

## **RULES OF THE ROCKCASTLE SHARE PURCHASE SCHEME**

adopted by

**Rockcastle Global Real Estate Company Limited**

**Registration number 108869 C1/GBL)**

**("Rockcastle" or the "company")**

The definitions commencing on page 1 of this scheme have, to the extent appropriate, been used on this cover page.

At a general meeting of shareholders of the company held on [●] at its registered office at c/o Intercontinental Trust Ltd, Alexander House, 35 Cybercity, Ebene 72201, Mauritius, the shareholders approved the Rockcastle share purchase scheme and the issue of the scheme shares (as defined below) by special resolution passed by 75% majority of votes of shareholders present or represented by proxy.

An application has been made for the listing of up to 42 393 101 shares on the Official Market of the SEM in terms of the scheme.

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Application will also be made for the listing of the scheme shares on the main board of the JSE, as and when required.

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## 1 INTERPRETATION AND PRELIMINARY

The headings in these rules are for the purpose of convenience and reference only and shall not be used in the interpretation of nor modify nor amplify the terms of this agreement nor any rule hereof. Unless a contrary intention clearly appears -

1.1 words importing -

1.1.1 any one gender include the other two genders;

1.1.2 the singular include the plural and *vice versa*; and

1.1.3 natural persons include created entities (corporate or unincorporated) and the state and *vice versa*;

1.2 the following terms shall have the meanings assigned to them hereunder and cognate expressions shall have corresponding meanings, namely –

1.2.1 "**auditors**" means the auditors for the time being of the company;

1.2.2 "**assignee**" means any of the persons and/or entities referred to in rule 7.4;

1.2.3 "**capitalisation issue**" means the issue of shares on a capitalisation of the company's profits and/or reserves;

1.2.4 "**capitalisation share**" means a fully paid share allotted, in a capitalisation issue, in respect of a scheme share during the time that the share to which it is linked in terms of rule 13 is a scheme share;

1.2.5 "**CDS**" means The Central Depository and Settlement Co. Ltd;

1.2.6 "**CDS Rules**" means the rules issued by the CDS;

1.2.7 "**CDS Procedures**" means the procedures issued by the CDS;

1.2.8 "**the company**" means Rockcastle Global Real Estate Company Limited (Registration Number 108869 C1/GBL);

1.2.9 "**directors**" means the board of directors for the time being of the company acting either itself or through any committee thereof to or upon whom the powers of the directors in respect of this scheme are delegated or are conferred;

1.2.10 "**discretion**" means a sole, absolute and unfettered discretion;

1.2.11 "**employee**" means an executive director, senior manager and/or employee of any member company of the group, including any present or future executive director holding or to be holding employment or office;

- 1.2.12 "**funder company**" means the company in the group that extends credit to a participant in terms of rule 3.5;
- 1.2.13 "**group**" means the company and its subsidiaries;
- 1.2.14 "**immediate relation**" means, in relation to a participant, a person who is:
- 1.2.14.1 that participant's spouse; and/or
- 1.2.14.2 a descendant (including an adopted child) of that participant;
- 1.2.15 "**issued shares**" means all shares issued by the company including scheme shares and capitalisation shares and rights issue shares linked thereto;
- 1.2.16 "**JSE**" means the securities exchange of that name operated in the RSA by the JSE Limited in terms of a licence issued under the Financial Markets Act, 19 of 2004;
- 1.2.17 "**JSE Listings Requirements**" means the JSE Listings Requirements, as amended;
- 1.2.18 "**Mauritian Companies Act**" means the Mauritian Companies Act, 2001 (Act 15 of 2001) as amended;
- 1.2.19 "**offer**" means an offer made under the scheme to an offeree to either purchase or subscribe for scheme shares;
- 1.2.20 "**offer date**" means the date on which an offer to an offeree, in terms of the scheme, is made to him;
- 1.2.21 "**offeree**" means an employee nominated in terms of the provisions of the scheme to receive an offer;
- 1.2.22 "**Official Market**" means the list of all securities admitted for quotation on the SEM Official Market;
- 1.2.23 "**participant**" means any offeree or his/her assignee who has accepted an offer;
- 1.2.24 "**purchase price**" means the price per share contained in the offer to the offeree as determined by the directors, being not more than the closing price of the shares on the SEM on the trading day immediately preceding the offer date, and not less than a 5% (five percent) discount to the closing price of the shares on the SEM on the trading day immediately preceding the offer date;
- 1.2.25 "**record date**" means the close of business on the day the register of the company will be closed to determine entitlement to participate in a rights or capitalisation issue, as the case may be;
- 1.2.26 "**retired employee**" means any former employee who is a participant on his retirement and has retired at or after the normal retirement age (as laid down in the company's policies from time to time or failing that as determined by the company) or, with the approval of the directors, prior to the normal retirement age;
- 1.2.27 "**rights issue**" means the offer of any securities of the company to all shareholders of the company *pro rata* to their holdings at the record date;

