGHALL, JOHANNESBURG, GAUTENG, 2024 Residential: UNIT 35 ELTON PLACE, ATHOL OAKLANDS ROAD, ELTON HILL EXT 3, GAUTENG, 2196

COMMISSION OF INQUIRY INTO STATE CAPTURE

Issue: 2019-01-26_12:01:08

SUN WORX (PTY) LTD
REGISTRATION NO: 2012/071437/07

MINUTES OF A GENERAL MEETING OF THE SHAREHOLDERS OF THE COMPANY HELD AT 12 SUMMER STREET, RIVONIA ON TUESDAY, 16 SEPTEMBER 2014

PRESENT:	RG Watson C Bateman Sondolo IT (Pty) Ltd – represented by J Gumede
NOTICE AND CONSTITUTION:	It is unanimously decided to waive the right to receive any notice of meeting.
RESOLUTIONS:	
SPECIAL RESOLUTION NUMBER 1 – INCREASE IN SHARE CAPITAL:	**RESOLVED THAT,** subject to the approval of the Shareholders, the company's authorised common share capital of 100 (one hundred) shares be and is hereby increased to 10,000 (ten thousand) common shares by the creation of an additional 9,900 (nine thousand nine hundred) common shares of which shares shall rank pari passu in every respect with the existing shares of the Company.
SPECIAL RESOLUTION NUMBER 2 – AMENDMENT TO MOI:	**RESOLVED THAT,** the existing Memorandum of Incorporation (formerly the company's memorandum and articles of association) be and is hereby abrogated in its entirety and replaced with a new Memorandum of Incorporation, a draft of which has been circulated together with this resolution and signed by a director of the company for purposes of identification, with effect from the date of filing thereof at the Companies and Intellectual Property Commission.
There being no further business, the meeting was terminated.	

SHAREHOLDER/S

RG WATSON

C BATEMAN

SONDOLO IT (PTY) LTD –
Represented by J Gumede

Issue: 2019-01-26_12:01:08

COMPANIES ACT, 2008

MEMORANDUM OF INCORPORATION OF A PROFIT COMPANY
(PRIVATE COMPANY)

NAME OF COMPANY:
SUN WORX (PROPRIETARY) LIMITED
("the Company")

REGISTRATION NUMBER:
2012/071437/07

COMMISSION OF INQUIRY INTO STATE CAPTURE

Issue: 2019-01-26_12:01:08

Article 1 – Incorporation and Nature of the Company

1.1 Introduction and incorporation

(1) This Memorandum of Incorporation in the prescribed form as contemplated in section 13(1)(a)(i) of the Companies Act of 2008 shall not apply to the Company.

(2) In this Memorandum of Incorporation –

(a) a reference to a section by number refers to the corresponding section of the Companies Act, 2008;

(b) words that are defined in the Companies Act, 2008 bear the same meaning in this Memorandum as in that Act;

(c) words importing any gender shall include the other two genders;

(d) the singular shall include the plural and vice versa;

(e) the headings have been inserted for convenience only and shall not be used for or assist or affect the interpretation of the content; and

(f) each of the following words and expressions shall have the meaning stated opposite it and cognate expressions shall have a corresponding meaning, namely:

i. **"Board"** means the Board of the Company;

ii. **"the Act"** shall mean the Companies Act, 71 of 2008, together with the Companies Regulations, 2011 as amended or substituted from time to time; and

iii. **"this Memorandum"** shall mean this Memorandum of Incorporation and includes Schedule 1, which forms part of it.

1.2 Juristic personality and private company provisions

(1) The Company is incorporated as a private company, as defined in the Companies Act, as contemplated in item 2 of the Fifth Schedule to the Act, and this Memorandum of Incorporation replaces and supersedes any shareholders' agreement entered into between the company and the Shareholders.

(2) The Company is incorporated in accordance with and governed by:

(a) the unalterable provisions of the Act;

(b) the alterable provisions of the Act, subject to the limitations, extensions, variations or substitutions set out in this Memorandum of Incorporation;

Issue: 2019-01-26_12:01:08

(c) the other provisions of the Memorandum of Incorporation; and

(d) its Rules, if any.

(3) The Company is a private company, and accordingly:

(a) the transferability of the securities of the Company is restricted as provided for in this Memorandum of Incorporation; and

(b) any offer to the public to subscribe for any securities of the Company is prohibited.

1.3 **Powers of the Company**

(1) The Company is not subject to any provision contemplated in section 15(2)(b) or (c).

(2) The purposes and powers of the Company are not subject to any restriction, limitation or qualification, as contemplated in section 19(1)(b)(ii).

1.4 **Memorandum of Incorporation and Company Rules**

(1) This Memorandum may be altered or amended only in the manner set out in sections 16, 17 or 152(6)(b).

(2) The Board of the Company may not make rules for the Company, as contemplated in sections 15(3) to (5), and the Board's authority is thus limited accordingly.

(3) The Board must deliver a copy of the relevant alteration or amendment to this Memorandum to each Shareholder by electronic mail within 5 (five) Business Days of Filing the Notice of Alteration of this Memorandum.

1.5 **Optional provisions of Companies Act, 2008**

(1) The Company elects, in terms of section 34(2), to not comply voluntarily with the provisions of Chapter 3 of the Act, to the extent set out in Part A of Schedule 1 to this Memorandum.

(2) The Company does not elect, in terms of section 118(1)(c)(ii), to submit voluntarily to the provisions of Parts B and C of Chapter 5 of the Act, and to the Takeover Regulations provided for in the Act.

Article 2 – Securities of the Company

2.1 Securities

(1) The Company is authorised to issue the shares specified in Part B of Schedule 1 to this Memorandum, and each such issued share entitles the holder to –

(a) vote on any matter to be decided by a vote of Shareholders of the Company;

Issue: 2019-01-26_12:01:08

(b) on a liquidation of the Company, to receive the net assets of the Company in accordance with the holder's voting power;

(c) participate in any distribution of profit to the Shareholders; and

(d) to any other rights at common law insofar as these rights are not inconsistent with this Memorandum or the Act.

(2) The Company is prohibited from making an offer to the public of any of its securities.

(3) Securities of the Company are to be issued in certificated form, as contemplated in section 49(2)(a).

(4) The transferability of the securities of the Company is restricted, as contemplated in section 8(2)(b)(ii)(bb).

(5) The pre-emptive right of the Company's Shareholders to be offered and to subscribe for additional shares, as set out in section 39, is not limited, negated or restricted in any manner contemplated in section 39(2) or subject to any conditions contemplated in that section.

(6) All the shares of the Company shall rank pari passu in all respects.

2.2 **Share certificates**

(1) The following provisions shall apply to share certificates:

(a) Every person to whom securities are issued and whose name is entered in the securities register shall be entitled to one certificate for all the securities in any class registered in his name, or to several certificates, each for a part of such securities.

(b) If a certificate is defaced, lost or destroyed, it may be replaced with a duplicate certificate endorsed **"Duplicate Certificate"** on payment of such reasonable fee, if any, and on such terms, if any, as to evidence and indemnity as the Board may think fit.

(c) A certificate registered in the names of two or more persons shall be delivered to the person first-named in the securities register as a holder thereof, and delivery of a certificate to that person shall be a sufficient delivery to all joint holders of that security.

2.3 **Debt Instruments**

The authority of the Company's Board to authorise the Company to issue secured or unsecured debt instruments, as set out in section 43(2) is limited by Part A of Schedule 1 to this Memorandum.

Issue: 2019-01-26_12:01:08

2.4 **Registration of beneficial interests**

The authority of the Company's Board to allow the Company's issued securities to be held by and registered in the name of one person for the beneficial interest of another person, as set out in section 56(1), is not limited or restricted by this Memorandum.

2.5 **Restriction on transferability**

(1) Notwithstanding anything to the contrary in this Memorandum, the Board in its absolute discretion and without giving any reason therefor, may refuse to register the transfer of a share and in such event they shall give notice of such refusal to the proposed transferor and transferee within 14 (fourteen) days after the date on which the relevant transfer form is lodged at the office.

(2) For purposes of section 51(6)(a), a "*proper instrument of transfer*" means an instrument in writing, in any form, specifying: (a) the full name of the transferor (being the name of a person entered in the securities register as the registered holder of the securities being transferred); (b) the full name of the transferee; and (c) the number of the class of shares being transferred; which has been signed by or on behalf of the registered securities holder as transferor and signed by or on behalf of the transferee.

(3) The transferor shall be deemed to remain the holder of and shall remain the registered shareholder in respect of such shares until the name of the transferee is entered in the securities register in respect thereof.

COMMISSION OF INQUIRY INTO STATE CAPTURE

Issue: 2019-01-26_12:01:08

Article 3 – Shareholders and Meetings

3.1 Shareholders' right to information

Every person who has a beneficial interest in any of the Company's securities has the right to access all information to the extent that, and on the same basis as, the Board of the Company would have access to such information.

3.2 Shareholders' authority to act

If, at any time, there is only one shareholder of the Company, the authority of that shareholder to act without notice or compliance with any other internal formalities, as set out in section 57(2), is not limited or restricted by this Memorandum.

3.3 Shareholder representation by proxies

(1) This Memorandum does not limit, restrict or vary the right of a shareholder of the Company –

(a) to appoint 2 or more persons concurrently as proxies, as set out in section 58(3)(a); or

(b) to delegate the proxy's powers to another person, as set out in section 58(3)(b).

(2) The requirement that a shareholder must deliver to the Company a copy of the instrument appointing a proxy before that proxy may exercise the shareholder's rights at a Shareholders meeting, as set out in section 58(3)(c), is not varied by this Memorandum.

(3) The authority of a shareholder's proxy to decide without direction from the shareholder whether to exercise, or abstain from exercising, any voting right of the shareholder, as set out in section 58(7), is not limited or restricted by this Memorandum.

3.4 Record date for exercise of shareholder rights

If, at any time, the Company's Board fails to determine a record date, as contemplated in section 59, the record date for the relevant matter is as determined in accordance with section 59(3).

3.5 Shareholders meeting

(1) The Company is not required to hold any Shareholders meetings other than those specifically required by the Act.

(2) The right of Shareholders to requisition a meeting, as set out in section 61(3), may be exercised by the holders of at least 10% of the voting rights entitled to be exercised in relation to the matter to be considered at the meeting.

Issue: 2019-01-26_12:01:08

(3) This Memorandum does not specify any person other than the Board and/or Shareholders, as contemplated in item 3.5(2) above, who may call a Shareholders' meeting.

(4) The authority of the Company's Board to determine the location of any Shareholders meeting, and the authority of the Company to hold any such meeting in the Republic or in any foreign country, as set out in section 61(9) is not limited or restricted by this Memorandum.

(5) The minimum number of days for the Company to deliver a notice of a Shareholders' meeting to the Shareholders is as provided for in section 62(1), being not less than 10 business days.

(6) The authority of the Company to conduct a meeting entirely by electronic communication, or to provide for participation in a meeting by electronic communication, as set out in section 63 is not limited or restricted by this Memorandum and shall be conducted as follows:

(a) A resolution approved by Shareholders representing the required voting rights who were connected by electronic communication at a Shareholders' meeting where:

(i) all such Shareholders remained connected for the duration of the meeting;

(ii) the subject matter of the resolution had been discussed at such meeting; and

(iii) the chairman, deputy chairman or any shareholder present at such meeting certified in writing that the aforementioned requirements have been met,

shall be valid and shall be deemed to have been passed on the date on which the meeting was held (unless a statement to the contrary is made in the minutes of such meeting).

(7) In the event of a resolution adopted in terms of section 60 of the Act, the Company shall within 10 (ten) Business Days after the adoption such resolution:

(a) deliver to each shareholder a copy of the resolution proposed with a statement describing the results of the vote, consent process or election as the case may be; and

(b) insert a copy of the resolution and statement into the Company's minute book.

(8) The quorum requirement for a Shareholders' meeting to begin, or for a matter to be considered, is as set out in section 64(1) without variation, the shareholders holding not less than 25% of the issued share capital of the company as at the date of the company. Notwithstanding the aforegoing, if the Company has more than two

Issue: 2019-01-26_12:01:08

shareholders at least three shareholders must be present at the meeting, either in person or by proxy.

(9) The time periods allowed in sections 64(4) and (5) is hereby varied to 15 (fifteen) minutes and shall apply to the Company..

(10) The authority of a meeting to continue to consider a matter, as set out in section 64(9), is not limited or restricted by this Memorandum.

(11) The maximum period allowable for an adjournment of a Shareholders' meeting is as set out in section 64(13), without variation.

(12) The provisions of section 64(5) are extended also to apply to delays caused by verification of any Shareholders' identity as contemplated in section 63(1).

(13) The chairman of the Board shall act as chairman of all Shareholders' meetings. If, however, there is no chairman or if he has communicated his inability to attend a meeting or if at any meeting he is not present within 10 (ten) minutes of the time appointed for the meeting, the Shareholders present and represented shall elect another director to chair the meeting. If no director is present or if none of the directors present are willing to chair the meeting, then the Shareholders shall elect one of their own to be the chairman of the meeting.

