

REPUBLIC OF SOUTH AFRICA

COMPANIES ACT, 2008

MEMORANDUM OF INCORPORATION OF A PUBLIC COMPANY

Name of company: **THE SPAR GROUP LIMITED**

Registration no.: **1967/001572/06**

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Definitions and Interpretation

In this Memorandum of Incorporation, including Annexure A hereto, unless the context otherwise requires:

- (a) “the Act” means the Companies Act 71 of 2008, as amended from time to time. Reference to the Act shall, if the Act is replaced by any other statute, be construed as a reference to the statute or statutes from time to time in force relating to companies. Reference to any provision of the Act shall be construed as a reference to such provision as modified or re-enacted by any statute for the time being in force;
- (b) “the Board” means the board of directors of the Company, as it may be constituted from time to time;
- (c) “books of account” means any documents, accounts, books, writing, records or other information that a company is required to keep in terms of the Act or any other public regulation;
- (d) “Business Day” means any day other than a Saturday, Sunday or officially designated public holiday in the Republic of South Africa;
- (e) “the Company” means The Spar Group Limited, Registration no. 1967/001572/06, the company that has adopted, and is governed by, this Memorandum of Incorporation;
- (f) “in writing” or “written” means and includes words printed, auto-graphed, represented or produced in any mode in a visible form and further includes a data message being information generated, sent, received or stored by electronic, optical or similar means including, but not limited to, electronic mail;
- (g) “JSE” means the JSE Limited, Registration no. 2005/022939/06;
- (h) “Memorandum of Incorporation” means this document, being the Memorandum of Incorporation of the Company, including the Schedules annexed hereto;
- (i) “notice” includes circulars, abridged and full annual financial statements, quarterly and interim reports, listing particulars, dividend and interest notices and proxy forms;
- (j) “registered address” in relation to a shareholder means an electronic mail address, fax number, physical or postal address notified by a shareholder to the Company in terms of Article 3.2(1) hereof;
- (k) “person” includes a juristic person as defined in the Act;
- (l) “prescribed officer” means anyone who exercised general executive control over and management of the whole, or significant portion, of the business and activities of the Company; or regularly participates to a material degree in the exercise of general executive control over and management of the whole, or significant portion, of the business and activities of the Company;

- (m) "Rules" means any necessary or incidental rules relating to the governance of the Company in respect of matters that are not addressed in the Act or this Memorandum of Incorporation;
- (n) words that are defined in the Act bear the same meaning in this Memorandum of Incorporation as in the Act;
- (o) the provisions contained in the schedule annexed hereto marked "A" form part of this Memorandum of Incorporation.

Adoption of Memorandum of Incorporation

This Memorandum of Incorporation was adopted by the Company on 14 February 2012. The former Memorandum of Incorporation of the Company (being its "Memorandum of Association" and "Articles of Association" adopted in terms of the repealed Companies Act 61 of 1973, as amended) was repealed in its entirety and simultaneously replaced by this Memorandum of Incorporation, in accordance with the Act, by special resolution of the shareholders of the Company.

Article 1 - Incorporation and Nature of the Company

1.1 Incorporation

- (1) The Company is incorporated as a public company.
- (2) The Company is incorporated in accordance with and governed by:
 - (a) the unalterable provisions of the Act; and
 - (b) the alterable provisions of the Act, subject to the limitations, extensions, variations or substitutions set out in this Memorandum of Incorporation; and
 - (c) the provisions of this Memorandum of Incorporation.

1.2 Powers of the Company

- (1) Subject to Articles 1.3(2) and 2.1(1)(c) below, the Company is not subject to any restrictive conditions nor to any prohibitions regarding the amendment of the provisions of this Memorandum of Incorporation other than those contained in the Act.
- (2) The purposes and powers of the Company are not subject to any restrictions, limitations or qualifications other than those contained in the in the Act, save that the Company shall not have the power to claim a lien on any of its securities and subject to Article 2.3(2) below.

1.3 Memorandum of Incorporation and Rules

- (1) Subject to the Act and Articles 1.3(2) and 2.1(1)(c) below, this Memorandum of Incorporation shall only be amended by an order of court or a special resolution of the shareholders of the Company. For the avoidance of doubt, amendment includes, but is not limited to, the creation of any class of shares; the variation of any preferences, rights, limitation or other share terms attaching to any class of shares; the conversion of one class of shares into one or more other classes; the increase of number of securities; the consolidation of securities; the sub-division of securities; a change of the name of the Company; and a conversion of shares from par value to no par value.
- (2) If a proposed amendment to this Memorandum of Incorporation relates to the variation of any preferences, rights, limitation or other terms attaching to the preference shares (including, but not limited to, the creation of further securities ranking in priority to, or *pari passu* with, the preference shares), such amendment shall not be implemented without the consent in writing of the holders of 75% of such preference shares or the sanction of a special resolution of the holders of such preference shares passed at a separate meeting of such holders.
- (3) The Company shall publish a notice of any alteration of this Memorandum of Incorporation by delivering a copy of the alteration to a registered address of each shareholder.
- (4) The Board shall not have the authority to make Rules for the Company.

Article 2 - Securities of the Company

2.1 General

- (1) The following corporate actions may be taken only in accordance with the JSE Listing Requirements:
 - (a) the issue of shares for cash and options and convertible securities granted or issued for cash;
 - (b) the repurchase of the Company's securities; and
 - (c) the alteration of share capital, authorised shares and rights attaching to any class of shares.

- (2) The authority of the Board to allow the Company's issued securities to be held by, and registered in the name of, one person for the beneficial interest of another person, is not limited or restricted by this Memorandum of Incorporation.
- (3) The authority of the Board to authorise the Company to provide financial assistance in relation to the subscription of any option or securities of the Company, or of a related or inter-related company, is not limited or restricted by this Memorandum of Incorporation.
- (4) The Company shall not pay commission exceeding 10% to any person in consideration for their subscribing or agreeing to subscribe, whether absolutely or conditionally, for any securities of the Company.
- (5) The Company may, in accordance with the rules and requirements of the JSE, at any time and from time to time, make an odd-lot offer to shareholders holding less than 100 shares, in terms of which the offeree shareholders are given the right to elect to retain their shareholdings, or to purchase sufficient additional shares to increase their shareholdings to 100 shares, or to sell their shareholdings; and the odd-lot offer may provide that if any offeree shareholder fails to exercise the right of election his shareholding will be compulsorily sold as if he had elected to sell his shareholding.

2.2 Shares

- (1) The Company is authorised to issue no more than the maximum number of ordinary shares and preference shares set out in Annexure "A" to this Memorandum of Incorporation, subject to the preferences, rights, limitations and other terms associated with each class as set out in such annexure.
- (2) The Board shall not have the power to issue authorised shares without the approval of the shareholders of the Company, which approval may comprise of a special authority or a general authority for a specified period of time.
- (3) The Board shall not have the power to increase or decrease the number of authorised shares of any class; to reclassify any shares that have been authorised but are not issued; to classify any unclassified shares that have been authorised but are not issued; nor to determine the preferences, rights, limitations or other terms of any class of shares that are not issued and which preferences, rights limitations or other terms are not specified in this Memorandum of Incorporation; without the approval of the shareholders of the Company,

which approval may, subject to Articles 1.3(1), 1.3(2) and 2.1(1)(c) above, comprise of a special authority or a general authority for a specified period of time.

