

**OMNIA**

***Integrated Annual Report***

*for the year ended 31 March 2012*

*and*

***Notice of annual general meeting***

*to be held on 27 September 2012*



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**2012**

*Our Integrated Annual Report 2012*



# Dear Shareholder

Omnia is committed to good environmental practice and this year took the decision to send out our Integrated Annual Report on CD rather than in print in order to lighten our impact on the environment and reduce unnecessary costs. Inserted in this notification is your copy of the Omnia Holdings Integrated Annual Report for the year ended 31 March 2012, which you can scan through at your leisure, and print out sections that are particularly relevant to you. A full copy of the Integrated Annual Report is on our website [www.omnia.co.za](http://www.omnia.co.za) and you may also request a traditional printed copy from Celeste Appollis, Omnia's company secretary.

In preparing and disseminating our annual report, Omnia has embraced the regulations and intent of King III, the Companies Act of 2008 and current JSE regulations.

I am most pleased to report to you that Omnia had an exceptional year in which we generated a record profit of R629 million. We also commissioned our new R1,4 billion nitric acid complex, which secures our supply of key raw materials and implemented a Group-wide Enterprise Resource Planning (ERP) system that will drive operational and financial efficiencies to the next level. Omnia is now even better positioned for sustainable long-term growth.

I have the pleasure to also invite you to the 45<sup>th</sup> Omnia Holdings annual general meeting (AGM), to be held on 27 September 2012 at our office in Bryanston, Johannesburg. I encourage each and every shareholder to attend in person, or to participate through the proxy and electronic channels outlined in this notification, which contains:

- the official AGM notice that lists proposed resolutions for adoption by the shareholders; and
- the necessary proxy and voting forms, together with guidelines for your participation should you decide not to attend in person.

Warm regards



**NJ Crosse**  
*Chairman*

21 June 2012

# *Notice to shareholders of Omnia Holdings Limited*

for the year ended 31 March 2012

Notice is hereby given that the 45th annual general meeting of Omnia Holdings Limited will be held on Thursday, 27 September 2012 at 10:00 at Omnia House, 13 Sloane Street, Epsom Downs, Bryanston, South Africa to consider and, if deemed fit, to pass with or without modification, the resolutions set out below.

The notice of the company's 45th annual general meeting has been sent to shareholders who were recorded as such in the company's securities register on Friday, 20 July 2012, being the notice record date used to determine which shareholders are entitled to receive notice of the annual general meeting.

The record date on which shareholders must be registered in the securities register in order to attend and vote at the 45th annual general meeting is Friday, 21 September 2012, being the voting record date used to determine which shareholders are entitled to attend and vote at the annual general meeting. The last day to trade in order to be entitled to vote at the annual general meeting will, therefore be Friday, 14 September 2012.

## **ORDINARY BUSINESS**

- Ordinary resolution number 1:** The adoption of the annual financial statements  
To receive and adopt the annual financial statements for the year ended 31 March 2012, together with the reports of the directors, audit committee and auditors.
- Ordinary resolution number 2:** Re-appointment of auditors and confirmation of their remuneration  
To approve the continuation in office of the current auditors, PricewaterhouseCoopers Inc., as independent auditors for the forthcoming year and to confirm their remuneration for the past year's audit.
- Ordinary resolution number 3:** Re-election of director: FD Butler  
To re-elect Mr FD Butler who retires by rotation in terms of the company's memorandum of incorporation.
- Ordinary resolution number 4:** Re-election of director: Prof SS Loubser  
To re-elect Prof SS Loubser who retires by rotation in terms of the company's memorandum of incorporation.
- Ordinary resolution number 5:** Re-election of director: RB Humphris  
To re-elect Mr RB Humphris who retires by rotation in terms of the company's memorandum of incorporation.
- Ordinary resolution number 6:** Re-election of director: NKH Fitz-Gibbon  
To re-elect Mr NKH Fitz-Gibbon who retires by rotation in terms of the company's memorandum of incorporation.

7. **Ordinary resolution number 7:** Confirmation of appointment of new director: RC Bowen To confirm the appointment of Mr RC Bowen as a director of Omnia Holdings Limited in accordance with the memorandum of incorporation of the company.

All retiring directors are eligible and offer themselves for re-election as directors of Omnia Holdings Limited in accordance with the provisions of the memorandum of incorporation of Omnia Holdings Limited.

Abbreviated curriculum vitae in respect of each director offering himself for re-election or confirmation are listed immediately below this notice.

8. **Ordinary resolution number 8:** Appointment of audit committee  
Subject to FD Butler's re-election in terms of ordinary resolution number 3, to confirm the appointment of the audit committee comprising the following independent non-executive directors:  
HH Hickey  
FD Butler  
D Naidoo

Abbreviated curriculum vitae in respect of each director offering themselves for appointment to the audit committee are listed immediately below this notice.

9. **Ordinary resolution number 9:** Remuneration policy  
To approve the company's remuneration policy for the year ending March 2012 contained on pages 98 to 100 of the Omnia Holdings Limited Integrated Annual Report dated 21 June 2012 which was distributed to shareholders in July 2012.

#### **EXPLANATION**

This resolution is required in accordance with the King III recommendation that the company obtain an advisory vote by the shareholders in general meeting, on the remuneration policy applicable to all employees and directors of the company, and any of its subsidiaries or divisions. The vote is not binding on the company.