- 1.2.28 "**rights issue shares**" means, in relation to scheme shares, in the case of a rights issue, those shares offered in terms of such rights issue by virtue of being a participant;
- 1.2.29 "**RSA**" means the Republic of South Africa;
- 1.2.30 "**RSA Companies Act**" means the RSA Companies Act No. 71 of 2008, as amended;
- 1.2.31 "**rules**" means these scheme rules, as amended from time to time in terms of rule 18;
- 1.2.32 "**scheme**" means the Rockcastle Share Purchase Scheme to which these rules apply;
- 1.2.33 "**scheme allocation**" means the aggregate number of shares which can be offered for subscription or purchase under this scheme, being 42 393 101 (forty two million three hundred and ninety three thousand one hundred and one) shares; 9.14
- 1.2.34 "**scheme shares**" means any shares acquired by the participant, whether by way of subscription or purchase, in terms of the scheme;
- 1.2.35 "**secretary**" means the secretary of the company for the time being;
- 1.2.36 "**SEM**" means the Stock Exchange of Mauritius Ltd established under the repealed Stock Exchange Act, 1988 and now governed by the Securities Act, 2005 of Mauritius;
- 1.2.37 "**SEM Listing Rules**" means the Listing Rules of the SEM governing the Official Market;
- 1.2.38 "**share**" means a share in the stated capital of the company;
- 1.2.39 "**share debt**" means at any relevant time in respect of a tranche of shares purchased or subscribed for pursuant to an offer, the original purchase price at which such shares were purchased or subscribed for, lent to a participant pursuant to rule 3.5, in each case together with any interest accrued thereon, which is outstanding from time to time;
- 1.2.40 "**statutes**" means any statute affecting the company and the scheme;
- 1.2.41 "**subsidiary**" means a company which is a subsidiary of the company;
- 1.2.42 "**Take Over Rules**" means the Securities (Take Over) Rules 2010 made by the Mauritian Financial Services Commission;
- 1.2.43 "**year**" means the company's financial year;
- 1.3 any reference in this agreement to "date of signature hereof" shall be read as meaning a reference to the date of the last signature of these rules;
- 1.4 any reference to an enactment is to that enactment as at the date of signature hereof and as amended or re-enacted from time to time;
- 1.5 if any provision in a definition is a substantive provision conferring rights or imposing obligations on any party, notwithstanding that it is only in the definition rule, effect shall be given to it as if it were a substantive provision in the body of these rules;

- 1.6 when any number of days is prescribed in these rules, same shall be reckoned exclusively of the first and inclusively of the last day unless the last day falls on a Saturday, Sunday or public holiday in Mauritius, in which case the last day shall be the next succeeding day which is not a Saturday, Sunday or public holiday;
- 1.7 where figures are referred to in numerals and in words, if there is any conflict between the two, the words shall prevail;
- 1.8 expressions defined in these rules shall bear the same meanings in schedules or annexures to these rules which do not themselves contain their own definitions;
- 1.9 where any term is defined within the context of any particular rule in these rules, the term so defined, unless it is clear from the rule in question that the term so defined has limited application to the relevant rule, shall bear the meaning ascribed to it for all purposes in terms of these rules, notwithstanding that that term has not been defined in this interpretation provision;
- 1.10 the expiration or termination of these rules shall not affect such of the provisions of these rules as expressly provide that they will operate after any such expiration or termination or which of necessity must continue to have effect after such expiration or termination, notwithstanding that the rules themselves do not expressly provide for this;
- 1.11 the rule of construction that the contract shall be interpreted against the party responsible for the drafting or preparation of these rules, shall not apply;
- 1.12 any reference in this agreement to a party shall, if such party is liquidated or sequestrated, be applicable also to and binding upon that party's liquidator or trustee, as the case may be.

**2 PURPOSE**

The purpose of the scheme is to align the interests of the group's employees and executive directors with those of the shareholders of the company by providing such persons an opportunity to acquire shares in the company.

**PART II – COVENANTS BY COMPANY**

**3 OFFER OF SHARES**

- 3.1 The directors may from time to time offer shares to employees for subscription or purchase in terms of an offer at the purchase price.
- 3.2 Scheme shares may be –
  - 3.2.1 issued by the company to participants; or
  - 3.2.2 purchased by any company within the group and held as treasury shares for a subsequent offer to participants; or
  - 3.2.3 held by any member of the group as treasury shares for a subsequent offer to participants; or

