

## **THIS CIRCULAR IS IMPORTANT AND REQUIRES YOUR IMMEDIATE ATTENTION**

The definitions and interpretations commencing on page 4 of this Circular apply throughout this Circular including this cover page. If you are in any doubt as to the action you should take, please consult your broker CSDP, attorney, accountant or other professional advisor.

### **Action required**

This Circular is important and should be read with particular attention to the "Action required by Shareholders" section of this Circular, which sets out the action required of them with regard to this Circular. If you are in any doubt as to what action you should take arising from this Circular, please consult your broker, CSDP, banker, accountant, attorney or other professional advisor immediately.

If you have disposed of all your Ordinary Shares in Transaction Capital, then this Circular should be forwarded to the purchaser to whom, or the broker, agent or CSDP through whom, you disposed of your Shares.



# Transaction Capital

## Transaction Capital Limited

(Incorporated in the Republic of South Africa)

Registration number 2002/031730/06

JSE share code: TCP ISIN: ZAE000167391

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## **CIRCULAR TO SHAREHOLDERS**

relating to:

- **an increase in the authorised share capital of the Company, by the creation of 10 000 000 (ten million) cumulative, non-participating, non-convertible Preference Shares of no par value;**
- **amendments to the Company's Memorandum of Incorporation to incorporate the rights, restrictions and privileges attaching to the Preference Shares;**
- **a general authority for the issue of up to 10 000 000 (ten million) of the Preference Shares, over a maximum period of 18 months;**

and including

- **a notice of General Meeting at the Company's Registered Office at 10:00 on Monday, 14 January 2013;**
- **the proposed amendments to the Memorandum of Incorporation; and**
- **a form of proxy (green) (for use by Certificated and "own name" Dematerialised Shareholders only).**

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Transaction sponsor



Legal advisers



Transfer Secretaries



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## CORPORATE INFORMATION AND ADVISORS

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### Directors

#### **Non-executive:**

Christopher Seabrooke (*Chairperson*)\*  
Phumzile Langeni\*  
Advocate Motsehoa Brenda Madumise\*  
Dumisani Tabata\*  
David Woollam\*  
Cedric Ntumba\*  
Shaun Zagnoev

\* *Independent*

#### **Executive:**

Mark Lamberti (*CEO*)  
Jonathan Jawno (*Deputy CEO*)  
David Hurwitz (*CFO*)  
Michael Mendelowitz  
Steven Kark  
Roberto Rossi

### Registered office and company secretary

Peter Katzenellenbogen (*BCom, CA(SA)*)  
Transaction Capital Limited  
(Registration number 2002/031730/06)  
14 Pongola Crescent  
Sandhavon Office Park  
Eastgate Extension 17  
Sandton, 2199  
(PO Box 41888, Craighall, 2024)  
South Africa

### Sponsor

Deutsche Securities (SA) Proprietary Limited  
(A non-bank member of the Deutsche Bank Group)  
(Registration number 1995/011798/07)  
3 Exchange Square, 87 Maude Street  
Sandton, 2196  
(Private Bag X9933, Sandton, 2146)  
South Africa

### Date and place of incorporation

18 December 2002, Pretoria

### Transaction sponsor

The Standard Bank of South Africa Limited  
(Registration number 1962/000738/06)  
Standard Bank Centre  
3 Simmonds Street  
Johannesburg, 2001  
(PO Box 61344, Marshalltown, 2107)  
South Africa

### Legal advisers to the company

Edward Nathan Sonnenbergs Inc.  
(Registration number 2006/01800/21)  
150 West Street  
Sandton, 2196  
(PO Box 783347, Sandton, 2146)  
South Africa

### Transfer secretaries

Computershare Investor Services  
Proprietary Limited  
(Registration number 2004/003647/07)  
Ground Floor  
70 Marshall Street  
Johannesburg, 2001  
(PO Box 61051, Marshalltown, 2107)  
South Africa

This Circular is available in English only. Copies may be obtained from the Registered Office of the Company, the Transfer Secretaries and the Transaction Sponsor at the addresses set out above. An electronic version of the Circular shall be made available on the Company's website ([www.transactioncapital.co.za](http://www.transactioncapital.co.za)).

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## **ACTION REQUIRED BY SHAREHOLDERS**

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The definitions and interpretations set out on pages 4 to 8 of this Circular apply to this section on action required by Transaction Capital Shareholders.

Please take careful note of the following provisions regarding the action required by Transaction Capital Shareholders:

If you are in any doubt as to what action to take, please consult your CSDP, broker, attorney, banker or other professional advisor immediately.

The General Meeting of Transaction Capital Shareholders will be held at 10:00 on Monday, 14 January 2013 at the Company's Registered Office or any adjourned or postponed date and time. Transaction Capital Shareholders are advised to take careful note of the following provisions relating to the actions required by Transaction Capital Shareholders relating to the proposed resolutions:

### **ACTION REQUIRED BY TRANSACTION CAPITAL SHAREHOLDERS**

#### **1. If you have dematerialised your Transaction Capital Shares other than with "own name" registration:**

##### **1.1 Voting at the General Meeting**

- Your CSDP or broker should contact you to ascertain how you wish to cast your vote at the General Meeting and thereafter to cast your vote in accordance with your instructions.
- If you have not been contacted by your CSDP or broker, it is advisable for you to contact your CSDP or broker and furnish it with your voting instructions.
- If your CSDP or broker does not obtain voting instructions from you, it will be obliged to vote in accordance with the instructions contained in the custody agreement concluded between you and your CSDP or broker.
- You must not complete the attached form of proxy (*green*).

##### **1.2 Attendance and representation at the General Meeting**

In accordance with the mandate between you and your CSDP or broker, you must advise your CSDP or broker if you wish to attend the General Meeting and your CSDP or broker will issue the necessary letter of representation or proxy to you.

#### **2. If you have not dematerialised your Transaction Capital Shares or have dematerialised your Transaction Capital Shares with "own name" registration:**

##### **2.1 Voting and attendance at the General Meeting**

- You may attend the General Meeting in person and may vote at the General Meeting.
- Alternatively, you may appoint a proxy to represent you at the General Meeting by completing the attached form of proxy (*green*) in accordance with the instructions it contains and returning it to the Registered Office to be received by no later than 10:00 on Friday, 11 January 2013.
- Should you wish, rather than sending your duly-completed form of proxy to the Registered Office, to send the form of proxy to the Transfer Secretaries so that they can ensure the form of proxy is sent to the Registered Office timeously, you must send the duly-completed form of proxy (*green*) by 10:00 on Friday, 11 January 2013 to the Transfer Secretaries.
- In the event that any proxy is not delivered timeously to the addresses as set out above, proxies may be handed up to the chairman of the General Meeting at any time before the proxy exercises any rights of the Shareholder at the General Meeting.
- If you wish to dematerialise your Transaction Capital Shares, please contact your CSDP or broker.

**If you have disposed of all of your Transaction Capital Shares, this Circular should be handed to the purchaser of such Transaction Capital Shares or the CSDP, broker, banker or other agent who disposed of your Transaction Capital Shares for you.**

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## IMPORTANT DATES AND TIMES

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The definitions and interpretations set out on pages 4 to 8 of this Circular apply to this section on important dates and times.

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### 2012/2013

Last day to trade to vote at the General Meeting	Thursday, 27 December
Record date to vote at the General Meeting	Friday, 4 January
Last day for receipt of forms of proxy for the General Meeting by the Transfer Secretaries or at the Registered Office by 10:00 on <sup>3</sup>	Friday, 11 January
General Meeting to be held at 10:00 on	Monday, 14 January
Results of the General Meeting released on SENS on	Monday, 14 January
Results of the General Meeting published in the South African press on	Tuesday, 15 January

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#### Notes:

1. The above dates and times are subject to change. Any material changes will be released on SENS and published in the South African press.
2. Any reference to time is a reference to South African time.
3. If any form of proxy is not delivered timeously to the addresses as set out above, it may be handed to the chairman of the General Meeting at any time before the proxy exercises any rights of the Shareholder at the General Meeting.
4. If the General Meeting is adjourned or postponed, forms of proxy must be received by no later than 24 hours prior to the time of the adjournment or postponed General Meeting (excluding Saturdays, Sundays and official public holidays in South Africa) at the Registered Office and the Transfer Secretaries, provided that if any form of proxy is not delivered timeously it may be handed up to the chairman of the adjourned or postponed General Meeting at any time before the proxy exercises any rights of the Shareholder at such adjourned or postponed General Meeting.

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## DEFINITIONS AND INTERPRETATIONS

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Throughout this Circular and the annexures hereto, unless otherwise stated or the context otherwise indicates, the words and expressions in the first column will have the meanings stated opposite them in the second column and words and expressions in the singular will include the plural and *vice versa*, words importing natural persons will include corporations and associations of persons and vice versa and any reference to one gender will include the other gender:

<b>“Accumulated Dividends”</b>	in respect of each Preference Share and on any day, any Scheduled Dividend for any Dividend Period which ended prior to that day, (whether declared or not) to the extent to which that Scheduled Dividend has not been paid by the Company by the Dividend Payment Date immediately following that Dividend Period;
<b>“Adjustment Event”</b>	a Tax Change Event and a Rate Event, or either of them, as may be appropriate in the context;
<b>“Beneficiary”</b>	in relation to a Preference Share, the beneficial owner of that Preference Share as reflected in the records of the applicable Programme Participant;
<b>“Business Day”</b>	any day other than a Saturday, Sunday or statutory public holiday in South Africa;
<b>“Calculation Date/s”</b>	31 March and 30 September of each year and reference to “Calculation Date” shall embrace a reference to each of them individually as the context may require;
<b>“Certificated Shareholder”</b>	a Transaction Capital Shareholder holding Certificated Shares;
<b>“Certificated Shares”</b>	Transaction Capital Shares represented by a paper share certificate or other physical document(s) of title, which shares have not been surrendered for Dematerialisation;
<b>“Circular”</b>	this Circular to Transaction Capital Shareholders dated 30 November 2012 incorporating a Notice of General Meeting and a form of proxy;
<b>“Companies Act”</b>	the South African Companies Act 2008, (Act 71 of 2008), as amended or substituted;
<b>“CSDP”</b>	a Participant, or a person that holds in custody and administers securities or an interest in securities and that has been accepted as a participant by the Central Securities Depository in terms of the Securities Services Act;
<b>“Deemed Subscription Price”</b>	in respect of each Preference Share, an amount of R100,00 (one hundred Rand), notwithstanding the actual Subscription Price of such Preference Share;
<b>“Default Dividend Rate”</b>	subject to adjustment in terms of clauses 40.3.5 and 40.3.8 of the Preference Share Terms, a rate equal to the Prime Rate plus 2% (two percentage points);
<b>“Dematerialisation”</b>	the process by which Certificated Shares are converted to or held in an electronic form as uncertificated shares and recorded in the subregister of Shareholders maintained by a CSDP and “Dematerialised” shall have a corresponding meaning;
<b>“Dematerialised Shareholder”</b>	a Transaction Capital Shareholder holding Dematerialised Shares;
<b>“Dematerialised Shares”</b>	Transaction Capital Shares which have been dematerialised;

