



## **BRAIT SE**

(Formerly "Brait S.A.")  
(Registered in Malta as a European Company)  
(Registration number SE1)  
Listed in Luxembourg and South Africa  
Share code: BAT ISIN: LU0011857645  
("the Company" or "Brait")

### **Circular to Brait shareholders**

relating to:

- an increase in the authorised share capital of Brait, by the creation of 20 000 000 (twenty million) cumulative, non-participating Preference Shares with a nominal value of Euro 0.01 each ("Preference Shares");
- amendments to the Company's Memorandum and Articles of Association to incorporate the rights, privileges, restrictions and conditions attaching to the Preference Shares;
- the authority for the issuance of up to 20 000 000 (twenty million) of the Preference Shares, without having to respect pre-emption rights, over a maximum period of 18 (eighteen) months;
- an initial issuance which is expected to be between 10 000 000 (ten million) and 15 000 000 (fifteen million) Preference Shares, with the ability to increase such initial issuance to 20 000 000 (twenty million) Preference Shares, subject to investor demand;
- a Subscription Price of ZAR100.00 for the initial issuance. For Malta and Luxembourg purposes the Subscription Price shall be the Euro equivalent of ZAR100.00 as at Closing;
- further issues of the authorised but unissued Preference Shares to the extent the full 20 000 000 (twenty million) Preference Shares are not issued in terms of the initial issuance, at a Subscription Price to be determined by the directors;

including:

- a notice of Extraordinary General Meeting at the Company's registered office at 10:00 CET on 25 July 2012 and the proposed amendments to the M&A; and
- a form of proxy (*green*) (for use by certificated and "own name" dematerialised shareholders only).

**3 July 2012**

**Advisor, arranger, underwriter  
and sponsor**



**International Counsel and  
LuxSE Listing Agent**

**Maitland**

**Attorneys – South Africa**



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## Corporate Information and Advisors

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### Directors

P J Moleketi, A C Ball, C Keogh, R J Koch,  
C S Seabrooke, R Schembri, H R W Troskie,  
S J P Weber, C H Wiese.

### Company secretary

Dr Nadine Cachia  
4th Floor, Avantech Building  
St Julian's Road  
San Gwann SGN 2805  
Malta  
Tel: +356 2144 6377  
Fax: +356 2144 6330

### Attorneys – South Africa

Cliffe Dekker Hofmeyr Inc.  
1 Protea Place, Sandton  
Johannesburg, 2196  
South Africa  
Tel: +27 11 562 1000  
Fax: +27 11 562 1111

### Registrar and Transfer Agent

South Africa  
Computershare Investor Services (Pty) Limited  
70 Marshall Street, Johannesburg, 2001  
(PO Box 61051, Marshalltown, 2107)  
Tel: +27 11 370 5000  
Fax: +27 11 668 5200

### Advisor, arranger, underwriter and sponsor

Rand Merchant Bank  
1 Merchant Place  
Corner Fredman Drive and Rivonia Road  
Sandton, 2196  
South Africa  
Tel: +27 11 282 8000  
Fax: +27 11 282 8008

**Date of incorporation: 5 May 1976**

### Registered office of Brait

4th Floor, Avantech Building  
St Julian's Road  
San Gwann SGN 2805  
Malta  
Tel: +356 2144 6377  
Fax: +356 2144 6330

### International Counsel and LuxSE Listing Agent

M Partners  
A member of Maitland Legal  
56, Rue Charles Martel  
L-2134 Luxembourg  
Tel: +352 263 868  
Fax: +352 263 868 66

### Registrar and Transfer Agent

Luxembourg  
Maitland Luxembourg S.A.  
58, Rue Charles Martel  
L-2134  
Luxembourg  
Tel: +352 402 505 417  
Fax: +352 402 505 66

This circular is available in English only. Copies may be obtained from the registered office of the Company, the transfer agents and Rand Merchant Bank (a division of FirstRand) at the addresses set out above.

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## **ACTION REQUIRED BY BRAIT SHAREHOLDERS**

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The definitions and interpretations set out on pages 4 and 8 of this circular apply to this section on action required by Brait shareholders.

**Please take careful note of the following provisions regarding the action required by Brait shareholders:**

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

The Extraordinary General Meeting of Brait shareholders will be held at 10:00 on Wednesday, 25 July 2012 at the Company's registered office. Brait shareholders are advised to take careful note of the following provisions relating to the actions required by Brait shareholders relating to the proposed resolutions:

### **Action required by Brait shareholders**

#### **1. If you have dematerialised your Brait shares other than with "own-name" registration:**

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

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

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

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

#### **2. If you have not dematerialised your Brait shares or have dematerialised your Brait shares with "own-name" registration:**

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

- You may attend the Extraordinary General Meeting in person and may vote at the Extraordinary General Meeting.
- Alternatively, you may appoint a proxy to represent you at the Extraordinary General Meeting by completing the attached form of proxy (*green*) in accordance with the instructions it contains and return it to the registered office to be received by no later than 10:00 on Tuesday, 24 July 2012.
- Should you wish, rather than sending your duly-completed proxy form to the registered office, to send the proxy form to the appropriate transfer agents, so that they can ensure the proxy form is sent to the registered office timeously, you must send the duly-completed form of proxy (*green*) by 10:00 on Monday, 23 July 2012 to the appropriate transfer agent, in accordance with the instructions it contains.

**If you wish to dematerialise your Brait shares, please contact your CSDP or broker.**

If you have disposed of all of your Brait shares, this circular should be handed to the purchaser of such Brait shares or the CSDP, broker, banker or other agent who disposed of your Brait shares for you.

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## IMPORTANT DATES AND TIMES

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

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**2012**

Last day to trade to vote at the Extraordinary General Meeting	Friday 13 July
Record date to vote at the Extraordinary General Meeting	Friday 20 July
Last day for receipt of proxy forms for the Extraordinary General Meeting by the transfer agents by 10:00 on	Monday 23 July
Last day for receipt of proxy forms for the Extraordinary General Meeting by the Registered Office by 10:00 on	Tuesday 24 July
Extraordinary General Meeting to be held at 10:00 on	Wednesday 25 July
Results of the Extraordinary General Meeting released on the Exchange Information Services on	Wednesday 25 July

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**Notes:**

1. The above dates and times are subject to change. Any material changes will be released on the Exchange Information Services.
2. If the Extraordinary General Meeting is adjourned or postponed, forms of proxy must be received by no later than 24 (twenty-four) hours prior to the time of the adjournment or postponed Extraordinary General Meeting (excluding Saturdays, Sundays and official public holidays in South Africa, Luxembourg and Malta) by the registered office and 48 (forty-eight) hours prior to such time by the transfer agents.