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- 3.2.4 purchased by participants in the market by means of credit extended to them in terms of rule 3.5.
- 3.3 The scheme shares will only be issued to employees in dematerialised form. No certificated shares will be issued. 9.24
- 3.4 Those shares referred to in rule 3.1 shall be allotted and issued or acquired subject to the provisions of these rules and each such allotment or purchase shall, without limiting the generality of the foregoing, be upon the following terms, namely that –
- 3.4.1 the full purchase price due to the funder company by a participant on account of his accepting an offer shall be paid as provided in rule 10;
- 3.4.2 they will constitute scheme shares;
- 3.4.3 vis-à-vis a participant, such scheme shares (and any rights issue and capitalisation shares linked thereto) which are the subject of an offer which has been accepted shall participate in full in all rights and capitalisation issues and in the dividends declared from time to time by the company.
- 3.5 Provided that the directors comply with section 81 of the Mauritian Companies Act (to the extent applicable), the directors shall be entitled to procure that the company, or any subsidiary of the company, extend to an offeree credit to enable such participant to purchase and/or subscribe for scheme shares to be held by such participant or his/her assignee as owner and the terms of credit shall be as reflected in rule 10.1, the provisions of which shall apply *mutatis mutandis*. Such credit may be repaid at any time by the employee but not later than 10 (ten) years from the acceptance of an offer.

#### 4 FUNDING OF SCHEME SHARES

The costs of issuing or acquiring scheme shares and making a loan to a participant as contemplated in rule 3.5 shall, at the discretion of the directors, be borne by the company or a subsidiary of the company.

#### 5 SHARES AVAILABLE FOR THE SCHEME

- 5.1 Subject to rule 5.2 and rule 5.3, the aggregate maximum number of shares –
- 5.1.1 which may be utilised in terms of this scheme shall not exceed the scheme allocation; and
- 5.1.2 in respect whereof any one offeree shall be entitled to accept an offer pursuant to this scheme shall not exceed 8 478 620 (eight million four hundred and seventy eight thousand six hundred and twenty) shares.
- 5.2 The directors must determine that the limits in rule 5.1.1 shall be adjusted in such manner as the auditors certify to be in their opinion fair and reasonable as a result of a sub-division or consolidation of ordinary shares.
- 5.3 The directors may determine that the limits in rule 5.1.2 shall be adjusted in such manner as the auditors certify to be in their opinion fair and reasonable as a result of any (i) issue of additional shares whether by way of a capitalisation of the company's profits and/or reserves; or (ii) a rights issue.

- 5.4 Any adjustment in terms of rule 5.2 or rule 5.3 should give an offeree entitlement to the same proportion of shares as that to which he was entitled before the event in rule 5.2 or rule 5.3 which gave rise to the adjustment.
- 5.5 Upon finalisation of the adjustment in terms of rule 5.2 or rule 5.3, the auditors shall confirm to the JSE or to the SEM, as the case may be, in writing, that such adjustment was made in accordance with the terms of the scheme.
- 5.6 In the determination of the number of scheme shares which may be acquired by participants in terms of rule 5.1, shares purchased through the SEM and the JSE, as the case may be, or off market shall not be taken into account. The rolling over of shares (including the arrangement which assumes that scheme shares which have already been issued to participants in terms of the scheme, and which then revert back to the number referred to in rule 5.1.1) is prohibited.

### **PART III – PARTICIPATION BY EMPLOYEES**

#### **6 ELIGIBILITY**

- 6.1 Employees shall be eligible to and shall participate in the scheme only if and to the extent that offers are made to and are accepted by them.
- 6.2 The directors, in their sole discretion, but subject to the provisions of the statutes and of the provisions of these rules including rules 3.1 and 7.1 may from time to time by resolution, offer shares and grant credit to offerees, provided that such offers have been approved by the company's remuneration committee.

#### **7 OFFERS**

- 7.1 An offer –
- 7.1.1 shall be made at the purchase price determined as at the offer date;
- 7.1.2 shall specify –
- 7.1.2.1 the name of the offeree;
- 7.1.2.2 the number of shares offered;
- 7.1.2.3 the purchase price payable in respect of such shares;
- 7.1.2.4 the offer date;
- 7.1.2.5 the time period within which an offer shall be accepted which shall be no later than 2 (two) days after it is actually made or granted; and
- 7.1.2.6 any other relevant terms and conditions.