<b>“Directors” or “the Board”</b>	the Directors of Transaction Capital as listed on page 9 of this Circular;
<b>“Distribution”</b>	“distribution” as defined in the Companies Act;
<b>“Dividend Default”</b>	any failure by the Company to pay the Scheduled Dividends (in respect of all the Outstanding Preference Shares) for any Dividend Period by the applicable Dividend Payment Date;
<b>“Dividend Payment Date”</b>	in relation to each Dividend Period, (i) any day up to the date 90 (ninety) days after the first Calculation Date which occurs after the last day of that Dividend Period, or (ii) if applicable and earlier than the date in sub-clause (i), any day up to the date 5 (five) days prior to the day on which the Company makes any Distribution in respect of its Ordinary Shares;
<b>“Dividend Period”</b>	<p>in respect of each Preference Share, each period which commences on (and includes) the day after a Calculation Date and which ends on (and includes) the immediately succeeding Calculation Date provided that:</p> <ul style="list-style-type: none"> <li>• the first Dividend Period in respect of (i) the First Tranche of Preference Shares shall commence on (and include) the day after the Issue Date of such Preference Shares, and end on (and include) the first Calculation Date which occurs after that Issue Date; (ii) any Subsequent Tranche of Preference Shares, shall commence on (and include) the day after the Calculation Date immediately prior to the Issue Date of such Preference Shares, and end on (and include) the Calculation Date immediately succeeding such Issue Date; and</li> <li>• if applicable, the last Dividend Period in respect of any Preference Share shall be the period which commences on (and includes) the day after the last Calculation Date which occurs prior to the Redemption Date relating to such Preference Share, and ends on (and includes) that Redemption Date;</li> </ul>
<b>“Dividend Rate”</b>	in respect of each Preference Share, subject to adjustment in terms of clauses 40.3.7 and/or 40.3.8 of the Preference Share Terms, a rate determined by the Board prior to the first Issue Date provided that such rate will not exceed 110% (one hundred and ten per cent) of the Prime Rate;
<b>“Dividends Tax”</b>	the withholding tax on dividends imposed under Part VIII of Chapter II of the Income Tax Act;
<b>“Dividends Tax Rate”</b>	the rate at which the Dividends Tax is levied under the Income Tax Act from time to time;
<b>“Documents of Title”</b>	Transaction Capital share certificates, duly completed transfer forms, balance receipts or any other Documents of Title to Certificated Shares acceptable to Transaction Capital;
<b>“First Tranche”</b>	those Preference Shares issued on the same date as the first Preference Share is issued;
<b>“General Meeting”</b>	the meeting of Transaction Capital Shareholders expected to take place at 10:00 on Monday, 14 January 2013 at the Company’s Registered Office or any adjourned or postponed date and time. The meeting has been convened in terms of the Notice of General Meeting attached to this Circular;
<b>“Holder”</b>	in relation to a Preference Share, its registered holder as reflected in the Company’s securities register;
<b>“Income Tax Act”</b>	the South African Income Tax Act, 1962 (Act 58 of 1962), as amended or substituted;

<b>“Issue Date”</b>	in relation to each Preference Share, the date on which the Company issues that Preference Share to its first Holder;
<b>“JSE”</b>	any of the securities exchanges operated by the JSE Limited (Registration number 2005/022939/06), a company duly registered with limited liability under the laws of South Africa being licensed to operate an exchange in terms of section 8 of the Securities Services Act;
<b>“Listings Requirements”</b>	the Listings Requirements of the JSE from time to time;
<b>“MOI”</b>	the Memorandum of Incorporation of the Company;
<b>“Outstanding Preference Share”</b>	a Preference Share which has been issued by the Company, and which has not been redeemed by the Company;
<b>“Participant”</b>	a participant as defined in section 1 of the Securities Services Act;
<b>“Preference Share”</b>	cumulative, non-participating, non-convertible, no par value preference shares in the capital of the Company, having the rights, restrictions and privileges set out in the Preference Share Terms;
<b>“Preference Share Issue Programme”</b>	the programme pursuant to which the Company, as a means of raising permanent capital, currently intends to issue a maximum number of 10 000 000 (ten million) Preference Shares subject to those Preference Shares being listed on the JSE;
<b>“Preference Share Terms”</b>	the rights, restrictions and privileges attaching to the Preference Shares contained in the MOI as it is proposed to be amended by Resolution Number 1 set out in the Notice of General Meeting forming part of this Circular;
<b>“Prime Rate”</b>	the publicly quoted basic rate of interest (per cent, per annum) calculated on a 365 (three hundred and sixty five) day year, (irrespective of whether or not the year is a leap year) from time to time quoted by The Standard Bank of South Africa Limited (“Standard Bank”) (or its successor) as being its prime overdraft rate, as certified by any manager of Standard Bank (or its successor), whose appointment and authority and/or designation need not be proved, which certificate shall be <i>prima facie</i> proof of the contents thereof;
<b>“Programme Participant”</b>	each Participant who holds any Preference Share in custody for the Beneficiary of such Preference Share;
<b>“Rate Event”</b>	any increase in the Dividends Tax Rate above 15% (fifteen per cent) (being the rate at which Dividends Tax is levied as at the date on which the Preference Share Terms are incorporated into the MOI);
<b>“Redemption Amount”</b>	in respect of a Preference Share and without double counting, the aggregate of: <ul style="list-style-type: none"> <li>• the higher of (i) the Deemed Subscription Price of that Preference Share and (ii) the Market Price (as defined in clause 40.4.3.1 of the Preference Share Terms) of that Preference Share, on the date 5 (five) Business Days prior to the publication of the applicable Redemption Announcement (as such term is defined in clause 40.4.3.1 of the Preference Share Terms); plus</li> <li>• an amount equal to 2.5% (two point five per cent) of the Deemed Subscription Price of that Preference Share; plus</li> <li>• the Scheduled Dividends for the Dividend Period which ends on the Redemption Date of that Preference Share; plus</li> <li>• any Accumulated Dividends in respect of that Preference Share on its Redemption Date;</li> </ul>



<b>“Redemption Date”</b>	shall bear the meaning ascribed thereto in clause 40.4.3.1.3 of the Preference Share Terms;
<b>“Registered Office”</b>	First Floor, Transaction Capital House, 14 Pongola Crescent, Sandhavon Office Park, Eastgate Extension 17, Sandton, 2199 (PO Box 41888, Craighall, 2024), South Africa;
<b>“Regulatory Event”</b>	means any change in: <ul style="list-style-type: none"> <li>• the Listing Requirements;</li> <li>• the exchange control regulations of South Africa;</li> <li>• the Income Tax Act or any other legislation which imposes any taxation of any nature whatsoever on the Company in relation to the Preference Shares, in South Africa; or in any other way impacts adversely on the Preference Shares; or</li> <li>• the Companies Act or any other South African legislation which deals with companies generally,</li> </ul> from the circumstances prevailing as at the date on which clause 40 of the MOI was incorporated into the Company’s MOI;
<b>“Resident Beneficiary”</b>	a Beneficiary of an Outstanding Preference Share if that Beneficiary is a “resident” (of South Africa) as defined in the Income Tax Act;
<b>“SA Corporate”</b>	a Resident Beneficiary of an Outstanding Preference Share which is a company (as defined in the Income Tax Act), other than a small business corporation, an employment company, a gold mining company, a long-term insurance company or a Tax holiday company;
<b>“Scheduled Dividend”</b>	in respect of each Preference Share and for each Dividend Period, the Scheduled Dividend calculated in accordance with the formula contained in clause 40.3.4 of the Preference Share Terms as may be adjusted in accordance with the provisions of clauses 40.3.5 to 40.3.8 of the Preference Share Terms;
<b>“Securities Services Act”</b>	the South African Securities Services Act, 2004 (Act 36 of 2004), as amended or substituted;
<b>“SENS”</b>	the Stock Exchange News Service of the JSE;
<b>“South Africa”</b>	the Republic of South Africa;
<b>“Strate”</b>	Strate Limited, registration number 1998/022242/06, a public company incorporated in South Africa and registered as a central securities depository in terms of the Securities Services Act responsible for the electronic custody and settlement system;
<b>“Subscription Price”</b>	in relation to each Preference Share, the price obtained by the Company for the allotment and issue of that Preference Share to its first Holder, as determined by the Board having regard to prevailing circumstances at the date of issue including market conditions and time value of money in relation to the date within the relevant Dividend Period;
<b>“Subsequent Tranche”</b>	those Preference Shares issued subsequent to the First Tranche;
<b>“Tax”</b>	any tax, levy, impost, duty, or other charge or withholding of a similar nature, levied in accordance with any law and includes any additional tax, penalties and/or interest levied on any such tax, levy, impost, duty or other charge or withholding;

<b>“Tax Change Event”</b>	any amendment in the Income Tax Act (including, without limitation, the replacement of Income Tax Act with different legislation), which occurs after the date on which the Preference Share Terms are incorporated into the MOI, as a result of which the Scheduled Dividends become subject to any SA Tax (other than the Dividends Tax or any other withholding Tax imposed under any law of South Africa), in the hands of all the SA Corporates. For clarity, it is specifically recorded that no Tax Change Event shall occur if (i) any amendment envisaged in clause 40.1.47 of the Preference Share Terms occurs, but (ii) the effect of such amendment is to subject only Resident Beneficiaries (excluding South African trusts to the extent that the beneficiaries of such trusts include SA Corporates) who are not SA Corporates to the applicable Tax;
<b>“Transaction Capital” or “the Company”</b>	Transaction Capital Limited (Registration number 2002/031730/06), a public company incorporated in accordance with the laws of South Africa;
<b>“Transaction Capital Shareholders” or “Shareholders”</b>	holders of Transaction Capital Shares;
<b>“Transaction Capital Shares” or “Shares” or “Ordinary Shares”</b>	an ordinary share in the share capital of the Company with no par value in the Company’s issued share capital, all of which are listed on the JSE;
<b>“Transfer Secretaries”</b>	Computershare Investor Services Proprietary Limited, registration number 2000/006082/06, a private company incorporated in South Africa;
<b>“VWAP”</b>	on any particular day, the volume weighted average traded price at which the Preference Shares traded on the JSE for that day, averaged on a volume weighted basis over the 15 (fifteen) most recent trading days, provided that in determining such volume weighted average traded price trades which (i) are effected other than through the normal trading systems of the JSE, but (ii) are nevertheless settled through the settlement systems of the JSE, shall be disregarded; and
<b>“ZAR” or “R” or “Rand”</b>	South African Rand, the lawful currency of South Africa.