3.6 Shareholders' resolutions

(1) For an ordinary resolution to be adopted at a Shareholders' meeting, it must be supported by the holders of more than 50% of the voting rights exercised on the resolution, as provided in section 65(7).

(2) For a special resolution to be adopted at a Shareholders' meeting, it must be supported by the holders of at least 75% of the voting rights exercised on the resolution, as provided in section 65(9).

(3) A special resolution adopted at a Shareholders' meeting is not required for a matter to be determined by the Company, except those matters set out in section 65(11), elsewhere in the Act or set of in Part C of Schedule 1 to this Memorandum

Article 4 – Directors and Officers

4.1 Composition of the Board

(1) The Board of the Company shall at all times comprise a minimum of 2 (two) directors and not more than 7 (seven) directors.

(2) Each director is to be elected by the Shareholders as contemplated in section 68(1).

(3) The manner of electing directors of the Company is as set out in section 68(2), and each elected director of the Company serves for an indefinite term, as contemplated in section 68(1), unless otherwise determined by the Shareholders.

Issue: 2019-01-26_12:01:08

(4) Each director elected as contemplated is entitled to nominate an alternate director to act in his or her stead for election by Shareholders.

(5) Each alternate director is entitled to act as a director in the absence of the director for whom he or she is an alternate.

(6) In addition to the elected directors there are no appointed directors or *ex officio* directors, as contemplated in section 66(4)(a)(i) and 66(4)(a)(ii) respectively.

(7) To be entitled to become or remain serving as a director or a prescribed officer of the Company, a person need not satisfy any further eligibility requirements or qualifications addition to satisfying the qualification and eligibility requirements set out in section 69.

4.2 **Authority of the Board**

(1) The authority of the Board to manage and direct the business and affairs of the Company, as provided for in section 66(1), is limited or restricted by this Memorandum as set out in Part C of Schedule 1 to this Memorandum.

(2) This Memorandum does not limit or restrict the authority of the Board to authorise the Company to provide financial assistance as contemplated in sections 44 and 45 of the Act.

(3) If, at any time, the Company has only one director, such director may not act without notice or compliance with any other internal formalities, as contemplated in section 57(3).

4.3 **Board Meetings**

(1) The right of the Company's Board to requisition a meeting of the Board, as set out in section 73(1), may be exercised by any one of the directors of the Company.

(2) The quorum requirements for a Board meeting to begin (majority of directors), the voting rights at such a meeting (one vote per director), and the requirements for the approval of a resolution at such a meeting (by simple majority), as set out in section 73(5) of the Act, are not varied by this Memorandum.

(3) This Memorandum does not limit or restrict the authority of the Company's Board to-

(a) conduct a meeting entirely by electronic communication, or to provide for participation in a meeting by electronic communication, as set out in section 73(3); or

(b) determine the manner and form of providing notice of its meetings, as set out in section 73(4); or

(c) proceed with a meeting despite a failure or defect in giving notice of the meeting, as set out in section 73(5), or

Issue: 2019-01-26_12:01:08

(d) consider a matter other than at a meeting, as set out in section 74.

4.4 **Directors compensation and financial assistance**

(1) This Memorandum does not limit, restrict or qualify the power of the Company to pay remuneration to the Company's directors for their services as directors, in accordance with a special resolution approved by the Company's Shareholders within the previous 2 (two) years, as contemplated in section 66(9).

(2) This Memorandum does not limit, restrict or qualify the authority of the Board to authorise the Company to provide direct or indirect financial assistance to any persons contemplated in section 45.

4.5 **Directors' indemnification**

This Memorandum does not limit, restrict or qualify the ability or the power of the Company to –

(1) advance expenses to a director, or indemnify a director, in respect of the defence of legal proceedings, as set out in section 78(3)and 78(4);

(2) indemnify a director in respect of liability, as set out in section 78(5), to the fullest extent permitted by the Act; or

(3) purchase insurance to protect the Company, or a director, as set out in section 78(6).

4.6 **Committees of the Board**

This Memorandum does not limit, restrict or qualify the authority of the Board to appoint any number of committees of the Board, or to delegate to any such committee any of the authority of the Board, as contemplated in section 72(1) and to include in any such committee persons who are not directors, as set out in section 72(2)(a). The authority of any committee appointed by the Board, as set out in section 72(2)(b) and (c) is not limited, restricted or qualified in any way by this Memorandum, but may be limited, restricted or qualified in terms of a resolution of the Board establishing such committee.

Issue: 2019-01-26_12:01:08

SCHEDULE 1

Part A – Chapter 3 of the Act

The Company elects not to appoint a company secretary or an audit committee as contemplated in sections 86 and 94 respectively.

Part B – Authorised shares

The authorised share capital of the Company consists of 10,000 (ten thousand) common shares with no nominal or par value.

Part C – Restrictions on directors' authority

The Company shall not engage in, agree to, perform or undertake any of the following acts or matters, except as may be approved or agreed to by Shareholders who at the relevant time hold at least 75% (seventy five percent) of the entire issued share capital of the Company and the directors' powers and authority shall thus be limited accordingly:

C1. The undertaking of any new business activity outside the scope of the business of the Company as at the date of registration of this Memorandum.

C2. The increase, alteration or reduction of the issued and/or authorised share capital of the Company, including a repurchase of the Company's shares by the Company; the allotment and issue of shares or any other form of securities or debt instruments in the Company this Memorandum and the authorization to issue share certificates of the Company or to approve a transfer of shares.

C3. The sale or other disposal of all or a major part of the Company's assets (including but not limited to the goodwill of the Company) and/or the merger or amalgamation of the Company with any other companies or with any other business which would constitute a material transaction for the Company having regard to its assets and business in all instances other than any sale, disposal, merger or acquisition effected in the ordinary course of the Company's business.

C4. The conclusion of any material contract (including any loan agreement and/or agreement encumbering the Company's assets) outside the ordinary course of the Company's business.

C5. Effecting any changes to the Company's major accounting policies.

C6. The institution or defence of any legal proceedings other than those arising in the ordinary course of business.

C7. A compromise generally with the Company's creditors.

The winding up of the Company or any application for it to be placed in business rescue proceedings.

Issue: 2019-01-26_12:01:08

C9. Delegation of Authority is granted to the positions of Chief Operations Officer ("AA") and Managing Director ("RW"), subject to the approval required by the Companies Act. Delegations are directed to positions and not individual persons and any other delegation of authority, if any, to be approved by the board from time to time.

C10. The issuing of any guarantees or warranties by the Company.

C11. The approval of any distribution as contemplated in section 46(1)(a)(ii), on condition that the Shareholders may not declare a larger distribution as approved by the Board.

****

COMMISSION OF INQUIRY INTO STATE CAPTURE

Issue: 2019-01-26_12:01:08

SALE OF SOFTWARE AGREEMENT

entered into between

PHEZULU FENCING (PTY) LIMITED

("Seller")

and

LAMOZEST (PTY) LIMITED

("Purchaser")

COMMISSION OF INQUIRY INTO STATE CAPTURE

Issue: 2019-01-26_12:01:08

INDEX

1 PARTIES 1
2 PREAMBLE 1
3 INTERPRETATION 1
4 SALE OF SOFTWARE 3
5 PROPRIETARY RIGHTS 4
6 LIMITATION OF WARRANTIES 4
7 CERTIFICATION 5
8. FORCE MAJEURE 5
9 NOTICES 6
10 ARBITRATION 7
11 MUTUAL SUPPORT 8
12 INDEMNIFICATION 8
13 EXCLUSION OF DAMAGES 9
14 CONFIDENTIALITY 9
15 PUBLICITY 10
16 SEVERANCE 10
17 CONTRACT VARIATION 11
18 NO WAIVER 11
19 ASSIGNMENT, SUB-CONTRACTING AND RESPONSIBILITY 11
20 NO AGENCY OR PARTNERSHIP 11
21 ENTIRE AGREEMENT 11
22 PROPER LAW AND JURISDICTION 11

Annexure A

Issue: 2019-01-26_12:01:08

SALE OF SOFTWARE AGREEMENT

1 PARTIES

1.1 **PHEZULU FENCING (PTY) LIMITED ("PFPL")**, Company Registration No. 1997/004170/07

and

1.2 **LAMOZEST (PTY) LTD ("LPL")**, Company Registration No. 2012/126413/07

2 PREAMBLE

WHEREAS

2.1 PFPL is the sole proprietor of the Software prior to the Effective Date and wishes to sell the Software on loan account immediately due and payable to LPL.

2.2 LPL is interested in acquiring the Software from PFPL.

2.3 The Parties wish to record the terms and conditions attached to such arrangements in accordance with this Agreement.

IT IS NOW AGREED

3 INTERPRETATION

In this Agreement unless the context otherwise requires -

3.1 The singular shall import and include the plural and vice versa.

3.2 Words indicating one gender shall import and include other genders.

3.3 Words indicating natural persons shall import and include artificial persons.

3.4 The headnotes to this Agreement are used for the sake of convenience only and shall not govern the interpretation of the clauses to which they relate.

DEFINITIONS

3.5 Unless such meaning is inconsistent with the context, the following terms shall throughout this Agreement have the meanings respectively ascribed to them, namely:

3.5.1 "***Agreement***" - shall mean this Agreement and all annexures;

3.5.2 "***Confidential Information***" – shall mean the Software (not limited to but including the Intellectual Property Rights), all information in relation to the Software, as well as any other information of whatever nature, which has been or may be obtained by either of the Parties from the other, whether in writing or in electronic form or pursuant to discussions between the Parties, or which can be obtained by examination, testing, visual inspection

Issue: 2019-01-26_12:01:08

or analysis, including without limitation, scientific, business or financial data, know-how, formulae, processes, designs, sketches, photographs, plans, drawings, specification, models, Customer lists, price lists, studies, computer software, software source code, inventions or ideas and/or analyses, concepts, compilations, studies and other material prepared by or in the possession or in the control of the recipient which contain or otherwise reflect or are generated from any such information as is specified in this definition: And in any dispute between the Parties resulting from any contractual relationship between them it is recorded that the following information shall, for the purposes of interpreting what constitutes Confidential Information, not be considered to be Confidential Information: Information that either of the Parties had prior to the date that it was received from the other Party, or information known to the public or generally available to the public prior to the date that it was disclosed by either of the Parties to the other, or information which becomes known to the public or becomes generally available to the public subsequent to the date that it was disclosed by either of the Parties to other through no act or failure to act on the part of the recipient of such information or information which either of the Parties, in writing authorises the other to disclose;

3.5.3 "***Customers***" shall mean the customers LPL secures to use the Software pursuant to the Sale as contemplated in this Agreement;

3.5.4 "***Delivery***" – shall mean, in relation to the Sale in terms of this Agreement, actual physical delivery of the Software (including any updates and enhancement thereto), or where the Software is readily available for access by LPL through electronic or web-enabled means, then the date that the Software is made accessible to LPL or any Customer designated by it;

3.5.5 "***Effective Date***" – shall mean 31 July 2015 notwithstanding the Signature Date;

3.5.6 "***Intellectual Property Rights***" – shall mean all vested, contingent and future intellectual property rights in and to the Software, including but not limited to copyright, trade marks, service marks, design rights (whether registered or unregistered), patents, know-how, trade secrets, inventions, get-up, database rights and any applications for the protection or registration of these rights, and all renewals and extensions thereof existing in any part of the world whether now known or in the future created, to which LPL, as owner of the Software, may be entitled;

3.5.7 "***LPL***" – shall mean Lamozest (Pty) Limited, a company with limited liability incorporated in accordance with the company laws of South Africa under registration number 2012/126413/07.

3.5.8 "***Parties***" – shall mean the parties to this Agreement as reflected in clause 1 of this Agreement, and the term "Party" shall, as the context may indicate, mean any one of them;

3.5.9 "***Person***" – shall include a natural person, a juristic person, a partnership, trust or

Issue: 2019-01-26_12:01:08

association, as the case may be;

3.5.10 "*PFPL*" – shall mean Phezulu Fencing (Pty) Limited, a company with limited liability incorporated in accordance with the Company laws applicable in the Republic of South Africa under registration number 1997/004170/07;

3.5.11 "*Protected Marks*" – shall mean the names 'TrustMaster Fleet System' and 'Trustmaster Child and Youth Care System', as well as any other registered names or marks which are acquired by LPL relating to the Software in terms of this Agreement (including any existing goodwill related thereto);

3.5.12 "*Purchase Price*" – shall mean the consideration payable by LPL to PFPL in respect of the Sale of the Software, as follows:

3.5.12.1 TrustMaster Fleet System - the sum of R 4,580,131 (Four million five hundred and eighty thousand one hundred and thirty one rand); and

3.5.12.2 TrustMaster Child and Youth Care System - the sum of R 1,071,657 (one million and seventy one thousand six hundred and fifty seven rand);

3.5.13 "*Sale*" – shall mean the relevant terms and conditions outlined in this Agreement relating to the disposal of the Software by PFPL in favour of LPL;

3.5.14 "*Signature Date*" – shall mean the date of the signature of this Agreement by the Party signing last in time, it being recorded that such date shall be later in time than the Effective Date;

3.5.15 "*Software*" shall mean, collectively, the Intellectual Property Rights, Protected Marks, source code and related specifications that comprise two web-enabled software systems named respectively:

3.5.15.1 TrustMaster Fleet, and

3.5.15.2 TrustMaster Child and Youth Care,

as more fully described in Annexure A attached hereto;

3.5.16 "*Taxes*" – shall mean all taxes imposed by any governmental authority, including (without limitation) on income, profits, stamp, ad valorem, value added, excise, payroll, unemployment, disability, employees' income withholding, social security or withholding taxes.