- (4) Any equity shares for the time being unissued (whether forming part of the original or any increased capital) shall, before issue, be first offered to all the existing holders of equity shares, as nearly as circumstances permit *pro rata* in proportion to their shareholdings, unless such shares are issued for the purpose of the acquisition of assets. Notwithstanding the above, the shareholders of the Company may authorise the Board to issue unissued shares and/or to grant options to subscribe for unissued shares as the Board in its discretion thinks fit, provided that any such transaction shall be subject to the JSE Listing Requirements and approval of the JSE. No shareholder of the Company shall have any other pre-emptive right to be offered, and to subscribe to, additional shares of the Company.
- (5) The Board shall not have the power to approve the issuing of any authorised shares of the Company as capitalisation shares; to issue shares of one class as capitalisation shares in respect of shares of another class; nor to resolve to permit shareholders to elect to receive a cash payment in lieu of a capitalisation share; without the approval of the shareholders of the Company, which approval may comprise of a special authority or a general authority for a specified period of time.
- (6) Shares of the Company are to be issued in either dematerialised or certificated form, as the Board may determine.
- (7) The certificates or other evidence of title of shares of the Company, the transfer of such shares and all matters concerning share transactions shall be in accordance with the requirements of the JSE, any other recognised stock exchange on which the shares of the Company may be listed from time to time and/or any other regulatory authority controlling the issue and transfer of securities. The Company shall have the power to conform with such requirements, including the power to settle all share transactions totally electronically or otherwise as may be so approved from time to time.
- (8) Any authority to sign a transfer deed, granted by a holder of shares for the purpose of transferring shares, that may be lodged at any of the Company's transfer offices, shall, as between the Company and the grantor of such authority, be deemed to continue and remain in full force and effect. The Company may allow such authority to be acted upon until express notice in writing of the revocation of such authority is lodged at the same transfer office. Even after the lodgement of a notice of revocation of authority, the Company may

give effect to any instruments signed under the authority and certified by any officer of the Company as being in order before the lodgement of such notice.

2.3 Debt instruments

- (1) The authority of the Board to authorise the Company to issue secured or unsecured debt instruments is not limited or restricted by this Memorandum of Incorporation.
- (2) The granting of special privileges to holders of debt instruments, such as attending and voting at shareholders meetings and the appointment of directors, is prohibited.
- (3) Secured or unsecured debentures, debenture stock, bonds or other securities may be made assignable free from any equities between the Company and the person to whom the same may be issued. Any debentures, debenture stock, bond or other securities may be issued at a discount, premium or otherwise.

Article 3 - Shareholders

3.1 Shareholders' authority to act

- (1) If, at any time, there is only one shareholder of the Company, the authority of that shareholder to act without notice or compliance with any other internal formalities is not limited or restricted by this Memorandum of Incorporation.
- (2) If, at any time, every shareholder of the Company is also a director of the Company, the authority of the shareholders to act without notice or compliance with any other internal formalities after a matter is referred to them by the Board, as set out in the Act, is not limited or restricted by this Memorandum of Incorporation.

3.2 Notices

- (1) Each holder of registered shares (or their agent) shall notify the Company in writing of an electronic mail address, a fax number, and a physical or postal address, each of which shall be deemed to be his registered address within the meaning of this Memorandum of Incorporation, and if he has not notified the Company of at least one of the above, he shall be deemed to have waived his right to be served with any notice from the Company.

- (2) The signature to any notice given by the Company may be written, printed, partly written and partly printed or may be an advanced electronic signature (as contemplated in section 1 of the Electronic Communications and Transactions Act 25 of 2002, as amended).
- (3) Subject to the provisions of the Act and the JSE Listings Requirements, any notice required to be given by the Company to shareholders, or any of them, and not expressly provided for in this Memorandum of Incorporation, shall be sufficiently given if given by advertisement. Any notice given by advertisement shall be deemed to have been served on the first day that such advertisement is published.

3.3 Proxies, powers of attorney and representatives

- (1) The holder of an instrument of proxy or general or special power of attorney, given by a shareholder, shall be entitled to vote if duly authorised under that instrument or power to attend and take part in any meeting or proceeding of the Company, whether or not he is himself a shareholder in the Company.
- (2) The right of a shareholder to appoint persons concurrently as proxies is not limited, restricted or varied by this Memorandum of Incorporation.
- (3) The authority of a shareholder's proxy to delegate the proxy's powers to another person; and to decide without direction from the shareholder whether to exercise or abstain from exercising any voting right of the shareholder, is not limited or restricted by this Memorandum of Incorporation.
- (4) A shareholder (or their agent) shall deliver to the Company a copy of the instrument appointing a proxy or general or special power of attorney before the person named therein may exercise the shareholder's rights at a shareholders meeting. Any instrument appointing a proxy (and the power of attorney, if any, under which it is signed, or a notarially certified copy thereof) or general or special power of attorney, shall be delivered to the registered address of the Company not less than 48 hours before the time for the holding of the meeting at which the person named in such power or instrument purports to attend or vote, failing which the instrument or power shall be treated as invalid for the purpose of attending or voting at that meeting.
- (5) Any shareholder that is a juristic person as defined in the Act may deliver a letter of representation to the registered address of the Company appointing a representative of that shareholder to attend and vote at shareholders meetings. Any such representative shall be

entitled to attend and vote at all shareholders meetings until the shareholder revokes such letter of representation by delivering a letter of revocation to the registered address of the Company.

- (6) A vote in accordance with the terms of an instrument of proxy, a power of attorney or a letter of representation shall be valid notwithstanding the previous death of the principal (if applicable); revocation of the proxy, power or letter of representation; or transfer of the share in respect of which the vote is given, provided no intimation in writing of the death, revocation or transfer shall have been received at the registered address of the Company or by the chairman of the meeting before the vote is given.
- (7) An instrument appointing a proxy shall be in any form approved by the Board. The Board may, in its discretion, permit the acceptance of proxies transmitted by shareholders of the Company by electronic mail, according to such directions as may be issued by the Board.

3.4 Record date for exercise of shareholder rights

The record date for all transactions shall be as set out in the JSE Listing Requirements.

Article 4 - Shareholders Meetings

4.1 General

- (1) The Board may convene a shareholders meeting whenever it thinks fit. If, at any time, there are insufficient directors within the Republic of South Africa capable of acting to form a quorum, any director or any two shareholders of the Company may convene a shareholders meeting in the same manner as nearly as possible as that in which meetings may be convened by the Board.
- (2) A shareholders meeting shall be convened on a requisition of the holders of at least 10% of the voting rights entitled to be exercised in relation to the matter to be considered at the meeting, or in compliance with an order of court.
- (3) The Company is not required to hold any shareholders meetings other than those specifically required by the Act.
- (4) The date and time of any shareholders meeting shall be determined by the Board.