# Transaction Capital

## Transaction Capital Limited

(Incorporated in the Republic of South Africa)  
Registration number 2002/031730/06  
JSE share code: TCP ISIN: ZAE000167391

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### DIRECTORS

#### Non-executive:

Christopher Seabrooke (*Chairman*)\*, Phumzile Langeni\*, Advocate Motsehoa Brenda Madumise\*, Dumisani Tabata\*, David Woollam\*, Cedric Ntumba\*, Shaun Zagnoev

\* *Independent*

#### Executive:

Mark Lamberti (*Chief Executive Officer*), Jonathan Jawno (*Deputy Chief Executive Officer*), David Hurwitz (*Chief Financial Officer*), Michael Mendelowitz, Steven Kark, Roberto Rossi

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## CIRCULAR TO SHAREHOLDERS

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### 1. INTRODUCTION AND PURPOSE OF THIS CIRCULAR

The Directors are proposing that:

- the Company creates 10 000 000 (ten million) Preference Shares;
- the Company amend its MOI to reflect the new authorised share capital and to record the rights, restrictions and privileges attached to the Preference Shares; and
- in terms of the MOI, the Shareholders provide the requisite authority to issue and list on the JSE up to 10 000 000 (ten million) Preference Shares over a period of up to 18 (eighteen) months from the date of filing of the amendments to the MOI in terms of this Circular, subject to regulatory requirements during this period.

The purpose of this Circular is to furnish Shareholders with information relating to the proposed resolutions, in accordance with the Listings Requirements and the Companies Act, and to convene a General Meeting at which Shareholders will be requested to approve the proposed resolutions contained in the Notice of General Meeting attached to and forming part of this Circular.

### 2. CREATION OF THE PREFERENCE SHARES

#### 2.1 Rationale

Transaction Capital is considering raising additional capital for future investment purposes. The proposed new class of capital will:

- be cost-efficient permanent capital;
- further strengthen the Company's existing capital base; and
- be non-dilutionary for Ordinary Shareholders.

The form of capital raising being proposed is listed Preference Shares, to be issued over a period of 18 (eighteen) months for a maximum number of 10 000 000 (ten million) Preference Shares. It is the intention of Transaction Capital to target new investors for purposes of the Preference Share Issue Programme.

The Subscription Price for the initial issue will be R100,00 (one hundred Rand). Any authorised, unissued Preference Shares that have not been issued in terms of the initial issue shall be issued by the Company as and when opportune, at an issue price to be determined by the Directors, subject to a maximum of 10 000 000 (ten million) Preference Shares.

The terms and conditions of the Preference Shares and comparable preference share issues by other companies have been carefully considered by the Board. The Board believes that the terms and conditions of the Preference Shares are market-related. This ensures that the benefits listed above should be achieved by the capital raising.

The terms and conditions of the Preference Share Issue Programme mean that anyone who acquires Preference Shares pursuant to such programme shall not have pre-emption rights on issues of additional shares during the course of the Preference Share Issue Programme.

Bearing in mind the benefits that should arise from carrying out the capital-raising, the Board has concluded that the issue of the Preference Shares on the terms and conditions proposed is in the interests of the Company and that the Shareholders be asked to approve the resolutions set out below.

## 2.2 **Salient terms of the Preference Shares**

The Preference Shares are cumulative, non-participating no par value Preference Shares. The initial issue of up to 10 000 000 (ten million) Preference Shares shall be at a Subscription Price of ZAR100,00 (one hundred South African Rand) (the "Deemed Subscription Price"). Thereafter, the Directors are entitled to issue all or some of the authorised but unissued Preference Shares (i.e. any of the 10 000 000 (ten million) Preference Shares which are not subscribed for during the initial issue) as and when opportune, at a Subscription Price determined by the Directors.

Transaction Capital will apply for a listing of the Preference Shares on the JSE.

The full terms of the Preference Shares are set out in Annexure 1 to the Circular. The summary set out below is not conclusive or exhaustive, and potential investors should refer to Annexure 1 for full particulars.

In the case of any divergences between this summary and the full terms as contained in the aforementioned Annexure 1, the latter shall prevail.

### 1. **Entitlements to Dividends**

Dividends are payable twice a year on a date which is the earlier of:

- 5 (five) Business Days prior to the date on which Transaction Capital makes any Distribution in respect of the Ordinary Shares; or
- 90 (ninety) calendar days after the applicable Calculation Date.

For each Dividend Period, each Holder of each Preference Share shall be entitled to a dividend in an amount equal to the aggregate of the amounts calculated in respect of each day during that Dividend Period in accordance with the following formula:

$$a = [(b + c) \times d] \div 365$$

In which formula:

- a = the amount for the applicable day;
- b = the Deemed Subscription Price;
- c = the Accumulated Dividends in respect of that Preference Share at 17:00, Johannesburg time, on the calendar day immediately preceding the applicable day; and
- d = if a Dividend Default (i) has not occurred, the Dividend Rate; or (ii) has occurred, the Default Dividend Rate.

### 2. **Ordinary Share distributions**

The Company shall make Distributions in terms of the Company's share incentive schemes or other similar agreements with employees of the Group;

The Company shall furthermore be entitled to make Distributions in respect of its Ordinary Shares but must first ensure that all arrear Accumulated Dividends (if any) up to the last day of the last Dividend Period which occurs prior to the date on which the Company makes that Distribution, are first settled.

### 3. **Adjustment Event**

Tax Change Event: the Company shall pay, in respect of the Outstanding Preference Shares, Dividends at a rate adjusted in accordance with the provisions and formulae set out in clause 40.3.7 of the Preference Share Terms, if as a result of any amendment in the Income Tax Act (including, without limitation, the replacement of the Income Tax Act with different legislation), which occurs after the date on which the Preference Share Terms are incorporated into the MOI, the Scheduled Dividends become subject to any SA Tax, other than the dividends Tax or any other withholding Tax imposed under any law of South Africa, in the hands of all the SA Corporates only who are Resident Beneficiaries of any Outstanding Preference Shares.

Rate Event: if as a result of an increase in the Dividends Tax Rate above 15% (fifteen per cent) (which is the rate at which the Dividends Tax was levied on the date on which the Preference Share Terms are incorporated into the MOI) then the Dividend Rate or the Default Dividend Rate, as the case may be, shall be adjusted to such a percentage of the Prime Rate, in accordance with the provisions and formula set out in clause 40.3.8 of the Preference Share Terms.

Post the Tax Change Event and/or the Rate Event occurring, the Company will be entitled to voluntarily redeem the Outstanding Preference Shares at the Redemption Amount.

### 4. **Voting Rights**

The Holders of the Preference Shares shall have the right to receive notice of and to be present (either in person or by proxy) at any general meeting of the Company, but shall not be entitled to vote at any such general meeting, save in circumstances:

- contemplated in clause 7.3 of the MOI; and/or
- where any Scheduled Dividend or any part thereof has been declared but that has not been paid on the applicable Dividend Payment Date.

At every general meeting of the Company at which the Holders of Preference Shares as well as other classes of Shares are present and entitled to vote, a Holder of a Preference Share shall be entitled to the lower of:

- that proportion of the total votes in the Company which the aggregate Deemed Subscription Price of the Preference Shares held by that Holder bear to the aggregate amount of the share capital and/or stated capital of the Company; and
- that fraction per Preference Share held by such Holder such that the aggregate of all of the votes of all of the Preference Shares in the issued share capital of the Company are less than 24.99% (twenty five per cent) of the aggregate of all votes held by all Shareholders entitled to vote at such meeting.

In accordance with clause 7.3 of the MOI and subject to the Listings Requirements, any amendment to the MOI relating to the variation of any preferences, rights, limitations and other terms attaching to the Preference Shares, must not be implemented without a Special Resolution taken by the Holders of the Preference Shares at a separate meeting. In such instances, the Holders of the Preference Shares shall also be allowed to vote at the meeting of Shareholders subject to clause 40.6.2 of the MOI. No resolution of Shareholders of the Company shall be proposed or passed, unless a Special Resolution of the Holders of the Preference Shares, have approved the amendment.

In addition to the above and for the avoidance of doubt, for so long as the Preference Shares are listed on the JSE, no further securities ranking in priority to, or pari passu with, the existing Preference Shares, of any class, shall be created without a special resolution passed at a separate general meeting of the Holders.

### 5. **Ranking and liquidation**

The Preference Shares will rank in priority to the Transaction Capital Shares with regard to dividends and repayment of capital on the winding-up of the Company. All the Preference Shares form part of the same class of share and all Preference Shares for which listing will be applied, will rank pari passu in respect of all rights.

Each Preference Share shall confer upon its Holder (for onward payment to the relevant Beneficiary in accordance with the agreement between the Holder and Beneficiary) the right of a return of capital on liquidation of the company of an amount equal to the Redemption Amount of that Preference Share calculated up to the day on which that return of capital is paid.

## 6. **Redemption**

All (but not some) of the Outstanding Preference Shares may be redeemed at the option of the Company, subject to compliance with the Companies Act, in any of the following circumstances:

- an Adjustment Event occurs and, as a result of such Adjustment Event the Applicable Rates are increased; or
- a Regulatory Event occurs and, as a result of such occurrence, the continued compliance by the Company with clause 40 of the MOI becomes more costly for the Company or any of its Shareholders; or

If the Company proposes any amendment to the MOI relating to the variation of any preferences, rights, limitations and other terms attaching to the Preference Shares, and for the purpose of clause 40.6.3 insufficient Holders of Preference Shares vote to approve the amendment at a separate meeting, the Company shall be entitled to elect to redeem all (but not some) of the Outstanding Preference Shares in accordance with the Redemption Provisions.

### 2.3 **Procedure and effect**

The proposed resolutions will:

- effect an increase in the Company's share capital through the creation of 10 000 000 (ten million) Preference Shares and will insert the rights, obligations and privileges of the Preference Shares into the MOI;
- authorise the issue of up to 10 000 000 (ten million) Preference Shares over the next 18 months with the Company initially issuing such shares at a Subscription Price of R100,00 (one hundred Rand) subject to various conditions thereafter being placed under the authority of the Directors for issue in compliance with all regulatory requirements during the Preference Share Issue Programme at a price to be determined by the Directors. To the extent necessary, a Pre-listing Statement will be issued without Shareholder approval, during the first 12 (twelve) months of the Preference Share Issue Programme to allow for the issue. After the first 12 (twelve) months a new Pre-listing Statement will need to be issued for any further Preference Share issues as the period of the Pre-listing Statement's initial validity is 12 (twelve) months.

The terms of the Preference Shares will be incorporated in the MOI and will become effective on the date on which the notice of amendment is filed with the Companies and Intellectual Property Commission.

### 2.4 **Authorised and issued share capital**

The authorised and issued share capital of Transaction Capital before the creation of the Preference Shares is set out in the table below:

<b>Authorised</b>	<b>R'000</b>
1 000 000 000 Ordinary Shares of no par value	1 000 000
<b>Issued</b>	
584 304 184 Ordinary Shares of no par value	1 792 000

Share capital reflects no par value Shares.