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## DEFINITIONS AND INTERPRETATIONS

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In this circular, unless otherwise stated or the context otherwise indicates, the words and expressions in the first column shall have the meaning stated opposite them in the second column and words and expressions in the singular shall include the plural and *vice versa*, words importing natural persons shall include corporations and associations of persons and *vice versa* and any reference to one gender shall include the other gender:

<b>“Accumulated Dividends”</b>	in respect of each Preference Share and on any day, the aggregate of: <ul style="list-style-type: none"><li>• any Scheduled Dividend for any Dividend Period which ended prior to that day, to the extent to which that Scheduled Dividend has not been paid by the Company by the Dividend Payment Date in respect of that Dividend Period; plus</li><li>• any Additional Dividends which the Company should have paid in terms of clause 9.3.8 of the proposed Memorandum, but which the Company has failed to pay as of such day;</li></ul>
<b>“Actual Issue Date”</b>	in relation to each Preference Share, the date on which the Company issues that Preference Share to its first Holder;
<b>“Actual Redemption Date”</b>	in relation to each Preference Share, the date (if any) on which the Company redeems that Preference Share in accordance with the Company Redemption Provisions set out in clauses 9.4.2 to 9.4.5 of the proposed Memorandum;
<b>“Acquisition of Control”</b>	in relation to the Company, means that a person who held less than 30% (thirty per cent) of the issued Ordinary Shares on the Tax Reference Date, acquires such a number of Ordinary Shares as brings its holdings of the Ordinary Shares to 51% (fifty one per cent) or more of the issued Ordinary Shares;
<b>“Additional Dividends”</b>	in respect of each Preference Share, the dividends (over and above the Scheduled Dividend in respect of that Preference Share) envisaged in clause 9.3.10 of the proposed Memorandum;
<b>“Adjustment Event”</b>	means a Tax Change Event or a Rate Event;
<b>“Articles”</b>	Articles of Association of the Company;
<b>“Arranger and Underwriter”</b>	Rand Merchant Bank, a division of FirstRand Bank Limited, (Registration number 1929/001225/06), a public company incorporated in accordance with the laws of South Africa;
<b>“Beneficiary”</b>	in relation to a Preference Share, the beneficial owner of that Preference Share as reflected in the records of the applicable Programme Participant;
<b>“Brait” or “the Company”</b>	Brait SE, registration number SE1, a company incorporated in accordance with the laws of Malta as a European Company;
<b>“Brait shareholders” or “shareholders”</b>	holders of Brait shares;
<b>“Brait shares” or “Ordinary Shares”</b>	an ordinary share with a nominal value of Euro 0.22 (zero point two two) in the Company’s issued share capital;
<b>“business day”</b>	any day other than a Saturday, Sunday or statutory public holiday in Malta, Luxembourg or South Africa;
<b>“Calculation Dates”</b>	31 March and 30 September of each year;
<b>“certificated shareholder”</b>	a Brait shareholder holding certificated shares;
<b>“certificated shares”</b>	Brait shares represented by a paper share certificate or other physical document(s) of title, which shares have not been surrendered for dematerialisation;

<b>“circular”</b>	this circular to Brait shareholders dated 3 July 2012 incorporating a Notice of Extraordinary General Meeting and a Form of Proxy;
<b>“Clearstream”</b>	Clearstream Banking, <i>société anonyme</i> , a limited liability company incorporated under the laws of Luxembourg or any successor thereto;
<b>“Closing”</b>	17:00 on 30 July 2012 being the closing date of the Offer for Subscription or such later date on which the Offer for Subscription closes;
<b>“CSDP”</b>	a Participant, or a person that holds in custody and administers securities or an interest in securities and that has been accepted as a participant by the Central Securities Depository in terms of the Securities Services Act or person which has access to a Clearstream or Euroclear account;
<b>“Deemed Issue Price”</b>	in respect of each Preference Share and irrespective of the Subscription Price actually obtained by the Company for the issue of the Preference Share, an amount of ZAR100.00 (one hundred Rand);
<b>“Default Dividend Rate”</b>	subject to adjustment in accordance with the rate adjustment clauses set out in clauses 9.3.11 to 9.3.12 of the proposed Memorandum, a rate equal to 144% (one hundred and forty four per cent) of the Prime Rate;
<b>“dematerialised shareholder”</b>	Brait shareholder holding dematerialised shares;
<b>“dematerialised shares”</b>	Brait shares which have been dematerialised;
<b>“dematerialised”</b>	the process by which certificated shares are converted to or held in an electronic form as uncertificated shares and recorded in the subregister of shareholders maintained by a CSDP;
<b>“directors” or “the Board”</b>	the directors of Brait as listed on page 9 of this circular;
<b>“Distribution”</b>	any distribution of profits or capital which the Company makes in respect of any classes of shares in its issued share capital, other than the Preference Shares, irrespective of the manner in which that distribution is made (and includes, without limitation, the declaration and payment of any dividends, the repurchase of any shares and the redemption of any redeemable shares);
<b>“Dividend Default”</b>	means any failure by the Company to pay: <ul style="list-style-type: none"> <li>• the Scheduled Dividends (in respect of all the Outstanding Preference Shares) for any Dividend Period by the applicable Dividend Payment Date; and/or</li> <li>• any Additional Dividends by the date determined in accordance with clause 9.3.8 of the proposed Memorandum;</li> </ul>
<b>“Dividend Payment Date”</b>	in relation to each Dividend Period, (i) any day up to the date 90 (ninety) days after the first Calculation Date which occurs after the last day of that Dividend Period, or (ii) if applicable and earlier than the date in sub-clause (i), any day up to the date 5 (five) days prior to the day on which the Company makes any Distribution in respect of its Ordinary Shares;
<b>“Dividend Period”</b>	each period which commences on a Calculation Date and which ends on the day before the next Calculation Date provided that: <ul style="list-style-type: none"> <li>• the first Dividend Period in respect of any particular Preference Share shall (i) commence on the Actual Issue Date on which the Company issues that Preference Share to its first Holder, and (ii) end on the day before the first Calculation Date which occurs after that Actual Issue Date; and</li> <li>• the last Dividend Period in respect of any particular Preference Share shall be the period which (i) commences on the last Calculation Date which occurs prior to the Actual Redemption Date on which the Company redeems that Preference Share, and (ii) ends on the day before that Actual Redemption Date;</li> </ul>
<b>“Dividend Rate”</b>	subject to adjustment in accordance with the rate adjustment clauses set out in clauses 9.3.11 to 9.3.12 of the proposed Memorandum, a rate equal to 104% (one hundred and four per cent) of the Prime Rate;

<b>“Dividends Tax”</b>	the withholding tax on dividends imposed under Part VIII of Chapter II of the SA Tax Act;
<b>“Dividends Tax Rate”</b>	the rate at which the Dividends Tax is levied under the SA Tax Act from time to time;
<b>“documents of title”</b>	Brait share certificates, duly completed transfer forms, balance receipts or any other documents of title to certificated Brait shares acceptable to Brait;
<b>“Euro”</b>	the lawful currency of <i>inter alia</i> Malta;
<b>“Euroclear”</b>	Euroclear Bank S.A./N.V. as operator of the Euroclear system, Luxembourg;
<b>“European Company”</b>	a European public limited liability company (Societas Europaea) incorporated in terms of European Council Regulation No. 2157/2001;
<b>“Exchange Information Services”</b>	the JSE’s service known as the “Securities Exchange News Service” and the communication service of the LuxSE;
<b>“Exchanges”</b>	collectively, the LuxSE and the JSE and an “Exchange” will mean each or either of the Exchanges, as the context requires;
<b>“Extraordinary General Meeting”</b>	the meeting of Brait shareholders expected to take place at 10:00 CET on Wednesday, 25 July 2012 at the Company’s registered office. The meeting has been convened in terms of the Notice of Extraordinary General Meeting attached to this circular;
<b>“FirstRand”</b>	FirstRand Bank Limited;
<b>“Holder”</b>	in relation to a Preference Share, its registered holder as reflected in the Company’s share register;
<b>“JSE”</b>	the securities exchange known as the JSE Limited (which has been licensed as an exchange under the Securities Services Act);
<b>“JSE Listings Requirements”</b>	the listings requirements of the JSE, as amended from time to time;
<b>“last practicable date”</b>	the last practicable date prior to the finalisation of this circular, being Wednesday, 27 June 2012;
<b>“Luxembourg”</b>	the Grand-Duchy of Luxembourg;
<b>“Luxembourg Transfer Agent”</b>	Maitland Luxembourg S.A., Brait’s transfer agent in Luxembourg;
<b>“LuxSE”</b>	the Luxembourg Stock Exchange;
<b>“LuxSE Listings Requirements”</b>	the Rules and Regulations of the LuxSE, as amended from time to time;
<b>“M&amp;A”</b>	Memorandum and Articles
<b>“Malta”</b>	the Republic of Malta;
<b>“Maltese Companies Act”</b>	the Maltese Companies Act, Cap. 386 of the Laws of Malta;
<b>“Memorandum”</b>	the memorandum of association of the Company;
<b>“NAV”</b>	shall, if the Company has published its net asset value as at the last day of its most recent financial quarter on each Exchange Information Service, be the net asset value thus published by the Company failing which it shall be as determined by the Company with reference to its most recent audited financial information;
<b>“Offer for Subscription”</b>	the offer for subscription contained in the Prospectus in terms of a private placement, to subscribe for Preference Shares;
<b>“Outstanding Preference Share”</b>	a Preference Share which has been issued by the Company, and which has neither been redeemed nor repurchased by the Company;
<b>“Participant”</b>	a central securities depository as defined in Article 1 of the Articles or a participant as defined in section 1 of the South African Securities Services Act;



