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**AMENDED AND RESTATED TRUST DEED OF AFRIMAT BEE TRUST**

**EXECUTION**

in respect of:

**AFRIMAT LIMITED**

(Registration Number: 2006/022534/06)

(“**the Company**”)

and

**PIETER LEON DU TOIT**

(Identity Number: 480823 5073 089)

and

**JOHANNES MZAMO KALO**

(Identity Number: 580719 5421 089)

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## PART A – INTRODUCTION PRELIMINARY

### 1. DEFINITIONS AND INTERPRETATION

#### 1.1. Definitions

For the purposes of this Trust Deed (including the introduction above), unless the context requires otherwise:

- 1.1.1. “**Acquisition**” means the acquisition of either the shares or the business of any third party not forming part of the Afrimat Group, and which results in the employees of such third party becoming eligible to participate in the Scheme;
- 1.1.2. “**Administrator**” means any administrator of the Trust appointed in terms of clause 26.1;
- 1.1.3. “**AEI**” Afrimat Empowerment Investments Proprietary Limited (Registration Number: 2008/0224498/07), a private company duly incorporated in accordance with the laws of the Republic of South Africa, the entire ordinary share capital of which is, as at the Registration Date, held by the Trust and which company holds the Afrimat Shares (on behalf of the Trust) for the purposes of the Scheme;
- 1.1.4. “**AEI Shares**” means the entire ordinary share capital of AEI which, as at the Registration Date, is held by the Trust;
- 1.1.5. “**Afrimat Group**” means the Company and all its South African subsidiaries on the Registration Date, as well as any subsidiary established or acquired after the First Allocation Date pursuant to an Acquisition;
- 1.1.6. “**Afrimat Shares**” means ordinary shares in the issued share capital of the Company, held from time to time by the Trust and / or by AEI;
- 1.1.7. “**Allocated Trust Units**” means Trust Units which have been allocated by the Trustees to Qualifying Employees by way of Allocation Notices, and which have been accepted by such Qualifying Employees in accordance with and as contemplated in clause 13.4, and “**Allocated Trust Unit**” shall have a corresponding meaning;
- 1.1.8. “**Allocation Acceptance Period**” means the period of 7 (seven) days from the Notification Date, or such longer period as determined by the Trustees from time to time after obtaining the prior Written consent of the Board, and as reflected in each Allocation Notice;

- 1.1.9. “**Allocation Date**” means the date on which Trust Units are allocated to Qualifying Employees, being the First Allocation Date, and, in respect of subsequent allocations, such date as may be determined by the Company and notified in Writing by the Board to the Trustees;
- 1.1.10. “**Allocation Notice**” means the Written notice sent by the Trustees to a Qualifying Employee in accordance with clause 13.3, substantially in the form attached to this Trust Deed as “**Annexure A**” and in terms whereof a Trust Unit is allocated to a Qualifying Employee, unless the Qualifying Employee rejects the notional allocation in accordance with and as contemplated in clause 13.4;
- 1.1.11. “**Allocation Register**” means the register referred to in clause 27;
- 1.1.12. “**ARC Transaction**” means the transaction concluded between AEI and African Rainbow Capital Proprietary Limited (Registration Number: 2015/000394/07) (“**ARC**”) prior to the Registration Date, in terms whereof AEI Disposed to ARC shares representing 18,36% (eighteen comma three six percent) of the issued share capital of the Company, *inter alia* for the purpose of enabling AEI to discharge its obligations in relation to the acquisition price of the Afrimat Shares and facilitating the payment of the net proceeds derived from the Disposal to the participants in the schemes contemplated in the Second Trust Deed;
- 1.1.13. “**Assets**” means, at any time, the assets of the Trust, including but not limited to the AEI Shares, Afrimat Shares (whether held directly or indirectly through AEI) and the Cash Reserves;
- 1.1.14. “**Auditors**” means the auditors appointed in terms of clause 11.3, and holding office as the auditors of the Trust from time to time;
- 1.1.15. “**BBBEE Act**” means the Broad-Based Black Economic Empowerment Act, No. 53 of 2003;
- 1.1.16. “**BEE**” means Broad-Based Black Economic Empowerment, as defined in the BBBEE Act;
- 1.1.17. “**BEE Requirements**” means the BEE requirements applicable to the Trust and/or the Company (as the case may be) from time to time which are of general or substantially general application, whether or not they have the force of law, including the requirements set out in the BBBEE Act, the Codes and the Mining Charter;

- 1.1.18. “**Beneficiary**” means a Qualifying Employee who becomes a beneficiary of the Trust in accordance with the provisions of this Trust Deed, and the term “**Beneficiaries**” shall have a corresponding meaning;
- 1.1.19. “**Black People**” means the most stringent definition from time to time ascribed to it in the BBBEE Act or the Codes, and which as at the Signature Date is the definition contained in the BBBEE Act, as read with the Codes, namely the generic term which means African, Coloured or Indian persons who are citizens of the Republic of South Africa by:
- 1.1.19.1. birth or descent; or
- 1.1.19.2. naturalisation occurring either:
- 1.1.19.2.1. before 27 April 1994; or
- 1.1.19.2.2. on or after 27 April 1994, who would have been entitled to acquire citizenship by naturalisation prior to that date;
- and the terms “**Black**” and “**Black Person(s)**” shall have a corresponding meaning;
- 1.1.20. “**Board**” means the members of the board of directors of the Company from time to time, or RemCom, as the case may be;
- 1.1.21. “**Business Day**” means any day other than a Saturday, Sunday or public holiday in the Republic of South Africa;
- 1.1.22. “**Capital Gains Tax**” means a capital gains tax liability determined in accordance with the provisions of the Eighth Schedule to the Income Tax Act;
- 1.1.23. “**Cash Reserves**” means the aggregate amount of income and/or cash received by the Trust and withheld for the purpose of enabling the Trust to discharge its obligations in relation to any Liabilities;
- 1.1.24. “**Codes**” means the Codes of Good Practice on Broad-Based Black Economic Empowerment published in terms of section 9(1) of the BBBEE Act and applicable to the Company;
- 1.1.25. “**Companies Act**” means the Companies Act, No. 71 of 2008;

- 1.1.26. "**Company**" means Afrimat Limited (Registration Number: 2006/022534/06), a public company incorporated in the Republic of South Africa and listed on the main board of the JSE;
- 1.1.27. "**Company Trustees**" means the Trustees appointed by the Company from time to time in accordance with the provisions of this Trust Deed, as more fully contemplated in clause 6.3;
- 1.1.28. "**CSDP**" means a Central Securities Depository Participant, a "participant" as defined in section 1 of the FMA;
- 1.1.29. "**Current Trustees**" means the trustees of the Trust as at the Signature Date and the Registration Date, namely:
- 1.1.29.1. Pieter Leon Du Toit (Identity Number: 480823 5073 089), who is a Company Trustee; and
- 1.1.29.2. Johannes Mzamo Kalo (Identity Number: 580719 5421 089), who is an Employee Trustee;
- 1.1.30. "**Discretion**" means the exercise of the sole and absolute discretion by the Trustees or the Board, as the case may be, and as they/it think(s) fit, provided that such discretion is exercised in such a manner that the Trust Objects are achieved;
- 1.1.31. "**Dispose**" means sell, alienate, transfer, exchange, make over, give, donate, unbundle, distribute or otherwise dispose of (including, but not limited *eiusdem generis* by way of donation, dividend or by way of the terms of a will or any back-to-back arrangement or transaction or series of transactions or arrangements, cession of any rights, grant of options or any other transaction which has the same economic effect), and "**Disposal**", "**Disposed**" and "**Disposing**" shall bear a corresponding meaning;
- 1.1.32. "**Distribution**" shall have the meaning ascribed thereto in the Companies Act;
- 1.1.33. "**Distribution Date**" means the date upon which AEI receives any Distribution from the Company;
- 1.1.34. "**Eligible Independent Trustees**" shall have the meaning ascribed to it in clause 6.5.3.1;

- 1.1.35. **“Employee Trustees”** means those Trustees elected by the Beneficiaries in accordance with the provisions of this Trust Deed, as more fully contemplated in clause 6.4;
- 1.1.36. **“Employment Termination Date”** means the date on which a Beneficiary ceases to be actually employed by any member of the Afrimat Group for any reason whatsoever;
- 1.1.37. **“Encumber”** means:
- 1.1.37.1. pledge, assign or otherwise encumber or create or allow to come into existence any lien, hypothec, bond, charge or other form of security rights;
  - 1.1.37.2. any form of hedging or lending;
  - 1.1.37.3. any other type of preferential arrangement or agreement (including any cession and/or assignment of rights and/or obligations), the effect of which is or may be to result in anything referred to in clause 1.1.37.1 and/or 1.1.37.2; and
  - 1.1.37.4. any option, derivative or other transaction which requires anything referred to in clauses 1.1.37.1 and/or 1.1.37.2 or the effect of which is or may be to result in anything referred to in clauses 1.1.37.1 and/or 1.1.37.2;
- whether or not subject to any suspensive or resolute condition and **“Encumbrance”** shall have a corresponding meaning;
- 1.1.38. **“Financial Year”** means the financial year of the Company;
- 1.1.39. **“First Allocation Date”** means the date which shall be notified in Writing by the Company to the Trustees, which shall be as soon as reasonably possible after the Registration Date;
- 1.1.40. **“First Trust Deed”** means the trust deed in terms of which the Trust was created, which trust deed was concluded during 2006, as read with any rules adopted thereunder;
- 1.1.41. **“FMA”** means the Financial Markets Act, No. 19 of 2012;
- 1.1.42. **“Forced Disposal”** shall have the meaning ascribed to it in clause 20;