The unissued Shares are under the control of the Directors until the forthcoming annual general meeting.

After the creation and issue of the Preference Shares, Transaction Capital's authorised and issued share capital are expected to be as set out below:

<b>Authorised</b>	<b>R'000</b>
1 000 000 000 Ordinary Shares of no par value	1 000 000
10 000 000 cumulative, non-participating, non-convertible Preference Shares of no par value	10 000
<b>Issued</b>	
584 304 184 Ordinary Shares of no par value	1 792 000

## 2.5 Amendments to the MOI

The Board proposes that the MOI be amended to incorporate the rights, restrictions and privileges attaching to the Preference Shares in terms of the amendments to the MOI contained in Annexure 1.

## 3. OPINION AND RECOMMENDATION

The Board recommends that Shareholders vote in favour of the resolutions as set out in the Notice of General Meeting. The Directors intend voting their Shares in favour of the resolutions.

## 4. DIRECTORS' RESPONSIBILITY STATEMENT

The Directors, whose names appear on page 9 of this Circular:

- have considered all statements of fact and opinion in this Circular;
- collectively and individually, accept full responsibility for the accuracy of the information given;
- certify that, to the best of their knowledge and belief, there are no other facts the omission of which would make any statement false or misleading;
- have made all reasonable enquiries in this regard; and
- certify that, to the best of their knowledge and belief, this Circular contains all information required by law and the Listings Requirements.

## 5. CONSENTS

Each of The Standard Bank of South Africa Limited, Edward Nathan Sonnenbergs Inc. and the Transfer Secretaries has provided its written consent to act in the capacity stated and to its name being used in this Circular and has not withdrawn its consent prior to the date of this Circular.

## 6. DOCUMENTS AVAILABLE FOR INSPECTION

The following documents, or copies thereof, will be available for inspection during normal business hours at the Registered Office of Transaction Capital as well as the Transfer Secretaries and the Transaction Sponsor from the date of this Circular up to and including the date of the General Meeting:

- this Circular;
- the existing MOI;
- a draft of the resolutions amending the MOI; and
- the written consents as set out in paragraph 5 above.

By order of the Board

**Transaction Capital Limited**

**Peter Katzenellenbogen**

*Company Secretary*

30 November 2012

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## PROPOSED PREFERENCE SHARE TERMS

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The full terms of the Preference Shares, to be incorporated as clause 40 to the MOI of the Company, are set out below:

### PREFERENCE SHARES

#### 40. The cumulative, non-participating, non-convertible, no par value Preference Shares

##### 40.1 For purposes of this clause 40:

- 40.1.1 **“Accumulated Dividends”** means in respect of each Preference Share and on any day any Scheduled Dividend for any Dividend Period which ended prior to that day, to the extent to which that Scheduled Dividend has not been paid (whether declared or not) by the Company by the Dividend Payment Date immediately following that Dividend Period;
- 40.1.2 **“Adjustment Event”** means a Tax Change Event and a Rate Event, or either of them, as may be appropriate in the context;
- 40.1.3 **“Adjustment Notice”** means an Adjustment Notice as defined in clause 40.3.5.2 of this MOI;
- 40.1.4 **“Applicable Rate”** means the Dividend Rate or the Default Dividend Rate, as the case may be;
- 40.1.5 **“Beneficiary”** means, in relation to a Preference Share, the beneficial owner of that Preference Share as reflected in the records of the applicable Programme Participant;
- 40.1.6 **“Board”** means the board of directors of the Company from time to time;
- 40.1.7 **“Business Days”** means any day other than a Saturday, Sunday or statutory public holiday in South Africa;
- 40.1.8 **“Calculation Dates”** means 31 March and 30 September of each year and reference to “Calculation Date” shall embrace a reference to each of them individually as the context may require;
- 40.1.9 **“Companies Act”** means the Companies Act No. 71 of 2008, as amended or substituted;
- 40.1.10 **“Default Dividend Rate”** means, subject to adjustment in terms of clauses 40.3.7 and/or 40.3.8 of this MOI, a rate equal to the Prime Rate plus 2% (two percentage points);
- 40.1.11 **“Deemed Subscription Price”** means, in respect of each Preference Share, an amount of R100,00 (one hundred Rand), notwithstanding the actual Subscription Price of such Preference Share;
- 40.1.12 **“Distribution”** means “distribution” as defined in the Companies Act;
- 40.1.13 **“Dividend Default”** means any failure by the Company to pay the Scheduled Dividends (in respect of all the Outstanding Preference Shares) for any Dividend Period by the applicable Dividend Payment Date;
- 40.1.14 **“Dividend Payment Date”** means, in relation to each Dividend Period, (i) any day up to the date 90 (ninety) days after the first Calculation Date which occurs after the last day of that Dividend Period, or (ii) if applicable and earlier than the date in sub-clause (i) any day up to the date 5 (five) days prior to the day on which the Company makes any Distribution in respect of its Ordinary;
- 40.1.15 **“Dividend Period”** means, in respect of each Preference Share, each period which commences on (and includes) the day after a Calculation Date and which ends on (and includes) the immediately succeeding Calculation Date, provided that:
  - 40.1.15.1 the first Dividend Period in respect of (i) the First Tranche of Preference Shares shall commence on (and include) the day after the Issue Date of such Preference Shares, and end on (and include) the first Calculation Date



which occurs after that Issue Date; (ii) any Subsequent Tranche of Preference Shares, shall commence on (and include) the day after the Calculation Date immediately prior to the Issue Date of such Preference Shares, and end on (and include) the Calculation Date immediately succeeding such Issue Date; and

- 40.1.15.2 if applicable, the last Dividend Period in respect of any Preference Share shall be the period which commences on (and includes) the day after the last Calculation Date which occurs prior to the Redemption Date relating to such Preference Share, and ends on (and includes) that Redemption Date;
- 40.1.16 “**Dividend Rate**” means, in respect of each Preference Share, subject to adjustment in terms of clauses 40.3.7 and/or 40.3.8 of this MOI, a rate determined by the Board prior to the first Issue Date, provided that such rate will not exceed 110% (one hundred and ten per cent) of the Prime Rate;
- 40.1.17 “**Dividends Tax**” means the withholding tax on dividends imposed under Part VIII of Chapter II of the Income Tax Act;
- 40.1.18 “**Dividends Tax Rate**” means the rate at which the Dividends Tax is levied under the Income Tax Act;
- 40.1.19. “**First Tranche**” means those Preference Shares issued on the same date as the first Preference Share is issued;
- 40.1.20 “**Group**” means the Company and its subsidiaries (as such term is defined in the Act) from time to time;
- 40.1.21 “**Holder**” means in relation to a Preference Share, its registered holder as reflected in the Company’s securities register;
- 40.1.22 “**Income Tax Act**” means the Income Tax Act, No. 58 of 1962, as amended and/or substituted from time to time;
- 40.1.23 “**Issue Date**” means, in relation to each Preference Share, the date on which the Company issues that Preference Share to its first Holder;
- 40.1.24 “**JSE**” means any of the securities exchanges operated by the JSE Limited (Registration No. 2005/022939/06), a limited liability company duly registered and incorporated in South Africa being licensed in terms of section 8 of the Securities Services Act, 2004 (Act No. 36 of 2004);
- 40.1.25 “**Last Day to Trade**” shall have the same meaning as ascribed thereto in the Listings Requirements;
- 40.1.26 “**Market Price**” means, in relation to each Preference Share and on any relevant Trading Day, the VWAP of 1 (one) Preference Share on that Trading Day, after deducting the aggregate of:
- 40.1.26.1 any Accumulated Dividends in respect of such Preference Share, determined on the first day of the Dividend Period during which the Market Price is determined; and
- 40.1.26.2 the Scheduled Dividends accrued in respect of such Preference Share for the period which commences on (and includes) the first day of the Dividend Period during which the Market Price is determined and which ends on (and includes) the day prior to the Trading Day on which the Market Price is determined (calculated in accordance with the provisions of clause 40.3.4 as if the aforesaid period were a Dividend Period);
- 40.1.27 “**Ordinary Share**” means an ordinary share having no par value in the share capital of the Company;
- 40.1.28 “**Outstanding Preference Share**” means a Preference Share which has been issued by the Company, and which has not been redeemed by the Company;
- 40.1.29 “**Participant**” means a participant as defined in section 1 of the Securities Services Act, 2004;

- 40.1.30 **“Preference Shares”** means the cumulative, non-participating, non-convertible, no par value preference shares in the capital of the Company, having the rights, restrictions and privileges set out in this clause 40;
- 40.1.31 **“Preference Share Issue Programme”** means the programme pursuant to which the Company, as a means of raising permanent capital, currently intends to issue a maximum number of 10 000 000 (ten million) Preference Shares subject to those Preference Shares being listed on the JSE;
- 40.1.32 **“Prime Rate”** means the publicly quoted basic rate of interest (per cent, per annum) calculated on a 365 (three hundred and sixty five) day year (irrespective of whether or not the year is a leap year) from time to time quoted by The Standard Bank of South Africa Limited (**“Standard Bank”**) (or its successor) as being its prime overdraft rate, as certified by any manager of Standard Bank (or its successor) whose appointment, authority and/or designation need not be proved, which certificate shall be *prima facie* proof of the contents thereof;
- 40.1.33 **“Programme Participant”** means each Participant who holds any Preference Share in custody for the Beneficiary of such Preference Share;
- 40.1.34 **“Rate Event”** means any increase in the Dividends Tax Rate above 15% (fifteen per cent) (being the rate at which Dividends Tax is levied as at the date on which this clause 40 was incorporated into the Company’s MOI);
- 40.1.35 **“Redemption Amount”** means, in respect of a Preference Share, and without double counting, the aggregate of:
- 40.1.35.1 the higher of:
    - 40.1.35.1.1 the Deemed Subscription Price of that Preference Share; and
    - 40.1.35.1.2 the Market Price of that Preference Share on the date that falls 5 (five) Business Days prior to the publication of the applicable Redemption Announcement (as such term is defined in clause 40.4.3.1 of this MOI); plus
  - 40.1.35.2 an amount equal to 2.5% (two point five per cent) of the Deemed Subscription Price of that Preference Share; plus
  - 40.1.35.3 the Scheduled Dividends for the Dividend Period which ends on the Redemption Date of that Preference Share; plus
  - 40.1.35.4 any Accumulated Dividends in respect of that Preference Share on its Redemption Date;
- 40.1.36 **“Redemption Date”** shall bear the meaning ascribed thereto in clause 40.4.3.1.3;
- 40.1.37 **“Regulatory Event”** means any change in:
- 40.1.37.1 the Listing Requirements;
  - 40.1.37.2 the exchange control regulations of South Africa;
  - 40.1.37.3 the Income Tax Act or any other legislation which imposes any taxation of any nature whatsoever on the Company in relation to the Preference Shares, in South Africa; or in any other way impacts adversely on the Preference Shares; or
  - 40.1.37.4 the Companies Act or any other South African legislation which deals with companies generally,
- from the circumstances prevailing as at the date on which this clause 40 was incorporated into the Company’s MOI;
- 40.1.38 **“Resident Beneficiary”** means any Beneficiary of an Outstanding Preference Share if that Beneficiary is a “resident” (of South Africa) as defined in the Income Tax Act;
- 40.1.39 **“SA Corporate”** means a Resident Beneficiary of an Outstanding Preference Share which is a company (as defined in the Income Tax Act), other than a small business corporation, an employment company, a gold mining company, a long-term insurance company or a Tax holiday company;