- (5) The authority of the Board to determine the location of any shareholders meeting, and to hold any such meeting in the Republic of South Africa or in any foreign country, is not limited or restricted by this Memorandum of Incorporation.
- (6) The chairman of the Board or, in his absence, the lead independent non-executive director (if any) shall be entitled to take the chair at every shareholders meeting. If there is no chairman of the Board or lead independent non-executive director, or if at any meeting he is not present within 10 minutes after the time appointed for holding the meeting or is unwilling to act, the other directors may choose a chairman of the meeting and, in default of their doing so, the shareholders present shall choose one of the directors to be the chairman and, if no director present be willing to take the chair, shall choose one of their number to be the chairman.
- (7) The authority of the Company to conduct a meeting entirely by electronic communication, or to provide for participation in a meeting by electronic communication, is not limited or restricted by this Memorandum of Incorporation. The Board may allow persons to participate in a shareholders meeting by conference call or otherwise, and may allow for electronic voting when the technology is in place.
- (8) Notwithstanding anything to the contrary contained in the Act or this Memorandum of Incorporation, all shareholder meetings that are called for in terms of the JSE Listing Requirements shall be held in person and shall not be held by means of a written resolution.

4.2 Annual General Meeting

- (1) An annual general meeting shall be held once in every calendar year at such time and place as the Board may determine, provided that not more than 15 months shall elapse between the date of one annual general meeting of the Company and that of the next.
- (2) The business of the annual general meeting shall be to receive and consider the audited annual financial statements, reports of the Board and auditors (if any), the audit committee report, the social and ethics committee report, the election of directors and the appointment of an audit committee and any auditors and/or other officers of the Company in the place of those retiring by rotation or otherwise, the transaction of matters prescribed by the Act, any other business which ought to be transacted at an annual general meeting, and any business which is brought under consideration by the reports of the Board laid before such

meeting. All other business transacted at the annual general meeting and all business transacted at any other shareholders meeting shall be deemed special.

- (3) At least 15 Business Days before the date of the annual general meeting, a copy of the annual financial statements of the Company shall be delivered to all shareholders, save for any shareholder who waives his right to receive such statements.

4.3 Notice of shareholders meetings

- (1) The minimum number of days for the Company to deliver a notice of a shareholders meeting to the shareholders is 15 Business Days before the meeting is to begin.
- (2) A notice shall be given or served by the Company upon any shareholder by any method permitted by the Act including, but not limited to –
 - (a) personal delivery;
 - (b) fax to the shareholder's fax number registered address;
 - (c) delivery by registered post to the shareholder's physical or postal registered address;
 - (d) subject to any requirements of the JSE, by electronic mail; provided that such shareholder has specified an electronic mail registered address; and
 - (e) subject to any requirements of the JSE, by posting the notice on the Company's website; provided that, simultaneously with or as soon as possible after such posting of the notice, the Company notifies the shareholder at his electronic mail registered address that the Company has posted the notice on its website.
- (3) The accidental omission to give notice of any meeting to any shareholders shall not invalidate any resolution passed at such meeting.
- (4) Notice of each shareholders meeting shall be sent to the Manager (Listings) of the JSE at the same time as notice of the meeting is sent to the shareholders of the Company. Such notice shall also be announced through the official news service of the JSE.
- (5) All notices may, with respect to any registered shares to which persons are jointly entitled, be given to whichever of such persons is named first on the register and notice so given shall be sufficient notice to all the holders of such shares.
- (6) Any notice or document given or served by the Company upon any shareholder in pursuance of this Memorandum of Incorporation shall, notwithstanding that such shareholder was then deceased, and whether or not the Company has notice of his

decease, be deemed to have been duly served in respect of any registered shares, whether held solely or jointly with other persons by such shareholder, until some other person is registered in his stead as the joint holder thereof and such service shall, for all purposes under this Memorandum of Incorporation, be deemed a sufficient service of such notice or document on his or her heirs, executors or administrators, and all persons (if any) jointly interested with him or her in any such shares.

- (7) Every person who, by operation of law, transfer or other means whatsoever shall become entitled to any share, shall be bound by every notice in respect of such share which, previously to his name and address being entered in the register, shall have been given to the person from whom he derives his title to such share.

4.4 Quorum for shareholders meetings

- (1) The quorum requirement for a shareholders meeting to begin is sufficient persons present at the meeting (which includes being present in person or by proxy) to exercise, in aggregate, at least 25% of all of the voting rights that are entitled to be exercised in respect of at least one matter to be decided at the meeting; provided that there shall not be a quorum unless there are at least three persons so present at such meeting.
- (2) Notwithstanding anything to the contrary contained in the Act, once a quorum for the meeting has been established, all the shareholders forming the quorum must be present at every matter that is considered at the meeting.
- (3) A shareholder of the Company which is a juristic person as defined in the Act and is present at a shareholders meeting by an authorised representative shall be deemed to be present at that meeting.
- (4) The time periods contained in the Act regarding the postponement of a shareholders meeting or the consideration of a particular matter at a shareholders meeting, as a result of the quorum requirements not having been met, apply to the Company without variation.
- (5) Subject to any requirements of the JSE, the quorum at any postponed meeting shall be the shareholder or shareholders present thereat personally or by proxy, who may transact the business for which the meeting was called.

4.5 Adjournment of shareholders meetings

- (1) The chairman of a shareholders meeting may, with the consent of the meeting and if so directed by the meeting, adjourn the meeting from time to time and from place to place.
- (2) A shareholders meeting shall not be adjourned beyond the earlier of 120 Business Days after the record date, or 60 Business Days after the date on which the adjournment occurred.
- (3) Subject to any requirements of the JSE, the quorum at any adjourned meeting shall be the shareholders present thereat personally or by proxy, who may transact the business for which the meeting was called.
- (4) No business shall be transacted at any adjourned shareholders meeting of the Company other than business left unfinished at the meeting from which the adjournment took place.

4.6 Votes of shareholders

- (1) A resolution put to the vote of any shareholders meeting shall be decided on poll taken in such manner as the chairman of the meeting directs. The result of the poll shall be deemed to be a resolution of the meeting.
- (2) In the case of an equality of votes, the chairman of the meeting shall be entitled to a second or casting vote.
- (3) Subject to the Act and any special terms or restrictions as to voting upon which any shares may be issued, upon a poll every shareholder present or represented by proxy shall have one vote for every share held by him.
- (4) The parent or guardian of a minor, the curator bonis of a shareholder and any person becoming entitled to shares in consequence of the death or insolvency of a shareholder, may vote at any shareholders meeting as if he were the registered holder of the shares, provided that at least 48 hours before the time of holding the meeting (or adjourned meeting, as the case may be) at which the person proposes to vote, he shall satisfy the Board of the character in respect of which he proposes to act, unless the Board shall have previously admitted his right to vote at such meeting in respect thereof.
- (5) Where there are joint registered holders of any share, or several executors or administrators of a deceased shareholder in whose sole name any shares stand, any one of such persons may vote at any meeting, either personally or by proxy, in respect of such share. If more than one of such joint holders, or executors or administrators, be present at any meeting,

personally or by proxy, that one of the said persons so present whose name stands first on the register in respect of such shares shall alone be entitled to vote in respect thereof.