- 7.1.3 shall be governed by the provisions of these rules and shall, without limiting the generality of the foregoing, be subject to rule 10 and the following provisions, namely, that until the full share debt has been paid to the funder company in respect of any share –
- 7.1.3.1 ownership in such scheme shares and rights issue shares and capitalisation shares linked thereto shall vest in the relevant participants but such share/s shall be pledged to the funder company as required in terms of rule 7.1.3.2 and accordingly may not in any way be mortgaged, pledged or otherwise encumbered, unless the board in its discretion consent thereto in writing;
- 7.1.3.2 such scheme shares and all rights issue shares (if purchased in terms of the scheme) and capitalisation shares linked thereto shall be pledged to the funder company as security for the payment of the full share debt payable by such participant to the funder company in respect of such shares, unless the board in its discretion consent thereto in writing;
- 7.1.3.3 those scheme shares and rights issue shares (if purchased in terms of the scheme) and capitalisation shares linked thereto may be released from the operation of the pledge and security provisions and be freely sold or transferred by the participant at least at their market value, provided that the company is satisfied that the proceeds realised therefrom shall be utilised firstly to settle the share debt pertaining to such scheme shares;
- 7.1.3.4 the scheme shares and rights issue shares (if purchased in terms of the scheme) and capitalisation shares linked thereto may be re-acquired in terms of rule 11;
- 7.1.3.5 the voting rights attaching to all scheme shares owned by participants in terms of this scheme and all rights issue shares and capitalisation shares linked thereto shall at all times vest in the participants and be exercised by the participants provided that scheme shares will not have their votes at general meetings or annual general meetings of the company taken into account for the purposes of resolutions proposed in terms of the JSE Listings Requirements and/or the SEM Listing Rules, as the case may be, nor will scheme shares be taken into account for purposes of determining categorisations of transactions in terms of section 9 of the JSE Listings Requirements and/or Chapter 13 of the SEM Listing Rules, as the case may be;
- 7.1.3.6 on a winding-up of the company, the proceeds payable in respect of the scheme shares shall first be applied in discharging the amount due to the funder company;
- 7.1.3.7 shall be personal to and only accepted by the offeree to whom it is addressed, subject to clause 7.4;
- 7.1.4 shall, unless otherwise specified in it, be accepted by notice in writing in such form as the directors may stipulate, delivered to the secretary within 48 (forty eight) hours after it is made failing which the scheme shares which are the subject of the offer shall revert back to the scheme;
- 7.1.5 may be accepted in part or in full.
- 7.2 Each acceptance of an offer shall –
- 7.2.1 specify the number of shares in respect of which the offer is accepted;

- 7.2.2 be regarded as complete upon the company's receipt of the acceptance of the offer in writing within the period specified in the offer;
- 7.2.3 be in terms of and be subject to and governed by the provisions of these rules;
- 7.2.4 specify an address for purposes of rule 21.
- 7.3 Notwithstanding anything to the contrary herein the risk in and benefits attaching to the scheme shares will pass to the participant on the acceptance of an offer.
- 7.4 A participant may, provided he obtains the written approval of the directors (which will be provided subject to the below conditions being fulfilled), on-sell his scheme shares, whether prior to or after registration of the scheme shares into the name of such participant, to (i) a trust established only for the benefit of the relevant participant and/or his immediate relations or (ii) to any company, all the shares of which are, and continue to be, held or beneficially owned by the relevant participant or his immediate relations, provided that –
- 7.4.1 any such trust or company agrees in writing to be bound by the provisions of these rules (including, without limitation, being jointly and severally liable with the employee for the payment of the full share debt) as though it were the beneficiary, *mutatis mutandis*;
- 7.4.2 the relevant employee furnishes a suretyship or guarantee, in favour of the funder company to the satisfaction of the directors for the obligations of the trust or private company concerned;
- 7.4.3 for so long as the scheme shares are subject to the pledge and security provisions contained in rule 7.1.3.2, only the employee and his immediate relations may be beneficiaries of such trust, shareholders of such company and, if there is a breach of the provisions of this rule 7.4.3, then, on the date of such breach coming to the knowledge of the company (the "**termination date**") the following provisions shall apply in respect of those of the participant's scheme shares which have share debt outstanding in respect thereof on the termination date -
- 7.4.3.1 the full share debt outstanding in respect of such scheme shares shall become payable immediately after the termination date; and
- 7.4.3.2 as soon as the share debt has been paid in full, those units shall immediately be released from pledge or other security provided for in rule 7.1.3.2,
- provided that if the full share debt is not repaid in accordance with the above then the company may, by resolution to that effect, purchase and/or procure the sale of all of the scheme shares of that participant at the then market value and the provisions of rule 11 shall apply, *mutatis mutandis*, as if contained herein. For the avoidance of doubt, it is recorded that the assignment by a participant to any such trust or private company may take place before the offer is accepted or thereafter;

## 8 RIGHTS ATTACHING TO SCHEME SHARES

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- 8.1 Save as may expressly be provided to the contrary herein, the secretary shall forthwith against payment of the securities transfer tax, if any, payable thereon release a share from the pledge

provided for in rule 7.1.3.2 to the participant entitled thereto, against payment of the full share debt in respect of that share.

- 8.2 Once issued, the scheme shares shall rank *pari passu* as to dividend, distributions, capital, voting rights and in all other respects with the existing shares of the company.

## 9 OBLIGATIONS OF PARTICIPANT

Every participant shall, in addition to and without prejudice to any obligation imposed elsewhere in these rules, whether express or implied at all times strictly observe the provisions of these rules.

