

GROUP FIVE BEE TRANSACTION - SUMMARY OF SALIENT TERMS OF BLACK PROFESSIONALS STAFF TRUST DEED AND IZAKHIWO IMFUNDO TRUST DEED

(Note: terms defined in the circular bear the same meanings herein.)

The Black Professionals Staff Trust

1. Objective

The Black Professionals Staff Trust is a discretionary trust to be established by Group Five, pursuant to a donation of R1 000, for the benefit of black employees of the group employed within the Peromnes salary grade bands numbers 6, 7, 8,9 and 10 (or equivalent salary grade bands under the Paterson band allocation system, when adopted by the Group). The Black Professionals Staff Trust will acquire and hold 10 356 865 Black Professionals Staff Trust shares and from time to time, distribute distributable income and other benefits that may be generated in respect of the Black Professionals Staff Trust shares to the Black Professionals Staff Trust beneficiaries from time to time.

2. Black Professionals Staff Trust beneficiaries

2.1 In order to be entitled to receive a distribution from the Black Professionals Staff Trust, a Black Professionals Staff Trust beneficiary must:

2.1.1 be a black employee of the Group within the Bands; and

2.1.2 have, pursuant to the most recent performance rating process of the Group preceding the distribution date, obtained a performance score of 3 or more in terms of the Group's performance rating process.

2.2 A Black Professionals Staff Trust beneficiary ceases to be a Black Professionals Staff Trust beneficiary with effect from the date on which he or she ceases to be employed by the Group or, if he or she remains so employed, ceases to remain so employed within the Bands, for any reason whatsoever.

3. Assets and ownership

3.1 The assets of the Black Professionals Staff Trust are owned by the Black Professionals Staff trustees, in their capacity as such, and the Black

Professionals Staff Trust beneficiaries have no rights to the Black Professionals Staff Trust assets, their rights being limited to the personal rights conferred on them by the Black Professionals Staff trust deed. In particular no Black Professionals Staff beneficiary has any right:

- 3.1.1 of ownership in any asset of the Black Professionals Staff Trust, including without limitation the Black Professionals Staff Black Trust shares;
 - 3.1.2 to exercise any voting rights in respect of any Black Professionals Staff Trust shares;
 - 3.1.3 to exercise any other rights in respect of the Black Professionals Staff Trust shares;
 - 3.1.4 to purchase any asset of the Black Professionals Staff Trust;
 - 3.1.5 to require delivery of any asset of the Black Professionals Staff Trust to that Black Professionals Staff Trust beneficiary; or
 - 3.1.6 to direct the manner in which the Black Professionals Staff trustees shall deal with the assets of the Black Professionals Staff Trust.
- 3.2 The Black Professionals Staff trustees may not, without the prior written consent of Group Five:
- 3.2.1 sell, transfer or otherwise dispose any of the Black Professionals Staff Trust shares, save for in terms of the revised and restated subscription and sale agreement or pursuant to a scheme of arrangement pertaining to or compulsory acquisition of Group Five shares;
 - 3.2.2 pledge, cede or otherwise encumber any of the Black Professionals Staff Trust shares;
 - 3.2.3 incur any indebtedness or liabilities or enter into any transactions of whatsoever nature, or grant any credit or make any loan to any person, not specifically allowed in terms of the revised and restated subscription and sale agreement and/or the Black Professionals Staff Trust deed;
 - 3.2.4 give any guarantee or indemnity to, or for the benefit of, any person, or otherwise voluntarily assume any liability; or

3.2.5 hold any shares or other interest of whatever nature, in any company or entity other than Group Five.

3.3 No Black Professionals Staff Trust beneficiary may to sell, assign or in any way encumber his rights as a Black Professionals Staff Trust beneficiary.

4. **Black Professionals Staff Trust beneficiary allocations**

4.1 The Black Professionals Staff trustees are obliged, on an annual basis, to compile a written record ("**Register**") of Black Professionals Staff Trust beneficiaries and of distributions, if any, made to them.

4.2 As soon as is reasonably possible after completion of the Group's annual performance ratings process, and in any event upon reasonable written request from the Black Professionals Staff trustees from time to time, Group Five is obliged to provide the Black Professionals Staff trustees with a report detailing the performance ratings scores of each black employee of the Group who falls within the Bands ("**Qualifying Employees**"), to determine whether or not those Qualifying Employees qualify as Black Professionals Staff Trust beneficiaries for the purposes of any distribution to be made to them by the Black Professionals Staff Trust. To the extent that any supplementary or interim performance ratings process is undertaken with regard to any Qualifying Employee, Group Five is similarly obliged to provide the Black Professionals Staff trustees with a report detailing the performance ratings achieved by those Qualifying Employees as soon as is reasonably possible after the completion of that supplementary or interim performance ratings process.

5. **Capital and income**

5.1 Once the Black Professionals Staff trustees have exercised their discretion to make a distribution in terms of the Black Professionals Staff Trust deed, they are obliged to distribute the distributable income to Black Professionals Staff Trust beneficiaries who are employed by the Group on the distribution date in accordance with the Black Professionals Staff Trust beneficiary allocations determined by applying the formula set out in Annexe A.

5.2 Capital may only be distributed upon termination of the Black Professionals Staff Trust, in which case it must also be distributed to the Black Professionals Trust beneficiaries in accordance with the Black Professionals Staff Trust beneficiary allocations methodology.

6. Termination

- 6.1 The Black Professionals Staff Trust endures indefinitely until:
- 6.1.1 the Black Professionals Staff trustees and Group Five resolve to terminate it, whether pursuant to proposed material changes to the shareholding of Group Five or changes to the Codes of Good Practice, the BEE Act or otherwise; or
- 6.1.2 the Black Professionals Staff Trust disposes of all of the Black Professionals Staff Trust shares.
- 6.2 Upon termination of the Black Professionals Staff Trust, the Black Professionals Staff trustees will wind-up its affairs, discharge its liabilities, and will distribute the remaining assets to the Black Professionals Staff Trust beneficiaries in accordance with Black Professionals Staff Trust beneficiary allocations methodology.

7. Black Professionals Staff trustees

7.1 Number of Black Professionals Staff trustees

There must always be at least two Black Professionals Staff trustees in office for the valid exercise of their powers and discharge of their duties.