<b>“Preference Share”</b>	a cumulative, non-participating preference share in the Company’s share capital which has a nominal value of Euro 0.01 (zero point zero one Euro) and which confers, on its Holder, the rights, obligations and privileges set out in clause 9 of the proposed Memorandum;
<b>“Preference Share Issue Programme”</b>	<p>a programme pursuant to which the Company, as a means of raising permanent capital, could, subject to various terms and conditions:</p> <ul style="list-style-type: none"> <li>• issue a maximum number of 20 000 000 (twenty million) Preference Shares; and</li> <li>• list the Preference Shares on the LuxSE (as a primary listing) and on the JSE (as a secondary listing);</li> </ul> <p>on the terms and conditions set out in Annexure 1 to this circular;</p>
<b>“Preference Dividend”</b>	in respect of each Preference Share, the applicable Scheduled Dividends and Additional Dividends;
<b>“Prime Rate”</b>	the publicly quoted basic rate of interest levied by FirstRand, from time to time on overdraft, calculated on a 365 (three hundred and sixty five) day year, irrespective of whether the applicable year is a leap year, and proved, <i>prima facie</i> , in the event of a dispute and in the absence of manifest error, by a certificate under the hand of any director or manager of FirstRand, whose appointment and authority need not be proved;
<b>“Programme Participant”</b>	each Participant who holds any Preference Share in custody for the Beneficiary of such Preference Share;
<b>“Proposed Memorandum”</b>	the existing Memorandum of the Company proposed to be amended by Extraordinary Resolution Number 1 set out in the Notice of Extraordinary General Meeting forming part of this circular;
<b>“Prospectus”</b>	a prospectus in terms of the Maltese Companies Act for the issuance of the Preference Shares and which shall also serve as a prospectus and listing particulars for the listing of the Preference Shares for LuxSE and JSE purposes;
<b>“Rate Event”</b>	means any increase in the Dividends Tax Rate above 15% (fifteen per cent) (which is the rate at which the Dividends Tax was levied on the Tax Reference Date);
<b>“Redemption Amount”</b>	<p>in respect of a Preference Share and without double counting, the aggregate of:</p> <ul style="list-style-type: none"> <li>• the higher of (i) the Deemed Issue Price of that Preference Share or (ii) the Market Price (as defined in clause 9.1.28 of the proposed Memorandum) of that Preference Share, on the date 5 (five) business days prior to the publication of the applicable Redemption Announcement in terms of clause 9.4.4.1 of the proposed Memorandum; plus</li> <li>• an amount equal to 2,5% (two point five per cent) of the higher of the Deemed Issue Price and the Market Price envisaged in the first sub-clause of this definition; plus</li> <li>• the Scheduled Dividend for the Dividend Period which ends on the Actual Redemption Date of that Preference Share; plus</li> <li>• any Accumulated Dividends in respect of that Preference Share on its Actual Redemption Date;</li> </ul>
<b>“registered office”</b>	the registered office of Brait being 4th Floor, Avantech Building, St Julian’s Road, San Gwann SGN 2805, Malta;
<b>“Resident Beneficiary”</b>	any Beneficiary of a Preference Share if that Beneficiary is a “resident” (of South Africa) as defined in the SA Tax Act;
<b>“SA Companies Act”</b>	the South African Companies Act, 2008;
<b>“SA Corporate”</b>	a Resident Beneficiary of a Preference Share which is a company, other than a small business corporation, an employment company, a gold mining company, a long-term insurance company or a Tax holiday company;

<b>“SA Tax”</b>	any Tax imposed by any tier of the government of South Africa;
<b>“SA Tax Act”</b>	the South African Income Tax Act, 1962;
<b>“Scheduled Dividend”</b>	in respect of each Preference Share and for each Dividend Period, the Preference Dividend calculated in accordance with the formula contained in clause 9.3.5 of the proposed Memorandum;
<b>“Securities Services Act”</b>	The South African Securities Services Act, 2004;
<b>“South Africa”</b>	the Republic of South Africa;
<b>“South African Transfer Agent”</b>	Computershare Investor Services (Proprietary) Limited (Registration number 2000/006082/06), a private company incorporated in South Africa;
<b>“Strate”</b>	Strate Limited, a company duly registered and incorporated with limited liability under the laws of South Africa under registration number 1998/022242/06 and registered as a central securities depository in terms of the Securities Services Act responsible for the electronic custody and settlement system;
<b>“Subscription Price”</b>	in relation to each Preference Share, the price, including the nominal value and any premium, obtained by the Company for the allotment and issue of that Preference Share to its first Holder;
<b>“Tax”</b>	any tax, levy, impost, duty, or other charge or withholding of a similar nature, levied in accordance with any law and includes any additional tax, penalties and/or interest levied on any such tax, levy, impost, duty or other charge or withholding;
<b>“Tax Change Event”</b>	<ul style="list-style-type: none"> <li>• any amendment in the SA Tax Act (including, without limitation, the replacement of SA Tax Act with different legislation), which occurs after the Tax Reference Date, the Preference Dividends become subject to any SA Tax, other than the Dividends Tax or any other withholding Tax imposed under any law of South Africa, in the hands of all the SA Corporates who are the Resident Beneficiaries of any Outstanding Preference Shares; or</li> <li>• any amendment in any law of Malta, Luxembourg or the Republic of Mauritius (including, without limitation, the replacement of any such a law with different legislation) which occurs after the Tax Reference Date, the Preference Dividends become subject to Tax, imposed by any one of Malta, Luxembourg or the Republic of Mauritius, in the hands of all the SA Corporates who are the Resident Beneficiaries of any Outstanding Preference Shares;</li> </ul> <p>and, for clarity, it is specifically recorded that no Tax Change Event shall occur if (i) any amendment envisaged in clause 9.1.48.1 or clause 9.1.48.2 of the proposed Memorandum occurs, but (ii) the effect of such amendment is to subject Resident Beneficiaries who are not SA Corporates to the applicable Tax;</p>
<b>“Tax Reference Date”</b>	means 1 July 2012;
<b>“Titan Group”</b>	Titan Nominees (Proprietary) Limited (Registration number 1978/003570/07), a company incorporated in accordance with the laws of South Africa, being a party related to Dr Christo Wiese, a director of Brait;
<b>“transfer agents”</b>	Collectively the South African Transfer Agent and Luxembourg Transfer Agent;
<b>“VWAP”</b>	on any particular day, the volume weighted average traded price at which the Preference Shares traded on the JSE for the 15 (fifteen) most recent trading days, provided that in determining such volume weighted average traded price trades which (i) are effected other than through the normal trading systems of the JSE, but (ii) are nevertheless settled through the settlement systems of the JSE, shall be disregarded; and
<b>“ZAR” or “R” or “Rand”</b>	South African Rand, the lawful currency of South Africa.