4.7 Shareholders resolutions

- (1) For an ordinary resolution to be adopted by the shareholders of the Company, it must be supported by the holders of at least 50% of the voting rights exercised on the resolution.
- (2) For a special resolution to be adopted by the shareholders of the Company, it must be supported by the holders of at least 75% of the voting rights exercised on the resolution.
- (3) A special resolution adopted by the shareholders of the Company is not required for a matter to be determined by the Company, save for:
 - (a) those matters set out in the Act; and
 - (b) if the Company shall be wound up, whether voluntarily or otherwise, the liquidators may, with the sanction of a special resolution, divide among the shareholders in specie any part of the assets of the Company and may, with the like sanction, vest any part of the assets of the Company in trustees upon such trusts for the benefit of the shareholders as the liquidators, with the like sanction, shall think fit and, if thought expedient, any such division may be otherwise than in accordance with the legal rights of the shareholders of the Company, and in particular, any class may be given preferential or special rights, or may be excluded altogether or in part; but in case any division otherwise than in accordance with the legal rights of the shareholders shall be decided on, the provisions of the Act governing dissenting shareholders appraisal rights shall apply.
- (4) The proposal of any resolution to shareholders in terms of sections 20(2) and 20(6) of the Act is prohibited in the event that such a resolution would lead to the ratification of an Act that is contrary to the JSE Listings Requirements unless otherwise agreed with the JSE.

Article 5 - Directors and Officers

5.1 Composition of the Board

- (1) The Company shall have not less than eight directors, of which at least two shall be executive directors. Subject to the Act and the JSE Listing Requirements, the shareholders of the Company may from time to time increase or decrease such minimum number of directors.

- (2) If the number of directors falls below the minimum set out above, the remaining directors shall as soon as possible, and in any event not later than three months from the date that the number of directors falls below the minimum, fill the vacancies on a temporary basis or call a shareholders meeting for the purpose of filling the vacancies. The failure by the Company to have the minimum number of directors during such three month period does not limit or negate the authority of the Board or invalidate anything done by the Board or the Company. After the expiry of the three month period, the remaining directors shall only be permitted to act for the purpose of filling vacancies or calling shareholders meetings.
- (3) There are no directly appointed or *ex officio* directors of the Company.
- (4) Alternate directors may be appointed in accordance with the Act.
- (5) Subject to the provisions of the Act, holders of the Company's securities who are entitled to exercise voting rights may at any time appoint any persons to the office of director and may remove from office any or all of the directors.
- (6) Directors of the Company shall be elected in the manner set out in the Act. Such elections shall take place at the annual general meeting of the Company or at any other shareholders meeting, but shall not be done by written resolution.
- (7) The authority of the Board to fill a vacancy on the Board on a temporary basis is not limited or restricted by this Memorandum of Incorporation. Any appointment by the Board of a director to fill a vacancy on the Board, or as an addition to the Board, shall be subject to approval by the shareholders at the next annual general meeting or other shareholders meeting, which approval shall not be given by written resolution.
- (8) In order to become and remain a director or a prescribed officer of the Company, a person need not satisfy any eligibility requirements or qualifications other than those set out in the Act. The Board or the Nomination Committee of the Board shall recommend the eligibility of directors or potential directors, taking into account any past performance or contribution.
- (9) The periods of service of executive directors shall be governed by their employment contracts.
- (10) At each annual general meeting of the Company or other shareholders meeting on an annual basis (and not by written resolution), one third of the non-executive directors for the

time being or, if their number is not divisible by three, the number nearest to one third but not less than one third, shall retire from office. The non-executive directors to retire in each year shall be those who shall have been longest in office since their last election, but as between persons who were elected on the same day, those to retire shall, unless otherwise agreed amongst themselves, be determined by lot.

- (11) A retiring non-executive director may be re-elected to the office of director. No person not being a retiring non-executive director may be elected to the office of director at any shareholders meeting unless he or a shareholder intending to propose him has, at least five clear days before the meeting, left at the registered office of the Company a notice in writing, duly signed, signifying his candidature for office or the intention of such shareholder to propose him.
- (12) If at any meeting at which an election of directors ought to take place, the places of the vacating directors are not filled up, the meeting shall stand adjourned until the same day in the next week, at the same time and place, or if that day is a public holiday, then the next succeeding day which is not a public holiday, and if at such adjourned meeting the places of the vacating directors are not filled up, the vacating directors, or such of them as have not had their places filled up, shall be deemed to have been re-elected at such adjourned meeting.
- (13) Subject to the provisions of the Act, the office of a director shall *ipso facto* be vacated if he:
 - (a) ceases to be a director by virtue of any of the provisions of the Act or becomes prohibited from being a director by reason of an order made under the Act;
 - (b) becomes insolvent, suspends payment generally or compounds with his creditors;
 - (c) becomes lunatic or of unsound mind;
 - (d) absents himself from the meetings of the Board, except on the Company's business, for a period of six months without special leave of absence from the Board and is not represented by any such meetings by an alternate director, and the Board resolves that his office be vacated;
 - (e) resigns or retires from office; or
 - (f) is removed from office by an ordinary resolution of the shareholders of the Company.

5.2 Authority of the Board of Directors

- (1) Subject to Articles 1.3(4), 2.2(2), 2.2(3), 2.2(4) and 2.2(5) above, the authority of the Board to manage and direct the business and affairs of the Company is not limited or restricted by this Memorandum of Incorporation.
- (2) The Board may from time to time in its discretion raise or borrow moneys for the purposes of the Company as they think fit. Subject to the Act and any JSE requirements, the Board may raise or secure the repayment of such sum or sums in such manner and upon such terms and conditions in all respects as they think fit, and in particular by the issue of bonds, perpetual or redeemable, secured or unsecured debentures, or debenture stock, or any mortgage, charge or other security, on the undertaking of the whole or any part of the property of the Company (both present and future).
- (3) All acts done at any meeting of the Board or of a committee of Board (if any) or by any person acting as a director shall, notwithstanding that it is afterwards discovered that there was some defect in the appointment of such director or persons acting as aforesaid or that they or any of them were ineligible or disqualified to act as a director, be valid as if every such person had been duly appointed, eligible and qualified to be a director.
- (4) If, at any time, the Company has only one director, the authority of that director to act without notice or compliance with any other internal formalities is not limited or restricted by this Memorandum of Incorporation.

5.3 Board Meetings

- (1) Subject to the Act and this Memorandum of Incorporation, the directors of the Company may meet together for the despatch of business, adjourn or otherwise regulate their meetings as they think fit. Notwithstanding anything to the contrary contained in the Act, the Chairman of the Board or any two directors shall be entitled to requisition a meeting of the Board.
- (2) The authority of the Board to determine the manner and form of providing notice of its meetings is not limited or restricted by this Memorandum of Incorporation.
- (3) The authority of the Board to proceed with a meeting despite a failure or defect in giving notice of the meeting is not limited or restricted by this Memorandum of Incorporation.