- 40.1.40 **“SA Tax”** means any Tax imposed by any tier of the government of South Africa;
- 40.1.41 **“Scheduled Dividend”** means, in respect of each Preference Share and for each Dividend Period, the Preference Dividend calculated in accordance with the provisions of clause 40.3.4 of this MOI;
- 40.1.42 **“SENS”** means the “Securities Exchange News Service” of the JSE;
- 40.1.43 **“Subscription Price”** means, in relation to each Preference Share, the price obtained by the Company for the allotment and issue of that Preference Share to its first Holder, as determined by the Board having regard to prevailing circumstances at the date of issue including market conditions and time value of money in relation to the date within the relevant Dividend Period;
- 40.1.44. **“Subsequent Tranche”** means those Preference Shares issued subsequent to the First Tranche;
- 40.1.45 **“South Africa”** means the Republic of South Africa;
- 40.1.46 **“Tax”** means any tax, levy, impost, duty, or other charge or withholding of a similar nature, levied in accordance with any law and includes any additional tax, penalties and/or interest levied on any such tax, levy, impost, duty or other charge or withholding;
- 40.1.47 **“Tax Change Event”** means any amendment in the Income Tax Act (including, without limitation, the replacement of Income Tax Act with different legislation), which occurs after the date on which this clause 40 is incorporated into the Company’s MOI, as a result of which the Preference Dividends become subject to any SA Tax (other than Dividends Tax or any other withholding Tax imposed under any law of South Africa) in the hands of SA Corporates. For clarity, it is specifically recorded that no Tax Change Event shall occur if (i) any amendment envisaged in this clause 40.1.47 occurs, but (ii) the effect of such amendment is to subject only Resident Beneficiaries (excluding South African trusts to the extent that the beneficiaries of such trusts include SA Corporates) who are not SA Corporates only to the applicable Tax;
- 40.1.48 **“Trading Day”** means any day that is a trading day on the JSE and does not include a day on which trading on the JSE is scheduled to close prior to its regular weekday closing time;
- 40.1.49 **“VWAP”** means, on any particular day, the volume weighted average traded price at which the Preference Shares traded on the JSE for that day, averaged on a volume weighted basis over the 15 (fifteen) most recent Trading Days, provided that in determining such volume weighted average traded price trades which (i) are effected other than through the normal trading systems of the JSE, but (ii) are nevertheless settled through the settlement systems of the JSE, shall be disregarded.

## 40.2 **Applicability**

- 40.2.1 This clause 40 shall apply to each Preference Share which the Company issues as part of the Preference Share Issue Programme.
- 40.2.2 In terms of the Preference Share Issue Programme:
- 40.2.2.1 the Company shall be entitled, during a period of 18 (eighteen) months after the issue by the Company of the pre-listing statement in respect of the Preference Share Issue Programme, to issue Preference Shares in such tranches and at such issue prices as shall be determined by its Board from time to time provided that those Preference Shares are listed on the JSE;
- 40.2.2.2 all Preference Shares issued will be of the same class; and
- 40.2.2.3 should any Preference Shares be issued by the Company after the expiry of a period of 12 (twelve) months after the issue by the Company of the pre-listing statement in respect of the Preference Share Issue Programme, the Company shall, if so required by the JSE, issue an updated or new pre-listing statement in respect of such Preference Shares.

### 40.3 Preference Share Dividends

#### **Entitlement**

- 40.3.1 Each Preference Share shall entitle the respective Holder (for onward payment to the relevant Beneficiary in accordance with any agreement between the Beneficiary and the Holder) to the Preference Dividends calculated in accordance with the provisions of this clause 40.3.
- 40.3.2 The Preference Dividends shall rank prior to the dividend rights of any other classes of shares in the Company's share capital (including, but without limitation, the Ordinary Shares).
- 40.3.3 After the payment of the Preference Dividends, the Holders of each Preference Shares shall not be entitled to participate in the remaining profits of the Company.

#### **Scheduled Dividends**

- 40.3.4 For each Dividend Period, each Holder of each Preference Share shall be entitled to a Scheduled Dividend in an amount equal to the aggregate of the amounts calculated in respect of each day during that Dividend Period in accordance with the following formula:

$$a = [(b + c) \times d] \div 365$$

in which formula:

- a = the amount for the applicable day;
- b = the Deemed Subscription Price;
- c = the Accumulated Dividends in respect of that Preference Share at 17:00, Johannesburg time, on the calendar day immediately preceding the applicable day;
- d = if a Dividend Default (i) has not occurred, the Dividend Rate, or (ii) has occurred, the Default Dividend Rate.

#### **Adjustment to the Dividend Rate**

- 40.3.5 If an Adjustment Event occurs the Company shall, by not later than the date which is 90 (ninety) days after the date on which the Board becomes aware of such Adjustment Event:
- 40.3.5.1 calculate the adjusted Applicable Rate in accordance with the provisions of clauses 40.3.7 or 40.3.8, as applicable;
- 40.3.5.2 publish an announcement (an "**Adjustment Notice**") on SENS which sets out:
- 40.3.5.2.1 the details and date of the Adjustment Event which has occurred;
- 40.3.5.2.2 the adjusted Applicable Rate.
- 40.3.6 If the Applicable Rate must be adjusted as a result of the occurrence of an Adjustment Event, that adjustment shall take effect on the date reasonably determined by the Company (which date may be prior to the date on which the Company publishes the applicable Adjustment Notice).

#### **Tax Change Event**

- 40.3.7 If a Tax Change Event occurs the Applicable Rate shall be increased with effect from and on the date determined in accordance with the provisions of clause 40.3.6 above, to such a percentage of the Prime Rate as is calculated in accordance with the following formula:

$$a = b \div (1 - c)$$

in which formula:

- a = the increased Applicable Rate;

- b = the Applicable Rate, prior to its adjustment in accordance with this clause 40.3.7; and
- c = the rate at which the applicable Scheduled Dividends will become subject to Tax in the hands of Resident Beneficiaries which are SA Corporates.

If the Applicable Rate is increased in accordance with this clause 40.3.7, and after such increase the rate (the “**Adjustment Rate**”) contemplated in the definition of “c” above increases, the Applicable Rate shall, with effect from the date on which the Adjustment Rate increases, be the rate calculated in accordance with the formula contained in this clause 40.3.7 on the basis that (i) the value of “b” in that formula shall be the Applicable Rate, immediately prior to the occurrence of the Tax Change Event; and (ii) the value of “c” in that formula shall be the increased or decreased Adjustment Rate.

#### **Rate Event**

40.3.8 If a Rate Event occurs, the Applicable Rate shall each be adjusted with effect from and on the date determined in accordance with the provisions of clause 40.3.6 above to such a percentage of the Prime Rate as is determined in accordance with the following formula:

$$a = b \times (1 - d) \div (1 - c)$$

in which formula:

- a = the Applicable Rate, expressed as a percentage of the Prime Rate, after its adjustment in accordance with this clause 40.3.8;
- b = the Applicable Rate, expressed as a percentage of the Prime Rate, prior to its adjustment in accordance with this clause 40.3.8;
- c = the Dividends Tax Rate after the occurrence of the applicable Rate Event; and
- d = the Dividends Tax Rate prior to the occurrence of the applicable Rate Event.

#### **Payment**

40.3.9 The Company shall, subject to compliance with the Companies Act, pay:

40.3.9.1 the Scheduled Dividend for each Dividend Period on the first Dividend Payment Date which occurs after that Dividend Period; and

40.3.9.2 any Accumulated Dividends owing as at the Redemption Date on which it redeems the Preference Shares, on that Redemption Date.

#### 40.3.10 **Distribution in respect of Ordinary Shares**

40.3.10.1 The Company shall make Distributions in terms of the Company's share incentive schemes or other similar agreements with employees of the Group;

40.3.10.2 The Company shall furthermore be entitled to make Distributions in respect of its Ordinary Shares but must first ensure that all arrear Accumulated Dividends (if any) up to the last day of the last Dividend Period which occurs prior to the date on which the Company makes that Distribution, are first settled.

### 40.4 **Redemption and acquisition of own shares**

#### **No Redemption by Beneficiaries and Holders**

40.4.1 Neither the Beneficiaries nor the Holders of the Preference Shares shall be entitled to require the Company to redeem the Preference Shares.

#### **Company Redemption**

40.4.2 All (but not some) of the Outstanding Preference Shares may be redeemed at the option of the Company, subject to compliance with the Companies Act, in any of the following circumstances (each a “**Redemption Event**”):

- 40.4.2.1 an Adjustment Event occurs and, as a result of such Adjustment Event the Applicable Rates are increased; or
- 40.4.2.2 a Regulatory Event occurs and, as a result of such occurrence, the continued compliance by the Company with this clause 40 becomes more costly for the Company or any of its shareholders; or
- 40.4.2.3 the occurrence of the circumstances contemplated in clause 40.6.5.

**Procedure**

40.4.3 If the Company wishes to redeem the Outstanding Preference Shares following the occurrence of a Redemption Event:

40.4.3.1 the Company shall publish, on SENS, an announcement (a “**Redemption Announcement**”) which:

- 40.4.3.1.1 sets out the grounds on which the Company is entitled to redeem the Outstanding Preference Shares;
- 40.4.3.1.2 complies in all respects in form and content with the provisions of the Listing Requirements; and
- 40.4.3.1.3 sets out the date (the “**Redemption Date**”) on which the Company will redeem the Outstanding Preference Shares, which date shall be the first Dividend Payment Date which occurs after the publication of the Redemption Announcement or, if that first Dividend Payment Date will occur within 10 (ten) Business Days after the publication of the Redemption Announcement, the second Dividend Payment Date which occurs after that publication;

40.4.3.2 the Company shall effect the redemption in compliance with the Companies Act and any Listing Requirements applicable including without limitation, the relevant timetable in the relevant schedule of the Listing Requirements, as well as any other applicable regulatory requirements;

40.4.3.3 up until the commencement of the Business Day prior to the Last Day to Trade in respect of the redemption announced in the Redemption Announcement, the publication of a Redemption Announcement shall be revocable at the instance of the Company and shall not oblige the Company to redeem the Outstanding Preference Share whether on the Redemption Date set out in that Redemption Announcement or on any other date; and

40.4.3.4 if the Company publishes a Redemption Announcement and thereafter elects not to redeem the Outstanding Preference Shares the Company shall:

- 40.4.3.4.1 make an announcement to such effect on SENS prior to the commencement of the Business Day prior to the Last Day to Trade in respect of the redemption announced in the Redemption Announcement; and
- 40.4.3.4.2 not thereafter be entitled to redeem the Outstanding Preference Shares without again publishing a Redemption Announcement.