## 10 PAYMENT OF PURCHASE PRICE

### 10.1 *Interest and distributions*

- 10.1.1 The outstanding balance due on the purchase price of any scheme share shall, while the balance due remains unpaid, bear interest from time to time at a rate per annum not less than the average cost of debt funding of the company and its subsidiaries from time to time.

- 10.1.2 The accrued amount of such interest from time to time shall, subject to the provisions of rules 10.1.3 and 10.1.4, be payable within 20 (twenty) business days following the date on which distributions on the shares are paid and the company is entitled to apply the distributions (subject to rules 10.1.3 and 10.1.4) towards payment of such interest to the funder company at any time. In this regard the participant, by his acceptance of the offer, shall be deemed to have authorised the company to retain and utilise the distributions (subject to rules 10.1.3 and 10.1.4) towards payment of such interest to the funder company.

- 10.1.3 If the interest payable by a participant to the funder company in respect of the outstanding balance of the purchase price of such participant's scheme shares exceeds the distribution in respect of any distribution period, if any, payable to such participant on his scheme shares in respect of that distribution period, then the participant shall pay such excess to the funder company in cash upon receipt of written demand for payment therefor from the funder company.

- 10.1.4 If, however, the distributions payable to a participant on his scheme shares in respect of any distribution period exceed the interest payable by such participant on the outstanding balance of the purchase price of such scheme shares in respect of such distribution period, then such excess shall be utilised to repay share debt owing in respect of the scheme shares of the participant, if any. Where the share debt owing in respect of the scheme shares of the participant has been completely repaid, then such distribution shall, as soon as it has been determined, be available to the participant.

### 10.2 *Prepayment of outstanding balance*

Subject to the provisions of rule 11 which provides for the company, in certain circumstances, to repurchase scheme shares, a participant shall be entitled to pay the outstanding balance of the share debt before the due date of payment thereof.

### 10.3 *Death*

If a participant ceases to be an employee by reason of death then, in respect of those of the participant's scheme shares which have not been paid for on the date of death ("**the termination date**"), the following provisions shall apply -

10.3.1 the full share debt outstanding in respect of such shares shall become payable by the executor of the participant's estate within 24 (twenty four) months after the termination date; and

10.3.2 as soon as the share debt has been paid in full, those shares shall be released from pledge or other security as provided for in rule 7.1.3.2.

### 10.4 *Retirement or Disability*

If a participant ceases to be an employee by reason of serious incapacity, serious disability or retirement then, in respect of those of the participant's scheme shares which have not been paid for as at the date of such cessation of employment (the "**termination date**"), the following provisions shall apply -

10.4.1 the share debt outstanding in respect of such shares shall become payable within 3 (three) months after the termination date; and

10.4.2 as soon as the share debt has been paid in full, those shares shall be released from pledge or other security as provided for in rule 7.1.3.2.

### 10.5 *Dismissal or resignation*

If a participant ceases to be an employee by reason of such employee's resignation or the dismissal of such employee, then, in respect of those of the participant's scheme shares which have not been paid for as at the date of such cessation of employment (the "**termination date**"), the following provisions shall apply -

10.5.1 the full share debt outstanding in respect of such shares shall become payable within 30 (thirty) days after the termination date; and

10.5.2 as soon as the share debt has been paid in full, those shares shall be released from pledge or other security as provided for in rule 7.1.3.2.

### 10.6 *Other Reasons for Cessation of Employment*

If a participant ceases to be an employee by reason of circumstances other than those set out in rules 10.3, 10.4 and 10.5 above, then the provisions of rule 10.5 above shall apply *mutatis mutandis* and for this purpose the termination date shall be deemed to be the date on which the participant ceases to be an employee.

### 10.7 *Right to demand payment after 10 (ten) years*

Subject to rule 10.8, the funder company shall be entitled to demand payment of the full share debt outstanding in respect of any scheme shares then outstanding, at any time after the expiration of 10 (ten) years from the relevant date of acceptance of the offer.

10.8 *Procedure after scheme shares fully paid*

10.8.1 At any time after a participant has, in respect of any scheme shares, paid the share debt and all interest thereon in full, such scheme shares shall be released to the participant or his nominee.

10.8.2 The company may reach alternative arrangements with participants or the relevant executor or legal representative in the case of cessation of employment pursuant to the provisions of rules 10.3, 10.4, 10.5 or 10.6.

10.9 *Proof of share debt*

10.9.1 A certificate signed by any director of the company setting out the amount of the share debt at any time and/or the interest rate payable on the outstanding balance due on the purchase price of any scheme share and/or the total interest payable on the share debt and/or the date on which such interest is reckoned shall constitute *prima facie* proof of the facts therein stated and shall be binding on the participant for all purposes.