7.2 First Black Professionals Staff trustees

- 7.2.1 Moegamat Junaid Allie and Cristina Maria Teixeira are to be appointed by Group Five as the first Black Professionals Staff trustees ("**First Black Professionals Staff trustees**") and the first group appointed trustees.
- 7.2.2 The First Black Professionals Staff trustees must take all steps necessary in order to procure the appointment of any other the group appointed Black Professionals Staff trustees to be elected by the Black Professionals Staff Trust beneficiaries referred to below by no later than the first anniversary of the date of registration of the Black Professionals Staff Trust deed by the Master of the High Court, or such later date as they may reasonably agree to in writing.

7.3 **Appointment and Election of Black Professionals Staff trustees**

7.3.1 **Group Appointed Trustees**

7.3.1.1 Group Five must appoint at least 2 individuals to serve as Black Professionals Staff trustees, such trustees being the "**group appointed trustees**". Group Five shall at any time be entitled to withdraw its nomination of the appointment of a group appointed trustee, or once appointed, on notice to the Black Professionals Staff trustees replace any group appointed trustee so appointed by it.

7.3.1.2 Group Five must endeavour to procure that a person appointed as group appointed trustee has the requisite skills and prior experience in a role which bears a fiduciary responsibility, such as that of a director or trustee, in order to discharge his duties. Notwithstanding the foregoing, a lack of any of the aforesaid skills or experience shall not disqualify a person from acting as a trustee.

7.3.2 **Beneficiary Elected Trustees**

7.3.2.1 Within the period stipulated in 7.2.2, the Black Professionals Staff trustees must procure that the Black Professionals Staff Trust beneficiaries reflected on the most recently available Register ("**Registered Beneficiaries**") elect as many Black Professionals Staff trustees as there are group appointed trustees. The Black Professionals Staff trustees so appointed will be the "**Beneficiary Elected Trustees**" until replaced or re-elected at the next meeting of the Black Professionals Staff Trust beneficiaries.

7.3.2.2 The Black Professionals Staff trustees must convene a meeting of the Registered Beneficiaries in accordance with the provisions referred to in 7.3.5.2 and must, together with the written notice convening such meeting, send a written notice to the Beneficiary Elected Trustees notifying them of the provisions referred to in 7.3.2.1 and requesting them to vote for the relevant number of Registered Beneficiaries within a period specified in the written notice (which shall be no less than 14 calendar days).

- 7.3.2.3 Each Registered Beneficiary who wishes to vote must address his written vote to Black Professionals Staff trustees within the period specified, and shall list names of a maximum of 5 (five) Beneficiary Elected Trustees for whom he wishes to vote.
- 7.3.2.4 The persons to be elected are to be determined by tallying which Registered Beneficiary has received the highest number of votes. In tallying the votes, each Registered Beneficiary has one vote and any Beneficiary Elected Trustee who has not consented or does not consent to act as a Black Professionals Staff trustees shall be disregarded.
- 7.3.2.5 In the event of a tie between any of the Beneficiary Elected Trustees for whom votes have been received, the Black Professionals Staff trustees will decide which Beneficiary Elected Trustee shall be elected.
- 7.3.2.6 In the event that the Master of the High Court refuses to grant letters of authority to a Beneficiary Elected Trustee, or requires that security be provided by such Beneficiary Elected Trustee, that Beneficiary Elected Trustee shall not qualify as a Black Professionals Staff trustee. In such event, the Black Professionals Staff trustees shall identify the Beneficiary Elected Trustee that received the next highest number of votes in the election and that Beneficiary Elected Trustee shall be put forward to the Master of the High Court to replace the disqualified Beneficiary Elected Trustee. The same process shall be followed if the Master of the High Court refuses to grant a letter of authority to, or requires security from, that Beneficiary Elected Trustee.
- 7.3.3 Upon completion of the election, and the issue to the Beneficiary Elected Trustee of Letters of Authority by the Master of the High Court (which shall be procured by the Black Professionals Staff trustees) the Black Professionals Staff trustees shall notify the Registered Beneficiaries in writing.
- 7.3.4 The same procedure is to be followed annually in order to elect any new or additional Beneficiary Elected Trustee that may be required.

7.3.5 **meetings of the Registered Beneficiaries**

- 7.3.5.1 A meeting of Registered Beneficiaries must be held on not less than an annual basis, within 90 calendar days of approval of the annual financial statements of the Black Professionals Staff Trust.
- 7.3.5.2 All meetings of Registered Beneficiaries are to be held at a convenient time and venue determined by the Black Professionals Staff trustees.
- 7.3.5.3 The Black Professionals Staff trustees must give the Registered Beneficiaries at least 14 days written notice and an agenda of the matters to be discussed at such meeting together with a copy of the most recent audited annual financial statements of the Black Professionals Staff Trust. The agenda shall, at least once a year, include the consideration of the most recent audited annual financial statements adopted by the Black Professionals Staff trustees, notice of any resolution to be tabled at the meeting by the Black Professionals Staff trustees and such other matters as the Black Professionals Staff trustees may determine.
- 7.3.5.4 The Black Professionals Staff trustees present at any meeting of the Registered Beneficiaries must elect one of the Black Professionals Staff trustees as the chairperson for that meeting.
- 7.3.5.5 A quorum for any meeting of Registered Beneficiaries is 20% of the Registered Beneficiaries present, personally or by proxy. If no quorum is present at any meeting of Registered Beneficiaries, the meeting must be adjourned to a date seven days later, at the same time and venue, or if that date is not a business day, to the next succeeding business day and if at such adjourned meeting a quorum is not present within 15 (fifteen) minutes of the time of that meeting, the Registered Beneficiaries present will constitute a quorum. Written notice of any adjournment specifying the business to be dealt with at the adjourned meeting of Registered Beneficiaries must be displayed at the official office of the Black Professionals Staff Trust at 371 Rivonia Boulevard, Rivonia, Sandton.