- 1.1.43. **“Income Tax Act”** means the Income Tax Act, No. 58 of 1962;
- 1.1.44. **“Independent Trustee”** means the Trustee who is in no manner whatsoever related and/or connected to the Company, the Trust and/or the Beneficiaries, and who shall be elected by the Company Trustees and the Employee Trustees in accordance with the provisions of this Trust Deed, as more fully contemplated in clause 6.5;
- 1.1.45. **“Independent Trustee Elect”** shall have the meaning ascribed to it in clause 6.5.3.4;
- 1.1.46. **“Independent Trustee Election Meeting”** shall have the meaning ascribed to it in clause 6.5.3.2;
- 1.1.47. **“JSE”** means JSE Limited, a public company duly registered and incorporated in accordance with the company laws of South Africa under registration number 2005/022939/06, licensed as an exchange under the FMA;
- 1.1.48. **“Laws”** means any enactment, laws, by-laws, statutes, rules, regulations, subordinate legislation, orders, ordinances, notices, notifications, directions, restrictions, judgments, decrees, circulars, decisions or other requirements or directives of any governmental authority in the Republic of South Africa, as well as any protocols, policies, codes, standards and/or resolutions which have the force of law as at the Signature Date, the Registration Date and from time to time;
- 1.1.49. **“Liabilities”** means the costs of the Trust, Tax and all other current and non-current liabilities of the Trust;
- 1.1.50. **“Market Value”** means, unless otherwise indicated to the contrary in this Trust Deed, the prevailing market price on the day of the Disposal of the AEI Shares or the Afrimat Shares (as the case may be);
- 1.1.51. **“Master”** means the Master of the North Gauteng High Court of South Africa;
- 1.1.52. **“Mining Charter”** means the Broad-Based Black Economic Empowerment Charter for the South African Mining and Minerals Industry;
- 1.1.53. **“Net Capital Proceeds”** means the actual proceeds received by the Trust in respect of the Disposal of AEI Shares or Afrimat Shares (as the case may be), less any Liabilities;

- 1.1.54. “**Net Income**” means all the income actually received by or accrued to the Trust, other than the Net Capital Proceeds, less any Liabilities;
- 1.1.55. “**Notification Date**” means the date of the Allocation Notice;
- 1.1.56. “**Participation Rights**” means, in respect of each Allocated Trust Unit and for purposes of determining the actual quantum of the cash distributions to which a Beneficiary shall be entitled, a right of a Beneficiary to the Net Income and the Net Capital Proceeds attributable to that Allocated Trust Unit, on the basis that each Allocated Trust Unit shall bear its proportionate share of the total Net Income and the Net Capital Proceeds and which shall be the amount equal to “PR” in the following formula:

$$PR = A / B$$

<i>where</i>	<i>PR</i>	=	<i>attributable Net Income or the Net Capital Proceeds, as the case may be, per Allocated Trust Unit;</i>
	<i>A</i>	=	<i>total amount of the Net Income or the Net Capital Proceeds, as the case may be;</i>
	<i>B</i>	=	<i>total number of Allocated Trust Units in issue as at the Record Date;</i>

- 1.1.57. “**Party**” means either the Company or the Trustees *nomine officio* as the parties to this Trust Deed, as the case may be, and “**Parties**” shall mean any one or more of them and, shall, where appropriate, be read as including a reference to a Beneficiary;
- 1.1.58. “**Permanent Employees**” means those employees of the Afrimat Group who have been in permanent employment with the relevant member of the Afrimat Group as at the relevant Allocation Date, on a full-time basis and who, for the avoidance of any doubt, shall exclude any fixed-term contractors, independent contractors, service contractors, temporary contract holders (including any person employed by a labour broker and rendering services to any member of the Afrimat Group) and expatriates, and “**Permanent Employee**” shall mean any one of them;
- 1.1.59. “**Qualifying Employees**” means those persons who comply with the requirements set out in clause 13.1 on an Allocation Date;
- 1.1.60. “**R**” or “**Rand**” means the lawful currency of South Africa;

- 1.1.61. “**Record Date**” means close of business of the day on which the register of the Company will be closed to determine entitlement to participate in a Distribution;
- 1.1.62. “**Registration Date**” means the date upon which the Master registers this Trust Deed;
- 1.1.63. “**RemCom**” means the Remuneration and Nominations Committee of the Company, or such other committee of which the remuneration function of the Board forms part from time to time;
- 1.1.64. “**Replacement Nominated Independent Trustee**” shall have the meaning ascribed to it in clause 6.5.3.6;
- 1.1.65. “**Reserve Independent Trustee**” shall have the meaning ascribed to it in clause 6.5.4;
- 1.1.66. “**Reserve Employee Trustees**” shall have the meaning ascribed to it in clause 6.4.4;
- 1.1.67. “**Scheme**” means the scheme constituted and regulated by this Trust Deed, to be structured and administered as an Employee Share Ownership Programme (as contemplated by the Codes);
- 1.1.68. “**Second Trust Deed**” means the amended and restated trust deed of the Trust, entered into between the Company and the Trustees on or about 24 February 2010, for the purpose of amending and replacing the First Trust Deed;
- 1.1.69. “**Signature Date**” means the date on which each of the Company and the Current Trustees have signed this Trust Deed;
- 1.1.70. “**South Africa**” means the Republic of South Africa;
- 1.1.71. “**Tax**” means all taxes, charges, imposts, levies, duties, deductions, withholding or fees of any kind whatsoever, or any amount payable on account for or as security for any of the foregoing by whomsoever and on whomsoever imposed, levied, collected, withheld or assessed, together with any penalties, additions, fines, surcharges or interest relating thereto, and “**Taxes**” and “**Taxation**” shall bear a corresponding meaning;
- 1.1.72. “**Trust**” means the “**AFRIMAT BEE TRUST**” as regulated by this Trust Deed;

- 1.1.73. “**Trust Bank Account**” means the bank account to be opened by the Trustees for the Trust in accordance with clause 8.1, which shall be with a bank approved by the Board and notified to the Trustees in Writing;
- 1.1.74. “**Trust Deed**” means this document (including any annexures hereto), as amended from time to time in accordance with its terms;
- 1.1.75. “**Trust Objects**” means the objects of this Trust as set out in clause 4;
- 1.1.76. “**Trustees**” means the trustees from time to time of the Trust, including the Employee Trustees, the Independent Trustee and the Company Trustees, all holding office in terms of this Trust Deed;
- 1.1.77. “**Trust Property Control Act**” means the Trust Property Control Act, No. 57 of 1988;
- 1.1.78. “**Trust Units**” means the units created by the Trustees in terms of this Trust Deed, used exclusively as a mechanism to establish the respective Vested Rights of the Beneficiaries *inter se*;
- 1.1.79. “**Vested Rights**” means, in respect of each Allocated Trust Unit, the Participation Rights; and
- 1.1.80. “**Writing**” means any writing however produced or communicated, including a telefax, an electronic mail, or in any other electronic form (including an electronic website), and appearing in any one or more forms of any kind, including print, typescript and manuscript, and “**Written**” shall bear a corresponding meaning.

## 1.2. General Interpretation

For the purposes of this Trust Deed the following rules of construction shall apply, unless the context requires otherwise:

- 1.2.1. any reference in this Trust Deed to an enactment is to that enactment as at the Signature Date and as amended or re-enacted from time to time, and includes any subordinate legislation made from time to time under such enactment. Any reference in this Trust Deed to a particular section in an enactment is to that section as at the Signature Date, and as amended or re-enacted from time to time and/or an equivalent measure in an enactment, provided that if as a result of such amendment or re-enactment, the specific requirements of a section referred to in this Trust Deed are changed, the relevant provision of the Trust Deed shall be

read also as if it had been amended as necessary, without the necessity for an actual amendment;

- 1.2.2. if any provision in a definition in this Trust Deed is a substantive provision conferring rights or imposing obligations on any party, notwithstanding that it is only in the definition clause, effect shall be given to it as if it were a substantive provision in the body of this Trust Deed;
- 1.2.3. when any number of days is prescribed in this Trust Deed, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day is not a Business Day in which case the last day shall be the next succeeding Business Day;
- 1.2.4. expressions defined in this Trust Deed shall bear the same meanings in schedules or annexures to this Trust Deed which do not themselves contain their own conflicting definitions;
- 1.2.5. if any term is defined within the context of any particular clause in this Trust Deed, the term so defined, unless it is clear from the clause in question that the term so defined has limited application to the relevant clause, shall bear the meaning ascribed to it for all purposes in terms of this Trust Deed, notwithstanding that that term has not been defined in this interpretation clause;
- 1.2.6. the expiration or termination of this Trust Deed shall not affect the provisions of this Trust Deed. It is expressly provided that the provisions of this Trust Deed will operate after any such expiration or termination where such provision out of necessity must continue to have effect after such expiration or termination, notwithstanding that the clauses themselves do not expressly provide for this;
- 1.2.7. the rule of construction that a contract shall be interpreted against the party responsible for the drafting or preparation of the contract, shall not apply;
- 1.2.8. any reference in this Trust Deed to a party shall include a reference to that party's successor or assignee expressly permitted under this Trust Deed, or if such party is liquidated or sequestrated, be applicable also to and binding upon that party's liquidator or trustee;
- 1.2.9. the words "**include**", "**including**" and "**in particular**" shall be construed as being by way of example or emphasis only and shall not be construed, nor shall they take effect, as limiting the generality of any preceding word/s;

- 1.2.10. any reference in this Trust Deed to any other agreement or document shall be construed as a reference to such other agreement or document as same may have been, or may from time to time be, amended, varied, novated or supplemented; and
- 1.2.11. the words “other” and “otherwise” shall not be construed *eiusdem generis* with any preceding words if a wider construction is possible.