**11 CONSEQUENCE OF NO OR PARTIAL REPAYMENT**

11.1 If any amount in respect of the share debt of any scheme shares becomes payable by virtue of the provisions of rule 10 and if any such amount is not paid by the due date thereof, then, subject to the provisions of the Mauritian Companies Act, the SEM Listing Rules, the CDS Rules, CDS Procedures and the JSE Listings Requirements, as the case may be, the board shall be entitled (but not obliged), by resolution to that effect, to purchase, procure the purchase by a subsidiary of the company, and/or procure the sale of all of the scheme shares of that participant at the then market value and, thereupon –

11.1.1 the purchase consideration paid and received in respect of the purchase/sale of the participant's scheme shares shall be paid in cash towards the reduction of the outstanding balance of the share debt;

11.1.2 if the purchase consideration paid and received in respect of the purchase/sale of the participant's scheme shares is less than the share debt outstanding at the time of such purchase/sale, then the difference between the purchase consideration paid and received and the share debt outstanding shall be payable by such participant in cash upon written demand therefor being delivered to that participant by the funder company;

11.1.3 if, however, the purchase consideration paid and received in respect of the purchase/sale of the participant's scheme shares exceeds the share debt outstanding at the time of such purchase/sale, then such excess shall, as soon as it has been determined, be made available to the participant;

11.1.4 that participant shall cease to have any interest in the scheme shares in respect of which the balance of the share debt was due to be paid and in all capitalisation shares and rights issue shares linked thereto;

11.1.5 the participant concerned shall be liable to the funder company for damages suffered in consequence thereof.

11.2 Should the participant fail and/or refuse to comply with his obligations, the board shall be empowered to authorise and direct (and the participant, by accepting an offer of scheme shares, similarly authorises irrevocably and *in rem suam*) the secretary to do all such things necessary and sign all or any documents on behalf of that participant necessary to give effect to the provisions of these rules, but without prejudice to any other rights which the company may enjoy under these rules or the common law.

## 12 RIGHTS ISSUES

12.1 Each participant shall be entitled to participate in any rights issue in accordance with the terms thereof (which participation for the avoidance of doubt shall include the entitlement of the participant to sell any letter of allocation arising therefrom for the participant's benefit provided that the net proceeds, if any, of such sale shall be applied to reduce the share debt owing in respect of the scheme shares of the participant, if any) to the extent that those scheme shares and all rights issue and capitalisation shares linked thereto in respect of which an offer was accepted, as if those shares were not scheme shares.

12.2 The board may, in its discretion but subject to the statutes, lend to a participant monies to enable the participant to follow his rights under a rights issue and the amount so lent shall be deemed to form part of the outstanding balance of the share debt payable by the participant for his scheme shares.

12.3 In the case of a participant who has ceased to be in the employ of the company, or its subsidiaries, the extent of such participant's participation (if any) in any rights issue shall be determined by the board.

## 13 CAPITALISATION ISSUES

13.1 Subject to the provisions of rule 13.2, every participant to the extent of those scheme shares and all rights issue and capitalisation shares linked thereto in respect of which an offer has been accepted shall participate in any capitalisation issue in respect of such shares, as if the share debt of those scheme shares was, at the record date, already paid in full.

13.2 No participant shall be entitled to renounce his rights to any capitalisation shares, or dispose thereof in any other way (save that the participant and/or the company shall be entitled to sell any capitalisation share for the sole purpose of applying the net proceeds of such sale to reduce the amount then owing in respect of the share debt) and all such shares –

13.2.1 shall be allotted and issued subject to the restrictions and provisions of these rules; and

13.2.2 shall, for so long as the share debt of the scheme shares in respect of which they are issued is not paid in full, be linked to those shares and shall *mutatis mutandis* be subject in all respects to the same restrictions and provisions as are attached to the scheme shares.

13.3 Without prejudice to anything contained in this rule 13, the scheme allocation shall, subject to rule 5.2 and rule 5.3, be adjusted to take account of any capitalisation issue in such manner as the auditors (acting as experts and not as arbitrators) certify as being fair and reasonable in the circumstances. If any determination is manifestly unjust, but the court exercises its general power, if any, to correct such determination, the parties shall be bound thereby.

- 13.4 For the avoidance of doubt, all capitalisation shares issued in respect of scheme shares shall, on issue, be deemed to be scheme shares "purchased" by the participant and accordingly shall be pledged to the funder company in accordance with the provisions of rule 7.1.3.2.

#### **PART IV – GENERAL**

#### **14 APPLICABILITY OF PROVISIONS TO CORPORATE OFFEREE**

If and to the extent that an offer under the scheme has been made (on behalf of a participant), or assigned, to a trust or private company as contemplated in rule 7.4, those provisions of the scheme which makes reference to or which are triggered by the death, incapacity, retirement, resignation, dismissal or other cessation of employment of the offeree shall be read contextually with reference to the assignor employee.