- (4) The quorum requirement for a Board meeting to begin is a majority of the directors. Each director shall have one vote on any matter before the Board. A majority of the votes cast on a Board resolution is sufficient to pass that resolution.
- (5) The directors shall elect a chairman of the Board and a lead independent non-executive director; and may determine the period for which they are to hold office. If the chairman is not available at any Board meeting, the lead independent executive shall assume the chair. If at any Board meeting neither of them is present within 10 minutes after the time appointed for holding the meeting, the directors present may choose one of their number to be chairman of the meeting. The chairman of the meeting shall have a casting vote, save that if, at any time, the quorum of directors is two and only two directors are present at a meeting, then the chairman shall not have a casting vote.
- (6) The authority of the Board to conduct a meeting entirely by electronic communication, or to provide for participation in a meeting by electronic communication, is not limited or restricted by this Memorandum of Incorporation. The Board may allow persons to participate in a Board meeting by conference call or otherwise, and may allow for electronic voting when the technology is in place.
- (7) A decision that could be voted on at a meeting of the Board may instead be adopted by written consent of a majority of the directors, given in person, or by electronic communication, provided that each director shall have received notice of the matter to be decided. Such resolution inserted in the minute book, shall be as valid and effective as if it had been passed at a meeting of the Board. Any such resolution may consist of several documents and shall be deemed to have been passed on the date on which it was signed by the last director who signed it, unless a statement to the contrary is contained in the resolution.

5.4 Director's Compensation

- (1) The authority of the Company to pay remuneration to the Company's directors, in accordance with a special resolution approved by the Company's shareholders within the previous two years, is not limited or restricted by this Memorandum of Incorporation. The remuneration of non-executive directors shall be determined in this manner.
- (2) Unless the Company by special resolution determines otherwise, the executive directors, who are remunerated for their services as employees of the Company, shall not be paid directors fees. The remuneration of the executive directors for their services as employees

of the Company shall be determined by the Board or the Remuneration Committee of the Board. The Board or such Committee shall approve the terms of the contracts of employment of executive directors before such contracts are concluded with the Company.

- (3) The directors shall be paid all their travelling and other expenses properly and necessarily incurred by them in and about the business of the Company, and in attending meetings of the Board or of committees thereof. If any director is required to perform extra services or to reside abroad, or shall be specifically occupied about the Company's business, such director shall be entitled to receive such remuneration as is determined by a disinterested quorum of directors, which may be either in addition to, or in substitution for, any other remuneration.

5.5 Financial assistance

The authority of the Board to authorise the Company to provide financial assistance to a director or prescribed officer of the Company or of a related or inter-related company; to a related or inter-related company or corporation; to a member of a related or inter-related corporation; or to a person related to any such company, corporation, director, prescribed officer or member, is not limited or restricted by this Memorandum of Incorporation.

5.6 Indemnification of directors

- (1) For the purposes of this Article 5.6, "director" includes any former director, alternate director, any prescribed officer of the Company, and any person who is a member of any Board committee or of the audit committee, irrespective of whether or not the person is also a member of the Board.
- (2) The authority of the Company to advance expenses to a director and to indemnify a director for expenses in respect of the defence of legal proceedings is not limited, restricted or extended by this Memorandum of Incorporation.
- (3) The authority of the Company to indemnify a director in respect of liability is not limited or restricted by this Memorandum of Incorporation.
- (4) Subject to the provisions of the Act, every director shall be indemnified out of the funds of the Company against all liability incurred by him as such director in defending any proceedings, whether civil or criminal, in which judgment is given in his favour, or in which he is acquitted, or in connection with any proceedings by or against him in regard to any

claim against him (actual or apprehended) based on negligence, default, breach of duty or breach of trust in which relief is granted to him by a court under the Act.

- (5) If the directors, or any of them or any other persons shall become personally liable for the payment of any sum primarily due from the Company, the directors may execute or cause to be executed any mortgage, charge or security over or affecting the whole or any part of the assets of the Company (subject to the relevant provisions of the Act) by way of indemnity to secure the directors or persons becoming liable as aforesaid from any loss in respect of such liability.
- (6) The authority of the Company to purchase insurance to protect the Company or a director is not limited, restricted or extended by this Memorandum of Incorporation.
- (7) Subject to the provisions of the Act, no director or servant of the Company shall be liable for any act, or omission of any other director or servant, nor for any loss or damage incurred by the Company, unless the same happened through his own negligence, default, breach of duty or breach of trust.

5.7 Board Committees

- (1) The authority of the Board to appoint committees of directors; to delegate to any such committee any of the authority of the Board; and to include in any such committee persons who are not directors, is not limited or restricted by this Memorandum of Incorporation.
- (2) The authority of any committee appointed by the Board is not limited or restricted by this Memorandum of Incorporation.
- (3) The Board may from time to time remove any Board committee formed and/or revoke any powers delegated to any such committee.
- (4) The Board shall have the power to appoint, and at its discretion to remove or suspend, a local Board committee or Board committees in any foreign country whatsoever and to fix and vary their remuneration; to establish and keep transfer offices and branch registers in any foreign country whatsoever and to close same at its discretion; and to appoint and remove agents who represent the Company for such purposes as the Board may determine. The Board shall have the power to, at any time and from time to time, by power of attorney, appoint any person or persons to be the attorney or attorneys of the Company for the

purposes of this item with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Board in terms of the Act and this Memorandum of Incorporation) for such period and subject to such conditions as the Board may from time to time think fit. Any such appointment may, if the Board thinks fit, be made in favour of the members of any foreign committee established as aforesaid, or in favour of any company, or of the shareholders or members, directors, nominees or managers of any company or firm, or otherwise in favour of any fluctuating body of persons, whether nominated directly or indirectly by the Board. Any such power of attorney may contain provisions for the protection or convenience of persons dealing with such attorneys as the Board thinks fit. Any such delegates or attorneys as aforesaid may be authorised by the Board to sub-delegate all or any of the powers, authorities and discretions for the time being vested in it.

- (5) Any Board committee formed shall conform to any regulations that may from time to time be imposed upon it by the Board, provided that the meetings and proceedings of any Board committee consisting of two or more members shall be governed by the provisions contained in this Memorandum of Incorporation regulating the meetings and proceedings of the Board, so far as the same are applicable thereto, and are not superseded by any regulation made by the Board.
- (6) The Audit Committee is not a Board committee and shall be appointed by the shareholders of the Company in accordance with the Act.

5.8 Other offices of directors and personal financial interests

- (1) A director may be or become employed in any other capacity in the Company; or as a director or employee of a company controlled by, or a subsidiary of, or other company promoted by, the Company or in which it may be interested as vendor, shareholder or otherwise; other than that of auditor. A director may accept a retainer from the Company in consideration of which he agrees to give his services to the Company in any special capacity when called upon by the Company to do so. A director of the Company may represent the Company in the management of any business or operations or concern in which the Company may be interested as partner or otherwise. Any such appointment and the terms as to remuneration, tenure of office and otherwise, shall be determined by a disinterested quorum of directors in compliance with the Act and any requirement of the JSE. No such director shall be accountable to the Company for any remuneration or other benefits received by him as a director, shareholder or member of such company or representative of this Company in such management or in any employment or retention of his services by the Company.