## **PART B – CONSTITUTION OF THE TRUST**

### **2. INTRODUCTION**

- 2.1. The Trust was established during 2006 for the purpose of operating as a BEE scheme principally for the benefit of Black Employees, so as to enable the Company to achieve its BEE objectives.
- 2.2. The Initial Trust Deed was amended by way of the Second Trust Deed, *inter alia* for the purpose of:
- 2.2.1. widening the pool of eligible participants under the Scheme whilst continuing to seek the achievement of the Company's BEE objectives; and
- 2.2.2. facilitating the establishment of AEI as the vehicle through which the Trust could secure funding to acquire Afrimat Shares.
- 2.3. Following the implementation of the ARC Transaction, the participants of the scheme contemplated in the Second Trust Deed ceased to be beneficiaries thereunder.
- 2.4. Accordingly, the Company wishes to amend the Second Trust Deed by way of this Trust Deed so as to amend the terms relating to the Scheme, including the terms appertaining to the participation of the Qualifying Employees, the governance and administration of the Trust, in accordance with the terms and conditions set out below.
- 2.5. With effect from the Registration Date, the Second Trust Deed is amended and restated by the provisions of this Trust Deed, which accordingly regulates the operation of the Trust and the rights and obligations of the Trustees and the Beneficiaries in relation to each other.

### **3. RECORDAL OF THE ESTABLISHMENT OF TRUST**

- 3.1. The Trust was established during 2006 as the “**AFRIMAT BEE TRUST**”.
- 3.2. Subject to clause 8, the Trust shall be administered by the Trustees for the benefit of the Beneficiaries and in the manner and upon the terms and conditions set out in this Trust Deed.

3.3. The Trust shall terminate in accordance with the provisions of this Trust Deed.

#### 4. **TRUST OBJECT**

The purpose and object of the Trust is to:

- 4.1. facilitate BEE ownership in, and enhance the transformation initiatives of, the Afrimat Group;
- 4.2. enable the Qualifying Employees to participate in the economic benefit and growth of the Company and, in particular, to procure that at least 85% (eighty five per cent) of the economic benefit of the Trust accrues to Black People; and
- 4.3. enhance the ability of the Afrimat Group to attract and retain new employees.

#### 5. **BEE STATUS**

- 5.1. As set out above, one of the purposes of the Trust is to enhance the transformation initiatives of the Afrimat Group. It is accordingly the intention that Trust adheres to the BEE Requirements.
- 5.2. In particular it is recorded that this Trust adheres to the requirements of each of **Annexure 100(C)** and **Annexure 100 (D)** of Statement 000: General Principles and the Generic Scorecard of the Codes (as amended) being:

##### **(Annexe 100(C))**

- 5.2.1. the constitution of the scheme must define the participants and the proportion of their claim to receive distributions (clauses 1.1.56, 1.1.59, 13.1, 15,16 and 17);
- 5.2.2. a written record of the names of the participants or the use of a defined class of natural person satisfies the requirement for identification (clauses 13.1, and 27);
- 5.2.3. a written record of fixed percentages of claim or the use of a formula for calculating claims satisfies the need for defining proportion of benefit (clauses 13 and 15); and
- 5.2.4. the fiduciaries of the scheme must have no discretion on the above mentioned terms (clause 9.1.4); and
- 5.2.5. the participants must take part in:
  - 5.2.5.1. appointing at least 50% of the fiduciaries of the scheme (clause 6);

- 5.2.5.2. managing the scheme at a level similar to the management role of shareholders in a company having shareholding (clauses 6, and 24);
- 5.2.5.3. the constitution, or other relevant statutory documents, of the scheme must be available, on request, to any participant in an official language in which that person is familiar (clause 26.6 and **Annexure A**);
- 5.2.5.4. the scheme fiduciaries must present the financial reports of the scheme to participants yearly at an annual general meeting of the scheme (clause 24); and
- 5.2.5.5. all accumulated Economic Interest of the scheme is payable to the participants at the earlier of a date or event specified in the scheme constitution or on the termination or winding-up of the scheme (clauses 16 and 17);
- 5.2.5.6. a track-record of operating as an Employee Share Ownership Scheme, or in the absence of such a track record demonstrable evidence of full operational capacity to operate as an Employee Share Ownership Programme (clause 26);
- 5.2.5.7. operational capacity must be evidenced by suitable qualified and experienced staff in sufficient number, experienced professional advisors, operating premises and all other necessary requirements for operating a business (clause 26).

**(Annexe 100(D))**

- 5.2.6. the Trust Deed must define the beneficiaries and the proportion of their entitlement to receive distributions (clauses 1.1.56, 1.1.59, 13.1, 15 and 16);
- 5.2.7. a written record of the names of the beneficiaries or the use of a defined class of natural person satisfies the requirement for identification (clauses 13.1 and 27);
- 5.2.8. a written record of fixed percentages of entitlement or the use of a formula for calculating entitlement satisfies the need for defining proportion of benefit (clauses 13, and 15);
- 5.2.9. the trustees must have no discretion on the above mentioned terms (clause 9.1.4); and



- 5.2.10. on winding-up or termination of the trust, all accumulated Economic Interest must be transferred to the beneficiaries or to an entity representing the interest of the participants or class of beneficiaries (clause 17).

## **PART C – TRUSTEES, PROCEEDINGS AND ADMINISTRATION**

### **6. TRUSTEES**

#### **6.1. Number and Composition of Trustees**

- 6.1.1. Subject to the provisions of clauses 6.2 and 6.8.4, there shall at all times be 5 (five) Trustees in office, the composition which shall be as follows:
- 6.1.1.1. 2 (two) of whom shall be the Company Trustees, nominated and appointed by the Company as contemplated in clause 6.3;
- 6.1.1.2. 2 (two) of whom shall be the Employee Trustees, nominated, elected and appointed by the Beneficiaries as contemplated in clause 6.4; and
- 6.1.1.3. 1 (one) of whom shall be the Independent Trustee, elected and appointed by the Trustees mentioned in clauses 6.1.1.1 and 6.1.1.2, from a list of candidates contemplated in clause 6.5.3.1 below.
- 6.1.2. The appointment of the Trustees shall be on the basis that the majority of the Trustees shall at all times be Black People.

#### **6.2. Current Trustees**

- 6.2.1. As at the Registration Date the Trustees are the Current Trustees.
- 6.2.2. The Current Trustees shall, until the remaining Company Trustee, Employee Trustee and the Independent Trustee are appointed in accordance with this Trust Deed, have the full power and authority to conduct the business of the Trust.

#### **6.3. Appointment, removal and/or replacement of the Company Trustees**

- 6.3.1. It is recorded that, subject to the provisions of clause 6.2, there shall at all times be 2 (two) Company Trustees in office.
- 6.3.2. Within 60 (sixty) days after the First Allocation Date, the Company shall nominate and appoint the Company Trustees. For the avoidance of any doubt, the Current

Trustee referred to in clause 1.1.29.1 above (Mr Pieter Leon Du Toit) shall be deemed to constitute a Company Trustee.

6.3.3. The Company shall from time to time on Written notice to the Trustees be entitled to remove any of the Company Trustees and nominate another for appointment, or replace any of the Company Trustees.

6.4. **Appointment of the Employee Trustees by the Beneficiaries**

6.4.1. It is recorded that, subject to the provisions of clause 6.2, there shall be 2 (two) Employee Trustees in office.

6.4.2. For the avoidance of any doubt, the Current Trustee referred to in clause 1.1.29.2 (Mr Johannes Mzamo Kalo) shall be deemed to constitute an Employee Trustee.