4 SALE OF SOFTWARE

4.1 As from the Effective Date PFPL sells to LPL who hereby purchases from PFPL the Software for a consideration equal to the Purchase Price.

Issue: 2019-01-26_12:01:08

4.2 Within 30 (thirty) days of the Signature Date -

4.2.1 the Purchase Price shall be paid by LPL to PFPL by:

4.2.1.1 setting off any amount owed by PFPL to LPL on loan account as at the Effective Date against the Purchase Price; and

4.2.1.2 the creation of a loan account in the books of LPL in favour of PFPL for the balance of the Purchase Price (if any);

4.2.2 PFPL shall ensure Delivery of the Software to LPL whereafter, subject to the provisions of 7 below:

4.2.2.1 PFPL shall be deemed to have ceded all right, title and interest to the Software, the Protected Marks and the Intellectual Property Rights to LPL, and LPL shall be deemed to have accepted the rights so ceded, transferred and made over in its favour; and

4.2.2.2 PFPL shall have no further interest whatsoever in and to the Software.

4.3 PFPL undertakes and confirms that after Delivery of the Software as contemplated in 4.2.2 it shall not retain possession of any aspect of the Software, including any ideas, know-how and any of the Intellectual Property Rights in relation thereto, and shall not in anyway use such for any purpose whatsoever, other than for the provision of the Services.

5 PROPRIETARY RIGHTS

5.1 The Software embodies substantial creative efforts, Confidential Information, ideas and expressions. All trade secrets, Intellectual Property Rights, Protected Marks, Confidential Information and other proprietary rights therein shall after the Effective Date become the sole and exclusive property of LPL.

5.2 PFPL acknowledges that LPL shall also be the sole owner of all and any goodwill created by virtue of further development and exploitation by LPL of the Software.

6 LIMITATION OF WARRANTIES

6.1 PFPL provides in favour of LPL the following exclusive list of expressed warranties, namely-

6.1.1 PFPL is entitled to sell the Software, and to the best of PFPL's knowledge and belief no other Person is the owner of the Software and/or it has obtained the consent/waiver of any Person who prior to the Effective Date may have had a proprietary interest in the Software;

6.1.1 after the sale, LPL shall be under no restriction whatsoever with the respect of the exploitation of the Software, and in particular is entitled to license the Software to any Person;

Issue: 2019-01-26_12:01:08

6.1.2 to the best of PFPL's knowledge and belief, no aspect of the Software, the Intellectual Property Rights and the Protected Marks contravenes any other Intellectual Property Rights of third parties.

6.2 Save for the expressed warranties outlined in 6.1 above, which constitute a sole and exclusive list of warranties given by PFPL to LPL relating to the Software, PFPL makes no representation or warranty of any kind, whether expressed or implied, with respect to the Software, the Intellectual Property Rights and the Protected Marks, and in particular, without in any way limiting the generality of the aforegoing, -

6.2.1 PFPL expresses no representation of whatsoever as to the integrity, correctness, suitability, accurateness, completeness, effectiveness, reliability or commercial viability of the Software for the purposes required by LPL;

6.2.2 PFPL disclaims all representations and warranties as to any actual or perceived benefit, including but not limited to the implied warranties of merchantability and fitness and suitability for a particular purposes, of the Software in the hands of LPL;

6.2.3 the Software is sold to LPL by PFPL on an "as is" basis, and on the strict understanding that LPL shall assume the entire risk as to the results and performances arising out of any benefits, whether actual or perceived, arising by virtue of the application and/or utilisation of the Software.

7 CERTIFICATION

7.1 The Parties agree that the Purchaser shall, prior to the expiry of the time period referred to in 4.2 above, deliver a signed certificate to the Seller confirming that the Software has been duly delivered to the Purchaser and that it contains the functionality as agreed between the Parties, whereafter the risk in and benefit of the Software shall, subject to the due fulfilment of the provisions of 4.2.1, be deemed to have passed to the Purchaser.

7.2 Should the said certificate not be delivered within the specified time period this Agreement shall, with the exception of 1, 3, 7, 9 and 10 to 22, which clauses shall remain valid and enforceable, be regarded as void and of no further force or effect.

8 FORCE MAJEURE

8.1 A Party shall not be liable for any loss suffered by the other Party arising out of delay in or prevention of performance of a Party's obligations due to any cause, the adverse effects of which the relevant Party could not and cannot reasonably and practicably avoid in the ordinary conduct of the Party's business.

8.2 The Party whose performance is delayed or prevented shall immediately give notice in writing of such delay or prevention to the other Party.

8.3 If a Party's performance is delayed by such a cause, the Party shall be entitled to a

Issue: 2019-01-26_12:01:08

reasonable extension, not exceeding 90 (ninety) days, for performance. If performance is and will be delayed for longer than this period, the performance shall be regarded as having been prevented.

8.4 If a Party's performance is prevented by such a cause, the Parties shall:

8.4.1 if the obligation or obligations of which performance is prevented are not material, make such financial adjustment between them as may be equitable.

8.4.2 if the obligation or obligations of which performance is prevented are material, endeavour in good faith to agree on an alternative basis for achieving the object of this Agreement.

8.5 If a Party's performance of a specific material obligation has been prevented by a cause referred to in this clause 8 and such cause will prevent the performance of further obligations in terms of this Agreement in the future, with the effect that there is no reasonable prospect of one or other Party being able to perform his obligations in terms of this Agreement and if no alternative basis for achieving the object of this Agreement has been agreed between the Party's in terms of clause 8.4.2 hereof, then either Party shall be entitled, by written notice to the other to terminate this Agreement.

9 NOTICES

Any notices to be given to the parties in terms of this Agreement shall be in writing and delivered by hand during ordinary business hours or posted by prepaid registered post or dispatched by telefacsimile or by email, during normal business hours to the addresses mentioned hereunder, which respective addresses the parties choose as their *domicile* addresses for the delivery or service of all notices, communications or legal processes arising out of this Agreement:

9.1 PFPL : Address: Mogale Business Parl
1 Windsor Road
Mogale City
1739

9.2 LPL: Address: 30 Waverley Drive
Mill Park
Port Elizabeth
6001

or such other address as either Party may choose by written notice to the other from time to time.

9.3 Every notice shall be deemed to have been properly given :

9.3.1 if delivered by hand, on the date of delivery;

Issue: 2019-01-26_12:01:08

9.3.2 if sent by prepaid registered post, 7 (seven) days after the date on which the notice is posted;

9.3.3 if sent to a Party at its telefax number or email address, (in the absence of proof to the contrary) on the date of transmission where it is transmitted during normal business hours of the receiving instrument, and on the next business day where it is transmitted outside those business hours.

10 ARBITRATION

10.1 Should any dispute arise between the parties in connection with:

10.1.1 the formation or existence of;

10.1.2 the implementation of;

10.1.3 the interpretation or application of the provisions of;

10.1.4 the Parties' respective rights and obligations in terms of or arising out of this Agreement or with regard to the breach or termination of;

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

10.1.6 any documents furnished by the parties pursuant to the provisions of;

10.1.7 any party's resolution which must be passed in terms of this Agreement or which relates in any way to any matter affecting the interests of the parties outlined in terms of,

this Agreement, that dispute shall, unless resolved by the Parties, be referred to and be determined by dispute resolution in terms of this clause 9.

10.2 Should any dispute, disagreement or claim arise between the parties (hereafter referred to as the "Dispute") concerning this Agreement, the parties shall try to resolve the Dispute by negotiation. This entails that the one party invites the other/s in writing to meet at a mutually convenient place and time in order to attempt to resolve the Dispute within 20 (twenty) days from the date of the written invitation.

10.3 Failing such a resolution within 45 (forty five) days form the date of written invitation referred to in 10.2 above, the Dispute shall be submitted to arbitration in South Africa, subject to South African arbitration generally accepted practice by a single arbitrator appointed in accordance with such Rules. The Arbitrator in this regard shall be, if the matter in issue is –

10.3.1 primarily an accounting matter, an independent chartered accountant of not less than 10 (ten) years standing practising as a registered auditor;

10.3.2 primarily a legal matter, an independent practising attorney, solicitor, barrister or

Issue: 2019-01-26_12:01:08

advocate of not less than 10 (ten) years standing.

10.4 The arbitrator shall be obliged to give reasons and a detailed written opinion supporting any decision made by him in the course of the arbitration.

10.5 The parties to the arbitration undertake to keep the arbitration, including the subject matter of the arbitration and the evidence heard during the arbitration confidential (which arbitration shall be held in camera), and not to disclose it to anyone except for the purposes of an order to be made in terms of clause 10.7.

10.6 The arbitration shall be held at Johannesburg, South Africa.

10.7 Each of the parties irrevocably agree that the decision in any such arbitration proceedings shall be binding on them and shall be carried into effect and may be made an order of any competent court having jurisdiction.

10.8 Nothing in this clause 10 shall preclude either party from seeking any interim relief from any competent court having jurisdiction pending the institution of any arbitration proceedings in terms of this clause 10.

10.9 The parties agree to keep the dispute resolution, including the subject matter of the dispute confidential and not to disclose it to anyone except for purposes of an order to be made in terms of 10.7.

10.10 The provisions of this clause -

10.10.1 constitute an irrevocable consent by the parties to any proceedings in terms hereof and they shall not be entitled to withdraw therefrom or claim at any such proceedings that they are not bound by such provisions;

10.10.2 are severable from the rest of this Agreement and shall remain in effect despite the termination or invalidity for any reason of this Agreement.

11 MUTUAL SUPPORT

11.1 The Parties undertake at all times to do all such things, to perform all such acts and to take all such steps and to procure the doing of all such things, the performance of all such actions and the taking of all such steps, as may be open to them and necessary for or incidental to, the putting into effect or maintenance of the terms, conditions and import of this Agreement.

11.2 The Parties agree that their relationship to each other, whilst not being one of partnership, shall be based upon the utmost good faith as between them.

12 INDEMNIFICATION

Each Party shall indemnify and hold harmless the other Party from and against any and all claims, liability, loss, damages, fines, costs, legal costs, professional and other expenses of any

Issue: 2019-01-26_12:01:08

nature whatsoever incurred or suffered by any Party arising out or in connection with any claim that the Software or the Protected Marks infringes a third party's Intellectual Property Rights. Notwithstanding the above, for any Party to rely on such indemnification, such Party must:

12.1 give the other Party prompt written notice of any such claim; and

12.2 allow the other Party to control and fully co-operate with the other Party in the defence of such claim.

13 EXCLUSION OF DAMAGES

Under no circumstances shall PFPL be liable to LPL for any consequential, indirect, special, punitive or incidental damages, including damages caused by force majeure, whether enforceable or unenforceable, based on claims by LPL or any of its Customers (including, but not limited to, claims for loss of data, goodwill, profits, use of money or use of hardware or software, interruption in use of availability of data, hardware or software, stoppage or other work or impairment of other assets), for breach or failure of expressed or implied warranty, breach of contract, misrepresentation, negligence, strict liability in delict or otherwise, whether based on this Agreement, any commitment performed or undertaken under or in connection with the Sale of the Software or the provision of the Services.

14 CONFIDENTIALITY

14.1 Each Party ("the Receiving Party") agrees that all Confidential Information received from the other Party ("the Disclosing Party") shall –

14.1.1 be treated as strictly confidential;

14.1.2 be disclosed, save for the exceptions provided for in 14.2 below only to those directors, offices, employees, legal advisors and accountants of the Receiving Party who have a need to know and shall be used by such persons solely as required in connection with-

14.1.2.1 the performance of this Agreement; or

14.1.2.2 the operation of the Disclosing Party's business in the course of the exploitation of the Software as may be reasonably necessary;

14.1.3 not be disclosed to any third Party except expressly permitted in this Agreement, not limited to but including the expressed exclusion provided for in 14.2 below, unless agreed in writing by the Disclosing Party, and only if such Party is bound by confidential obligations in form and substance similar to the provisions of this clause 14.1;

14.1.4 not be used in order to solicit or endeavour to solicit, interfere with or endeavour to interfere with, entice or endeavour to entice away from the Disclosing Party any Person who is employed by the Disclosing Party or who was a Customer of the Disclosing Party.