10. **Ordinary resolution number 10:** General authority to place unissued shares under the control of the directors  
To renew the authority that all the unissued shares be placed under the control of the directors.

Subject to the provisions of the memorandum of incorporation of the company and the JSE Listings Requirements, that the entire authorised, but unissued share capital of the company from time to time, be and is hereby placed under the disposal and under the control of the directors of the company and the directors are hereby authorised to allot, issue and otherwise dispose thereof to such person or persons and on such terms and conditions at their discretion as a general authority until the next annual general meeting, and subject to the aggregate number of such shares able to be allotted, issued and otherwise disposed of in terms of this resolution being limited to a maximum of 5% (five percent) of the number of issued share capital and further subject to the provisions of the JSE Listings Requirements.

# Notice to shareholders of Omnia Holdings Limited *(continued)*

11. **Ordinary resolution number 11:** Authorisation to sign documents giving effect to resolutions

“Resolved that any one director or the secretary of the company be and they are hereby authorised to do all such things and sign all documents and take all such action as they consider necessary to implement the resolutions set out in the notice convening the annual general meeting”

All ordinary resolutions shall require more than 50% of the votes cast by shareholders present or represented by proxy at this annual general meeting, and entitled to vote, in order to pass.

## SPECIAL BUSINESS

12. **Special resolutions numbers 12.1 – 12.2**

- 12.1 **Special resolution 12.1:** Non-executive directors’ fees

To approve that the annual fees payable to the non-executive directors from 1 October 2012 until 30 September 2013, and which will be paid quarterly in arrears, be as follows:

Activity	Current fee	Proposed fee
Main board per meeting attended	R29 000	R30 750
Audit committee per meeting attended	R22 500	R24 000
Main board related consulting services per hour	R2 100	R2 200
Subsidiary board and social, ethics and risk committee per meeting attended	R16 000	R17 000
Subsidiary board related consulting services per hour	R1 750	R1 850
Remuneration committee per meeting attended	R16 000	R17 000
Audit committee chairperson per meeting attended	R39 000	R41 500
Remuneration, and social, ethics and risk committee chairperson per meeting attended	R28 000	R29 750

12.2 **Special resolution 12.2:** Chairman's fees

To approve that the chairman's fees be increased from R2 347 794 to R2 500 000 from 1 October 2012 until 30 September 2013.

**EXPLANATION**

The reason for and effect of special resolutions numbers 12.1 and 12.2 is to grant the company the authority to pay fees or remuneration to its directors for their services as directors in accordance with section 66(9) of the Companies Act. Each of special resolutions numbers 12.1 and 12.2 will be considered by way of a separate vote and, in order for each such resolution to be adopted, the support of at least 75% (seventy-five percent) of the total number of the votes cast by shareholders present or represented by proxy at this annual general meeting, and entitled to vote, is required.

13. **Special resolution number 13:** Financial assistance to a related or inter-related company  
To authorise the directors, in terms of and subject to the provisions of section 45 of the Companies Act to cause the company to provide any financial assistance to any company or corporation which is related or inter-related to the company.

**EXPLANATION**

The reason for and effect of this special resolution number 13 is to grant the directors of the company the authority to cause the company to provide financial assistance to any company or corporation which is related or inter-related to the company. It does not authorise the provision of financial assistance to a director or prescribed officer of the company. In order for this special resolution number 13 to be adopted, the support of at least 75% (seventy-five percent) of the total number of votes cast by shareholders present or represented by proxy at this annual general meeting and entitled to vote, is required.

14. **Special resolution number 14:** Adoption of the new memorandum of incorporation  
To approve the adoption of a new memorandum of incorporation (formerly the company's memorandum and articles of association), the material provisions of which are listed immediately below this notice and a draft of which was tabled at this AGM and initialled by the chairman for purposes of identification, thereby abrogating and replacing the existing memorandum of incorporation in its entirety, in order to bring it in harmony with the Companies Act, with effect from the date of filing of the requisite notice of amendment at the Companies and Intellectual Property Commission.

# *Notice to shareholders of Omnia Holdings Limited* (continued)

## **EXPLANATION**

The reason for and effect of this resolution is to approve the adoption of a new memorandum of incorporation of the company to bring it in harmony with the Companies Act.

The coming into effect of the Companies Act has materially altered the requirements for the memorandum of incorporation of a company. In response thereto, the JSE has also altered its requirements for the memorandum of incorporation of a listed company. In order to ensure compliance with the abovementioned alterations, as well as in order to optimise its governance processes in a changed regulatory environment, the company has undertaken a review of its existing memorandum of incorporation and has prepared a new draft memorandum of incorporation.

The salient features of the company's new memorandum of incorporation are set out at the end of this notice. The complete new memorandum of incorporation and the existing memorandum of incorporation (formerly the company's memorandum and articles of association) have been posted on the company's website which is [www.omnia.co.za](http://www.omnia.co.za). Copies of both the new memorandum of incorporation and the existing memorandum of incorporation are available for inspection at the company's registered office during normal business hours at any time prior to the commencement of the annual general meeting.

In order for this special resolution number 14 to be adopted, the support of at least 75% (seventy-five percent) of the total number of votes cast by shareholders present or represented by proxy at this annual general meeting and entitled to vote, is required.