## **BRAIT SE**

(Formerly "Brait S.A.")  
(Registered in Malta as a European Company)  
(Registration number SE1)  
Listed in Luxembourg and South Africa  
Share code: BAT ISIN: LU0011857645  
("the Company" or "Brait")

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### **Directors (all non-executive):**

P J Moleketi (*Chairman*)  
A C Ball  
C Keogh  
R J Koch  
R Schembri  
C S Seabrooke  
H R W Troskie  
S J P Weber  
Dr C H Wiese

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## **CIRCULAR TO BRAIT SHAREHOLDERS**

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### **1. INTRODUCTION AND PURPOSE OF THIS CIRCULAR**

The directors are proposing that:

- the Company create 20 000 000 (twenty million) Preference Shares;
- the Company amend its M&A to reflect the new authorised share capital and to record the rights, privileges, restrictions, obligations and conditions attached to the Preference Shares; and
- in terms of Brait's Articles, the shareholders provide the requisite authority to issue and list on the Exchanges up to 20 000 000 (twenty million) Preference Shares over a period of up to 18 (eighteen) months from the date of publication of the Prospectus, subject to regulatory requirements during this period, including the validity of the Prospectus and any supplements thereto, or a new Prospectus.

The purpose of this circular is to furnish the Company's shareholders with information relating to the proposed resolutions, in accordance with the Maltese Companies Act, the LuxSE Listings Requirements and the JSE Listings Requirements, and to convene an Extraordinary General Meeting at which the Company's shareholders will be requested to approve the proposed resolutions contained in the Notice of Extraordinary General Meeting attached to and forming part of this circular.

### **2. CREATION OF THE PREFERENCE SHARES**

#### **2.1 Rationale for the Preference Share Issue Programme and disapplication of pre-emption rights**

Brait intends entering into a new capital raising programme in order to make capital available for investment purposes. Aligned to Brait's growth strategy, the proposed capital raising provides the following benefits:

1. Diversified, cost-efficient permanent capital;
2. Further strengthens the Company's existing capital base;
3. Effectively lowers the Company's cost of capital; and
4. Non-dilutionary for ordinary shareholders.

The capital raising will be in the form of listed Preference Shares, to be issued over a period of 18 (eighteen) months for a maximum number of 20 000 000 (twenty million) Preference Shares. The initial issuance is expected to be approximately R1 000 000 000 – R1 500 000 000 (one billion Rand

to one and a half billion Rand), with the ability to increase such initial issuance to R2 000 000 000 (two billion Rand), subject to investor demand and by way of a private placement. The Subscription Price for the initial issuance will be ZAR100.00 (one hundred Rand) (or the Euro equivalent thereof as at Closing). Any authorised, unissued Preference Shares that have not been issued in terms of the initial issuance shall be issued by the Company as and when opportune, at an issue price to be determined by the directors, subject to the maximum of 20 000 000 (twenty million) Preference Shares.

The minimum amount of R1 billion has been underwritten by the Arranger and Underwriter on the basis of the Arranger and Underwriter pre-placing R785 million with selected investors, which include Titan Group. Thereafter and if applicable, the intention will be to issue further Preference Shares, as and when opportune, at a subscription price determined by the directors.

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

The Board has considered the pre-emption rights of shareholders and believes that issuance of the Preference Shares without having to offer each and every shareholder the Preference Shares but by means of a private placement, and by disapplying shareholders' pre-emption rights by means of a shareholder resolution, will allow Brait to carry out the capital raising programme with the necessary flexibility required to achieve the benefits set out above.

The disapplication of pre-emption rights given under the resolutions proposed below extends only to the Preference Share Issue Programme (including those who subscribe for Preference Shares upon the first issuance who shall not have pre-emption rights for subsequent issuances during the Preference Share Issue Programme) and does not extend to any other issues of Preference Shares and is thus limited to what is necessary to ensure that the capital raising programme can be achieved.

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

In addition, at the annual general meeting of the Company proposed for 25 July 2012 at 09:00 CET, shareholders will be requested to disapply pre-emption rights in relation to the issue of ordinary shares in certain circumstances. Should this resolution be approved then the Holders of Preference Shares shall have no pre-emption rights in this regard either.

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

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

The Preference Shares are cumulative, non-participating Preference Shares of nominal value Euro 0.01 each. The initial issuance of up to 20 000 000 (twenty million) Preference Shares shall be at a Subscription Price of ZAR100.00 (one hundred Rand) (or the Euro equivalent thereof as at the Closing). Thereafter, the directors are entitled to issue all or some of the authorised but unissued Preference Shares (i.e. any of the 20 000 000 (twenty million) Preference Shares which are not subscribed for during the initial issuance) as and when opportune, at a Subscription Price determined by the directors.

Brait will apply for a primary listing of the Preference Shares on the LuxSE and a secondary listing on the JSE.

The full terms of the Preference Shares are set out in Annexure 1 to the Notice of Extraordinary General Meeting which forms part of this circular. The summary set out herein is not conclusive or exhaustive, and potential investors should refer to the Notice of Extraordinary General Meeting and Prospectus for full particulars. In the case of any divergences between this summary and the full terms as contained in the aforementioned Annexure 1, the latter shall prevail.

### **Entitlements to dividends**

Dividends are payable semi-annually on a date which is the earlier of not less than 5 (five) business days prior to the date on which Brait makes any Distribution in respect of its ordinary shares, and no later than 90 (ninety) calendar days after the applicable Calculation Date.

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

in accordance with the following formula:

$$a = (b + c) \times d$$

in which formula:

a = the amount for the applicable day;

b = the Deemed Issue Price;

c = the Accumulated Dividends in respect of that Preference Share at 17:00, Johannesburg time, on the calendar day immediately preceding the applicable day; and

d = if a Dividend Default (i) has not occurred, the Dividend Rate divided by 365 (three hundred and sixty five), or (ii) has occurred, the Default Dividend Rate divided by 365 (three hundred and sixty five).

If (i) the Scheduled Dividend for a Dividend Period is calculated in accordance with the formula outlined above for any Dividend Period, and (ii) at the time of that calculation no Dividend Default has occurred, but (iii) a Dividend Default occurs after such calculation, the Scheduled Dividend for the applicable Dividend Period shall be recalculated at the Default Dividend Rate.

### **Ordinary Share Distributions**

The Company shall not be permitted to pay any Distributions in respect of its Ordinary Shares if the dividends in respect of the Preference Shares have not been paid in full.

### **Adjustment Event**

Tax Change Event: the Company shall pay, in respect of the Outstanding Preference Shares, an Additional Dividend in accordance with the provisions and formulae set out in clauses 9.3.10 and 9.3.11 of the proposed Memorandum, if as a result of:

- any amendment in the SA Tax Act (including, without limitation, the replacement of the SA Tax Act with different legislation), which occurs after the Tax Reference Date, the Preference Dividends become subject to any SA Tax, other than the Dividends Tax or any other withholding Tax imposed under any law of South Africa, in the hands of all the SA Corporates who are Resident Beneficiaries of any Outstanding Preference Shares; or
- any amendment in any law of Malta, Luxembourg or the Republic of Mauritius (including, without limitation, the replacement of any such a law with different legislation), which occurs after the Tax Reference Date, the Preference Dividends become subject to Tax, imposed by any one of Malta, Luxembourg or the Republic of Mauritius, in the hands of all the SA Corporates who are Resident Beneficiaries of any Outstanding Preference Shares.