**Redemption Date and Redemption Amount**

40.4.4 If the Company elects to redeem the Outstanding Preference Shares, the Company shall, on the applicable Redemption Date, pay the Redemption Amount of each Outstanding Preference Share to each Holder (for onward payment to the Beneficiary of that Preference Share in accordance with the agreement between the Holder and the Beneficiary).

**40.5 Return of capital**

40.5.1 On the liquidation of the Company, each Preference Share shall confer on its Holder (for onward payment to the relevant Beneficiary of the Preference Share in accordance with the agreement between the Holder and Beneficiary) a right to a return of capital in an amount equal to the Redemption Amount of that Preference Share calculated up to the day on which that return of capital is paid.

40.5.2 The rights of each Holder of a Preference Shares to a return of capital shall rank prior to the rights to a return of capital of all other classes of shares in the Company share capital including, but without limitation, the Ordinary Shares.

40.5.3 Save as contemplated in clause 40.5.1 of this MOI, the Preference Shares shall not be entitled to participate in the Company's excess assets on its liquidation.

#### 40.6 **Voting**

##### **Voting Rights**

40.6.1 The Holders of the Preference Shares shall have the right to receive notice of and to be present (either in person or by proxy) at any general meeting of the Company, but shall not be entitled to vote at any such general meeting, save in circumstances:

40.6.1.1 contemplated in clause 7.3 of this MOI; and/or

40.6.1.2 where any Preference Dividend or any part thereof has been declared but has not been paid on the applicable Dividend Payment Date; and

40.6.1.3 contemplated in clauses 40.6.3 and 40.6.4 below.

40.6.2 At every general meeting of the Company at which the Holders of Preference Shares as well as other classes of shares are present and entitled to vote, a Holder of a Preference Share shall be entitled to the lower of:

40.6.2.1 that proportion of the total votes in the Company which the aggregate Deemed Subscription Price of the Preference Shares held by that Holder bear to the aggregate amount of the share capital and/or stated capital of the Company; and

40.6.2.2 that fraction per Preference Share held by such Holder such that the aggregate of all of the votes of all of the preference shares in the issued share capital of the company are less than 24.99% (twenty four point nine nine percent) of the aggregate of all votes held by all shareholders in the Company entitled to vote at such meeting.

40.6.3 In accordance with clause 7.3 of this MOI and subject to the Listings Requirements, any amendment to this MOI relating to the variation of any preferences, rights, limitations and other terms attaching to the Preference Shares, must not be implemented without a Special Resolution taken by the Holders of the Preference Shares at a separate meeting. In such instances, the Holders of the Preference Shares shall also be allowed to vote at the meeting of Shareholders in accordance with clause 40.6.2 above. No resolution of Shareholders of the Company shall be proposed or passed unless a Special Resolution of the Holders of the Preference Shares have approved the proposed amendment.

40.6.4 In addition to the above and for the avoidance of doubt, for so long as the Preference Shares are listed on the JSE, no further securities ranking in priority to, or *pari passu* with, the Preference Shares shall be created without a Special Resolution passed at a separate general meeting of the Holders.

##### **Voting Resolution not passed**

40.6.5 If the Company proposes any amendment to this MOI relating to the variation of any preferences, rights, limitations and other terms attaching to the Preference Shares, and for the purpose of clause 40.6.3 insufficient Holders of Preference Shares vote to approve the amendment at a separate meeting, the Company shall be entitled to elect to redeem all (but not some) of the Outstanding Preference Shares in accordance with the provisions of clause 40.4.3.



# Transaction Capital

## Transaction Capital Limited

(Incorporated in the Republic of South Africa)  
Registration number 2002/031730/06  
JSE share code: TCP ISIN: ZAE000167391  
("Transaction Capital" or "the Company")

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### NOTICE OF GENERAL MEETING OF SHAREHOLDERS

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The definitions contained in the Circular to which this notice is attached apply also to this notice.

Notice is hereby given to Shareholders of Transaction Capital of a General Meeting of the Company to be held at its Registered Office at 10:00 on Monday, 14 January 2013 or any adjourned or postponed date and time to consider and, if deemed fit, adopt the following resolutions with or without modification:

#### **SPECIAL RESOLUTION NUMBER 1**

"RESOLVED AS A SPECIAL RESOLUTION THAT in terms of sections 36 and 37(5)(b) of the Companies Act, the Company's authorised share capital is hereby increased from 1 000 000 000 (one billion) Ordinary Shares to 1 000 000 000 (one billion) Ordinary Shares and 10 000 000 (ten million) Preference Shares by the authorisation and creation of 10 000 000 (ten million) Preference Shares, having rights, restrictions and privileges attached thereto (the "**Preference Shares**"), which are deemed to be incorporated as clause 40 into the Company's MOI, as set out in Annexure 1 to the Circular of which this notice forms part."

#### **EXPLANATION AND EFFECT OF SPECIAL RESOLUTION NUMBER 1**

The explanation for special resolution number 1 is to increase the authorised share capital of the Company and to incorporate the terms and Preference Shares in the Company's MOI.

The effect of special resolution number 1 is to create 10 000 000 (ten million) Preference Shares and incorporate the preferences, rights, limitations and other terms of the Preference Shares into the Company's MOI.

#### **SPECIAL RESOLUTION NUMBER 2**

"RESOLVED AS A SPECIAL RESOLUTION THAT, the Preference Shares which are detailed in special resolution 1 above, and/or options and/or any other rights exercisable for Preference Shares, are hereby authorised to be issued to Directors, future Directors, prescribed officers or future prescribed officers of the Company and to persons related or inter-related to the Company, or to a Director or prescribed officer of the Company, and/or to nominees of such persons on the terms and conditions and at the issue prices as determined in accordance with the rights, restrictions and privileges attaching thereto as set out in Annexure 1."

#### **EXPLANATION AND EFFECT OF SPECIAL RESOLUTION NUMBER 2**

The explanation for special resolution number 2 is to obtain approval from Shareholders in terms of section 41(1) or the Companies Act to enable the Company to issue Preference Shares and grant options to Directors, future Directors, prescribed officers and future prescribed officers and persons related or inter-related to the Company or to Directors or prescribed officers of the Company or nominees thereof.

The effect of special resolution number 2 is that the Company will, if this resolution is adopted, have the necessary authority to issue such Preference Shares and grant such options to such Directors and prescribed officers.

#### **ORDINARY RESOLUTION NUMBER 1**

"RESOLVED AS AN ORDINARY RESOLUTION THAT, subject to the adoption and filing of special resolution number 1, and as required by and subject to the Company's MOI, and subject to the provisions of the Companies Act and the Listings Requirements, each as presently constituted and as amended from time to time, the Directors are authorised, as they in their discretion deem fit, to grant options in respect of and/or allot and issue up to 10 000 000 (ten million) Preference Shares in total from the authorised but unissued Preference Shares in the share capital of the Company, such authority to endure for eighteen months from the



date of filing of the amendments to the MOI, incorporating the terms of the Preference Shares as contemplated in special resolution number 1 above.”

### **EXPLANATION AND EFFECT OF ORDINARY RESOLUTION NUMBER 1**

The explanation for ordinary resolution number 1 is that in terms of clauses 8.2.2 and 8.3 of the Company's MOI, read with the Listings Requirements, the Directors shall not have the power to allot or issue the Preference Shares without the prior approval of an ordinary resolution and provided such issue has been approved by the JSE. This authority will be subject to the Companies Act and the Listings Requirements respectively.

The effect of ordinary resolution number 1 is to ensure that the Directors have the necessary flexibility to allot and issue the Preference Shares as they deem fit for a period of eighteen months from the date of filing the amendments to the MOI.

### **ORDINARY RESOLUTION NUMBER 2**

“Resolved that any Director of the Company or the Company Secretary, all with the power of substitution, be and is hereby authorised to carry out and to do all such things and matters as may be or are necessary in connection with the above aforesaid resolutions including without limitation being authorised to make, amend and sign all and any such necessary documents, letters, applications, announcements and affidavits as may be required for purposes of and in connection with the resolutions and including Companies and Intellectual Property Commission forms that are required.”

### **EXPLANATION AND EFFECT OF ORDINARY RESOLUTION NUMBER 2**

Ordinary resolution number 2 grants authority to any Director or the Company Secretary to carry out and do all such things as may be necessary in connection with ordinary and special resolutions above.

## **APPRAISAL RIGHT, RECORD DATES, VOTING, PROXIES AND ELECTRONIC PARTICIPATION**

### **Appraisal Rights**

In terms of section 164 as read with section 37(8) of the Companies Act if the Memorandum of Incorporation of a company has been amended to materially and adversely alter the preferences, rights, limitations or other terms of a class of shares, any holder of those shares is entitled to seek relief in terms of section 164 if that Shareholder:

- notified the company in advance of the intention to oppose the resolution to amend the MOI; and
- was present at the meeting, and voted against that resolution.

Shareholders are hereby advised that, in terms of section 164 of the Companies Act they have an appraisal right as the preferences, rights, limitations and/or other terms of the Ordinary Shareholders are being amended by the creation of the preference shares.

Shareholders attention is drawn to the provisions of section 164 of the Companies Act which are repeated in full and annexed hereto.

### **Record dates**

The record date on which Shareholders must be recorded as such in the register of Shareholders for the purposes of receiving notice of this General Meeting is Friday, 23 November 2012.

The record date on which Shareholders must be recorded as such in the register of Shareholders of the Company for the purposes of being entitled to attend, participate and vote at the General Meeting is Friday, 4 January 2013.

The last day to trade in order to be entitled to vote at the general meeting is Thursday, 27 December 2012.

### **Attendance, voting and proxies**

1. In terms of the Listings Requirements, as read with the Companies Act, and save where otherwise specified 75% of the votes cast by equities securities holders present or represented by proxy at the meeting must be cast in favour of the above special resolutions for them to be approved.
2. In terms of the Companies Act and save where the contrary is specified in this notice, a majority of the votes cast by Shareholders present or represented by proxy at the meeting must be cast in favour of the ordinary resolution for it to be approved.
3. In terms of the Company's MOI, on a show of hands each Shareholder, or proxy as the case may be, entitled to vote shall have one vote, irrespective of the number of securities held by that person or proxy,

as the case may be. On a poll every person entitled to vote shall have the number of votes determined in accordance with the voting rights associated with the securities in question which, for clarity, shall be 1 vote for every ordinary share held.