- 7.3.5.6 Each Registered Beneficiary is entitled to appoint a written proxy to represent him/her at a meeting of Beneficiaries.
- 7.3.5.7 Each Registered Beneficiary has one vote on any decision to be taken by the Registered Beneficiaries at that meeting and decisions of the Registered Beneficiaries are taken by simple majority vote.
- 7.3.5.8 In the event of a deadlock between the Registered Beneficiaries, the chairperson has a casting vote.
- 7.3.5.9 The Black Professionals Staff trustees are obliged to keep minutes of the meetings of Registered Beneficiaries.
- 7.3.5.10 Registered Beneficiaries may, by giving the Black Professionals Staff trustees written notice thereof, requisition a meeting of Registered Beneficiaries at any time, provided that at least one third of the Registered Beneficiaries agree to convene a meeting. The Black Professionals Staff trustees are obliged to convene the meeting within 14 days on no less than 21 and no more than 35 days written notice to the Registered Beneficiaries. In the event that the Black Professionals Staff trustees do not convene such a meeting, the Registered Beneficiaries who requisitioned are entitled to convene a meeting of the Registered Beneficiaries themselves.
- 7.3.5.11 In the event of the Group appointing additional group appointed trustees at any time prior to the next meeting of the Registered Beneficiaries or in the event of a Registered Beneficiaries trustee's (i) death or (ii) vacation of office in terms of clause 7.7, then the Registered Beneficiaries receiving the next highest number of votes at the last election shall be deemed to have been elected a Registered Beneficiaries trustee, so as to ensure that 50% of Black Professionals Staff trustees are at all times appointed by the Registered Beneficiaries in accordance with the requirements of the Codes of Good Practice.

7.4 **powers of assumption and appointment of successors**

- 7.4.1 During any period that the number of Black Professionals Staff trustees in office is less than two, all the rights, powers and discretions of the

Black Professionals Staff trustees are suspended, except the powers of assumption and appointment of successors.

7.4.2 The group appointed trustees (or the remaining group appointed trustees) may at any time assume any person, whether resident in the Republic of South Africa or not, as a Black Professionals Staff trustee to replace a group appointed trustee who has ceased to hold office for any reason, with the prior written approval of Group Five. Where there are temporarily no group appointed trustees in office, Group Five is obliged to appoint new Black Professionals Staff trustees within 30 days of vacation of office by the last group appointed trustee whose office is so vacated.

7.5 **security**

The Black Professionals Staff trustees shall not be required by the Master of the High Court to furnish security for their administration of the Black Professionals Staff trust.

7.6 **disqualification**

7.6.1 A person is disqualified from being a Black Professionals Staff trustee if that person:

7.6.1.1 who is an employee of the Group ceases to be so employed as a consequence of the grounds which would have justified his summary dismissal or for an offence involving fraud or dishonesty;

7.6.1.2 is removed from an office of trust on account of misconduct;

7.6.1.3 is a natural person who would be disqualified from acting or is ineligible to act as a director of an entity in terms of the Companies Act;

7.6.1.4 is an entity which has been liquidated, whether provisionally or finally, or which has been placed under business rescue, or has committed an act of insolvency as defined in the Insolvency Act of 1936, as amended, from time to time;

7.6.1.5 is insane or incapable of managing his affairs or has been declared a prodigal;

- 7.6.1.6 has committed an offence under the laws of any country involving dishonesty; or
- 7.6.1.7 does not hold at least a matric, Grade 12 or equivalent qualification approved of by Group Five.

7.7 **vacation of office**

A Black Professionals Staff trustee shall cease to hold office if he:

- 7.7.1 becomes disqualified from acting as a trustee as set out in 7.6;
- 7.7.2 resigns on reasonable written notice to the other Black Professionals Staff trustees (there being at least one other Black Professionals Staff trustee in office);
- 7.7.3 fails to complete a training and/orientation programme approved of by Group Five from time to time, within a period of three months of his appointment as Black Professionals Staff trustee; or
- 7.7.4 is removed by a resolution adopted by a majority of the other Black Professionals Staff trustees then in office.

8. **Chairperson**

The Black Professionals Staff trustees may appoint a chairperson either for such period as they may decide or for a specific meeting.

9. **Convening of meetings**

- 9.1 Any Black Professionals Staff trustee may convene a meeting of on reasonable notice to the other Black Professionals trustees. Such notice must specify the business to be dealt with at the meeting.
- 9.2 Meetings of Black Professionals Staff trustees may be conducted entirely by electronic communication (that is by way of a telephone conference call or by way of a video conference or other audio, audio visual or electronic means) or one or more Black Professionals Staff trustees may participate by electronic communication in all or part of a meeting that is being held in person, provided that the electronic communication facility employed ordinarily enables all Black Professionals Staff trustees participating in that meeting to communicate concurrently with one another without any intermediary and to participate reasonably effectively in the meeting.

9.3 **quorum**

9.3.1 A quorum at meetings of Black Professionals Staff trustees is a majority of the Black Professionals Staff trustees.

9.3.2 If no quorum is present at any meeting of the Black Professionals Staff trustees, the meeting shall be adjourned to a date 48 hours later, at the same time and venue, or if that date is not a business day, to the next succeeding business day and if at such adjourned meeting a quorum is not present within 15 minutes from the time of that meeting, the Black Professionals Staff trustees present shall constitute a quorum. Notice of the adjournment, specifying the business to be dealt with at the adjourned meeting, must be given to each of the Black Professionals Staff trustees. The adjourned meeting may only deal with the matters specified on the agenda for, but not dealt with at, the meeting which was adjourned for lack of a quorum.

9.4 **voting**

9.4.1 Decisions shall be taken by majority vote of the Black Professionals Staff trustees present at a meeting.

9.4.2 At any meeting of Black Professionals Staff trustees each Black Professionals Staff trustee has one vote, exercisable as he or she may determine in his or her discretion.

9.4.3 The chairperson does not have a casting vote.

9.5 **minutes**

9.5.1 The Black Professionals Staff trustees are obliged to keep minutes of their meetings.

10. **Powers of the Black Professionals Staff trustees**

The Black Professionals Staff trustees have all the powers of an unmarried natural person of full legal capacity dealing with his own affairs (except for any powers which it is not competent in law to confer on Black Professionals Staff trustees) to enable them to realise the object of the Black Professionals Staff trust. In particular, but without limitation, the Black Professionals Staff Black trust Black Professionals Staff trustees shall have the power to:

- 10.1.1 enter into the amended BEE transaction, discharge all of the Black Professionals Staff trust's obligations to the counterparties in terms of the applicable legal agreements and to exercise all of the Black Professionals Staff trust's rights under those agreements;
- 10.1.2 exercise all the rights attaching to Staff Black Professionals Staff Trust shares, including without limitation voting rights which shall be exercised in accordance with the decision of the Black Professionals Staff Trust beneficiaries as set out in 14;
- 10.1.3 make distributions to Black Professionals Staff Trust beneficiaries;
- 10.1.4 open and operate Banking accounts; and
- 10.1.5 engage experts to assist the Black Professionals Staff trustees in discharging their functions.