(2) Subject to the relevant provisions of the Act:

- (a) no director shall be disqualified by his office from contracting with the Company either as vendor, purchaser, lender or otherwise, or as an underwriter or guarantor for the commission or profit on any shares or securities or liability of the Company or of any company in which the Company may be interested;
- (b) no contract or arrangement entered into by or on behalf of the Company in which any director is in any way interested, nor any contract or arrangement entered into with any company or partnership of or in which any director is a shareholder or member, director or partner or otherwise, shall be invalidated or voided by any such reason;
- (c) no directors so contracting or being so interested or acquiring any benefit under any contract or arrangement entered into by or on behalf of any person, company or partnership in relation to the affairs of the Company shall be liable to account to the Company for any profits or benefits realised by or under such contract or arrangement by reason of such director holding that office or by reason of the fiduciary relationship thereby established;
- (d) any director may act by himself or his firm in a professional capacity for the Company and he or his firm shall be entitled to remuneration for professional services as if he were not a director, provided that nothing herein contained shall authorise a director or his firm to act as auditor of the Company; and
- (e) any director or directors so interested or acquiring any benefit must disclose the fact of his possessing any interest, whether as director, shareholder or member or otherwise, whether or not it appears on the face of the contract or arrangement, in accordance with the provisions of the Act.

Article 6 - Finances

6.1 Reserves

- (1) The Board may, before declaring or confirming any dividends, set aside out of the profits of the Company such sums as it thinks proper as a reserve or reserves.

- (2) The reserve or reserves shall, at the discretion of the Board, be applicable for meeting contingencies or for paying or equalising dividends, or for any other purpose whatsoever to which the profits of the Company may be properly applied and pending such application may, at the like discretion, either be employed in the business of the Company or be invested in such investments (other than shares of the Company) as the Board may from time to time think fit.

6.2 Dividends

- (1) Subject to the provisions of the Act and any JSE requirements, the Board shall be entitled to declare dividends after applying the solvency and liquidity test set out in the Act and having reasonably concluded that the Company will satisfy such test immediately after paying the proposed dividend.
- (2) Subject to the provisions of the Act and any JSE requirements, the shareholders of the Company shall be entitled to declare dividends, provided that the shareholders shall not be entitled to declare a larger dividend than that declared by the Board.
- (3) Each dividend shall be declared payable to shareholders registered as such on a date subsequent to the date of declaration of the dividend or the date of confirmation of the dividend, whichever is the later. This date shall be known as the dividend date.
- (4) No dividend shall be paid otherwise than out of profit. Subject to the rights of any person entitled to special rights as to dividends, dividends shall be declared and paid equally on all shares.
- (5) No dividend shall bear interest against the Company, and any dividend remaining unclaimed for a period of three years from the dividend date may, provided notice of the declaration has been sent a registered address of the person entitled thereto, be forfeited by resolution of the Board for the benefit of the Company. The Board may at any time annul such forfeiture upon such conditions (if any) as it thinks fit. All unclaimed dividends may be invested or otherwise made use of by the Board for the benefit of the Company. Any other monies due to shareholders shall be held in trust by the Company indefinitely until it is lawfully claimed by the relevant shareholders.
- (6) Subject to the JSE Listing Requirements, every dividend may be paid by cheque or otherwise as the Board may from time to time determine and shall either be sent by post to the physical or postal registered address of the shareholder entitled thereto or be given to

him personally. The receipt or endorsement on the cheque or other document of the person whose name appears in the register as the shareholder or his duly authorised agent shall be a good discharge to the Company in respect of the dividend. The Company shall not be responsible for the loss in transmission, or for any consequences or losses resulting from the loss in transmission, of any cheque or other document sent through the post to the physical or postal registered address of any shareholder, whether or not it was so sent at his request. The postal authorities shall be deemed the agents of the shareholder.

- (7) If several persons are registered as joint holders of any share, any dividend payable on the share may be posted or delivered to any one of such holders and any one of them may give an effectual receipt for any such dividend.
- (8) Subject to the Act and any requirements of the JSE, the Board may resolve that any dividend be paid wholly or in part by the distribution of specific assets and, in particular, of paid-up shares, debentures or debenture stock of the Company, or paid-up shares, debentures, or debenture stock of any other Company, or in any or more of such ways. The shareholders of the Company may also pass such a resolution, provided that no such shareholder resolution shall be final until the Board by resolution has confirmed same.
- (9) Where any asset, business or property is bought by the Company as from a past date upon the terms that the Company shall as from that date take the profits and bear the losses thereof, such profits or losses (as the case may be) shall, at the discretion of the Board and so far as the law allows, be credited or debited wholly or in part to revenue account, and in that case the amount so credited or debited shall, for the purpose of ascertaining the funds available for dividend, be treated as a profit or loss arising from the business of the Company and the amount available for dividend shall be adjusted accordingly.

6.3 Auditors

Auditors shall be appointed and their duties regulated in accordance with the Act.

6.4 Company Records

- (1) The Board shall cause to be kept such books of account as are prescribed by the Act.
- (2) Subject to the Act, the books of account shall be kept at, or accessible from, the registered office of the Company and at such other place or places as the Board thinks fit and shall always be open to the inspection of the directors.

- (3) The Board shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the books of account of the Company or any of them shall be open to the inspection of shareholders not being directors of the Company, and no shareholder (not being a director) shall have any right of inspecting any books of account of the Company except as conferred by statute or authorised by the Board or by an ordinary resolution of the shareholders of the Company.
- (4) The Board shall from time to time cause to be prepared and laid before the Company at a shareholders meeting such financial statements and reports as are required by the Act to be so laid. Such financial statements and reports shall comply with the financial reporting standards prescribed by the Act.

Article 7 - Seal

The Company may be provided with a seal on which its name shall be engraved in legible characters, and the power to use such seal shall be vested in the Board. The seal of the Company shall not be affixed to any instrument except by the authority of a resolution of the Board or of a committee of Board, and in the presence of at least one director and the Company Secretary or such other person as the Board may appoint for that purpose, and that director and Company Secretary or other person as aforesaid shall sign every instrument to which the seal of the Company is so affixed in their presence. Every instrument to which the seal is so affixed and which is so signed shall be binding on the Company.

Authorised Shares

The Company is authorised to issue the following shares:

1 “ordinary shares”

1.1 Maximum number of ordinary shares: 250 million;

1.2 The following terms shall attach to the no par value ordinary shares in the share capital of the Company:

1.2.1 Each ordinary share is identical to every other ordinary share and ranks *pari passu* with the other ordinary shares in respect of all rights including, but not limited to, with regards to:

1.2.1.1 voting on any matter to be decided by a vote of shareholders of the Company;

1.2.1.2 participating in any distribution of profit to the shareholders; and

1.2.1.3 sharing in the distribution of the Company’s residual value upon the dissolution of the Company;

1.2.2 Every holder of an ordinary share shall have one vote in respect of each share that he or she holds and shall be entitled to vote at every shareholders meeting or annual general meeting of the Company in person or by proxy.