## **SOLVENCY AND LIQUIDITY STATEMENT**

The directors confirm that the company will not enter into any transaction in terms of resolution 10 or special resolution 13 unless:

- the company and its subsidiaries (the Group) will be able to pay its debts as they become due in the ordinary course of business for a period of 12 (twelve) months after the date of the transaction;
- the assets of the company and the Group, valued in accordance with the accounting policies used in the latest Group annual financial statements will exceed the liabilities of the company and the Group for a period of 12 (twelve) months;
- the share capital and reserves of the company and the Group will be adequate for ordinary business purposes for a period of 12 (twelve) months after the date of the transaction; and
- the working capital of the company and the Group will be adequate for ordinary business purposes for a period of 12 (twelve) months after the date of the transaction.

## INTERPRETATION OF THIS NOTICE

In this notice (including the proxy form attached hereto) the term:

- “Articles” means the articles of association of the company;
- “beneficial shareholder” means the holder of a beneficial interest in shares of the company who is entitled to cast the votes attaching to those shares but is not the registered shareholder of those shares;
- “Companies Act” means the Companies Act (No 71 of 2008), as amended;
- “control” shall mean where the company
  - is able, directly or indirectly, to exercise control of the majority of the voting rights associated with the securities of that other company; or
  - has the right to appoint or elect directors of that other company, who control a majority of the votes at a meeting of those directors;
- “CSDP” means the Central Securities Depository Participant;
- “financial assistance” includes lending money, guaranteeing a loan granted by a third party such as a financial institution or an obligation to a supplier, and securing any debt or obligation;
- “JSE Listings Requirements” means the JSE Limited Listings Requirements as amended from time to time and as interpreted and applied by the JSE Limited;
- “register” means the company’s securities register and the company’s register of disclosures of beneficial interest in securities;
- “registered shareholder” or “shareholder” in relation to the shares means the holder of those shares whose name is entered in the company’s register as such and is entitled to cast the votes attaching to those shares; and
- “related” or “inter-related” company is a company which is either directly or indirectly controlled by the company or the business of the company, or is a subsidiary of the company.

The directors of Omnia Holdings Limited consider that the proposed resolutions in the notice to shareholders are in the best interest of Omnia Holdings Limited and its shareholders and recommend that you vote in favour as the directors of Omnia Holdings Limited intend to do in respect of their own beneficial holdings.

## VOTING

A member is entitled to attend and to vote at the above mentioned meeting subject to the provision of suitable identification. A member entitled to attend and vote at the above mentioned meeting may appoint one or more proxies to attend, speak and to vote in his/her stead. A proxy need not be a member of the company. A proxy form is enclosed. On a show of hands every shareholder present in person or by proxy and if a member is a body corporate, its representative, shall have one vote and on a poll every shareholder present in person or by proxy and if the person is a body corporate, its representative, shall have one vote for every share held or represented by him/her.

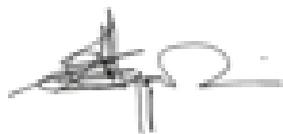
# *Notice to shareholders of Omnia Holdings Limited* (continued)

A form of proxy is attached for completion by registered certificated shareholders and dematerialised shareholders with own-name registration who are unable to attend the annual general meeting in person, but wish to be represented thereat. Forms of proxy must be completed in accordance with its instructions and received by the company secretary at the registered office or the transfer secretaries at 13th Floor, Rennie House, 19 Ameshoff Street, Braamfontein (PO Box 4844, Johannesburg, 2000), before the commencement of the annual general meeting (or any adjournment thereof) or handed to the chairman of the meeting before the appointed proxy exercises any shareholder rights at the meeting, provided that should such proxy be returned to the company secretary or transfer secretaries later than 10:00, Tuesday, 25 September 2012, then before the meeting, a copy of such proxy form will need to be furnished to the chairman of the meeting before the proxy exercises any shareholder rights at the meeting.

Registered certificated shareholders and dematerialised shareholders with own-name registration who complete and lodge forms of proxy will nevertheless be entitled to attend and vote in person at the annual general meeting to the exclusion of their appointed proxy/(ies) should such member wish to do so. Dematerialised shareholders, other than with own-name registrations, must inform their CSDP or broker of their intention to attend the annual general meeting and obtain the necessary authorisation from their CSDP or broker to attend the annual general meeting or provide their CSDP or broker with their voting instructions should they not be able to attend the annual general meeting in person but wish to be represented thereat. This must be done in terms of the agreement entered into between the shareholder and the CSDP or broker concerned.

Certificated shareholders whose shares are held through a nominee or broker, must inform their nominee or broker of their intention to attend the annual general meeting and obtain the necessary letter of representation from their nominee or broker or provide their nominee or broker with their voting instructions should they not be able to attend the annual general meeting in person.

By order of the Board



CD Appollis  
*Group company secretary*

21 June 2012

## Abbreviated CVs

**FD Butler, Prof SS Loubser, RB Humphris, NKH Fitz-Gibbon, RC Bowen, HH Hickey and D Naidoo**

**Name:** Frank Desmond Butler  
**Age:** 59  
**Qualifications:** BSc Chem Eng, MBA  
**Designation:** Independent non-executive director  
**Date appointed to the Board:** 27 September 2002  
**Board committee memberships:** Social, ethics and risk committee chairman and audit committee  
**Significant directorships:** None  
**Experience:** Private consultant in risk management and business strategies, having occupied senior positions including the position of chairman of CRM International Group (now Alexander Forbes Business Risk Solutions) during the period 1980 to 2001.

