

**Listing Document dated 24 May 2012**

**SHOPRITE INVESTMENTS LIMITED**

*(Incorporated in South Africa with limited liability under registration number 1985/000928/06)*

unconditionally and irrevocably guaranteed by Shoprite Holdings Limited (subject to shareholder approval)

*(Incorporated in South Africa with limited liability under registration number 1936/007721/06)*

and

*unconditionally and irrevocably guaranteed by Shoprite Checkers (Proprietary) Limited*

*(Incorporated in South Africa with limited liability under registration number 1929/000928/07)*

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**Convertible Bond Listing**

ZAR4, 700, 000 000 6.5 % Fixed Rate Senior Unsecured Guaranteed Convertible Registered Bonds

Due 3 April 2017

convertible into Ordinary Shares of Shoprite Holdings Limited

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A total amount of ZAR4, 700, 000, 000 6.5% Fixed Rate Senior Unsecured Guaranteed Convertible Registered Bonds with minimum authorised denominations on the Issue Date of ZAR1, 000, 000 each (the "**Bonds**") were issued by the Issuer. An initial issuance for an amount of ZAR4, 500, 000, 000 (the "**Initial Bonds**") was issued on 2 April 2012 (the "**Issue Date**") and a subsequent issuance for an amount of ZAR200, 000, 000 (the "**Additional Bonds**") was issued on 9 May 2012, which issuance is effective from the Issue Date. The Initial Bonds and the Additional Bonds are subject to the terms and conditions (the "**Terms and Conditions**") set out in a debt instrument executed by or on behalf of the Issuer dated on or about 30 March 2012 and 7 May 2012 respectively and incorporated into this Listing Document in the section headed "**Terms and Conditions of the Bonds**". Capitalised terms used below are defined in the section of this Listing Document headed "**Terms and Conditions of the Bonds**".

Each Bond which has not previously been redeemed or purchased and cancelled will, at the option of its holder and subject as provided herein, be convertible from 14 May 2012 up to the close of business on the 10th day prior to the Final Redemption Date into Ordinary Shares in the capital of the Parent Guarantor (the "**Ordinary Shares**"). The number of Ordinary Shares to be issued on such conversion shall be determined by dividing the Principal Amount of each Bond by the Conversion Price in effect on the relevant Conversion Date (each as defined herein). The initial Conversion Price is ZAR168.94 per Ordinary Share, subject to adjustment in certain events as described in Condition 9.2. **In accordance with Condition 9.14, Conversion Rights will be cash settled unless and until the shareholders of Shoprite Holdings Limited approve settlement in Ordinary Shares via a specific issue of shares for cash resolution.**

Unless previously redeemed, converted or purchased by the Issuer and cancelled, the Bonds will mature on 3 April 2017.

Subject to shareholder approval, the Parent Guarantor irrevocably and unconditionally guarantees (the "**Parent Guarantee**") in favour of the Trustee for the benefit of the holders of Bonds (the "**Bondholders**") the due and punctual payment by the Issuer of all amounts owing by the Issuer in respect of the Bonds. The Subsidiary Guarantor irrevocably and unconditionally guarantees (the "**Subsidiary Guarantee**") in favour of the Trustee for the benefit of the holders of Bonds (the "**Bondholders**") the due and punctual payment by the Issuer of all amounts owing by the Issuer in respect of the Bonds.

For as long as the Bonds are in issue, interest on the Bonds is payable semi-annually in arrears on 31 March and 3 October of each calendar year, subject to adjustment in terms of the business day convention as provided in the Terms and Conditions (each such day an "Interest Payment Date"), commencing with the Interest Payment Date falling on 3 October 2012. Interest on the Bonds will be calculated on the basis of a fixed rate determined in accordance with Condition 8 of the Bonds.

Payments in respect of the Bonds will be made without withholding or deduction for taxes unless such withholding or deduction is required by law, in which event the Issuer will be required to pay additional amounts in relation thereto, subject to customary exceptions, as described in Condition 12.2.

The Bonds will be listed on the JSE - Main Board under stock code number SHPCB. The application to list the Bonds was granted by the JSE on 24 May 2012 and the Bonds may be traded by or through members of the JSE from 28 May 2012 in accordance with the rules and operating procedures for the time being of the JSE. The clearing and settlement of trades on the JSE shall take place in accordance with the electronic clearing and settlement procedures of the JSE and Strate Limited.

The Bonds will not be rated.

**Particular attention is drawn to the section headed "Risk Factors".**

The Bonds and the Ordinary Shares to be issued upon conversion of the Bonds have not been and will not be registered under the United States Securities Act of 1933, as amended (the "**Securities Act**") and may not be offered or sold in the United States or to, or for the account or benefit of, U.S. persons (as defined in Regulation S under the Securities Act ("**Regulation S**")). The Bonds will be offered and sold only in offshore transactions outside the United States in accordance with Regulation S and, subject to certain exceptions, may not be offered, sold or delivered within the United States or to, or for the account or benefit of, U.S. persons

**Capitalised terms used in this Listing Document are defined in the section of this Listing Document headed "Terms and Conditions of the Bonds" unless separately defined in this Listing Document. Expressions defined in this Listing Document will bear the same meanings in supplements to this Listing Document which do not themselves contain their own definitions.**

*The Issuer certifies that to the best of its knowledge and belief there are no facts that have been omitted from this Listing Document which would make any statement false or misleading and that all reasonable enquires to ascertain such facts have been made and that this Listing Document contains all information required by Applicable Law and the JSE Debt Listings Requirements. The Issuer accepts full responsibility for the accuracy of the information contained in this Listing Document and the annual financial report and any amendments to the annual financial report or any supplements from time to time, except as otherwise stated therein.*

*The JSE assumes no responsibility or liability of whatsoever nature for the correctness of any of the statements made or opinions expressed or information contained in or incorporated by reference into this Listing Document. The admission of any Bonds to the list of debt securities maintained by the JSE and the listing of such Bonds on the JSE is not to be taken as an indication of the merits of the Issuer or the Bonds. The JSE assumes no responsibility or liability of whatsoever nature for the contents of this Listing Document or the annual report any other information incorporated by reference into this Listing Document (as amended or restated from time to time), and the JSE makes no representation as to the accuracy or completeness of this Listing Document, the annual report or any other information incorporated by reference into this Listing Document (as amended or restated from time to time). The JSE expressly disclaims any liability for any loss arising from or in reliance upon the whole or any part of this Listing Document or the annual report any other information incorporated by reference into this Listing Document (as amended or restated from time to time).*

*This Listing Document is to be read in conjunction with all documents which are deemed to be incorporated herein by reference. This Listing Document shall be read and construed on the basis that such documents are incorporated into and form part of this Listing Document. Any reference in this section to the Listing Document, shall be read and construed as including such documents incorporated by reference.*

*No person is authorised to give any information or to make any representation concerning the issue of the Bonds other than the information and representations contained in this Listing Document. Nevertheless, if any such information is given or representation made, it must not be relied upon as having been authorised by the JSE, Issuer, the Guarantors, the Debt Sponsor, or any of their respective subsidiary or holding companies or a subsidiary of their holding company ("**Affiliates**") or any of their advisers. Neither the delivery of this Listing Document nor any offer, sale, allotment or solicitation made in connection with the offering of the Bonds shall, in any circumstances, create any implication or constitute a representation that there has been no change in the affairs of the Issuer or the Guarantors since the date hereof or that the information contained in this Listing Document is correct at any time subsequent to the Issue Date. The JSE, Debt Sponsor, and other advisers of the Issuer have not separately verified the information contained in this Listing Document. Accordingly, none of the Debt Sponsor, nor any of their respective Affiliates or advisers makes any representation, express or implied, or accepts any responsibility, with respect to the accuracy or completeness of any of the information in this Listing Document or any other information*

supplied in connection with the Listing Document. Each person receiving this Listing Document acknowledges that such person has not relied on the JSE, Debt Sponsor, or any other person affiliated with the Debt Sponsor, or any of the advisers of the Issuer, in connection with its investigation of the accuracy of such information or its investment decision.

Neither this Listing Document nor any other information supplied in connection with the Bonds is intended to provide the basis of any credit or other evaluation, or should be considered as a recommendation by the JSE, Issuer, the Guarantors, the Debt Sponsor, or any of advisers, that any recipient of this Listing Document or any other information supplied in connection with the Listing Document should subscribe for or purchase any Bonds. Each person contemplating making an investment in the Bonds must make its own investigation and analysis of the financial condition and affairs, and its own appraisal of the creditworthiness, of the Issuer, the Guarantors and the terms of the offering and its own determination of the suitability of any such investment, with particular reference to its own investment objectives and experience, and any other factors which may be relevant to it in connection with such investment. The JSE and Debt Sponsor, do not undertake to review the financial condition or affairs of the Issuer or the Guarantors nor to advise any investor or potential investor in the Bonds of any information coming to the attention of the JSE, Debt Sponsor.

None of the Issuer, the Guarantors or the Debt Sponsor, makes any representation or warranties as to the settlement procedures of the Central Securities Depository or the JSE.

**This Listing Document does not constitute an offer or an invitation by or on behalf of the Issuer, the Debt Sponsor, or any other party to a Transaction Document to any person to subscribe for or purchase any of the Bonds.** The distribution of this Listing Document and the offering of the Bonds in certain jurisdictions may be restricted by law. No representation is made by the Issuer, the Guarantors, the Debt Sponsor, or any of their advisers, or any other party to a Transaction Document that this Listing Document may be lawfully distributed, or that the Bonds may be lawfully offered, in compliance with any applicable legislation or other requirements in any such jurisdiction, or pursuant to an exemption available thereunder and none of them assumes any responsibility for facilitating any such distribution or offering. In particular, no action has been taken by the Issuer, the Guarantors, the Debt Sponsor, or any other party to a Transaction Document or any of their advisers, which would permit a public offering of the Bonds or distribution of this Listing Document in any jurisdiction where action for that purpose is required. Accordingly, the Bonds may not be offered or sold, directly or indirectly, and neither this Listing Document nor any advertisement or other offering material may be distributed or published in any jurisdiction, except under circumstances that will result in compliance with any applicable laws and regulations. Persons into whose possession this Listing Document comes are required by the Issuer, the Guarantors, the Debt Sponsor, and the other parties to the Transaction Documents and any of their advisers to inform themselves about and to observe any such restrictions.

The Bonds have not been and will not be registered under the United States Securities Act of 1933, as amended (the "**Securities Act**"). Subject to certain exceptions, Bonds may not be offered, sold or delivered within the United States or to any U.S. persons. In addition, there are restrictions on the distribution of this Listing Document in South Africa and the United Kingdom.

The terms of this Listing Document, if sent to persons resident in jurisdictions outside South Africa, may be

*affected by the laws of the relevant jurisdiction. Such persons should inform themselves about and observe any applicable legal requirements in any such jurisdiction. It is the responsibility of any such person wishing to subscribe for or purchase the Bonds to satisfy itself as to the full observance of the laws of the relevant jurisdiction therewith. If and to the extent that this Listing Document is illegal in any jurisdiction, it is not made in such jurisdiction and this document is sent to persons in such jurisdiction for information purposes only.*

*References in this Listing Document to "Rands", "ZAR" or "R" are to the lawful currency for the time being of South Africa.*

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## DOCUMENTS INCORPORATED BY REFERENCE

The documents listed below are deemed to be incorporated into, and to form part of, this Listing Document and are available for inspection by Bondholders, or other prospective investors, during normal office hours after the Issue Date, at the Specified Offices of the Issuer and the Debt Sponsor:

- (a) the audited annual financial statements of the Issuer, together with such statements, reports and notes attached to or intended to be read with such financial statements, for the financial periods ended 30 June 2009, 30 June 2010 and 30 June 2011;
- (b) the audited consolidated annual financial statements of the Parent Guarantor, together with such statements, reports and notes attached to or intended to be read with such financial statements, for the financial periods ended 30 June 2009, 30 June 2010 and 30 June 2011 and the interim financial results of the Parent Guarantor for the 6-month period ended 31 December 2011;
- (c) the audited annual financial statements of the Subsidiary Guarantor, together with such statements, reports and notes attached to or intended to be read with such financial statements, for the financial periods ended 30 June 2009, 30 June 2010 and 30 June 2011;
- (d) the Parent Guarantee as amended from time to time and the Subsidiary Guarantee as amended from time to time;
- (e) the Agency Agreement as amended from time to time;
- (f) the Trust Deed as amended from time to time;
- (g) the Listing Document and any supplement to this Listing Document circulated by the Issuer from time to time;
- (h) the constitutional documents of the Issuer, the Subsidiary Guarantor and the Parent Guarantor, as amended from time to time; and
- (i) all information pertaining to the Issuer and/or the Guarantor which is relevant to the Bonds which is electronically disseminated on the JSE Stock Exchange News Service ("SENS") to SENS subscribers.

Any statement contained in this Listing Document or in any document which is incorporated by reference into this Listing Document will be deemed to be modified or superseded for the purposes of this Listing Document to the extent that a statement contained in any subsequent document which is deemed to be incorporated by reference into this Listing Document modifies or supersedes such earlier statement (whether expressly, by implication or otherwise).

The Listing Document and any amendments or supplements thereto will be made available on the website of the JSE ([www.jse.co.za](http://www.jse.co.za)) and on the website of the Parent Guarantor ([www.shopriteholdings.co.za](http://www.shopriteholdings.co.za)). The financial statements of the Parent Guarantor and the Issuer, referred to above will be available on the website of the Parent Guarantor ([www.shopriteholdings.co.za](http://www.shopriteholdings.co.za)). The financial statements of the Issuer and the Subsidiary Guarantor referred to above and the most recently obtained monthly beneficial disclosure

report made available by the relevant Participants to the Central Securities Depository will also be available for inspection at the Specified Office of the Issuer.



## SUMMARY

*The information set out below is a summary of the principal features of the Bonds. This Summary should be read in conjunction with, and is qualified in its entirety by, the detailed information contained elsewhere in this Listing Document.*

### **Transaction parties**

Such parties may be replaced or additional parties may be appointed in accordance with the provisions of the Transaction Documents.

**Issuer:** Shoprite Investments Limited, a public company duly incorporated in accordance with the company laws of South Africa with Registration number 1985/000928/06.

**Parent Guarantor:** Shoprite Holdings Limited, a public company duly incorporated in accordance with the company laws of South Africa with Registration number 1936/007721/06.

**Subsidiary Guarantor:** Shoprite Checkers (Proprietary) Limited, a private company duly incorporated in accordance with the company laws of South Africa with Registration number 1929/001817/07).

**Debt Sponsor:** RMB.

**Conversion Agent:** RMB.

**Transfer Agent:** RMB.

**Calculation Agent:** RMB.

**Issuer's Settlement Agent:** RMB.

**Auditor:** PricewaterhouseCoopers Inc or such other firm of auditors as may be selected by the Issuer from time to time.

**Central Securities Depository:** Strate Limited (Registration number 1998/022242/06) or any additional or alternate depository approved by the Issuer and the JSE (if the Bonds are listed).

### **Description of the Bonds**

**Bonds:** 6.5% Fixed Rate Senior Unsecured Guaranteed Convertible Registered Bonds due 3 April 2017.

<b>Size of issuance:</b>	Bonds with an aggregate Principal Amount of ZAR4, 700, 000, 000.
<b>Terms and Conditions:</b>	The terms and conditions of the Bonds are set out below in this Listing Document under the section " <i>Terms and Conditions of the Bonds</i> ".
<b>Currency:</b>	Rand, the lawful currency of South Africa.
<b>Denomination of Bonds:</b>	ZAR10, 000 each. Bonds may only be purchased or transferred in integral multiples of ZAR10, 000. The Bonds were issued in minimum denominations of ZAR1 000 000 each. The Issuer, with the approval of the Trustee, as permitted in terms of the Trust Deed, has resolved to sub-divide the Bonds into minimum denominations of ZAR10,000 each.
<b>Form of Bonds:</b>	Registered form, as described below in this Listing Document in the section " <i>Form of the Bonds</i> ".
<b>Status of the Bonds:</b>	The Bonds constitute direct, unconditional, unsubordinated and (subject to the negative pledge) unsecured obligations of the Issuer and will rank equally among themselves and at least equally with all other existing and future unsecured and unsubordinated obligations of the Issuer, save for such obligations as may be preferred by provisions of law that are both mandatory and of general application.
<b>Interest Rate and Interest Payment Dates:</b>	From and including the Issue Date, interest will be payable semi-annually in arrears on the 3 April and 3 October of each year (each such day an Interest Payment Date), at a rate per annum equal to 6.5%, commencing with the Interest Payment Date falling on 3 October 2012.
<b>Redemption:</b>	<p>Unless previously converted, redeemed or purchased and cancelled, the Issuer shall redeem the Bonds at their Principal Amount (together with accrued interest) on 3 April 2017.</p> <p>If at maturity the Current Market Price of the Ordinary Shares is below the Conversion Price, the Issuer may at its option grant to Bondholders the option to elect to be settled in cash or in the fixed number of Ordinary</p>

Shares determined by reference to the prevailing Conversion Price, together with a cash top up, as described in Condition 10.1.

Save for optional redemption prior to the stated maturity of the Bonds (as described below) and early redemption following an Event of Default, early redemption of the Bonds will only be permitted for Tax reasons as described in Condition 10.3.

Bonds may be redeemed at their Principal Amount together with accrued interest before their stated maturity at the option of the Issuer, if the Volume Weighted Average Price of the Ordinary Shares is 130% of the Conversion Price for a period of 20 out of 30 consecutive Dealing Days, as described in Condition 10.2.

If a Change of Control occurs, then Bonds may be redeemed at their Principal Amount together with accrued interest before their stated maturity at the option of the holders of the Bonds, as described in Condition 10.4. Alternatively, Bondholders will have the option to convert the Bonds into Ordinary Shares at a lower Conversion Price calculated on a pre-determined formula.

**Conversion Right:**

Subject as provided below, the holder of each Bond shall have the right to convert such Bond into new and/or existing (as determined by the Issuer) Ordinary Shares in the capital of the Parent Guarantor, credited on fully paid up.

Conversion Rights will be cash settled until the Parent Guarantor's shareholders approve settlement in Ordinary Shares, and thereafter Conversion Rights will be settled in Ordinary Shares only.

A Bondholder may exercise its Conversion Right by delivering a Conversion Notice to the Conversion Agent together with payment of all applicable taxes as provided in the Conditions. Only one Conversion Notice may be delivered by a Bondholder during each calendar month during the Conversion Period. The Conversion Date will be the Business Day after the date of such delivery and payment.

**Conversion Period:**

The Conversion Right in respect of any Bond shall be exercisable at any time from 14 May 2012 and, up to close of business on the 10<sup>th</sup> day prior to the Final Redemption Date or, if the Bonds have been called for redemption prior to the Final Redemption Date, up to close of business on the 10<sup>th</sup> day preceding the relevant redemption date. The Conversion Right in respect of any Bond may not be exercised where the resulting Conversion Date would fall during the period commencing on a day which is 10 days prior to an Interest Payment Date, and ending on the Interest Payment Date, both days inclusive.

**Base Conversion Price:**

The Base Conversion Price is ZAR168.94 per Ordinary Share.

**Conversion Price:**

The number of Ordinary Shares to be issued or transferred and delivered on exercise of a Conversion Right shall be determined by dividing the Principal Amount of the relevant Bond by the Conversion Price in effect on the Conversion Date. The initial Conversion Price is the Base Conversion Price.

The Conversion Price shall be adjusted upon the occurrence of certain events including, but not limited to, any alteration to the nominal value of the Ordinary Shares as the result of consolidation or subdivision, any rights or bonus issues and any Capital Distribution or Extraordinary Dividend, as described in Condition 9.2.

Ordinary Shares to be allotted or transferred, as the case may be, on conversion will be issued or transferred and delivered, as the case may be, credited as fully paid and will rank *pari passu* with all other Ordinary Shares, save that they will not rank for any dividend or other distribution declared or paid or made by reference to a record date for the payment of a dividend or other distribution with respect to the Ordinary Shares prior to the relevant Conversion Date.

**Dividend Protection:**

Should the cash dividends exceed the threshold amounts in each financial year of the Parent Guarantor, the Conversion Price shall be adjusted

downwards based on a pre-determined formula, as described in Condition 9.2.

**Negative Pledge:**

Condition 6 of the Terms and Conditions provides for a negative pledge in favour of the holders of the Bonds in relation to Relevant Indebtedness of the Issuer, the Parent Guarantor and Material Subsidiaries of the Parent Guarantor.

**Cross Default:**

Bonds will have the benefit of a cross-default to other debt of the Issuer, the Parent Guarantor and Material Subsidiaries of the Parent Guarantor above the threshold specified in Condition 13.

**Issue Price:**

100% of the Principal Amount of the Bonds.

**Listing:**

An application was made to list the Bonds on the JSE - Main Board under stock code number SHPCB and ISIN number ZAE000166997. The application was granted on 24 May 2012 and the Bonds may be traded by and through members of the JSE from 28 May 2012.

**Credit Rating:**

The Bonds will not be rated.

**Payment:**

The Bonds will be cleared and settled in accordance with the Applicable Procedures of the JSE and the Central Securities Depository. Euroclear Bank S.A./N.V. and Clearstream Banking, société anonyme will settle offshore transfers, if any, through their Participant.

Participants will follow the electronic settlement procedures prescribed by the Applicable Procedures of the Central Securities Depository when making interest and principal payments. The Applicable Procedures are available on request from the Central Securities Depository.

Principal and interest payments to the Bondholders will be made by electronic transfer.

**Purchase of Bonds:**

The Issuer may purchase Bonds in the open market or otherwise.

<b>Method of Transfer:</b>	The method of transfer is by registration for transfer of Bonds to occur through the Register and by electronic book entry in the securities accounts of Participants or the Central Securities Depository, as the case may be, for transfers of Beneficial Interests in the Bonds, in all cases subject to the restrictions described in this Listing Document.
<b>Register:</b>	The register will be maintained by the Transfer Agent.
<b>Register Closed:</b>	The register of Bondholders will be closed prior to each Interest Payment Date and the Final Redemption Date for the periods described in Condition 17, in order to determine those Bondholders entitled to receive payments.
<b>Parent Guarantee:</b>	Subject as provided below, the Parent Guarantor, which is the 100% holding company of the Issuer, unconditionally and irrevocably guarantees to the Trustee for the benefit of the Bondholders the due and punctual payment by the Issuer of all amounts owing by the Issuer in respect of the Bonds and the Trust Deed. The Guarantee by the Parent Guarantor is subject to, and conditional upon, a general meeting of shareholders of the Parent Guarantor passing such resolutions as are required for the grant of such Guarantee by the Parent Guarantor. The Parent Guarantor has undertaken pursuant to the Trust Deed to use its best endeavours to convene a meeting of shareholders for the purpose of considering and if thought fit, passing such resolutions by not later than 30 June 2012. However unless and until such resolutions are passed, the Guarantee from the Parent Guarantor will not come into effect and Bondholders will have no rights against the Parent Guarantor thereunder. The failure to pass such resolutions will not constitute an event of default under the Bonds.
<b>Subsidiary Guarantee:</b>	The Subsidiary Guarantor, which is a 100% subsidiary company of the Parent Guarantor, unconditionally and irrevocably guarantees to the Trustee for the benefit of the Bondholders the due and punctual payment by the Issuer of all amounts owing by the Issuer in respect of the Bonds and the Trust Deed.

**Status of the Guarantees:**

Subject as provided in "Parent Guarantee" above, the obligations under each Guarantee constitute direct, unconditional, unsubordinated and (subject to the negative pledge) unsecured obligations of each Guarantor and will rank equally among themselves and at least equally with all other existing and future unsecured and unsubordinated obligations of each Guarantor, save for such obligations as may be preferred by provisions of law that are both mandatory and of general application.

**Tax Status:**

A summary of applicable current South African Tax legislation appears under the section "*South African Taxation*". The section does not constitute tax advice and investors should consult their professional advisers.

**Securities Transfer Tax:**

In terms of current South African legislation as at the Issue Date, no securities transfer tax is payable by the Issuer on the original issue of, or on the registration of transfer of, the Bonds, on the basis that the Bonds will not comprise a "security" as defined in section 1 of the Securities Transfer Tax Act, 2007. Any future securities transfer tax that may be introduced will be for the account of Bondholders.

**Withholding Tax:**

Under current taxation law in South Africa, all payments made under the notes to resident and non-resident Bondholders will be made free of withholding or deduction for or on account of any taxes, duties, assessments or governmental charges. From 1 January 2013, withholding tax on interest in respect of certain debt instruments (which could include any Bonds issued) may be applicable to certain persons, who are regarded as non-resident for tax purposes in South Africa. Certain exemptions may or may not be applicable in this regard. In the event that such withholding or deduction is required by law, the Issuer will be obliged to pay additional amounts in relation thereto, subject to customary exceptions, as described in Condition 12.

**Blocked Rand:**

Blocked Rand may be used for the subscription for or purchase of Bonds, subject to South African Exchange

Control Regulations, 1961, promulgated under the Currency and Exchanges Act, 1933.

**Governing Law:**

The Bonds will be governed by and construed in accordance with the laws of South Africa.



## **RISK FACTORS**

*The Issuer believes that the factors outlined below may affect its ability to fulfil its obligations under the Bonds. All of these factors are contingencies which may or may not occur and the Issuer is not in a position to express a view on the likelihood of any such contingency occurring. In addition, factors which are material for the purpose of assessing the market risks associated with the Bonds are also described below. The value of the Bonds could decline due to any of these risks, and investors may lose some or all of their investment. **Risks affecting the business of the Issuer are discussed in the section of this Listing Document headed "Description of the Group".***

*The Issuer believes that the factors described below represent the principal risks inherent in investing in the Bonds, but the inability of the Issuer to pay interest, principal or other amounts on or in connection with any Bonds may occur for other reasons which may not be considered significant risks by the Issuer based on information currently available to it, or which it may not currently be able to anticipate. Accordingly, the Issuer does not represent that the statements below regarding the risks of holding any Bonds are exhaustive.*

*Prospective investors should also read the detailed information set out elsewhere in this Listing Document as well as all documents incorporated by reference, including in particular the annual financial statements of the Issuer, to reach their own views prior to making any investment decision.*

*References below to a numbered "Condition" shall be to the relevant Condition under the Terms and Conditions.*

### **Risks Relating to the Bonds**

#### ***The Bonds may not be a suitable investment for all investors***

Each potential investor in any Bonds must determine the suitability of that investment in light of its own circumstances. In particular, each potential investor should:

- have sufficient knowledge and experience to make a meaningful evaluation of the Bonds, the merits and risks of investing in the Bonds and the information contained or incorporated by reference in this Listing Document or any applicable supplement;
- have access to, and knowledge of, appropriate analytical tools to evaluate, in the context of its particular financial situation, an investment in the Bonds and the impact such an investment will have on its overall investment portfolio;
- have sufficient financial resources and liquidity to bear all of the risks of an investment in the Bonds, including Bonds with principal or interest payable in one or more currencies, or where the currency for principal or interest payments is different from the potential investor's currency;
- understand thoroughly the terms of the Bonds and be familiar with the behaviour of any relevant indices and financial markets; and

- be able to evaluate (either alone or with the help of a financial adviser) possible scenarios for economic, interest rate and other factors that may affect its investment and its ability to bear the applicable risks.

***There is no active trading market for the Bonds***

Bonds issued under the Listing Document will be new securities which may not be widely distributed and for which there is currently no active trading market. If the Bonds are traded after their initial issuance, they may trade at a discount to their initial offering price, depending upon prevailing interest rates, the market for similar securities, general economic conditions and the financial condition of the Issuer.

***The Bonds may be redeemed prior to maturity***

In the event that the Issuer is obliged to increase the amounts payable in respect of any Bonds due to any withholding or deduction for or on account of, any Taxes, the Issuer may redeem all outstanding affected Bonds in accordance with the Terms and Conditions.

In addition, where the Terms and Conditions provide that the Bonds are redeemable at the Issuer's option in certain other circumstances, the Issuer may choose to redeem the Bonds at times when prevailing interest rates may be relatively low. In such circumstances an investor may not be able to reinvest the redemption proceeds in a comparable security at an effective interest rate as high as that of the relevant Bonds.

***Because Bonds listed on the JSE may be held by the Central Securities Depository, investors will have to rely on its procedures for transfer, payment and communication with the Issuer***

While the Bonds are held in the Central Securities Depository, investors will be able to trade their Beneficial Interests in such Bonds only through the Central Securities Depository.

While Bonds are held in the Central Securities Depository the Issuer will discharge its payment obligations under such Bonds by making payments to or to the order of the Central Securities Depository's Nominee (as the registered holder of such Bonds), for distribution to the holders of Beneficial Interests in such Bonds. A holder of a Beneficial Interest in Bonds must rely on the procedures of the Central Securities Depository and Participants to receive payments under such Bonds. The Issuer has no responsibility or liability for the records relating to, or payments made in respect of, Beneficial Interests.

Holders of Beneficial Interests in such Bonds will not have a direct right to vote in respect of such Bonds.

***Risks related to Bonds generally***

*Modification and waivers*

The Terms and Conditions contain provisions for calling meetings of Bondholders to consider matters affecting their interests generally. These provisions permit defined majorities to bind all Bondholders including Bondholders who did not attend and vote at the relevant meeting and Bondholders who voted in a manner contrary to the majority.

*Change of law*

No assurance can be given as to the impact of any possible judicial decision or change to South African law or other Applicable Law or administrative practice after the Issue Date.

***Legal investment considerations may restrict certain investments***

The investment activities of certain investors are subject to legal investment laws and regulations, or review or regulation by certain authorities. Each potential investor should consult its legal advisers to determine whether and to what extent (1) Bonds are legal investments for it, (2) Bonds can be used as collateral for various types of borrowing and (3) other restrictions apply to its purchase or pledge of any Bonds. Financial institutions should consult their legal advisers or the appropriate regulators to determine the appropriate treatment of Bonds under any applicable risk-based capital or similar rules.

## **FORM OF THE BONDS**

### **Bonds issued in uncertificated form**

Bonds will be listed on the JSE.

Bonds issued in uncertificated form will not be represented by any certificate or written instrument.