6.4.3. Within 60 (sixty) days after the First Allocation Date, the Trustees or the Administrator shall procure that in respect of the appointment of the additional Employee Trustee, on the following basis:

6.4.3.1. the Beneficiaries nominate 4 (four) persons to serve as the Employee Trustees ("**Nominated Employee Trustees**");

6.4.3.2. after the Trustees or the Administrator has determined the Nominated Employee Trustees, they shall send a Written notice to each Beneficiary, requesting him to vote for 1 (one) of the Nominated Employee Trustees on a specified date and time and in a manner prescribed by the Trustees or the Administrator;

6.4.3.3. each Beneficiary who wishes to vote for the appointment of 1 (one) of the Nominated Employee Trustees to be the Employee Trustee shall do so in accordance with the manner prescribed by the Trustees or the Administrator, and such vote shall:

6.4.3.3.1. state his name; and

6.4.3.3.2. indicate the Nominated Employee Trustee in favour of which the Beneficiary casts his vote;

6.4.3.4. the Trustees or the Administrator shall count and verify the votes received from the Beneficiaries in accordance with clause 6.4.3.3, and shall notify all Beneficiaries, in Writing, of the Nominated Employee Trustee/s (the "**Employee Trustee Elect**") who received the most votes from the Beneficiaries;

- 6.4.3.5. in the event of a tie (equal votes) between any of the Nominated Employee Trustees, the Employee Trustees Elect shall be selected from the tied Nominated Employee Trustees on a random basis, by the drawing of lots undertaken by the Trustees or the Administrator; and
- 6.4.3.6. the Employee Trustee Elect shall do all such things and sign all such documents as may be required for the issue by the Master of a Letter of Authority in their favour. Against the issue of a Letter of Authority in their favour, the Employee Trustee Elect shall be appointed as an Employee Trustee of the Trust. In the event that the Master refuses to grant a Letter of Authority to an Employee Trustee Elect, or requires that security be provided by an Employee Trustee Elect, that Employee Trustee Elect shall not be appointed as an Employee Trustee. In such event, the First Trustee or the Administrator shall identify the Nominated Employee Trustee that received the next most votes in the election referred to in clause 6.4.3.3, and that Nominated Employee Trustee (hereinafter referred to as the “**Replacement Nominated Employee Trustee**”) shall be put forward to the Master to replace the disqualified Employee Trustee Elect as an Employee Trustee. The same process shall be followed if the Master refuses to grant a letter of authority to, or requires security from, the Replacement Nominated Employee Trustee.
- 6.4.4. The Trustees or the Administrator shall endeavour to procure that other Nominated Trustees who were not elected in terms of clause 6.4.3.3 shall constitute “**Reserve Employee Trustees**” who shall be eligible for appointment as Employee Trustee in terms of clause 6.8.2.2.
- 6.4.5. The Employee Trustees shall, on behalf of the Beneficiaries, be entitled to nominate and appoint the Independent Trustee (as contemplated in clause 6.5.1).
- 6.4.6. Subject to clause 6.7, the period of office of the Employee Trustee shall terminate on date of termination of the Trust.

6.5. **Appointment of the Independent Trustee**

- 6.5.1. It is recorded that 1 (one) out of the 5 (five) Trustees shall be nominated and elected from the pool of Independent Trustee nominations, by the Company Trustees and Employee Trustees in accordance with the provisions of this clause 6.5.

- 6.5.2. The Independent Trustee shall be independent, such that he must not:
- 6.5.2.1. be employed by the Trust nor any company forming part of the Afrimat Group;
  - 6.5.2.2. have any direct or indirect beneficial interest in the Trust;
  - 6.5.2.3. be financially dependent on the Company and/or the Trust and/or any Beneficiary; and
  - 6.5.2.4. directly or indirectly controlling the decision-making powers of the Trustees.
- 6.5.3. Within 30 (thirty) days after the appointment of the Employee Trustees in accordance with the provisions in clause 6.4, the Trustees or the Administrator shall procure that:
- 6.5.3.1. a list of 3 (three) persons who are adequately qualified to serve as the Independent Trustee (the “**Eligible Independent Trustees**”) is prepared;
  - 6.5.3.2. within 5 (five) days after the Trustees or the Administrator has been provided with the list of Eligible Independent Trustees in terms of clause 6.5.3.1, the Trustees or Administrator shall notify the Company Trustees and the Employee Trustees of the date, time and place where the Company Trustees and Employee Trustees will meet to elect the Independent Trustee (“**Independent Trustee Election Meeting**”);
  - 6.5.3.3. the Independent Trustee Election Meeting shall take place not less than 10 (ten) days and not more than 20 (twenty) days after the Trustees or Administrator receives the list of Eligible Independent Trustees from the Company. During the Independent Trustee Election Meeting the Company Trustees and Employee Trustees shall each cast 1 (one) vote in favour of the Eligible Independent Trustee which they wish to be appointed as an Independent Trustee;
  - 6.5.3.4. the Trustees or the Administrator shall count and verify the votes received from the Company Trustees and Employee Trustees in accordance with clause 6.5.3.3 and shall notify the Company Trustees and Employee Trustees, at the Independent Trustees

Election Meeting, of the Eligible Independent Trustee (the “**Independent Trustees Elect**”) who received the most votes;

6.5.3.5. in the event of a tie (equal votes) between any of the Eligible Independent Trustees, the Independent Trustees Elect shall be selected from the tied Eligible Independent Trustees on a random basis, by the drawing of lots undertaken by the Trustees or the Administrator; and

6.5.3.6. the Independent Trustees Elect shall do all such things and sign all such documents as may be required for the issue, by the Master, of a Letter of Authority in his favour. Against the issue of a Letter of Authority in his favour, the Independent Trustees Elect shall be appointed as an Independent Trustee of the Trust. In the event that the Master refuses to grant a Letter of Authority to an Independent Trustee Elect, or requires that security be provided by an Independent Trustee Elect, that Independent Trustee Elect shall not be appointed as an Independent Trustee. In such event, the Trustees or the Administrator shall identify the Nominated Independent Trustee that received the next most votes in the election referred to in clause 6.5.3.3, and that Nominated Independent Trustee (hereinafter referred to as the “**Replacement Nominated Independent Trustee**”) shall be put forward to the Master to replace the disqualified Independent Trustee Elect as an Independent Trustee. The same process shall be followed if the Master refuses to grant a letter of authority to, or requires security from, the Replacement Independent Nominated Trustee.

6.5.4. The Trustees or the Administrator shall endeavour to procure that the Nominated Independent Trustees who were not elected in terms of clause 6.5.3 shall constitute “**Reserve Independent Trustees**”, who shall be eligible for appointment as Independent Trustees in terms of clause 6.8.2.3.

6.5.5. Subject to clause 6.7, the period of office of an Independent Trustee shall terminate on the date of termination of the Trust.

## 6.6. **Disqualification**

The following persons shall be disqualified from acting as a Trustee, and any Trustee in office that does not qualify to act as a Trustee shall cease to act immediately:

- 6.6.1. any person who is ineligible or disqualified to act as a director of a company in terms of the Companies Act;
- 6.6.2. any person who has been placed under sequestration, whether provisional or final, or has committed an act of insolvency as defined in the Insolvency Act, No. 24 of 1936;
- 6.6.3. any person who becomes insane or incapable of managing his affairs or is declared a prodigal or subject to a permanent disability;
- 6.6.4. any person who commits an offence involving dishonesty under the laws of any country;
- 6.6.5. any Trustee who has been suspended and/or is found guilty as a result of or involving dishonesty or theft; or
- 6.6.6. any person who is removed from office by a Court or the Master in terms of section 20 of the Trust Property Control Act.

6.7. **Vacation of office of Trustee**

- 6.7.1. The office of a Trustee shall be vacated:
  - 6.7.1.1. automatically, if he becomes disqualified from being a Trustee in accordance with the requirements of this Trust Deed and which shall include, for the avoidance of any doubt, the requirements contemplated in clause 6.6;
  - 6.7.1.2. automatically, if he fails to attend in person at least 2 (two) of any 3 (three) consecutive meetings of Trustees;
  - 6.7.1.3. immediately, if he, being a Company Trustee, is removed by the Company in terms of clause 6.8.2.1;
  - 6.7.1.4. immediately, if he, being an Employee Trustee is not re-elected as a Trustee 2 (two) years following the date of his appointment or the date of the second ensuing general meeting of the Beneficiaries (whichever is the later date), in accordance with such other procedures as may be in place from time to time for the election of the Employee Trustees;

- 6.7.1.5. immediately, if he, being an Employee Trustee is removed by a written resolution of more than 50% (fifty percent) of the Beneficiaries;
  - 6.7.1.6. immediately, if he, being an Employee Trustee, ceases to be a Permanent Employee if, at the time of his appointment as an Employee Trustee or thereafter, he was or became a Permanent Employee;
  - 6.7.1.7. immediately, if he, being an Independent Trustee, ceases to meet the requirements for independence as set out in clause 6.5.2; or
  - 6.7.1.8. upon resignation, provided that a Trustee must give 20 (twenty) Business Days' Written notice of his resignation to the other Trustees, the Administrator and the Company.
- 6.7.2. A Trustee shall have no claim against the Trust arising out of or in connection with his resignation and/or removal as a Trustee.

6.8. **Appointment of successors**

- 6.8.1. If a Trustee vacates his office in terms of clause 6.7, another Trustee shall be appointed in accordance with the provisions of this Trust Deed.
- 6.8.2. To this end:
  - 6.8.2.1. if the Trustee ceasing to hold office is a Company Trustee, the Company shall nominate and appoint by Written notice to the remaining Trustees, a replacement the Company Trustee in accordance with clause 6.3;
  - 6.8.2.2. if the Trustee ceasing to hold office is an Employee Trustee, the Reserve Employee Trustee who received the next highest number of votes (and who has not yet been appointed as an Employee Trustee) shall be appointed in the stead of such Employee Trustee; provided that such Reserve Employee Trustee must still comply with the requirements set out in clause 6.4, and must be willing to act as an Employee Trustee. In the event that there is no Reserve Employee Trustee available to be appointed as an Employee Trustee for any reason whatsoever (including because they have all previously been appointed as Employee Trustees or because there are none who are willing to act as Employee Trustees), then the remaining Trustees

shall be obliged, as soon as reasonably possible, to obtain nominations and hold an election *mutatis mutandis* in accordance with the provisions of clause 6.4.3 above; and

6.8.2.3. if the Trustee ceasing to hold office is an Independent Trustee, the Reserve Independent Trustee who received the next highest number of votes (and who has not yet been appointed as an Independent Trustee) shall be appointed in the stead of such Independent Trustee; provided that such Reserve Independent Trustee must still comply with the requirements set out in clause 6.5.2, and must be willing to act as an Independent Trustee. In the event that there is no Reserve Independent Trustee available to be appointed as an Independent Trustee for any reason whatsoever (including because they have all previously been appointed as Independent Trustees or because there are none who are willing to act as Independent Trustees), then the remaining Trustees shall be obliged, as soon as reasonably possible, to obtain nominations and hold an election *mutatis mutandis* in accordance with the provisions of clause 6.5.3.