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**Name:** Prof Stephanus Sebastiaan Loubser  
**Age:** 64  
**Qualifications:** PhD  
**Designation:** Independent non-executive director  
**Date appointed to the Board:** 30 January 2003  
**Board committee memberships:** Remuneration committee chairman  
**Significant directorships:** Rola Holdings (Pty) Limited  
**Experience:** Has significant experience in the business world having served as Head of Operational Research at Sanlam, General Manager Marketing of the National Productivity Institute and Managing Director of Nissan Marketing Company. During 1996, Prof Loubser joined the University of Stellenbosch as Senior Lecturer and later as Professor of Marketing of the Graduate School of Business. In addition, Professor Loubser does extensive private consulting to a number of organisations in the fields of strategy, marketing and business transformation.

## Abbreviated CVs (continued)

**Name:** Roderick Bevil Humphris  
**Age:** 55  
**Qualifications:** BSc Chem Eng, BCom  
**Title:** Group managing director  
**Date appointed to the Board:** 11 March 1999  
**Board committee memberships:** Social, ethics and risk committee  
**Significant directorships:** None  
**Experience:** After gaining experience in gold, uranium, flotation and sulphuric acid at Anglo-American's President Brand and Ergo mines, joined Omnia as a project engineer in 1982. After occupying various positions within the Omnia Group, he became managing director of Omnia Fertilizer in 1995 and Group managing director of Omnia Holdings Limited in 1999.

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**Name:** Noel Kurt Harford Fitz-Gibbon  
**Age:** 58  
**Qualifications:** BCom (Cum Laude); Chartered Accountant (SA)  
**Title:** Group finance director  
**Date appointed to the Board:** 20 December 1993  
**Board committee memberships:** None  
**Significant directorships:** None  
**Experience:** Over 36 years of experience in various financial management positions in different industries. Group finance director of Omnia Holdings Limited from 1993 until 1999. Thereafter, served as a non-executive director of Omnia Holdings Limited. Re-joined Omnia Holdings Limited in an executive role as Group commercial director in April 2006. In September 2010 he was appointed as Group finance director.

**Name:** Ronald Clifford Bowen  
**Age:** 60  
**Qualifications:** BSc 1<sup>st</sup> Class Honours (University of East Anglia, Norwich, England)  
**Designation:** Independent non-executive director  
**Date appointed to the Board:** 28 September 2011  
**Board committee memberships:** None  
**Significant directorships:** None  
**Experience:** Was a senior executive managing businesses on five continents for Sud-Chemie AG Group, Munich, Germany, for the past 30 years prior to his retirement in 2010.

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**Name:** Hester Helena Hickey  
**Age:** 58  
**Qualifications:** BCompt Hons, Chartered Accountant (SA)  
**Designation:** Independent non-executive director  
**Date appointed to the Board:** 13 June 2008  
**Board committee memberships:** Audit committee chairman  
**Significant directorships:** African Dawn Capital Limited, Pan African resources PLC, Trustee of Mine Workers Pension and Sentinel Pension Funds  
**Experience:** After a period as partner of Ironside Greenwood Chartered Accountants, joined BDO Spencer Stewart in 1990 as National Technical and Training Manager. Joined Transnet in 1994 as Acting Head of Internal Audit in order to implement and execute a transformation process and, particularly, to transform the internal audit department of Transnet from a traditionally focused unit to a more modern risk-based function. In 1998, after a period with Ernst & Young and Liberty Life, joined AngloGold Ashanti initially as Group Internal Audit Manager and thereafter as Executive Officer: Head of Risk, a position held until 2007. Currently serves on the Board and is a member of the audit committee of several listed and private companies and also performs board evaluations for the Institute of Directors. Former Chairman of the South African Institute of Chartered Accountants and past director of Metorex Limited and Glenrand MIB Limited.

## Abbreviated CVs *(continued)*

<b>Name:</b>	Dhanasagree (Daisy) Naidoo
<b>Age:</b>	40
<b>Qualifications:</b>	BCom, Chartered Accountant (SA), Master in Accounting (Tax)
<b>Date appointed to the Board:</b>	1 April 2011
<b>Board committee memberships:</b>	Audit committee and remuneration committee
<b>Significant directorships:</b>	STRATE Limited, Hudaco Industries Limited, Mr Price Limited, Mercantile Bank Holdings Limited, Marriott Unit Trust Management Company Limited
<b>Experience:</b>	Worked at Sanlam Capital Markets for more than nine years where she served, inter alia, as the Head of the Debt Structuring Unit and was appointed to the sub-credit committee of the Sanlam Investment Cluster. Currently serves on boards and is a member of the audit committees of several listed and private companies. Member of SAICA and the Institute of Directors of South Africa.