10.2 **delegation**

The Black Professionals Staff trustees may delegate any of their rights, powers and discretions to any other Black Professionals Staff trustee or committee of Black Professionals Staff trustees.

10.3 **contracting with the Black Professionals Staff Trust**

Black Professionals Staff trustees are not disqualified from entering into a contract with the Black Professionals Trust, or being interested in any such contract and retaining the profit arising from such contract, provided that he has disclosed the interest to the other Black Professionals Staff trustees.

11. **Remuneration**

- 11.1 The Black Professionals Staff trustees may receive such remuneration as Group Five may from time to time approve for their services.
- 11.2 The Black Professionals Staff trustees are entitled to be reimbursed any or all expenses incurred by them in and about the execution of their duties.

12. **Exemption from liability**

- 12.1 Provided that the loss or claim does not arise from his own dishonesty or failure, in the performance of his duties or exercise of his powers under the Black Professionals Staff trust deed, to observe the degree of care, diligence

and skill which can reasonably be expected of a person who manages the affairs of another:

- 12.1.1 no Black Professionals Staff trustee shall be personally liable for any loss suffered by the Black Professionals Staff Trust, whatever the cause; and
- 12.1.2 a Black Professionals Staff trustee shall be indemnified out of the assets of the Black Professionals Staff Trust against any claims made against him arising out of or in any way connected with any act or omission in the course of the administration of the Black Professionals Staff Trust.
- 12.2 The Black Professionals Staff trustees may procure insurance cover for their potential liability.
- 12.3 If the Black Professionals Staff trustees in good faith pay or deliver any benefit to the incorrect Black Professionals Staff Trust beneficiary they shall on request cede any right of recovery to the correct Black Professionals Staff Trust beneficiary but shall have no further liability.

13. **Acts valid despite defect in appointment**

All acts performed by the Black Professionals Staff trustees in good faith are valid notwithstanding any defect in their appointment.

14. Exercise of voting rights attaching to the Black Professionals Staff Trust shares

- 14.1 Before exercising any votes attaching to the Black Professionals Staff Trust shares in favour or against any resolution proposed to be passed at a meeting of the shareholders of Group Five, the Black Professionals Staff trustees must convene a meeting of the Registered Beneficiaries in the manner set out in 7.3.5 for the purposes of determining whether or not to vote in favour of the applicable proposed resolutions.
- 14.2 The written notice of meeting must set out the proposed resolution/s to be voted on and an explanation of the effect of such resolution/s.
- 14.3 The Black Professionals Staff trustees must thereafter cause the voting rights attaching to the Black Professionals Staff Trust shares to be exercised in accordance with the decision of the Registered Beneficiaries taken at that meeting. In the event that the requisite majority vote of the Registered Beneficiaries in favour of or against any proposed resolution is not obtained, the Black Professionals Staff trustees may not exercise the voting rights attaching the Black Professionals Staff Trust shares in respect of that resolution.

15. Availability of documentation in official language

- 15.1 The Black Professionals Staff trustees must, at the cost of the Black Professionals Staff Trust, ensure that the Black Professionals Staff Trust deed and other relevant statutory documents, of the Black Professionals Staff trust are available, on request, to any Black Professionals Staff Trust beneficiary in an official language in which that Black Professionals Staff trust beneficiary is familiar.
- 15.2 The minutes of meetings, all other documentation and communication between the Black Professionals Staff trustees and Black Professionals Staff Trust beneficiaries shall be in English (subject to the right of Black Professionals Staff Trust beneficiaries to make a request as contemplated in 15.1 as regards statutory documents).

16. Books of account

- 16.1 The Black Professionals Staff trustees must maintain the books of the Black Professionals Staff trust in accordance with the Companies Act and with the International Financial Reporting Standards ("**FIRS**") and must establish and maintain an accounting system reasonably acceptable to Group Five, which shall include adequate independent monitoring, payment controls and security.
- 16.2 The Black Professionals Staff Trust trustees must prepare an annual income statement and balance sheet, reflecting the affairs of the Black Professionals Staff trust for the year ending, and its assets and liabilities at the last day of February in each year.
- 16.3 The Black Professionals Staff trust's books of account must be audited, and its annual income statement and balance sheet be certified, by the auditors of Group Five appointed from time to time, who shall have the right to terminate any such appointment and to appoint any other auditor. The costs and charges in relation to the Black Professionals Staff trust's annual audit shall be borne and paid by Group Five.
- 16.4 The Black Professionals Staff Trust is obliged to provide Group Five with copies of and access to such information and documentation as Group Five may reasonably require for the purposes of its verification in terms of the BOBBIE Act, the preparation of Group Five's audited annual financial statements or such other purposes as Group Five may reasonably require.

17. **Amendment**

The provisions of the Black Professionals Staff Trust deed may be amended at any time with the unanimous agreement of the Black Professionals Staff Trust trustees then in office and Group Five.

The Izakhiwo Imfundo Trust

1. Introduction

Group Five wishes to establish the Izakhiwo Imfundo Trust, pursuant to a donation of R1 000, as a public benefit organisation (as defined in section 30(1) of the Income Tax Act) for the Izakhiwo Imfundo Trust beneficiaries, carrying on certain public benefit activities. The Izakhiwo Imfundo Trust will become a shareholder of Group Five by acquiring the Izakhiwo Imfundo Trust shares, the income from which will assist the Izakhiwo Imfundo Trust in conducting its public benefit activities.