6.8.3. The appointment of any Trustee to replace a Trustee that has ceased to hold office as such in accordance with the foregoing provisions of this clause 6.8, shall take effect upon the issue by the Master of a Letter of Authority reflecting such appointment.

6.8.4. If the number of Trustees fall below 5 (five) the remaining Trustee/s shall have the full power and authority to conduct the business of the Trust until such time as successor Trustees have been appointed.

6.9. **Assumption of Trustees**

6.9.1. The Trustees shall not have the power of assumption.

6.9.2. A Trustee shall not be entitled to appoint another Trustee as a successor Trustee to him, or as a person to fulfil his duties and exercise his powers as Trustee on his behalf.

**7. MEETINGS AND PROCEEDINGS OF TRUSTEES**

7.1. The Trustees shall meet at least once every Financial Year.

7.2. The Independent Trustee shall be the chairperson of the Trust, provided that if no Independent Trustee is appointed or the Independent Trustee is not able or willing to act as such, the



Trustees shall elect a chairperson from among them. The chairperson shall not have a second or casting vote.

- 7.3. The Trustees shall, further, at the first and every annual meeting of the Trustees, elect 1 (one) Trustee, who shall be a Black Person (and who may or may not also be the chairperson) as a director to the board of AEI, and who shall be entitled to represent the Trust at the general meetings of AEI or of the Company (should the Trust be the registered holder of the Afrimat Shares), as the case may be, for that Financial Year.
- 7.4. In respect of all meetings of the Trustees:
- 7.4.1. at least 3 (three) Trustees shall be entitled to convene a meeting of the Trustees by giving at least 14 (fourteen) days' Written notice to the other Trustees, or on such shorter notice as may be agreed by all the Trustees in Writing;
  - 7.4.2. the Trustees shall meet together for the dispatch of business, adjourn and otherwise regulate their meetings as they deem fit;
  - 7.4.3. the Trustees may participate in a meeting of the Trustees by means of conference telephone or similar equipment by means of which all persons participating in the meeting can hear each other and any such participation in a meeting shall constitute presence in person at the meeting;
  - 7.4.4. a minimum of 3 (three) Trustees in office at the time of the meeting, of which 1 (one) must be a Company Trustee and 1 (one) must be an Independent Trustee, must be present at a meeting of the Trustees to constitute a quorum;
  - 7.4.5. save as may be expressly otherwise provided in this Trust Deed, decisions to be taken by the Trustees present at a meeting of Trustees shall take place by majority vote, with the decision of the majority deemed to be the decision of all of the Trustees. If the Trustees are deadlocked as regards any particular resolution, that resolution shall again be put to the vote not earlier than 10 (ten) days and not later than 30 (thirty) days thereafter. If the Trustees are still deadlocked that resolution shall fail;
  - 7.4.6. a resolution in Writing signed by at least 3 (three) of the Trustees in office at the relevant time shall be valid and effectual as if it had been passed at a meeting of the Trustees duly called and constituted, and such resolution may be signed in counterparts, provided 1 (one) must be a Company Trustee and 1 (one) must be an Independent Trustee.

- 7.5. The Trustees shall keep minutes of their meetings in Writing and all resolutions passed by the Trustees shall be duly signed by all the Trustees present at the meetings. Subject to clause 7.6, any resolution which is certified by the said 2 (two) Trustees as a true extract from the minutes of a particular resolution of all the Trustees, has in every respect the legal validity of a resolution signed by all the Trustees.
- 7.6. The Trustees are entitled to authorise 2 (two) or more of them, of which at least one shall be an Independent Trustee, to sign on behalf of the Trustees all documents for official purposes which are necessary for the administration of the Trust and for the execution of any transaction concerned with the affairs of the Trust.

## 8. **POWERS OF TRUSTEES**

Subject to clauses 6.2.2 and 9, the Trustees shall have the powers (including without limitation, any ancillary and plenary powers), capacity and authority reasonably required to fulfil the requirements of this Trust Deed, including the powers:

- 8.1. to open and operate (either themselves or by a person(s) authorised by them) the Trust Bank Account, provided that all instruments shall be signed by 1 (one) Trustee and the chief financial officer of the Company;
- 8.2. to open and operate an account with a CSDP;
- 8.3. to appoint, with the prior Written consent of the Company, an Administrator in accordance with clause 26.1;
- 8.4. to subscribe, acquire, hold and/or Dispose of any AEI Shares or Afrimat Shares (as the case may be) from time to time in accordance with the provisions of this Trust Deed;
- 8.5. to allocate Trust Units to Qualifying Employees in accordance with the provisions of this Trust Deed;
- 8.6. to invest the Cash Reserves (if any) in an interest-bearing account held with any commercial bank account in South Africa;
- 8.7. to distribute the Net Income and/or the Net Capital Proceeds to the Beneficiaries in accordance with the provisions of this Trust Deed;
- 8.8. to operate a payroll system and withhold the Qualifying Employees' Tax in accordance with the requirements of the Fourth Schedule to the Income Tax Act;
- 8.9. to pay to any Qualifying Employee any amounts due to him in terms of this Trust Deed in cash;

- 8.10. to exercise the voting rights attached to the AEI Shares or the Afrimat Shares (should the Trust be the registered holder of the Afrimat Shares) in accordance with the provisions of this Trust Deed;
- 8.11. to employ, with the prior Written consent of the Company, any professional or other person to provide professional services to the Trust;
- 8.12. to have *locus standi in judicio* and be capable of bringing, defending, opposing, withdrawing, settling, compounding or otherwise acting in connection with any proceedings whatsoever in or before any court of law or in any arbitration proceeding or before any other forum relating to the Trust or the affairs of the Trust;
- 8.13. to Dispose of the AEI Shares or the Afrimat Shares (should the Trust be the registered holder of the Afrimat Shares), strictly in accordance with this Trust Deed; and
- 8.14. to adopt such further procedures and do such further things as the Trustees deem necessary or advisable for the due and proper administration of the Trust, and in order to achieve the Trust Objects.

## 9. DUTIES OF TRUSTEES

- 9.1. Notwithstanding anything to the contrary contained in this Trust Deed, the Trustees shall not, save as may be agreed to in Writing by the Company or save as expressly permitted in the Trust Deed, at any time:
  - 9.1.1. subject the Trust to any voluntary proceedings under any law, regulation or procedure relating to insolvency, reconstruction or readjustment of debts or relief from creditors;
  - 9.1.2. make any loan or grant any credit or furnish any financial guarantee, suretyship, bond or indemnity of whatsoever nature;
  - 9.1.3. acquire any shares other than the AEI Shares or Afrimat Shares (as the case may be), or any business or substantial part of a business;
  - 9.1.4. have any Discretion as to:
    - 9.1.4.1. who may or may not participate in the Scheme; or
    - 9.1.4.2. the extent of any Beneficiary's participation in the Scheme;

- 9.1.5. Dispose of the AEI Shares or the Afrimat Shares (should the Trust be the registered holder of the Afrimat Shares), other than in accordance with the provisions of this Trust Deed;
- 9.1.6. incur any Liabilities, costs and/or expenses of whatsoever nature, save in respect of the statutory audit, taxes and/or administrative costs required for the operation of the Trust but at all times subject to the Written consent of the Company;
- 9.1.7. make any payment to, for or on account of any Beneficiary, other than as contemplated in this Trust Deed;
- 9.1.8. make any investment whatsoever other than as contemplated in this Trust Deed;
- 9.2. The Trustees shall, in addition to any other duty imposed by this Trust Deed, whether expressed or implied:
  - 9.2.1. procure that all the AEI Shares or Afrimat Shares (as the case may be) are registered in the name of the Trust or in the name of its CSDP or broker (should the Trust be the registered holder of the Afrimat Shares);
  - 9.2.2. hold the Assets and any other assets which may be acquired in exchange therefore or by virtue thereof for the benefit of the Beneficiaries in accordance with the requirements of this Trust Deed;
  - 9.2.3. make distributions of the Net Income and/or the Net Capital Proceeds to the Beneficiaries only in the manner specified in this Trust Deed;
  - 9.2.4. settle the Liabilities in accordance with the terms thereof and in the manner contemplated in this Trust Deed;
  - 9.2.5. properly and promptly pay and discharge all Taxes applicable to it;
  - 9.2.6. at all times comply with all Laws applicable to the Trust;
  - 9.2.7. observe, comply with and give effect to the terms and provisions of this Trust Deed; and
  - 9.2.8. procure that this Trust Deed or any part thereof is made available on Written request to any Beneficiary in an official language with which that Beneficiary is familiar.