2 “preference shares”

2.1 Maximum number of preference shares: 30 million;

2.2 The following terms shall attach to the no par value redeemable, convertible preference shares in the share capital of the Company:

2.2.1 DEFINITIONS

2.2.1.1 The following words and expressions shall, when used in this item 2 of Annexure A, bear the meanings assigned to them below and cognate words and expressions shall bear corresponding meanings:

“Conversion” means the conversion of a portion of the Preference Shares into Ordinary Shares in accordance with the provisions of item 2.2.4;

“Conversion and Redemption Date” means the date upon which the Company shall effect the Conversion and the Redemption, being the 10th Business Day after the occurrence of the Conversion and Redemption Event;

“Conversion and Redemption Event” means the earliest of the following –

- in the case of a Participant who dies prior to the Long Stop Date, the earlier of (i) the anniversary of the Subscription Date which first succeeds the deceased Participant’s date of death; and (ii) the Long Stop Date; or
- if a Take-Over occurs, the date upon which the Affected Transaction in question is implemented, unless otherwise by the Board of Directors of the Company;
- if the Company is wound up, the date of winding-up of the Company;
- the occurrence of the Long Stop Date

by the effluxion of time;

“Deeds”	means the Trust Deeds constituting the Trusts;
“Entry Market Price”	means the Market Price on the Subscription Date;
“Exit Market Price”	means the Market Price on the Conversion and Redemption Date;
“Group”	means the Company and its Subsidiaries;
“Initial Notional Loan”	means the notional amount which is deemed to attach to the Preference Shares on the Subscription Date, the amount of which shall be determined in accordance with the provisions of item 2.2.4.1;
“Long Stop Date”	means the 7th anniversary of the Subscription Date;
“Market Price”	means the 30 day volume weighted average price of an Ordinary Share as traded on the JSE (as derived from the official list on the JSE) ending on the date in question;
“Member Retailers”	means members of the Spar Guild of Southern Africa or the Build It Guild of Southern Africa who are members on the Subscription Date or at any time thereafter and who elect for their employees to participate in The SPAR BBBEE Retailer Employee Scheme;

“Notional Dividends”	means the amounts equal to the aggregate of any and all dividends per Ordinary Share declared and paid by the Company to its shareholders for the period from the Subscription Date to the Conversion and Redemption Date;
“Notional Interest”	means the amount equal to the aggregate of the interest deemed to have accrued on the Initial Notional Loan for the period from the Subscription Date to the Conversion and Redemption Date, calculated on a nominal annual compounded monthly basis, at a rate of 80% of the Prime Rate;
“Notional Loan”	means the notional amount deemed to be owing by each Preference Shareholder to the Company on the Conversion and Redemption Date which Notional Loan shall be equal to the Initial Notional Loan increased by the Notional Interest and decreased by the Notional Dividends as determined in accordance with the provisions of item 2.2.4.1;
“Ordinary Shares”	means no par value ordinary shares in the capital of the Company;
“Participants”	means those employees of the Company and/or the employees of the Member Retailers who, from time to time, are allocated Preference Shares by the Preference Shareholders pursuant to the provisions of the Deeds;
“Preference Shareholders”	means the holders of the Preference

Shares from time to time, and for the time being the Trusts;

“Preference Shares”

means the no par value redeemable, convertible, preference Shares in the capital of the Company, which Preference Shares shall have the rights, privileges and conditions set out in this item 2 of Annexure A;

“Prime Rate”

means the publicly quoted basic rate of interest per annum at which the Company’s bankers will lend on unsecured overdraft to its most favoured corporate customers, from time to time, as certified by any manager of such bank whose authority, appointment or designation it shall not be necessary to prove;

“Redemption”

means the redemption of a portion of the Preference Shares in accordance with the provisions of item 2.2.5;

“Redemption Amount”

means the amount payable by the Company for the redemption of the Preference Shares, which amount shall be 0.06 cents per Preference Share;

“Scheme”

means The SPAR BBBEE Employee Scheme and The Spar BBBEE Retailer Employee Scheme constituted by the Deeds;

“Subscription Agreements”

means the Preference Share Subscription Agreements entered into between the Company and the

Preference Shareholders;

“Subscription Date”	means the date on which the Preference Shareholders subscribe for the Preference Shares;
“Subscription Price”	means the amount in respect of each Preference Share paid by each subscriber of the Preference Shares;
“Subsidiary”	means a company which is a subsidiary of the Company within the meaning given to it by section 1 of the Act;
“Take-Over”	means an “Affected Transaction” in respect of the Company, as defined in section 117 of the Act; and
“Trusts”	means The SPAR BBBEE Employee Trust and The SPAR BBBEE Retailer Employee Trust.

2.2.2 **ALLOTMENT AND ISSUE**

The Preference Shares shall be allotted and issued to the Preference Shareholders, against payment of the Subscription Price by the Preference Shareholders to the Company, in accordance with the provisions of the Subscription Agreements.

2.2.3 **DIVIDENDS**

The Preference Shares shall not confer upon the Preference Shareholders the right to receive any dividends which, after the date of issue of the Preference Shares, may be declared from time to time by the Company.

2.2.4 CONVERSION

2.2.4.1 On the Conversion and Redemption Date and in respect of each Preference Shareholder, the number of Preference Shares which will be converted into Ordinary Shares shall be calculated in accordance with the following formulae:

$$E = A/C$$

and

$$A = (Y * C) - U$$

Where:

- “E” is the number of Preference Shares to be Converted by the Company into Ordinary Shares;
- “A” is the value calculated to accrue to the Trust in respect of the number of Preference Shares to be converted into Ordinary Shares, subject to “A” having a minimum value of zero;
- “Y” is the applicable number of Preference Shares held by the Trust which are to be Converted and/or Redeemed on the applicable Conversion and Redemption Date (“Applicable Preference Shares”);
- “C” is the Exit Market Price; and
- “U” is the Notional Loan, calculated in accordance with the following formula:

$$W = (X * Y)$$

and

$$U = W + I - V$$

Where:

- “W” is the total Initial Notional Loan which attached to the Preference Shares;
- “X” is the Entry Market Price;
- “U” is the Notional Loan;
- “I” is the Notional Interest which is deemed to have accrued on the Initial Notional Loan in respect of the Preference Shares; and
- “V” is the Notional Dividends which are deemed to have been earned on the Preference Shares.

2.2.4.2 As soon as practical after the Conversion and Redemption Date, the Company shall be obliged to Convert the number of Preference Shares which have been calculated to be Converted, in accordance with the provisions of item 2.2.4.1 (“E”), on a one to one basis, into Ordinary Shares, and the Preference Shareholders shall be obliged to accept such Conversion.

- 2.2.4.3 Any of the Preference Shares which are not converted on the applicable Conversion and Redemption Date will be redeemed by the Company in accordance with the provisions of item 2.2.5.
- 2.2.4.4 On the occurrence of a Conversion and Redemption Event:
- 2.2.4.4.1 the Company shall give notice thereof to the relevant Preference Shareholders and will forward to a registered address of each such shareholder a Form of Surrender in the form of FORM 1 below (“Form of Surrender”); and
- 2.2.4.4.2 the Preference Shareholders shall complete and sign the Form of Surrender in respect of all the Applicable Preference Shares and shall deliver preference share certificates in respect of all such Applicable Preference Shares together with the completed and signed Form of Surrender to the Company at its registered office.
- 2.2.4.5 Provided that the Company has received the Preference Share certificates and Form of Surrender in terms of item 2.2.4.4, on the Conversion and Redemption Date, the Company shall issue and allot to and in favour of the Preference Shareholders or their nominee, that number of Ordinary Shares which is equivalent to the number of Preference Shares calculated to be converted in accordance with the provisions of item 2.2.4.1(“E”). Any fractions arising from this calculation will be excluded.
- 2.2.4.6 In the event that the Preference Shareholders should fail to surrender the necessary preference share certificates for whatever reason, the number of Preference Shares which have been calculated to be Converted in accordance with the provisions of item 2.2.4.1 shall nevertheless be Converted against receipt by the Company of an undertaking by the Preference Shareholders in accordance with the provisions of item 2.2.8.4.3.
- 2.2.4.7 All Ordinary Shares issued in terms of item 2.2.4.5 shall:
- 2.2.4.7.1 be issued in a fully paid-up basis;
- 2.2.4.7.2 be listed on the JSE as soon as possible after the Conversion and Redemption Date; and
- 2.2.4.7.3 rank *pari passu* with all other Ordinary Shares in the capital of the Company.