Rate Event: if as a result of an increase in the Dividends Tax Rate above 15% (fifteen per cent) (which is the rate at which the Dividends Tax was levied on the Tax Reference Date) then the Dividend Rate or the Default Dividend Rate, as the case may be, shall be adjusted to such a percentage of the Prime Rate, in accordance with the provisions and formula set out in clause 9.3.12 of the Proposed Memorandum.

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

### **Change of Control**

If an Acquisition of Control occurs, Brait shall have the right to redeem all the Outstanding Preference Shares at the Redemption Amount.

### **Voting rights**

The Holders shall be entitled to vote at general meetings of the Company under the following circumstances:

- (i) when any resolution of the Company is proposed which directly affects the rights of the Preference Shares (as set out in clause 9.6.4.1 of the Proposed Memorandum);
- (ii) when any resolution of the Company is proposed to approve the reduction of the Company's share capital of any class or the making of a Distribution either of which has the effect of:
  - (a) reducing the NAV below R10 000 000 000 (ten billion Rand) after that resolution is implemented; or
  - (b) where the ratio of the (i) aggregate of the Deemed Issue Prices of all the Outstanding Preference Shares to (ii) the NAV, after that resolution has been implemented, is equal to or more than 10% (ten per cent) (as set out in clause 9.6.4.2 of the Proposed Memorandum);
- (iii) when any resolution of the Company is proposed to delist the Company's Ordinary Shares (as set out in clause 9.6.4.3 of the Proposed Memorandum);

- (iv) after an Acquisition of Control has occurred if that resolution, if implemented, will result in the conclusion of a transaction by the Company, the value of which is equal to or exceeds 25% (twenty five per cent) of the NAV (as set out in clause 9.6.4.4 of the Proposed Memorandum); or
- (v) during any period which (i) commences on the date 90 (ninety) days after the date on which the Company declared any Preference Dividends, and (ii) ends on the date on which those Preference Dividends are paid (as set out in clause 9.6.4.5 of the Proposed Memorandum);

In relation to any of the aforementioned resolutions (i), (ii) (iii) and (iv):

- the Preference Shares shall vote as a separate class;
- in such a vote each Outstanding Preference Share shall carry one vote;
- no such resolution shall be carried except by an extraordinary resolution of at least 75% (seventy five per cent) of the votes exercisable by all the Holders who attend and vote at the meeting convened to consider that resolution voting in favour thereof and at least 51% (fifty-one per cent) in nominal value of all the shares entitled to vote at the meeting voting in favour thereof;
- should the Holders vote against such resolution:
  - Brait shall have the right to redeem all the Outstanding Preference Shares at the Redemption Amount, by no later than 31 December 2012; or
  - Should Brait elect to not voluntarily redeem the Outstanding Preference Shares, Brait shall not be permitted to proceed with the implementation of the relevant resolution.

In relation to the aforementioned resolution (v):

- the Preference Shares shall not vote as a separate class but shall vote together with the other shareholders;
- each Preference Share shall confer on its Holder such a percentage of the votes exercisable in relation to that resolution as is equal to the ratio, expressed as a percentage, of the nominal value of that Preference Share to the aggregate of the nominal values of all the issued shares of all classes in the Company's share capital.

#### **Ranking and liquidation**

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

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

#### **Regulatory redemption option**

Upon the occurrence of any one of the following Regulatory Events which has the effect of the Preference Shares becoming more expensive, Brait shall be entitled to redeem all of the Outstanding Preference Shares at the Redemption Amount, by no later than 31 December 2012:

- any change in the LuxSE Listings Requirements or the JSE Listings Requirements;
- any change in the exchange control regulations of South Africa, Malta or Mauritius;
- any change in the SA Tax Act or any other legislation which imposes any taxation of any nature whatsoever on the Company, in relation to the Preference Shares, in Malta, Luxembourg, South Africa and/or Mauritius; or
- any change in the Maltese Companies Act, the SA Companies Act and any other legislation, whether Maltese or South African, which deals with companies generally.

### **2.3 Procedure and effect**

The proposed resolutions will:

- effect an increase in the Company's share capital through the creation of 20 000 000 (twenty million) Preference Shares and will insert the rights, obligations and privileges of the Preference Shares into the M&A; and
- authorise the issuance of up to 20 000 000 (twenty million) Preference Shares over the next 18 (eighteen) months with the Company initially issuing such shares at a Subscription Price of ZAR100.00 (one hundred Rand) (or the Euro equivalent thereof as at Closing) subject to various conditions and with any shares which are not issued during the initial Offer for Subscription thereafter being placed under the authority of the directors for issuance in compliance with

all regulatory requirements during the Preference Share Issue Programme at a price to be determined by the directors. To the extent necessary, the Prospectus will be supplemented (or a new Prospectus issued), without shareholder approval, during the Preference Share Issue Programme to allow for the issuance after a period of 12 (twelve) months, which is the period of the Prospectus' initial validity.

The terms of the Preference Shares will be incorporated in the M&A and will become effective on the date on which they are accepted for filing by the Registry of Companies in Malta.

Brait's authorised and issued share capital at the last practicable date **before** the creation and issue of the Preference Shares are as set out below:

<b>Authorised</b>	<b>Euro '000</b>
1 500 000 000 Ordinary shares of Euro 0.22 nominal value per share	330 000

<b>Issued</b>	
506 200 693 <sup>1</sup> Ordinary shares of Euro 0.22 nominal value per share	111 346

**After** the creation and issue of the Preference Shares, Brait's authorised and issued share capital are expected to be as set out below. The issuance of the initial shares pursuant to the Preference Share Issue Programme shall take place only upon all the conditions set out in the Prospectus being met, which is expected to be on or about 6 August 2012:

<b>Authorised</b>	<b>Euro '000</b>
1 500 000 000 Ordinary shares of Euro 0.22 nominal value per share	330 000
20 000 000 Preference shares of Euro 0.01 nominal value per share	200 000

***Issued shares assuming a total subscription of R1 billion (one billion Rand)***

506 200 693 <sup>1</sup> Ordinary shares of Euro 0.22 nominal value per share	111 346
10 000 000 Preference shares of Euro 0.01 nominal value per share	100 000

***Issued shares assuming a total subscription of R1.5 billion (one and half billion Rand)***

506 200 693 <sup>1</sup> Ordinary shares of Euro 0.22 nominal value per share	111 346
15 000 000 Preference shares of Euro 0.01 nominal value per share	150 000

1. Of this number, 4 868 837 ordinary shares are held in treasury.

## **2.4 Amendments to the M&A**

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

## **2.5 Disapplication of pre-emption Rights**

In terms of Article 3 of Brait's Articles, the Brait shareholders may approve the issuance of shares in the share capital of the Company without the need for the application of pre-emption rights. As such, it is proposed that shareholders provide requisite authority for the issuance of up to 20 000 000 (twenty million) Preference Shares over the next 18 (eighteen) months subject to all regulatory requirements, including the validity of the Prospectus, supplements thereto or a new prospectus.