Issue: 2019-01-26_12:01:08

14.2 Notwithstanding the provisions outlined in 14.1, nothing in this Agreement or the provisions of this clause 14 shall be construed as limiting, restricting or prohibiting-

14.2.1 PFPL disclosing such components of the Confidential Information as may be necessary in the course of rendering the Services in order to assist it with obtaining the necessary rights, licenses and other permissions that PFPL may require to comply with internet based laws (including consumer protection and personal data protection laws) applicable in the Republic of South Africa;

14.2.2 LPL disclosing such aspects of the Confidential Information arising from the Services provided by PFPL for the purposes of the requirements of potential investors, funders, financial institutions and government agencies to whom LPL at its discretion considers it necessary to disclose the Confidential Information.

14.3 Within 6 (six) months after the termination of the contractual relationship between the Parties for whatever reason, the recipient of any Confidential Information shall return same, or at the discretion of the original owner thereof destroy such Confidential Information, and shall not retain copies, samples or excerpts thereof.

14.4 In the event of a breach of either of the Parties of the provisions of this clause 14, the Receiving Party acknowledges that the Disclosing Party will likely suffer irreparable damages that cannot be fully remedied by monetary damages, and in respect of which the arbitration proceedings provided for in clause 10 may be inappropriate or cause further harm. Therefore, in addition to any remedy that the Disclosing Party may possess pursuant to this Agreement, the Disclosing Party retains the right to seek and obtain urgent injunctive and/or interlocutory relief against such breach in any court of competent jurisdiction. In the event that any such breach results in a claim by a third Party, the Receiving Party shall indemnify, defend and hold harmless the Disclosing Party from any claims, damages, legal fees, penalties, costs and expenses arising out of claims by such third Parties.

15 PUBLICITY

Neither Party shall make any public disclosures regarding this Agreement or the subject matter hereof without the prior written consent of the other.

16 SEVERANCE

16.1 If any provision of this Agreement is held to be invalid or unenforceable by any judicial or other competent authority, all other provisions of this Agreement shall remain in full force and effect and shall not in any way be impaired.

16.2 If any provision of this Agreement is held to be invalid or unenforceable but would be valid or enforceable if some part of the provision were deleted, the provision in question shall apply with the minimum modifications necessary to make it valid and enforceable.

Issue: 2019-01-26_12:01:08

17 CONTRACT VARIATION

No variation or modification to this Agreement is valid unless it is in writing and signed by both Parties.

18 NO WAIVER

Failure by either party at any time to enforce any one or more of the provisions of this agreement or to require performance by the other party of any of the provisions shall not constitute or be construed as a waiver of the provision or of the right at any time subsequently to enforce all terms and conditions of this agreement nor affect the validity of this Agreement or any part of it or the right of the Parties to enforce any provision in accordance with its terms.

19 ASSIGNMENT, SUB-CONTRACTING AND RESPONSIBILITY

Subject to any express provision of this Agreement, PFPL shall not without the prior written consent of LPL assign all or any benefit, right or interest under this Agreement.

20 NO AGENCY OR PARTNERSHIP

Nothing contained in this agreement, and no action taken by the parties pursuant to this Agreement, shall be deemed to constitute a relationship between the Parties of partnership, joint venture, principal and agent or employer and employee. Neither Party has, nor may it represent that it has, any authority to act or make any commitments on the other Party's behalf.

21 ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the Parties relating to the provision of Software and Protected Marks and supersedes all prior negotiations, representations and undertakings, whether written or oral, except that this clause 21 shall not exclude liability in respect of any fraud or fraudulent misrepresentation.

22 PROPER LAW AND JURISDICTION

This Agreement and all matters arising from it and any dispute resolutions referred to above shall be governed by and construed in accordance with South African law notwithstanding the conflict of law provisions and other mandatory legal provisions.

Signed at Krugersdorp on 28 January 2016

For: **PFPL**

(Duly Authorised)

Issue: 2019-01-26_12:01:08

Signed at Krugersdorp on 29 January 2016

For: LPL

(Duly Authorised)

COMMISSION OF INQUIRY INTO STATE CAPTURE

Issue: 2019-01-26_12:01:08

ANNEXURE "A"

SOFTWARE DESCRIPTION

A. TRUSTMASTER FLEET SYSTEM:

Trustmaster Fleet is a fully integrated and automated, web based Fleet Management Software Solution developed and customized for fleet maintenance, fuel administration, finance management and information analysis

TRUSTMASTER FLEET SOFTWARE APPLICATION

MODULES AND INTERFACES

1. FLEET MODULE
   - **1.1. Vehicle Admission**
   - **1.2. Official Admission**
   - **1.3. Vehicle Termination**
   - **1.4. Qlink Integration Status**
   - **1.5. Persal Integration**
     - 1.5.1.Persal Admission
     - 1.5.2.Persal Termination
     - 1.5.3.Persal Reactivation
     - 1.5.4.Persal Reallocation
     - 1.5.5.Persal Reload
     - 1.5.6.Persal Category
     - 1.5.7.Persal Contract Term
     - 1.5.8.Persal Transfer
     - 1.5.9.Persal Migration
     - 1.5.10. Persal Cut Off Date
     - 1.5.11. Persol Cut Off Date
   - **1.6. Persal Rejection**
     - 1.6.1.Vehicle Import Files
     - 1.6.2.Rejection File Details
     - 1.6.3.Persal Investigation
     - **1.6.4.**Mandates
   - **1.7. Amendments**
     - 1.7.1.Reactivation
     - 1.7.2.Reallocation
     - 1.7.3.Reload
     - 1.7.4.Maintenance Category
     - 1.7.5.Contract Term
     - 1.7.6.Official Transfers
     - **1.7.7.**Official Migrations
   - **1.8. Notifications**
     - 1.8.1.Dynamic SMS
     - 1.8.2.General SMS
   - **1.9. Vehicle Specification (Data Disk Info)**
2. MAINTENANCE MODULE
   - **2.1. Authorization Requests**
   - **2.2. Manage Invoices**
   - **2.3. Manage Credit Notes**
3. FUEL
   - **3.1. Manage Log sheet Claims**
   - **3.2. Manage Manual Vouchers**

Issue: 2019-01-26_12:01:08

- 3.3. Fuel Qlink
- 3.4. Fuel Import Files

4. FINANCE
   - 4.1. Receipts Allocation
     - 4.1.1. Import Files
     - 4.1.2. Batch Reconciliations
     - 4.1.3. Batch Allocations
     - 4.1.4. Line Item Allocations
     - 4.1.5. Line Item Refund
     - 4.1.6. Bank Transactions
   - 4.2. Invoicing
   - 4.3. Recovery Analysis
   - 4.4. Assessment
     - 4.4.1. Payment File
     - 4.4.2. Recovery Assessment
     - 4.4.3. Qlink Rejection Assessment
     - 4.4.4. Valuation Assessment
     - 4.4.5. Historic Assessment

5. USER (ADMINISTRATION)
   - 5.1. Maintenance Codes
   - 5.2. Supplier Information
     - 5.2.1. Suppliers
     - 5.2.2. Supplier Types
     - 5.2.3. Supplier Groups
   - 5.3. Schemes
   - 5.4. Vehicle Information
     - 5.4.1. Make & Model
     - 5.4.2. Model Categories
     - 5.4.3. Fuel Types
     - 5.4.4. Fuel Rates
     - 5.4.5. Fuel Benchmarks
     - 5.4.6. Maintenance Rates
     - 5.4.7. Billing Codes
     - 5.4.8. CPI Increase
     - 5.4.9. CPI Qlink
   - 5.5. Provincial Information
     - 5.5.1. Provinces
     - 5.5.2. Towns
     - 5.5.3. Suburbs
   - 5.6. Departmental Information
   - 5.7. Automotive Products
     - 5.7.1. Tyres
     - 5.7.2. Batteries
     - 5.7.3. Exhausts
     - 5.7.4. Shocks
   - 5.8. Finance Service Provider
   - 5.9. Users & Roles

6. REPORTS

7. BUSINESS INTELLIGENCE

Issue: 2019-01-26_12:01:08

B. TRUSTMASTER CHILD AND YOUTH CARE SYSTEM:

Trustmaster Child and Youth Care System is a fully integrated and automated web based facilities management software programme developed and customised for information management in Child and Youth Care Centres.

TRUSTMASTER CHILD AND YOUCARE APPLICATION SYSTEM

1. INTELLIGENCE DASHBOARD

1.1 High level all-inclusive overview of the facility
1.2 Statistical view of key operational elements

2. CHILD DETAILS

2.1 **Find children in the system by using one or more search filters or Identify the child using biometrics**
2.1.1 Child profile screen gives an overview of the child's status:
2.1.1.1 Is the child active or released
2.1.1.2 Warrant for detention details
2.1.1.3 Next Court appearance dates
2.1.1.4 Sentence calculation
2.1.1.5 Sentence conditions
2.1.1.6 Behaviour management for sentenced children
2.1.1.7 Suicide screening
2.1.1.8 Scan and attach important documentation for record keeping and reference
2.1.1.9 Area/housing allocation
2.1.1.10 Details of Guardians

3. ENROLMENTS

3.1 **Administer daily admissions and releases**
3.2 **Biometric enrolment – fingerprint and photo for identification and verification**
3.3 **Normal and temporary release types**

4. MDT INTERVENTIONS

4.1 **Assist children in a positive change of behaviour, address problem areas, take advantage of programmes available and prepare for a return to community. Disciplines include:**
4.1.1 Assessments
4.1.2 Process Notes
4.1.3 Progress reports
4.1.4 Individual Development Plans
4.1.5 Social worker reports
4.1.6 Reportable Incidents
4.1.7 Pre and Post Court Counselling
4.1.8 Counselling
4.1.9 Customizable templates
4.2 **Healthcare**
4.2.1 Enable medical staff to build a complete medical history file for each child

5. ASSESSMENT INSTRUMENTS

5.1 **More than 140 assessments in the following categories**
5.1.1 Psychological and cognitive
5.1.2 Attitude and belief
5.1.3 Behaviour
5.1.4 Environmental
5.2 **Customizable templates**

6. PROGRAMME SERIES

Issue: 2019-01-26_12:01:08

6.1 Manage and track educational programmes:
6.2 Formal school
6.3 Diversion programmes
6.4 Vocational
6.5 Therapeutic
6.6 ABET
6.7 Learner support programme
6.8 Customizable templates

7. DOCUMENT TEMPLATES
7.1 Reference documentation for system users in various categories
7.1.1 Child Justice Legislation
7.1.2 Record templates
7.1.3 Standard operating procedures

8. REPORTS

9. SYSTEM ADMINISTRATION
9.1 User and access roles management
9.2 Customizing and loading of templates:
9.2.1 Programme series
9.2.2 Assessment instruments
9.2.3 MDT Interventions
9.2.4 Miscellaneous templates
9.2.5 Maintain template hierarchy
9.3. Fully configurable lookup values
9.3.1 Police stations
9.3.2. Courts
9.3.4 Sentence conditions
9.3.4 Behaviour rules
9.3.5 Behaviour actions
9.3.6 Admission types
9.3.7 Release types
9.3.8 Specify facility capacity

Issue: 2019-01-26_12:01:08

Issued: 2019-01-26 21:08

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Page: 1213 of 1250

WorkPool

Fo LAMEZEST (PTY)LTD
Fr Peet Venter [peet@dah.co.za]
To Peet Venter
Cc :
Sent On : [2017/11/12 22:58]
Priority : Normal
Sensitivity : Confidential
Attachments : Letter to cancel Option.docx Employees Trust Deed Amendment.pdf

FW: RE: The Employees Trust

Peet Venter | Associate
Professional Accountant (S.A)
General Tax Practitioner (S.A)™
D'Arcy-Herrman & Co Inc
Chartered Accountants (S.A) | Registered Auditors

011 954-5016 | Cell: 082 462-9527 | www.dah.co.za

Help save paper - do you really need to print this email ?

-----Original Message-----
From: Peet Venter [mailto:peet@dah.co.za]
Sent: 2016/03/25 22:34
To: antonie@avwattorneys.co.za
CC: andries.vantonder@bosasa.com; lindsay.watson@bosasa.com; natasha.olivier@bosasa.com; daniel.n.erasmus@me.com
Subject: FW: RE: The Employees Trust

Hi Antonie,

I went through the documents and do not have any proposed changes.

Could we finalize all of this whilst we are still busy with the valuations for the "granting of the option" - I think so, but just want to make sure about this.

Natasha & Lindsay, once confirmed by Antonie, please go-ahead with the signing & initialling of all the documents.