2.2.5 REDEMPTION

- 2.2.5.1 The Company shall be obliged to redeem those of the Preference Shares which have not been Converted into Ordinary Shares in accordance with the provisions of item 2.2.4, on the Conversion and Redemption Date, subject to the provisions of the applicable laws by paying the Redemption Amount to the Preference Shareholders within 7 Business Days of the Conversion and Redemption Date, in the manner agreed between the parties in writing.
- 2.2.5.2 For the purpose of giving effect to any Redemption of the Preference Shares in terms of item 2.2.5.1:
- 2.2.5.2.1 the Company shall deliver to a registered address of each relevant Preference Shareholder a completed Notice of Redemption in the form of FORM 2 below and a Form of Surrender on or prior to the Redemption Date; and
- 2.2.5.2.2 the Preference Shareholders shall complete the Form of Surrender and immediately return it to the Company at its registered office together with the preference share certificate in question. The Company shall, forthwith after the later of the Conversion or Redemption Date and the date of receipt of such documents, in respect of the Preference Share to be Redeemed, deliver and/or pay to the Preference Shareholders, and in such manner agreed between the parties in writing, the Redemption Amount due in respect of the Redemption and shall then be entitled to cancel the issue of such Preference Shares.
- 2.2.5.3 In the event that the Preference Shareholders fail to surrender the necessary preference share certificate for whatever reason, the relevant number of Preference Shares shall nevertheless be redeemed against receipt by the Company of an undertaking by the Preference Shareholders in accordance with the provisions of item 2.2.8.4.3.

2.2.6 CANCELLATION OF PREFERENCE SHARES

2.2.6.1 After receipt of all of the Preference Share certificates and the Conversion in terms of item 2.2.4.5 and/or the Redemption in terms of item 2.2.5.1, as the case may be, of all of the Preference Shares:

2.2.6.1.1 the Company shall cancel the issue of the Preference Shares; and

2.2.6.1.2 provided all requisite special and ordinary resolutions have been passed, the Company shall effect an amendment to this Memorandum of Incorporation, whereby the Preference Shares are removed from the Company's authorised share capital.

2.2.7 NOTICES, MEETINGS AND VOTING

2.2.7.1 The registered holder of each Preference Share shall be given due notice of, and shall be entitled to be present and to vote at, all shareholders meetings of the Company.

2.2.7.2 At every shareholders meeting of the Company the Preference Shareholders shall be entitled to exercise one vote for every Preference Share held. In this regard the Preference Shares shall rank *pari passu* with all other shares in the issued share capital of the Company.

2.2.7.3 The Company shall be obliged to give the Preference Shareholders notice of any meeting of any other class of shareholders.

2.2.7.4 The provisions of this Memorandum of Incorporation relating to meetings of ordinary shareholders and the quorum required therefore shall apply, *mutatis mutandis*, to any meeting of the Preference Shareholders.

2.2.7.5 A Preference Shareholder shall be entitled to that proportion of the total votes in the Company which the total number of Preference Shares held by him bears to the total number of shares issued by the Company; provided that if, at a shareholders meeting, the aggregate votes exercisable by all the Preference Shareholders present or represented at the meeting exceed 25% less one vote of the total votes exercisable by all shareholders present or represented at that meeting, a Preference Shareholder shall be entitled to the aforesaid proportion of the total votes at that

meeting in respect of one quarter only of its Preference Shares and, in respect of the other three quarters, such lower proportion as will result in the total number of votes exercisable by all the Preference Shareholders being reduced to 25% less one vote of the aggregate votes exercisable at the meeting concerned.

2.2.8 GENERAL

- 2.2.8.1 Any payment due by the Company to the Preference Shareholders shall be made without set-off, deduction or any form of withholding whatsoever and shall be made by electronic funds transfer into a bank account nominated in writing by the Preference Shareholders.
- 2.2.8.2 The Preference Shareholders shall be entitled to transfer the Preference Shares to any third party on notice to the Company. If any such transfer occurs, then the Company undertakes to give effect to, and to abide by, such transfer.
- 2.2.8.3 All notices given by the Company or the Preference Shareholders in terms this item 2 of Annexure A shall be in writing.
- 2.2.8.4 If any certificate issued in respect of the Preference Shares is defaced, lost or destroyed, it shall be replaced by the Company upon receipt by Company of either:
 - 2.2.8.4.1 the defaced certificate; or
 - 2.2.8.4.2 an affidavit by the Preference Shareholder in question to the effect that such certificate has been lost or destroyed; and
 - 2.2.8.4.3 a written undertaking by the Preference Shareholder to indemnify the Company against any loss, liability, damage, cost or expense which the Company may suffer as a result of issuing such replacement certificate.

FORM OF SURRENDER

The Preference Shareholder, being the registered holder of [.....] no par value redeemable, convertible Preference Shares in The Spar Group Limited (“the Company”), hereby surrenders and encloses the share certificate in respect of [.....] Preference Shares.

The Preference Shareholder’s signature on this form constitutes the Preference Shareholder’s execution of an instrument of transfer of its Preference Shares to the Company. The Preference Shareholder hereby irrevocably nominates and constitutes [.....] (or his duly authorised representative) in the Preference Shareholder’s name, place and stead to sign all further documents necessary to give effect to the Conversion of its Preference Shares.

For: the Preference Shareholder

who warrants that he is duly authorised
hereto

NOTICE TO THE PREFERENCE SHAREHOLDER OF THE REDEMPTION OF THE REDEEMABLE, CONVERTIBLE PREFERENCE SHARES IN THE SPAR GROUP LIMITED (“the Company”)

The Company hereby gives notice to Preference Shareholder of its intention to redeem the no par value redeemable, convertible Preference Shares held by the Preference Shareholder in the issued share capital of the Company (“**the Redemption Shares**”) on [.....] (“**the Redemption Date**”).

The amount payable by the Company to the Preference Shareholder in respect of the Redemption Shares shall be an amount equal to the Preference Share Redemption Amount (as defined in item 2 of Annexure “A” to the Memorandum of Incorporation of the Company (“**the Redemption Amount**”).

Please find enclosed herewith a Form of Surrender which must be completed and returned to the Company together with the relevant share certificate(s) of the Redemption Shares, at the following address: [.....].

The Company shall, upon the later of the Redemption Date and the date of receipt of the documents set out above, pay to the Preference Shareholder the Redemption Amount in accordance with the instructions contained in the properly completed Form of Surrender.

COMPANY SECRETARY