All transactions in uncertificated securities as contemplated in the Securities Services Act will be cleared and settled in accordance with the Applicable Procedures. All the provisions relating to Beneficial Interests in the Bonds held in the Central Securities Depository will apply to Bonds issued in uncertificated form.

### **Beneficial Interests**

The Central Securities Depository will hold the Bonds issued in uncertificated form, subject to the Securities Services Act and the Applicable Procedures. Bonds issued in uncertificated form, will be registered in the name of the Central Securities Depository's Nominee, and the Central Securities Depository's Nominee will be named in the Register as the sole Bondholder of such Bonds.

Accordingly, and except where the contrary is provided in the Conditions, all amounts to be paid and all rights to be exercised in respect of the Bonds issued in uncertificated form, will be paid to and may be exercised only by the Central Securities Depository's Nominee for the holders of Beneficial Interests in such Bonds.

The Central Securities Depository maintains central securities accounts only for Participants. As at the Issue Date, the Participants are Absa Bank Limited, Citibank NA, FirstRand Limited, Nedbank Limited, The Standard Bank of South Africa Limited and the South African Reserve Bank.

The Participants are in turn required to maintain securities accounts for their clients. The clients of Participants may include the holders of Beneficial Interests in the Bonds or their custodians. The clients of Participants, as the holders of Beneficial Interests or as custodians for such holders, may exercise their rights in respect of the Bonds held by them in the Central Securities Depository only through their Participants.

In relation to each person shown in the records of the Central Securities Depository or the relevant Participant, as the case may be, as the holder of a Beneficial Interest in a particular Principal Amount of Bonds, a certificate or other document issued by the Central Depository or the relevant Participant, as the case may be, as to the Principal Amount of such Bonds standing to the account of such person shall be *prima facie* proof of such Beneficial Interest.

Transfers of Beneficial Interests in the Central Securities Depository to and from clients of the Participants occur by electronic book entry in the central securities accounts of the clients of the Participants. Transfers among Participants of Bonds held in the Central Securities Depository system occur through electronic book entry in the Participants' central security accounts with the Central Securities Depository. Beneficial Interests may be transferred only in accordance with the Conditions and the rules and operating procedures for the time being of the Central Securities Depository, Participants and the JSE.

Beneficial Interests in the Bonds may be exchanged, without charge by the Issuer, for Bonds in definitive registered form only in accordance with Condition 15.1 of the Conditions. Such Certificates will not be issuable in bearer form. The Bonds represented by the Certificates will be registered in the name of the individual Bondholders in the Register of Bondholders maintained by the Transfer Agent. The Issuer shall regard the Register as the conclusive record of title to the Bonds. The Central Securities Depository's Nominee shall be recognised by the Issuer as the owner of the Bonds issued in uncertificated form and registered holders of Certificates shall be recognised by the Issuer as the owners of the Bonds represented by such Certificates.

The Issuer shall regard the Register as the conclusive record of title to the Bonds.

### **Certificates**

The Bonds represented by Certificates will be registered in the name of the individual Bondholders in the Register of Bondholders.

Payments of interest and principal in respect of Bonds represented by Certificates will be made in accordance with Condition 9 to the person reflected as the registered holder of such Certificates in the Register at 17h00 (South African time) on the Last Day to Register, and the Issuer will be discharged by proper payment to or to the order of the registered holder of the Certificate in respect of each amount so paid.

### **The JSE Guarantee Fund**

Claims against the JSE Guarantee Fund may only be made in respect of the trading of Notes listed on the Main Board of the JSE and in accordance with the rules of the JSE Guarantee Fund.

## TERMS AND CONDITIONS OF THE BONDS

*The Terms and Conditions set out below will be deemed to be incorporated by reference into each Certificate, if any, evidencing any Bonds.*

### SHOPRITE INVESTMENTS LIMITED

(incorporated in South Africa with limited liability under registration number 1985/000928/06)

(the "**Issuer**")

Issue of ZAR4, 700, 000, 000 6.5 per cent. Senior Unsecured Guaranteed Convertible Registered Bonds due 3 April 2017 convertible into Ordinary Shares of Shoprite Holdings Limited

- a.) The issue of ZAR4, 700, 000, 000 6.5 per cent. Senior Unsecured Guaranteed Convertible Registered Bonds due 3 April 2017 (the "**Bonds**") was authorised by a resolution of the board of the Issuer passed on or about 22 March 2012 and 26 April 2012.
- b.) The terms and conditions of the Bonds ("**Terms and Conditions**") are constituted as set out below, as read together with the Trust Deed.
- c.) GMG Trust Company (SA) (Proprietary) Limited (the "**Trustee**") has been appointed in terms of a trust deed (the "**Trust Deed**") between the Trustee, the Issuer, the Subsidiary Guarantor and the Parent Guarantor (as defined below), to act as trustee for the benefit of Bondholders. Pursuant to the Trust Deed, each Guarantor binds itself to those provisions of the Terms and Conditions which confer rights and/or impose obligations on the Guarantors.

#### 1. Interpretation

Terms and expressions set out below shall have the meanings set out below in these Terms and Conditions, unless such term is separately defined in these Terms and Conditions or the context otherwise requires:

- 1.1 "**Additional Cash Alternative Amount**" has the meaning provided in Condition 9.14;
- 1.2 "**Additional Ordinary Shares**" has the meaning provided in Condition 9.3;
- 1.3 "**Agency Agreement**" means the agreement concluded between the Issuer, the Calculation Agent, the Transfer Agent and the Conversion Agent (or any separate agreement between the Issuer and such agent), in terms of which the agents agree to provide calculation, note registry and conversion agent services to the Issuer;
- 1.4 "**Applicable Law**" means in relation to a person, all and any:
  - 1.4.1 statutes and subordinate legislation;
  - 1.4.2 treaties, regulations, ordinances, decrees and directives;
  - 1.4.3 by-laws;

- 1.4.4 codes of practice, circulars, guidance notices, judgements and decisions of any competent authority;
- 1.4.5 any present or future common law; and
- 1.4.6 other similar provisions, from time to time;
- 1.5 "**Applicable Procedures**" means the rules and operating procedures for the time being of the Central Securities Depository, Settlement Agents and the JSE, as the case may be;
- 1.6 "**Banks Act**" means the Banks Act, 1990;
- 1.7 "**Base Conversion Price**" means ZAR168.94per Ordinary Share;
- 1.8 "**Beneficial Interest**" means in relation to a Bond, an interest as beneficial owner of a Bond held in uncertificated form, in accordance with the Securities Services Act;
- 1.9 "**Bonds**" means the 6.5 per cent. senior unsecured guaranteed convertible registered bonds, in an aggregate Principal Amount of ZAR4, 700, 000, 000, with a minimum denomination on the Issue Date of ZAR1, 000, 000 each, issued by the Issuer under these Terms and Conditions and for the time being outstanding;
- 1.10 "**Bondholder**" or "**Holder**" means the person in whose name a Bond is registered in the Register;
- 1.11 "**Books Closed Period**" means the period during which the Transfer Agent will not record any transfer of Bonds in the Register, as determined in accordance with Condition 17.2;
- 1.12 "**Business Day**" means a day (other than a Saturday, Sunday or official South African public holiday within the meaning of the Public Holidays Act, 1994, as amended), which is a day on which commercial banks settle ZAR payments in Johannesburg;
- 1.13 "**Calculation Agent**" means RMB or such other person with whom the Issuer has entered into a Calculation Agent Agreement;
- 1.14 "**Calculation Agent Agreement**" means the agreement concluded between the Issuer and the Calculation Agent (which may be incorporated into the Agency Agreement), in terms of which the Calculation Agent agrees to provide calculation services to the Issuer;
- 1.15 "**Capital Distribution**" has the meaning provided in Condition 9.2(a)(iii);
- 1.16 "**Cash Alternative Amount**" means an amount calculated in accordance with the following formula and which shall be payable to a Bondholder upon an exercise of a Conversion Right where the relevant Conversion Date falls prior to the Issuer having given notice to Bondholders that the Conversion Condition shall have been satisfied:

$$CAA = \sum_{n=1}^N \frac{1}{N} \times S \times P_n$$

where:

CAA = the Cash Alternative Amount;

S = the number of Ordinary Shares (including, for this purpose, any fraction of an Ordinary Share but rounded, if necessary, to five decimal places, with 0.000005 being rounded up) determined by dividing the Principal Amount of Bonds in respect of which the relevant Bondholder shall have exercised Conversion Rights by the Conversion Price in effect on the relevant Conversion Date;

$P_n$  = the Volume Weighted Average Price of an Ordinary Share on the nth Dealing Day of the Cash Alternative Calculation Period; and

N = 30, being the number of Dealing Days in the Cash Alternative Calculation Period,

provided that if any Dividend or other entitlement in respect of the Ordinary Shares is announced on or prior to the last day of the Cash Alternative Calculation Period in circumstances where the record date or other due date for the establishment of entitlement in respect of such Dividend or other entitlement shall be on or after the relevant Conversion Date and if on any Dealing Day in the Cash Alternative Calculation Period the price determined as provided above is based on a price ex-Dividend or ex- any other entitlement, then such price shall be increased by an amount equal to the Fair Market Value of any such Dividend or other entitlement per Ordinary Share as at the date of the first public announcement of such Dividend or entitlement (or, if that is not a dealing day, the immediately preceding dealing day);

- 1.17 **"Cash Alternative Calculation Period"** means the period of 30 consecutive Dealings Days commencing on the relevant Conversion Date;
- 1.18 **"Cash Dividend"** has the meaning provided in Condition 9.2(a)(iii);
- 1.19 **"Central Securities Depository"** means State Limited (registration number 1998/022242/06), or its nominee, a central securities depository operating in terms of the Securities Services Act, or any additional or alternate depository approved by the Issuer;
- 1.20 **"Central Securities Depository's Nominee"** means any wholly owned subsidiary (as defined in the Companies Act) of the Central Securities Depository approved by the Registrar (as defined in the Securities Services Act) for purposes of, and as contemplated in, section 40 of the Securities Services Act and any reference to "Central Securities Depository's Nominee" shall, whenever the context permits, be deemed to include a reference to its successor operating in terms of the Securities Services Act;



- 1.21 "**Certificate**" means as contemplated in these Terms and Conditions, a single individual certificate for Bonds, registered in the name of the relevant Bondholder;
- 1.22 "**Change of Control**" has the meaning provided in Condition 9.2(a)(x);
- 1.23 "**Change of Control Notice**" has the meaning provided in Condition 9.7;
- 1.24 "**Change of Control Period**" means the period commencing on the occurrence of a Change of Control and ending 60 calendar days following the Change of Control or, if later, 60 calendar days following the date on which a Change of Control Notice is given to Bondholders as required by Condition 9.7;
- 1.25 "**Change of Control Put Date**" has the meaning provided in Condition 10.4.2;
- 1.26 "**Change of Control Put Exercise Notice**" has the meaning provided in Condition 10.4.2;
- 1.27 "**Clearing System**" means Strate Limited acting as the approved electronic clearing house, carrying on the role of matching, clearing and facilitation of settlement of all transactions carried out on the JSE;
- 1.28 "**Companies Act**" means the Companies Act, 2008;
- 1.29 "**Condition**" means a numbered term or condition of the Bonds forming part of these Terms and Conditions (and reference to a particular numbered Condition shall be construed as a reference to the corresponding condition in these Terms and Conditions);
- 1.30 "**Conversion Condition**" means the approval at a general meeting of the Shareholders of the Parent Guarantor of such resolutions as are required to enable the issuance of such number of Ordinary Shares as may be required to be issued from time to time upon the exercise of Conversion Rights pursuant to these Terms and Conditions and to approve the assumption by the Parent Guarantor of the obligation delegated to it in terms of Condition 9.8(j)(ii);
- 1.31 "**Conversion Agent**" means RMB;
- 1.32 "**Conversion Date**" has the meaning provided in Condition 9.8(e);
- 1.33 "**Conversion Notice**" has the meaning provided in Condition 9.8(a);
- 1.34 "**Conversion Period**" has the meaning provided in Condition 9.1(h);
- 1.35 "**Conversion Price**" has the meaning provided in Condition 9.1(b);
- 1.36 "**Conversion Right**" has the meaning provided in Condition 9.1(a);
- 1.37 "**Current Market Price**" means in respect of an Ordinary Share at a particular date, the average of the daily Volume Weighted Average Price of an Ordinary Share on each of the 5

consecutive Dealing Days ending on the Dealing Day immediately preceding such date; provided that if at any time during the said five-Dealing-Day period the Volume Weighted Average Price shall have been based on a price ex-Dividend (or ex- any other entitlement) and during some other part of that period the Volume Weighted Average Price shall have been based on a price cum-Dividend (or cum- any other entitlement), then:

1.37.1 if the Ordinary Shares to be issued or transferred and delivered do not rank for the Dividend (or entitlement) in question, the Volume Weighted Average Price on the dates on which the Ordinary Shares shall have been based on a price cum-Dividend (or cum- any other entitlement) shall for the purpose of this definition be deemed to be the amount thereof reduced by an amount equal to the Fair Market Value of any such Dividend or entitlement per Ordinary Share as at the Effective Date relating to such Dividend; or

1.37.2 if the Ordinary Shares to be issued or transferred and delivered do rank for the Dividend (or entitlement) in question, the Volume Weighted Average Price on the dates on which the Ordinary Shares shall have been based on a price ex-Dividend (or ex- any other entitlement) shall for the purpose of this definition be deemed to be the amount thereof increased by an amount equal to the Fair Market Value of any such Dividend or entitlement per Ordinary Share as at the Effective Date relating to such Dividend,

and provided further that if on each of the said 5 Dealing Days the Volume Weighted Average Price shall have been based on a price cum-Dividend (or cum- any other entitlement) in respect of a Dividend (or other entitlement) which has been declared or announced but the Ordinary Shares to be issued or transferred and delivered do not rank for that Dividend (or other entitlement), the Volume Weighted Average Price on each of such dates shall for the purposes of this definition be deemed to be the amount thereof reduced by an amount equal to the Fair Market Value of any such Dividend or entitlement per Ordinary Share as at the Effective Date relating to such Dividend,

and provided further that, if the Volume Weighted Average Price of an Ordinary Share is not available on one or more of the said 5 Dealing Days (disregarding for this purpose the proviso to the definition of Volume Weighted Average Price), then the average of such Volume Weighted Average Prices which are available in that five-Dealing-Day period shall be used (subject to a minimum of two such prices) and if only one, or no, such Volume Weighted Average Price is available in the relevant period the Current Market Price shall be determined by an Independent Financial Adviser;

For this purpose, “**Effective Date**” means the first date on which the Ordinary Shares are traded ex-the relevant Dividend on the Relevant Stock Exchange

1.38 “**Dealing Day**” means a day on which the Relevant Stock Exchange or relevant market is open for business and on which Ordinary Shares, Securities or Spin-Off Securities (as the

case may be) may be dealt in (other than a day on which the Relevant Stock Exchange or relevant market is scheduled to or does close prior to its regular weekday closing time);

1.39

“**Dividend**” means any dividend or distribution to Shareholders (including a Spin-Off) whether of cash, assets or other property, and however described and whether payable out of share premium account, profits, retained earnings or any other capital or revenue reserve or account, and including a distribution or payment to holders upon or in connection with a reduction of capital (and for these purposes a distribution of assets includes without limitation an issue of Ordinary Shares or other Securities credited as fully or partly paid up by way of capitalisation of profits or reserves), provided that:

- (a) (1) where a Dividend in cash is announced which is to be, or may at the election of a Shareholder or Shareholders be, satisfied by the issue or delivery of Ordinary Shares or other property or assets, or where a capitalisation of profits or reserves is announced which is to be, or may at the election of a Shareholder or Shareholders be, satisfied by the payment of cash, then the Dividend in question shall be treated as a Cash Dividend of the greater of (i) such cash amount and (ii) the Current Market Price of such Ordinary Shares or, as the case may be, Fair Market Value of such other property or assets as at the first date on which the Ordinary Shares are traded ex- the relevant Dividend or if later, the date on which the number of Ordinary Shares (or amount of property or assets, as the case may be) which may be issued or transferred and delivered is determined);
- (2) if there shall be any issue of Ordinary Shares by way of capitalisation of profits or reserves (including any share premium account or capital redemption reserve) where such issue is or is expressed to be in lieu of a Dividend (whether or not a cash Dividend equivalent or amount is announced or would otherwise be payable to Shareholders, whether at their election or otherwise), the capitalisation in question shall be treated as a Cash Dividend of an amount equal to the Current Market Price of such Ordinary Shares as at the first date on which the Ordinary Shares are traded ex- the relevant capitalisation on the Relevant Stock Exchange or, if later, the date on which the number of Ordinary Shares to be issued or transferred and delivered is determined;
- (b) any issue of Ordinary Shares falling within Condition 9.2(a)(ii) shall be disregarded;
- (c) a purchase or redemption or buy back of share capital of the Issuer by or on behalf of the Issuer or any of its Subsidiaries shall not constitute a Dividend unless, in the case of a purchase or redemption or buy back of Ordinary Shares by or on behalf of the Issuer or any of its Subsidiaries, the weighted average price per Ordinary Share (before expenses) on any one day (a “**Specified Share Day**”) in respect of such purchases or redemptions or buy backs (translated, if not in the Relevant Currency, into the Relevant Currency at the Prevailing Rate on such day) exceeds by more than 5% percent. the average of the closing prices of the Ordinary Shares on the Relevant

Stock Exchange (as published by or derived from the Relevant Stock Exchange) on the 5 Dealing Days immediately preceding the Specified Share Day or, where an announcement (excluding, for the avoidance of doubt for these purposes, any general authority for such purchases, redemptions or buy backs approved by a general meeting of Shareholders or any notice convening such a meeting of Shareholders) has been made of the intention to purchase, redeem or buy back Ordinary Shares at some future date at a specified price or where a tender offer is made, on the 5 Dealing Days immediately preceding the date of such announcement or the date of first public announcement of such tender offer (and regardless whether or not a price per Ordinary Share, a minimum price per Ordinary Share or a price range or a formula for the determination thereof is or is not announced at such time), as the case may be, in which case such purchase, redemption or buy back shall be deemed to constitute a Dividend in the Relevant Currency to the extent that the aggregate price paid (before expenses) in respect of such Ordinary Shares purchased, redeemed or bought back by the Issuer or, as the case may be, any of its Subsidiaries (translated where appropriate into the Relevant Currency as provided above) exceeds the product of (i) 105% of the average closing price of the Ordinary Shares determined as aforesaid and (ii) the number of Ordinary Shares so purchased, redeemed or bought back; and

- (d) if the Parent Guarantor or any of its Subsidiaries shall purchase, redeem or buy back any depositary or other receipts or certificates representing Ordinary Shares, the provisions of paragraph (c) shall be applied in respect thereof in such manner and with such modifications (if any) as shall be determined by an Independent Financial Adviser;
- (e) where a dividend or distribution is paid or made to Shareholders pursuant to any plan implemented by the Parent Guarantor for the purpose of enabling Shareholders to elect, or which may require Shareholders, to receive dividends or distributions in respect of the Ordinary Shares held by them from a person other than (or in addition to) the Issuer, such dividend or distribution shall for the purposes of these Conditions be treated as a dividend or distribution made or paid to Shareholders by the Parent Guarantor, and the foregoing provisions of this definition and the provisions of these Conditions shall be construed accordingly; and
- (f) a dividend or distribution that is a Spin-Off shall be deemed to be a Non Cash Dividend paid or made by the Parent Guarantor,

and any such determination shall be made on a gross basis and disregarding any withholding or deduction required to be made on account of tax, and disregarding any associated tax credit;

- 1.40 **"Enforcement Notice"** a notice delivered pursuant to these Terms and Conditions following an Event of Default under the Bonds;

- 1.41 “**equity share capital**” means in relation to any entity, its issued share capital excluding any part of that capital which, neither as respects dividends nor as respects capital, carries any right to participate beyond a specific amount in a distribution;
- 1.42 “**Event of Default**” means in relation to any Bonds, any of the events specified as such in Condition 13 of these Terms and Conditions;
- 1.43 “**Exempt Newco Scheme**” means a Newco Scheme where immediately after completion of the relevant Scheme of Arrangement, the Ordinary Shares of Newco are (a) admitted to trading on the Relevant Stock Exchange or (b) admitted to listing on such other regulated, regularly operating, recognised stock exchange or securities market as the Issuer or Newco may determine;
- 1.44 “**Existing Shareholders**” shall bear the meaning defined in the definition of “*Newco Scheme*”;
- 1.45 “**Extraordinary Resolution**” means a resolution passed at a properly constituted meeting of Bondholders by a majority consisting of not less than 66,67% of the votes cast at a poll by Bondholders, present in person or by proxy;
- 1.46 “**Fair Market Value**” means, with respect to any property on any date, the fair market value of that property as determined by an Independent Financial Adviser provided that (i) the Fair Market Value of a Cash Dividend shall be the amount of such Cash Dividend; (ii) the Fair Market Value of any other cash amount shall be the amount of such cash; (iii) where Securities, Spin-Off Securities, options, warrants or other rights are publicly traded in a market of adequate liquidity (as determined by an Independent Financial Adviser), the Fair Market Value (a) of such Securities or Spin-Off Securities shall equal the arithmetic mean of the daily Volume Weighted Average Prices of such Securities or Spin-Off Securities and (b) of such options, warrants or other rights shall equal the arithmetic mean of the daily closing prices of such options, warrants or other rights, in the case of both (a) and (b) during the period of 5 Dealing Days on the relevant market commencing on such date (or, if later, the first such Dealing Day such Securities, Spin-Off Securities, options, warrants or other rights are publicly traded) or such shorter period as such Spin-Off Securities, options, warrants or other rights are publicly traded; (iv) where Securities, Spin-Off Securities, options, warrants or other rights are not publicly traded (as aforesaid), the Fair Market Value of such Securities, Spin-Off Securities, options, warrants or other rights shall be determined by an Independent Financial Adviser, on the basis of a commonly accepted market valuation method and taking account of such factors as it considers appropriate, including the market price per Ordinary Share, the dividend yield of an Ordinary Share, the volatility of such market price, prevailing interest rates and the terms of such Securities, Spin-Off Securities, options, warrants or other rights, including as to the expiry date and exercise price (if any) thereof. Such amounts shall in the case of (i), be translated into ZAR (if declared or paid or payable in a currency other than ZAR) at the rate of exchange used to determine the amount payable to Shareholders who were paid or are to be paid or are entitled to be paid the Cash Dividend in ZAR; and in any other case, shall be translated into ZAR (if expressed

in a currency other than ZAR) at the Prevailing Rate on that date. In addition, in the case of (i) and (ii), any withholding or deduction required to be made on account of tax and any associated tax credit shall be disregarded;

- 1.47        "**Final Redemption Date**" means 3 April 2017;
- 1.48        "**Group**" means the Parent Guarantor and its Subsidiaries from time to time;
- 1.49        "**Guarantees**" means the Parent Guarantee and the Subsidiary Guarantee;
- 1.50        "**Guarantors**" means the Parent Guarantor and the Subsidiary Guarantor;
- 1.51        "**Holding Company**" bears the meaning assigned thereto in the Companies Act;
- 1.52        "**IFRS**" means International Financial Reporting Standards and the interpretation of those standards as adopted by the International Accounting Standards Board;
- 1.53        "**Independent Financial Adviser**" means an independent investment bank of international repute appointed at its own expense by the Issuer and approved in writing by the Trustee or, if the Issuer fails to make such appointment and such failure continues for a reasonable period (as determined by the Trustee in its sole discretion) and the Trustee is indemnified and/or secured and/or prefunded to its satisfaction against the costs, fees and expenses of such adviser and otherwise in connection with such appointment, appointed by the Trustee following notification to the Issuer;
- 1.54        "**Interest Amount**" means the amount of interest payable in respect of each Bond, as determined in accordance with these Terms and Conditions;
- 1.55        "**Interest Commencement Date**" means in relation to each Bond, the Issue Date;
- 1.56        "**Interest Payment Date(s)**" means 3 April and 3 October of each year, commencing with the Interest Payment Date falling on 3 October 2012;
- 1.57        "**Interest Period**" means each period in respect of which interest accrues on the Bonds, commencing on (and including) the Issue Date and ending on (but excluding) the first Interest Payment Date, and each successive period beginning on (and including) an Interest Payment Date and ending on (but excluding) the next succeeding Interest Payment Date;
- 1.58        "**Interest Rate**" means the rate of 6.5 per cent. per annum calculated by reference to the Principal Amount of a Bond;
- 1.59        "**Issue Date**" means 2 April 2012;
- 1.60        "**Issuer**" means Shoprite Investments Limited, a public company incorporated in accordance with the laws of South Africa, registration number 1985/000928/06;

- 1.61 "JSE" means the JSE Limited (Registration Number 2005/022939/06), licensed as an exchange in terms of the Securities Services Act, or any exchange which operates as a successor exchange to the JSE in terms of the Securities Services Act;
- 1.62 "**Last Day to Register**" means the Business Day preceding the Books Closed Period;
- 1.63 "**Market Price**" means the Volume Weighted Average Price of an Ordinary Share on the relevant Reference Date, provided that if any Dividend or other entitlement in respect of the Ordinary Shares is announced on or prior to the relevant Conversion Date in circumstances where the record date or other due date for the establishment of entitlement in respect of such dividend or other entitlement shall be on or after the Conversion Date and if, on the relevant Reference Date, the Volume Weighted Average Price of an Ordinary Share is based on a price ex-Dividend or ex-any other entitlement, then such price shall be increased by an amount equal to the Fair Market Value of such dividend or entitlement per Ordinary Share as at the date of first public announcement of such Dividend or entitlement (or if that is not a dealing day, the immediately preceding Dealing Day);
- 1.64 "**Material Subsidiary**" means any Subsidiary of the Parent Guarantor:
- 1.64.1 whose total assets (consolidated in the case of a Subsidiary which itself has Subsidiaries) represent no less than 10% of the consolidated total assets of the Group, all as calculated by reference to the latest audited (consolidated or, as the case may be, unconsolidated) annual accounts or unaudited semi-annual management accounts of the Subsidiary, whichever is the latest, and the latest audited annual or unaudited semi-annual consolidated accounts of the Parent Guarantor, whichever is the latest; or
- 1.64.2 to which is transferred the whole or substantially the whole of the undertaking and assets of a Subsidiary of the Parent Guarantor which immediately before the transfer is a Material Subsidiary of the Parent Guarantor (whereupon such transferor subsidiary shall cease to be a Material Subsidiary until the next publication of audited consolidated accounts of the Parent Guarantor following such transfer);
- provided that*
- 1.64.3 in the case of a Subsidiary acquired or an entity which becomes a Subsidiary of the Parent Guarantor after the end of the financial period to which the latest annual or unaudited semi-annual accounts, whichever is the latest, relate, the reference to the latest audited consolidated accounts for the purposes of the calculation above shall, until audited consolidated accounts of the Parent Guarantor are published for the financial period in which the acquisition is made or, as the case may be, in which such entity becomes a Subsidiary, be deemed to be a reference to the latest consolidated accounts of the Parent Guarantor adjusted in such manner as the Issuer shall consider appropriate to consolidate the latest audited accounts of such subsidiary in such accounts; and

- 1.64.4 a certificate signed by two directors of the Parent Guarantor that in their opinion a Subsidiary of the Parent Guarantor is or is not or was or was not at any time or throughout any specified period a Material Subsidiary shall, in the absence of manifest or proven error, be conclusive and binding;
- 1.65 “**Newco Scheme**” means a scheme of arrangement or analogous proceeding (“**Scheme of Arrangement**”) which effects the interposition of a limited liability company (“**Newco**”) between the Shareholders of the Parent Guarantor immediately prior to the Scheme of Arrangement (the “**Existing Shareholders**”) and the Parent Guarantor; provided that (i) only Ordinary Shares of Newco are issued to Existing Shareholders; (ii) immediately after completion of the Scheme of Arrangement the only shareholders of Newco are Existing Shareholders; (iii) immediately after completion of the Scheme of Arrangement, Newco is (or one or more wholly-owned Subsidiaries of Newco are) the only shareholder of the Parent Guarantor; (iv) all Subsidiaries of the Parent Guarantor immediately prior to the Scheme of Arrangement (other than Newco, if Newco is then a Subsidiary of the Parent Guarantor) are Subsidiaries of the Parent Guarantor (or of Newco) immediately after completion of the Scheme of Arrangement; and (v) immediately after completion of the Scheme of Arrangement the Parent Guarantor (or Newco) holds, directly or indirectly, the same percentage of the ordinary share capital and equity share capital of those Subsidiaries as was held by the Parent Guarantor immediately prior to the Scheme of Arrangement;
- 1.66 “**Optional Redemption Date**” has the meaning provided in Condition 10.2.1;
- 1.67 “**Optional Redemption Notice**” has the meaning provided in Condition 10.2.1;
- 1.68 “**Ordinary Resolution**” means a resolution passed at a properly constituted meeting of Bondholders, by a majority of the votes cast at a poll by Bondholders, present in person or by proxy;
- 1.69 “**Ordinary Shares**” means fully paid ordinary shares in the capital of the Parent Guarantor;
- 1.70 “**outstanding**” means, in relation to the Bonds, all the Bonds issued other than (i) those which have been redeemed in accordance with these Terms and Conditions, (ii) those in respect of which Conversion Rights have been exercised and the Issuer’s obligations in relation thereto have been duly performed, (iii) those in respect of which the date for redemption in accordance with the Conditions has occurred and the redemption moneys (including all interest accrued on such Bonds to the date for such redemption and any interest payable under Condition 8 after such date) have been duly paid to the relevant Bondholder or on its behalf or to the Trustee and remain available for payment against presentation and surrender of Bonds, (iv) those which have become void or those in respect of which claims have become prescribed under Condition 23, (v) those mutilated or defaced Bonds which have been surrendered in exchange for replacement Bonds pursuant to Condition 15, (vi) (for the purpose only of determining how many Bonds are outstanding and without prejudice to their status for any other purpose) those Bonds alleged to have been lost, stolen or destroyed and in respect of which replacement Bonds have been issued



pursuant to Condition 15, (vii) those which have been purchased and cancelled as provided in Condition 10.6; provided that for the purposes of (a) ascertaining the right to attend and vote at any meeting of the Bondholders, (b) the determination of how many Bonds are outstanding for the purposes of Conditions 13, 20 and 26 and (c) the exercise of any discretion, power or authority which the Trustee is required, expressly or impliedly, to exercise in or by reference to the interests of the Bondholders, those Bonds (if any) which are beneficially held by, or are held on behalf of, the Issuer, the Parent Guarantor or any of their respective Subsidiaries and not yet cancelled shall be deemed not to remain outstanding;