#### **15 ADJUSTMENTS ON REORGANISATION OF COMPANY OR SHARE CAPITAL**

- 15.1 If the company, at any time before the share debt has been paid in full –

15.1.1 is put into liquidation for the purpose of reorganisation of the company's assets, liabilities or share capital; or

15.1.2 is a party to a scheme of arrangement affecting the structure of its share capital; or

15.1.3 reduces its capital or redeems any of its shares; or

15.1.4 splits or consolidates its shares; or

15.1.5 is a party to a reorganisation of the company's assets, liabilities or share capital,

the directors shall be entitled to effect such adjustments to the purchase price in respect of those shares and/or the number of scheme shares as the auditors, acting as experts and not as arbitrators, certify as being fair and reasonable in the circumstances and subject (where necessary) to the sanction of the court. If any determination is manifestly unjust, but the court exercises its general power, if any, to correct such determination, the parties shall be bound thereby.

15.2 Upon finalisation of the adjustment in terms of clause 15.1, the auditors shall confirm to the SEM and/or the JSE, as the case may be, in writing, that such adjustment was made in accordance with the terms of the scheme.

15.3 If the company is placed in liquidation otherwise than in terms of rule 15.1.1 –

15.3.1 the full amount owing by each participant shall forthwith become due and payable, provided that the directors may release a participant from any balance owing by him to the company or the funder company;

15.3.2 save as provided in rule 15.3.1, this scheme shall *ipso facto* lapse as from the date of liquidation.

For the purposes hereof "**date of liquidation**" shall mean the date upon which any application (whether provisional or final) for the liquidation of the company is lodged at the relevant court.

## 16 TAKEOVER OF COMPANY OR BUSINESSES

- 16.1 Subject always to the Take Over Rules, should an offer be made to the shareholders of the company or a scheme of arrangement between the company and its shareholders (or any class of them) be proposed, by virtue of which control of the company would pass to another person or company, the directors will use their best endeavours to procure, insofar as they are able, that the same or a similar offer be made or scheme of arrangement proposed, as the case may be, to all participants in respect of all scheme shares and all capitalisation shares and rights issue shares linked thereto and the participant shall, subject to payment of the share debt to the company in full, be entitled to the transfer of those scheme shares pursuant to such offer.
- 16.2 Subject always to the Take Over Rules, should control of the company pass to another person or company as a result of a takeover or reconstruction or amalgamation or scheme of arrangement which makes provision for participants in respect of whom offers have been made and accepted, to receive shares issued by such other person or in such other company ("**replacement shares**") on terms which, in the opinion of the auditors (such opinion being given by them as experts and not as arbitrators and whose decision shall be final and binding), are not less favourable than those on which those participants are entitled to scheme and rights issue and capitalisation shares, they shall be obliged to accept such shares in such other company on such terms; provided that if any such determination of the auditors is manifestly unjust, but the court exercises its general power, if any, to correct such determination, the parties shall be bound thereby.
- 16.3 Subject always to the Take Over Rules, should control of the company pass to another person or company as a result of a takeover or reconstruction or amalgamation or scheme of arrangement which does not provide for the substitution of scheme shares with replacement shares or, where such takeover or reconstruction or amalgamation or scheme of arrangement makes provision for participants to receive replacement shares on terms which, in the opinion of the auditors (such opinion being given by them as experts and not as arbitrators and whose decision shall be final and binding), place a participant in a worse position than that in which he is under this scheme, each participant shall be obliged and entitled to dispose of all scheme shares owned by him on the terms and conditions of the scheme of arrangement, disposal or offer and to the extent necessary irrevocably authorises the company to (i) sign any transfer declaration or other document which may require signature in order to implement any such disposal and (ii) apply such portion of the proceeds of such sale as may be required to discharge the participant's share debt in full.
- 16.4 Subject always to the Take Over Rules, should in this rule 16 shall prevent a participant from paying, in accordance with rule 10.2, the outstanding balance of the share debt at any time before the due date of payment thereof and for the scheme shares to be released to the participant in accordance with rule 10.8.1, subject to applicable laws.
- 16.5 Notwithstanding anything to the contrary herein contained, no term shall be implied to prevent the company from disposing of any of its subsidiaries or losing control thereof, or any of the company or the subsidiaries from disposing of their businesses at any time and each participant waives any claims he may have as a result thereof.



## 17 COSTS

The costs of the preparation of these rules and all matters incidental thereto shall, at the discretion of the directors, be borne by the company or a subsidiary of the company.