2. Objects of the Trust

- 2.1 The principal object of the Trust is to carry on, for the benefit of the Izakhiwo Imfundo Trust beneficiaries, the public benefit activity set out in paragraph 4(o) of part I and paragraph 3(o) of part II of the Ninth Schedule to the Income Tax Act, being

"the provision of scholarships, bursaries, awards and loans for study, research and teaching on such conditions as may be prescribed by the Minister by way of regulation in the Gazette".

- 2.2 The Izakhiwo Imfundo Trust is to carry on its activities in a non-profit manner and with an altruistic or philanthropic intent.

3. Legal capacity

All assets acquired and all liabilities incurred by the Izakhiwo Imfundo trustees in their capacity as trustees of the Izakhiwo Imfundo Trust shall vest in the Izakhiwo Imfundo trustees in that capacity and shall be administered by them.

4. Possession and ownership of the assets of the Izakhiwo Imfundo Trust

- 4.1 The assets of the Izakhiwo Imfundo Trust will be owned by the Izakhiwo Imfundo trustees, in their capacity as such, and the Izakhiwo Imfundo Trust beneficiaries have no rights in such assets, their rights being limited to the personal rights conferred in them by the Izakhiwo Imfundo Trust deed. In particular, but without limitation, no Izakhiwo Imfundo beneficiary shall have any right:

- 4.1.1 of ownership in any asset of the Izakhiwo Imfundo Trust, including without limitation the Izakhiwo Imfundo Trust shares;
- 4.1.2 to exercise or control the exercise of any voting or other rights in respect of any Izakhiwo Imfundo Trust shares;
- 4.1.3 to purchase any asset of the Izakhiwo Imfundo Trust;
- 4.1.4 to require delivery of any asset of the Izakhiwo Imfundo Trust to that Izakhiwo Imfundo beneficiary; or
- 4.1.5 to direct the manner in which the Izakhiwo Imfundo trustees shall deal with the assets of the Izakhiwo Imfundo Trust.

5. Appointment of Izakhiwo Imfundo Trustees

- 5.1 The Izakhiwo Imfundo Trustees are to be appointed by Group Five from time to time.
- 5.2 No person may be appointed as a Izakhiwo Imfundo trustee unless that person holds a degree, diploma or other professional qualification approved of by Group Five from time to time.
- 5.3 Group Five must endeavour to procure that persons appointed as Izakhiwo Imfundo trustees have the requisite skills and prior experience in a role that bears a fiduciary responsibility such as a director or trustee in order to discharge their duties. Group Five shall endeavour to procure such persons have an interest in skills development. A lack of any of the aforesaid skills or qualifications shall not disqualify a person from acting as a Izakhiwo Imfundo trustee.
- 5.4 There must always be at least three Izakhiwo Imfundo trustees in office for the valid exercise of their powers and discharge of their duties.
- 5.5 In the event of a Izakhiwo Imfundo trustee ceasing to hold office, another Izakhiwo Imfundo trustee shall be appointed by Group Five.
- 5.6 An Izakhiwo Imfundo trustees may not be a connected person (as defined in section 1 of the Income Tax Act) in relation to Group Five or any other Izakhiwo Imfundo trustee or Izakhiwo Imfundo beneficiary.
- 5.7 More than 50% of the Izakhiwo Imfundo trustees must be black people and at least 25% of the Izakhiwo Imfundo trustees must be black women. More than

50% of the Izakhiwo Imfundo trustees must be independent of Group Five, having no employment with Group Five.

- 5.8 No Izakhiwo Imfundo trustee may have a direct or indirect beneficial interest in the Izakhiwo Imfundo Trust.

6. **Disqualification of Izakhiwo Imfundo Trustee**

The office of an Izakhiwo Imfundo trustee shall *ipso facto* be vacated -

- 6.1 if a Izakhiwo Imfundo trustee is placed, whether provisionally or finally, and whether voluntarily or compulsorily, in sequestration or liquidation or under judicial management, or has committed an act of insolvency as defined in the Insolvency Act of 1936, as amended from time to time;
- 6.2 if the Izakhiwo Imfundo trustee becomes disentitled in law to hold the office of trustee;
- 6.3 if the Izakhiwo Imfundo trustee has committed an offence under the laws of South Africa involving dishonesty;
- 6.4 thirty days after the date upon which the Izakhiwo Imfundo trustee gives written notice to the remaining Izakhiwo Imfundo trustees or the auditors of his intention to resign; provided that if upon such date there would, by reason of that resignation, be fewer than three Izakhiwo Imfundo trustees in office, such resignation shall take effect only upon the appointment of a new Izakhiwo Imfundo trustee;
- 6.5 if a Izakhiwo Imfundo trustee fails to complete a training and/or orientation programme approved of by Group Five from time to time, within a period of three months of his appointment as trustee; or
- 6.6 if all the remaining Izakhiwo Imfundo trustees request that Izakhiwo Imfundo trustee to resign.

7. **Security dispensed with**

The Trustees shall not be required by the Master of the High Court or any other authority to furnish any security of any nature whatever for the due performance of their duties.

8. Decisions of Izakhiwo Imfundo Trustees

8.1 chairman

The Izakhiwo Imfundo trustees may appoint a chairman from their number either for such period as they may decide or for a specific meeting. The chairman shall be independent, having no employment with the Group.

8.2 convening of meetings

8.2.1 Any Izakhiwo Imfundo trustee may convene a meeting of Izakhiwo Imfundo trustees on reasonable notice and at a reasonable venue.

8.2.2 Such notice shall specify the business to be dealt with at the meeting.

8.2.3 The Izakhiwo Imfundo trustees are free to regulate their meetings as they see fit.

8.2.4 Meetings may be concluded entirely by electronic communication or one or more Izakhiwo Imfundo trustees may participate by electronic communication in all or part of a meeting that is being held in person; provided that the electronic communication facility employed ordinarily enables all of the Izakhiwo Imfundo trustees participating in the meeting to communicate concurrently with one another without any intermediary and to participate reasonably effectively in the meeting.

8.3 quorum

A quorum at meetings of Izakhiwo Imfundo trustees shall be a majority of the Izakhiwo Imfundo trustees.

8.4 voting

8.4.1 At any meeting of Izakhiwo Imfundo trustees each Izakhiwo Imfundo trustee will have one vote, exercisable as he or she shall determine in his or her discretion.