Regards

Peet Venter | Associate
Professional Accountant (S.A)
General Tax Practitioner (S.A)™

AA-1204

Issue: 2019-01-26 12:01:08

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Chartered Accountants
Geoktrooieerde Rekenmeesters

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-----Original Message-----
From: Antonie van Wyk [mailto:antonie@avwattorneys.co.za]
Sent: 2016/03/16 13:55
To: peet@dah.co.za
CC: lindsay.watson@bosasa.com; andries.vantonder@bosasa.com; daniel.n.erasmus@me.com; natasha.olivier@bosasa.com
Subject: RE: The Employees Trust

Hi Peet,

I attach a document that contains the replacement trust deed as well as the resolution in terms of which the amendment will take place. Please note that I have amended the new trust deed by introducing a proviso that the trust deed may in future only be amended if Gavin consents to such amendment (clause 15.1). If that is in order the resolution can be signed by all the parties, dated and then sent to the Master to be recorded. Please note that the replacement trust deed, which is an annexure to the resolution, needs to be initialled on every page by every signatory. A pain, I know, but it needs to be done.

I also attach a document in terms of which the Option that has been granted to Carol will be cancelled. It needs to be copied and pasted onto the letterhead of Bosasa Empowerment and Management Services and duly signed where indicated - also by her. Also note that an appropriate resolution needs to be prepared for the company to authorise the contents of the letter.

The above should, once implemented, conclude the restructuring of the Employees Trust as intended. I would appreciate copies of all signed documentation for our records and would also appreciate confirmation in due course of receipt and recording of the amendments by the Master. The Master should send a confirmation letter and I would like to ensure that there are no queries that require a response.

Regards,

Antonie van Wyk
Consultant to TRM Daniel Erasmus Tax Court Practitioners

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Page: 1214 of 1250
AA-1205

Issue: 2019-01-26 12:01:08

ANTONIE VAN WYK AND ASSOCIATES

Antonie van Wyk
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Mobile: +27 (0) 83 600 9809
E-mail: antonie@avwattorneys.co.za

From: Peet Venter [mailto:peet@dah.co.za]
Sent: 15 March 2016 21:42
To: antonie@avwattorneys.co.za
Cc: lindsay.watson@bosasa.com; andries.vantonder@bosasa.com; daniel.n.erasmus@me.com; natasha.olivier@bosasa.com
Subject: RE: The Employees Trust
Sensitivity: Confidential

Hi Antonie,

Thank you for your detailed explanation of all the documents we all have to attend too.

Natasha, please go-ahead with:
1. The share corrections and
2.1. The signing of the Recordal, Trust Resolution 1 & Trust Resolution 2
2.2. Once signed, please send to the Masters Office

Antonie, please go-ahead with:
1. Finalizing the new Trust Deed
2. The resolutions

I am attending to the valuation which we require to finalize the option letter.

Regards

Peet Venter | Associate
Professional Accountant (S.A)
General Tax Practitioner (S.A)™

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Page: 1215 of 1250
AA-1206

Issue: 2019-01-26 12:01:08

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-----Original Message-----
From: Natasha Olivier [mailto:Natasha.Olivier@bosasa.com]
Sent: 2016/03/15 13:57
To: Lindsay.Watson@bosasa.com; peet@dah.co.za; antonie@aywattorneys.co.za
CC: Andries.vanTonder@bosasa.com; daniel.n.erasmus@me.com
Subject: RE: The Employees Trust

Afternoon Antonie,

With regard to the last paragraph relating to the share correction matter, this has not yet been finalised. This matter was discussed between myself and Lindsay late last week. I think for the sake of ensuring that all is taken care of systematically, this should be done first but will wait for Peet to come back to you on this e-mail as he is steering this project and we don't want to omit anything important.

Regards

Natasha Olivier
Bosasa Operations (Pty) Ltd
Mogale Business Park|Windsor Road|Luipaardsvlei|Mogale City
Tel: + 27 11 662-6223
Fax: + 27 11 662-6138
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Page: 1216 of 1250
AA-1207

Issue: 2019-01-26 12:01:08

BOSASA Group

Please consider our environment before printing this email

From: Antonie van Wyk [mailto:antonie@avwattorneys.co.za]
Sent: 15 March 2016 01:20 PM
To: 'Peet Venter'; Lindsay Watson
Cc: Andries van Tonder; daniel.n.erasmus@me.com; Natasha Olivier
Subject: RE: The Employees Trust
Sensitivity: Confidential

Hi Peet,

I assume that you are referring to the first batch of documents (i.e. the 'Recordal', 'Trust Resolution 1', 'Trust Resolution 2' and the option letter, which did not include the proposed new draft trust deed. If so, please go ahead to have all the documents signed. The only document that cannot be signed without the market valuation is the option letter. There is no reason why it cannot be issued once the market valuation has been finalised, but please ensure that the option letter is dated the same day as as 'Trust Resolution 2'. My assumption here is that the market valuation is at a snapshot date in the past, which will coincide with the date of the trust resolutions, etc.

I would prefer for the new trust deed to be finalised as soon as possible as there are certain protective measures built into it that need to be put in place. No one seems to have spotted any problems so far, so I'm going to proceed to draft the resolution that will be required to give effect thereto and will mail it as soon as possible. I recommend that the first batch of documentation (excluding the option letter as it is not required) be sent to the Master once signed and then the new trust deed at a later stage. The noting of the changes by the Master does not affect the validity of the documentation and is a mere administrative procedure. Please let me have copies of the signed documents for our records in due course.

By the way, pursuant to crossing the t's and dotting the i's, do you know whether the share fraction problem has been resolved yet? Bear in mind that none of the trust documents (or the Shareholders Agreement for that matter) will be of much effect if the error has not been corrected. As always, please let us know if you require our assistance in this regard.

Regards,

Antonie van Wyk
Consultant to TRM Daniel Erasmus Tax Court Practitioners

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Page: 1217 of 1250

AA-1208

Issue: 2019-01-26 21:01:08

ANTONIE VAN WYK AND ASSOCIATES

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E-mail: antonie@avwattorneys.co.za

From: Peet Venter [mailto:peet@dah.co.za]
Sent: 14 March 2016 21:59
To: Lindsay.Watson@bosasa.com; antonie@avwattorneys.co.za
Cc: Andries.vanTonder@bosasa.com; daniel.n.erasmus@me.com; Natasha.Olivier@bosasa.com
Subject: The Employees Trust
Sensitivity: Confidential

Hi Antonie,

The only thing that delays the finalization of the Trust documents, is the valuation of the share in Bosasa Empowerment & Management Services (Pty)Ltd.

We are in the process of obtaining / doing the valuation.
Please note that this is a valuation of the Bosasa Group of companies - Bosasa Empowerment & Management Services (Pty)Ltd is the holding company

We require the valuation for the "Option letter".

Antonie, could we go-ahead and get al the other Trust documents signed - while we are attending to the valuation.
Natasha, who has to sign the option letter on behalf of BEMS (Pty)Ltd? As this person will only sign this document afterwards - will you be able to manage this?

I don't want to delay the finalization of all the other paperwork, as the valuation could still take a little while.
(I am putting Carlos under pressure to have all the financial information ready for the valuation)

Regards

Peet Venter | Associate
Professional Accountant (S.A)
General Tax Practitioner (S.A)™

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Page: 1218 of 1250
AA-1209

Issue: 2015-01-26 12:01:08

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-----Original Message-----
From: Antonie van Wyk [mailto:antonie@avwattorneys.co.za]
Sent: 2016/03/14 10:16
To: Lindsay.Watson@bosasa.com
CC: peet@dah.co.za; Natasha.Olivier@bosasa.com; daniel.n.erasmus@me.com; Andries.vanTonder@bosasa.com
Subject: RE: BOSASA Shareholders Agreement - valuation methodology in clause 17

Hi Lindsay,

The last Shareholders Agreement that I mailed to everyone on the 8th February (attached again for ease of reference) still needs to be populated with a few minor items such as dates, domicilium addresses, etc. Once that is done and all the tracked amendments have been accepted it can be regarded as final and ready for signature - I'm leaving those aspects in your capable hands. I'm worried that Gavin might be at risk for as long as the agreement remains unsigned and would accordingly recommend that it be concluded as soon as possible. Note that many of the signatories will require resolutions to authorise the adoption of the Shareholders Agreement. Will you be handling those or would you like us to assist?

The next step will be to give the draft new MOI a final once-over to ensure that there are no conflicts with the final version of the Shareholders Agreement and to then submit it to the CIPC for registration. I'll have a look at it and provide you with feedback. I assume that Natasha will thereafter handle its registration?

As far as the Employees Trust is concerned, the following need to be done in parallel with the above:

- The Recordal, Option Letter and Trust Resolution 1 and 2 (all attached) need to be signed and submitted to the Master.
- Thereafter the amended trust deed and supporting documentation need to be finalised, signed and submitted to the Master. I attach the draft deed that I circulated earlier this year. If in order (will everyone please confirm) I will also prepare the required resolutions to have it adopted.

Might I ask that copies of all signed documentation be mail to everyone to ensure that nothing slips through the cracks.

Thanks!

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Page: 1219 of 1250
AA-1210

Issue: 2019-01-26 12:01:08

A
C M Daniel Erasmus Tax Court Practitioners



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Mobile: +27 (0) 83 600 9809
E-mail: antonie@avwattorneys.co.za

From: Lindsay Watson [mailto:Lindsay.Watson@bosasa.com]
Sent: 14 March 2016 09:51
To: Antonie van Wyk <antonie@avwattorneys.co.za>
Cc: 'Daniel N Erasmus' <daniel.n.erasmus@me.com>; 'Peet Venter' <peet@dah.co.za>
Subject: Re: BOSASA Shareholders Agreement - valuation methodology in clause 17

Hi Antonie,

We are alive and well , thank you.

Thanks for the mail. I actually just wanted to clarify with you if we could go ahead and proceed to get it signed, which I'm sure from this email we are good to go.

Regards,

Lindsay Watson
Legal Department
Bosasa Group of Companies

The Bosasa Group
Mogale Business Park
Windsor Road | Mogale City | 1739 | Gauteng | South Africa

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Page: 1220 of 1250
AA-1211

Te 2 6069
Mo 607 1542
We asa.com



BOSASA
Future Technology Solutions

Mogale Business Park, 1 Winchen Road, Mogale City 1739
Gauteng, Republic of South Africa

From: Antonie van Wyk
Date: Monday, March 14, 2016 at 9:47 AM
To: LINDSAY WATSON
Cc: 'Daniel N Erasmus', 'Peet Venter'
Subject: RE: BOSASA Shareholders Agreement - valuation methodology in clause 17

Hi Lindsay,

I trust that things are going swimmingly your end! Just a courtesy e-mail to enquire whether the Shareholders Agreement has now been duly signed and whether you require any further input from us.

Regards,

Antonie van Wyk
Consultant to TRM Daniel Erasmus Tax Court Practitioners

AW
ANTONIE VAN WYK
AND ASSOCIATES

Antonie van Wyk
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SCC-_QUFRmluYWxfMjIwMTIwMTlfMDcK
Page: 1221 of 1250
AA-1212

Issue: 2019-01-26 12:01:08

Fr tson [mailto:Lindsay.Watson@bosasa.com]
Se 2016 14:50
To: Antonie van Wyk <antonie@avwattorneys.co.za>
Subject: Re: BOSASA Shareholders Agreement - valuation methodology in clause 17

Thanks Antonie.

Regards,

Lindsay Watson
Legal Department
Bosasa Group of Companies

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Future Technology Solutions

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Gauteng, Republic of South Africa

From: Antonie van Wyk
Date: Monday, February 22, 2016 at 4:54 PM
To: 'Peet Venter'
Cc: "philip@dah.co.za", LINDSAY WATSON, Andries van Tonder, "daniel.n.erasmus@me.com"
Subject: RE: BOSASA Shareholders Agreement - valuation methodology in clause 17

Dear All,

SCC-_QUFRmluYWxfMjIwMTIwMTlfMDck
Page: 1222 of 1250
AA-1213

Issue: 2019-01-26 12:01:08

I at Frances' opinion. Her conclusions and our additional comments are:

Employees Trust

- The market value definition for purposes of the trust deed should ideally mirror the provisions of section 8C of the Income Tax Act. Section 8C refers to 'market value' of the shares as determined in the 'rules' of the relevant scheme. The Employees Trust deed (which is the equivalent of the scheme's 'rules') seeks to achieve a value based on an arm's-length market valuation and accordingly complies with section 8C. One should accordingly refrain from amending it.

Shareholders Agreement

- The purchase by Mpako of the shares of Mela/Nzunzo in terms of clause 16 of the Shareholders Agreement will be tax neutral, even if it takes place at a discount.
- The buy back by the company of the shares of Mela/Nzunzo in terms of clause 19 of the Shareholders Agreement, which will be at a discount, will be normalised by the provisions of paragraph 38 of the Eight Schedule of the Income Tax Act. Paragraph 38 will accordingly deem the base cost of the shares to be at market value. The only party that will be impacted negatively will be the sellers, as the CGT payable by them will be based on the deemed market value. From the company's perspective there is a potential future CGT benefit as the base cost will again be deemed to be the higher market value.