- 1.71 **"Parent Guarantee"** means the guarantee dated on or about the date of signature of the Terms and Conditions under which the Parent Guarantor has irrevocably and unconditionally given its guarantee to the Trustee for the benefit of the Bondholders for the due and punctual payment by the Issuer of all amounts owing by the Issuer in respect of the Bonds, subject to shareholder approval;
- 1.72 **"Parent Guarantor"** means Shoprite Holdings Limited, a public company incorporated in accordance with the laws of South Africa, registration number 1936/007721/06;
- 1.73 **"Participant"** a person that holds in custody and administers securities or an interest in securities and that has been accepted by the Central Securities Depository as a participant in terms of the Securities Services Act;
- 1.74 **"Potential Event of Default"** means any event or circumstance specified in Condition 13.1 (*Events of Default*) which would (with the expiry of a grace period, the giving of notice, the making of any determination under a Transaction Document or any combination of any of the foregoing) be an Event of Default;
- 1.75 **"Prevailing Rate"** means, in respect of any currencies on any day, the spot rate of exchange between the relevant currencies prevailing as at or about 12 noon (South African time) on that date as appearing on or derived from the Relevant Page or if such a rate cannot be determined at such time, the rate prevailing as at or about 12 noon (South African time) on the immediately preceding day on which such rate can be so determined;
- 1.76 **"Principal Amount"** means in relation to a Bond, the nominal amount of that Bond;
- 1.77 **"R" or "Rand" or "ZAR"** means the lawful currency of South Africa, being South African Rand, or any successor currency;
- 1.78 **"Rand Equivalent"** means, with respect to any monetary amount in a currency other than Rand, at any time for the determination thereof, the amount of Rand obtained by converting such foreign currency involved in such computation into Rand at the spot rate for the purchase of Rand with the applicable foreign currency, as quoted by the Calculation Agent on the date two Business Days prior to such determination;

- 1.79        "**Redemption Date**" means each date on which any Bonds are to be redeemed, partially or finally, as the case may be, pursuant to these Terms and Conditions;
- 1.80        "**Reference Date**" means, in relation to a Retroactive Adjustment, the date as of which the relevant Retroactive Adjustment takes effect or, in any such case, if that is not a Dealing Day, the next following Dealing Day;
- 1.81        "**Register**" means the register of Bondholders maintained by the Transfer Agent;
- 1.82        "**Registration Date**" means the date on which the Ordinary Shares (or any Additional Ordinary Shares) to be issued or delivered pursuant to Condition 9.8 (or Condition 9.3) are entered in the share register of the Issuer and credited to the converting Bondholder as provided in Condition 9.8 (or Condition 9.3);
- 1.83        "**Regulator**" means any government or governmental, administrative, fiscal or judicial authority, body, court, department, commission, tribunal, registry, or any other state-owned or controlled authority which principally performs governmental actions;
- 1.84        "**Relevant Currency**" means South African Rand or, if at the relevant time or for the purposes of the relevant calculation or determination, the JSE is not the Relevant Stock Exchange, the currency in which the Ordinary Shares are quoted or dealt in on the Relevant Stock Exchange at such time;
- 1.85        "**Relevant Date**" means the date on which a payment first becomes due and payable in accordance with these Terms and Conditions, except that in relation to monies payable to the Central Securities Depository's Nominee in accordance with these Terms and Conditions, the claim in respect of any payment under the Bonds will prescribe 3 years after the date on which (i) the full amount of such monies have been received by the Central Securities Depository's Nominee, (ii) such monies are available for payment to the holders of Beneficial Interests, and (iii) notice to that effect has been duly given to such holders in accordance with the Applicable Procedures;
- 1.86        "**Relevant Indebtedness**" means any present or future indebtedness (whether being principal, interest or other amounts), for or in respect of (i) monies borrowed or raised, or (ii) liabilities under any acceptance or acceptance credit, or (iii) any bonds, notes, debentures, loan stock or other debt securities;
- 1.87        "**Relevant Page**" means the relevant page on Bloomberg or such other information service provider that displays the relevant information;
- 1.88        "**Relevant Stock Exchange**" means the JSE or if at the relevant time the Ordinary Shares are not at that time listed and admitted to trading on the JSE, the principal stock exchange or securities market on which the Ordinary Shares are then listed, admitted to trading or quoted or dealt in;
- 1.89        "**Retroactive Adjustment**" has the meaning provided in Condition 9.3;

- 1.90 **RMB**" means Rand Merchant Bank Limited, a division of FirstRand Bank Limited, a company incorporated in accordance with the laws of South Africa, registration number 1929/001225/06;
- 1.91 **"Securities"** means any securities including, without limitation, Ordinary Shares, or options, warrants or other rights to subscribe for or purchase or acquire Ordinary Shares;
- 1.92 **"Securities Services Act"** means the Securities Services Act, 2004;
- 1.93 **"Security Interest"** means any mortgage, charge, pledge, lien or other security interest including, without limitation, anything analogous to any of the foregoing under the laws of any jurisdiction, but excluding, for the avoidance of doubt, a guarantee;
- 1.94 **"Settlement Agents"** means those Participants which are approved by the JSE or any other relevant financial exchange from time to time, in terms of the Applicable Procedures of the JSE, as settlement agents to perform electronic settlement of funds and scrip on behalf of market participants;
- 1.95 **"Shareholders"** means the holders of Ordinary Shares;
- 1.96 **"Soft Redemption Notice"** has the meaning provided in Condition 10.1.2;
- 1.97 **"Soft Redemption Option"** has the meaning provided in Condition 10.1.2;
- 1.98 **"South Africa"** means the Republic of South Africa;
- 1.99 **"Specified Date"** has the meaning provided in Conditions 9.2(a)(vii) and 9.2(a)(viii);
- 1.100 **"Specified Office"** in relation to each of the Issuer, the Trustee, the Calculation Agent, the Transfer Agent, the Conversion Agent, the registered office of such entity or, once listed, the address of the office specified in respect of such entity at the end of the Listing Document, or such other address as is notified by such entity (or, where applicable, a successor to such entity) to the Bondholders in accordance with these Terms and Conditions;
- 1.101 **"Spin-Off"** means:
- (a) distribution of Spin-Off Securities by the Parent Guarantor to Shareholders as a class;  
or
  - (b) any issue, transfer or delivery of any property or assets (including cash or shares or securities of or in or issued or allotted by any entity) by any entity (other than the Issuer) to Shareholders as a class or, in the case of or in connection with a Newco Scheme, Existing Shareholders as a class (but excluding the issue and allotment of Ordinary Shares by Newco to Existing Shareholders as a class), pursuant in each case to any arrangements with the Parent Guarantor or any of its Subsidiaries;

- 1.102        "**Spin-Off Securities**" means equity share capital of an entity other than the Parent Guarantor or options, warrants or other rights to subscribe for or purchase equity share capital of an entity other than the Parent Guarantor;
- 1.103        "**Subsidiary**" bears the meaning assigned thereto in the Companies Act;
- 1.104        "**Subsidiary Guarantee**" means the guarantee dated on or about the date of signature of the Terms and Conditions under which the Subsidiary Guarantor has irrevocably and unconditionally given its guarantee to the Trustee for the benefit of the Bondholders for the due and punctual payment by the Issuer of all amounts owing by the Issuer in respect of the Bonds;
- 1.105        "**Subsidiary Guarantor**" means Shoprite Checkers (Proprietary) Limited, a private company incorporated in accordance with the laws of South Africa, registration number 1929/001817/07;
- 1.106        "**Tax Redemption Date**" bears the meaning assigned thereto in Condition 10.3.1;
- 1.107        "**Tax Redemption Notice**" bears the meaning assigned thereto in Condition 10.3.1;
- 1.108        "**Taxes**" means all present and future taxes, levies, imposts, duties, charges, fees, deductions and withholdings imposed or levied by any governmental, financial or other competent authority in South Africa or any other jurisdiction from which any payment is made (and including any penalty payable in connection with any failure to pay, or delay in paying, any of the same) and "**Tax**" and "**Taxation**" shall be construed accordingly;
- 1.109        "**Terms and Conditions**" means the terms and conditions of the Bonds set out in this debt instrument;
- 1.110        "**Transaction Documents**" means collectively and individually any of:
- 1.110.1        Trust Deed;
- 1.110.2        these Terms and Conditions of the Bonds;
- 1.110.3        the Agency Agreement;
- 1.110.4        the Subsidiary Guarantee; and
- 1.110.5        the Parent Guarantee;
- 1.111        "**Transfer Agent**" means RMB or such other person with whom the Issuer has entered into a Transfer Agent Agreement;
- 1.112        "**Transfer Agent Agreement**" means the agreement concluded between the Issuer and the Transfer Agent (which may be incorporated into the Agency Agreement), in terms of which the Transfer Agent agrees to provide note registry services to the Issuer;

- 1.113        "**Transfer Form**" in relation to the transfer of a Bond as contemplated in these Terms and Conditions, means a form of transfer in the usual form or in such other form approved by the Transfer Agent;
- 1.114        "**Trust Deed**" means the trust deed constituting the trust established by the Issuer for the benefit of Bondholders, called the Shoprite Bond Trust;
- 1.115        "**Trustee**" means the trustee for the time being of the Shoprite Bond Trust, which shall initially be GMG Trust Company (SA) (Proprietary) Limited, a company duly registered and incorporated in accordance with the company laws of South Africa;
- 1.116        "**VAT**" means value added tax imposed in terms of the Value-Added Tax Act, 1991, or any similar tax imposed in place thereof from time to time;
- 1.117        "**Volume Weighted Average Price**" means, in respect of an Ordinary Share, Security or, as the case may be, a Spin-Off Security on any Dealing Day, the volume-weighted average price of an Ordinary Share (based on Automated Trades (a transaction matched automatically in the JSE trading system during continuous trading) and Auction Trades (a transaction matched automatically in the JSE trading system during price determination in an auction), Security or, as the case may be, a Spin-Off Security, published by or derived (in the case of an Ordinary Share) from Bloomberg page SHP SJ EQUITY VAP or (in the case of a Security (other than Ordinary Shares) or Spin-Off Security) from the Relevant Stock Exchange or securities market on which such Securities or Spin-Off Securities are then listed or quoted or dealt in, if any or, in any such case, such other source as shall be determined to be appropriate by an Independent Financial Adviser on such Dealing Day, provided that if on any such Dealing Day such price is not available or cannot otherwise be determined as provided above, the Volume Weighted Average Price of an Ordinary Share, Security or a Spin-Off Security, as the case may be, in respect of such Dealing Day shall be the Volume Weighted Average Price, determined as provided above, on the immediately preceding Dealing Day on which the same can be so determined;
- 1.118        "**Voting Rights**" means the right generally to vote at a general meeting of Shareholders of the Issuer (irrespective of whether or not, at the time, stock of any other class or classes shall have, or might have, voting power by reason of the happening of any contingency);
- 1.119        "**Wholly Owned Subsidiary**" bears the meaning assigned thereto in the Companies Act.
- 1.120        In these Terms and Conditions:
- 1.120.1        one gender includes a reference to the others;
- 1.120.2        the singular includes the plural and *vice versa*;
- 1.120.3        natural persons include juristic persons and vice versa;

- 1.120.4 "person" means any individual, company, partnership, joint venture, association, trust, unincorporated organisation or government or any agency or political subdivision thereof;
- 1.120.5 any agreement or instrument is a reference to that agreement or instrument as amended, supplemented, varied, novated, restated or replaced from time to time, and **amended** or **amendment** will be construed accordingly;
- 1.120.6 a provision of law is a reference to that provision as amended or re-enacted, and includes any subordinate legislation;
- 1.120.7 a **regulation** includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but, if not having the force of law, being of a type with which any person to which it applies is accustomed to comply) of any governmental, inter-governmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;
- 1.120.8 **assets** includes present and future properties, revenues and rights of every description;
- 1.120.9 **disposal** means a sale, transfer, grant, lease or other disposal (whether voluntary or involuntary);
- 1.120.10 **indebtedness** includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;
- 1.120.11 an **authorisation** includes an authorisation, consent, approval, resolution, licence, exemption, filing, registration or notarisation;
- 1.120.12 days is a reference to calendar days, unless expressly stated otherwise;
- 1.120.13 a Party or any other person includes that person's permitted successor, transferee, assignee, cessionary and/or delegate;
- 1.120.14 a time of day is a reference to South African time;
- 1.120.15 if any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, effect must be given to it as if it were a substantive provision in the body of the agreement, notwithstanding that it is contained in the interpretation clause;
- 1.120.16 headings are inserted for the sake of convenience only and do not in any way affect the interpretation of these Terms and Conditions;
- 1.120.17 the use of the word **including** followed by specific examples will not be construed as limiting the meaning of the general wording preceding it, and the *eiusdem generis* rule

must not be applied in the interpretation of such general wording or such specific examples;

- 1.120.18 an accounting term not otherwise defined has the meaning assigned to it in accordance with IFRS;
- 1.120.19 references to any issue or offer or grant to Shareholders or Existing Shareholders “as a class” or “by way of rights” shall be taken to be references to an issue or offer or grant to all or substantially all Shareholders or Existing Shareholders, as the case may be, other than Shareholders or Existing Shareholders, as the case may be, to whom, by reason of the laws of any territory or requirements of any recognised regulatory body or any other stock exchange or securities market in any territory or in connection with fractional entitlements, it is determined not to make such issue or offer or grant;
- 1.120.20 in making any calculation or determination of Current Market Price or Volume Weighted Average Price, such adjustments (if any) shall be made as an Independent Financial Adviser considers appropriate to reflect any consolidation or sub-division of the Ordinary Shares or any issue of Ordinary Shares by way of capitalisation of profits or reserves, or any like or similar event;
- 1.120.21 for the purposes of Conditions 9.2, 9.3 and 9.8 and Condition 14 only, (a) references to the “*issue*” of Ordinary Shares shall include the transfer and/or delivery of Ordinary Shares, whether newly issued and allotted or previously existing or held by or on behalf of the Parent Guarantor or any of its Subsidiaries, and (b) Ordinary Shares held by or on behalf of the Parent Guarantor or any of its respective Subsidiaries (and which, in the case of Condition 9.2(a)(iv) and 9.2(a)(vi), do not rank for the relevant right or other entitlement) shall not be considered as or treated as “*in issue*”.

## 2. **Issue**

An aggregate Principal Amount of ZAR4, 700, 000, 000 Bonds were issued by the Issuer.

## 3. **Form and Denomination**

- 3.1 The Bonds are fixed rate senior unsecured guaranteed convertible Bonds with a minimum denomination on the Issue Date of ZAR1, 000, 000 each.
- 3.2 The Bonds will be issued in the form of registered Bonds, represented by (i) Certificates registered in the name, and for the account of, the relevant Bondholder or (ii) no Certificate, and held in uncertificated form in the Central Securities Depository in terms of section 37 of the Securities Services Act, and registered in the name, and for the account of, the Central Securities Depository's Nominee. The Central Securities Depository will hold the Bonds subject to the Securities Services Act and the Applicable Procedures.

#### 4. **Title**

- 4.1 Title to the Bonds will pass upon registration of transfer in the Register in accordance with Condition 16. The Issuer and the Transfer Agent shall recognise a Bondholder as the sole and absolute owner of the Bonds registered in that Bondholder's name in the Register (notwithstanding any notice of ownership or writing thereon or notice of any previous loss or theft thereof) and shall not be bound to enter any trust in the Register or to take notice of or to accede to the execution of any trust, express, implied or constructive, to which any Bond may be subject.
- 4.2 Beneficial Interests in Bonds held in uncertificated form may in terms of existing law and practice, be transferred through the Central Securities Depository by way of book entry in the securities accounts of Participants. Such transfers will not be recorded in the Register and the Central Securities Depository's Nominee will continue to be reflected in the Register as the Bondholder in respect of the Bonds held in uncertificated form, notwithstanding such transfers.
- 4.3 Any reference in these Terms and Conditions to the relevant Participant shall, in respect of Beneficial Interests, be a reference to the Participant appointed to act as such by a holder of such Beneficial Interest.

#### 5. **Status of Bonds**

The Bonds constitute direct, unconditional, unsubordinated and (subject to Condition 6) unsecured obligations of the Issuer and will rank equally among themselves and at least equally with all other existing and future unsecured and unsubordinated obligations of the Issuer, save for such obligations as may be preferred by provisions of law that are both mandatory and of general application.

#### 6. **Negative Pledge**

- 6.1 So long as any of the Bonds remain outstanding, neither the Issuer nor the Guarantors shall and shall procure that no Material Subsidiary shall, create or permit to subsist any Security Interest upon the whole or any part of its present or future property or assets (including any uncalled capital) to secure any Relevant Indebtedness or to secure any guarantee of or indemnity in respect of any Relevant Indebtedness, unless in any such case, before or at the same time as the creation of the Security Interest, any and all action necessary shall have been taken to the satisfaction of the Trustee to ensure that:
- 6.1.1 all amounts payable by the Issuer or the Guarantors, as the case may be, under the Bonds and the Trust Deed are secured equally and rateably with the Relevant Indebtedness or guarantee or indemnity, as the case may be, to the satisfaction of the Trustee; or
- 6.1.2 such other Security Interest or guarantee or other arrangement (whether or not including the giving of a Security Interest) is provided in respect of all amounts payable



by the Issuer under the Bonds and the Trust Deed either (i) as the Trustee shall in its absolute discretion deem not materially less beneficial to the interests of the Bondholders or (ii) as shall be approved by an Extraordinary Resolution of the Bondholders.

- 6.2 The provisions set out in Condition 6.1 shall not apply to:
- 6.2.1 any Security Interest of the Guarantors, the Issuer or any other Material Subsidiary in existence at the date of signature of the Terms and Conditions;
  - 6.2.2 any Security Interest created over any asset owned, acquired, purchased, developed or constructed by the Guarantors, the Issuer or any other Material Subsidiary after the Issue Date (including any Security Interest over the shares or other ownership interests in, or securities of, any company or other person, acquired or subscribed for by the Guarantors, the Issuer or other Material Subsidiary, after the Issue Date, or the assets of such other company or person) if such Security Interest was created for the sole purpose of financing or refinancing that asset by the the Guarantors, the Issuer or any other Material Subsidiary; provided that the Indebtedness so secured shall not exceed the *bona fide* arm's length market value (on or about the date of creation of such Security Interest) of that asset or the cost of the acquisition, purchase, development or construction of that asset by the Guarantors, the Issuer or the relevant Material Subsidiary (including all interest and other finance charges, adjustments due to changes in circumstances and other charges reasonably incidental to such cost, whether contingent or otherwise) and where such market value and such cost both apply, the higher of the two;
  - 6.2.3 any Security Interest created over or with respect to any netting or set-off arrangement entered into by the Guarantors, the Issuer or any other Material Subsidiary in the ordinary course of its banking arrangements for the purposes of netting debit and credit balances;
  - 6.2.4 any statutory Security Interest or Security Interest created by operation of law in the ordinary course of the business of the Guarantors, the Issuer or any other Material Subsidiary;
  - 6.2.5 any Security Interest over or affecting any asset acquired by the Issuer or any other Material Subsidiary after the date of signature of the Terms and Conditions, if:
    - 6.2.5.1 the asset was subject to that Security Interest prior to the date of acquisition of that asset and the Security Interest was not created in contemplation of the acquisition of that asset by the Guarantors, the Issuer or that other Material Subsidiary, as the case may be; and
    - 6.2.5.2 the principal amount secured has not increased in contemplation of or since the acquisition of that asset by the Guarantors, the Issuer or that other Material Subsidiary, as the case may be;

- 6.2.6 in respect of any Material Subsidiary which becomes a member of the Group after the Issue Date, any Security Interest over or affecting any asset of that Material Subsidiary if:
- 6.2.6.1 the asset was subject to the Security Interest prior to the date of the Material Subsidiary becoming a member of the Group and the Security Interest was not created in contemplation of or in connection with the Material Subsidiary becoming a member of the Group; and
- 6.2.6.2 the principal amount secured has not increased in contemplation of or since the Material Subsidiary becoming a member of the Group;
- 6.2.7 any Security Interest arising in the ordinary course of trade of the Guarantors, the Issuer or any other Material Subsidiary and securing amounts that are not more than 60 days overdue;
- 6.2.8 any extension or renewal of any Security Interest contemplated in Conditions 6.2.1 to 6.2.8 inclusive provided that the amount of such Security Interest is not increased; or
- 6.2.9 any Security Interest securing indebtedness the amount of which (when aggregated with the amount of any other indebtedness which has the benefit of a Security Interest not allowed under the preceding sub-paragraphs) does not exceed ZAR500, 000, 000 or its equivalent in another currency at any time.

## 7. Guarantees

- 7.1 In accordance with the terms of the Guarantees, each Guarantor has irrevocably and unconditionally, on a joint and several basis, guaranteed to the Trustee for the benefit of the Bondholders the due and punctual payment by the Issuer and the Parent Guarantor of all amounts owing by the Issuer and the Parent Guarantor in respect of the Bonds and the Trust Deed. The Parent Guarantee is subject to, and conditional upon, a general meeting of Shareholders of the Parent Guarantor passing such resolutions as are required for the grant of such Parent Guarantee by the Parent Guarantor. The Parent Guarantor has undertaken pursuant to the Trust Deed to use its best endeavours to convene a meeting of Shareholders for the purpose of considering and if thought fit, passing such resolutions by not later than 30 June 2012. However unless and until such resolutions are passed, the Guarantee from the Parent Guarantor will not come into effect and Bondholders will have no rights against the Parent Guarantor thereunder. The failure to pass such resolutions will not constitute an event of default under the bonds.
- 7.2 Each Guarantor is required to make any payment under the Parent Guarantee or the Subsidiary Guarantee, as the case may be, by no later than 3 (three) Business Days after receipt of a written demand from the Trustee under and in terms of the Parent Guarantee or the Subsidiary Guarantee, as the case may be. All payments under the Guarantees will *pro tanto* discharge the Issuer of its corresponding obligations to the Bondholders under the Bonds.

7.3 Each Guarantee will be deposited with, and be held by, the Trustee until the date on which all of the obligations of the Issuer and each Guarantor under or in respect of the Bonds have been discharged in full.

7.4 Each Bondholder shall be entitled to require the Trustee to make the original of the Guarantees available for inspection at the Specified Office of the Trustee on request and further shall be entitled to require the Trustee, which shall be obliged, to provide a copy of the Guarantees to that Bondholder on request at the Specified Office of the Trustee. In holding the Guarantees, the Trustee does not act in any fiduciary or similar capacity for the Bondholders and it has not accepted any liability, duty or responsibility to Bondholders in this regard.

## **8. Interest**

### **8.1 Interest on Bonds**

#### **8.1.1 Interest Rate**

Each Bond will bear interest on its Principal Amount, at the rates per annum equal to the Interest Rate, from and including the Interest Commencement Date.

#### **8.1.2 Interest Payment Dates**

The interest due in respect of each Interest Period will be payable in arrear on the Interest Payment Date in respect of such Interest Period. The first payment of interest will be made on the Interest Payment Date following the Interest Commencement Date. If any Interest Payment Date falls upon a day which is not a Business Day, the provisions of Condition 11.3 shall determine the date of payment of interest due upon such Interest Payment Date.

#### **8.1.3 Calculation of Interest Amount**

The Calculation Agent will calculate the Interest Amount payable in respect of each Bond for each Interest Period. The Interest Amount for half yearly interest payments shall be calculated by multiplying the Interest Rate by the Principal Amount of the Bond and then dividing such product by 2 (the resultant sum will be rounded to the nearest cent, half a cent being rounded upwards), provided that the first Interest Amount shall equal ZAR32,767.12 for each ZAR1,000,000 of Principal Amount of the Bonds. If interest is required to be calculated for a period of other than 6 months (in the case of semi-annual interest payments), such interest shall be calculated on the basis of a 365 day year and the actual number of days elapsed in such period.

### **8.2 Accrual of Interest**

Each Bond will cease to bear interest:

8.2.1 where the Conversion Right shall have been exercised by a Bondholder, from the Interest Payment Date immediately preceding the relevant Conversion Date (subject in any such case as provided in Condition 9.10); or

8.2.2 where such Bond is redeemed or repaid pursuant to Condition 10 or Condition 13, from the due date for redemption or repayment thereof unless, upon due presentation thereof, payment of principal is improperly withheld or refused, in which event interest will continue to accrue at the rate specified in Condition 8.1.1 (both before and after judgment) on the amounts due in terms of such Bond until the day on which such sums due are received by or on behalf of the relevant holder.

### 8.3 **Publication of Interest Amount by the Calculation Agent**

The Calculation Agent will, in relation to the Bonds, at least 2 Business Days before each Interest Payment Date, cause the aggregate Interest Amount payable for the relevant Interest Period in respect of the Bonds to be notified to the Bondholders (in the manner set out in Condition 18), the Issuer and the JSE (if the Bonds are listed).

### 8.4 **Calculations final and limitation of liability**

All certificates, communications, opinions, determinations, calculations, quotations and decisions given, expressed, made or obtained by the Calculation Agent pursuant to the exercise or non-exercise by it of its powers, duties and discretions under these Terms and Conditions, will, in the absence of wilful deceit, negligence, bad faith, or manifest error, be binding on the Issuer, the Guarantors and the Bondholders, and the Calculation Agent will not have any liability to the Issuer, the Guarantors or the Bondholders in connection therewith.

## 9. **Conversion of Bonds**

### 9.1 **Conversion Period and Conversion Price**

- (a) Subject to the provisions of Condition 9.14 and as otherwise provided in these Terms and Conditions, each Bond shall entitle the holder to convert such Bond into new and/or existing, as determined by the Issuer, Ordinary Shares credited as fully paid (a "**Conversion Right**").
- (b) Subject to the provisions of Condition 9.14, the number of Ordinary Shares to be issued or transferred and delivered on exercise of a Conversion Right shall be determined by dividing the Principal Amount of the Bonds to be converted by the conversion price (the "**Conversion Price**") in effect on the relevant Conversion Date.
- (c) The Conversion Price as at the Issue Date is the Base Conversion Price. The Conversion Price is subject to adjustment in the circumstances described in Condition 9.2.

- (d) A Bondholder may exercise the Conversion Right in respect of a Bond that has not already been redeemed or repurchased and cancelled by delivering the certificate, if any, in respect of such Bond to the Specified Office of the Conversion Agent in accordance with Condition 9.8 whereupon the Issuer shall (subject as provided in these Terms and Conditions) procure the delivery, to or as directed by the relevant Bondholder, of Ordinary Shares credited as paid up in full as provided in this Condition 9.
- (e) Subject to and as provided in these Terms and Conditions, the Conversion Right in respect of a Bond may be exercised, at the option of the holder thereof, at any time (subject to any applicable fiscal or other laws or regulations and as hereinafter provided) from 14 May 2012 to the close of business (at the place where the relevant Bond is delivered for conversion) on the date falling 10 days prior to the Final Redemption Date (both days inclusive) or, if such Bond is to be redeemed pursuant to Condition 10.2 or 10.3 prior to the Final Redemption Date, then up to the close of business (at the place aforesaid) on the 10<sup>th</sup> day before the date fixed for redemption thereof pursuant to Condition 10.2 or 10.3, unless there shall be a default in making payment in respect of such Bond on such date fixed for redemption, in which event the Conversion Right shall extend up to the close of business (at the place aforesaid) on the date on which the full amount of such payment becomes available for payment and notice of such availability has been duly given in accordance with Condition 19 or, if earlier, the Final Redemption Date; provided that, in each case, if the final such date for the exercise of Conversion Rights is not a Business Day, then the period for exercise of Conversion Rights by Bondholders shall end on the immediately preceding Business Day.
- (f) Conversion Rights may not be exercised (i) following the giving of notice by the Trustee pursuant to Condition 13 or (ii) in respect of a Bond in respect of which the relevant Bondholder has exercised its right to require the Issuer to redeem pursuant to Condition 10.4.
- (g) Save where a notice of redemption is given by the Issuer in the circumstances provided in Condition 9.10, Conversion Rights may not be exercised by a Bondholder in circumstances where the relevant Conversion Date would fall during the period commencing on the Last Day to Register in respect of any payment of interest on the Bonds and ending on the relevant Interest Payment Date (both days inclusive).
- (h) The period during which Conversion Rights may (subject as provided below) be exercised by a Bondholder is referred to as the “**Conversion Period**”.
- (i) Conversion Rights may only be exercised in respect of the whole of a Bond.
- (j) Fractions of Ordinary Shares will not be issued or transferred and delivered on conversion or pursuant to Condition 9.3 and no cash payment or other adjustment will be made *in lieu* thereof. Any fractions of Ordinary Shares will be rounded down to the nearest. However, if the Conversion Right in respect of more than one Bond is exercised at any one time such that Ordinary Shares to be delivered on conversion or

pursuant to Condition 9.3 are to be registered in the same name, the number of such Ordinary Shares to be delivered in respect thereof shall be calculated on the basis of the aggregate Principal Amount of such Bonds being so converted and rounded down to the nearest whole number of Ordinary Shares.

- (k) The Issuer will procure that Ordinary Shares to be issued or transferred and delivered on conversion will be issued or transferred and delivered to the holder of the Bonds completing the relevant Conversion Notice or his nominee. Any Additional Ordinary Shares to be issued or transferred and delivered pursuant to Condition 9.3 will be deemed to be issued or delivered as of the relevant Reference Date.

## 9.2 **Adjustment of Conversion Price**

- (a) Upon the happening of any of the events described below, the Conversion Price shall be adjusted as follows:
- (i) If and whenever there shall be a consolidation, reclassification or subdivision in relation to the Ordinary Shares, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to such consolidation, reclassification or subdivision by the following fraction:

$$\frac{A}{B}$$

where:

- A is the aggregate number of Ordinary Shares in issue immediately before such consolidation, reclassification or subdivision, as the case may be; and
- B is the aggregate number of Ordinary Shares in issue immediately after, and as a result of, such consolidation, reclassification or subdivision, as the case may be.