## 10. EXEMPTIONS AND PRIVILEGES OF THE TRUSTEES

- 10.1. The Trustees shall be exempt from any obligation to furnish security in connection with their appointment and/or for the due administration of the Trust to the Master or any other person, body or authority. The Master and any such other person are hereby directed to dispense with and not to require security.
- 10.2. The Trustees shall be disqualified by their office from contracting with the Trust or any entity in which the Trust is interested unless the Company has given its prior Written approval thereto. If a Trustee has an interest in a contract with the Trust, such Trustee shall not be entitled to decide any matter pertaining to such contract.
- 10.3. Subject to the applicable Laws:
- 10.3.1. no Trustee shall be liable to make good to the Trust or any Beneficiary any loss occasioned or sustained by any cause, howsoever arising, except such losses as may arise from or be occasioned by his own personal dishonesty or other wilful misconduct or gross negligence;
- 10.3.2. no Trustee shall be liable for any act of dishonesty or other misconduct committed by any other Trustee, unless he knowingly allowed it or was an accessory to such dishonesty or other misconduct;
- 10.3.3. the Trustees shall be indemnified out of the Assets of the Trust against all claims and demands of whatsoever nature that may be made upon them arising out of the exercise or purported exercise of any of the powers hereby conferred upon them; and
- 10.3.4. the Trustees may rely, and shall not incur any liability as a consequence of relying, on any document, resolution or the like (or any copy thereof) which they reasonably believe to be authentic.
- 10.4. Unless otherwise determined by the Company in Writing, the Trustees shall not be remunerated for their services as Trustees.
- 10.5. The Trustees shall be entitled to reimbursement for all reasonable expenses properly incurred by them in administering this Trust, including the costs of any litigation instituted or defended.

## 11. BOOKS OF ACCOUNT AND AUDITORS

- 11.1. The Trustees shall keep true and correct records and books of account of their administration of the Trust in such manner and form as is necessary in order that the records and books shall

at all times reflect the position of the Trust. There shall be recorded in such records and books of account, *inter alia*, any change of the Assets from time to time and the income and/or the expenses applicable to the administration of the Trust.

- 11.2. Such records and books of account, together with all other papers and documents connected with or relating to the Trust, shall be kept in the custody of the Administrator or, if no Administrator is appointed in accordance with this Trust Deed, in the custody of the Company.
- 11.3. The Trustees shall for the duration of this Trust appoint the auditors of the Company as the Trust's Auditors, or such other auditors as agreed between the Board and the Trustees in Writing from time to time.
- 11.4. The Auditors shall have an unrestricted right of access to the records and books of account of the Trust, and shall be entitled to such information and explanations as may be necessary for the performance of their duties as Auditors.
- 11.5. The Company shall have the right of access at all times to the records and books of account of the Trust.
- 11.6. The Trustees shall ensure that the books of account are prepared in accordance with the International Financial Reporting Standards and the accounting policies of the Company, and shall ensure that the annual financial statements are audited in accordance with the International Standards on Auditing and standards applicable to the Company.
- 11.7. The Trustees will ensure that the annual financial statements are presented to the Beneficiaries on an annual basis at the annual general meeting of the Beneficiaries, as contemplated in clause 22.

## **PART D – BENEFICIARIES AND THEIR ENTITLEMENTS**

### **12. CREATION OF TRUST UNITS**

- 12.1. Immediately after the Registration Date, the Trustees shall, by Written resolution, create Trust Units.
- 12.2. The Trustees shall, immediately thereafter, confirm to the Board in Writing that the Trust Units are available for allocation to Qualifying Employees in accordance with the terms of this Trust Deed.

### **13. ALLOCATION OF TRUST UNITS TO QUALIFYING EMPLOYEES**

- 13.1. The Board shall from time to time identify the Qualifying Employees. Qualifying Employees shall:

- 13.1.1. as at the First Allocation Date or at the relevant Allocation Date, be a Permanent Employee of the Afrimat Group for at least 3 (three) uninterrupted years;
  - 13.1.2. not be serving his notice period; and
  - 13.1.3. not be a participant in any other incentive scheme of the Afrimat Group, including the Afrimat Group's Annual Short Term Incentive Scheme, Trimester Short Term Incentive Scheme or such other similar incentive scheme as may from time to time be operated by the Afrimat Group, it being recorded, however, that the participation by a Qualifying Employee in a monthly production bonus scheme shall not disqualify his/her participation in the Scheme.
- 13.2. The Board shall, forthwith after identifying a Qualifying Employee or Qualifying Employees, notify the Trustees in Writing of:
  - 13.2.1. the names of such Qualifying Employees; and
  - 13.2.2. the Allocation Date,

provided such notification must be delivered to the Trustees at least 21 (twenty one) days prior to the Allocation Date.
- 13.3. The Trustees shall procure that within 7 (seven) days after receipt of the notification referred to in clause 13.2, they or the Administrator sends an Allocation Notice to each Qualifying Employee identified, informing him of *inter alia* the following:
  - 13.3.1. that a Trust Unit will be allocated to that Qualifying Employee;
  - 13.3.2. the Allocation Date in respect of such allocation;
  - 13.3.3. the Allocation Acceptance Period; and
  - 13.3.4. any such terms and conditions applicable to a Trust Unit which the Trustees resolve to reflect in the Allocation Notice.
- 13.4. The Qualifying Employees to whom Allocation Notices were issued in accordance with clause 13.3 shall, should they wish to accept such allocation, be obliged to accept such allocation within the Allocation Acceptance Period, failing which, such Trust Unit shall be deemed to have been rejected by the Qualifying Employee on the Allocation Date, provided that a Qualifying Employee to whom an Allocation Notice has been sent but who, prior to the expiry of the Allocation Acceptance Period (whether he rejected or accepted the allocation), leaves the employment of the Afrimat Group for whatever reason, shall automatically be disqualified from accepting his allocation of a Trust Unit.

13.5. Upon the acceptance of the allocation of a Trust Unit by a Qualifying Employee on the Allocation Date as contemplated in clause 13.4 who is not a Beneficiary, such Qualifying Employee shall become a Beneficiary of the Trust with effect from the Allocation Date, and the Trustees shall ensure that the new Beneficiary's details are inserted in the Allocation Register.

**14. ACQUISITION PRICE OF TRUST UNITS**

Trust Units, and accordingly the rights of the Beneficiaries in terms of this Trust Deed, shall be allocated to the Qualifying Employees for no consideration.

**15. RIGHTS OF BENEFICIARIES**

15.1. The rights attaching to a Trust Unit which is allocated to a Beneficiary shall entitle such Beneficiary, subject to any terms and conditions as set out in this Trust Deed, to the Vested Rights.

15.2. Unless otherwise determined in terms of this Trust Deed, no Beneficiary shall have any right (vested or otherwise) in or to the Assets.

**16. DISTRIBUTION OF THE NET INCOME**

16.1. The Net Income accruing to the Trust from time to time shall be distributed among all the Beneficiaries in accordance with their Participation Rights.

16.2. The Net Income shall:

16.2.1. vest in the relevant Beneficiary on the same date on which it is received by, or accrues to the Trust;

16.2.2. be processed through the Company's payroll system, which shall include the withholding of any Tax to the extent required, and

16.2.3. be paid to the Beneficiary within 60 (sixty) days following the Distribution Date, subject to all details required to make such Distribution being provided by the Beneficiaries in a timely manner.

**17. DISTRIBUTION OF THE NET CAPITAL PROCEEDS**

17.1. In the event that the Trustees Dispose of any AEI Shares or Afrimat Shares (as the case may be), they shall do so subject to clauses 17.2 and 17.3, upon which the Net Capital Proceeds realised in respect of such Disposal shall vest in and be distributed to the Beneficiaries in accordance with their Participation Rights.



- 17.2. The Net Capital Proceeds shall:
- 17.2.1. vest in the relevant Beneficiary on the same date on which it is received by, or accrues to the Trust;
  - 17.2.2. be processed through the Company's preferred system, which shall include the withholding of Tax to the extent required; and
  - 17.2.3. be paid to the Beneficiary within 60 (sixty) days from the date of receipt thereof by the Trust, subject to all details required to make such distribution being provided by the Beneficiaries in a timely manner.
- 17.3. The Trustees shall after Disposing of the AEI Shares or the Afrimat Shares (as the case may be) send a notice to each Beneficiary in the form attached to this Trust Deed as "**Annexure B**", notifying such Beneficiary of:
- 17.3.1. the number of AEI Shares or Afrimat Shares (as the case may be) Disposed of;
  - 17.3.2. the price at which the AEI Shares or Afrimat Shares (as the case may be) were Disposed of;
  - 17.3.3. the Net Capital Proceeds payable to that Beneficiary; and
  - 17.3.4. the Tax withheld.
- 17.4. After the Disposal of all the AEI Shares or Afrimat Shares (as the case may be) by the Trustees in accordance with the provisions of this clause 17 and subject to a Written Resolution by the Trustees to that effect, all the Allocated Trust Units at the relevant time shall be cancelled by the Trustees for no consideration and such cancellation shall be deemed to have taken effect from the effective date of the Disposal. For the avoidance of doubt, it is recorded that the cancellation of the Trust Units for no consideration is as a result of the Vested Rights attached to those Trust Units having no value as at the cancellation date.

## 18. **CESSATION OF EMPLOYMENT**

If a Beneficiary ceases to be a Permanent Employee for any reason whatsoever, such Beneficiary shall, with effect from the Employment Termination Date or the notice period relating to such Employment Termination Date –

- 18.1. cease to be a Beneficiary under the Trust; and
- 18.2. forfeit his Allocated Trust Unit,

in which case such Allocated Trust Unit shall be cancelled.

19. **RESTRICTION ON THE TRANSFERABILITY AND ENCUMBRANCE OF RIGHTS**

A Beneficiary shall not be entitled to Dispose and/or Encumber or in any other way deal with his Trust Unit and/or Vested Rights, or any other rights in terms of this Trust Deed, other than by way of the forfeiture or cancellation thereof in accordance with the terms of this Trust Deed.