To summarise, the advice is:

- Do not amend the valuation methodology that is used in the Employees Trust to bring it in line with the Shareholders Agreement.
- The discounted market value sale provisions in the Shareholders Agreement hold no negative tax consequences for Bosasa or Mpako and can accordingly be left as proposed in the most recent draft.

Please let me know if you have any questions.

Regards,

Antonie van Wyk
Consultant to TRM Daniel Erasmus Tax Court Practitioners

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Page: 1223 of 1250
AA-1214

Issue: 2015-10-26 12:07:08

ANTONIE VAN WYK AND ASSOCIATES

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Mobile: +27 (0) 83 600 9809
E-mail: antonie@avwattorneys.co.za

From: Antonie van Wyk [mailto:antonie@avwattorneys.co.za]
Sent: 22 February 2016 10:21
To: 'Peet Venter' <peet@dah.co.za>; 'daniel.n.erasmus@me.com' <daniel.n.erasmus@me.com>
Cc: 'philip@dah.co.za' <philip@dah.co.za>; 'lindsay.watson@bosasa.com' <lindsay.watson@bosasa.com>; 'Andries.vanTonder@bosasa.com' <Andries.vanTonder@bosasa.com>
Subject: RE: BOSASA Shareholders Agreement - valuation methodology in clause 17
Sensitivity: Confidential

HI Peet,

Frances has in fact analysed the tax aspects of the valuation methodologies and produced a report. Daniel has also had a look at it. I'm in the process of applying my mind to it to assess its implications as regards particularly the Shareholders Agreement. I don't believe that any changes will be required, but need to make sure that all the t's are crossed. I'll mail you our final conclusions during the course of the day and will at the same time provide you with a copy of the report.

Regards,

Antonie van Wyk
Consultant to TRM Daniel Erasmus Tax Court Practitioners

ANTONIE VAN WYK AND ASSOCIATES

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Page: 1224 of 1250
AA-1215

Issue: 2019-01-26 12:01:08

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Page: 1225 of 1250

From: Peet Venter [mailto:peet@dah.co.za]
Sent: 22 February 2016 00:11
To: daniel.n.erasmus@me.com; antonie@avwattorneys.co.za
Cc: philip@dah.co.za; lindsay.watson@bosasa.com; Andries.vanTonder@bosasa.com
Subject: RE: BOSASA Shareholders Agreement - valuation methodology in clause 17
Sensitivity: Confidential

Daniel,

If I am not mistaken, Frances would have looked at the tax angle for us (valuations to be used for the SHA & the Employees Trust)

Have you received any feedback from her as yet?

Thank you

D'Arcy-Herrman & Co / Kie
Chartered Accountants
Geoktrooieerde Rekenmeesters

Peet Venter | Associate
Professional Accountant (S.A)
General Tax Practitioner (S.A)™
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-----Original Message-----
From: Antonie van Wyk [mailto:antonie@avwattorneys.co.za]
Sent: 2016/02/08 15:49
To: daniel.n.erasmus@me.com
CC: peet@dah.co.za; Andries.vanTonder@bosasa.com; lindsay.watson@bosasa.com; philip@dah.co.za
Subject: RE: BOSASA Shareholders Agreement - valuation methodology in clause 17

Hi All,

AA-1216

Issue: 2019-01-26 11:01:08

I'...at the material that Philip mailed us earlier (much obliged Philip) and have incorporated it into the agreement as far as possible. I've also organised the fa...en into account in applying the proposed formula under headings that are seemingly typically relevant for WACC calculations. Bear in mind that we al... to apply a WACC calculation but rather to try and identify the risk factors that would typically be considered in such a calculation to steer the discretion of the auditors.

I attach the most recent version of the agreement, which should be reasonably close to final now. I would appreciate comments.

Regards,

Antonie van Wyk
Consultant to TRM Daniel Erasmus Tax Court Practitioners



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E-mail: antonie@avwattorneys.co.za

From: Daniel N Erasmus [mailto:daniel.n.erasmus@me.com]
Sent: 08 February 2016 15:13
To: Philip du Toit <philip@dah.co.za>
Cc: lindsay.watson@bosasa.com; Andries.vanTonder@bosasa.com; antonie@avwattorneys.co.za; peet@dah.co.za
Subject: Re: BOSASA Shareholders Agreement - valuation methodology in clause 17

Thank you.
Antonie do you want to include this as an annexure to the shareholders agreement?

Dr. Daniel N Erasmus
Independent Tax Counsel

COMMISSION OF INQUIRY STATE CAPTURE

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Page: 1226 of 1250
AA-1217

Issue: 2019-01-26_120108

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Page: 1227 of 1250

TRM
DANIEL ERASMUS
TAX COURT PRACTITIONERS

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Alliances in:
USA I South Africa I France I Nigeria I Zimbabwe I Mauritius I India

On Feb 8, 2016, at 5:14 AM, Philip du Toit <philip@dah.co.za> wrote:

<Basic information regarding calculation of WACC.docx>

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Page: 1228 of 1250
AA-1219

Issue: 2019-01-30 13:08

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Page: 1229 of 1250

Fol AMEZEST (PTY)LTD
Fro eet Venter [peet@dah.co.za]
To : eet Venter
Cc :
Sent On : [2017/11/12 22:54]
Priority : Normal
Attachments : signed agreement.pdf Signed agreements.pdf

FW: Signed agreements - sale of software agreements

Peet Venter | Associate
Professional Accountant (S.A)
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-----Original Message-----
From: Lindsay Watson [mailto:Lindsay.Watson@bosasa.com]
Sent: 2016/02/10 11:35
To: peet@dah.co.za; philip@dah.co.za
Subject: Signed agreements

Attached are the signed agreements as discussed.

Regards,

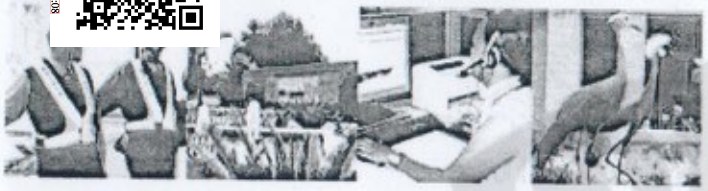
Lindsay Watson
Legal Department
Bosasa Group of Companies

The Bosasa Group
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AA-1220

Issue: 2019-01-26 12:01:08

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Page: 1230 of 1250
AA-1221

SALE OF SOFTWARE AGREEMENT

entered into between

BOSASA OPERATIONS (PTY) LIMITED

("Seller")

and

PHEZULU FENCING (PTY) LIMITED

("Purchaser")

COMMISSION OF INQUIRY INTO STATE CAPTURE

INDEX

1	PARTIES	1
2	PREAMBLE	1
3	INTERPRETATION	1
4	SALE OF SOFTWARE	4
5	PROPRIETARY RIGHTS	4
6	LIMITATION OF WARRANTIES	54
7	CERTIFICATION	5
8.	FORCE MAJEURE	6
9	NOTICES	6
10	ARBITRATION	7
11	MUTUAL SUPPORT	9
12	INDEMNIFICATION	9
13	EXCLUSION OF DAMAGES	9
14	CONFIDENTIALITY	9
15	PUBLICITY	11
16	SEVERANCE	11
17	CONTRACT VARIATION	11
18	NO WAIVER	11
19	ASSIGNMENT, SUB-CONTRACTING AND RESPONSIBILITY	11
20	NO AGENCY OR PARTNERSHIP	11
21	ENTIRE AGREEMENT	11
22	PROPER LAW AND JURISDICTION	12

Annexure A

Issue: 2019-01-26_12:01:08

SALE OF SOFTWARE AGREEMENT

1 PARTIES

1.1 **BOSASA OPERATIONS (PTY) LIMITED ("BOPL")**, Company Registration No. 1981/012426/07

and

1.2 **PHEZULU FENCING (PTY) LIMITED ("PFPL")**, Company Registration No. 1997/004170/07

2 PREAMBLE

WHEREAS

2.1 Prior to the Effective Date BOPL attended to the development of the Software. BOPL is the sole proprietor of the Software prior to the Effective Date and wishes to sell the Software as part settlement of its loan account immediately due and payable to PFPL.

2.2 PFPL is interested in acquiring the Software from BOPL.

2.3 The Parties wish to record the terms and conditions attached to such arrangements in accordance with this Agreement.

IT IS NOW AGREED

3 INTERPRETATION

In this Agreement unless the context otherwise requires -

3.1 The singular shall import and include the plural and vice versa.

3.2 Words indicating one gender shall import and include other genders.

3.3 Words indicating natural persons shall import and include artificial persons.

3.4 The headnotes to this Agreement are used for the sake of convenience only and shall not govern the interpretation of the clauses to which they relate.

Issue: 2019-01-26_12:01:08

DEFINITIONS

3.5 Unless such meaning is inconsistent with the context, the following terms shall throughout this Agreement have the meanings respectively ascribed to them, namely:

3.5.1 "***Agreement***" - shall mean this Agreement and all annexures;

3.5.2 "***BOPL***" – shall mean Bosasa Operations (Pty) Limited, a company with limited liability incorporated in accordance with the company laws of South Africa under registration number 1981/012426/07.

3.5.3 "***Confidential Information***" – shall mean the Software (not limited to but including the Intellectual Property Rights), all information in relation to the Software, as well as any other information of whatever nature, which has been or may be obtained by either of the Parties from the other, whether in writing or in electronic form or pursuant to discussions between the Parties, or which can be obtained by examination, testing, visual inspection or analysis, including without limitation, scientific, business or financial data, know-how, formulae, processes, designs, sketches, photographs, plans, drawings, specification, models, Customer lists, price lists, studies, computer software, software source code, inventions or ideas and/or analyses, concepts, compilations, studies and other material prepared by or in the possession or in the control of the recipient which contain or otherwise reflect or are generated from any such information as is specified in this definition: And in any dispute between the Parties resulting from any contractual relationship between them it is recorded that the following information shall, for the purposes of interpreting what constitutes Confidential Information, not be considered to be Confidential Information: Information that either of the Parties had to prior to the date that it was received from the other Party, or information known to the public or generally available to the public prior to the date that it was disclosed by either of the Parties to the other, or information which becomes known to the public or becomes generally available to the public subsequent to the date that it was disclosed by either of the Parties to other through no act or failure to act on the part of the recipient of such information or information which either of the Parties, in writing authorises the other to disclose;

3.5.4 "***Customers***" shall mean the customers PFPL secures to use the Software pursuant to the Sale as contemplated in this Agreement;

3.5.5 "***Delivery***" – shall mean, in relation to the Sale in terms of this Agreement, actual physical delivery of the Software (including any updates and enhancement thereto), or where the Software is readily available for access by PFPL through electronic or web-enabled means, then the date that the Software is made accessible to PFPL or any Customer designated by it;

3.5.6 "***Effective Date***" – shall mean 31 July 2015 notwithstanding the Signature Date;

3.5.7 "***Intellectual Property Rights***" – shall mean all vested, contingent and future intellectual

Issue: 2019-01-26_12:01:08

property rights in and to the Software, including but not limited to copyright, trade marks, service marks, design rights (whether registered or unregistered), patents, know-how, trade secrets, inventions, get-up, database rights and any applications for the protection or registration of these rights, and all renewals and extensions thereof existing in any part of the world whether now known or in the future created, to which PFPL, as owner of the Software, may be entitled;

3.5.8 "***Parties***" – shall mean the parties to this Agreement as reflected in clause 1 of this Agreement, and the term "Party" shall, as the context may indicate, mean any one of them;

3.5.9 "***Person***" – shall include a natural person, a juristic person, a partnership, trust or association, as the case may be;

3.5.10 "***PFPL***" – shall mean Phezulu Fencing (Pty) Limited, a company with limited liability incorporated in accordance with the Company laws applicable in the Republic of South Africa under registration number 1997/004170/07;

3.5.11 "***Protected Marks***" – shall mean the names TrustMaster Fleet System and TrustMaster Child and Youth Care System as well as any other registered names or marks which are acquired by PFPL relating to the Software in terms of this Agreement (including any existing goodwill related thereto);

3.5.12 "***Purchase Price***" – shall mean the consideration payable by PFPL to BOPL in respect of the Sale of the Software, as follows:

3.5.12.1 TrustMaster Fleet System - the sum of R 4,580,131 (four million five hundred and eighty thousand one hundred and thirty one rand only); and

3.5.12.2 TrustMaster Child and Youth Care System - the sum of R 1, 071, 657 (One million and seventy one thousand six hundred and fifty seven Rand);

3.5.13 "***Sale***" – shall mean the relevant terms and conditions outlined in this Agreement relating to the disposal of the Software by BOPL in favour of PFPL;

3.5.14 "***Signature Date***" – shall mean the date of the signature of this Agreement by the Party signing last in time, it being recorded that such date shall be later in time than the Effective Date;

3.5.15 "***Software***" shall mean collectively the Intellectual Property Rights, Protected Marks, source code and related specifications that comprise two web enabled software system named respectively:

3.5.15.1 TrustMaster Fleet System and

3.5.15.2 TrustMaster Child and Youth Care System,

Issue: 2019-01-26_12:01:08

as more fully described in Annexure A attached hereto;

3.5.16 "*Taxes*" – shall mean all taxes imposed by any governmental authority, including (without limitation) on income, profits, stamp, ad valorem, value added, excise, payroll, unemployment, disability, employees' income withholding, social security or withholding taxes;

4 SALE OF SOFTWARE

4.1 As from the Effective Date BOPL sells to PFPL who hereby purchases from BOPL the Software for a consideration equal to the Purchase Price.