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## **MATERIAL TERMS OF MEMORANDUM OF INCORPORATION**

### **Explanatory memorandum on the adoption of a new memorandum of incorporation (MOI) and summary of the provisions of the new MOI for Omnia Holdings Limited (Omnia)**

**(This explanatory memorandum and summary is not a substitute for and must be read in conjunction with the full draft of the new MOI, as well as the Companies Act and the JSE Listings Requirements)**

#### **1. Explanatory note on the adoption of a new MOI**

- 1.1 Omnia recently decided that a holistic approach was needed to replace its existing MOI (formerly memorandum and articles of association) with a new MOI to bring it in harmony with the provisions of the Companies Act which came into force on 1 May 2011. The Companies Act has brought significant changes in the company law landscape – the changes necessitated that the existing MOI of Omnia be amended and be replaced with a new MOI so as to ensure that the MOI complies and is consistent with the changes brought by the Companies Act. The notable provisions of the Companies Act which are dealt with in the new MOI are set out below.
- 1.2 Another reason for the need to adopt a new MOI is that the JSE Listings Requirements have been amended to be in line with the provisions of the Companies Act. Schedule 10 to the JSE Listings Requirements, which sets out provisions which an MOI of a listed company has to comply with, has been amended. Therefore Omnia has to ensure that its MOI, in addition to complying with the provisions of the Companies Act, also complies with the provisions of the JSE Listings Requirements. The approval of the JSE has been obtained prior to adoption of the new MOI, after which it will be placed before the general meeting for approval and thereafter filed with the Companies and Intellectual Property Commission.
- 1.3 The Companies Act brings with it flexibility in that a company is afforded the freedom to include in its MOI certain provisions which the Companies Act allows to be altered only in the MOI – these are referred to as alterable provisions. The alterable provisions can only be altered in the MOI and unless the MOI has altered these provisions, the default provisions (ie the provisions of the Companies Act) will apply. A good example is section 66(2) and (3), which, in the case of section 66(2), provides that a board of directors of a public company must comprise at least three directors – and section 66(3) then allows an MOI to provide for a higher number. The provision of section 66(2) has been altered in the new MOI in that it is provided in clause 23(1) of the new MOI that the Board of Omnia will comprise not less than four and not more than 15 directors.

## **MATERIAL TERMS OF MEMORANDUM OF INCORPORATION** *(continued)*

- 1.4 A special resolution of shareholders is necessary for the giving of financial assistance to subsidiaries and related and inter-related companies, in terms of section 45 of the Companies Act. These matters have been dealt with in the new MOI – see clause 26 thereof.
- 1.5 In terms of section 66(9) of the Companies Act, remuneration paid to directors must be approved by shareholders. The new MOI makes provision for the payment of remuneration to directors – see clause 25. It is worth noting that in terms of section 30(4) of the Companies Act any remuneration paid to directors for services as directors and persons holding prescribed office (commonly known as prescribed officers) must be disclosed in the annual financial statements of the company.
- 1.6 The Companies Act provides for the establishment of an audit committee as a shareholder committee, ie it must be established by the shareholders and its members must be elected by shareholders in terms of section 94 of the Companies Act. Members must be non-executive directors of Omnia, who are 'independent'. The new MOI deals with the appointment of an audit committee – see clause 20.
- 1.7 The Companies Act introduces a new statutory committee, ie the social and ethics committee, which Omnia as a listed public company is required to establish in accordance with the provisions of section 72(4) of the Companies Act, read with Regulation 43 of the Companies Regulations. Although the social and ethics committee is a statutory committee, it is a committee that has to be established by the Board and the members of which are appointed by the Board. Clause 40 of the new MOI deals with matters relating to the social and ethics committee.
- 1.8 In terms of section 68(2), directors must be appointed by a series of votes at a general meeting. The MOI deals with the manner of election of directors – see clauses 23.5, 23.8, 23.9 and 23.10. The new MOI also deals with the manner of rotation and retirement of directors as required in terms of the JSE Listings Requirements – see clauses 23.2.1, 23.2.2, 23.3 and 23.4.
- 1.9 Notwithstanding that the existing MOI of Omnia may not be in full compliance with the provisions of the Companies Act, in terms of item 4 of schedule 5 to the Companies Act, there is a moratorium period of two years from 1 May 2011 in case there is a conflict between the existing MOI of a company and the provisions of the Companies Act, in which case the provisions of the MOI will prevail. After the expiry of the two years, if there is a conflict between the provisions of the MOI and the provisions of the Companies Act, the provisions of the Companies Act will prevail to the extent of the conflict.

## **2. Summary of some of the key provisions of the new MOI**

### **2.1 Clause 1**

Clause 1 deals with definitions used in the MOI. Consideration should also be had to Schedule 1 to the MOI which also sets out definitions used in the MOI. The definitions in Schedule 1 are those set out in the Companies Act. It is not a requirement in terms of the Companies Act that the definitions in Schedule 1 be included in the MOI. The inclusion is simply for easy reading as certain defined terms in the Companies Act are used in the MOI.

### **2.2 Clause 5**

Clause 5 re-iterates the provisions of section 19 of the Companies Act which affords a company all the legal powers and capacity of an individual, subject to what is provided in that section. Section 15(2)(b) allows for the inclusion of any special conditions in the MOI. This MOI does not have any special conditions and clause 5 also confirms that.

### **2.3 Clause 6**

This clause simply provides for the manner and the process in terms of which the MOI may be amended. Any amendment of the MOI, save for correcting of errors, will need to be approved by a special resolution.

### **2.4 Clause 7**

Section 15(3) allows for the board of a company to make or amend rules relating to the governance of the company. Item 10.4 of Schedule 10 to the JSE Listings Requirements prohibits a listed company to have rules. Thus clause 7 strictly provides for the fact that the Board will not have the capacity to make or amend any rules, so as to be consistent with the JSE Listings Requirements.