## 18 AMENDMENTS TO THESE RULES

18.1 These rules may be amended from time to time by the directors, but –

18.1.1 the terms or conditions of allotment of any scheme shares or of any offer may not be altered without such consent on the part of the participants concerned;

18.1.2 no amendment in respect of the following matters shall operate unless such amendment has been approved by a resolution approved by a majority of 75% (seventy-five percent) of the equity security holders present or represented by proxy at the general meeting to approve such resolution) –

18.1.2.1 the persons who may become participants under the scheme;

18.1.2.2 the voting, distribution, transfer and other rights (including those arising on the liquidation of the company) attaching to scheme shares;

18.1.2.3 the total number of the securities which may be utilised for purposes of the scheme;

18.1.2.4 a fixed maximum entitlement for any one participant;

18.1.2.5 the basis for determining the purchase or subscription price of scheme shares which shall be a fixed mechanism for all participants under the scheme;

18.1.2.6 the terms of any loan as set out in these rules, including, without limitation, the term after which the loan must be repaid and the rate of interest accruing on the loan; and

18.1.2.7 the procedure to be adopted on termination of employment or retirement of a participant.

18.2 Notwithstanding the provisions of rule 18.1, but subject to the SEM Listing Rules and/or to the JSE Listings Requirements, as the case may be, if it should become necessary or desirable by reason of the enactment of any new Act or regulation at any time after the signing of these rules, to amend the provisions of these rules so as to preserve the substance of the provisions contained in these rules but to amend the form so as to achieve the objectives embodied in these rules in the best manner having regard to such new legislation and without prejudice to the participants concerned, then the directors may amend these rules accordingly.

## 19 DISCLOSURE BY THE COMPANY IN ITS ANNUAL FINANCIAL STATEMENTS

The company shall disclose in its annual financial statements such disclosures as may be required in terms of the JSE Listings Requirements, the SEM Listing Rules and such other securities exchange on which the company's shares are listed from time to time.

## 20 DISPUTES

Any dispute arising under or in respect of this scheme shall be referred to the decision of the auditors, acting as experts and not as arbitrators, whose decision thereon shall be final and binding on the parties to the dispute. The party to bear the costs payable in respect of any such dispute shall be as determined by the auditors. If any determination is manifestly unjust, but the court exercises its general power, if any, to correct such determination, the parties shall be bound thereby.

## 21 DOMICILIUM CITANDI ET EXECUTANDI

21.1 The parties choose as their *domicilia citandi et executandi* for all purposes under this agreement, whether in respect of court process, notices or other documents or communications of whatsoever nature, the following addresses:

21.1.1 the company: the registered office of the company from time to time

21.1.2 the participant: the address chosen when he accepts the offer.

21.2 Any notice or communication required or permitted to be given in terms of this agreement shall be valid and effective only if in writing but it shall be competent to give notice by telefax or e-mail.

21.3 Any party may by notice to any other party change the physical address chosen as its *domicilium citandi et executandi vis-à-vis* that party to another physical address where postal delivery occurs or its postal address or its telefax number or e-mail address, provided that the change shall become effective *vis-à-vis* that addressee on the 10<sup>th</sup> (tenth) business day from the receipt of the notice by the addressee.

21.4 Any notice to a party –

21.4.1 delivered by hand to a responsible person during ordinary business hours at the physical address chosen as its *domicilium citandi et executandi* shall be deemed to have been received on the day of delivery; or

21.4.2 sent by e-mail to its chosen e-mail address stipulated in rule 21.2, shall be deemed to have been received on the date of despatch (unless the contrary is proved).

21.5 Notwithstanding anything to the contrary herein contained a written notice or communication actually received by a party shall be an adequate written notice or communication to it notwithstanding that it was not sent to or delivered at its chosen *domicilium citandi et executandi*.

## 22 ISSUE OF SHARES TO ANY PARTY

None of the participants (nor their representatives nor their successors-in-title) shall have any action of whatsoever nature (including an action based on an alleged oppression or fraud on minority shareholders) arising from any issue of shares to any party by the company from time to time, provided that such issue was in accordance with all applicable laws and regulations, including the JSE Listings

Requirements, the SEM Listing Rules and/or any other securities exchange on which the shares of the company may be listed from time to time.

**23 DISTRIBUTION POLICY**

The decision as to whether or not any distributions are to be declared and paid to shareholders of the company, and the amount of any distributions which may be declared and paid by the company, shall (subject to the company's Constitution) vest in the directors of the company in their absolute discretion.

**24 TERMINATION OF SCHEME**

The scheme shall terminate as soon as all of the following events have taken place –

- 24.1 the directors resolve that the scheme shall terminate; and
- 24.2 the company has received payment in full of all amounts owed to it by the participants which are recoverable; and
- 24.3 if applicable, when the company has discharged all its obligations to the participants.

SIGNED at

on

2015

For and on behalf of  
**ROCKCASTLE GLOBAL REAL ESTATE COMPANY  
LIMITED**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name of Signatory

\_\_\_\_\_  
Designation of Signatory