20. **FORCED DISPOSAL OF AEI SHARES OR AFRIMAT SHARES**

Notwithstanding any other provision in this Trust Deed, if the Trustees are obliged and/or forced as a matter of law or by reason of contractual obligations, to Dispose of some or all the AEI Shares or Afrimat Shares (should the Trust be the registered holder of the Afrimat Shares) or cause same to be Disposed to a third party (a "**Forced Disposal**"), the Trustees shall immediately after such Forced Disposal, Dispose of such AEI Shares or Afrimat Shares as the case may be (or cause same to be Disposed) to the third party, and vest in and distribute the Net Capital Proceeds to the Beneficiaries in accordance with their Participation Rights *mutatis mutandis* in accordance with clause 17.

21. **GENERAL MEETINGS OF THE COMPANY**

21.1. It is recorded that the Trustees shall, to the extent that the Trust is the registered holder of the:

21.1.1. the AEI Shares, be entitled to exercise all rights conferred by the AEI Shares; and

21.1.2. the Afrimat Shares, be entitled to exercise all rights conferred by the Afrimat Shares,

including, but not limited to, voting rights, rights of conversion, rights to dividends and rights to take up further allotments by way of rights or capitalisation issues attached or relating thereto;

21.2. It is recorded for the avoidance of any doubt that the decision as to how to vote the AEI Shares or the Afrimat Shares (should the Trust be the registered holder of the Afrimat Shares) shall be made by the Trustees in consultation with the Beneficiaries in an attempt to ascertain the wishes of the majority of Beneficiaries in this regard. If the wishes of the majority of Beneficiaries cannot be ascertained, the Trustees shall, in their Discretion, come to a decision as to how to vote the AEI Shares or the Afrimat Shares (as the case may be).

## PART E: MEETINGS OF THE BENEFICIARIES

### 22. FREQUENCY OF GENERAL MEETINGS

- 22.1. The Trust shall hold a general meeting of the Beneficiaries at least once every Financial Year, it being recorded, however, that the Current Trustees shall as soon as reasonably possible after the First Allocation Date convene a general meeting of the Beneficiaries in accordance with the provisions of clause 23 below, at which meeting the additional Employee Trustee (as contemplated in clause 6.4) will be elected by the Beneficiaries to serve as such for a period of 2 (two) years, or until the date of the second ensuing general meeting of the Beneficiaries (whichever is the later date).
- 22.2. The Trustees can elect to deal with the matters as set out in clause 24 by way of Written resolutions and reporting, instead of holding a physical gathering of all the Beneficiaries.
- 22.3. The Trustees can further elect to hold separate regional general meetings in the various locations (“**regional locations**”) where the Afrimat Group is operative, provided that the same information is made available to the Beneficiaries at each regional location.
- 22.4. The Trustees shall have the power to convene other general meetings of the Trust at such time and place as the Trustees determine.

### 23. NOTICE OF GENERAL MEETINGS

- 23.1. The notice period in respect of general meetings shall be not less than 10 (ten) Business Days’ notice in Writing, and shall state:
- 23.1.1. the place, day and hour of that meeting; and
- 23.1.2. the matters which will be considered at such meeting.
- 23.1.3. the meetings shall be chaired by a Company Trustee, which chairperson shall not have a casting vote in the event of a deadlock.
- 23.1.4. each Beneficiary shall be entitled to appoint, in writing, a proxy to represent him; provided such proxy is another Beneficiary or one of the Trustees;
- 23.1.5. each Beneficiary shall have 1 (one) vote; and
- 23.1.6. the Administrator shall keep minutes of the meetings of the Beneficiaries in writing and such minutes and resolutions passed by the Beneficiaries shall be duly signed by the chairperson of the meeting and such minutes shall be available on

written request to any Beneficiary at the Trust's *domicilium* address during normal business hours.

- 23.2. The notice period as provided for in clause 23.1 shall be exclusive of the day on which the notice is served or and inclusive of the date of the meeting.
- 23.3. The failure to give notice in terms of this clause 23 to any Beneficiary will not invalidate the proceedings at the annual general meeting provided that 50% (fifty percent) of the beneficiaries participate in the meeting, whether in person or by proxy.

#### 24. **PROCEEDINGS AT ANNUAL GENERAL MEETINGS**

During the annual general meeting of the Trust the Beneficiaries (present in person or by proxy) may attend, speak at and vote in order to dispose of the following matters:

- 24.1. the presentation of the annual audited financial statements of the Trust by the Trustees; and
- 24.2. the election of Employee Trustees (if applicable).

#### 25. **RECORDS OF GENERAL MEETINGS**

- 25.1. The Trustees shall cause a record to be made of the proceedings at every general meeting, and shall cause such record to be inserted in a book provided for that purpose.
- 25.2. Any copy of any record referred to in clause 25.1, which purports to be signed by any Trustee shall be *prima facie* evidence of the matters stated therein.

### **PART E – GENERAL PROVISIONS**

#### 26. **ADMINISTRATION OF THE TRUST**

- 26.1. In accordance with the authority provided in clause 8.3, the Trustees shall be entitled to appoint an Administrator and shall ensure that such Administrator enters into a Written administration agreement with the Trustees, on such terms and conditions approved by the Company in Writing, in respect of the administration of the Trust.
- 26.2. The Administrator shall have full operational capacity to run the Scheme, shall have sufficient and experienced staff, experienced professional advisors and will have independent operating premises or will operate from the Company's premises and will adhere to all other requirements for operating a business.

- 26.3. All costs in respect of the administration of the Trust, including the costs relating to the services rendered by the Administrator, shall be dealt with in accordance with the provisions of clause 28 below.
- 26.4. The Trustees shall retain copies of and shall, within 5 (five) days after any reasonable Written request therefor, provide copies of all of the documents, notices and any other Written information which they receive, to the Company and the Beneficiaries or their respective agents.
- 26.5. The Trustees shall:
- 26.5.1. maintain a register of Trustees reflecting:
- 26.5.1.1. the composition of the Trustees from time to time;
- 26.5.1.2. the date of appointment of each Trustee and the date of vacation of the office of that Trustee;
- 26.5.1.3. the address of each Trustee (not being a post office box) at which all notices and other documents which are required to be served on or delivered to that Trustee may be served or delivered;
- 26.5.1.4. the telephone (home and business), cellular telephone numbers and electronic mail addresses of each Trustee; and
- 26.5.1.5. if applicable, the date of birth, identity number and income tax reference number of each Trustee;
- 26.5.2. notify the Beneficiaries in Writing:
- 26.5.2.1. of the names and contact details of all the Trustees on an annual basis via the intranet or on notice boards;
- 26.5.2.2. within 1 (one) month after the appointment of any new Trustee, of the name and contact details of such new Trustee;
- 26.5.2.3. of any change in the details of the Trustees; and
- 26.5.3. circulate to the Company copies of all notices of and agendas for meetings of the Trustees as well as the minutes and all resolutions of such meetings.
- 26.6. The Trustees shall make available copies of the Trust Deed, in a language which is familiar to any requesting Beneficiary, to any Beneficiary who requests same in writing.

27. **ALLOCATION REGISTER**

- 27.1. A register of Beneficiaries (the “**Allocation Register**”) shall be kept and maintained by the Trustees.
- 27.2. There shall be entered and updated in the Allocation Register:
- 27.2.1. the name, surname, identity number and physical address of each Beneficiary;
  - 27.2.2. the telephone and/or and cellular telephone numbers and electronic mail addresses (if available) of each Beneficiary;
  - 27.2.3. the Trust Unit allocated to a Beneficiary and its corresponding reference number;
  - 27.2.4. the bank account details of each Beneficiary;
  - 27.2.5. the Allocation Date; and
  - 27.2.6. all distributions made to Beneficiaries in terms of this Trust Deed.
- 27.3. The Allocation Register shall be *prima facie* evidence of the identity of the Beneficiaries.
- 27.4. If a Beneficiary wishes to register a change of name or address, he shall give notice thereof in writing to the Trustees who, on being satisfied thereof and on compliance with all such formalities, shall amend the Allocation Register accordingly.

28. **COSTS, EXPENSES AND TAXATION**

All reasonable costs, expenses and Tax of the Trust referred to in this Trust Deed, including the fees payable to the Auditors and the Administrator, shall be borne by the Trust, it being recorded that the Company may provide such assistance as the Trust may require, including secretarial, accounting, audit, administrative and legal services, the reasonable costs of which the Company shall be entitled to recover from the Trust as and when the Trust receives any Distribution.

29. **AMENDMENTS TO THIS TRUST DEED**

- 29.1. It is hereby recorded, acknowledged and agreed that one of the reasons for the Company procuring the establishment of the Trust, the acquisition of and holding of the AEI Shares or the Afrimat Shares (as the case may be) by the Trust is to facilitate compliance with the BEE Requirements applicable to the Company.
- 29.2. Accordingly, it is recorded that if at any stage changes in South African law or policy (including, without limitation, the BEE Requirements) occur (each, a “**Change**”) such that the Company’s

BEE credentials would be adversely affected as a result of the coming into effect of the Change, then the Trustees will -

29.2.1. take all reasonable steps to procure that such appropriate amendments are made to this Trust Deed in accordance with the Company's Written instructions; and/or

29.2.2. do anything that is necessary and reasonable,

so that the Company is placed in the same (or as close to the same, as is reasonably possible) position from a BEE perspective that it was prior to the Change.