### **2.5 Clause 8**

This clause simply provides for the number of authorised shares that Omnia is authorised to issue. It also states that any changes to authorisation and classification of shares should be approved by shareholders by special resolution. It also affords protection to the shareholders in that no rights attaching to any shares may be varied in a manner which is adverse to the holder of such shares, unless such variation is approved by holders of the shares, the rights of which are being varied. The company cannot offer financial assistance for the acquisition of its shares without complying with the process in section 44 of the Companies Act.

### **2.6 Clause 9**

The clause restricts the Board from having the power to issue shares without the prior approval of shareholders. However, the Board may have the power to issue capitalisation shares in terms of section 47 of the Companies Act.

## **MATERIAL TERMS OF MEMORANDUM OF INCORPORATION** *(continued)*

### **2.7 Clause 10**

If Omnia were to issue any new shares for cash it must, in terms of clause 10, offer any such new issues to the existing shareholders. The pre-emptive rights will not apply if the issue of shares is a capitalisation issue or an issue for acquisition of assets or an issue for purposes of a merger or amalgamation or an issue in terms of an option or conversion rights. The clause is also in compliance with item 10.1 of Schedule 10 to the JSE Listings Requirements.

### **2.8 Clauses 11 and 12**

These clauses deal with buy-backs and buy-ins and the manner in which they may be effected. Both buy-backs and buy-ins require ordinary resolutions and compliance with the JSE Listings Requirements.

### **2.9 Clause 13**

The clause deals with share certificates, uncertificated securities and maintenance of the securities/share register, including the manner in which the certificates may be issued and/or lost certificates replaced. The clause is drafted to be consistent with the provisions of sections 49, 50, 51, 52 and other relevant provisions of the Companies Act.

### **2.10 Clause 14**

The clause allows for shares to be held by one person for the beneficial interest of another person. For example, a fund manager may hold shares for the beneficial interest of its client. However, if a holder of beneficial interest (who ordinarily would not be the registered shareholder) wishes to vote his/her/its shares, he/she/it must have a proxy to do so – ordinarily the company has a duty to the registered shareholder and any notice and proposed resolutions would have been sent to the registered holder (who in this instance would be the fund manager) not to the holder of beneficial interest. The clause also requires the registered shareholder to identify the person on whose behalf he/she/it is holding the shares.

### **2.11 Clause 16**

Item 10.14 of the JSE Listings Requirements provides for this.

### **2.12 Clause 17**

Since Omnia is a public company, there is no restriction on the transfer of its issued shares. The clause deals with the process regarding transfer of shares.

### **2.13 Clause 18**

The clause deals with the manner in which the shares held by a deceased person would be dealt with. Item 10.13 of Schedule 10 to the JSE Listings Requirements requires that a provision be included in the MOI dealing with this.

#### **2.14 Clause 19**

The keeping of accounting records and preparation of financial statements are required in terms of sections 28 and 29 of the Companies Act. This clause is drafted to be consistent with these sections.

#### **2.15 Clause 20**

As a public company Omnia is required to have an audit committee and to also appoint an auditor. This clause deals with the requirements and process for the appointment of the audit committee and the auditor. The clause is drafted to be consistent with section 94 of the Companies Act.

#### **2.16 Clause 21**

2.16.1 The clause deals with the convening of and procedures at shareholders' meetings. The clause deals with the convening of an annual general meeting which the company is required to convene and also sets out the minimum business that the annual general meeting is required to deal with. In addition, the clause deals with the convening of (ordinary) general meetings. In terms of clause 21.6, the Board or shareholders holding not less than 10% of the voting rights attached to ordinary shares may convene a shareholders' meeting. In terms of clause 21.9, the notice of a shareholders' meeting must also be announced on SENS – this is a requirement in terms of item 10.11(f) of Schedule 10 to the JSE Listings Requirements. The clause also deals with the quorum for shareholders' meetings, which must be 25% of shareholders with voting rights entitled to be exercised in a particular resolution – clause 21.17.

2.16.2 In terms of clause 21.28, ordinary resolutions require more than 50% approval, while special resolutions require 75% approval. Clause 21.28 also takes into account instances where the JSE Listings Requirements would require certain ordinary resolutions to be approved by 75% of shareholders.

2.16.3 The limit set out in clause 21.29 regarding the voting rights that a shareholder may be entitled to are in compliance with item 10.5(c) of Schedule 10 to the JSE Listings Requirements, which sets out this requirement.

#### **2.17 Clause 22**

It is a requirement of item 10.15 of Schedule 10 to the JSE Listings Requirements that the Board must set and determine a record date for shareholders' meetings. Section 59 of the Companies Act also provides for this.

## **MATERIAL TERMS OF MEMORANDUM OF INCORPORATION** *(continued)*

### **2.18 Clauses 23 and 24**

- 2.18.1 In terms of clause 23.1, the minimum number of directors is four. Item 10.16(a) of Schedule 10 requires a minimum of four, while section 66(2)(b) provides for three. However, in terms of section 66(3), a company's MOI may provide for a higher number, thus a minimum of four will comply with both the JSE Listings Requirements and the Companies Act. The maximum of 15 directors is in accordance with the existing MOI – article 15.1.
- 2.18.2 Clauses 23.2, 23.3 and 23.4 deal with the rotation and retirement of directors – this is in compliance with paragraph 10.16(g) of Schedule 10 to the JSE Listings Requirements which require a third of non-executive directors to retire at an annual general meeting.
- 2.18.3 Clause 24 deals with the manner and circumstances under which a person would cease to be a director.