Such adjustment shall become effective on the date the consolidation, reclassification or subdivision, as the case may be, takes effect.

- (ii) If and whenever the Parent Guarantor shall issue any Ordinary Shares credited as fully paid to the Shareholders by way of capitalisation of profits or reserves (including any, share premium account or capital redemption reserve) other than (1) where any such Ordinary Shares are or are to be issued instead of the whole or part of a Dividend in cash which the Shareholders would or could otherwise have elected to receive or (2) where the Shareholders may elect to receive a Dividend in cash in lieu of such Ordinary Shares, or (3) where any such Ordinary Shares are or are expressed to be issued in lieu of a Dividend (whether or not a cash Dividend equivalent or amount is announced or would otherwise be payable to Shareholders, whether at their election or otherwise), the Conversion Price shall be adjusted

by multiplying the Conversion Price in force immediately prior to such issue by the following fraction:

$$\frac{A}{B}$$

where:

A is the aggregate number of Ordinary Shares in issue immediately before such issue; and

B is the aggregate number of Ordinary Shares in issue immediately after such issue.

Such adjustment shall become effective on the date of issue of such Ordinary Shares.

- (iii) (A) If and whenever the Parent Guarantor shall pay or make any Capital Distribution to the Shareholders, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to the Effective Date by the following fraction:

$$\frac{A - B}{A}$$

where:

A is the Current Market Price of one Ordinary Share on the Dealing Day immediately preceding the Effective Date; and

B is the portion of the Fair Market Value of the aggregate Capital Distribution attributable to one Ordinary Share, with such portion being determined by dividing the Fair Market Value of the aggregate Capital Distribution by the number of Ordinary Shares entitled to receive the relevant Capital Distribution (or, in the case of a purchase, redemption or buy back of Ordinary Shares or any depositary or other receipts or certificates representing Ordinary Shares by or on behalf of the Issuer or any Subsidiary of the Issuer, by the number of Ordinary Shares in issue immediately following such purchase, redemption or buy back).

Such adjustment shall become effective on the Effective Date or, if later, the first date upon which the Fair Market Value of the relevant Capital Distribution is capable of being determined as provided herein.

As used in this paragraph (iii)(A):

“**Effective Date**” means in respect of this paragraph (iii)(A), the first date on which the Ordinary Shares are traded ex- the relevant Dividend on the Relevant Stock Exchange or, in the case of a purchase, redemption or buy back of Ordinary Shares or any depositary or other receipts or certificates

representing Ordinary Shares, the date on which such purchase, redemption or buy back is made or in the case of a Spin-Off, the first date on which the Ordinary Shares are traded ex- the relevant Spin-Off on the Relevant Stock Exchange.

- (i) “**Capital Distribution**” means any Non-Cash Dividend.
- (ii) “**Non-Cash Dividend**” means any Dividend which is not a Cash Dividend, and shall include a Spin-Off.

A) If and whenever the Parent Guarantor shall pay any Extraordinary Dividends to the Shareholders, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to the Effective Date by the following fraction:

$$\frac{A - B}{A - C}$$

where:

- A is the Current Market Price of one Ordinary Share on the Effective Date;
- B is the portion of the Fair Market Value of the aggregate Extraordinary Dividend attributable to one Ordinary Share, with such portion being determined by dividing the Fair Market Value of the aggregate Extraordinary Dividend by the number of Ordinary Shares entitled to receive the Relevant Dividend; and
- C is the amount (if any) by which the Threshold Amount in respect of the Relevant Financial Year exceeds an amount equal to the aggregate of the Fair Market Values of any previous Cash Dividends per Ordinary Share paid or made in respect of such Relevant Financial Year (where C shall be zero if such previous Cash Dividends per Ordinary Share are equal to, or exceed, the Threshold Amount in respect of such Relevant Financial Year). For the avoidance of doubt “C” shall equal the Threshold Amount in respect of the Relevant Financial Year where no previous Cash Dividends per Ordinary Share have been paid or made in respect of such Relevant Financial Year.

Such adjustment shall become effective on the Effective Date or, if later, the first date upon which the Fair Market Value of the relevant Extraordinary Dividend can be determined.



“**Effective Date**” means, in respect of this paragraph (iii)(B), the first date on which the Ordinary Shares are traded ex-the Relevant Dividend on the Relevant Stock Exchange.

“**Extraordinary Dividend**” means any Cash Dividend (the “**Relevant Dividend**”) paid or made in respect of a financial year of the Parent Guarantor (the “**Relevant Financial Year**”), if (a) the Fair Market Value of the Relevant Dividend per Ordinary Share or (b) the sum of (i) the Fair Market Value of the Relevant Dividend per Ordinary Share and (ii) an amount equal to the aggregate of the Fair Market Value or Values of any other Cash Dividend or Cash Dividends per Ordinary Share paid or made in respect of the Relevant Financial Year, exceeds the Threshold Amount in respect of such Relevant Financial Year, and in that case the Extraordinary Dividend shall be the Relevant Dividend. “**Threshold Amount**” means in respect of any Relevant Financial Year, the amount per Ordinary Share corresponding to the financial year set out below (adjusted pro rata for any adjustments to the Conversion Price made pursuant to the provisions of this Condition 9.2(a), including this sub-paragraph (iii)).

**Threshold  
Amount (ZAR)**

In respect of the financial year ending:

30 June 2012	ZAR3.04
30 June 2013	ZAR3.49
30 June 2014	ZAR4.02
30 June 2015	ZAR4.62
30 June 2016	ZAR5.31
30 June 2017	ZAR2.12

“**Cash Dividend**” means (i) any Dividend which is to be paid or made in cash (in whatever currency), but other than falling within paragraph (b) of the definition of “**Spin-Off**” and (ii) any Dividend determined to be a Cash Dividend pursuant to paragraph (a) of the definition of “**Dividend**”, and for the avoidance of doubt, a Dividend falling within paragraph (c) or (d) of the definition of “**Dividend**” shall be treated as being a Non-Cash Dividend.

- (C) For the purposes of the above, Fair Market Value shall (subject as provided in paragraph (a) of the definition of “**Dividend**” and in the definition of “**Fair Market Value**”) be determined as at the Effective Date.
- (D) In making any calculations for the purposes of this 9.2(a)(iii), such adjustments (if any) shall be made as an Independent Financial Adviser may determine in good faith to be appropriate to reflect (i) any consolidation or sub-division of any Ordinary Shares or the issue of Ordinary Shares by way of capitalisation of profits or reserves (or any like or similar event) or any increase in the number of Ordinary Shares in issue in relation to the financial year of the Issuer in question, or (ii) any

change in the financial year of the Issuer, or (iii) any adjustment to the Conversion Price made in financial year of the Issuer in question.

- (iv) If and whenever the Parent Guarantor shall issue Ordinary Shares to Shareholders as a class by way of rights or issue or grant to Shareholders as a class by way of rights, options, warrants or other rights to subscribe for or purchase any Ordinary Shares, in each case at a price per Ordinary Share which is less than 95% of the Current Market Price per Ordinary Share on the Effective Date, the Conversion Price shall be adjusted by multiplying the Conversion Price in force on the Dealing Day immediately prior to the Effective Date by the following fraction:

$$\frac{A + B}{A + C}$$

where:

- A is the number of Ordinary Shares in issue on the Dealing Day immediately preceding the Effective Date; and
- B is the number of Ordinary Shares, which is the aggregate consideration (if any) receivable for the Ordinary Shares issued by way of rights, or for the options or warrants or other rights issued by way of rights and for the total number of Ordinary Shares deliverable on the exercise thereof, would purchase at such Current Market Price per Ordinary Share; and
- C is the number of Ordinary Shares to be issued or, as the case may be, the maximum number of Ordinary Shares to be issued which may be issued upon exercise of such options, warrants or rights calculated as at the date of issue of such options, warrants or rights.

Such adjustment shall become effective on the Effective Date. For the purpose of this Condition 9.2(a)(iv), “**Effective Date**” means the first date on which the Ordinary Shares are traded ex-rights, ex-options, or ex-warrants on the Relevant Stock Exchange.

- (v) If and whenever the Parent Guarantor shall issue any Securities (other than Ordinary Shares or options, warrants or other rights to subscribe for or purchase any Ordinary Shares) to Shareholders as a class by way of rights or grant to Shareholders as a class by way of rights any options, warrants or other right to subscribe for or purchase any Securities (other than Ordinary Shares or options, warrants or other rights to subscribe for or purchase Ordinary Shares), the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to the Effective Date by the following fraction:

$$\frac{A - B}{A}$$

where:

- A is the Current Market Price of one Ordinary Share immediately preceding the Effective Date; and
- B is the Fair Market Value on the Effective Date of the portion of the rights attributable to one Ordinary Share.

Such adjustment shall become effective on the Effective Date.

For the purposes of this Condition 9.2(a)(v) “**Effective Date**” means the first date on which the Ordinary Shares are traded ex-the relevant securities or ex-rights, ex-option or ex-warrants on the Relevant Stock Exchange.

- (vi) If and whenever the Parent Guarantor shall issue (otherwise than as mentioned in Condition 9.2(a)(iv) above) wholly for cash or for no consideration any Ordinary Shares (other than Ordinary Shares issued on conversion of the Bonds or on the exercise of any rights of conversion into, or exchange or subscription for or purchase of Ordinary Shares) or issue or grant (otherwise than as mentioned in Condition 9.2(a)(iv) above) wholly for cash or for no consideration any options, warrants or other right to subscribe for or purchase any Ordinary Shares (other than the Bonds) in each case at a price per Ordinary Share which is less than 95% of the Current Market Price per Ordinary Share on (or, if that is not a Dealing Day, the immediately preceding Dealing Day) the date of the first public announcement of the terms of such issue or grant, the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to such issue or grant by the following fraction:

$$\frac{A + B}{A + C}$$

where:

- A is the number of Ordinary Shares in issue immediately before the issue of such Ordinary Shares or the grant of such options, warrants or rights; and
- B is the number of Ordinary Shares, which is the aggregate consideration (if any) receivable for the issue of such Ordinary Shares or, as the case may be, for the Ordinary Shares to be issued or otherwise made available upon the exercise of any such options, warrants or rights, would purchase at such Current Market Price per Ordinary Share; and
- C is the number of Ordinary Shares to be issued pursuant to such

issue of such Ordinary Shares or, as the case may be, the maximum number of Ordinary Shares which may be issued upon exercise of such options, warrants or rights calculated as at the date of issue of such options, warrants or rights.

Such adjustment shall become effective on the date of issue of such Ordinary Shares or, as the case may be, the grant of such options, warrants or rights.

- (vii) If and whenever the Parent Guarantor or any Subsidiary of the Parent Guarantor or (at the direction or request of or pursuant to any arrangements with the Issuer or any Subsidiary of the Issuer) any other company, person or entity (otherwise than as mentioned in Conditions 9.2(a)(iv), 9.2(a)(v) or 9.2(a)(vi) above) shall issue wholly for cash or for no consideration any Securities (other than the Bonds), which by their terms of issue carry (directly or indirectly) rights of conversion into or exchange or subscription for, Ordinary Shares (or shall grant any such rights in respect of existing Securities so issued) or Securities which by their terms might be redesignated as Ordinary Shares, and the consideration per Ordinary Share receivable upon conversion, exchange, subscription or redesignation is less than 95% of the Current Market Price per Ordinary Share on the date of the first public announcement of the terms of issue of such Securities (or the terms of such grant) (or, if that day is not a Dealing Day, the immediately preceding Dealing Day), the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to such issue (or grants) by the following fraction:

$$\frac{A + B}{A + C}$$

where:

- A is the number of Ordinary Shares in issue immediately before such issue or grant (but where the Relevant Securities carry rights of conversion into or rights of exchange or subscription for Ordinary Shares which have been issued, purchased or acquired by the Parent Guarantor or any Subsidiary of the Parent Guarantor (or at the direction or request or pursuant to any arrangement with the Parent Guarantor or any Subsidiary of the Issuer) for the purposes of or in connection with such issue, less the number of such Ordinary Shares so issued, purchased or acquired); and
- B is the number of Ordinary Shares, which is the aggregate consideration (if any) receivable for the Ordinary Shares to be issued or otherwise made available upon conversion or exchange or upon the exercise of the right of subscription attached to such Securities or, as the case may be, for the Ordinary Shares to be issued or to arise from any such redesignation would purchase at

such Current Market Price per Ordinary Share; and

C is the maximum number of Ordinary Shares to be issued or otherwise made available upon conversion or exchange of such Securities or upon the exercise of such right of subscription attached thereto at the initial conversion, exchange or subscription price or rate or, as the case may be, the maximum number of Ordinary Shares which may be issued or arise from any such redesignation,

provided that if at the time of issue of the relevant Securities or date of grant of such rights (as used in this Condition 9.2(a)(vii) the “**Specified Date**” such number of Ordinary Shares is to be determined by reference to the application of a formula or other variable feature or the occurrence of any event at some subsequent time (which may be when such Securities are converted or exchanged or rights of subscription are exercised or, as the case may be, such Securities are redesignated or at such other time as may be provided) then, for the purposes of this Condition 9.2(a)(vii), “C” shall be determined by the application of such formula or variable feature or as if the relevant event occurs or had occurred as at the Specified Date and if such conversion, exchange, subscription, purchase or acquisition or, as the case may be, redesignation had taken place on the Specified Date.

Such adjustment shall become effective on the date of issue of such Securities or, as the case may be, the grant of such rights.

(viii) If and whenever there shall be any modification of the rights of conversion, exchange, subscription, purchase or acquisition attaching to any such Securities (other than the Bonds) as are mentioned in Condition 9.2(a)(vii) above (other than in accordance with the terms (including terms as to adjustment) applicable to such Securities upon issue) so that following such modification the consideration per Ordinary Share receivable has been reduced and is less than 95% of the Current Market Price per Ordinary Share on the date of the first public announcement of the proposals for such modification (or, if that is not a Dealing Day, the immediately preceding Dealing Day), the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately prior to such modification by the following fraction:

$$\frac{A+B}{A+C}$$

where:

A is the number of Ordinary Shares in issue immediately before such modification (but where the relevant Securities carry rights of conversion into or rights of exchange or subscription for Ordinary

Shares which have been issued, purchased or acquired by the Parent Guarantor or any Subsidiary of the Parent Guarantor (or at the direction or request or pursuant to any arrangements with the Parent Guarantor or any Subsidiary of the Parent Guarantor) for the purposes of or in connection with such issue, less the number of such Ordinary Shares so issued, purchased or acquired);

- B is the number of Ordinary Shares which the aggregate consideration (if any) receivable for the Ordinary Shares to be issued or otherwise made available upon conversion or exchange or upon exercise of the right of subscription attached to the Securities so modified would purchase at such Current Market Price per Ordinary Share or, if lower, the existing conversion, exchange or subscription price of such Securities; and
- C is the maximum number of Ordinary Shares which may be issued or otherwise made available upon conversion or exchange of such Securities or upon the exercise of such rights of subscription attached thereto at the modified conversion, exchange or subscription price or rate but giving credit in such manner as an Independent Financial Adviser shall consider appropriate for any previous adjustment under this sub-paragraph or sub-paragraph (b)(vii) above;

provided that if at the time of such modification (as used in this Condition 9.2(a)(viii) the “**Specified Date**”) such number of Ordinary Shares is to be determined by reference to the application of a formula or other variable feature or the occurrence of any event at some subsequent time (which may be when such Securities are converted or exchanged or rights of subscription are exercised or at such other time as may be provided) then for the purposes of this Condition 9.2(a)(viii), “C” shall be determined by the application of such formula or variable feature or as if the relevant event occurs or had occurred as at the Specified Date and as if such conversion, exchange or subscription had taken place on the Specified Date.

Such adjustment shall become effective on the date of modification of the rights of conversion, exchange or subscription attaching to such Securities.

- (ix) If and whenever the Parent Guarantor or any Subsidiary of the Parent Guarantor or (at the direction or request of or pursuant to any arrangements with the Parent Guarantor or any Subsidiary of the Parent Guarantor) any other company, person or entity shall offer any Securities in connection with which Shareholders as a class are entitled to participate in arrangements whereby such Securities may be acquired by them (except where the Conversion Price falls to be adjusted under Conditions 9.2(a)(ii), 9.2(a)(iii), 9.2(a)(iv), 9.2(a)(vi) or 9.2(a)(vii) above or 9.2(a)(x) below (or would fall to be so adjusted if the relevant issue or grant was at less than 95% of the Current

Market Price per Ordinary Share on the relevant Dealing Day) or under Condition 9.2(a)(v) above) the Conversion Price shall be adjusted by multiplying the Conversion Price in force immediately before the making of such offer by the following fraction:

$$\frac{A-B}{A}$$

where:

- A is the Current Market Price of one Ordinary Share on the Dealing Day immediately preceding the date on which the terms of such offer are first publicly announced (or, if such date is not a Dealing Day, the immediately preceding Dealing Day); and
- B is the Fair Market Value on the date of such announcement (or, if that is not a Dealing Day, the immediately preceding Dealing Day) of the portion of the relevant offer attributable to one Ordinary Share.

Such adjustment shall become effective on the first date on which the Ordinary Shares are traded ex-rights on the Relevant Stock Exchange.

- (x) If any of the events referred to in (A), (B), (C) or (D) below occur (each such event being a "Change of Control"):
  - (A) an offer is made to all (or as nearly as may be practicable all) Shareholders (or all (or as nearly as may be practicable all) such Shareholders other than the offeror and/or any parties acting in concert (as defined in Section 117 of the Companies Act) with the offeror), to acquire all or a majority of the issued ordinary share capital of the Issuer or the Parent Guarantor or the Subsidiary Guarantor or if any person proposes a scheme with regard to such acquisition (other than an Exempt Newco Scheme) and (such offer or scheme having become or been declared unconditional in all respects) the right to cast more than 50 per cent. of the votes which may ordinarily be cast on a poll at a general meeting of the Issuer or the Parent Guarantor or the Subsidiary Guarantor has or will become unconditionally vested in the offeror and/or any such parties as aforesaid; or
  - (B) any person and/or parties acting in concert (defined as aforesaid) (other than a Current Major Shareholder) shall own, acquire or control (or have the right to own, acquire or control) more than 50 per cent. of the issued ordinary share capital of the Issuer or the Parent Guarantor or the Subsidiary Guarantor or the right to cast more than 50 per cent. of the votes which may ordinarily be cast on a poll at a general meeting of the Issuer or the Parent Guarantor or the Subsidiary Guarantor; or

- (C) a Current Major Shareholder and/or parties acting in concert (defined as aforesaid) shall own, acquire or control (or have the right to own, acquire or control) more than 60 per cent. of the issued ordinary share capital of the Issuer or the Parent Guarantor or the Subsidiary Guarantor or the right to cast more than 60 per cent. of the votes which may ordinarily be cast on a poll at a general meeting of the Issuer or the Parent Guarantor or the Subsidiary Guarantor; or
- (D) an event that occurs which has a like or similar effect to (A) or (B) above,

then upon any exercise of Conversion Rights during the Change of Control Period, the Conversion Price (the “**Change of Control Conversion Price**”) shall be determined as set out below:

$$\text{COCCP} = \text{OCP} / (1 + (\text{CP} \times c/t))$$

where:

- COCCP = means the Change of Control Conversion Price;
- OCP = means the Conversion Price in effect on the relevant Conversion Date;
- CP = means 32.5 per cent. (expressed as fraction);
- c = means the number of days from and including the date the Change of Control occurs to but excluding the Final Redemption Date
- t = means the number of days from and including the Closing Date to but excluding the Final Redemption Date.

“**Current Major Shareholder**” means any person(s) or entity(ies) who act in concert who at the Issue Date, directly or indirectly, own or control more than 25 per cent. of the issued ordinary share capital of the Issuer or the Parent Guarantor or the Subsidiary Guarantor or have the right to cast more than 25 per cent. of the votes which may ordinarily be cast on a poll at a general meeting of the Issuer or the Parent Guarantor or the Subsidiary Guarantor;

- (xi) If the Parent Guarantor determines that an adjustment should be made to the Conversion Price as a result of one or more circumstances not referred to above in this Condition 9.2) (even if the relevant circumstance is specifically excluded from the operation of Conditions 9.2(a)(i) to (x) above), the Parent Guarantor shall, at its own expense and acting reasonably, request an Independent Financial Adviser to determine as soon as practicable what adjustment (if any) to the Conversion Price is fair and reasonable to take account thereof and the date on which such adjustment (if any) should take effect and upon such determination such adjustment (if any) shall be made and shall take effect in accordance with such determination, provided that an



adjustment shall only be made pursuant to this Condition 9.2(a)(xi) if such Independent Financial Adviser is so requested to make such a determination not more than 21 days after the date on which the relevant circumstance arises and if the adjustment would result in a reduction to the Conversion Price.

- (b) Notwithstanding the foregoing provisions, where the events or circumstances giving rise to any adjustment pursuant to this Condition 9.2 have already resulted or will result in an adjustment to the Conversion Price or where the events or circumstances giving rise to any adjustment arise by virtue of any other events or circumstances which have already given or will give rise to an adjustment to the Conversion Price or where more than one event which gives rise to an adjustment to the Conversion Price occurs within such a short period of time that, in the opinion of the Issuer, a modification to the operation of the adjustment provisions is required to give the intended result, such modification shall be made to the operation of the adjustment provisions as may be advised by an Independent Financial Adviser to be in its opinion appropriate to give the intended result.
- (c) For the purpose of any calculation of the consideration receivable or price pursuant to Conditions 9.2(a)(iv), (vi), (vii) and (viii), the following provisions shall apply:
  - (i) the aggregate consideration receivable or price for Ordinary Shares issued for cash shall be the amount of such cash;
  - (ii) (x) the aggregate consideration receivable or price for Ordinary Shares to be issued or otherwise made available upon the conversion or exchange of any Securities shall be deemed to be the consideration or price received or receivable for any such Securities and (y) the aggregate consideration receivable or price for Ordinary Shares to be issued or otherwise made available upon the exercise of rights of subscription attached to any Securities or upon the exercise of any options, warrants or rights shall be deemed to be that part (which may be the whole) of the consideration or price received or receivable for such Securities or, as the case may be, for such options, warrants or rights which are attributed by the Parent Guarantor to such rights of subscription or, as the case may be, such options, warrants or rights or, if no part of such consideration or price is so attributed, the Fair Market Value of such rights of subscription or, as the case may be, such options, warrants or rights as at the date of the first public announcement of the terms of issue of such Securities or, as the case may be, such options, warrants or rights, plus in the case of each of (x) and (y) above, the additional minimum consideration receivable or price (if any) upon the conversion or exchange of such Securities, or upon the exercise of such rights or subscription attached thereto or, as the case may be, upon exercise of such options, warrants or rights and (z) the consideration receivable or price per Ordinary Share upon the conversion or exchange of, or upon the exercise of such rights of subscription attached to, such Securities or, as the case may be, upon the exercise of such

options, warrants or rights shall be the aggregate consideration or price referred to in (x) or (y) above (as the case may be) divided by the number of Ordinary Shares to be issued upon such conversion or exchange or exercise at the initial conversion, exchange or subscription price or rate;

- (iii) if the consideration or price determined pursuant to (i) or (ii) above (or any component thereof) shall be expressed in a currency other than the Relevant Currency, it shall be converted into the Relevant Currency at the Prevailing Rate on the date of the first public announcement of the terms of issue of such Ordinary Shares or, as the case may be, Securities; and
- (iv) in determining the consideration or price pursuant to the above, no deduction shall be made for any commissions or fees (howsoever described) or any expenses paid or incurred for any underwriting, placing or management of the issue of the relevant Ordinary Shares or Securities or options, warrants or rights, or otherwise in connection therewith.

### 9.3 **Retroactive Adjustments**

If the Registration Date in relation to the conversion of any Bond shall be after the record date in respect of any consolidation, reclassification or sub-division as is mentioned in Condition 9.2(a)(i), or after the record date or other due date for the establishment of entitlement for any such issue, distribution, grant or offer (as the case may be) as is mentioned in Condition 9.2(a)(ii), (iii) (iv), (v) or (ix), or after any such issue or grant as is mentioned in Condition 9.2(a)(vi) and (vii), in circumstances where the relevant Conversion Date falls before the relevant adjustment (if any) to the Conversion Price becomes effective under Condition 9.2 (such adjustment, a “**Retroactive Adjustment**”), then the Issuer shall (conditional upon the relevant adjustment becoming effective) procure that there shall be issued or transferred and delivered to the converting Bondholder, in accordance with the instructions contained in the Conversion Notice, such additional number of Ordinary Shares (if any) (the “**Additional Ordinary Shares**”) as, together with the Ordinary Shares issued or to be transferred and delivered on conversion of the relevant Bond (together with any fraction of an Ordinary Share not so issued or transferred and delivered), is equal to the number of Ordinary Shares which would have been required to be issued or transferred and delivered on conversion of such Bond if the relevant adjustment to the Conversion Price had been made and become effective immediately prior to the relevant Conversion Date; provided that in the case of a Retroactive Adjustment arising in respect of any such consolidation, the number of Ordinary Shares to be transferred and delivered to the relevant holder shall be reduced to that number of Ordinary Shares which would have been required to be issued or transferred and delivered on conversion of such Bond if the relevant adjustment to the Conversion Price had been made and become effective immediately prior to the relevant Conversion Date.

### 9.4 **Decision of an Independent Financial Adviser**

If any doubt shall arise as to whether an adjustment fails to be made to the Conversion Price or as to the appropriate adjustment to the Conversion Price, and following consultation

between the Parent Guarantor and an Independent Financial Adviser, a written opinion of such Independent Financial Adviser in respect thereof shall be conclusive and binding on all parties, save in the case of manifest error.

#### 9.5 **Share or Option Schemes**

9.5.1 No adjustment will be made to the Conversion Price where Ordinary Shares or other Securities (including rights, warrants and options) are issued, offered, exercised, allotted, appropriated, modified or granted to, or for the benefit of, employees or former employees (including directors of the Issuer holding or formerly holding executive office or the personal service company of any such person) or their spouses or relatives, in each case, of the Issuer or any of its Subsidiaries or any associated company or to a trustee or trustees to be held for the benefit of any such person, in any such case pursuant to any share or option scheme.

9.5.2 No adjustment will be made to the Conversion Price where deferred shares are issued to Thibault Square Financial Services (Proprietary) Limited, Registration Number 1992/00417/07

#### 9.6 **Rounding Down and Notice of Adjustment of Conversion Price**

- (a) On any adjustment, the resultant Conversion Price, if not an integral multiple of ZAR0.01, shall be rounded down to the nearest whole multiple of ZAR0.01. No adjustment shall be made to the Conversion Price where such adjustment (rounded down if applicable) would be less than one per cent. of the Conversion Price then in effect. Any adjustment not required to be made and/or any amount by which the Conversion Price has been rounded down, shall be carried forward and taken into account in any subsequent adjustment, and such subsequent adjustment shall be made on the basis that the adjustment not required to be made had been made at the relevant time and/or, as the case may be, that the relevant rounding down had not been made.
- (b) Notice of any adjustments to the Conversion Price shall be given by the Issuer to Bondholders in accordance with Condition 19 and to the Trustee promptly after the determination thereof.
- (c) The Issuer undertakes that it shall not take any action, and shall procure that no action is taken, that would otherwise result in an adjustment to the Conversion Price to below any minimum level permitted by applicable laws or regulations.

#### 9.7 **Change of Control**

- (a) Within 14 (fourteen) calendar days after the Parent Guarantor has become aware of a Change of Control, the Parent Guarantor shall give notice thereof to the Trustee and to the Bondholders in accordance with Condition 19 (a "**Change of Control Notice**"). Such notice shall contain a statement informing Bondholders of their entitlement to exercise their Conversion Rights as provided in these Terms and

Conditions and their entitlement to exercise their rights to require redemption of their Bonds pursuant to Condition 10.4.

- (b) The Change of Control Notice shall also specify:
  - (i) all information material to Bondholders concerning the Change of Control;
  - (ii) the Conversion Price immediately prior to the occurrence of the Change of Control and the Conversion Price applicable pursuant to Condition 9.2(b)(x) above during the Change of Control Period on the basis of the Conversion Price in effect immediately prior to the occurrence of the Change of Control;
  - (iii) the closing price of the Ordinary Shares as derived from the Relevant Stock Exchange as at the latest practicable date prior to the publication of the Change of Control Notice;
  - (iv) the last day of the Change of Control Period;
  - (v) the Change of Control Put Date; and
  - (vi) such other information relating to the Change of Control as the Trustee may require.
- (c) The Trustee shall not be required to monitor or take any steps to ascertain whether a Change of Control or any event which could lead to a Change of Control has occurred or may occur and will not be responsible or liable to Bondholders or any other person for any loss arising from any failure by it to do so.

9.8

**Procedure for exercise of Conversion Rights**

- (a) Conversion Rights may be exercised by a Bondholder during the Conversion Period by delivering the Certificate, if any, in respect of relevant Bond to the Specified Office of the Conversion Agent, during its usual business hours, accompanied by a duly completed and signed notice of conversion (a “**Conversion Notice**”) in the form (for the time being current) obtainable from the Conversion Agent. Only one Conversion Notice may be delivered by a Bondholder during each calendar month during the Conversion Period. Conversion Rights shall be exercised subject in each case to any applicable fiscal or other laws or regulations applicable in the jurisdiction in which the Specified Office of the Conversion Agent to whom the relevant Conversion Notice is delivered is located.
- (b) If such delivery is made after the end of normal business hours or on a day which is not a Business Day in the place of the Specified Office of the Conversion Agent, such delivery shall be deemed for all purposes of these Terms and Conditions to have been made on the next following Business Day.
- (c) Conversion Rights may only be exercised in respect of a whole Bond. Where Conversion Rights are exercised in respect of some only of the Bonds represented by a single Certificate, the old Certificate shall be cancelled and a new Certificate for the balance thereof shall be issued in lieu thereof without charge but upon payment by the holder of any taxes, duties and other governmental charges payable in

connection therewith in the place of the Specified Office of the Transfer Agent, and the Transfer Agent will within seven Business Days following the relevant Conversion Date, deliver such new Certificate to the Bondholder at the Specified Office of the Transfer Agent or (at the risk and, if mailed (at the request of the Bondholder) otherwise than by ordinary mail, at the expense of the Bondholder) mail a new Certificate by uninsured mail to such address as the Bondholder may request.