8.4.2 All decisions of Izakhiwo Imfundo trustees are decided by a majority vote.

9. Powers of Izakhiwo Imfundo Trustees

9.1 general

9.1.1 The Izakhiwo Imfundo trustees have all the powers of an unmarried natural person of full legal capacity dealing with his own affairs (except for any powers which it is not competent in law to confer on trustees) to enable them to realise the objects of the Izakhiwo Imfundo Trust. In particular, but without limitation, the Izakhiwo Imfundo Trustees shall have the power to:

9.1.1.1 enter into the amended BEE transaction and to discharge all of the Izakhiwo Imfundo Trust's obligations and exercise all of the Izakhiwo Imfundo Trust's rights in terms of the applicable legal agreements;

9.1.1.2 acquire the Izakhiwo Imfundo Trust shares;

9.1.1.3 acquire further Group Five shares from time to time, subject to the prior written consent of Group Five;

9.1.1.4 exercise all the rights and perform all the obligations attaching to the Izakhiwo Imfundo Trust shares, including without limitation voting rights;

9.1.1.5 make awards and distributions to Izakhiwo Imfundo Trust beneficiaries in accordance with the provisions of the Izakhiwo Imfundo Trust deed; and

9.1.1.6 open and operate banking accounts.

9.2 The Izakhiwo Imfundo trustees do not, without the prior written consent of Group Five, have the power to borrow, other than in terms of the amended BEE transaction.

9.3 The Izakhiwo Imfundo trustees have the power to contract only to the extent that this is necessary for the realisation of the objects of the Izakhiwo Imfundo Trust or as is otherwise contemplated by the Izakhiwo Imfundo Trust deed.

9.4 The Izakhiwo Imfundo Trust may not, without the prior written consent of Group Five, directly or indirectly, hold shares or any other interest of

whatsoever nature in any company or other incorporated or unincorporated entity, other than Group Five shares.

9.5 **delegation**

9.5.1 The Izakhiwo Imfundo trustees may delegate any of their rights, powers and discretions to any person or committee. In particular the Izakhiwo Imfundo trustees shall establish the selection committee to make recommendations to the Izakhiwo Imfundo trustees regarding potential Izakhiwo Imfundo Trust beneficiaries. The selection committee must comprise at least three individuals, and may include one or more Izakhiwo Imfundo trustees.

9.5.2 A Izakhiwo Imfundo trustee may delegate any of his rights, powers and discretions to any person, including the right to receive notice of, attend and speak and vote at meetings of Izakhiwo Imfundo trustees during that Izakhiwo Imfundo trustee's absence or inability to act.

9.6 **costs and remuneration**

The Izakhiwo Imfundo trustees are, subject to 13.1, entitled to reasonable remuneration for their services as such.

9.7 **exemption from liability**

9.7.1 Provided that the loss or claim does not arise from his own dishonesty or failure, in the performance of his duties or exercise of his powers, to observe the degree of care, diligence and skill which can reasonably be expected of a person who manages the affairs of another:

9.7.1.1 no Izakhiwo Imfundo trustee shall be personally liable for any loss suffered by the Izakhiwo Imfundo Trust, whatever the cause;

9.7.1.2 a Izakhiwo Imfundo trustee shall be indemnified out of the assets of the Izakhiwo Imfundo Trust against any claims made against him arising out of or in any way connected with any act or omission in the course of the administration of the Izakhiwo Imfundo Trust.

9.7.2 If the Izakhiwo Imfundo trustees in good faith pay or deliver any benefit to the incorrect Izakhiwo Imfundo beneficiary, they shall on request cede any right of recovery to the correct Izakhiwo Imfundo beneficiary but shall have no further liability.

9.8 **acts valid despite defect in appointment**

All acts performed by the Izakhiwo Imfundo trustees in good faith are valid notwithstanding any defect in their appointment.

9.9 **Capital and income**

The Izakhiwo Imfundo Trust is a discretionary trust and accordingly no Izakhiwo Imfundo beneficiary shall have any right to any of the capital or income of the Izakhiwo Imfundo Trust until such time as the Izakhiwo Imfundo trustees have exercised their discretion to make an award of capital or income to that Izakhiwo Imfundo beneficiary, and then only to the extent of such award.

10. **Selection of Izakhiwo Imfundo Trust beneficiaries and criteria for awards**

10.1 The Izakhiwo Imfundo Trust must carry on activities for the benefit of black people comprising the general public at large, and must endeavour to ensure that its benefits are spread equitably amongst black men and black women.

10.2 Izakhiwo Imfundo Trust beneficiaries are to be selected from amongst the class of potential beneficiaries by the Izakhiwo Imfundo trustees acting on the recommendation of the selection committee.

10.3 In selecting Izakhiwo Imfundo beneficiaries, the selection committee must specifically take into account the following criteria, together with such other information as the selection committee or the Trustees may deem relevant from time to time:

10.3.1 the Izakhiwo Imfundo beneficiary must be a black person;

10.3.2 the Izakhiwo Imfundo beneficiary must intend to pursue further education at a university or other educational institution approved of by the Izakhiwo Imfundo trustees from time to time and in a field of study which is aligned with the current and future business needs of the construction industry;

10.3.3 the Izakhiwo Imfundo beneficiary must have proven academic merit or performance; and

- 10.3.4 the Izakhiwo Imfundo beneficiary must meet the selection criteria stipulated by the relevant university or institution, or have been accepted for study by the relevant university or institution.
- 10.4 No scholarship, bursary or award made by the Izakhiwo Imfundo trustees may be:
- 10.4.1 revocable, other than for reasons of a material failure by the Izakhiwo Imfundo beneficiary to conform to the designated purposes and conditions of the scholarship, bursary or award;
- 10.4.2 subject to conditions which would enable the Izakhiwo Imfundo Trust or any donor to the Izakhiwo Imfundo Trust which provided the funds used to pay the scholarship, bursary or award, or any connected person in relation to the Izakhiwo Imfundo Trust or such donor, to derive some direct or indirect benefit from the application of the scholarship, bursary or award; or
- 10.4.3 granted to any person (or any relative of any person) who is or will become an employee of the Izakhiwo Imfundo Trust or any donor to the Izakhiwo Imfundo Trust which provided the funds used to pay the scholarship, bursary or award (or any associated institution in relation to such donor or the Izakhiwo Imfundo Trust), unless circumstances indicate that the scholarship, bursary or award would have been granted to the person or his or her relative, even if that person had not been an employee of the donor, the Izakhiwo Imfundo Trust or an associated institution.
- 10.5 All decisions regarding the granting of scholarships, bursaries and awards must be made by a duly constituted selection committee consisting of at least three persons who are not connected persons in relation to any donor to the Izakhiwo Imfundo Trust, or the person to whom the scholarship, bursary or award is granted.
- 10.6 All scholarships, bursaries and awards granted in respect of overseas study, research or teaching must be subject to an undertaking by the Izakhiwo Imfundo beneficiary to whom the scholarship, bursary or award is granted:
- 10.6.1 to apply the knowledge obtained from the study, research or teaching within 6 months of completion thereof, in South Africa for a period of at

least the period that the study, research or training was funded by the Trust; or