4. Shareholders who have not dematerialised their Shares or who have dematerialised their Shares with "own name" registration are entitled, at any time, to appoint any individual, including an individual who is not a Shareholder of the Company, as a proxy to participate in, and speak at and vote at, the General Meeting on behalf of the Shareholder. A form of proxy is attached to this notice.
5. Forms of proxy must be forwarded to reach the Registered Office of the Company at First Floor, Transaction Capital House, Sandhavon Office Park, 14 Pongola Crescent, Eastgate Extension 17, Sandton or the Company's transfer secretaries, Computershare Investor Services Proprietary Limited, 70 Marshall Street, Johannesburg, 2001, or posted to the Transfer Secretaries at PO Box 61051, Marshalltown, 2107, South Africa, so as to be received by them by no later than 10:00 on Friday, 11 January 2013 and it may be handed to the chairman of the General Meeting at any time before the proxy exercises any rights of the Shareholder at the General Meeting.
6. Forms of proxy must only be completed by Shareholders who have dematerialised their Shares with "own name" registration or who have not dematerialised their Shares.
7. Shareholders who have dematerialised their Shares, other than those Shareholders who have dematerialised their Shares with "own name" registration, who are unable to attend the General Meeting but wish to be represented thereat, must contact their Central Securities Depository Participant ("CSDP") or broker (as the case may be) in the manner and time stipulated in the agreement entered into by such Shareholder and the CSDP or broker (as the case may be) to furnish the CSDP or broker (as the case may be) with their voting instructions and in the event that such Shareholders wish to attend the general meeting, to obtain the necessary letter of representation from their CSDP or broker (as the case may be).
8. The MOI of the Company, in accordance with subsection 62(3)(e)(i) of the Companies Act, restricts the number of proxies that may be appointed to 1 per Shareholder and in accordance with the provisions of subsection 58(3)(b) restricts the ability for a proxy to delegate his/her authority to another person.
9. Before any person may attend or participate in the General Meeting, the person must present reasonably satisfactory identification in terms of section 63(1)(d) of the Companies Act. The Company will regard presentation of any original of a meeting participant's valid driver's license, identity document or passport to be satisfactory identification.

### **Electronic participation**

Shareholders will be given the right, as authorised in the MOI, to participate by way of electronic communication at the General Meeting. Shareholders or their duly appointed proxies who wish to participate by way of electronic communication must apply to the Transfer Secretaries using the application form attached to this notice by no later than 10:00 on Friday, 11 January 2013.

By order of the Board

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**P J Katzenellenbogen**

*Company Secretary*

**Transaction Capital Limited**

30 November 2012

#### **Registered office**

Transaction Capital House  
Sandhavon Office Park  
14 Pongola Crescent  
Eastgate Extension 17  
Sandton, 2196

#### **Transfer Secretaries**

Computershare Investor Services Proprietary Limited  
(Registration number 2004/003647/07)  
Ground Floor  
70 Marshall Street  
Johannesburg, 2001  
(PO Box 61051, Marshalltown, 2107)  
South Africa



# Transaction Capital

## Transaction Capital Limited

(Incorporated in the Republic of South Africa)  
Registration number 2002/031730/06  
JSE share code: TCP ISIN: ZAE000167391  
("Transaction Capital" or "the Company")

### FORM OF PROXY FOR USE BY CERTIFICATED TRANSACTION CAPITAL SHAREHOLDERS AND "OWN NAME" DEMATERIALISED TRANSACTION CAPITAL SHAREHOLDERS ONLY

#### CREATION OF 10 000 000 (TEN MILLION) CUMULATIVE, NON-PARTICIPATING NON-CONVERTIBLE PREFERENCE SHARES OF NO PAR VALUE

For use only:

- by holders of Certificated Shares of the Company; and
- holders of Dematerialised Shares in the Company held through a Central Securities Depository Participant ("CSDP") or broker and who have selected "own name" registration;

at the General Meeting of the Company to be held at 10:00 on Monday, 14 January 2013 at the Company's Registered Office, or at any adjournment thereof ("General Meeting").

If you are a Transaction Capital Shareholder entitled to attend and vote at the General Meeting you can appoint a proxy to attend, vote and speak in your stead. A proxy need not be a Shareholder of the Company.

If you are an Transaction Capital Shareholder and have dematerialised your share certificates through a CSDP (and have not selected "own name" registration in the sub-register maintained by a CSDP), do not complete this form of proxy (*green*) but instruct your CSDP to issue you with the necessary letter of representation to attend the General Meeting, or if you do not wish to attend, provide your CSDP with your voting instructions in terms of your custody agreement entered into with them.

I/We (full names in BLOCK LETTERS)

of (address)

being the holder(s) of  Shares in the Company, hereby appoint (see note 2):

1.  or failing him/her,

2.  or failing him/her,

	In favour	Against	Abstain
<b>SPECIAL RESOLUTION NUMBER 1</b> Increase in authorised share capital and amendment to the MOI in regards to the authorisation and creation of the Preference Shares			
<b>SPECIAL RESOLUTION NUMBER 2</b> To approve the issue of Shares or granting of options to Directors and prescribed officers under section 41(1)			
<b>ORDINARY RESOLUTION NUMBER 1</b> General authority to issue Preference Shares			
<b>ORDINARY RESOLUTION NUMBER 2</b> General authority to act			

**Note:** Please indicate with an "x" in the spaces above how you wish your votes to be cast in terms of note 17.

the Chairman of the Company or failing him the Chairman of the General Meeting as my/our proxy to attend, speak, and on a poll to vote or abstain from voting on my/our behalf at the General Meeting which will be held for the purpose of considering and, if deemed fit, passing, with or without modification, the resolution to be proposed thereat and at any adjournment thereof.

Signed at  on this  day of  2012/2013

(Delete whichever is not applicable)

Signature

Assisted by (if applicable)

**Please read notes on the reverse side hereof.**

**Notes to form of proxy (including a summary of rights, stated in bold, in terms of section 58)**

1. Each Shareholder may attend the General Meeting in person.
2. At any time, a Shareholder of a company may appoint any individual as a proxy to participate in, and speak at and vote at, the General Meeting on behalf of the shareholder.
3. An individual appointed as a proxy need not also be a Shareholder of the company.
4. The proxy appointment must be in writing, dated and signed by the Shareholder.
5. **A Shareholder may not appoint more than one proxy for the purposes of representing that Shareholder at the General Meeting of the Company.** Forms of proxy must be forwarded to reach the registered office of the Company at Ground Floor, Transaction Capital House, 14 Pongola Crescent, Eastgate Extension 17, Sandton (the “Registered Office”) or the Company’s transfer secretaries, Computershare Investor Services Proprietary Limited, 70 Marshall Street, Johannesburg, 2001 or posted to the transfer secretaries at PO Box 61051, Marshalltown, 2107, South Africa, so as to be received by them by no later than 10:00 on Friday, 11 January 2013 **and, if not, it may be handed up to the chairman of the General Meeting at any time before the proxy exercises any rights of the Shareholder at the General Meeting.**
6. The appointment of a proxy in accordance with the form of proxy to which these Notes are attached will lapse and cease to be of force and effect immediately after the General Meeting of the Company to be held at the Registered Office at 10:00 on Monday, 14 January 2013 or at any adjournment(s) thereof, unless it is revoked earlier in accordance with paragraphs 7 and 8 below.
7. **A Shareholder may revoke the proxy appointment by: (i) cancelling it in writing, or making a later inconsistent appointment of a proxy; and (ii) delivering a copy of the revocation instrument to the proxy/ies to the Company at the Registered Office, for attention of the Company Secretary, to be received before the replacement proxy exercises any rights of the Shareholder at the General Meeting of the Company or any adjournment(s) thereof.**
8. The revocation of a proxy appointment constitutes a complete and final cancellation of the proxy/ies’ authority to act on behalf of the Shareholder as of the later of: (i) the date stated in the revocation instrument, if any; or (ii) the date on which the revocation instrument was delivered as required in paragraph 7(ii).
9. **If the instrument appointing a proxy or proxies has been delivered to the Company in accordance with the provisions of paragraph 9, then, until that appointment lapses in accordance with the provisions of paragraph 6, any notice that is required in terms of the Companies Act 71 of 2008, as amended from time to time (the “Act”) or the Company’s MOI to be delivered by the Company to the Shareholder must be delivered by the Company to:**
  - (a) the Shareholder; or
  - (b) the proxy or proxies, if the Shareholder has: (i) directed the Company to do so, in writing; and (ii) paid any reasonable fee charged by the Company for doing so.
10. Section 63(1) of the Companies Act requires that meeting participants provide reasonably satisfactory identification. The Company will regard presentation of an original of a meeting participant’s valid drivers’ license, identity document or passport to be satisfactory identification.
11. Documentary evidence establishing the authority of a person who participates in or speaks or votes at the meeting on behalf of a Shareholder in a representative capacity, or who signs the form of proxy in a representative capacity, (for example, a certified copy of a duly passed Directors’ resolution in the case of a Shareholder which is a Company, a certified copy of a duly passed members’ resolution in the case of a Shareholder which is a close corporation and a certified copy of a duly passed trustees’ resolution in the case of a Shareholder who/which is/are a trust) must be presented to the person presiding at the meeting or attached to the form of proxy (as the case may be), and shall thereafter be retained by the Company.
12. It is recorded that, in accordance with section 63(7) of the Companies Act, a polled vote must be held on any particular matter to be voted on at a meeting if a demand for such a vote is made by at least five persons having the right to vote on that matter, either as a Shareholder or a proxy representing a Shareholder or a person who is, or persons who together are, entitled, as a Shareholder or proxy representing a Shareholder, to exercise at least 10% of the voting rights entitled to be voted on that matter.
13. It is recorded that, in accordance with section 63(6) of the Companies Act, if voting on a particular matter is by polling, a Shareholder or a proxy for a Shareholder has the number of votes determined in accordance with the voting rights associated with the securities held by that Shareholder.
14. Any insertions, deletions, alteration or correction made to the form of proxy must be initialled by the signatory/ies. Any insertion, deletion, alteration or correction made to the form of proxy but not complying with the foregoing will be deemed not to have been validly effected.
15. **A Shareholder may not appoint more than one person concurrently as proxy. A proxy may not delegate his/her authority to act.**
16. The person whose name stands first on the form of proxy and who is present at the General Meeting will be entitled to act as proxy to the exclusion of those whose names follow. In the event that no names are indicated, the proxy shall be exercised by the chairman of the General Meeting.
17. A Shareholder’s instructions to the proxy must be indicated by the insertion of an “X” or the relevant number of votes exercisable by that Shareholder in the appropriate box provided. An “X” in the appropriate box indicates the maximum number of votes exercisable by that Shareholder. Failure to comply with the above or to provide any voting instructions will be deemed to authorize the proxy to vote or to abstain from voting at the meeting as he/she/it deems fit in his/her discretion. When there are joint holders of Shares, any one holder may sign the form of proxy, and the vote of the senior Shareholder (for which purpose seniority will be determined by the order in which the names of the Shareholders appear in the Company’s register) who tenders a vote (whether in person or by proxy) will be accepted to the exclusion of the vote(s) of the other joint Shareholders.
18. The completion and lodging of this form of proxy will not preclude the Shareholder who appoints one or more proxy/ies from participating in the meeting and speaking and voting in person thereat to the exclusion of any proxy/ies appointed in terms of the form of proxy should such Shareholder wish to do so. The appointment of any proxy/ies is suspended at any time and to the extent that the Shareholder chooses to act directly and in person in the exercise of any rights as a Shareholder.