- (d) A Conversion Notice, once delivered, shall be irrevocable.
- (e) The conversion date in respect of a Bond (the “**Conversion Date**”) shall be the Business Day immediately following the date of the delivery of the Certificate, if any, in respect of the Bonds and the Conversion Notice, and (if applicable) the making of any payment to be made as provided in Condition 9.8(f) below.
- (f) A Bondholder exercising a Conversion Right must pay directly to the relevant authorities any income taxes or taxes on capital gains or other taxes that may be payable arising on conversion and redemption of a Bond and capital, stamp, issue and registration and transfer taxes and duties arising on conversion of a Bond; provided that the Parent Guarantor shall be liable for any stamp duties, issue and registration and transfer taxes and duties payable in South Africa in respect of the issue or transfer and delivery of any Ordinary Shares on such conversion (including any Additional Ordinary Shares. Such Bondholder must also pay all, if any, taxes arising by reference to any disposal or deemed disposal of a Bond or interest therein in connection with such conversion. The Trustee shall not be responsible for determining whether such taxes or capital, stamp, issue and registration and transfer taxes and duties are payable or the amount thereof and it shall not be responsible or liable for any failure by the Issuer to pay such taxes or capital, stamp, issue and registration and transfer taxes and duties.
- (g) Ordinary Shares to be issued on exercise of Conversion Rights will be issued in uncertificated form through the securities trading system operated by Strate Limited (“**Strate**”), or any successor licensed clearance and settlement facility (applicable to the Ordinary Shares) of Strate.
- (h) The Issuer will procure the delivery of the Ordinary Shares to the Strate account specified by the relevant Bondholder in the relevant Conversion Notice as soon as possible and in any event within 15 (fifteen) Business Days after the relevant Conversion Date (or, in the case of any Additional Ordinary Shares, not later than 15 (fifteen) Business Days following the Reference Date).
- (i) In addition, a Bondholder exercising Conversion Rights for delivery into Strate will be required to certify, represent and agree in the relevant Conversion Notice either:
  - (i) that such Bondholder is not a resident of South Africa within the meaning of the Exchange Control Regulations 1961 (as may be amended from time to time) of the Republic of South Africa promulgated under the Currency and Exchanges Act, 1933 (as amended) of South Africa and that all exchange control approvals required under applicable laws and regulations of South

Africa in connection with the exercise of Conversion Rights by such Bondholder and the issue or transfer of Ordinary Shares to such Bondholder upon such exercise have been obtained and are in full force and effect; or

- (iii) that no exchange control approvals are required under applicable laws and regulations of South Africa in connection with the exercise of such Conversion Rights by such Bondholder and the issue or transfer of Ordinary Shares to such Bondholder upon such exercise,

and shall be required to provide evidence reasonably satisfactory to the Issuer as to the applicability of (i) or (ii), as the case may be. The Issuer and the Parent Guarantor will (if applicable) procure that Ordinary Shares delivered through Strate are flagged "*Non Resident*" for the purposes of South African exchange control laws and regulations.

- (j) Conversion Mechanics, subject to satisfaction of the Conversion Condition
  - (i) If a Bondholder exercises a Conversion Right pursuant to the Terms and Conditions after the Conversion Condition has been satisfied:
    - (A) the Issuer has an obligation to redeem the Bonds in cash in an amount equal to the Principal Amount of the Bonds to be converted (the "**Cash Redemption Amount**"); and
    - (B) that Bondholder becomes obliged to pay a subscription price in cash to the Parent Guarantor in consideration for the Ordinary Shares to be allotted and issued to it or transferred and delivered to it by the Parent Guarantor, in an amount equal to the Cash Redemption Amount.
  - (ii) In satisfaction of the obligation of the Issuer pursuant to the Terms and Conditions to procure that Ordinary Shares (including Additional Ordinary Shares) are delivered to the relevant Bondholder upon the exercise of a Conversion Right, it is agreed that on the Conversion Date the Issuer delegates its obligation to redeem the Bonds in an amount equal to the Cash Redemption Amount to the Parent Guarantor as provided in the Terms and Conditions to the Parent Guarantor. The delegation of those obligation will take place on the Conversion Date without any further action required by the Issuer. The Bondholder consents to the delegation of that obligation and the Parent Guarantor accepts the delegation of such obligation.
  - (iii) In consideration for the Parent Guarantor assuming the obligation of the Issuer to redeem the Bonds in an amount equal to the Cash Redemption Amount upon the exercise of a Conversion Right, the Issuer shall, with effect from the Conversion Date, owe the Parent Guarantor on loan account an amount equal to the Cash Redemption Amount.
  - (iv) The obligation delegated to and assumed by the Parent Guarantor to redeem the Bonds in an amount equal to the Cash Redemption Amount and that of the relevant Bondholder to pay a subscription price to the Parent Guarantor in consideration for the Ordinary Shares to be allotted and issued to it or

transferred and delivered to it, in an amount equal to the Cash Redemption Amount, shall be discharged by set-off immediately and automatically upon the Business Day that is 5 Business Days after the Conversion Date. Following such set-off, the Parent Guarantor shall allot and issue, or transfer, the Ordinary Shares (including any Additional Ordinary Shares) and register the relevant Bondholder (or its nominee) in the register of shareholders of the Parent Guarantor on the Business Day that is 5 Business Days after the Conversion Date.

#### 9.9 **Ranking**

- (a) Ordinary Shares (or any Additional Ordinary Shares) issued or transferred and delivered upon conversion of the Bonds will be fully paid and will in all respects rank *pari passu* with the fully paid Ordinary Shares in issue on the relevant Registration Date, except in any such case for any right excluded by mandatory provisions of applicable law and except that such Ordinary Shares or, as the case may be, Additional Ordinary Shares will not rank for (or, as the case may be, the relevant holder shall not be entitled to receive) any rights, distributions or payments the record date or other due date for the establishment of entitlement for which falls prior to the relevant Registration Date.

If the record date or other due date for establishment or entitlement for the payment of any dividend or other distribution in respect of the Ordinary Shares to be issued on conversion of the Bonds is on or after the Conversion Date in respect of any Bond but before the Registration Date (other than and to the extent that it results in any adjustment (retroactive or otherwise) to the number of Ordinary Shares to which a converting Bondholder is entitled under Condition 9.2(a)), the Issuer will pay to the Bondholder who has exercised his Conversion Right in lieu of such dividend or distribution an amount in ZAR (the “**Equivalent Amount**”) equal to any such dividend or other distribution to which such Bondholder would have been entitled had he on that record date or other due date for establishment of entitlement been such a shareholder of record of such Ordinary Shares on that date and will make the relevant payment to the relevant Bondholder at the same time that it makes payment of the dividend or other distribution.

- (b) Save as provided in Condition 9.10, no payment or adjustment shall be made on conversion for any interest which otherwise would have accrued on the relevant Bonds since the last Interest Payment Date preceding the Conversion Date relating to such Bonds.

#### 9.10 **Interest on Conversion**

If any notice requiring the redemption of any Bonds is given pursuant to Condition 10.2 on or after the fifteenth Business Day prior to a record date falling after the last Interest Payment Date (or in the case of the first Interest Period, the Issue Date) (whether such notice is given before, on or after such record date) in respect of any Dividend or distribution payable in respect of the Ordinary Shares where such notice specifies a date for redemption falling on

or prior to the date which is 14 (fourteen) days after the Interest Payment Date next following such record date, interest shall accrue on Bonds in respect of which Conversion Rights shall have been exercised and in respect of which the Conversion Date falls after such record date and on or prior to the Interest Payment Date next following such record date in respect of such Dividend or distribution, in each case from and including the preceding Interest Payment Date (or, if such Conversion Date falls before the first Interest Payment Date, from the Issue Date) to but excluding such Conversion Date. The Issuer shall pay any such interest or procure that any such interest is paid by not later than 14 (fourteen) calendar days after the relevant Conversion Date by Rand cheque drawn on, or by transfer to, a Rand account maintained with, a bank in Johannesburg in accordance with instructions given by the relevant Bondholder in the relevant Conversion Notice.

9.11 **Purchase or Redemption of Ordinary Shares**

The Issuer or any Subsidiary of the Issuer may exercise such rights as it may from time to time enjoy to purchase or redeem or buy back any shares of the Issuer (including Ordinary Shares) or any depositary or other receipts or certificates representing the same without the consent of the Bondholders.

9.12 **No Duty to Monitor**

The Trustee shall not be under any duty to monitor whether any event or circumstance has happened or exists which may require an adjustment to be made to the Conversion Price and will not be responsible or liable to the Bondholders for any loss arising from any failure by it to do so.

9.13 **Consolidation, Amalgamation or Merger**

In the case of any consolidation, amalgamation or merger of the Issuer or Parent Guarantor or the Subsidiary Guarantor with any other corporation (other than a consolidation, amalgamation or merger in which the Issuer is the continuing corporation), or in the case of any sale or transfer of all, or substantially all, of the assets of the Issuer or Parent Guarantor or the Subsidiary Guarantor, the Parent Guarantor will forthwith give notice thereof to the Trustee and to the Bondholders in accordance with Condition 19 of such event and take such steps as shall be required by the Trustee (including the execution of a deed supplemental to or amending the Trust Deed) to ensure that each Bond then outstanding will (during the period in which Conversion Rights may be exercised) be convertible into the class and amount of shares and other securities and property receivable upon such consolidation, amalgamation, merger, sale or transfer by a holder of the number of Ordinary Shares which would have become liable to be issued or transferred and delivered upon exercise of Conversion Rights immediately prior to such consolidation, amalgamation, merger, sale or transfer. The above provisions of this Condition 9.13 will apply, *mutatis mutandis* to any subsequent consolidations, amalgamations, mergers, sales of transfers.



## 9.14 **Cash Settlement**

9.14.1 Notwithstanding any other provision of these Conditions, upon exercise of Conversion Rights by a Bondholder in respect of which the Conversion Date falls prior to the date on which the Issuer shall have given notice to the Bondholders and the Trustee that the Conversion Condition shall have been satisfied, the Issuer shall satisfy the exercise of Conversion Rights relating to such Bondholder's Bonds by making payment, or procuring that payment is made on its behalf, to the relevant Bondholder of the Cash Alternative Amount, together with any other amount payable by the Issuer to such Bondholder pursuant to these Conditions in respect of or relating to the relevant exercise of Conversion Rights, including any interest payable pursuant to Condition 9.10. The Issuer will pay the Cash Alternative Amount, together with any other amount as aforesaid by not later than 5 Business Days following the last day of the Cash Alternative Calculation Period by transfer to a Rand account with a bank in Johannesburg in accordance with the instructions contained in the relevant Conversion Notice.

9.14.2 If the Conversion Date in relation to the exercise of Conversion Rights by a Bondholder falls prior to the Issuer giving notice to Bondholders that the Conversion Condition shall have been satisfied, and such Conversion Date shall be after the record date in respect of any consolidation, reclassification or sub-division as is mentioned in Condition 9.2(a)(i), or after the record date or other due date for the establishment for any such issue, distribution, grant or offer (as the case may be) as is mentioned in Condition 9.2(a)(ii), (iii), (iv), (v) or (ix), or after the date of the first public announcement of the terms of any such issue or grant as is mentioned in Condition 9.2(a)(vi) and (vii) or of the terms of any such modification as is mentioned in Condition 9.2(a)(viii), in circumstances where the relevant Conversion Date falls before the relevant adjustment to the Conversion Price becomes effective under Condition 9.2(a) (such adjustment, a "**Retroactive Adjustment**"), the Issuer shall pay to the relevant Bondholder an additional amount (the "**Additional Cash Alternative Amount**") equal to the Market Price of such number of Ordinary Shares equal to that by which the number of Ordinary Shares by reference to which the Cash Alternative Amount shall have been determined would have been increased if the relevant adjustment to the Conversion Price had been made and become effective immediately prior to the relevant Conversion Date. The Issuer will pay the Additional Cash Alternative Amount by not later than 5 Business Days following the relevant Reference Date by transfer to a Rand account with a bank in Johannesburg in accordance with the instructions contained in the relevant Conversion Notice.

## 10. **Redemption and purchases**

### 10.1 **Final redemption**

10.1.1 Subject to Condition 10.1.2, unless previously redeemed, converted or purchased and cancelled as specified below, each Bond shall, subject to the Conditions, be redeemed

by the Issuer at its Principal Amount (together with accrued unpaid interest thereon) on the Final Redemption Date.

- 10.1.2 Subject to the Conversion Condition being satisfied, the Issuer may at its option grant a soft redemption option (a "**Soft Redemption Option**") to Bondholders by giving notice (the "**Soft Redemption Notice**") to the Bondholders not more than 60 nor less than 30 days prior to the Final Redemption Date. If the Issuer grants a Soft Redemption Option to Bondholders, then if the Current Market Price of an Ordinary Share on the last day of the Conversion Period (the "**Valuation Date**") is less than the prevailing Conversion Price on such date, a Bondholder may elect to exercise the Conversion Right and require the Issuer to (i) procure the issue to it the number of Ordinary Shares per Bond that would be deliverable using the prevailing Conversion Price on the Valuation Date, and (ii) make a cash payment calculated as the amount by which the Principal Amount of each Bond together with accrued interest to the Final Redemption Date exceeds the product of (A) the such number of Ordinary Shares deliverable per Bond and (B) the average of the daily Volume Weighted Average Price of an Ordinary Share on the Relevant Stock Exchange on each of the 15 consecutive Dealing Days commencing on the Valuation Date (or if that is not a Dealing Day, the next following Dealing Day). To exercise such right, the holder of the relevant Bond must make such election in the Conversion Notice during the Soft Redemption Period.

"**Soft Redemption Period**" means the period commencing on the date on which a Soft Redemption Notice is given to Bondholders and ending 10 days prior to the Final Redemption Date.

## 10.2 **Redemption at the option of the Issuer**

- 10.2.1 On giving not less than 40 nor more than 60 days' (the "**Notice Period**") notice (an "**Optional Redemption Notice**") to the Trustee and to the Bondholders in accordance with Condition 19, the Issuer may redeem all but not some only of the Bonds then outstanding on the date (the "**Optional Redemption Date**") specified in the Optional Redemption Notice at their Principal Amount together with accrued interest up to but excluding the Optional Redemption Date
- 10.2.1.1 at any time on or after 23 April 2015, if on more than 20 out of 30 consecutive Dealing Days ending not earlier than 7 days prior to the giving of the relevant Optional Redemption Notice the Volume Weighted Average Price of an Ordinary Share for each such Dealing Day exceeds 130% of the Conversion Price in effect (or deemed to be in effect) on such Dealing Day; or
- 10.2.1.2 at any time if, prior to the date on which the relevant Optional Redemption Notice is given, Conversion Rights shall have been exercised and/or redemptions and/or purchases (and corresponding cancellations) effected in respect of 85% or more in Principal Amount of the Bonds originally issued.

10.2.2 Any Optional Redemption Notice shall be irrevocable. Any such notice shall specify (i) the Optional Redemption Date which shall be a Business Day, (ii) the Conversion Price, the aggregate Principal Amount of the Bonds outstanding and the closing price of the Ordinary Shares as derived from the Relevant Stock Exchange, in each case as at the latest practicable date prior to the publication of the Optional Redemption Notice and (iii) the last day on which Conversion Rights may be exercised by Bondholders.

10.3 **Optional redemption for tax reasons**

10.3.1 The Bonds may be redeemed at the option of the Issuer, in whole and not in part, on the occasion of the next payment due under the Bonds (the "**Tax Redemption Date**") , on giving not less than 20 days notice (a "**Tax Redemption Notice**") to the Trustee and the Bondholders prior to such redemption, in accordance with Condition 18 (which notice shall be irrevocable), if the Issuer is of the reasonable opinion that:

10.3.1.1 on the occasion of the next payment due under the Bonds, the Issuer has or will become obliged to deduct or withhold from any payment of principal or interest on the Bonds any amounts as provided for or referred to in Condition 12 as a result of any change in, or amendment to, the laws or regulations of South Africa or any other Applicable Law or any political subdivision of, or any authority in, or of, South Africa having power to tax, or any change in the application or official interpretation of such laws or regulations, which change or amendment becomes effective on or after the Issue Date; and

10.3.1.2 such obligation cannot be avoided by the Issuer taking reasonable measures available to it.

10.3.2 From the date of publication of any notice of redemption pursuant to this Condition 10.3, the Issuer shall make available at its Specified Office, for inspection by any holder of Bonds so redeemed, a certificate signed by 2 authorised signatories of the Issuer stating that the Issuer is entitled to effect such redemption and setting forth a statement of facts showing that the conditions precedent to the right of the Issuer so to redeem have occurred, and an opinion of independent legal advisers to the effect that the Issuer has or will become obliged to make such deduction or withholding as a result of such change or amendment.

10.3.3 If the Issuer gives a Tax Redemption Notice, each Bondholder will have the right to elect that his Bonds shall not be redeemed and that the provisions of Condition 12 shall not apply in respect of any payment of interest to be made on such Bonds which falls due after the relevant Tax Redemption Date, whereupon no Additional Amounts shall be payable in respect thereof pursuant to Condition 12 and payment of all amounts of such interest on such Bonds shall be made subject to the deduction or withholding of any South African taxation required to be withheld or deducted. To exercise such right, the holder of the relevant Bond must complete, sign and deposit at the Specified Office of the Transfer Agent a duly completed and signed notice of election, in the form for the

time being current, obtainable from the Specified Office of the Transfer Agent together with the relevant Bonds on or before the day falling 10 days prior to the Tax Redemption Date.

10.3.4 Bonds redeemed for tax reasons pursuant to this Condition 10.3 will be redeemed at their Principal Amount, together with accrued unpaid interest (if any) from (and including) the immediately preceding Interest Payment Date to (but excluding) the date of redemption.

10.3.5 Any Tax Redemption Notice shall be irrevocable. Any such notice shall specify (i) the Tax Redemption Date which shall be a Business Day, (ii) the Conversion Price, the aggregate Principal Amount of the Bonds outstanding and the closing price of the Ordinary Shares as derived from the Relevant Stock Exchange, in each case as at the latest practicable date prior to the publication of the Tax Redemption Notice.

#### 10.4 **Redemption at the option of Bondholders: Change of Control**

10.4.1 Following the occurrence of a Change of Control, the holder of each Bond will have the right to require the Issuer to redeem, in cash, that Bond on the Change of Control Put Date at its Principal Amount, together with accrued and unpaid interest to such date.

10.4.2 To exercise such right, the holder of the relevant Bond must deliver such Bond to the Specified Office of the Transfer Agent, together with a duly completed and signed notice of exercise in the form for the time being current obtainable from the Specified Office of the Transfer Agent (a “**Change of Control Put Exercise Notice**”), at any time during the Change of Control Period. The “**Change of Control Put Date**” shall be the fourteenth calendar day after the expiry of the Change of Control Period.

10.4.3 A Change of Control Put Exercise Notice, once delivered, shall be irrevocable and the Issuer shall redeem all Bonds the subject to Change of Control Put Exercise Notices delivered as aforesaid on the Change of Control Put Date.

#### 10.5 **Mandatory Redemption following delivery of an Enforcement Notice**

Upon the delivery of an Enforcement Notice (following the occurrence of an Event of Default), the Bonds will be immediately due and payable, and the Bonds will be redeemed in accordance with Condition 13.

#### 10.6 **Purchases**

The Issuer may at any time purchase Bonds at any price in the open market or otherwise. In the event of the Issuer purchasing Bonds, such Bonds shall be held, resold or at the option of the Issuer cancelled.

## 10.7 Cancellation

All Bonds which are redeemed in full or in respect of which Conversion Rights are exercised will forthwith be cancelled. All Bonds so cancelled and the Bonds purchased and cancelled pursuant to Condition 10.6, shall be held by the Issuer and cannot be re-issued or resold. Where a portion of the Bonds represented by a Certificate are cancelled, the Transfer Agent shall deliver a Certificate to such Bondholder in respect of the balance of the Bonds. The Issuer shall notify the Central Securities Depository and the JSE (if the Bonds are listed), of any cancellation or partial redemption of the Bonds so that such entity can record the reduction in the aggregate Principal Amount of the Bonds in issue.

## 11. Payment

### 11.1 Method of payment

11.1.1 Payments of interest and principal in respect of Bonds held in uncertificated form in the Central Securities Depository will be made to the Central Securities Depository's Nominee, as the registered holder of such Bonds, which in turn will transfer such funds, via the Participants, to the holders of Beneficial Interests. Each of the persons reflected in the records of the Central Securities Depository or the relevant Participants, as the case may be, as the holders of Beneficial Interests shall look solely to the Central Securities Depository or the relevant Participant, as the case may be, for such persons share of each payment so made by the Issuer to, or for the order of, the registered holder of the Bond held in uncertificated form. The Issuer will not have any responsibility or liability for any aspect of the records relating to, or payments made on account of, Beneficial Interests, or for maintaining, supervising or reviewing any records relating to such Beneficial Interests. Payments of interest and principal in respect of Bonds held in the Central Securities Depository in uncertificated form shall be recorded by the Central Securities Depository's Nominee, as the registered holder of the Bonds, distinguishing between interest and principal, and such record of payments by the registered holder of the Bonds shall be *prima facie* proof of such payments. Payments of interest and principal in respect of Bonds represented by Certificates shall be made to the person reflected as the registered holder of the Certificate in the Register on the Last Day to Register.

11.1.2 The Issuer shall pay the interest and principal payable in respect of each Bond, in immediately available and freely transferable funds, in Rand by electronic funds transfer, to the bank account of the Bondholder as set forth in the Register at 17h00 (South African time) on the Last Day To Register (whether or not such day is a Business Day) preceding the relevant Interest Payment Date or Redemption Date, as the case may be, or, in the case of joint Bondholders, the account of that one of them who is first named in the Register in respect of that Bond. If several persons are entered into the Register as joint Bondholders, then without affecting the previous provisions of this condition, payment to any one of them of any monies payable on or in respect of the Bond shall be an effective and complete discharge by the Issuer of the

amount so paid, notwithstanding any notice (express or otherwise) which the Issuer may have of the right, title, interest or claim of any other person to or in any Bond or interest therein.

11.1.3 If the Issuer is prevented or restricted directly or indirectly from making any payment by electronic funds transfer in accordance with the preceding paragraph (whether by reason of strike, lockout, fire, explosion, floods, riot, war, accident, act of God, embargo, legislation, shortage of or breakdown in facilities, civil commotion, unrest or disturbances, cessation of labour, government interference or control or any other cause or contingency beyond the control of the Issuer) such inability shall not constitute an Event of Default and the Issuer shall give notice to the Bondholders within 3 Business Days of such inability arising. Upon receipt of such notice any Bondholder may request the Issuer in writing to make payment of any such amounts by way of cheque (or by such number of cheques as may be required in accordance with applicable banking law and practice). Such notice shall specify the address of the payee entitled to payment in respect of the Bond, and if the Bondholder so desires, a request to make such cheque available for collection during business hours by a Bondholder or its duly authorised representative at the registered office of the Issuer.

11.1.4 All monies so payable by cheque shall, save if the Bondholder requests that the cheque be made available for collection as set out above (unless such cheque is not so collected within 2 Business Days of being made available for collection), be sent by post within 2 Business Days of the receipt by the Issuer of the notice from a Bondholder referred to in the preceding paragraph to:

11.1.4.1 the address of that Bondholder as set forth in the Register at 17h00 (South African time) on the relevant Last Day to Register; or

11.1.4.2 in the case of joint Bondholders, the address set forth in the Register of that one of them who is first named in the Register in respect of that Bond.

The Issuer shall not be responsible for any loss in transmission of cheques posted in terms of this Condition 11.1 and the postal authorities shall be deemed to be the agent of the Bondholders for the purposes of all cheques posted in terms of this Condition 11.1.

11.1.5 Only Bondholders, or, in the case of joint Bondholders, the one of them who is first named in the Register in respect of that Bond, reflected in the Register at 17h00 (South African time) on the relevant Last Day to Register will be entitled to payments of interest and/or principal in respect of Bonds.

11.1.6 Payments will be subject in all cases to any Taxation or other laws, directives and regulations applicable to such payment in the place of payment without prejudice to Condition 12.

11.1.7 Payment of all amounts other than interest and principal in respect of the Bonds, will be made as provided in these Conditions.

11.2 **Surrender of Certificates**

11.2.1 On or before the Last Day to Register prior to any Redemption Date, the holder of a Certificate, in respect of a Bond to be redeemed (in part or in whole, as the case may be) shall deliver to the Transfer Agent the Certificates to be redeemed. This will enable the Transfer Agent to endorse the partial redemption thereon or, in the case of final redemption, to cancel the relevant Certificates.

11.2.2 Should the holder of a Certificate refuse or fail to surrender the Certificate for endorsement or cancellation on or before a Redemption Date, the amount payable to him in respect of such redemption, including any accrued interest, shall be retained by the Issuer for such Bondholder, at the latter's risk, until the Bondholder surrenders the necessary Certificate, and interest shall cease to accrue to such Bondholder from the Redemption Date in respect of the amount redeemed.

11.2.3 Documents required to be presented and/or surrendered to the Transfer Agent in accordance with these Terms and Conditions will be so presented and/or surrendered at the Specified Office of the Transfer Agent.

11.2.4 In the case of the Bonds held in uncertificated form in the Central Securities Depository, redemptions in part will be handled in accordance with the Applicable Procedures.

11.3 **Payment Date**

Notwithstanding anything to the contrary contained in these Terms and Conditions, if the date for payment of any amount payable in respect of any Bond is not a Business Day, then such date for payment shall be the following Business Day. The Bondholder shall not be entitled to further interest or other payment in respect of such delayed payment.

11.4 **Calculation and notice of principal payments**

The Calculation Agent will calculate the aggregate amount of principal due and payable by the Issuer for each Bond on each date that payment is due and payable. The Calculation Agent will, at least 2 Business Days before each such date, cause such aggregate amount of principal to be notified to the Bondholders (in the manner set out in Condition 18), the JSE (if the Bonds are listed), and the Issuer.

12. **Taxation**

12.1 All payments (whether in respect of principal, interest or otherwise) in respect of the Bonds will be made without withholding or deduction for or on account of any Taxes, unless such withholding or deduction is required by Applicable Law.

- 12.2 If any such withholding or deduction is required by Applicable Law in respect of Taxes imposed or levied on any payments (whether in respect of principal, interest or otherwise) in respect of any Bonds, the Issuer will, subject to the Issuer's rights to redeem such Bonds in terms of Condition 10.3, make such payments after such withholding or deduction has been made and will account to the relevant authorities for the amount so required to be withheld or deducted. The Issuer will pay such additional amounts as shall be necessary in order that the net amounts received by the Bondholders after such withholding or deduction shall equal the respective amounts of principal and interest which would otherwise have been receivable in respect of the Bonds, as the case may be, in the absence of such withholding or deduction, except that no such additional amounts shall be payable with respect to any Bond:
- 12.2.1 held by or on behalf of a Bondholder, who is liable for such Taxes in respect of such Bond by reason of it having some connection with South Africa other than the mere holding of such Bond or the receipt of principal or interest in respect thereof; or
- 12.2.2 held by or on behalf of a Bondholder which would not be liable or subject to the withholding or deduction by complying with any statutory requirement or by making a declaration of non-residence or other similar claim for exemption to the relevant tax authority; or
- 12.2.3 where such withholding or deduction is in respect of Taxes levied or imposed on interest or principal payments only by virtue of the inclusion of such payments in the Taxable Income or Taxable Gains (each as defined below) of any Bondholder; or
- 12.2.4 where (in the case of any payment of principal or interest which is conditional on surrender of the relevant Certificate in accordance with these Terms and Conditions) the relevant Certificate is surrendered for payment more than 30 days after the Relevant Date except to the extent that the relevant Bondholder would have been entitled to an additional amount on presenting the Certificate for payment on such thirtieth day; or
- 12.2.5 if such withholding or deduction arises through the exercise by revenue authorities of special powers in respect of Tax defaulters.
- 12.3 For the purposes of this Condition 12:
- 12.3.1 "**Taxable Income**" means any "taxable income" as defined in section 1 of the Income Tax Act;
- 12.3.2 "**Taxable Gain**" means any "taxable capital gain" as defined in paragraph 1 of Schedule 8 to the Income Tax Act; and
- 12.3.3 "**Income Tax Act**" means the South African Income Tax Act, 1962.



### 13. Events of Default

#### 13.1 Events of Default relating to the Bonds

An Event of Default in relation to the Bonds shall arise if any of the following events occurs and is continuing:

13.1.1 *Non-payment:* the Issuer fails to pay any amount of principal, interest or any other amount in respect of any Bonds on the due date for payment thereof and such failure remains unremedied for 3 Business Days after written notice thereof has been delivered by the Trustee on behalf of any Bondholder to the Issuer; or

13.1.2 *Breach of other obligations:* the Issuer or a Guarantor fails to perform any of its other obligations under or in respect of the Bonds or the Trust Deed, and such failure, if capable of remedy, remains unremedied for 10 Business Days after written notice thereof has been delivered by the Trustee on behalf of any Bondholder to the Issuer or a Guarantor, as the case may be; or

13.1.3 *Cross-default or security enforced:*

- (a) if any Relevant Indebtedness of the Issuer or a Guarantor or any Material Subsidiary is declared to be or becomes due and repayable before its stated maturity by reason of an event of default (however described); or
- (b) the Issuer or a Guarantor or any Material Subsidiary fails to make any payment in respect of any Relevant Indebtedness on the due date for payment (as extended by any originally applicable grace period); or
- (c) any security given by the Issuer or a Guarantor or any Material subsidiary for any Relevant Indebtedness becomes enforceable by reason of default in relation thereto and steps are taken to enforce such security; or
- (d) if default is made by the Issuer or a Guarantor or any Material subsidiary in making any payment due under any guarantee and/or indemnity (at the expiry of any originally applicable grace period) given by it in relation to any Relevant Indebtedness of any other person;

provided that in each case no event shall constitute an Event of Default unless the Relevant Indebtedness or other relative liability either alone or when aggregated with other Relevant Indebtedness and/or other relative liabilities which shall have occurred, equals or exceeds ZAR275, 000, 000 (or its equivalent in any other currency).