- 10.6.2 to refund the full amount of the scholarship, bursary or award to the Izakhiwo Imfundo Trust should he or she decide not to apply the knowledge as contemplated above.

11. Izakhiwo Imfundo Trust Beneficiaries to benefit free of community of property

Any benefit which at any time vests in any Izakhiwo Imfundo Trust beneficiary due to an award made to that Izakhiwo Imfundo Trust beneficiary by the Izakhiwo Imfundo Trust trustees, shall be excluded from any community of property or of profit and loss between that Izakhiwo Imfundo beneficiary and his or her spouse and shall not be subject to the marital power of any spouse.

12. Prohibited donations

The Izakhiwo Imfundo Trust may not accept any donation which is revocable at the instance of the donor for reasons other than a material failure to conform to the designated purposes and conditions of such donation, including any misrepresentation with regard to the tax deductibility thereof in terms of section 18A of the Income Tax Act: Provided that a donor (other than a donor which is an approved public benefit organisation or institution, board or body exempt from tax in terms of section 10(1)(cA)(i) of the Income Tax Act, which has as its sole or principal object the carrying on of any Public Benefit Activity) may not impose conditions which could enable such donor to derive some direct or indirect benefit from the application of such donation.

13. Other prohibitions

- 13.1 The Izakhiwo Imfundo Trust may not pay any remuneration, as defined in the Fourth Schedule to the Income Tax Act, to any employee, office bearer, member or other person which is excessive, having regard to what is generally considered reasonable in the sector and in relation to the service rendered and has not and will not economically benefit any person in a manner which is not consistent with its objects. The total administrative costs of the Izakhiwo Imfundo Trust (including, for the avoidance of doubt, any management or other fees paid to third parties) together with any remuneration paid to the Izakhiwo Imfundo trustees in any financial year shall not exceed an amount equal to 15% of the income of the Izakhiwo Imfundo Trust in that financial year.

- 13.2 The Izakhiwo Imfundo Trust may not utilise its resources directly or indirectly to support, advance or oppose any political party.
- 13.3 The Izakhiwo Imfundo Trust may not knowingly permit itself to be used as part of any transaction, operation or scheme of which the sole or main purpose is or was the reduction, postponement or avoidance of liability or any tax, duty or levy which would have been payable to the South African Revenue Service.
- 13.4 No public benefit activity carried on by the Izakhiwo Imfundo Trust may be intended to indirectly or directly promote the economic self-interest of any fiduciary or employee of the Izakhiwo Imfundo Trust or Group Five, otherwise than by way of reasonable remuneration payable to that fiduciary or employee.
- 13.5 The Izakhiwo Imfundo Trust is prohibited from directly or indirectly distributing any of its funds to any person, other than in the course of carrying out its principal object.
- 13.6 The Izakhiwo Imfundo Trust may not dispose of all or some of the Izakhiwo Imfundo Trust shares without Group Five's prior written consent, unless pursuant to a scheme of arrangement or compulsory disposal in terms of law.

14. Sale or encumbrance of a Beneficiary's interest

No Izakhiwo Imfundo Trust beneficiary may sell, assign or in any way encumber his rights as a beneficiary.

15. Availability of documentation in official language

- 15.1 The Izakhiwo Imfundo trustees must, at the cost of the Izakhiwo Imfundo Trust, ensure that the Izakhiwo Imfundo Trust Deed and other relevant statutory documents, of the Izakhiwo Imfundo Trust are available, on request, to any Izakhiwo Imfundo Beneficiary in an official language in which that Izakhiwo Imfundo beneficiary is familiar.
- 15.2 The minutes of meetings, all other documentation and communication between the Izakhiwo Imfundo trustees and Izakhiwo Imfundo Trust beneficiaries must be in English, subject to the right of Izakhiwo Imfundo Trust beneficiaries to make a request as contemplated above as regards statutory documents.

16. Books of account

- 16.1 The Izakhiwo Imfundo trustees must keep true and correct records and books of account of their administration of the Izakhiwo Imfundo Trust.
- 16.2 The Izakhiwo Imfundo trustees are obliged to prepare an annual income statement and balance sheet, reflecting the affairs of the Izakhiwo Imfundo Trust for the year ending, and its assets and liabilities at the last day of, February in each year.
- 16.3 The Izakhiwo Imfundo Trust's books of account must be audited annually, and its annual income statement and balance sheet to be certified, by auditors to be appointed from time to time by the Izakhiwo Imfundo trustees, who shall have the right to terminate any such appointment and to appoint any other auditors.
- 16.4 The Izakhiwo Imfundo trustees must keep the books of account, records and other documents of the Izakhiwo Imfundo Trust for a period of at least 4 years.
- 16.5 The Izakhiwo Imfundo Trust must comply with any reporting requirements determined by the Commissioner for SARS.
- 16.6 The Izakhiwo Imfundo trustees provide Group Five with such information and documentation as it may reasonably require from time to time for the purposes of its verification in terms of the BEE Act, the preparation of Group Five's audited annual financial statements.

17. Exclusion of Guardian's Fund

No amount devolving upon any Izakhiwo Imfundo beneficiary, whether it be a share of income or a share of capital, shall at any time be paid into the Guardian's Fund, but all such amounts shall be held, administered, dealt with and applied by the Izakhiwo Imfundo trustees in accordance with the provisions of the Izakhiwo Imfundo Trust deed.