29.3. Other than in respect any amendments contemplated in clause 29.1, it shall be competent for the Trustees to amend any of the provisions of this Trust Deed, provided that no such amendment shall be competent without:

29.3.1. a resolution of at least two-thirds majority of the Trustees;

29.3.2. the prior consent of the majority of the Beneficiaries at the time of such amendment; and

29.3.3. the prior Written approval of the Board.

29.4. The Trustees may make minor amendments to the Trust Deed to benefit the administration of the Trust, to comply with or take account of the provisions of any proposed or existing legislation or to obtain or maintain favourable, taxation or regulatory treatment of any member of the Afrimat Group or any present or future Beneficiary.

29.5. Subject to clause 29.3, the Company shall be entitled, by Written notice to the Trustees, to direct the Trustees to amend any of the provisions of this Trust Deed in accordance with the Company's directions.

29.6. No amendment to this Trust Deed shall be binding until reduced to Writing and signed by or on behalf of the Trustees. The deed of amendment together with any consents required in terms of this clause 29.1 shall be attached to the original Trust Deed retained by the Trustees and a copy of the deed of amendment shall be forwarded to the Master.

### 30. **UNCLAIMED BENEFITS**

30.1. If the Trustees are unable (having used all reasonable endeavours to do so) within 3 (three) years to distribute any amount in respect of Net Income or the Net Capital Proceeds or any other amounts payable to any Beneficiary in accordance with this Trust Deed, such

Beneficiary shall be deemed to have ceded, and the Trustees shall be deemed to have accepted such cession of, his right to receive such amounts at no consideration to the Trustees.

30.2. Any amounts ceded to the Trustees in terms of clause 30.1 above shall form part of the Cash Reserves.

### 31. **DURATION, TERMINATION AND WINDING UP OF THE TRUST**

31.1. The Scheme shall endure indefinitely but may be terminated at any time by:

31.1.1. the Trustees by unanimous resolution, subject to the Company's prior Written approval; or

31.1.2. the Company on Written notice to the Trustees.

31.2. The Trustees shall:

31.2.1. Dispose of the AEI Shares or the Afrimat Shares as the case may be (or cause same to be Disposed) in such quantities and tranches so as not to prejudice and/or benefit any Beneficiaries, and vest in and distribute the Net Capital Proceeds to the Beneficiaries in accordance with their Participation Rights *mutatis mutandis* in accordance with clause 17; and

31.2.2. thereafter, cancel all the Trust Units in accordance with the terms of this Trust Deed.

31.3. The Trust shall only terminate, subsequent to the implementation of the steps contemplated in clauses 31.1 and 31.2 and subject to the provision of clause 30, upon the Written instruction of the Board to the Trustees, which decision is to be taken by the Board in its sole Discretion.

31.4. Upon receipt of the Written instruction from the Board to terminate the Trust as contemplated in clause 31.3, the Trustees shall commence with and implement the necessary procedures for the winding up of the Trust.

31.5. For the avoidance of doubt, it is recorded that the cancellation of the Trust Units for no consideration is as a result of the Vested Rights attached to those Trust Units having no value as at the cancellation date.

### 32. **DISPUTE RESOLUTION**

32.1. Save in respect of those provisions of the Trust Deed which provide for their own remedies which would be incompatible with arbitration, if a dispute arises between the Company on the



one hand and the Trustees on the other, or between the Trustees and any Beneficiary, including but not limited to:

32.1.1. the interpretation of;

32.1.2. the carrying into effect of;

32.1.3. any of the rights and obligations arising from;

32.1.4. the termination or purported termination of or arising from the termination of; or

32.1.5. the rectification or proposed rectification of,

this Trust Deed, or out of or pursuant to this Trust Deed, (other than where an interdict is sought or urgent relief may be obtained from a court of competent jurisdiction), the dispute shall be referred to a Special Committee consisting of the independent members of the Board (the “**Special Committee**”) for mediation. The Special Committee shall meet as soon as possible after referral of the dispute to it, and shall use its *bona fide* best efforts to resolve the dispute.

32.2. In the event that the Special Committee shall have failed, for whatever reason, to resolve the dispute by not later than 30 (thirty) Business Days after the dispute is deemed to have first arisen, the dispute shall be submitted to and decided by arbitration.

32.3. That arbitration shall be held:

32.3.1. with only the relevant parties and their representatives (including their legal representatives) present thereat; and

32.3.2. at a mutually acceptable venue in Cape Town, South Africa.

32.4. It is the intention that the arbitration shall, where possible, be held and concluded in as short a time as is reasonably possible in the circumstances after it has been demanded. The Parties shall use their best endeavours to procure the expeditious completion of the arbitration.

32.5. Save as expressly provided in this Agreement to the contrary, the arbitration shall be subject to the Rules for the time being in force of the Arbitration Foundation of Southern Africa.

32.6. There shall be 1 (one) arbitrator who shall, if the question in issue is:

32.6.1. primarily an accounting matter, be an independent chartered accountant with not less than 20 (twenty) years’ experience as a chartered accountant;

32.6.2. primarily a legal matter, a practicing senior counsel of not less than 20 (twenty) years' standing; or

32.6.3. any other matter, a suitably qualified person.

32.7. The appointment of the arbitrator shall be agreed upon by the parties in writing or, failing agreement by the parties within 10 (ten) Business Days after the arbitration has been demanded, at the request of any of the parties shall be nominated by the Chairperson for the time being of the Arbitration Foundation of South Africa (or its successor body in title). If that person fails or refuses to make the nomination, any party shall be entitled to approach the Cape High Court of South Africa to make such an appointment. To the extent necessary, the court is expressly empowered to do so.

32.8. The Parties shall keep the evidence in the arbitration proceedings and any order made by any arbitrator confidential, unless otherwise contemplated herein.

32.9. The arbitrator shall be obliged to give his award in writing fully supported by reasons.

32.10. The provisions of this clause 32 are severable from the rest of this Trust Deed and shall remain in effect even if this Trust Deed is terminated for any reason.

32.11. The arbitrator shall have the power to give default judgment if any party fails to make submissions on due date and/or fails to appear at the arbitration, which judgement the arbitrator shall be entitled to rescind on good cause shown in terms of the legal principles applicable to rescission of judgements.

32.12. The decision of the arbitrator shall be final and binding on the parties to the dispute and may be made an order of the Cape High Court of the Republic of South Africa at the instance of any of the parties to the dispute.

32.13. The provisions of this clause 32 shall not preclude any party from instituting any urgent or injunctive proceedings in any appropriate South African High Court, in relation to any dispute arising from or in connection with this Trust Deed.

### 33. **DOMICILIUM CITANDI ET EXECUTANDI**

33.1. The Parties choose as their *domicilia citandi et executandi* for all purposes under this Trust Deed, whether in respect of court process, notices or other documents or communications of whatsoever nature (including the exercise of any option), the address of the registered office of the Company.

- 33.2. Any notice to be given to a Beneficiary in terms of this Trust Deed shall be addressed to the address or email address where that Beneficiary is employed unless, on ceasing to be employed by the Company, such Beneficiary has provided another address or email address at which notices are to be given.
- 33.3. Any notice or communication required or permitted to be given in terms of this Trust Deed shall be valid and effective only if in Writing but it shall be competent to give notice by e-mail, provided that a notice of a Party's email address to the other Parties must comply with the provisions of clause 33.4.
- 33.4. Any party may by notice to any other party change the physical address, and/or email address chosen as its *domicilium citandi et executandi vis-à-vis* that party to another physical address where delivery occurs in South Africa or its email address, provided that the change shall become effective *vis-à-vis* that addressee on the 10<sup>th</sup> Business Days from the receipt of the notice by the addressee.
- 33.5. Any notice to a party:
- 33.5.1. delivered by hand to a responsible person during ordinary business hours at the physical address chosen as its *domicilium citandi et executandi* shall be deemed to have been received on the day of delivery; or
- 33.5.2. sent by email to its chosen email address, as the case may be, stipulated in clause 33.1 or notified in accordance with clause 33.3, shall be deemed to have been received on the date of despatch or transmission (unless the contrary is proved).
- 33.6. Notwithstanding anything to the contrary herein contained, a Written notice or communication actually received by a Party shall be an adequate Written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen *domicilium citandi et executandi*.

34. **WHOLE AGREEMENT, NO AMENDMENT**

- 34.1. This Trust Deed constitutes the entire agreement between the Parties in regard to the subject matter hereof and thereof and supersedes all other discussions, agreements and/or understandings regarding the subject matter hereof and thereof.
- 34.2. No oral *pactum de non petendo* shall be of any force or effect.
- 34.3. No extension of time or waiver or relaxation of any of the provisions or terms of this Trust Deed, or any agreement, bill of exchange or other document issued or executed pursuant to

or in terms of this Trust Deed, shall operate as an *estoppel* against any Party in respect of its rights under this Trust Deed, nor shall it operate so as to preclude such Party (save as to any extension, waiver or relaxation actually given) thereafter from exercising its rights strictly in accordance with this Trust Deed.

34.4. To the extent permissible by law, no Party shall be bound by any express or implied or tacit term, representation, warranty, promise or the like not recorded herein, whether it induced their entry into this Trust Deed and/or whether it was negligent or not.

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

35. **GOVERNING LAW**

This Trust Deed shall in all respects (including its existence, validity, interpretation, implementation, termination and enforcement) be governed by the laws of South Africa which is applicable to trust deeds and agreements executed and wholly performed within South Africa.

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