For the purposes of this Condition 13.1.4 and 13.1.5 and 13.1.7, any indebtedness which is in a currency other than South African Rand shall be translated into the Rand Equivalent on the date of such Event of Default; or

- 13.1.4 *Judgment*: any final judgment or arbitration award ("**judgement**") in respect of a claim of more than ZAR275, 000, 000, or its equivalent in any other currency, is given by a court of competent jurisdiction or arbitrator against the Issuer or a Guarantor or any Material Subsidiary, or against the assets or revenues of the Issuer or a Guarantor or any Material Subsidiary, and is not discharged or contested with 10 Business Days of the final judgment being granted; or
- 13.1.4.1 if such judgement is appealable, fails to appeal against such judgement within the time limits prescribed by law or fails to diligently prosecute such appeal thereafter or ultimately fails in such appeal; and/or
- 13.1.4.2 if such judgement is a default judgment, fails to apply for the rescission thereof within the time limits prescribed by law or fails to diligently prosecute such application thereafter or ultimately fail in such application; and/or
- 13.1.4.3 if such judgement is reviewable, fails to initiate proceedings for the review thereof within the time limits prescribed by law or fails to diligently prosecute such proceedings thereafter or ultimately fails in such proceedings; or
- 13.1.5 *Insolvency*: an Insolvency Event occurs in respect of the Issuer or a Guarantor or any Material Subsidiary.
- For the purposes of this Condition 13.1.5, "**Insolvency Event**" means the occurrence of any of the following events:
- 13.1.5.1 an order is made, for (a) the compulsory, provisional or final winding-up, liquidation, compromise, administration order, curatorship, business rescue, dissolution or administration of the Issuer or a Guarantor or any Material Subsidiary; or (b) the appointment of an administrator, trustee, liquidator, business rescue practitioner or similar officer over any or all of the assets or revenues of the Issuer or a Guarantor or any Material Subsidiary; or (c) the removal of the Issuer or a Guarantor or any Material Subsidiary from the register of companies; or
- 13.1.5.2 the Issuer or a Guarantor or any Material Subsidiary seeks the appointment of an administrator, liquidator (whether provisional or final), business rescue practitioner or other similar official for it or for all or substantially all its assets or estate (in each case other than for purposes of a solvent reconstruction or amalgamation in which the Issuer or a Guarantor or any Material Subsidiary remains the debtor under the Bonds); or
- 13.1.5.3 the Issuer or a Guarantor or any Material Subsidiary takes any proceedings or other step with a view to the general readjustment, rescheduling or deferral of its indebtedness (or any part thereof which it would otherwise be unable to pay when due) or proposes to take any such step; or

- 13.1.5.4 the Issuer or a Guarantor or any Material Subsidiary compromising with or taking any procedural step attempting to compromise with its creditors generally (or any significant class of creditors) or deferring or taking any procedural step attempting to defer payment of debts owing by it to its creditors generally (or any significant class of creditors) (except a deferral provided for in terms of these Terms and Conditions of the Bonds) or proposing or seeking to make or makes a general assignment or any arrangement or composition with or for the benefit of its creditors or a moratorium is agreed or declared in respect of or affecting all or a material part of its indebtedness; or
- 13.1.5.5 the Issuer or a Guarantor or any Material Subsidiary committing an act which would be an act of insolvency, in terms of the Insolvency Act, 1936, if committed by a natural person; or
- 13.1.5.6 the Issuer or a Guarantor or any Material Subsidiary is unable (or admits inability) to pay its debts generally as they fall due or is deemed to be unable to pay its debts or is (or admits to being) otherwise insolvent or stops, suspends or threatens to stop or suspend payment of all or a material part of its indebtedness; or
- 13.1.5.7 the board or members of the Issuer or a Guarantor or any Material Subsidiary convening a meeting in order to consider the passing of a resolution providing for the Issuer or a Guarantor or any Material Subsidiary to be wound-up, liquidated, deregistered or placed under business rescue, or any resolution being passed to this effect (in each case other than for purposes of a solvent reconstruction or amalgamation in which the Issuer or a Guarantor or any Material Subsidiary remains the debtor under the Bonds); or
- 13.1.5.8 the Issuer or a Guarantor or any Material Subsidiary causes or is subject to any event with respect to it which, under the Applicable Laws of any jurisdiction, has an analogous effect to any of the events specified in 13.1.5.1 to 13.1.5.7 above.
- 13.1.6 *Attachment of assets:* any attachment in execution of a judgment in respect of a claim for more than ZAR275, 000, 000 is levied against any undertaking or asset of the Issuer or a Guarantor or any Material Subsidiary and such attachment or execution is not set aside or lifted with 15 Business Days after it came to the attention of the Issuer or a Guarantor or such Material Subsidiary; or
- 13.1.7 *Breach of Guarantees:* a Guarantor fails to perform any of its obligations under a Guarantee, and such failure, if capable of remedy, remains unremedied for 5 Business Days after written notice thereof has been delivered by or on behalf of any Bondholder to that Guarantor; or
- 13.1.8 *Guarantees Unenforceable:* a Guarantee becomes unenforceable for any reason whatsoever (or is reasonably claimed by a Guarantor not to be in full force and effect); or

- 13.1.9 *Governmental intervention by or under the authority of any government:*
- 13.1.9.1 the management of the Issuer or any Material Subsidiary is wholly or partially displaced or the authority of the Issuer or any Material Subsidiary in the conduct of its business is wholly or partially taken over by a legitimate Government or any authority of such legitimate Government; or
- 13.1.9.2 all or a majority of the issued shares of the Issuer or any Material Subsidiary or a material part of its revenues or assets is seized, nationalised or compulsorily acquired.

## 13.2 **Steps following an Event of Default**

- 13.2.1 If an Event of Default occurs in relation to the Bonds:
- 13.2.1.1 the Calculation Agent and/or the Issuer will forthwith inform the Bondholders, the Trustee and the JSE (if the Bonds are listed) thereof; and
- 13.2.1.2 the Trustee will, as soon as such Event of Default comes to its notice (whether as a result of having been informed by the Calculation Agent and/or the Issuer thereof pursuant to Condition 13.2.1.1 or otherwise), forthwith call a meeting of the Bondholders.
- 13.2.2 If any Event of Default has occurred and is continuing, then the Trustee at its discretion may, and if so directed by an Extraordinary Resolution of the Bondholders or in writing by Bondholders holding at least one-quarter of the aggregate Principal Amount of the Bonds for the time being outstanding, it shall, give written notice to the Issuer that the Bonds are, and they shall accordingly become immediately due and payable at their Principal Amount together with accrued interest (if any) thereon to the date of payment.

## 14. **Undertakings**

- 14.1 Whilst any Conversion Right remains exercisable, the Parent Guarantor will, save with the approval of an Extraordinary Resolution or with the prior written approval of the Trustee where, in its opinion, it is not materially prejudicial to the interests of the Bondholders to give such approval:
- 14.1.1 allot, issue, register and deliver Ordinary Shares on exercise of Conversion Rights in accordance with these Terms Conditions and the Trust Deed and at all times keep available for issue free from pre-emptive or other similar rights out of its authorised but unissued ordinary share capital such number of Ordinary Shares as would enable it to issue in full such number of Ordinary Shares as are required to be issued by it upon exercise of Conversion Rights and all other rights of subscription and exchange for and conversion into Ordinary Shares;
- 14.1.2 other than in connection with a Newco Scheme, not issue or pay up any Securities, in either case by way of capitalisation of profits or reserves, other than:

- 14.1.2.1 by the allotment and issue of fully paid Ordinary Shares to Shareholders and other holders of shares in the capital of the Parent Guarantor which by their terms entitle the holders thereof to receive Ordinary Shares or other shares or securities on a capitalisation of profits or reserves; or
- 14.1.2.2 by the allotment and issue of Ordinary Shares paid up in full (in accordance with applicable law) and issued wholly, ignoring fractional entitlements, in lieu of the whole or part of a cash dividend; or
- 14.1.2.3 by the allotment and issue of fully paid equity share capital (other than Ordinary Shares) to the holders of equity share capital of the same class and other holders of shares in the capital of the Parent Guarantor which by their terms entitle the holders thereof to receive equity share capital (other than Ordinary Shares); or
- 14.1.2.4 by the allotment and issue of Ordinary Shares or any equity share capital to, or for the benefit of, any employee or former employee, director or executive holding or formerly holding executive office of the Parent Guarantor or any of its Subsidiaries or any of its Subsidiaries or any associated company or to trustees or nominees to be held for the benefit of any such person, in any such case pursuant to an employee, director or executive share or option scheme whether for all employees, directors, or executives or any one or more of them,
- unless, in any such case, the same constitutes a Dividend or otherwise gives rise (or would, but for the provisions of Condition 9.6 relating to roundings or the carry forward of adjustments, give rise) to an adjustment to the Conversion Price;
- 14.1.3 not modify the rights attaching to the Ordinary Shares with respect to voting, dividends or liquidation nor issue any other class of equity share capital carrying any rights which are more favourable than the rights attaching to the Ordinary Shares but so that nothing in this Condition 14.1.3 shall prevent:
- 14.1.3.1 any consolidation, reclassification or subdivision of the Ordinary Shares; or
- 14.1.3.2 any modification of such rights which is not, in the opinion of an Independent Financial Adviser, materially prejudicial to the interests of the holders of the Bonds; or
- 14.1.3.3 any issue of equity share capital where the issue of such equity share capital results, or would, but for the provisions of Condition 9.6 relating to roundings or the carry forward of adjustments or, where comprising Ordinary Shares, the fact that the consideration per Ordinary Share receivable therefore is at least 95% (ninety five percent) of the Current Market Price per Ordinary Share, otherwise result, in an adjustment to the Conversion Price; or

- 14.1.3.4 any issue of equity share capital or modification of rights attaching to the Ordinary Shares, where prior thereto the Parent Guarantor shall have instructed an Independent Financial Adviser to determine what (if any) adjustments should be made to the Conversion Price as being fair and reasonable to take account thereof and such Independent Financial Adviser shall have determined either that no adjustment is required or that an adjustment resulting in an decrease in the Conversion Price is required and, if so, the new Conversion Price as a result thereof and the basis upon which such adjustment is to be made and, in any such case, the date on which the adjustment shall take effect (and so that the adjustment shall be made and shall take effect accordingly);
- 14.1.4 procure that no Securities (whether issued by the Parent Guarantor or any Subsidiary of the Parent Guarantor or procured by the Parent Guarantor or any Subsidiary of the Parent Guarantor to be issued or issued by any other person pursuant to any arrangement with the Parent Guarantor or any Subsidiary of the Parent Guarantor) issued without rights to convert into, or exchange or subscribe for, Ordinary Shares shall subsequently be granted such rights exercisable at a consideration per Ordinary Share which is less than 95% of the Current Market Price per Ordinary Share at the close of business on the last Dealing Day preceding the date of the first public announcement of the proposed inclusion of such rights unless the same gives rise (or would, but for the provisions of Condition 9.6 relating to roundings or the carry forward of adjustments, give rise) to an adjustment to the Conversion Price and that at no time shall there be in issue Ordinary Shares of differing nominal values, save where such Ordinary Shares have the same economic rights;
- 14.1.5 not make any issue, grant or distribution or take or omit to take any other action if the effect thereof would be that, on the exercise of Conversion Rights, Ordinary Shares could not, under any applicable law then in effect, be legally issued as fully paid;
- 14.1.6 not reduce its issued share capital, share premium account, or any uncalled liability in respect thereof, or any non-distributable reserves, except:
- 14.1.6.1 pursuant to the terms of issue of the relevant share capital; or
- 14.1.6.2 by means of a purchase or redemption of share capital of the Parent Guarantor to the extent permitted by applicable law; or
- 14.1.6.3 pursuant to a Newco Scheme; or
- 14.1.6.4 by way of transfer to reserves as permitted under applicable law; or
- 14.1.6.5 where the reduction is permitted by applicable law and the Trustee is advised by an Independent Financial Adviser, acting as an expert, that the interests of the Bondholders will not be materially prejudiced by such reduction; or

- 14.1.6.6 where the reduction is permitted by applicable law and results in (or would, but for the provisions of Condition 9.6 relating to roundings or the carry forward of adjustments, result in) an adjustment to the Conversion Price or is otherwise taken into account for the purposes of determining whether such an adjustment should be made,
- provided that, without prejudice to the other provisions of these Conditions, the Issuer may exercise such rights as it may from time to time be entitled pursuant to applicable law to purchase, redeem or buy back its Ordinary Shares and any depositary or other receipts or certificates representing Ordinary Shares without the consent of Bondholders;
- 14.1.7 if any offer is made to all (or as nearly as may be practicable all) Shareholders (or all (or as nearly as may be practicable all) Shareholders other than the offeror and/or any parties acting in concert (as defined in the Companies Act or any modification or re-enactment thereof)) to acquire the whole or any part of the issued Ordinary Shares, or if any person proposes a scheme with regard to such acquisition (other than a Newco Scheme), give notice of such offer or scheme to the Bondholders at the same time as any notice thereof is sent to the Shareholders (or as soon as practicable thereafter) that details concerning such offer or scheme may be obtained from the Specified Offices of the Paying, Transfer and Conversion Agents and, where such an offer or scheme has been recommended by the board of directors of the Issuer, or where such an offer has become or been declared unconditional in all respects or such scheme has become effective, use all reasonable endeavours to procure that a like offer or scheme is extended to the holders of any Ordinary Shares issued during the period of the offer or scheme arising out of the exercise of the Conversion Rights by the Bondholders and/or to the holders of the Bonds;
- 14.1.8 in the event of a Newco Scheme, the Parent Guarantor shall take (or shall procure that there is taken) all necessary action to ensure that (to the satisfaction of the Trustee) immediately after completion of the scheme of arrangement, at its option, either (a) Newco is substituted under the Bonds and the Trust Deed as principal obligor in place of the Parent Guarantor (with the Issuer providing a guarantee); or (b) Newco becomes a guarantor under the Bonds and the Trust Deed and, in either case, that (i) such amendments are made to these Conditions and the Trust Deed as are necessary, in the opinion of the Trustee, to ensure that the Bonds may be converted into or exchanged for Ordinary Shares in Newco *mutatis mutandis* in accordance with and subject to these Conditions and the Trust Deed and (ii) the Ordinary Shares of Newco are:
- 14.1.8.1 admitted to the Relevant Stock Exchange; or
- 14.1.8.2 admitted to listing on another regulated, regularly operating, recognised stock exchange or securities market;

- 14.1.9 for so long as any Bond remains outstanding, use its reasonable endeavours to maintain the listing of its issued Ordinary Shares on the JSE;
- 14.1.10 procure that the Issuer shall apply for the Bonds to be admitted to listing and trading on the JSE main board within 3 months of the Issue Date . If the Issuer is unable to maintain the inclusion of the Bonds to trading as aforesaid, the Issuer undertakes to use all reasonable endeavours to obtain and maintain a listing and/or admission to trading for the Bonds on such other stock exchange as the Issuer may from time to time determine and as may be approved by the Trustee, and the Issuer will forthwith give notice to the Bondholders in accordance with Condition 18 of the listing or delisting of the Bonds by any of such stock exchanges;
- 14.1.11 use its best endeavours to convene a meeting of shareholders by 30 June 2012 for the purpose of considering and if thought fit, passing such resolutions as are required to enable the issuance of such number of Ordinary Shares as may be required to be issued from time to time upon the exercise of Conversion Rights; and
- 14.1.12 use its best endeavours to convene a meeting of Shareholders for the purpose of considering and if thought fit, passing a resolution approving the grant of the Parent Guarantee by not later than 30 June 2012.
- 14.2 The Issuer undertakes to deliver to the Trustee annually, within 120 days of each financial year end of the Issuer, a certificate of the Issuer, signed by two directors of the Issuer, as to there not having occurred, as far as the board of the Issuer is aware, an Event of Default or Potential Event of Default since the date of the last such certificate or if such event has occurred as to the details of such event. The Trustee will be entitled to rely on such certificate and shall not be obliged to independently monitor compliance by the Issuer or the Parent Guarantor with the undertakings set forth in this Condition 14 or the other provisions of the Terms and Conditions, nor be liable to any person for not so doing.
- 14.3 No provision of this Condition 14, shall preclude the Parent Guarantor from issuing deferred shares to Thibault Square Financial Services (Proprietary) Limited, Registration Number 1992/004170/07

## 15. Exchange of Beneficial Interests and replacement of Bonds

### 15.1 Exchange

- 15.1.1 The holder of a Beneficial Interest in Bonds may, in terms of the Applicable Procedures and subject to section 44 of the Securities Services Act, by written notice to the holder's nominated Participant (or, if such holder is a Participant, the Central Securities Depository), request that such Beneficial Interest be exchanged for Bonds in definitive form represented by a Certificate (the "**Exchange Notice**"). The Exchange Notice shall specify (i) the name, address and bank account details of the holder of the Beneficial Interest and (ii) the day on which such Beneficial Interest is to be exchanged for a Certificate; provided that such day shall be a Business Day and shall fall not less than



30 (thirty) days after the day on which such Exchange Notice is given ("**Exchange Date**").

15.1.2 The holder's nominated Participant will, following receipt of the Exchange Notice, through the Central Securities Depository, notify the Transfer Agent that it is required to exchange such Beneficial Interest for Bonds represented by a Certificate. The Transfer Agent will, as soon as is practicable but within 14 days after receiving such notice, in accordance with the Applicable Procedures, procure that a Certificate is prepared, authenticated and made available for delivery, on a Business Day falling within the aforementioned 14 day period, to the holder of the Beneficial Interest at the Specified Office of the Transfer Agent; provided that joint holders of a Beneficial Interest shall be entitled to receive only one Certificate in respect of that joint holding, and delivery to one of those joint holders shall be delivery to all of them.

15.1.3 In the case of the exchange of a Beneficial Interest in Bonds issued in uncertificated form:

15.1.3.1 the Central Securities Depository's Nominee shall, prior to the Exchange Date, will surrender (through the Central Securities Depository system) such uncertificated Bonds to the Transfer Agent at its Specified Office;

15.1.3.2 the Transfer Agent will obtain the release of such uncertificated Bonds from the Central Securities Depository in accordance with the Applicable Procedures.

15.1.4 A Certificate shall, in relation to a Beneficial Interest in any number of Bonds issued in uncertificated form of a particular aggregate Principal Amount standing to the account of the holder thereof, represent that number of Bonds of that aggregate Principal Amount, and shall otherwise be in such form as may be agreed between the Issuer and the Transfer Agent; provided that if such aggregate Principal Amount is equivalent to a fraction of the minimum denomination of the Bonds or a fraction of any multiple thereof, such Certificate shall be issued in accordance with, and be governed by, the Applicable Procedures.

## 15.2 **Costs**

Certificates shall be provided (whether by way of issue or delivery) by the Issuer without charge, save as otherwise provided in these Terms and Conditions. The costs and expenses of delivery of Certificates by a method other than ordinary post (if any) and, if the Issuer shall so require, taxes or governmental charges or insurance charges that may be imposed in relation to such mode of delivery, shall be borne by the Bondholder.

## 15.3 **Replacement**

If any Certificate is mutilated, defaced, stolen, destroyed or lost it may be replaced at the office of the Transfer Agent on payment by the claimant of such costs and expenses as may be incurred in connection therewith and against the furnishing of such indemnity as

the Transfer Agent may reasonably require. Mutilated or defaced Certificates must be surrendered before replacements will be issued.

15.4 **Death and sequestration or liquidation of Bondholder**

Any person becoming entitled to Bonds in consequence of the death, sequestration or liquidation of the relevant Bondholder may, upon producing evidence to the satisfaction of the Issuer that he holds the position in respect of which he proposes to act under this paragraph or of his title, require the Transfer Agent to register such person as the holder of such Bonds or, subject to the requirements of this Condition, to transfer such Bonds to such person.

16. **Transfer of Bonds**

16.1 Beneficial Interests in the Bonds may be transferred in terms of the Applicable Procedures through the Central Securities Depository.

16.2 The Central Securities Depository maintains accounts only for its Participants. Beneficial Interests which are held by Participants (which are also Settlement Agents) may be held directly through the Central Securities Depository. Participants are in turn required to maintain securities accounts for their clients. Beneficial Interests which are not held by Participants may be held by clients of Participants indirectly through such Participants.

16.3 Transfers of Beneficial Interests to and from clients of Participants occur, in terms of existing law and practice, by way of electronic book entry in the securities accounts maintained by the Participants for their clients. Transfers of Beneficial Interests among Participants occur through electronic book entry in the central securities accounts maintained by the Central Securities Depository for the Participants. Such transfers of Beneficial Interests will not be recorded in the Register and the Central Securities Depository's Nominee will continue to be reflected in the Register as the Bondholder in respect of the Beneficial Interests notwithstanding such transfers. Beneficial Interests may be transferred only in accordance with these Terms and Conditions, and the Applicable Procedures.

16.4 In order for any transfer of Bonds to be recorded in the Register, and for such transfer to be recognised by the Issuer:

16.4.1 the transfer of such Bonds must be embodied in the Transfer Form;

16.4.2 the Transfer Form must be signed by the registered Bondholder and the transferee, or any authorised representative of that registered Bondholder and/or transferee; and

16.4.3 the Transfer Form must be delivered to the Transfer Agent at its Specified Office together with the relevant Certificate, if any, for cancellation.

16.5 Transfers of Bonds recorded in the Register will only be in a denomination equal to or greater than the minimum denomination of the Bonds. The transfer of Bonds recorded in the Register may be transferred in whole or in part.

- 16.6 Subject to the preceding provisions of this Condition 16, the Transfer Agent will, within 3 Business Days of receipt by it of a valid Transfer Form (or such longer period as may be required to comply with any applicable fiscal or other laws or regulations), record the transfer of Bonds in the Register, and authenticate and deliver to the transferee at the Transfer Agent's Specified Office or, at the risk of the transferee, send by mail to such address as the transferee may request, a new Certificate, if applicable, in respect of such Bonds reflecting the same Principal Amount as the Bonds transferred. Where a Bondholder has transferred part only of his holding of Bonds represented by a Certificate, the Transfer Agent will authenticate and deliver to such Bondholder at the Transfer Agent's Specified Office or, at the risk of such Bondholder, send by mail to such address as such Bondholder may request, a new Certificate in respect of the balance of the Bonds held by such Bondholder.
- 16.7 The transferor of any Bonds will be deemed to remain the owner thereof until the transferee is registered in the Register as the holder thereof.
- 16.8 Before any transfer of any Bonds is registered, all relevant transfer taxes (if any) must have been paid by the transferor and/or the transferee and such evidence must be furnished as the Transfer Agent reasonably requires as to the identity and title of the transferor and the transferee.
- 16.9 No transfer of any Bonds will be registered (i) while the Register is closed as contemplated in Condition 17.2, or (ii) where a Conversion Notice has been delivered by a Bondholder pursuant to these Conditions.
- 16.10 If a transfer of any Bonds is registered, the Transfer Form and cancelled Certificate, if any, will be retained by the Transfer Agent.

## 17. Register

- 17.1 The Register will be kept at the Specified Office of the Transfer Agent. The Register will contain the name, address and bank account details of the registered Bondholders. The Register will set out the Principal Amount of the Bonds issued to any Bondholder and will show the date of such issue and the date upon which the Bondholder became registered as such. The Register will show the serial numbers of the Certificates issued. The Register will be open for inspection during the normal business hours of the Transfer Agent to any Bondholder or any person of proven identity authorised in writing by any Bondholder. The Issuer and the Transfer Agent will not be bound to enter any trust into the Register or to take any notice of or to accede to the execution of any trust (express, implied or constructive) to which any Bond may be subject.
- 17.2 The Register will be closed during the 5 days preceding each Interest Payment Date and Redemption Date, as the case may be, from 17h00 (South African time) on the Last Day to Register. All periods referred to for the closure of the Register may be shortened by the Issuer from time to time, upon notice thereof to the Bondholders in accordance with Condition 18.

17.3 The Transfer Agent will alter the Register in respect of any change of name, address or bank account number of any of the Bondholders of which it is notified in accordance with Condition 18.

#### 18. Notices

18.1 Subject to Condition 18.2, all notices (including all demands or requests under these Terms and Conditions) to the Bondholders will be valid if mailed by registered post or delivered by hand to their addresses appearing in the Register or published in a leading English language daily newspaper of general circulation in South Africa. Each such notice will be deemed to have been given on the day of first publication or delivery by hand or on the 14<sup>th</sup> day after the day on which it is mailed, as the case may be.

18.2 For so long as the Bonds are held in their entirety by the Central Securities Depository, there may be substitution for publication as contemplated in clause 18.1 by the delivery of the relevant notice to the Central Securities Depository's Nominee, the Participants and the JSE for communication by them to the holders of Beneficial Interests in the Bonds, in accordance with the Applicable Procedures.

18.3 Where any provision of these Terms and Conditions requires notice to be given to the Bondholders of any matter other than a meeting of Bondholders, such notice will be given *mutatis mutandis* as set out in Condition 18.1 and Condition 18.2, respectively, subject to compliance with any other time periods prescribed in the provision concerned.

18.4 All notices (including all communications, demands and/or requests under these Terms and Conditions) to be given by any Bondholder to the Issuer, the Guarantors, the Calculation Agent, the Conversion Agent or the Transfer Agent, as the case may be, will be in writing and given by delivering the notice, by hand or by registered post, together with a certified copy of the relevant Certificate, if any, to the Specified Office of the Issuer, the Guarantors, the Calculation Agent, the Conversion Agent or the Transfer Agent, as the case may be, and marked for the attention of the chief executive officer. Any notice to the Issuer, the Guarantors, the Calculation Agent, the Conversion Agent or the Transfer Agent, as the case may be, will be deemed to have been received by the Issuer, the Guarantor, the Calculation Agent, the Conversion Agent or the Transfer Agent, as the case may be, on the second Business Day after being delivered by hand to the Specified Office of the Issuer, the Guarantors, the Calculation Agent, the Conversion Agent or the Transfer Agent, as the case may be, or on the 14<sup>th</sup> day after the day on which it is mailed by registered post to the Specified Office of the Issuer, the Guarantors, the Calculation Agent, the Conversion Agent or the Transfer Agent, as the case may be.

18.5 Whilst any of the Bonds are held in uncertificated form, notices to be given by any holder of a Beneficial Interest to the Issuer shall be given by such holder through such holder's relevant Participant in accordance with the Applicable Procedures.

18.6 Any notices to Bondholders, including of meetings and any amendments to these Terms and Conditions, shall be published on SENS.

## 19. Amendment of these Terms and Conditions

19.1 The Trustee may agree, without the consent of the Bondholder, to any amendment to these Terms and Conditions which in the opinion of the Trustee is of a formal, minor or technical nature or is made to correct a manifest error or to comply with mandatory provisions of the Applicable Law. Any such amendment will be binding on Bondholders and such amendment will be notified to Bondholders in accordance with Condition 18 as soon as practicable thereafter.

19.2 In respect of an amendment that is not of a formal, minor or technical nature, such amendment may be made only with the prior authorisation of an Extraordinary Resolution of the Bondholders, in accordance with Condition 20.13. The Issuer will call a meeting of all of the Bondholders. Such meeting or meetings will be regulated by the provisions set out in Condition 20. No proposed amendment will be made to these Terms and Conditions until such amendment has been approved by Extraordinary Resolution at such meeting and, while the Bond is listed on the JSE, made in accordance with the JSE debt listings requirements.

## 20. Meetings of Bondholders

Where a meeting of the Bondholders is to be convened, in accordance with these Terms and Conditions, the Trust Deed or the Guarantees, then the provisions of this Condition 20 shall apply.

### 20.1 Convening of meetings

The Issuer or the Trustee may at any time convene a meeting of the Bondholders (a "**meeting**").

20.1.1 The Issuer or the Trustee will convene a meeting of the Bondholders upon the requisition in writing of members of the Bondholders holding not less than 20% of the aggregate Principal Amount of the Bonds for the time being outstanding (a "**requisition notice**").

20.1.2 Whenever the Issuer wishes to convene a meeting, it will forthwith give notice in writing to the Bondholders in the manner prescribed in Condition 18 and to the Trustee in accordance with the provisions of the Trust Deed of the place, day and hour of the meeting, the nature of the business to be transacted at the meeting and the resolutions to be proposed and considered at the meeting.

20.1.3 Whenever the Trustee wishes or is obliged to convene a meeting it will forthwith give notice in writing to the Bondholders and the Issuer in the manner prescribed in Condition 18, of the place, day and hour of the meeting, the nature of the business to be transacted at the meeting and the resolutions to be proposed and considered at the meeting.

20.1.4 All meetings of the Bondholders will be held in Johannesburg.

## 20.2 **Requisition**

20.2.1 A requisition notice will state the nature of the business for which the meeting is to be held and the resolutions to be proposed and considered at the meeting and will be deposited at the Specified Office of the Issuer or the Trustee, as the case may be.

20.2.2 A requisition notice may consist of several documents in like form, each signed by one or more requisitionists.

## 20.3 **Convening of meetings by requisitionists**

If the Issuer or the Trustee, as the case may be, does not convene a meeting to be held within 20 days of the deposit of a requisition notice, the requisitionists may themselves convene the meeting, but the meeting so convened will be held within 60 days from the date of such deposit and will be convened as nearly as possible in the same manner as that in which meetings may be convened by the Issuer. Whenever the requisitionists are about to so convene any such meeting, requisitionists shall forthwith give notice of the meeting to the Issuer and the Trustee.

## 20.4 **Notice of meeting**

20.4.1 Unless the holders of at least 90% of the aggregate Principal Amount of the Bonds for the time being outstanding, agree in writing to a shorter period, at least 15 days' written notice, specifying the place, day and time of the meeting, the nature of the business for which the meeting is to be held and the resolutions to be proposed and considered at the meeting, will be given to each Bondholder, to the Issuer and to the Trustee.

20.4.2 The accidental omission to give such notice to any Bondholder, to the Issuer or to the Trustee, as the case may be, or the non-receipt of any such notice, will not invalidate the proceedings at a meeting.