### **2.19 Clause 25**

The clause provides for payment of remuneration to directors, alternate directors and members of committees, which remuneration must be approved by a shareholders' special resolution.

### **2.20 Clause 26**

Clause 26 allows for the company to provide financial assistance to directors and prescribed officers, subject to the provisions of section 45 of the Companies Act.

### **2.21 Clause 27**

The clause provides for the fact that the powers of the directors to manage the company are not limited by section 66(1). In terms of section 66(1), the powers to manage may be curtailed in the MOI.

### **2.22 Clauses 28 and 29**

Clause 28 provides for the appointment, by the Board, of executive management, in line with the provisions of King III. Clause 29 provides for the establishment of committees by the Board, in addition to the statutory committees, viz, the audit committee and the social and ethics committee.

### **2.23 Clause 30**

This clause requires directors to make disclosures regarding any personal financial interests that they have with the company. The clause is drafted in accordance and consistent with section 75 of the Companies Act. Section 75 sets out the procedure that a director who has a personal financial interest must follow in relation to the disclosure of such interest.

#### **2.24 Clause 31**

This clause deals with the calling of a board meeting and the manner in which proceedings at the Board meetings will be handled. In terms of clause 31.6, the quorum for a Board meeting is 50% of the directors. Each director will have one vote at the meeting and majority of votes cast at the meeting will pass a resolution. A chairperson has a casting vote if he did not have an initial vote – clause 31.9. A round-robin resolution may be passed by 75% of directors – clause 31.13.

#### **2.25 Clause 32**

The clause deals with prescribed officers, ie any person who is a prescribed officer must be eligible or qualified to be a director, as the standard of conduct and liability of directors apply to prescribed officers.

#### **2.26 Clause 33**

The clause sets out the procedure and terms under which a company secretary would be appointed, the notice period (1 month) that the company secretary is required to give when resigning, and the rights that a company secretary has when being removed from office, ie the inclusion of contention regarding his/her removal in the financial statements.

#### **2.27 Clause 34**

The clause deals with the making of distributions (including dividends) to shareholders. The clause is drafted to be consistent with section 46 of the Companies Act.

#### **2.28 Clause 36**

The clause deals with the manner in which the company would give notices to shareholders. In terms of the clause, the company may give notices to shareholders by way of electronic communication. The clause must be read in conjunction with Schedule 3 to the new MOI, which sets out deemed delivery dates/periods where the company has given notice to shareholders applying a particular method of giving such notice, which may either be hand delivery, by post, electronic communication, fax and so forth (all of which are set forth in Schedule 3 to the MOI). Schedule 3 is taken from Table CR3 in the Regulations of the Companies Act.

#### **2.29 Clause 37**

The clause is designed to enable the company to take out directors' indemnity insurance which will cover the liabilities of directors under certain circumstances. The clause is drafted to be consistent with section 78 of the Companies Act.

## **MATERIAL TERMS OF MEMORANDUM OF INCORPORATION** *(continued)*

### **2.30 Clause 38**

The clause deals with the requirement and the procedure for the establishment and maintenance of a register of disclosures. Section 56(7) of the Companies Act requires that a regulated company, being a company to which the takeover regulations contemplated in the Companies Act apply – Omnia as a public company is a regulated company and is thus required to establish and maintain a register of disclosures.

### **2.31 Clause 39**

The clause deals with the appointment of the social and ethics committee, which Omnia as a listed company is required to establish. The clause is drafted in line with the provisions of Regulation 43 of the Companies Act Regulations.

# Form of proxy

## **For use at the annual general meeting to be held at Bryanston on 27 September 2012 at 10:00**

(To be completed by certificated shareholders and dematerialised shareholders with own-name registration only)

If shareholders have dematerialised their shares with a CSDP or broker, they must arrange with the CSDP or broker concerned to provide them with the necessary authorisation to attend the annual general meeting or the shareholders concerned must instruct them as to how they wish to vote in this regard.

This must be done in terms of the agreement entered into between the shareholder and the CSDP or broker concerned.

I/We \_\_\_\_\_  
(full name and surname in block letters)

of \_\_\_\_\_  
(full address)

being the registered holder of \_\_\_\_\_ shares in the company hereby appoint:

1. \_\_\_\_\_ or
2. \_\_\_\_\_ or

the chairman of the meeting as my/our proxy to attend, speak and to vote for me/us and on my/our behalf at the annual general meeting of Omnia Holdings Limited to be held on 27 September 2012 at Omnia House, 13 Sloane Street, Epsom Downs, Bryanston, and at every adjournment of that meeting as follows:

## Form of proxy (continued)

<b>Resolution</b>	<b>For</b>	<b>Against</b>	<b>Abstain</b>
Ordinary resolution number 1: To receive and adopt the annual financial statements for the year ended 31 March 2012			
Ordinary resolution number 2: Confirmation of the appointment of the auditors for the ensuing year and approval of their remuneration			
Ordinary resolution number 3: Re-election of director: FD Butler			
Ordinary resolution number 4: Re-election of director: SS Loubser			
Ordinary resolution number 5: Re-election of director: RB Humphris			
Ordinary resolution number 6: Re-election of director: NKH Fitz-Gibbon			
Ordinary resolution number 7: Confirmation of appointment of director: RC Bowen			
Ordinary resolution number 8: Appointment of audit committee			
Ordinary resolution number 9: Approval of remuneration policy			
Ordinary resolution number 10: The renewal of the authority that all the unissued shares be placed under the control of the directors			
Ordinary resolution number 11: Authorisation to sign documents giving effect to resolutions			
Special resolution number 12: Approval of directors' fees			
12.1 Approval of non-executives' fees			
12.2 Approval of chairman's fees			
Special resolution number 13: Financial assistance to related or inter-related company			
Special resolution number 14: Adoption of new memorandum of incorporation			

(Mark whichever is applicable. If no direction is given, the proxy holder will be entitled to vote or to abstain from voting as that proxy holder deems fit.)