## **3. DIRECTORS' RESPONSIBILITY STATEMENTS**

The directors, whose names appear on page 9 of this circular:

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

#### **4. CONSENTS**

Each of Rand Merchant Bank (a division of FirstRand Bank Limited), Cliffe Dekker Hofmeyr Inc. and Maitland has provided its written consent to act in the capacity stated and to its name being used in this circular and has not withdrawn its consent prior to the date of this circular.

#### **5. DOCUMENTS AVAILABLE FOR INSPECTION**

The following documents, or copies thereof, will be available for inspection during normal business hours at the registered office of Brait as well as the Arranger and Underwriter from the date of this circular up to and including the date of the shareholder meeting:

- this circular;
- the existing M&A;
- a draft of the resolutions amending the M&A; and
- the written consents as set out in paragraph 4 (four) above.

By order of the Board

**Dr Nadine Cachia**  
*Company secretary*

3 July 2012



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## Proposed Amendments to the Memorandum and Articles of Association

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**Clauses 7 and 8 of the Memorandum of Association shall be deleted in their entirety and replaced with the following:**

### 7. Capital

- 7.1 The authorised share capital shall be €330 200 000 (three hundred and thirty million and two hundred thousand Euro) divided into:
- 7.1.1 1 500 000 000 (one billion and five hundred million) Ordinary listed shares of €0.22 each; and
  - 7.1.2 20 000 000 (twenty million) cumulative, non-participating Preference Shares of €0.01 each.
- 7.2 The issued share capital is €111 364 152.46 (one hundred and eleven million, three hundred and sixty four thousand, one hundred and fifty two Euro and forty six Euro cents divided into 506 200 693 (five hundred and six thousand, two hundred thousand, six hundred and ninety three) Ordinary listed shares of €0.22 each, each share being fully paid-up, with a share premium of €1.12 per issued share.

### 8. Ordinary Shares

Ordinary shares shall rank *pari passu* in all respects as regards dividends and participations in assets on a winding up of the Company. The holders of the Ordinary Shares shall have the right to receive notice of, attend and vote at general meetings. Each ordinary share shall entitle the holder to one (1) vote.

### 9. Preference Shares

- 9.1 In this clause 9, unless inconsistent with or otherwise indicated by the context:
- 9.1.1 **“Accumulated Dividends”** means, in respect of each Preference Share and on any day, the aggregate of:
    - 9.1.1.1 any Scheduled Dividend for any Dividend Period which ended prior to that day, to the extent to which that Scheduled Dividend has not been paid by the Company by the Dividend Payment Date in respect of that Dividend Period; plus
    - 9.1.1.2 any Additional Dividends which the Company should have paid in terms of clause 9.3.8, but which the Company has failed to pay as of such day;
  - 9.1.2 **“Acquisition of Control”** means, in relation to the Company, that a person who held less than 30% (thirty per cent) of the issued Ordinary Shares on the Tax Reference Date, acquires such a number of Ordinary Shares as brings its holdings of the Ordinary Shares to 51% (fifty one per cent) or more of the issued Ordinary Shares;
  - 9.1.3 **“Actual Issue Date”** means, in relation to each Preference Share, the date on which the Company issues that Preference Share to its first Holder;
  - 9.1.4 **“Actual Redemption Date”** means, in relation to each Preference Share, the date (if any) on which the Company redeems that Preference Share in accordance with the Company Redemption Provisions;
  - 9.1.5 **“Additional Dividend”** means, in respect of each Preference Share, the dividends (over and above the Scheduled Dividend in respect of that Preference Share) envisaged in clause 9.3.10 of this Memorandum of Association;
  - 9.1.6 **“Adjustment Event”** means a Tax Change Event or a Rate Event;
  - 9.1.7 **“Adjustment Notice”** means an Adjustment Notice as defined in clause 9.3.7.3 of this Memorandum of Association;
  - 9.1.8 **“Applicable Rate”** means the Dividend Rate or the Default Dividend Rate;
  - 9.1.9 **“Beneficiary”** means, in relation to a Preference Share, the beneficial owner of that Preference Share as reflected in the records of the applicable Programme Participant;
  - 9.1.10 **“Business Day”** means any day other than a Saturday, Sunday or statutory public holiday in any of the Republic of Malta, the Grand-Duchy of Luxembourg or the Republic of South Africa;
  - 9.1.11 **“Calculation Dates”** means 31 March and 30 September of each year;

- 9.1.12 “**Company NAV**” means, at any applicable time, the Company’s net asset value as determined in accordance with the provisions of clause 9.6.1 of this Memorandum of Association;
- 9.1.13 “**Company Redemption Provisions**” means clauses 9.4.2 to 9.4.5 of this Memorandum of Association;
- 9.1.14 “**Deemed Issue Price**” means, in respect of each Preference Share and irrespective of the Subscription Price actually obtained by the Company for the issue of that Preference Share, an amount of ZAR100.00 (one hundred Rand);
- 9.1.15 “**Default Dividend Rate**” means, subject to adjustment in accordance with the Rate Adjustment Clauses, a rate equal to 144% (one hundred and forty four per cent) of the Prime Rate;
- 9.1.16 “**Distribution**” means any distribution of profits or capital which the Company makes in respect of any classes of shares in its issued share capital, other than the Preference Shares, irrespective of the manner in which that distribution is made (and includes, without limitation, the declaration and payment of any dividends, the repurchase of any shares and the redemption of any redeemable shares);
- 9.1.17 “**Dividend Default**” means any failure by the Company to pay:
- 9.1.17.1 the Scheduled Dividends (in respect of all the Outstanding Preference Shares) for any Dividend Period by the applicable Dividend Payment Date; and/or
- 9.1.17.2 any Additional Dividends by the date determined in accordance with clause 9.3.8 of this Memorandum of Association;
- 9.1.18 “**Dividend Payment Date**” means, in relation to each Dividend Period, (i) any day up to the date 90 (ninety) days after the first Calculation Date which occurs after the last day of that Dividend Period, or (ii) if applicable and earlier than the date in sub-clause (i), any day up to the date 5 (five) days prior to the day on which the Company makes any Distribution in respect of its Ordinary Shares;
- 9.1.19 “**Dividend Period**” means each period which commences on a Calculation Date and which ends on the day before the next Calculation Date provided that:
- 9.1.19.1 the first Dividend Period in respect of any particular Preference Share shall (i) commence on the Actual Issue Date on which the Company issues that Preference Share to its first Holder, and (ii) end on the day before the first Calculation Date which occurs after that Actual Issue Date; and
- 9.1.19.2 the last Dividend Period in respect of any particular Preference Share shall be the period which (i) commences on the last Calculation Date which occurs prior to the Actual Redemption Date on which the Company redeems that Preference Share, and (ii) ends on the day before that Actual Redemption Date;
- 9.1.20 “**Dividend Rate**” means, subject to adjustment in accordance with the Rate Adjustment Clauses, a rate equal to 104% (one hundred and four per cent) of the Prime Rate;
- 9.1.21 “**Dividends Tax**” means the withholding tax on dividends imposed under Part VIII of Chapter II of the SA Tax Act;
- 9.1.22 “**Dividends Tax Rate**” means the rate at which the Dividends Tax is levied under the SA Tax Act from time to time;
- 9.1.23 “**Euro**” means the lawful currency of *inter alia* Malta;
- 9.1.24 “**Exchange Information Services**” means the JSE’s service known as the “Securities Exchange News Service” and the communication service of the LuxSE;
- 9.1.25 “**Holder**” means, in relation to a Preference Share, its registered holder as reflected in the Company’s share register;
- 9.1.26 “**JSE**” means the securities exchange known as the JSE, which has been licensed as an exchange under the South African Securities Services Act, 2004;
- 9.1.27 “**LuxSE**” means the Luxembourg Stock Exchange;
- 9.1.28 “**Market Price**” means, in relation to each Preference Share and on any day, the VWAP of 1 (one) Preference Share on that day after deducting the aggregate of:

- 9.1.28.1 any Accumulated Dividends in respect of one Preference Share on the first day of the Dividend Period during which the Market Price is determined; and
- 9.1.28.2 the Scheduled Dividend in respect of one Preference Share for the period which commences on the first day of the Dividend Period during which the Market Price is determined and which ends on the day prior to the date on which the Market Price is determined (calculated as if the aforesaid period were a Dividend Period);
- 9.1.29 “**Ordinary Share**” means an ordinary share with a nominal value of Euro 0.22 (zero point two two) in the Company’s issued share capital;
- 9.1.30 “**Outstanding Preference Share**” means a Preference Share which has been issued by the Company, and which has neither been redeemed nor repurchased by the Company;
- 9.1.31 “**Participant**” means a central securities depository as defined in Article 1 of the Articles of Association or a participant as defined in section 1 of the South African Securities Services Act, 2004;
- 9.1.32 “**Preference Share**” means a cumulative, non-participating Preference Share in the Company’s share capital which has a nominal value of Euro 0.01 (zero point zero one Euro) and which confers, on its Holder, the rights, obligations and privileges set out in this clause 9;
- 9.1.33 “**Preference Dividends**” means, in respect of each Preference Share, the applicable Scheduled Dividends and Additional Dividends;
- 9.1.34 “**Preference Share Issue Programme**” means a programme pursuant to which the Company, as a means of raising permanent capital, could, subject to various terms and conditions:
- 9.1.34.1 issue a maximum number of 20 000 000 (twenty million) Preference Shares;
- 9.1.34.2 list the Preference Shares on the LuxSE (as a primary listing) and on the JSE (as a secondary listing), and
- 9.1.34.3 on the terms and conditions set out in the prospectus and pre-listing statement, in respect of the Preference Share Issue Programme, to be issued by the Company on or about 27 July 2012;
- 9.1.35 “**Prime Rate**” means the publicly quoted basic rate of interest levied by FirstRand Bank Limited (“**FirstRand**”) from time to time on overdraft, calculated on a 365 (three hundred and sixty five) day year, irrespective of whether the applicable year is a leap year, and proved, *prima facie*, in the event of a dispute and in the absence of manifest error, by a certificate under the hand of any director or manager of FirstRand, whose appointment and authority need not be proved;
- 9.1.36 “**Programme Participant**” means each Participant who holds any Preference Share in custody for the Beneficiary of such Preference Share;
- 9.1.37 “**Rate Adjustment Clauses**” means clauses 9.3.11 and 9.3.12 of this Memorandum of Association;
- 9.1.38 “**Rate Event**” means any increase in the Dividends Tax Rate above 15% (fifteen per cent) (which is the rate at which the Dividends Tax was levied on the Tax Reference Date);
- 9.1.39 “**Redemption Amount**” means, in respect of a Preference Share and without double counting, the aggregate of:
- 9.1.39.1 the higher of (i) the Deemed Issue Price of that Preference Share, or (ii) the Market Price of that Preference Share on the date 5 (five) Business Days prior to the publication of the applicable Redemption Announcement in terms of clause 9.4.4.1 of this Memorandum of Association; plus
- 9.1.39.2 an amount equal to 2.5% (two point five per cent) of the higher of the Deemed Issue Price and the Market Price envisaged in the first sub-clause of this definition; plus
- 9.1.39.3 the Scheduled Dividend for the Dividend Period which ends on the Actual Redemption Date of that Preference Share; plus
- 9.1.39.4 any Accumulated Dividends in respect of that Preference Share on its Actual Redemption Date;

- 9.1.40 “**Regulatory Event**” means any change in:
- 9.1.40.1 the listing requirements of the LuxSE or the JSE;
  - 9.1.40.2 the exchange control regulations of the Republic of South Africa, Malta or Mauritius;
  - 9.1.40.3 the SA Tax Act or any other legislation which imposes any taxation of any nature whatsoever on the Company, in relation to the Preference Shares, in Malta, Luxembourg, South Africa, and/or Mauritius; or
  - 9.1.40.4 the Maltese Companies Act (Chapter 386 of the Laws of Malta), the South African Companies Act, 2008 and any other legislation, whether Maltese or South African, which deals with companies generally;
- 9.1.41 “**Resident Beneficiary**” means any Beneficiary of a Preference Share if that Beneficiary is a “resident” (of South Africa) as defined in the SA Tax Act;
- 9.1.42 “**SA Corporate**” means a Resident Beneficiary of a Preference Share which is a company, other than a small business corporation, an employment company, a gold mining company, a long term insurance company or a tax holiday company;
- 9.1.43 “**SA Tax**” means any Tax imposed by any tier of the government of the Republic of South Africa;
- 9.1.44 “**SA Tax Act**” means the South African Income Tax Act, 1962;
- 9.1.45 “**Scheduled Dividend**” means, in respect of each Preference Share and for each Dividend Period, the Preference Dividend calculated in accordance with the formula contained in clause 9.3.5;
- 9.1.46 “**Subscription Price**” means, in relation to each Preference Share, the price, including the nominal value and any premium, obtained by the Company for the allotment and issue of that Preference Share to its first Holder;
- 9.1.47 “**Tax**” means any tax, levy, impost, duty or other charge or withholding of a similar nature, levied in accordance with any law and includes any additional tax, penalties and/or interest levied on any such Tax, levy, impost, duty or other charge or withholding;
- 9.1.48 “**Tax Change Event**” means that, as a result of:
- 9.1.48.1 any amendment in the SA Tax Act (including, without limitation, the replacement of SA Tax Act with different legislation), which occurs after the Tax Reference Date, the Preference Dividends become subject to any SA Tax, other than the Dividends Tax or any other withholding Tax imposed under any law of the Republic of South Africa, in the hands of all the SA Corporates who are Resident Beneficiaries of any Outstanding Preference Shares; or
  - 9.1.48.2 any amendment in any law of the Republic of Malta, the Grand-Duchy of Luxembourg or the Republic of Mauritius (including, without limitation, the replacement of any such a law with different legislation) which occurs after the Tax Reference Date, the Preference Dividends become subject to Tax, imposed by any one of the Republic of Malta, the Grand-Duchy of Luxembourg or the Republic of Mauritius, in the hands of all the SA Corporates who are the Resident Beneficiaries of any Outstanding Preference Shares;
- and, for clarity, it is specifically recorded that no Tax Change Event shall occur if (i) any amendment envisaged in clause 9.1.48.1 or clause 9.1.48.2 of this Memorandum of Association occurs, but (ii) the effect of such amendment is to subject Resident Beneficiaries who are not SA Corporates to the applicable Tax;
- 9.1.49 “**Tax Reference Date**” means 1 July 2012;
- 9.1.50 “**Voting Resolution**” means the resolutions (by the Company) envisaged in clause 9.6.4 of this Memorandum of Association;
- 9.1.51 “**VWAP**” means, on any particular day, the volume weighted average traded price at which the Preference Shares traded on the JSE for the 15 (fifteen) most recent trading days, provided that in determining such volume weighted average traded price trades which (i) are effected other than through the normal trading systems of the JSE, but (ii) are nevertheless settled through the settlement systems of the JSE, shall be disregarded;

9.1.52 “**ZAR**” or “**Rand**” means South African Rand, the lawful currency of the Republic of South Africa.