4.2 Within 30 (thirty) days of the Signature Date -

4.2.1 the Purchase Price shall be paid by PFPL to BOPL by:

4.2.1.1 setting off any amount owed by BOPL to PFFL on loan account as at the Effective Date against the Purchase Price; and

4.2.1.2 the creation of a loan account in the books of PFPL in favour of BOPL for the balance of the Purchase Price (if any);

4.2.2 BOPL shall ensure Delivery of the Software to PFPL whereafter, subject to the provisions of 7 below;

4.2.2.1 BOPL shall be deemed to have ceded all right, title and interest to the Software, the Protected Marks and the Intellectual Property Rights to PFPL, and PFPL shall be deemed to have accepted the rights so ceded, transferred and made over in its favour; and

4.2.2.2 BOPL shall have no further interest whatsoever in and to the Software;

4.3 BOPL undertakes and confirms that after Deliver of the Software as contemplated in 4.2.2 it shall not retain possession of any aspect of the Software, including any ideas, know-how and any of the Intellectual Property Rights in relation thereto, and shall not in anyway use such for any purpose whatsoever, other than for the provision of the Services.

5 PROPRIETARY RIGHTS

5.1 The Software embodies substantial creative efforts, Confidential Information, ideas and expressions. All trade secrets, Intellectual Property Rights, Protected Marks, Confidential Information and other proprietary rights therein shall after the Effective Date become the sole and exclusive property of PFPL.

5.2 BOPL acknowledges that PFPL shall also be the sole owner of all and any goodwill created by virtue of further development and exploitation by PFPL of the Software.

Issue: 2019-01-26_12:01:08

6 LIMITATION OF WARRANTIES

6.1 BOPL provides in favour of PFPL the following exclusive list of expressed warranties, namely-

6.1.1 BOPL is entitled to sell the Software, and to the best of BOPL's knowledge and belief no other Person is the owner of the Software and/or it has obtained the consent/waiver of any Person who prior to the Effective Date may have had a proprietary interest in the Software;

6.1.1 after the sale, PFPL shall be under no restriction whatsoever with the respect of the exploitation of the Software, and in particular is entitled to license the Software to any Person;

6.1.2 to the best of BOPL's knowledge and belief, no aspect of the Software, the Intellectual Property Rights and the Protected Marks contravenes any other Intellectual Property Rights of third parties.

6.2 Save for the expressed warranties outlined in 6.1 above, which constitute a sole and exclusive list of warranties given by BOPL to PFPL relating to the Software, BOPL makes no representation or warranty of any kind, whether expressed or implied, with respect to the Software, the Intellectual Property Rights and the Protected Marks, and in particular, without in any way limiting the generality of the aforegoing, -

6.2.1 BOPL expresses no representation of whatsoever as to the integrity, correctness, suitability, accurateness, completeness, effectiveness, reliability or commercial viability of the Software for the purposes required by PFPL;

6.2.2 BOPL disclaims all representations and warranties as to any actual or perceived benefit, including but not limited to the implied warranties of merchantability and fitness and suitability for a particular purposes, of the Software in the hands of PFPL;

6.2.3 the Software is sold to PFPL by BOPL on an "as is" basis, and on the strict understanding that PFPL shall assume the entire risk as to the results and performances arising out of any benefits, whether actual or perceived, arising by virtue of the application and/or utilisation of the Software.

7 CERTIFICATION

7.1 The Parties agree that the Purchaser shall, prior to the expiry of the time period referred to in 4.2 above, deliver a signed certificate to the Seller confirming that the Software has been duly delivered to the Purchaser and that it contains the functionality as agreed between the Parties, whereafter the risk in and benefit of the Software shall, subject to the due fulfilment of the provisions of 4.2.1, be deemed to have passed to the Purchaser.

7.2 Should the said certificate not be delivered within the specified time period this Agreement shall, with the exception of 1, 3, 7, 9 and 10 to 22, which clauses shall remain valid and

Issue: 2019-01-26_12:01:08

enforceable, be regarded as void and of no further force or effect.

8 FORCE MAJEURE

8.1 A Party shall not be liable for any loss suffered by the other Party arising out of delay in or prevention of performance of a Party's obligations due to any cause, the adverse effects of which the relevant Party could not and cannot reasonably and practicably avoid in the ordinary conduct of the Party's business.

8.2 The Party whose performance is delayed or prevented shall immediately give notice in writing of such delay or prevention to the other Party.

8.3 If a Party's performance is delayed by such a cause, the Party shall be entitled to a reasonable extension, not exceeding 90 (ninety) days, for performance. If performance is and will be delayed for longer than this period, the performance shall be regarded as having been prevented.

8.4 If a Party's performance is prevented by such a cause, the Parties shall:

8.4.1 if the obligation or obligations of which performance is prevented are not material, make such financial adjustment between them as may be equitable.

8.4.2 if the obligation or obligations of which performance is prevented are material, endeavour in good faith to agree on an alternative basis for achieving the object of this Agreement.

8.5 If a Party's performance of a specific material obligation has been prevented by a cause referred to in this clause 8 and such cause will prevent the performance of further obligations in terms of this Agreement in the future, with the effect that there is no reasonable prospect of one or other Party being able to perform his obligations in terms of this Agreement and if no alternative basis for achieving the object of this Agreement has been agreed between the Party's in terms of clause 8.4.2 hereof, then either Party shall be entitled, by written notice to the other to terminate this Agreement.

9 NOTICES

Any notices to be given to the parties in terms of this Agreement shall be in writing and delivered by hand during ordinary business hours or posted by prepaid registered post or dispatched by telefacsimile or by email, during normal business hours to the addresses mentioned hereunder, which respective addresses the parties choose as their *domicile* addresses for the delivery or service of all notices, communications or legal processes arising out of this Agreement:

9.1 BOPL : Address: Mogale Business Park
1 Windsor Road
Mogale City
1739

Issue: 2019-01-26_12:01:08

9.2 PFPL: Address: Mogale Business Park
1 Windsor Road
Mogale City
1739

or such other address as either Party may choose by written notice to the other from time to time.

9.3 Every notice shall be deemed to have been properly given :

9.3.1 if delivered by hand, on the date of delivery;

9.3.2 if sent by prepaid registered post, 7 (seven) days after the date on which the notice is posted;

9.3.3 if sent to a Party at its telefax number or email address, (in the absence of proof to the contrary) on the date of transmission where it is transmitted during normal business hours of the receiving instrument, and on the next business day where it is transmitted outside those business hours.

10 ARBITRATION

10.1 Should any dispute arise between the parties in connection with:

10.1.1 the formation or existence of;

10.1.2 the implementation of;

10.1.3 the interpretation or application of the provisions of;

10.1.4 the Parties' respective rights and obligations in terms of or arising out of this Agreement or with regard to the breach or termination of;

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

10.1.6 any documents furnished by the parties pursuant to the provisions of;

10.1.7 any party's resolution which must be passed in terms of this Agreement or which relates in any way to any matter affecting the interests of the parties outlined in terms of,

this Agreement, that dispute shall, unless resolved by the Parties, be referred to and be determined by dispute resolution in terms of this clause 10.

10.2 Should any dispute, disagreement or claim arise between the parties (hereafter referred to as the "Dispute") concerning this Agreement, the parties shall try to resolve the Dispute by negotiation. This entails that the one party invites the other/s in writing to meet at a mutually

Issue: 2019-01-26_12:01:08

convenient place and time in order to attempt to resolve the Dispute within 20 (twenty) days from the date of the written invitation.

10.3 Failing such a resolution within 45 (forty five) days form the date of written invitation referred to in 10.2 above, the Dispute shall be submitted to arbitration in South Africa, subject to South African arbitration generally accepted practice by a single arbitrator appointed in accordance with such Rules. The Arbitrator in this regard shall be, if the matter in issue is –

10.3.1 primarily an accounting matter, an independent chartered accountant of not less than 10 (ten) years standing practising as a registered auditor;

10.3.2 primarily a legal matter, an independent practising attorney, solicitor, barrister or advocate of not less than 10 (ten) years standing.

10.4 The arbitrator shall be obliged to give reasons and a detailed written opinion supporting any decision made by him in the course of the arbitration.

10.5 The parties to the arbitration undertake to keep the arbitration, including the subject matter of the arbitration and the evidence heard during the arbitration confidential (which arbitration shall be held in camera), and not to disclose it to anyone except for the purposes of an order to be made in terms of clause 10.7.

10.6 The arbitration shall be held at Johannesburg, South Africa.

10.7 Each of the parties irrevocably agree that the decision in any such arbitration proceedings shall be binding on them and shall be carried into effect and may be made an order of any competent court having jurisdiction.

10.8 Nothing in this clause 10 shall preclude either party from seeking any interim relief from any competent court having jurisdiction pending the institution of any arbitration proceedings in terms of this clause 10.

10.9 The parties agree to keep the dispute resolution, including the subject matter of the dispute confidential and not to disclose it to anyone except for purposes of an order to be made in terms of 10.7.

10.10 The provisions of this clause -

10.10.1 constitute an irrevocable consent by the parties to any proceedings in terms hereof and they shall not be entitled to withdraw therefrom or claim at any such proceedings that they are not bound by such provisions;

10.10.2 are severable from the rest of this Agreement and shall remain in effect despite the termination or invalidity for any reason of this Agreement.

Issue: 2019-01-26_12:01:08

11 MUTUAL SUPPORT

11.1 The Parties undertake at all times to do all such things, to perform all such acts and to take all such steps and to procure the doing of all such things, the performance of all such actions and the taking of all such steps, as may be open to them and necessary for or incidental to, the putting into effect or maintenance of the terms, conditions and import of this Agreement.

11.2 The Parties agree that their relationship to each other, whilst not being one of partnership, shall be based upon the utmost good faith as between them.

12 INDEMNIFICATION

Each Party shall indemnify and hold harmless the other Party from and against any and all claims, liability, loss, damages, fines, costs, legal costs, professional and other expenses of any nature whatsoever incurred or suffered by any Party arising out or in connection with any claim that the Software or the Protected Marks infringes a third party's Intellectual Property Rights. Notwithstanding the above, for any Party to rely on such indemnification, such Party must:

12.1 give the other Party prompt written notice of any such claim; and

12.2 allow the other Party to control and fully co-operate with the other Party in the defence of such claim.

13 EXCLUSION OF DAMAGES

Under no circumstances shall BOPL be liable to PFPL for any consequential, indirect, special, punitive or incidental damages, including damages caused by force majeure, whether enforceable or unenforceable, based on claims by PFPL or any of its Customers (including, but not limited to, claims for loss of data, goodwill, profits, use of money or use of hardware or software, interruption in use of availability of data, hardware or software, stoppage or other work or impairment of other assets), for breach or failure of expressed or implied warranty, breach of contract, misrepresentation, negligence, strict liability in delict or otherwise, whether based on this Agreement, any commitment performed or undertaken under or in connection with the Sale of the Software or the provision of the Services.

14 CONFIDENTIALITY

14.1 Each Party ("the Receiving Party") agrees that all Confidential Information received from the other Party ("the Disclosing Party") shall –

14.1.1 be treated as strictly confidential;

14.1.2 be disclosed, save for the exceptions provided for in 14.2 below only to those directors, offices, employees, legal advisors and accountants of the Receiving Party who have a need to know and shall be used by such persons solely as required in connection with-

Issue: 2019-01-26_12:01:08

14.1.2.1 the performance of this Agreement; or

14.1.2.2 the operation of the Disclosing Party's business in the course of the exploitation of the Software as may be reasonably necessary;

14.1.3 not be disclosed to any third Party except expressly permitted in this Agreement, not limited to but including the expressed exclusion provided for in 14.2 below, unless agreed in writing by the Disclosing Party, and only if such Party is bound by confidential obligations in form and substance similar to the provisions of this clause 14.1;

14.1.4 not be used in order to solicit or endeavour to solicit, interfere with or endeavour to interfere with, entice or endeavour to entice away from the Disclosing Party any Person who is employed by the Disclosing Party or who was a Customer of the Disclosing Party.