18. Amendment

- 18.1 The provisions of the Izakhiwo Imfundo Trust deed may be amended at any time with the written agreement of all of the Izakhiwo Imfundo trustees then in office and Group Five.

19. Termination

- 19.1 The Izakhiwo Imfundo Trust will continue until the Izakhiwo Imfundo trustees and Group Five resolve to terminate the Izakhiwo Imfundo Trust, whether pursuant to proposed material changes to the shareholding of Group Five or changes to the Codes of Good Practice, the BEE Act or the Income Tax Act or otherwise, provided that the Izakhiwo Imfundo trustees and Group Five will not resolve to terminate the Izakhiwo Imfundo Trust whilst there are outstanding obligations owed to Izakhiwo Imfundo Trust beneficiaries.
- 19.2 Upon termination of the Izakhiwo Imfundo Trust, no further business will be conducted by the Izakhiwo Imfundo Trust except for such action as may be necessary for the winding-up of the affairs of the Izakhiwo Imfundo Trust and the distribution of the Izakhiwo Imfundo Trust assets in accordance with the Izakhiwo Imfundo Trust deed.
- 19.3 On termination of the Izakhiwo Imfundo Trust, it must transfer its assets to -
- 19.3.1 any public benefit organisation which has been established for the benefit of a similar class of beneficiaries as the Izakhiwo Imfundo beneficiaries of and/or has similar objectives to the Izakhiwo Imfundo Trust and which has been approved in terms of section 30 of the Income Tax Act;
- 19.3.2 any institution, board or body which is exempt from tax in terms of section 10(1)(cA)(i) of the Income Tax Act, which has as its sole or principal object the carrying on of any public benefit activity, or which has been established for the benefit of a similar class of beneficiaries as the Izakhiwo Imfundo Trust beneficiaries and/or has similar objectives to that of the Izakhiwo Imfundo Trust, and which is required to use those assets solely for purposes of carrying on one or more public benefit activities; or
- 19.3.3 the government of the Republic of South Africa in the national, provincial or local sphere, contemplated in section 10(1)(a) of the Income Tax Act, which is required to use those assets solely for purposes of carrying on one or more public benefit activities with similar objectives to that of the Izakhiwo Imfundo Trust.

Annexe A**Black Professionals Staff Trust beneficiary allocations**

The amount of distributable income to be distributed to any Black Professionals Staff Trust beneficiary shall be calculated in accordance with the following formula:

Formula (Peromnes)¹

$$\text{Distribution per Black Professionals Staff Trust beneficiary} = \frac{A}{B} \times \text{distributable income} \times \frac{E}{F}$$

Where:

A	<p>Equals the constant factor assigned to the Band in which that Black Professionals Staff Trust beneficiary is employed, which in terms of the Peromnes band allocation system, shall be as follows:</p> <p>Grade 6 = 300 Grade 7 = 160 Grade 8 = 80 Grade 9 = 55 Grade 10 = 25</p>
B	<p>Equals the sum product of the number of Black Professionals Staff Trust beneficiaries within each of the Bands (at the time of the Distribution) and the respective Bands' constant factor (as per the definition of A above)</p>
E	<p>The salary of the Black Professionals Staff Trust beneficiary at the time of the Distribution</p>
F	<p>The average salary of all Black Professionals Staff Trust beneficiaries within the Band in which that Black Professionals Staff Trust beneficiary falls at the time of the Distribution</p>

Working Example

¹ This formula is applicable to the Peromnes grading system until such time as the Group changes to the Paterson grading system.

Assumptions

- The total distributable income is R4 000 000
- Black Professionals Staff Trust beneficiary 1 is part of Peromnes Grade 8 and has an annual salary of R400 000
- The average salary of the Grade 8 Black Professionals Staff Trust beneficiaries is R500 000
- “A” the factor assigned to each Band, as defined, is as follows:

Grade 6	300
Grade 7	160
Grade 8	80
Grade 9	55
Grade 10	25

- The number of Black Professionals Staff Trust beneficiaries per Band, at the time of the distribution, is as follows

Grade 6	16
Grade 7	51
Grade 8	87
Grade 9	165
Grade 10	265

Calculation

$$\begin{array}{l} \text{Black} \\ \text{Professionals} \\ \text{Staff Trust} \\ \text{beneficiary 1} \end{array} = \frac{80}{(300 \times 16) + (160 \times 51) + (80 \times 87) + (55 \times 165) + (25 \times 265)} \times 4\,000\,000 \times \frac{400\,000}{500\,000}$$

$$\begin{array}{l} \text{Black} \\ \text{Professionals} \\ \text{Staff Trust} \\ \text{beneficiary 1} \end{array} = \frac{80}{4800 + 8160 + 6960 + 9075 + 6625} \times 4\,000\,000 \times 0.8$$

$$\begin{array}{l} \text{Black} \\ \text{Professionals} \\ \text{Staff Trust} \\ \text{beneficiary 1} \end{array} = \frac{80}{35\,620} \times 4\,000\,000 \times 0.8$$

$$\begin{array}{l} \text{Black} \\ \text{Professionals} \\ \text{Staff Trust} \\ \text{beneficiary 1} \end{array} = \text{R7 186.97}$$

Formula (Paterson)²

$$\text{Distribution per Black Professionals Staff Trust beneficiary} = \frac{A}{B} \times \text{Distributable Income} \times \frac{E}{F}$$

Where:

A	<p>Equals the constant factor assigned to the Band in which that Black Professionals Staff Trust beneficiary is employed, which in terms of the Paterson band allocation system, shall be as follows:</p> <p>D2 = 300 D1 = 160 C5 = 160 C4 = 80 C3 = 55 C2 = 25</p>
B	<p>Equals the sum product of the number of Black Professionals Staff Trust beneficiaries within each of the Bands (at the time of the Distribution) and the respective Bands' constant factor (as per the definition of A above)</p>
E	<p>The salary of the Black Professionals Staff Trust beneficiary at the time of the Distribution</p>
F	<p>The average salary of all Black Professionals Staff Trust beneficiaries within the Band in which that Black Professionals Staff Trust beneficiary falls at the time of the Distribution</p>

² This formula is applicable when the Group changes to the Paterson grading system.