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2012.

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

Capacity and authorisation (see note 7):  
\_\_\_\_\_

## Notes to proxy

1. A member may insert the name of a proxy or the names of two alternate proxies of the member's choice in the space(s) provided, with or without deleting "the chairman of the meeting". The person whose name stands first on the form of proxy and who is present at the meeting will be entitled to act as proxy to the exclusion of those whose names follow. A member should insert an "X" in the relevant space according to how he wishes his/her votes to be cast.
2. However, if a member wishes to cast a vote in respect of a lesser number of ordinary shares than he/she owns in the company, he/she should insert the number of ordinary shares held in respect of which he/she wishes to vote. Failure to comply with the above will be deemed to authorise the proxy to vote or to abstain from voting at the meeting as he/she deems fit in respect of all the member's votes exercisable at the meeting. A member is not obliged to use all the votes exercisable by him/her, but the total of the votes cast and abstentions recorded may not exceed the total number of the votes exercisable by the member.
3. The completion and lodging of this form of proxy will not preclude the relevant member from attending the meeting and speaking and voting in person to the exclusion of any proxy appointed in terms hereof, should such member wish to so do.
4. The chairman of the meeting may reject or accept any form of proxy which is completed and/or received other than in compliance with these notes.
5. Shareholders who have dematerialised their shares with a CSDP or broker, other than own-name registrations, must arrange with the CSDP or broker concerned to provide them with the necessary authorisation to attend the meeting or the shareholders concerned must instruct their CSDP or broker as to how they wish to vote in this regard. This must be done in terms of the agreement entered into between the shareholder and the CSDP or broker concerned.
6. Any alteration to this form of proxy, other than the deletion of alternatives, must be signed, not initialled, by the signatory/(ies).
7. Documentary evidence establishing the authority of a person signing this form of proxy in a representative capacity (eg on behalf of a company, close corporation, trust, pension fund, deceased estate, etc) must be attached to this form of proxy, unless previously recorded by the company or waived by the chairman of the meeting.
8. A minor must be assisted by his/her parent or guardian, unless the relevant documents establishing his/her capacity are produced or have been registered by the company.

## Notes to proxy *(continued)*

9. Where there are joint holders of shares, any one holder may sign the form of proxy; and the vote of the senior joint holder who tenders a vote, as determined by the order in which the names stand in the company's register of members, will be accepted.
10. Forms of proxy must be completed in accordance with its instructions and received by the company secretary at the registered office or the transfer secretaries at 13th Floor, Rennie House, 19 Ameshoff Street, Braamfontein (PO Box 4844, Johannesburg, 2000), before the commencement of the annual general meeting (or any adjournment thereof) or handed to the chairman of the meeting before the appointed proxy exercises any shareholder rights at the meeting, provided that should such proxy be returned to the company secretary or transfer secretaries later than 10:00 on Tuesday, 25 September 2012, then, before the meeting, a copy of such proxy form will need to be furnished to the chairman of the meeting before the proxy exercises any shareholder rights at the meeting.
11. A proxy may delegate the authority received from the holder to a further person(s), subject to any restriction set out in this form of proxy
12. If this form of proxy has been delivered to the company in accordance with note 10, then, for as long as that appointment remains in effect, any notice that is required in terms of the Companies Act or the company's memorandum of incorporation to be delivered by the company to a shareholder, must be delivered by the company to the shareholder or alternatively, if a shareholder has directed the company to do so in writing and has paid any reasonable fees charged by the company for doing so, to such shareholder's proxy/ies.
13. Except if a shareholder provides in this form of proxy that a proxy appointment is irrevocable, a shareholder may revoke the proxy appointment by: (i) cancelling it in writing, or making a later inconsistent appointment of a proxy; and (ii) delivering a copy of the revocation instrument to the proxy/ies and to the company's transfer secretaries at 13th Floor, Rennie House, 19 Ameshoff Street, Braamfontein (PO Box 4844, Johannesburg, 2000), to be received before the replacement proxy/ies exercise(s) any rights of the holder at the annual general meeting or any adjournment thereof.
14. The revocation of a proxy appointment constitutes a complete and final cancellation of the authority of the proxy/ies to act on behalf of the shareholder as of the later of: (i) the date stated in the revocation instrument, if any; or (ii) the date on which the revocation instrument was delivered as required in paragraph 13 above.

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# Contact information

**Group company secretary**

CD Appollis

**Registered office and postal address**

Omnia Holdings Limited  
Registration number: 1967/003680/06  
JSE code: OMN ISIN: ZAE000005153  
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Bryanston 2021  
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**Transfer secretaries**

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13th Floor, Rennie House  
19 Ameshoff Street, Braamfontein  
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