## 20.5 **Quorum**

20.5.1 A quorum at a meeting shall:

20.5.1.1 for the purposes of considering an Ordinary Resolution, consist of Bondholders present in person or by proxy and holding in the aggregate not less than one-third of the aggregate Principal Amount of the Bonds for the time being outstanding;

20.5.1.2 for the purposes of considering a resolution in respect of the dismissal of the Trustee and approval of the appointment of any new Trustee in accordance with the provisions of the Trust Deed or an Extraordinary Resolution, consist of Bondholders present in person or by proxy and holding in the aggregate not less than a clear majority of the aggregate Principal Amount of the Bonds for the time being outstanding; provided that at any meeting the business of which includes any of the matters specified in the proviso to Condition 20.13, the quorum shall

be one or more persons present in person holding Bonds or being proxies or representatives and holding in the aggregate not less than three-quarters in Principal Amount of the Bonds for the time being outstanding.

20.5.2 No business will be transacted at a meeting of the Bondholders unless a quorum is present at the time when the meeting proceeds to business.

20.5.3 If, within 15 minutes from the time appointed for the meeting, a quorum is not present, the meeting will, if it was convened on the requisition of the Bondholders be dissolved. In every other case the meeting will stand adjourned to the same day in the third week thereafter, at the same time and place, or if that day is not a Business Day, the next succeeding Business Day. If at such adjourned meeting a quorum is not present the Bondholders present, in person or by proxy, will constitute a quorum for the purpose of considering any resolution, including an Extraordinary Resolution; provided that at any adjourned meeting at which is to be proposed an Extraordinary Resolution for the purpose of effecting any of the modifications specified in the proviso to Condition 20.13, the quorum shall be one or more persons so present holding Bonds or being proxies or representatives and holding in the aggregate not less than one-half in Principal Amount of the Bonds for the time being outstanding

20.6 **Chairman**

The chairman of the meeting shall be appointed by the Trustee. If the Trustee or the person appointed by the Trustee to preside as chairman of the meeting is not present within 10 minutes of the time appointed for the holding of the meeting, the Bondholders then present will choose one of their own number to preside as chairman.

20.7 **Adjournment**

20.7.1 Subject to the provisions of this Condition 20, the chairman may, with the consent of, and will on the direction of, the meeting adjourn the meeting from time to time and from place to place.

20.7.2 No business will be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

20.7.3 At least 14 days written notice of the place, day and time of an adjourned meeting will be given by the Issuer or the Trustee, as the case may be, to the Issuer, the Trustee and each Bondholder. In the case of a meeting adjourned in terms of Condition 20.7.3, the notice will state that the Bondholders present in person or by proxy at the adjourned meeting will constitute a quorum.

20.8 **How questions are decided**

20.8.1 At a meeting, a resolution put to the vote will be decided on a poll.

20.8.2 In the case of an equality of votes, the chairman will not be entitled to a casting vote in addition to the vote, if any, to which he is entitled.

20.9 **Votes**

Voting shall only take place on a poll and not on a show of hands. On a poll every Bondholder, present in person or by proxy, will be entitled to that proportion of the total votes which the aggregate Principal Amount of the Bonds for the time being outstanding held by such Bondholder bears to the aggregate Principal Amount of all the Bonds for the time being outstanding. In relation to joint Bondholders, the vote may be exercised only by that Bondholder whose name appears first on the Register in the event that more than one of such Bondholders is present, in person or by proxy, at the meeting. The Bondholder in respect of Bonds held in the Central Securities Depository in uncertificated form shall vote at any such meeting on behalf of the holders of Beneficial Interests in such Bonds in accordance with the instructions to the Central Securities Depository's Nominee from the holders of Beneficial Interests conveyed through the Participants in accordance with the Applicable Procedures.

20.10 **Proxies and representatives**

20.10.1 Bondholders, present either in person or by proxy, may vote on a poll. A Bondholder, may by an instrument in writing (a "**proxy form**") signed by the Bondholder (or his duly authorised agent) or, in the case of a juristic person, signed on its behalf by a duly authorised officer of the juristic person, appoint any person (a "**proxy**" or "**proxies**") to act on his or its behalf in connection with any meeting or proposed meeting.

20.10.2 A person appointed to act as proxy need not be a Bondholder.

20.10.3 The proxy form will be deposited at the Specified Office of the Issuer or at the Specified Office of the Transfer Agent, as the case may be, not less than 24 hours before the time appointed for holding the meeting or adjourned meeting at which the person named in such proxy proposes to vote.

20.10.4 No proxy form will be valid after the expiration of 6 months from the date named in it as the date of its execution.

20.10.5 Notwithstanding Condition 20.10.4, a proxy form will be valid for any adjourned meeting, unless the contrary is stated thereon.

20.10.6 A vote given in accordance with the terms of a proxy form will be valid notwithstanding the previous death or incapacity of the principal or revocation or amendment of the proxy form or of any of the instructions of the Bondholder, pursuant to which the proxy form was executed or of the authority under which the proxy form was executed or the transfer of Bonds or in respect of which the proxy was given, provided that no intimation in writing of such death, incapacity, revocation or amendment shall have been received by the Issuer at its Specified Office or the Transfer Agent at its Specified



Office, as the case may be, more than, and that the transfer has been given effect to less than, 12 hours before the commencement of the meeting or adjourned meeting at which the proxy is to be used.

20.10.7 Any Bondholder which is a juristic person may authorise any person to act as its representative in connection with any meeting or proposed meeting of the Bondholders, by resolution of the directors or other governing body of the juristic person. Any reference in these Terms and Conditions to a Bondholder or any other member of the Bondholders present in person, includes the duly authorised representative of a Bondholder or any other member of the Bondholders, as the case may be, which is a juristic person.

20.11 **Minutes**

20.11.1 The Issuer will cause minutes of all resolutions and proceedings of meetings to be duly entered in the minute books of the Issuer.

20.11.2 Any such minutes as aforesaid, if purporting to be signed by the chairman of the meeting at which such resolutions were passed or proceedings held or by the chairman of the next succeeding meeting, will be receivable in evidence without any further proof, and until the contrary is proved, a meeting the Bondholders in respect of the proceedings of which minutes have been so made will be deemed to have been duly held and convened and all resolutions passed thereat, or proceedings held, to have been duly passed and held.

20.12 **Written resolutions**

A resolution in writing signed by the requisite majority of Bondholders shall be as valid and effective as if it had been passed at a meeting duly convened and constituted and shall be deemed (unless a statement to the contrary is made in that resolution) to have been passed on the last day on which that resolution is signed by any one or more of the Bondholders, as the case may be. That resolution may consist of two or more documents in the same form each of which is signed by one or more of the Bondholders, as the case may be.

20.13 **Powers of Bondholders by Extraordinary Resolution**

A meeting of Bondholders shall, subject to the Conditions, in addition to the powers given above, but without prejudice to any powers conferred on other persons by the Trust Deed, have power exercisable by Extraordinary Resolution:

20.13.1 to sanction any proposal by the Issuer, a Guarantor or the Trustee for any modification, abrogation, variation or compromise of, or arrangement in respect of, the rights of the Bondholders against the Issuer or a Guarantor or against any of their property whether such rights shall arise under the Trust Deed or otherwise;

- 20.13.2 to sanction any scheme or proposal for the exchange, substitution or sale of the Bonds for, or the conversion of the Bonds into, or the cancellation of the Bonds in consideration of, shares, stock, notes, bonds, debentures, debenture stock and/or other obligations and/or securities of the Issuer or Guarantor or any other body corporate formed or to be formed, or for or into or in consideration of cash, or partly for or into or in consideration of such shares, stock, notes, bonds, debentures, debenture stock and/or other obligations and/or securities as aforesaid and partly for or into or in consideration of cash;
- 20.13.3 to assent to any modification of the Trust Deed or the Conditions that relate to the rights appertaining to the Bonds which shall be proposed by the Issuer, a Guarantor or the Trustee;
- 20.13.4 to authorise anyone to concur in and do all such things as may be necessary to carry out and to give any authority, direction or sanction which under the Trust Deed or the Bonds is required to be given by Extraordinary Resolution;
- 20.13.5 to appoint any persons (whether Bondholders or not) as a committee or committees to represent the interests of the Bondholders and to confer upon such committee or committees any powers or discretions which the Bondholders could themselves exercise by Extraordinary Resolution;
- 20.13.6 to approve the substitution of any entity for the Issuer (or any previous substitute) as principal debtor under the Trust Deed; and
- 20.13.7 to discharge or exonerate the Trustee from any liability in respect of any act or omission for which it may become responsible under the Trust Deed or the Bonds;
- provided that* the special quorum provisions contained in the proviso to Condition 20.5.1.2 and, in the case of an adjourned meeting, in the proviso to Condition 20.5.3, shall apply in relation to any Extraordinary Resolution for the purpose of Condition 20.13.2 or 20.13.6 or for the purpose of making any modification to the provisions contained in the Trust Deed or the Bonds which would have the effect of:
- 20.13.7.1 changing the Final Redemption Date or the dates on which interest is payable in respect of the Bonds;
- 20.13.7.2 modifying the circumstances in which the Issuer or Bondholders are entitled to redeem the Bonds pursuant to Condition 10.2, 10.3 or 10.4;
- 20.13.7.3 reducing or cancelling the Principal Amount of, or interest on, the Bonds or reducing the amount payable on redemption of the Bonds or reducing the interest rate, or to modify the basis for calculating the interest payable in respect of the Bonds; or
- 20.13.7.4 modifying or cancelling the Conversion Rights; or

- 20.13.7.5 increasing the Conversion Price other than in accordance with the Conditions; or
- 20.13.7.6 changing the currency of any payment in respect of the Bonds or the due date or dates for any payment in respect of the Bonds; or
- 20.13.7.7 modifying or cancelling a Guarantee; or
- 20.13.7.8 changing the governing law of the Bonds, the Trust Deed or the Agency Agreement; or
- 20.13.7.9 modifying the quorum required at any meeting of Bondholders or the majority required to pass an Extraordinary Resolution; or
- 20.13.7.10 amending this proviso.

## **21. Conversion Agent, Calculation Agent and Transfer Agent**

- 21.1 The Issuer is entitled to vary or terminate the appointment of the Conversion Agent, Calculation Agent and/or the Transfer Agent and/or to appoint additional or other agents.
- 21.2 There will at all times be a Conversion Agent, Calculation Agent and a Transfer Agent with a Specified Office. The Conversion Agent, Transfer Agent and the Calculation Agent act solely as the agents of the Issuer and do not assume any obligation towards or relationship of agency or trust for or with any Bondholders.

## **22. No voting rights on Bonds held by Issuer, Parent Guarantor or any Subsidiary**

None of the Issuer, the Parent Guarantor or any Subsidiary of any of them will have any voting rights in respect of Bonds which are beneficially held by or on behalf of the Issuer, the Parent Guarantor or any Subsidiary of any of them.

## **23. Prescription**

Any claim for payment of principal and/or interest in respect of the Bonds will prescribe 3 years after the Relevant Date.

## **24. The Trustee**

The Trust Deed contains provisions for the indemnification of the Trustee and for its relief from responsibility, including relieving it from taking proceedings unless indemnified and/or secured and/or prefunded to its satisfaction. The Trustee is entitled to enter into business transactions with the Issuer and any entity related to the Issuer without accounting for any profit. The Trustee may rely without liability to Bondholders on a report, confirmation or certificate or any advice of any accountants, financial advisers or investment bank, whether or not addressed to it and whether their liability in relation thereto is limited (by its terms or by any engagement letter relating thereto entered into by the Trustee or in any other manner) by reference to a monetary cap, methodology or otherwise. The Trustee shall be obliged to accept and be entitled to rely on any such report,

confirmation or certificate or advice where the Issuer procures delivery of the same pursuant to its obligation to do so under any provision of these Conditions or the Trust Deed and such report, confirmation or certificate or advice shall be binding on the Issuer, the Trustee and the Bondholders in the absence of manifest error.

**25. Entitlement of the Trustee**

In connection with the exercise of its functions (including but not limited to those referred to in this Condition 25) the Trustee shall have regard to the interests of the Bondholders as a class and, in particular but without limitation, shall not have regard to the consequences of the exercise of its trusts, powers or discretions for individual Bondholders resulting from their being for any purpose domiciled or resident in, or otherwise connected with, or subject to the jurisdiction of, any particular territory, and the Trustee shall not be entitled to require, nor shall any Bondholder be entitled to claim, from the Issuer or any other person any indemnification or payment in respect of any tax consequences of any such exercise upon individual Bondholders.

**26. Enforcement**

The Trustee may at any time, at its discretion and without notice, take such proceedings against the Issuer or a Guarantor as it may think fit to enforce the provisions of the Trust Deed, the Bonds or a Guarantee, but it shall not be bound to take any such proceedings or any other action in relation to the Trust Deed, the Bonds and/or a Guarantee, unless (i) it shall have been so directed by an Extraordinary Resolution of the Bondholders or so requested in writing by Bondholders holding at least one-quarter of the aggregate Principal Amount of the Bonds for the time being outstanding, and (ii) it shall have been indemnified and/or secured and/or prefunded to its satisfaction. No Bondholder shall be entitled to proceed directly against the Issuer or a Guarantor.

**27. Governing law**

The Bonds and these Terms and Conditions are governed by, and will be construed in accordance with, the laws of South Africa.

**SIGNED** at \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_ 2012

For and on behalf of

**SHOPRITE INVESTMENTS LIMITED**

**(Registration Number 1985/000928/06)**

\_\_\_\_\_

Name:

Capacity: Director

Who warrants his authority hereto

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Name:

Capacity: Director

Who warrants his authority hereto

**USE OF PROCEEDS**

The Issuer used the net proceeds of the Bonds as operating capital for its general corporate purposes as announced by the Parent Guarantor on Bloomberg on 21 March 2012 and SENS on 22 March 2012.

## PARENT GUARANTEE

### GUARANTEE

Whereas:

- a.) The issue of ZAR4, 700, 000, 000 6.5 per cent Rate Senior Unsecured Guaranteed Convertible Registered Bonds due 3 April 2017 (the “**Bonds**”) was authorised by a resolution of the board of Shoprite Investments Limited, registration number 1985/000928/06 (the “**Issuer**”) passed on or about 22 March 2012 and 26 April 2012.
- b.) The terms and conditions of the Bonds (“**Terms and Conditions**”) will be executed for and on behalf of the Issuer on or about 30 March 2012.
- c.) GMG Trust Company (SA) (Proprietary) Limited (the “**Trustee**”, which expression shall include all persons for the time being appointed as the trustee or trustees under the Trust Deed) has been appointed in terms of a trust deed (the “**Trust Deed**”) between the Trustee, the Issuer, the Subsidiary Guarantor and the Parent Guarantor, to act as trustee for the holders of the Bonds.

**SHOPRITE HOLDINGS LIMITED** (Registration number 1936/007721/06), a public company incorporated in accordance with the laws of South Africa (the “**Parent Guarantor**”),

hereby, as principal obligor and not merely as surety, irrevocably, unconditionally and on the basis of a severable and discrete obligations enforceable against the Parent Guarantor guarantees to the Trustee for the benefit of the Bondholders, the full, prompt and complete payment of all present and future moneys and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) which are now, or which may hereafter become, due and owing by the Issuer under the Bonds and the Trust Deed (the “**Guaranteed Obligations**”) and whether or not any or all of the Guaranteed Obligations are enforceable against the Issuer.

1. Terms used and not defined herein have the meaning set forth in the Terms and Conditions or the Trust Deed, as applicable.
2. All payments made under this Parent Guarantee shall be made *mutatis mutandis* in accordance with Condition 11 of the Terms and Conditions.
3. The Parent Guarantor undertakes to the Trustee that if and each time the Issuer shall be in default in the payment of the Guaranteed Obligations or any of them in accordance with the Terms and Conditions or the Trust Deed, as applicable, and to the extent applicable has failed to remedy such default within any grace period provided for in the Terms and Conditions or the Trust Deed, as applicable, the Parent Guarantor will, within 3 (three) Business Days of written demand from the Trustee, pay all sums which may be due and payable in respect thereof as if the Parent Guarantor instead of the Issuer were expressed to be the primary obligor in respect thereof, together with interest or default interest thereon as specified in the Terms and Conditions or the Trust Deed.
4. The obligations under this Parent Guarantee constitute direct, unconditional, unsubordinated and (subject to the negative pledge) unsecured obligations of the Parent Guarantor ranking at least equally with all other existing and future unsecured and unsubordinated obligations of the Parent

Guarantor, save for such obligations as may be preferred by provisions of law that are both mandatory and of general application.

5. This Parent Guarantee shall be a continuing security and shall remain in force notwithstanding any intermediate payment in whole or in part of the Guaranteed Obligations and shall apply to the ultimate balance thereof.
6. Where any discharge (whether in respect of any amounts hereby guaranteed under this Parent Guarantee, any other security for the Guaranteed Obligations or otherwise) is made in whole or in part or any arrangement is made on the faith of any payment, security or other disposition, which discharge or arrangement is avoided or must be repaid on winding-up or repaid otherwise without limitation, the liability of the Parent Guarantor under this Parent Guarantee shall continue as if there had been no such discharge or arrangement.
7. The liability of the Parent Guarantor hereunder in respect of the Guaranteed Obligations, shall not be prejudiced, affected or diminished by any act, omission, circumstance, matter or thing which but for this provision might operate to release or otherwise exonerate the Parent Guarantor from its obligations hereunder in whole or in part, including, without limitation:
  - 7.1 any time or waiver granted to or composition with the Issuer or any other person; or
  - 7.2 the variation, compromise, renewal or release or refusal or neglect to perfect or enforce any rights, remedies or securities against the Issuer or any other person; or
  - 7.3 any variation of or extension of the due date for performance of any term of any agreement in connection with the Guaranteed Obligations (with the intent that the Guarantor's obligations in respect of the Guaranteed Obligations shall apply to such term as varied or in respect of the extended due date) or any increase, reduction, exchange, acceleration, renewal, surrender, release or loss of or failure to perfect any of the Guaranteed Obligations or any security therefor or any non-presentment or non-observance of any formality in respect of any instruments; or
  - 7.4 the winding-up or any change in the name or constitution of the Issuer, the Parent Guarantor or any other person; or
  - 7.5 any legal limitation, disability, incapacity or other circumstances relating to the Issuer or any other person or any amendment or supplement to or variation of any of the Terms and Conditions or the Trust Deed.
8. Subject to receipt of a demand in terms of clause 3 and to a claim for payment having been made against the Issuer, in writing, and such claim not having been paid, within the relevant period under the relevant Terms and Conditions or the Trust Deed, as applicable, by the Issuer, the Parent Guarantor waives any right it may have of first requiring the Trustee to proceed against the Issuer or enforce any guarantee or security granted by any other person before enforcing the security constituted hereby.
9. This Parent Guarantee shall be in addition to and shall not in any way be prejudiced by any collateral or other security now or hereafter held by the Trustee as security or any lien to which they may be entitled. The rights of the Trustee hereunder are in addition to and not exclusive of those provided by law.



10. The Parent Guarantor hereby renounces the legal benefits and exceptions of *excussio*, *division*, *non numeratae pecuniae*, *non causa debiti*, revision of accounts and *errore calculi*, the Parent Guarantor declaring itself to be fully acquainted with the full meaning and effect of this renunciation.
11. No action in respect of any collateral or security given by the Issuer, or any other persons, in respect of the Guaranteed Obligations is required to be taken before action is taken against the Parent Guarantor under this Parent Guarantee, and the existence or enforceability of this Parent Guarantee shall not affect or be affected by any other security held in respect of the Issuer's obligations under the Parent Guaranteed Obligations.
12. Any admission made by the Issuer in respect of the Guaranteed Obligations shall be binding on the Parent Guarantor.
13. A demand made under this Parent Guarantee by the Trustee after an event of default has occurred, as described in the Terms and Conditions or the Trust Deed, as applicable, and while it is continuing shall be made in writing to the Parent Guarantor at the address specified in clause 13 below.
14. Payment to the Trustee under this Parent Guarantee shall:
  - 14.1 be made by the Parent Guarantor to the Trustee not later than 3 (three) Business Days after receipt of a demand in accordance with clause 3;
  - 14.2 be made in immediately available funds in South African Rand to an account nominated by the Trustee in writing and shall be made free of exchange, any other costs, charges or expenses without any deduction, set-off or counterclaim whatsoever;
  - 14.3 discharge the Parent Guarantor of its applicable obligations to the Trustee for and on behalf of the Bondholders under this Parent Guarantee; and
  - 14.4 *pro tanto* discharge the Issuer of its corresponding obligations to the Trustee the Guaranteed Obligations.
15. Notwithstanding any part payment by the Parent Guarantor or on the Parent Guarantor's behalf, the Parent Guarantor shall have no right to any cession of action in respect of such part payment and shall not be entitled to take any action against the Issuer or against any other surety or guarantor for the Issuer in respect thereof.
16. The rights of the Trustee under this Parent Guarantee:
  - 16.1 may be exercised as often as necessary;
  - 16.2 are cumulative and not exclusive of their rights under general law, and
  - 16.3 may be waived only in writing and specifically.

Delay in exercising or non-exercise of any such right is not a waiver of that right.
17. Each notice, demand or other communication under this Parent Guarantee shall be in writing delivered personally or by recognised courier or facsimile and be deemed to have been given:
  - 17.1 in the case of a facsimile, on this first Business Day following the date of transmission; and
  - 17.2 in the case of a letter, when delivered; and

17.3 be sent to the Parent Guarantor at:

Physical:	Cnr William Dabs and Paarl Roads Brackenfell  7560  Western Cape  South Africa
Facsimile number:	+27 21 980 4468
Attention:	Pieter du Preez
Email:	<a href="mailto:pdupreez@shoprite.co.za">pdupreez@shoprite.co.za</a>

or to such other address in South Africa or facsimile number as is notified from time to time in writing by the Parent Guarantor to the Trustee.

17.4 be sent to the Trustee at:

Physical:	3 rd Floor  200 on Main  Cnr Main and Bowwood Roads  Claremont  7708
Facsimile number:	+27 86 242 281
Attention:	The Managing Director
Email:	<a href="mailto:john@gmctrust.co.za">john@gmctrust.co.za</a>

or to such other address in South Africa or facsimile number or e-mail address as is notified from time to time in writing by the Trustee to the Parent Guarantor.

18. The Parent Guarantor and the Trustee each choose the above address as its *domicilium citandi et executandi* for all purposes under this Parent Guarantee, whether in respect of court process, notices or other documents or communications of whatsoever nature.
19. This Parent Guarantee is, and all rights and obligations relating to this Parent Guarantee are, governed by, and shall be construed in accordance with, the laws of South Africa.
20. The Parent Guarantor and the Trustee agree that the High Court of South Africa (South Gauteng High Court, Johannesburg) shall have jurisdiction to hear and determine any suit, action or proceedings, and to settle any disputes which may arise out of or in connection with this Parent Guarantee and, for such purposes, irrevocably submits to the jurisdiction of such court.
21. This Parent Guarantee constitutes the sole record of the agreement between the Parent Guarantor and the Trustee in regard to the subject matter of this Parent Guarantee.

22. No party to this Parent Guarantee shall be bound by any express or implied term, representation, warranty, promise or the like, not recorded herein.
23. No addition to, variation or consensual cancellation of this Parent Guarantee and no extension of time, waiver or relaxation or suspension of any of the provisions or terms of this Parent Guarantee shall be of any force or effect unless in writing and signed by or on behalf of all the parties to this Parent Guarantee.
24. No latitude, extension of time or other indulgence which may be given or allowed by any party to this Parent Guarantee to any other party to this Parent Guarantee in respect of the performance of any obligation hereunder or enforcement of any right arising from this Parent Guarantee and no single or partial exercise of any right by any party to this Parent Guarantee shall under any circumstances be construed to be an implied consent by such party or operate as a waiver or a novation of, or otherwise affect any of that party's rights in terms of or arising from this Parent Guarantee or estop such party from enforcing, at any time and without notice, strict and punctual compliance with each and every provision or term hereof.
25. The Parent Guarantor and the Trustee 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 Parent Guarantee.
26. Save as is specifically provided in this Parent Guarantee, no party to this Parent Guarantee shall be entitled to cede or delegate any of its rights or obligations under this Agreement without the prior written consent of the other party, which consent may not be unreasonably withheld or delayed.
27. This Parent Guarantee may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same agreement.
28. This Parent Guarantee is subject to, and conditional upon, a general meeting of Shareholders of the Parent Guarantor passing such resolutions as are required for the grant of such Parent Guarantee by the Parent Guarantor

**SIGNED** at \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_ 2012

For and on behalf of

**SHOPRITE HOLDINGS LIMITED**

\_\_\_\_\_

Name:  
Capacity: Director  
Who warrants his authority hereto

\_\_\_\_\_

Name:  
Capacity: Director  
Who warrants his authority hereto

**SIGNED** at \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_ 2012

For and on behalf of

\_\_\_\_\_

Name: **GMG TRUST COMPANY (SA) (PROPRIETARY) LIMITED**  
Capacity: The Trustee for the time being of the Shoprite Bond Trust  
Who warrants his authority hereto

## SUBSIDIARY GUARANTEE

### GUARANTEE

Whereas:

- a.) The issue of ZAR4, 700, 000 000 6.5 per cent Rate Senior Unsecured Guaranteed Convertible Registered Bonds due 3 April 2017 (the “**Bonds**”) was authorised by a resolution of the board of Shoprite Investments Limited, registration number 1985/00928/06 (the “**Issuer**”) passed on or about 22 March 2012 and 26 April 2012.
- b.) The terms and conditions of the Bonds (“**Terms and Conditions**”) will be executed for and on behalf of the Issuer on or about 30 March 2012.
- c.) GMG Trust Company (SA) (Proprietary) Limited (the “**Trustee**”, which expression shall include all persons for the time being appointed as the trustee or trustees under the Trust Deed) has been appointed in terms of a trust deed (the “**Trust Deed**”) between the Trustee, the Issuer, the Subsidiary Guarantor and the Parent Guarantor, to act as trustee for the holders of the Bonds.

**SHOPRITE CHECKERS (PROPRIETARY) LIMITED** (Registration number 1985/000928/07), a private company incorporated in accordance with the laws of South Africa (the “**Subsidiary Guarantor**”),

hereby, as principal obligor and not merely as surety, irrevocably, unconditionally and on the basis of a severable and discrete obligations enforceable against the Subsidiary Guarantor guarantees to the Trustee for the benefit of the Bondholders, the full, prompt and complete payment of all present and future moneys and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) which are now, or which may hereafter become, due and owing by the Issuer under the Bonds and the Trust Deed (the “**Guaranteed Obligations**”) and whether or not any or all of the Guaranteed Obligations are enforceable against the Issuer.

1. Terms used and not defined herein have the meaning set forth in the Terms and Conditions or the Trust Deed, as applicable.
2. All payments made under this Subsidiary Guarantee shall be made *mutatis mutandis* in accordance with Condition 11 of the Terms and Conditions.
3. The Subsidiary Guarantor undertakes to the Trustee that if and each time the Issuer shall be in default in the payment of the Guaranteed Obligations or any of them in accordance with the Terms and Conditions or the Trust Deed, as applicable, and to the extent applicable has failed to remedy such default within any grace period provided for in the Terms and Conditions or the Trust Deed, as applicable, the Subsidiary Guarantor will, within 3 (three) Business Days of written demand from the Trustee, pay all sums which may be due and payable in respect thereof as if the Subsidiary Guarantor instead of the Issuer were expressed to be the primary obligor in respect thereof, together with interest or default interest thereon as specified in the Terms and Conditions or the Trust Deed.
4. The obligations under this Subsidiary Guarantee constitute direct, unconditional, unsubordinated and (subject to the negative pledge) unsecured obligations of the Subsidiary Guarantor ranking at least equally with all other existing and future unsecured and unsubordinated obligations of the

Subsidiary Guarantor, save for such obligations as may be preferred by provisions of law that are both mandatory and of general application.

5. This Subsidiary Guarantee shall be a continuing security and shall remain in force notwithstanding any intermediate payment in whole or in part of the Guaranteed Obligations and shall apply to the ultimate balance thereof.
6. Where any discharge (whether in respect of any amounts hereby guaranteed under this Subsidiary Guarantee, any other security for the Guaranteed Obligations or otherwise) is made in whole or in part or any arrangement is made on the faith of any payment, security or other disposition, which discharge or arrangement is avoided or must be repaid on winding-up or repaid otherwise without limitation, the liability of the Subsidiary Guarantor under this Subsidiary Guarantee shall continue as if there had been no such discharge or arrangement.
7. The liability of the Subsidiary Guarantor hereunder in respect of the Guaranteed Obligations, shall not be prejudiced, affected or diminished by any act, omission, circumstance, matter or thing which but for this provision might operate to release or otherwise exonerate the Subsidiary Guarantor from its obligations hereunder in whole or in part, including, without limitation:
  - 7.1 any time or waiver granted to or composition with the Issuer or any other person; or
  - 7.2 the variation, compromise, renewal or release or refusal or neglect to perfect or enforce any rights, remedies or securities against the Issuer or any other person; or
  - 7.3 any variation of or extension of the due date for performance of any term of any agreement in connection with the Guaranteed Obligations (with the intent that the Guarantor's obligations in respect of the Guaranteed Obligations shall apply to such term as varied or in respect of the extended due date) or any increase, reduction, exchange, acceleration, renewal, surrender, release or loss of or failure to perfect any of the Guaranteed Obligations or any security therefor or any non-presentment or non-observance of any formality in respect of any instruments; or
  - 7.4 the winding-up or any change in the name or constitution of the Issuer, the Subsidiary Guarantor or any other person; or
  - 7.5 any legal limitation, disability, incapacity or other circumstances relating to the Issuer or any other person or any amendment or supplement to or variation of any of the Terms and Conditions or the Trust Deed.
8. Subject to receipt of a demand in terms of clause 3 and to a claim for payment having been made against the Issuer, in writing, and such claim not having been paid, within the relevant period under the relevant Terms and Conditions or the Trust Deed, as applicable, by the Issuer, the Subsidiary Guarantor waives any right it may have of first requiring the Trustee to proceed against the Issuer or enforce any guarantee or security granted by any other person before enforcing the security constituted hereby.
9. This Subsidiary Guarantee shall be in addition to and shall not in any way be prejudiced by any collateral or other security now or hereafter held by the Trustee as security or any lien to which they may be entitled. The rights of the Trustee hereunder are in addition to and not exclusive of those provided by law.