14.2 Notwithstanding the provisions outlined in 14.1, nothing in this Agreement or the provisions of this clause 14 shall be construed as limiting, restricting or prohibiting-

14.2.1 BOPL disclosing such components of the Confidential Information as may be necessary in the course of rendering the Services in order to assist it with obtaining the necessary rights, licenses and other permissions that BOPL may require to comply with internet based laws (including consumer protection and personal data protection laws) applicable in the Republic of South Africa;

14.2.2 PFPL disclosing such aspects of the Confidential Information arising from the Services provided by it for the purposes of the requirements of potential investors, funders, financial institutions and government agencies to whom PFPL at its discretion considers it necessary to disclose the Confidential Information.

14.3 Within 6 (six) months after the termination of the contractual relationship between the Parties for whatever reason, the recipient of any Confidential Information shall return same, or at the discretion of the original owner thereof destroy such Confidential Information, and shall not retain copies, samples or excerpts thereof.

14.4 In the event of a breach of either of the Parties of the provisions of this clause 14, the Receiving Party acknowledges that the Disclosing Party will likely suffer irreparable damages that cannot be fully remedied by monetary damages, and in respect of which the arbitration proceedings provided for in clause 10 may be inappropriate or cause further harm. Therefore, in addition to any remedy that the Disclosing Party may possess pursuant to this Agreement, the Disclosing Party retains the right to seek and obtain urgent injunctive and/or interlocutory relief against such breach in any court of competent jurisdiction. In the event that any such breach results in a claim by a third Party, the Receiving Party shall indemnify, defend and hold harmless the Disclosing Party from any claims, damages, legal fees, penalties, costs and expenses arising out of claims by such third Parties.

Issue: 2019-01-26_12:01:08

15 PUBLICITY

Neither Party shall make any public disclosures regarding this Agreement or the subject matter hereof without the prior written consent of the other.

16 SEVERANCE

16.1 If any provision of this Agreement is held to be invalid or unenforceable by any judicial or other competent authority, all other provisions of this Agreement shall remain in full force and effect and shall not in any way be impaired.

16.2 If any provision of this Agreement is held to be invalid or unenforceable but would be valid or enforceable if some part of the provision were deleted, the provision in question shall apply with the minimum modifications necessary to make it valid and enforceable.

17 CONTRACT VARIATION

No variation or modification to this Agreement is valid unless it is in writing and signed by both Parties.

18 NO WAIVER

Failure by either party at any time to enforce any one or more of the provisions of this agreement or to require performance by the other party of any of the provisions shall not constitute or be construed as a waiver of the provision or of the right at any time subsequently to enforce all terms and conditions of this agreement nor affect the validity of this Agreement or any part of it or the right of the Parties to enforce any provision in accordance with its terms.

19 ASSIGNMENT, SUB-CONTRACTING AND RESPONSIBILITY

Subject to any express provision of this Agreement, BOPL shall not without the prior written consent of PFPL assign all or any benefit, right or interest under this Agreement.

20 NO AGENCY OR PARTNERSHIP

Nothing contained in this agreement, and no action taken by the parties pursuant to this Agreement, shall be deemed to constitute a relationship between the Parties of partnership, joint venture, principal and agent or employer and employee. Neither Party has, nor may it represent that it has, any authority to act or make any commitments on the other Party's behalf.

21 ENTIRE AGREEMENT

This Agreement constitutes the entire agreement between the Parties relating to the provision of Software and Protected Marks and supersedes all prior negotiations, representations and undertakings, whether written or oral, except that this clause 21 shall not exclude liability in respect of any fraud or fraudulent misrepresentation.

Issue: 2019-01-26_12:01:08

22 PROPER LAW AND JURISDICTION

This Agreement and all matters arising from it and any dispute resolutions referred to above shall be governed by and construed in accordance with South African law notwithstanding the conflict of law provisions and other mandatory legal provisions.

Signed at Krugersdorp on 28 January 2016

For: BOPL

(Duly Authorised)

Signed at Krugersdorp on 28 January 2016

For: PFPL

(Duly Authorised)

Issue: 2019-01-26_12:01:08

ANNEXURE "A"

SOFTWARE DESCRIPTION

A. TRUSTMASTER FLEET SYSTEM:

Trustmaster Fleet is a fully integrated and automated, web based Fleet Management Software Solution developed and customized for fleet maintenance, fuel administration, finance management and information analysis

TRUSTMASTER FLEET SOFTWARE APPLICATION

MODULES AND INTERFACES

1. FLEET MODULE
   - **1.1. Vehicle Admission**
   - **1.2. Official Admission**
   - **1.3. Vehicle Termination**
   - **1.4. Qlink Integration Status**
   - **1.5. Persal Integration**
     - 1.5.1.Persal Admission
     - 1.5.2.Persal Termination
     - 1.5.3.Persal Reactivation
     - 1.5.4.Persal Reallocation
     - 1.5.5.Persal Reload
     - 1.5.6.Persal Category
     - 1.5.7.Persal Contract Term
     - 1.5.8.Persal Transfer
     - 1.5.9.Persal Migration
     - 1.5.10. Persal Cut Off Date
     - 1.5.11. Persol Cut Off Date
   - **1.6. Persal Rejection**
     - 1.6.1.Vehicle Import Files
     - 1.6.2.Rejection File Details
     - 1.6.3.Persal Investigation
     - **1.6.4.**Mandates
   - **1.7. Amendments**
     - 1.7.1.Reactivation
     - 1.7.2.Reallocation
     - 1.7.3.Reload
     - 1.7.4.Maintenance Category
     - 1.7.5.Contract Term
     - 1.7.6.Official Transfers
     - **1.7.7.**Official Migrations
   - **1.8. Notifications**
     - 1.8.1.Dynamic SMS
     - 1.8.2.General SMS
   - **1.9. Vehicle Specification (Data Disk Info)**

2. MAINTENANCE MODULE
   - **2.1. Authorization Requests**
   - **2.2. Manage Invoices**
   - **2.3. Manage Credit Notes**

3. FUEL
   - **3.1. Manage Log sheet Claims**
   - **3.2. Manage Manual Vouchers**

Issue: 2019-01-26_12:01:08

- 3.3. Fuel Qlink
- 3.4. Fuel Import Files

4. FINANCE
   - 4.1. Receipts Allocation
     - 4.1.1. Import Files
     - 4.1.2. Batch Reconciliations
     - 4.1.3. Batch Allocations
     - 4.1.4. Line Item Allocations
     - 4.1.5. Line Item Refund
     - 4.1.6. Bank Transactions
   - 4.2. Invoicing
   - 4.3. Recovery Analysis
   - 4.4. Assessment
     - 4.4.1. Payment File
     - 4.4.2. Recovery Assessment
     - 4.4.3. Qlink Rejection Assessment
     - 4.4.4. Valuation Assessment
     - 4.4.5. Historic Assessment

5. USER (ADMINISTRATION)
   - 5.1. Maintenance Codes
   - 5.2. Supplier Information
     - 5.2.1. Suppliers
     - 5.2.2. Supplier Types
     - 5.2.3. Supplier Groups
   - 5.3. Schemes
   - 5.4. Vehicle Information
     - 5.4.1. Make & Model
     - 5.4.2. Model Categories
     - 5.4.3. Fuel Types
     - 5.4.4. Fuel Rates
     - 5.4.5. Fuel Benchmarks
     - 5.4.6. Maintenance Rates
     - 5.4.7. Billing Codes
     - 5.4.8. CPI Increase
     - 5.4.9. CPI Qlink
   - 5.5. Provincial Information
     - 5.5.1. Provinces
     - 5.5.2. Towns
     - 5.5.3. Suburbs
   - 5.6. Departmental Information
   - 5.7. Automotive Products
     - 5.7.1. Tyres
     - 5.7.2. Batteries
     - 5.7.3. Exhausts
     - 5.7.4. Shocks
   - 5.8. Finance Service Provider
   - 5.9. Users & Roles

6. REPORTS

7. BUSINESS INTELLIGENCE

Issue: 2019-01-26_12:01:08

B. TRUSTMASTER CHILD AND YOUTH CARE SYSTEM:

Trustmaster Child and Youth Care System is a fully integrated and automated web based facilities management software programme developed and customised for information management in Child and Youth Care Centres.

1. INTELLIGENCE DASHBOARD

1.1 High level all-inclusive overview of the facility
1.2 Statistical view of key operational elements

2. CHILD DETAILS

2.1 **Find children in the system by using one or more search filters or Identify the child using biometrics**
2.1.1 Child profile screen gives an overview of the child's status:
2.1.1.1 Is the child active or released
2.1.1.2 Warrant for detention details
2.1.1.3 Next Court appearance dates
2.1.1.4 Sentence calculation
2.1.1.5 Sentence conditions
2.1.1.6 Behaviour management for sentenced children
2.1.1.7 Suicide screening
2.1.1.8 Scan and attach important documentation for record keeping and reference
2.1.1.9 Area/housing allocation
2.1.1.10 Details of Guardians

3. ENROLMENTS

3.1 **Administer daily admissions and releases**
3.2 **Biometric enrolment – fingerprint and photo for identification and verification**
3.3 **Normal and temporary release types**

4. MDT INTERVENTIONS

4.1 **Assist children in a positive change of behaviour, address problem areas, take advantage of programmes available and prepare for a return to community. Disciplines include:**
4.1.1 Assessments
4.1.2 Process Notes
4.1.3 Progress reports
4.1.4 Individual Development Plans
4.1.5 Social worker reports
4.1.6 Reportable Incidents
4.1.7 Pre and Post Court Counselling
4.1.8 Counselling
4.1.9 Customizable templates
4.2 **Healthcare**
4.2.1 Enable medical staff to build a complete medical history file for each child

5. ASSESSMENT INSTRUMENTS

5.1 **More than 140 assessments in the following categories**
5.1.1 Psychological and cognitive
5.1.2 Attitude and belief
5.1.3 Behaviour
5.1.4 Environmental
5.2 **Customizable templates**

6. PROGRAMME SERIES

6.1 Manage and track educational programmes:
6.2 Formal school

Issue: 2019-01-26_12:01:08

6.3 Diversion programmes
6.4 Vocational
6.5 Therapeutic
6.6 ABET
6.7 Learner support programme
6.8 Customizable templates

7. DOCUMENT TEMPLATES
7.1 Reference documentation for system users in various categories
7.1.1 Child Justice Legislation
7.1.2 Record templates
7.1.3 Standard operating procedures

8. REPORTS

9. SYSTEM ADMINISTRATION
9.1 User and access roles management
9.2 Customizing and loading of templates:
9.2.1 Programme series
9.2.2 Assessment instruments
9.2.3 MDT Interventions
9.2.4 Miscellaneous templates
9.2.5 Maintain template hierarchy
9.3. Fully configurable lookup values
9.3.1 Police stations
9.3.2. Courts
9.3.4 Sentence conditions
9.3.4 Behaviour rules
9.3.5 Behaviour actions
9.3.6 Admission types
9.3.7 Release types
9.3.8 Specify facility capacity

COMMISSION OF INQUIRY INTO STATE CAPTURE

Issue: 2019-01-26_12:01:08

Issue: 20-10-26-12088

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Page: 1249 of 1250

Fo OSASA SUPPLY CHAIN MANAGEMENT (PTY) LTD, LAMEZEST (PTY)LTD
Fr eet Venter [peet@dah.co.za]
To : Peet Venter
Cc :
Sent On : [2017/11/12 22:39]
Priority : Normal
Sensitivity : Confidential
Attachments : Sale of Software Agreement-Phezulu_Lamozest FINAL[2].doc Sale of Software Agreement-Bosasa_Phezulu FINAL[2].doc

FW: SOFTWARE AGREEMENTS FOR SIGNATURE

Peet Venter | Associate
Professional Accountant (S.A)
General Tax Practitioner (S.A)™
D'Arcy-Herrman & Co Inc
Chartered Accountants (S.A) | Registered Auditors

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-----Original Message-----
From: Peet Venter [mailto:peet@dah.co.za]
Sent: 2016/01/27 23:02
To: antonie@avwattorneys.co.za; daniel.n.erasmus@me.com
Subject: FW: SOFTWARE AGREEMENTS FOR SIGNATURE

Gents,

Herewith, please find the final versions, which are to be signed soon.

Regards

Peet Venter | Associate
Professional Accountant (S.A)
General Tax Practitioner (S.A)™
D'Arcy-Herrman & Co Inc
Chartered Accountants (S.A) | Registered Auditors

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AA-1240

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From: Lindsay Watson [mailto:Lindsay.Watson@bosasa.com]
Sent: 2016/01/27 14:10
To: Andries.vanTonder@bosasa.com; Natasha.Olivier@bosasa.com; peet@dah.co.za
Subject: SOFTWARE AGREEMENTS FOR SIGNATURE

Hi All,

I have edited the final version of the indexes of Antonie's Software Agreement as requested by him. They are finally ready for signature.

Regards,

Lindsay Watson
Legal Department
Bosasa Group of Companies

The Bosasa Group
Mogale Business Park
Windsor Road | Mogale City | 1739 | Gauteng | South Africa
Tel: +27 (0) 11 662 6069
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