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## SECTION 164 OF THE COMPANIES ACT, NO. 71 OF 2008 AS AMENDED

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“164. Dissenting shareholders appraisal rights:

- (1) This section does not apply in any circumstances relating to a transaction, agreement or offer pursuant to a business rescue plan that was approved by shareholders of a company, in terms of section 152.
- (2) If a company has given notice to shareholders of a meeting to consider adopting a resolution to:
  - (a) amend its Memorandum of Incorporation by altering the preferences, rights, limitations or other terms of any class of its shares in any manner materially adverse to the rights or interests of holders of that class of shares, as contemplated in section 37 (8); or
  - (b) enter into a transaction contemplated in section 112, 113, or 114, that notice must include a statement informing shareholders of their rights under this section.
- (3) At any time before a resolution referred to in subsection (2) is to be voted on, a dissenting shareholder may give the company a written notice objecting to the resolution.
- (4) Within 10 business days after a company has adopted a resolution contemplated in this section, the company must send a notice that the resolution has been adopted to each shareholder who:
  - (a) gave the company a written notice of objection in terms of subsection (3); and
  - (b) has neither:
    - (i) withdrawn that notice; or
    - (ii) voted in support of the resolution.
- (5) A shareholder may demand that the company pay the shareholder the fair value for all of the shares of the company held by that person if:
  - (a) the shareholder:
    - (i) sent the company a notice of objection, subject to subsection (6); and
    - (ii) in the case of an amendment to the company's Memorandum of Incorporation, holds shares of a class that is materially and adversely affected by the amendment;
  - (b) the company has adopted the resolution contemplated in subsection (2); and
  - (c) the shareholder:
    - (i) voted against that resolution; and
    - (ii) has complied with all of the procedural requirements of this section.
- (6) The requirement of subsection (5) (a) (i) does not apply if the company failed to give notice of the meeting, or failed to include in that notice a statement of the shareholders rights under this section.
- (7) A shareholder who satisfies the requirements of subsection (5) may make a demand contemplated in that subsection by delivering a written notice to the company within:
  - (a) 20 business days after receiving a notice under subsection (4); or
  - (b) if the shareholder does not receive a notice under subsection (4), within 20 business days after learning that the resolution has been adopted.
- (8) A demand delivered in terms of subsections (5) to (7) must also be delivered to the Panel, and must state:
  - (a) the shareholder's name and address;
  - (b) the number and class of shares in respect of which the shareholder seeks payment; and
  - (c) a demand for payment of the fair value of those shares.

[Sub-s. (8) amended by s. 103 (a) of Act No. 3 of 2011.]

- (9) A shareholder who has sent a demand in terms of subsections (5) to (8) has no further rights in respect of those shares, other than to be paid their fair value, unless:
- (a) the shareholder withdraws that demand before the company makes an offer under subsection (11), or allows an offer made by the company to lapse, as contemplated in subsection (12) (b);
  - (b) the company fails to make an offer in accordance with subsection (11) and the shareholder withdraws the demand; or
  - (c) the company, by a subsequent special resolution, revokes the adopted resolution that gave rise to the shareholder's rights under this section.
- [Para. (c) substituted by s. 103 (b) of Act No. 3 of 2011.]
- (10) If any of the events contemplated in subsection (9) occur, all of the shareholder's rights in respect of the shares are reinstated without interruption.
- (11) Within five business days after the later of:
- (a) the day on which the action approved by the resolution is effective;
  - (b) the last day for the receipt of demands in terms of subsection (7) (a); or
  - (c) the day the company received a demand as contemplated in subsection (7) (b), if applicable, the company must send to each shareholder who has sent such a demand a written offer to pay an amount considered by the company's directors to be the fair value of the relevant shares, subject to subsection (16), accompanied by a statement showing how that value was determined.
- (12) Every offer made under subsection (11):
- (a) in respect of shares of the same class or series must be on the same terms; and
  - (b) lapses if it has not been accepted within 30 business days after it was made.
- (13) If a shareholder accepts an offer made under subsection (12):
- (a) the shareholder must either in the case of:
    - (i) shares evidenced by certificates, tender the relevant share certificates to the company or the company's transfer agent; or
    - (ii) uncertificated shares, take the steps required in terms of section 53 to direct the transfer of those shares to the company or the company's transfer agent; and
  - (b) the company must pay that shareholder the agreed amount within 10 business days after the shareholder accepted the offer and:
    - (i) tendered the share certificates; or
    - (ii) directed the transfer to the company of uncertificated shares.
- (14) A shareholder who has made a demand in terms of subsections (5) to (8) may apply to a court to determine a fair value in respect of the shares that were the subject of that demand, and an order requiring the company to pay the shareholder the fair value so determined, if the company has:
- (a) failed to make an offer under subsection (11); or
  - (b) made an offer that the shareholder considers to be inadequate, and that offer has not lapsed.
- (15) On an application to the court under subsection (14):
- (a) all dissenting shareholders who have not accepted an offer from the company as at the date of the application must be joined as parties and are bound by the decision of the court;
  - (b) the company must notify each affected dissenting shareholder of the date, place and consequences of the application and of their right to participate in the court proceedings; and

- (c) the court:
  - (i) may determine whether any other person is a dissenting shareholder who should be joined as a party;
  - (ii) must determine a fair value in respect of the shares of all dissenting shareholders, subject to subsection (16);
  - (iii) in its discretion may:
    - (aa) appoint one or more appraisers to assist it in determining the fair value in respect of the shares; or
    - (bb) allow a reasonable rate of interest on the amount payable to each dissenting shareholder from the date the action approved by the resolution is effective, until the date of payment;
  - (iv) may make an appropriate order of costs, having regard to any offer made by the company, and the final determination of the fair value by the court; and
  - (v) must make an order requiring:
    - (aa) the dissenting shareholders to either withdraw their respective demands or to comply with subsection (13) (a); and  
[Item (aa) substituted by s. 103 (c) of Act No. 3 of 2011.]
    - (bb) the company to pay the fair value in respect of their shares to each dissenting shareholder who complies with subsection (13) (a), subject to any conditions the court considers necessary to ensure that the company fulfils its obligations under this section.
- (15A) At any time before the court has made an order contemplated in subsection (15) (c) (v), a dissenting shareholder may accept the offer made by the company in terms of subsection (11), in which case:
  - (a) that shareholder must comply with the requirements of subsection 13 (a); and
  - (b) the company must comply with the requirements of subsection 13 (b).
 [Sub-s. (15A) inserted by s. 103 (d) of Act No. 3 of 2011.]
- (16) The fair value in respect of any shares must be determined as at the date on which, and time immediately before, the company adopted the resolution that gave rise to a shareholder's rights under this section.
- (17) If there are reasonable grounds to believe that compliance by a company with subsection (13) (b), or with a court order in terms of subsection (15) (c) (v) (bb), would result in the company being unable to pay its debts as they fall due and payable for the ensuing 12 months:
  - (a) the company may apply to a court for an order varying the company's obligations in terms of the relevant subsection; and
  - (b) the court may make an order that:
    - (i) is just and equitable, having regard to the financial circumstances of the company; and
    - (ii) ensures that the person to whom the company owes money in terms of this section is paid at the earliest possible date compatible with the company satisfying its other financial obligations as they fall due and payable.
- (18) If the resolution that gave rise to a shareholder's rights under this section authorised the company to amalgamate or merge with one or more other companies, such that the company whose shares are the subject of a demand in terms of this section has ceased to exist, the obligations of that company under this section are obligations of the successor to that company resulting from the amalgamation or merger.

- (19) For greater certainty, the making of a demand, tendering of shares and payment by a company to a shareholder in terms of this section do not constitute a distribution by the company, or an acquisition of its shares by the company within the meaning of section 48, and therefore are not subject to:
- (a) the provisions of that section; or
  - (b) the application by the company of the solvency and liquidity test set out in section 4.
- (20) Except to the extent:
- (a) expressly provided in this section; or
  - (b) that the Panel rules otherwise in a particular case, a payment by a company to a shareholder in terms of this section does not obligate any person to make a comparable offer under section 125 to any other person.

[Sub-s. (20) inserted by s. 103 (e) of Act No. 3 of 2011.]





# Transaction Capital

## Transaction Capital Limited

(Incorporated in the Republic of South Africa)

Registration number 2002/031730/06

JSE share code: TCP ISIN: ZAE000167391

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### ELECTRONIC PARTICIPATION APPLICATION FORM

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#### ELECTRONIC PARTICIPATION APPLICATION FORM

Shareholders will be given the right, as authorised in the MOI, to participate by way of electronic communication at the General Meeting. Shareholders or their duly appointed proxies who wish to participate by way of electronic communication must apply to the Transfer Secretaries using the application form attached to this notice by no later than 10:00 on Friday, 11 January 2013.

Participants may vote electronically and must use the form of proxy attached for this purpose or contact their CSDP if they are not able to attend the meeting in person and vote in person.

Shareholders will be advised by email or text message prior to the meeting of the relevant telephone number and code to allow them to dial in.

The Company will bear the cost of establishing the electronic communication whilst the cost of the Shareholder dialling in will be for his/her account.

#### Information required for participation by electronic communication

Full names of Shareholder or authorised representative (for company or other legal entity):	
Identity number or registration number of entity:	
Email address:	
Cell phone number:	
Telephone number including dialling codes:	
Name of CSDP or broker if shares are dematerialised:	
CSDP or broker contact number:	

#### Documents required

1. A proxy may only participate provided that a duly completed form of proxy has been submitted in accordance with the instructions on that form and also attached to this application.
2. Documentary evidence establishing the authority of the named person acting in a representative capacity to participate in the General Meeting must be attached to this application.
3. A CSDP or broker registered in the Company's sub-register participating on behalf of the beneficial owner of Shares is requested to identify the beneficial owner on whose behalf he/she is acting and to attach a copy of the instructions from such owner.
4. Holders of dematerialised Shares must request their broker or CSDP to issue them with the necessary authority to attend. The authorisation must be attached to this application.
5. A copy of the identity document of the person attending the General Meeting by electronic participation must be attached to this application.

Signed at \_\_\_\_\_ on \_\_\_\_\_ 2013

Signature: \_\_\_\_\_

Assisted by (where applicable): \_\_\_\_\_

Applications to participate by electronic communication will only be considered if this form is completed in full and signed by the Shareholder, proxy or representative. The Company may in its sole discretion accept any incomplete forms.