10. The Subsidiary Guarantor hereby renounces the legal benefits and exceptions of excussion, division, *non numeratae pecuniae, non causa debiti*, revision of accounts and *errore calculi*, the Subsidiary Guarantor declaring itself to be fully acquainted with the full meaning and effect of this renunciation.
11. No action in respect of any collateral or security given by the Issuer, or any other persons, in respect of the Guaranteed Obligations is required to be taken before action is taken against the Subsidiary Guarantor under this Subsidiary Guarantee, and the existence or enforceability of this Subsidiary Guarantee shall not affect or be affected by any other security held in respect of the Issuer's obligations under the Subsidiary Guaranteed Obligations.
12. Any admission made by the Issuer in respect of the Guaranteed Obligations shall be binding on the Subsidiary Guarantor.
13. A demand made under this Subsidiary Guarantee by the Trustee after an event of default has occurred, as described in the Terms and Conditions or the Trust Deed, as applicable, and while it is continuing shall be made in writing to the Subsidiary Guarantor at the address specified in clause 13 below.
14. Payment to the Trustee under this Subsidiary Guarantee shall:
  - 14.1 be made by the Subsidiary Guarantor to the Trustee not later than 3 (three) Business Days after receipt of a demand in accordance with clause 3;
  - 14.2 be made in immediately available funds in South African Rand to an account nominated by the Trustee in writing and shall be made free of exchange, any other costs, charges or expenses without any deduction, set-off or counterclaim whatsoever;
  - 14.3 discharge the Subsidiary Guarantor of its applicable obligations to the Trustee for and on behalf of the Bondholders under this Subsidiary Guarantee; and
  - 14.4 *pro tanto* discharge the Issuer of its corresponding obligations to the Trustee the Guaranteed Obligations.
15. Notwithstanding any part payment by the Subsidiary Guarantor or on the Subsidiary Guarantor's behalf, the Subsidiary Guarantor shall have no right to any cession of action in respect of such part payment and shall not be entitled to take any action against the Issuer or against any other surety or guarantor for the Issuer in respect thereof.
16. The rights of the Trustee under this Subsidiary Guarantee:
  - 16.1 may be exercised as often as necessary;
  - 16.2 are cumulative and not exclusive of their rights under general law, and
  - 16.3 may be waived only in writing and specifically.

Delay in exercising or non-exercise of any such right is not a waiver of that right.
17. Each notice, demand or other communication under this Subsidiary Guarantee shall be in writing delivered personally or by recognised courier or facsimile and be deemed to have been given:
  - 17.1 in the case of a facsimile, on this first Business Day following the date of transmission; and

17.2 in the case of a letter, when delivered; and

17.3 be sent to the Subsidiary Guarantor at:

Physical: Cnr William Dabs and Paarl Roads

Brackenfell

7560

Western Cape

South Africa

Facsimile number: +27 21 980 4468

Attention: Pieter du Preez

Email: [pdupreez@shoprite.co.za](mailto:pdupreez@shoprite.co.za)

or to such other address in South Africa or facsimile number as is notified from time to time in writing by the Subsidiary Guarantor to the Trustee.

17.4 be sent to the Trustee at:

Physical: 3 rd Floor

200 on Main

Cnr Main and Bowwood Roads

Claremont

7708

Facsimile number: +27 86 242 281

Attention: The Managing Director

Email: [john@gmgtrust.co.za](mailto:john@gmgtrust.co.za)

or to such other address in South Africa or facsimile number as is notified from time to time in writing by the Trustee to the Subsidiary Guarantor.

18. The Subsidiary Guarantor and the Trustee each choose the above address or e-mail address as its *domicilium citandi et executandi* for all purposes under this Subsidiary Guarantee, whether in respect of court process, notices or other documents or communications of whatsoever nature.
19. This Subsidiary Guarantee is, and all rights and obligations relating to this Subsidiary Guarantee are, governed by, and shall be construed in accordance with, the laws of South Africa.
20. The Subsidiary Guarantor and the Trustee agree that the High Court of South Africa (South Gauteng High Court, Johannesburg) shall have jurisdiction to hear and determine any suit, action or proceedings, and to settle any disputes which may arise out of or in connection with this Subsidiary Guarantee and, for such purposes, irrevocably submits to the jurisdiction of such court.
21. This Subsidiary Guarantee constitutes the sole record of the agreement between the Subsidiary Guarantor and the Trustee in regard to the subject matter of this Subsidiary Guarantee.



22. No party to this Subsidiary Guarantee shall be bound by any express or implied term, representation, warranty, promise or the like, not recorded herein.
23. No addition to, variation or consensual cancellation of this Subsidiary Guarantee and no extension of time, waiver or relaxation or suspension of any of the provisions or terms of this Subsidiary Guarantee shall be of any force or effect unless in writing and signed by or on behalf of all the parties to this Subsidiary Guarantee.
24. No latitude, extension of time or other indulgence which may be given or allowed by any party to this Subsidiary Guarantee to any other party to this Subsidiary Guarantee in respect of the performance of any obligation hereunder or enforcement of any right arising from this Subsidiary Guarantee and no single or partial exercise of any right by any party to this Subsidiary Guarantee shall under any circumstances be construed to be an implied consent by such party or operate as a waiver or a novation of, or otherwise affect any of that party's rights in terms of or arising from this Subsidiary Guarantee or estop such party from enforcing, at any time and without notice, strict and punctual compliance with each and every provision or term hereof.
25. The Subsidiary Guarantor and the Trustee 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 Subsidiary Guarantee.
26. Save as is specifically provided in this Subsidiary Guarantee, no party to this Subsidiary Guarantee shall be entitled to cede or delegate any of its rights or obligations under this Agreement without the prior written consent of the other party, which consent may not be unreasonably withheld or delayed.
27. This Subsidiary Guarantee may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one and the same agreement.

**SIGNED** at \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_ 2012

For and on behalf of

**SHOPRITE CHECKERS (PROPRIETARY) LIMITED**

\_\_\_\_\_

Name:  
Capacity: Director  
Who warrants his authority hereto

\_\_\_\_\_

Name:  
Capacity: Director  
Who warrants his authority hereto

**SIGNED** at \_\_\_\_\_ this \_\_\_\_ day of \_\_\_\_\_ 2012

For and on behalf of

\_\_\_\_\_

Name: **GMG TRUST COMPANY (SA) (PROPRIETARY) LIMITED**  
Capacity: The Trustee for the time being of the Shoprite Bond Trust  
Who warrants his authority hereto

## DESCRIPTION OF THE GROUP, INCLUDING THE ISSUER

### GUARANTOR

#### BACKGROUND

Shoprite Holdings Limited (the "**Parent Guarantor**") was incorporated in South Africa on 23 February 1936 in accordance with the laws of South Africa under registration number 1936/007721/06.

The Parent Guarantor is a public company listed on the JSE Limited, with secondary listings on both the Namibian and Zambian Stock Exchanges.

This section of the Listing Document provides a description of the Parent Guarantor and its Subsidiaries as at the date of this Listing Document.

The Parent Guarantor is Africa's largest food retailer and operates 1303 corporate and 427 franchise outlets in 16 countries across Africa and the Indian Ocean Islands. The Parent Guarantor's core business is the food retail industry and comprises the following brands: Shoprite and Checkers supermarkets; Checkers Hypers; Usave stores; OK Furniture outlets; OK Power Express stores; House & Home stores; Hungry Lion fast food outlets; Medirite pharmacies and LiquorShops. Through its OK Franchise Division, the Parent Guarantor procures and distributes stock to OK MiniMark convenience stores; OK Foods supermarkets; OK Grocer stores; Megasave wholesale stores; OK Value stores; Sentra stores and buying partners, as well as Friendly Grocer and Seven Eleven franchise stores.

The Parent Guarantor's headquarters are situated in the Western Cape province of South Africa with its registered address at:

Cnr William Dabs and Old Paarl Roads  
Brackenfell 7560  
Western Cape  
South Africa

#### HISTORY AND GROUP HIGHLIGHTS

The Parent Guarantor's group started from small beginnings in 1979 with the purchase of a chain of 8 Cape-based supermarkets and marked by various acquisitions and innovative expansion strategies grew to the multinational business that it is today.

- 1983 - first branch opened outside the Western Cape – in Hartswater in the Northern Cape.  
- achieved turnover of almost 600% over the four years of its existence.
- 1984 - bought six food stores from Ackermans.
- 1986 - expanded to the Free State, opening a store in Bloemfontein.  
- listed on the JSE Securities Exchange South Africa with a market capitalisation of R29 million.
- 1988 - opened two stores in the former Transvaal province.
- 1990 - opened in Namibia and increased its outlets four-fold by acquiring Grand Bazaars.
- 1991 - country wide representation through acquisition Checkers chain of supermarkets  
- 241 outlets with a staff of 22 600.
- 1995 - opened first store in Central Africa, Shoprite Lusaka in Zambia.

- acquired the central buying organisation (Sentra), entering into the franchising field.
- 1996 - launched the Woman of the Year Award to mark National Women's Day.
- 1997 - acquired the OK Bazaars Group from SAB.
- opened its first outlet in Mozambique.
- OK stores in Swaziland and Botswana were converted into Shoprite stores.
- 1998 - selected as one of the 49 Best Companies To Work For and one of the 50 Most Promising Companies in South Africa.
- ranked number 8 by Turnover in Financial Mail's Top 100 Companies listing.
- ranked third in the category of Total Assets in Finance Week's survey of the Top 200 Companies in the JSE's Stores Sector.
- 1999 - ranked 43rd in the Sunday Times Business survey of Top Companies by Price Earnings Ratio.
- 2000 - first supermarkets opened in Zimbabwe and Uganda.
- selected as one of South Africa's Most Promising Companies.
- identified as one of the 40 Best Companies to work for.
- ranked by Sunday Times Business Times as number 51 in its listing of the Top 100 Companies over the previous 5 years.
- 2001 - first supermarket opened in Egypt.
- started operating in Malawi and Lesotho.
- ranked as top performer on earnings per share over 10 years by F&T Finance Week.
- placed 58<sup>th</sup> in Financial Mail's Top Company Survey of 2001
- 2002 - acquired the French-owned Champion supermarket group's franchise business in Madagascar.
- placed 4<sup>th</sup> in the 2002 Markinor-Sunday Times Top Brands Survey.
- placed 5<sup>th</sup> in the Top 10 Most Admired Companies category.
- opened first outlet in Mauritius.
- acquired Score Supermarkets' Tanzanian operation.
- listed on the Namibian Stock Exchange.
- 2003 - listed 2, 7 million shares on the Lusaka Stock Exchange.
- identified as South Africa's most trusted supermarket by the Markinor-Sunday Times Top Brands survey.
- opened its first stores in Ghana and Angola.
- started rollout of the Usave format.
- 2004 - commenced trading as a wholesale operation in India.
- ranked as 5<sup>th</sup> Most Admired Company in South Africa by the Markinor-Sunday Times survey.
- 2005 - acquired Foodworld and Computicket and opened the first Shoprite Liquor Shop.

- opened a supermarket in Lagos, Nigeria.
- 2006
- divested from Egypt closing its seven stores there.
  - ranked 132<sup>nd</sup> on the list of the world's top 250 retailers by Global Powers of Retail report from Deloitte Touche Tohmatsu, in conjunction with STORES magazine.
  - rated as the number 1 food retail brand in the country by Markinor-Sunday Times Top Brands survey
- 2007
- invested in property in the Democratic Republic of the Congo to develop two world class supermarkets in the major cities of Lubumbashi and Kinshasa.
  - rated amongst the top ten companies for Community Upliftment by the Markinor-Sunday Times Top Brands survey.
- 2008
- Shoprite Group added to the JSE Top-40 Index of blue-chips.
  - Shoprite brand voted South Africa's number 1 supermarket in the annual Ipsos Markinor Top Brands business-to-consumer survey.
  - ranked on the top 20 companies in the 2008 Business Times Top 100 Companies Survey.
  - named the leading retailer in Africa and Middle East in a report by Planet Retail titled: *Africa and Middle East Rankings: All set to make the difference.*
- 2009
- added to Merrill Lynch & Co.'s list of most preferred stocks.
  - voted SA's No. 1 supermarket in the 2009 Sunday Times Top Brand Survey.
  - acquired Transfarm, a pharmaceutical wholesale company.
- 2010
- listed as the largest retailer in South Africa and 130th biggest retailer globally by Deloitte.
  - disinvested from India.
  - voted SA's No. 1 supermarket in the 2010 Sunday Times Top Brand Survey
  - awarded first place in the 2010 annual The Times and Sowetan Retail Awards as top supermarket for overall customer experience.
  - received top honours in the Retail category of the 2010 Top 500 Companies Awards.
- 2011
- entered into an agreement with Metcash Trading Africa (Pty) Ltd to purchase the franchise division of Metcash.
  - moved from 130<sup>th</sup> to 95<sup>th</sup> in the Global Powers of Retailing list.
  - ranked 1<sup>st</sup> in the Markinor Top Brands Survey
- 2012
- moved up another 3 places on the Global Powers of Retailing list to a global ranking of 92<sup>nd</sup>.
  - maintained its 1st place ranking in terms of Africa and the Middle East.

Shoprite has been ranked the no. 1 retailer for the past 5 years. Today the Parent Guarantor's group trades with 1303 corporate and 427 franchise outlets in 16 countries across Africa, bringing the total number of stores in the Group to 1730.

## GUARANTOR AND GROUP STRUCTURE



## BOARD OF DIRECTORS AND BOARD COMMITTEES

The board of directors (“Board”) and the board committees are collectively responsible to the group’s stakeholders for the long-term success of the group and for the overall strategic direction and control of the group. Further information on the board of directors, board committees and the company secretary is incorporated by reference in the 2011 Integrated Report of the Parent Guarantor.

### Corporate governance and Regulatory Compliance

#### Corporate Governance

The Board and senior management subscribe to high ethical standards and principles of corporate governance, and recognise that sound governance can benefit long-term equity performance and enhance shareholder value. The Parent Guarantor’s corporate governance system is the cornerstone of its primary objective of creating value for material stakeholders in a sustainable way. A governance model has been adopted and implemented by the Parent Guarantor through the introduction of specialist disciplines such as risk management, legal and compliance.

The Board governs according to the principles of discipline, responsibility, fairness, social responsibility, transparency and accountability of directors to all material stakeholders. These principles are reflected in

the Parent Guarantor's business principles, internal controls and policies. The directors believe that the Parent Guarantor has complied with all the significant requirements of King III. JSE-listed companies are required to report and disclose the application of the King III principles. The principles that have not been applied are therefore explained below:

- Principle 2.16 recommends that the Chairman of the Board should be independent. The Board has considered this issue and is of the view that Dr CH Wiese's skills, knowledge and experience allows him to make a significant contribution to the functioning and effectiveness of the Board. A lead independent director was, however, appointed.
- Principle 2.18 requires that the Board should comprise a balance of power with a majority of non-executive directors, and that the majority of non-executive directors should be independent. The Board is in the process of restructuring and will aim to comply with this principle by 30 June 2012.
- Principle 2.22: The evaluation of the Board, its committees, and individual directors should be performed every year. The Group does not comply with this principle, but will implement the necessary measures to ensure compliance.

Further information on the Parent Guarantor's Corporate Governance practices is incorporated by reference in the 2011 Integrated Report of the Parent Guarantor.

#### **Regulatory Compliance**

Further information on the Parent Guarantor's Regulatory Compliance practices is incorporated by reference in the 2011 Integrated Report of the Parent Guarantor.

#### **Management strategy**

Further information on the Parent Guarantor's management strategies is incorporated by reference in the Parent Guarantor's Annual Report.

#### **Financial performance**

Further information on the Parent Guarantor's financial performance is incorporated by reference in the 2011 Annual Financial Statements of the Parent Guarantor as contained in the Integrated Report.

### **AUDITORS**

#### **Internal Audit**

The Parent Guarantor's internal auditing function is responsible for assisting the Board and the Parent Guarantor's management with the day to day maintenance of an effective internal control environment. It provides the mechanism whereby internal controls are evaluated on a regular basis to determine whether they are adequate, operating efficiently and effectively. The internal auditing function also provides the framework for improvements to be identified and recommended.

#### **External Audit**

PricewaterhouseCoopers is the Parent Guarantor's external auditor. The independence of the external auditor is recognised, and annually reviewed by the Board's Audit Committee. The external auditors attend all Audit Committee meetings and have unrestricted access to the chairman of the Audit Committee.

### **KEY BUSINESS RISKS AND RISK MANAGEMENT**

The Parent Guarantor has adopted a formal approach to its management of risk. The Parent Guarantor's risk management is set out in a formal policy.

The Parent Guarantor's risk management principles are founded upon the principles set out in King III.

Some of the group's material risks are summarised below:

- i. Business Continuity risk in that the group will be unable to trade in the event of a disaster;
- ii. Inability to obtain and/or retain suitably qualified staff;
- iii. Financial risks relates to the risk that the group's financial policies and procedures prevent the group from operating at optimum level;
- iv. Non-compliance with country specific legal and regulatory compliance;
- v. Foreign currency fluctuations that affect merchandise valuations, sales results and profitability mainly in Non-RSA operations.

## **SUBSIDIARY GUARANTOR**

### **BACKGROUND**

Shoprite Checkers (Proprietary) Limited (the "Subsidiary Guarantor") was incorporated in South Africa on 5 September 1929 in accordance with the laws of South Africa under registration number 1929/001817/07. The Subsidiary Guarantor is a private company and its core business revolves around the food retail industry.

The board of directors of the Subsidiary Guarantor consists of 36 (thirty-six) directors and 12 (twelve) alternate directors

### **ISSUER**

#### **BACKGROUND**

Shoprite Investments (Proprietary) Limited was incorporated in South Africa on 25 February 1985 in accordance with the laws of South Africa under registration number 1985/000928/07. Shoprite Investments (Proprietary) Limited converted to a public company, Shoprite Investments Limited (registration number 1985/000928/06) in March 2012. Shoprite Investments Limited (the "Issuer") is a public company and its core business revolves around the food retail industry. The Issuer has filed documents with the Companies and Intellectual Property Commission for conversion to a public company.

The Issuer's registered address is:

Cnr William Dabs and Old Paarl Roads

Brackenfell 7560

Western Cape

South Africa



The Issuer's company secretary is Shoprite Holdings Limited. The Company Secretary's headquarters are situated in the Western Cape province of South Africa with its registered address at:

Cnr William Dabs and Old Paarl Roads  
Brackenfell 7560  
Western Cape  
South Africa

## **BOARD OF DIRECTORS AND BOARD COMMITTEES**

The board of directors of the Issuer consists of 3 (three) directors, as detailed below:

<b>Director's Name</b>	<b>Designation at Shoprite Holdings level</b>
P G du Preez	Company Secretary
M Bosman	General Manager: Group Finance
C G Goosen	Deputy Managing Director and Financial Director

The Issuer is a material subsidiary of the Parent Guarantor. The Social and Ethics, Audit, Nominations and Remunerations Committees of the Parent Guarantor performs the functions required to be performed by these committees on behalf of the Issuer as allowed by the relevant provisions of the Companies Act, 2008.

### **Corporate governance and Regulatory Compliance**

#### **Corporate Governance**

The Issuer does not report on its Corporate Governance practices as a separate entity.

#### **Regulatory Compliance**

Compliance with applicable legislation is of paramount importance to the Issuer.

The most significant legislation impacting the Issuer's business are:

- The Companies Act 71 of 2008 (as amended);
- The Consumer Protection Act;
- The Foodstuffs, Cosmetics and Disinfectants Act;
- The Standards Act; and
- The Regulation of Interception of Communications Act (RICA).

Further information on Regulatory Compliance practices is incorporated by reference in the Parent Guarantor's 2011 Integrated Report as the Issuer's strategy in this regard is aligned with those of the Parent Guarantor.

#### **Management strategy**

Further information on the Issuer's management strategies is incorporated by reference in the Parent Guarantor's 2011 Integrated Report. The Issuer's strategy in this regard is however aligned to the strategy of the Parent Guarantor.

**AUDITORS**

Further information on the Issuer's internal and external auditing functions is incorporated by reference in the 2011 Integrated Report of the Parent Guarantor.

## **SETTLEMENT, CLEARING AND TRANSFERS**

### **Bonds held in the Central Securities Depository**

#### *Clearing systems*

The Bonds held in uncertificated form, will be cleared through the Central Securities Depository which, as the operator of an electronic clearing system, has been appointed by the JSE to match, clear and facilitate the settlement of transactions concluded on the JSE. Such Bonds will be issued, cleared and transferred in accordance with the Applicable Procedures and the Conditions. Such Bonds will be settled through Participants who will comply with the electronic settlement procedures prescribed by the JSE and the Central Securities Depository. The Bonds may be accepted for clearance through any additional clearing system as may be agreed between the JSE and the Issuer.

#### *Participants*

As at the Issue Date, the Participants which are approved by the JSE, in terms of the rules of the JSE, as settlement agents to perform electronic settlement of funds and scrip are the South African Reserve Bank, Absa Bank Limited, Citibank N.A., FirstRand Bank Limited, Nedbank Limited and The Standard Bank of South Africa Limited. Euroclear Bank S.A./N.V., as operator of the Euroclear System and Clearstream Banking société anonyme will settle offshore transfers through their South African Participant.

#### *Settlement and clearing*

### **Bonds issued in uncertificated form**

Bonds issued in uncertificated form will not be represented by any certificate or written instrument.

All transactions in uncertificated securities as contemplated in the Securities Services Act will be cleared and settled in accordance with the Applicable Procedures. All the provisions relating to Beneficial Interests in the Bonds held in the Central Securities Depository will apply to Bonds issued in uncertificated form.

### **Beneficial Interests**

The Central Securities Depository will hold the Bonds issued in uncertificated form, subject to the Securities Services Act and the Applicable Procedures. The Bonds issued in uncertificated form, will be registered in the name of the Central Securities Depository's Nominee, and the Central Securities Depository's Nominee will be named in the Register as the sole Bondholder of such Bonds.

Accordingly, and except where the contrary is provided in the Conditions, all amounts to be paid and all rights to be exercised in respect of the Bonds held in uncertificated form, will be paid to and may be exercised only by the Central Securities Depository's Nominee for the holders of Beneficial Interests in such Bonds.

The Central Securities Depository maintains central securities accounts only for Participants.

The Participants are in turn required to maintain securities accounts for their clients. The clients of Participants may include the holders of Beneficial Interests in the Bonds or their custodians. The clients of Participants, as the holders of Beneficial Interests or as custodians for such holders, may exercise their rights in respect of the Bonds held by them in the Central Securities Depository only through their Participants.

In relation to each person shown in the records of the Central Securities Depository or the relevant Participant, as the case may be, as the holder of a Beneficial Interest in a particular Principal Amount of Bonds, a certificate or other document issued by the Central Securities Depository or the relevant Participant, as the case may be, as to the Principal Amount of such Bonds standing to the account of such person shall be prima facie proof of such Beneficial Interest.

Payments of interest and principal in respect of Bonds held in uncertificated form, and registered in the name of the Central Securities Depository's Nominee, will be made in accordance with Condition 9 to the Central Securities Depository's Nominee, or such other registered holder of the uncertificated Bonds as shown in the Register, and the Issuer will be discharged by proper payment to or to the order of the registered holder of the Certificate in respect of each amount so paid. The registered holder of such uncertificated Bonds will in turn transfer such funds, via the Participants, to the holders of Beneficial Interests.

Each of the persons shown in the records of the Central Securities Depository and the relevant Participant, as the case may be, as the holders of Beneficial Interests will look solely to the Central Securities Depository's Nominee or the relevant Participant, as the case may be, for such person's share of such payment so made by the Issuer to, or to the order of, the registered holder of such Bonds.

The Issuer will not have any responsibility or liability for any aspect of the records relating to, or payments made on account of, Beneficial Interests, or for maintaining, supervising or reviewing any records relating to such Beneficial Interests.

#### *Transfers and exchanges*

Transfers of Beneficial Interests in the Central Securities Depository to and from clients of the Participants occur by electronic book entry in the central securities accounts of the clients of the Participants. Transfers among Participants of Bonds held in the Central Securities Depository system occur through electronic book entry in the Participants' central security accounts with the Central Securities Depository. Beneficial Interests may be transferred only in accordance with the Conditions and the rules and operating procedures for the time being of the Central Securities Depository, Participants and the JSE.

The Issuer shall regard the Register as the conclusive record of title to the Bonds.

Beneficial Interests may be exchanged for Bonds represented by the Certificates in accordance with Condition 15.1.

**Certificates**

The Bonds represented by a Certificate will be registered in the name of the individual Bondholders in the Register of Bondholders.

Bonds represented by a Certificate may be transferred only in accordance with the Conditions.

Payments of interest and principal in respect of Bonds represented by the Certificates will be made in accordance with Condition 11 to the person reflected as the registered holder of such Certificates in the Register at 17h00 (South African time) on the Last Day to Register, and the Issuer will be discharged by proper payment to or to the order of the registered holder of the Certificate in respect of each amount so paid.

## EXCHANGE CONTROL

*The comments below are intended as a general guide to the current position under the Exchange Control Regulations, 1961 as promulgated under the Currency and Exchanges Act, 1933 (the "Regulations") and are not a comprehensive statement of the Regulations. The information below is not intended as advice and it does not purport to describe all of the considerations that may be relevant to a prospective subscriber for, or purchaser of any Bonds. Prospective subscribers for, or purchasers of any Bonds who are non-South African residents or who are emigrants from the Common Monetary Area are urged to seek further professional advice in regard to the subscription for, or purchase of any Bonds.*

### **Non-South African Resident Bondholders and Emigrants from the Common Monetary Area**

Dealings in the Bonds, the performance by the Issuer of its obligations under the Bonds and the performance by the Parent Guarantor of its obligations under the Guarantee, may be subject to the Regulations.

#### **Blocked Rand**

Blocked Rand may be used for the subscription for or purchase of Bonds. Any amounts payable by the Issuer in respect of the Bonds subscribed for or purchased with Blocked Rand may not, in terms of the Regulations, be remitted out of South Africa or paid into any non-South African bank account.

#### **Emigrants from the Common Monetary Area**

Any individual Certificates issued to Bondholders who are emigrants from the Common Monetary Area will be endorsed "emigrant". Such restrictively endorsed individual Certificates will be deposited with an authorised foreign exchange dealer controlling such emigrant's blocked assets.

In the event that a Beneficial Interest in Bonds is held by an emigrant from the Common Monetary Area through the Central Securities Depository and its relevant Participants, the securities account of such emigrant will be designated as an "emigrant" account.

Any payments of interest and/or principal due to an emigrant Bondholder will be deposited into such emigrant's Blocked Rand account, as maintained by an authorised foreign exchange dealer. The amounts are not freely transferable from the Common Monetary Area and may only be dealt with in terms of the Regulations.

#### **Non-residents of the Common Monetary Area**

Any individual Certificates issued to Bondholders who are not resident in the Common Monetary Area will be endorsed "non-resident". In the event that a Beneficial Interest in Bonds is held by a non-resident of the Common Monetary Area through the Central Securities Depository and its relevant Participants, the securities account of such Bondholder will be designated as a "non-resident" account.

It will be incumbent on any such non-resident to instruct the non-resident's nominated or authorised dealer in foreign exchange as to how any funds due to such non-resident in respect of Bonds are to be dealt with. Such funds may, in terms of the Regulations, be remitted abroad only if the relevant Bonds are acquired with foreign currency introduced into South Africa and provided that the relevant Certificate or securities account is designated "non-resident".

For the purposes of these paragraphs: the **Common Monetary Area** comprises South Africa, the Republic of Namibia, the Kingdom of Lesotho and the Kingdom of Swaziland; **Blocked Rand** means funds which

may not be remitted out of South Africa or paid into a non-South African resident's bank account. The relevant legislation relating to Blocked Rand is the Regulations promulgated under the Currency and Exchanges Act, 1933.

## **GENERAL INFORMATION**

### **Authorisations**

All consents, approvals, authorisations or other orders of all regulatory authorities required by the Issuer under the laws of South Africa, including from the exchange control authorities, have been given for the issue of the Bonds and for the Issuer to undertake and perform its obligations under the Bonds and for the grant of the Guarantees and for the Guarantors to undertake and perform their obligations under the Guarantees.

### **Listing**

An application has been made to list the Bonds on the JSE - Main Board under stock code number SHPCB and ISIN number ZAE000166997. The application for listing was granted with effect from 28 May 2012.

### **Clearing systems**

The Bonds have been accepted for clearance through the Central Securities Depository, which forms part of the clearing system of the JSE and may be accepted for clearance through any additional clearing system as may be agreed between the JSE and the Issuer.

### **Participants**

As at the Issue Date, the Participants who are Participants recognised by the JSE are the South African Reserve Bank, Absa Bank Limited, Citibank NA, FirstRand Bank Limited, Nedbank Limited and The Standard Bank of South Africa Limited. Euroclear Bank S.A./N.V., as operator of the Euroclear System and Clearstream Banking société anonyme will settle offshore transfers through their South African Participants.

### **Material Change**

As at the date of this Listing Document and following due and careful enquiry, carried out without the involvement of the auditors, the board of directors of the Issuer is satisfied that there has been no material change in the financial or trading position of the Issuer since the date of its last audited financial statements dated 30 June 2011.

### **Litigation**

The Issuer (whether as defendant or otherwise) is not engaged in any legal, arbitration, administration or other proceedings the results of which might have or have had a significant effect on the financial position or the operations of the Issuer, nor is it aware of any such proceedings being threatened or pending.

### **Auditors**

PricewaterhouseCoopers Inc are the present auditors of the Issuer.



Signed at Brachenfell on behalf of Shoprite Investments Limited on

24.5.2012



Director

Signed at Brachenfell on behalf of Shoprite Investments Limited on

24.5.2012



Director

## CORPORATE INFORMATION

### ISSUER

#### SHOPRITE INVESTMENTS LIMITED

(Registration number 1985/000928/06)  
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### LOCAL LEGAL ADVISERS TO THE DEBT SPONSOR

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### SETTLEMENT, TRANSFER AND CALCULATION AGENT

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### MERCHANT BANK, ADVISER AND DEBT SPONSOR

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### CONVERSION AGENT

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**PARENT GUARANTOR****SHOPRITE HOLDINGS LIMITED**

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