## **9.2 APPLICABILITY**

9.2.1 This clause 9 shall apply to each Preference Share which the Company issues as part of the Preference Share Issue Programme.

9.2.2 No issue of any shares of any class in the Company’s share capital after the Actual Issue Date on which the Company issues any Preference Share under the Preference Share Issue Program, shall in any manner detract from or vary the rights which attach to the Preference Shares except if the Holders have otherwise approved by the majorities set out in clause 9.6.2.

## **9.3 DIVIDENDS**

### **Entitlement**

9.3.1 Each Preference Share shall entitle its Holder (for onward payment to the relevant Beneficiary in accordance with the agreement between the Beneficiary and Holder) to the Preference Dividends calculated in accordance with the provisions of this clause 9.3.

9.3.2 The Company shall pay the Preference Dividends only if it has sufficient distributable profits and if a final or interim dividend declaration is made in accordance with Article 17.

9.3.3 The Preference Dividends shall rank prior to the dividend rights of any other classes of shares in the Company’s share capital (including, but without limitation, the Ordinary Shares).

9.3.4 After the payment of the Preference Dividends, the Preference Shares shall not be entitled to participate in the remaining profits of the Company.

### **Scheduled Dividends**

9.3.5 For each Dividend Period and subject to clause 9.3.6 of this Memorandum of Association, each Preference Share shall be entitled to a Scheduled Dividend in an amount equal to the aggregate of the amounts calculated in respect of each day during that Dividend Period in accordance with the following formula:

in which formula:

a = the amount for the applicable day;

b = the Deemed Issue Price;

c = the Accumulated Dividends in respect of that Preference Share at 17:00, Johannesburg time, on the calendar day immediately preceding the applicable day;

d = if a Dividend Default (i) has not occurred, the Dividend Rate divided by 365 (three hundred and sixty five), or (ii) has occurred, the Default Dividend Rate divided by 365 (three hundred and sixty five).

9.3.6 If (i) the Scheduled Dividend for a Dividend Period is calculated in accordance with the formula contained in clause 9.3.5 of this Memorandum of Association for any Dividend Period, and (ii) at the time of that calculation no Dividend Default has occurred, but (iii) a Dividend Default occurs after such calculation, the Scheduled Dividend for the applicable Dividend Period shall be recalculated at the Default Rate.

### **Adjustment Events**

9.3.7 If an Adjustment Event occurs the Company shall:

9.3.7.1 determine whether, as a result of such occurrence (i) Additional Dividends must be declared and paid by the Company in respect of the Outstanding Preference Shares, or (ii) the Applicable Rates must be adjusted;

9.3.7.2 calculate the amount of the Additional Dividends or the adjusted Applicable Rates (as the case may be);

9.3.7.3 publish an announcement (an “**Adjustment Notice**”) on each Exchange Information Service which sets out (i) the details and date of the Adjustment Event which has occurred, and (ii) whether, as a result of such occurrence, it will pay Additional Dividends or whether the Applicable Rates will be adjusted, and (iii) the amount of the Additional Dividends or the adjusted Applicable Rates (as the case may be).

- 9.3.8 If the Company becomes obliged to pay Additional Dividends as a result of the occurrence of any Adjustment Event, the Company shall pay those dividends on the later of (i) the next Dividend Payment Date, or (ii) within 30 (thirty) calendar days after the date on which the applicable Adjustment Event occurs.
- 9.3.9 If the Applicable Rates must be adjusted as a result of the occurrence of an Adjustment Event, that adjustment shall take effect on the date reasonably determined by the Company (which date may be prior to the date on which the Company publishes the applicable Adjustment Notice).

#### **Tax Change Events**

- 9.3.10 If a Tax Change Event occurs in relation to any Scheduled Dividend which the Company has already paid in respect of any Outstanding Preference Share, the Company shall pay, in respect of each Outstanding Preference Share, an Additional Dividend calculated in accordance with the following formula:

$$a = [b / (1 - c)] - b$$

in which formula:

a = the Additional Dividend per Preference Share;

b = the amount of the Scheduled Dividends (in respect of one Preference Share) which has become subject to the applicable Tax; and

c = the rate at which the applicable Scheduled Dividend has become subject to Tax in the hands of those of the Resident Beneficiaries which are SA Corporates.

- 9.3.11 If a Tax Change Event occurs, and as a result of such occurrence any Scheduled Dividends which have not yet been paid will become subject to Tax other than the Dividend Tax, each Applicable Rate shall be increased to such a percentage of the Prime Rate as is calculated in accordance with the following formula:

$$a = b / (1 - c)$$

in which formula:

a = the increased Applicable Rate, expressed as a percentage of the Prime Rate;

b = the Applicable Rate, expressed as a percentage of the Prime Rate, prior to its adjustment in accordance with this clause 9.3.11; and

c = the rate at which the applicable Scheduled Dividends will become subject to Tax in the hands of Resident Beneficiaries which are SA Corporates.

If the Applicable Rates are increased in accordance with this clause 9.3.11, and after such increase the rate (the "**Adjustment Rate**") envisaged in the definition of "c" above increases or decreases, the Applicable Rates shall, with effect from the date on which the Adjustment Rate increases or decreases, be the rate calculated in accordance with the formula contained in this clause 9.3.11 on the basis that (i) the value of "a" in that formula shall be the Applicable Rates, expressed as a percentage of the Prime Rate, immediately prior to the occurrence of the Tax Change Event, and (ii) the value of "c" in that formula shall be the increased or decreased Adjustment Rate.

#### **Rate Event**

- 9.3.12 If a Rate Event occurs, each Applicable Rate shall each be adjusted to such a percentage of the Prime Rate as is determined in accordance with the following formula:

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

in which formula:

a = the Applicable Rate, expressed as a percentage of the Prime Rate, after its adjustment in accordance with this clause 9.3.12;

b = the Applicable Rate, expressed as a percentage of the Prime Rate, prior to its adjustment in accordance with this clause 9.3.12;

c = the Dividends Tax Rate after the occurrence of the applicable Rate Event; and

d = the Dividends Tax Rate prior to the occurrence of the applicable Rate Event.

## **Payment**

- 9.3.13 The Company shall, subject to clause 9.3.2 of this Memorandum of Association, pay:
- 9.3.13.1 the Scheduled Dividend for each Dividend Period on the first Dividend Payment Date which occurs after that Dividend Period;
  - 9.3.13.2 any Additional Dividends which it becomes obliged to pay, by the date determined in accordance with clause 9.3.8 of this Memorandum of Association; and
  - 9.3.13.3 any Accumulated Dividends which remain as at the Actual Redemption Date on which it redeems any Preference Share, on that Actual Redemption Date.

## **Distributions in respect of Ordinary Shares**

- 9.3.14 The Company shall not make any Distributions in respect of its Ordinary Shares except if it has paid, in full, the Accumulated Dividends (if any) up to the last day of the last Dividend Period which occurs prior to the date on which the Company makes that Distribution.

## **9.4 REDEMPTION AND ACQUISITION OF OWN SHARES**

### **Non-redemption by Beneficiaries and Holders**

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

### **Company Redemption**

- 9.4.2 All (but not some) of the Outstanding Preference Shares may be redeemed at the option of the Company by not later than 31 December 2012 in any of the following circumstances:
- 9.4.2.1 an Adjustment Event occurs and, as a result of such Adjustment Event (i) the Company becomes obliged to pay any Additional Dividends, or (ii) the Applicable Rates are increased; or
  - 9.4.2.2 a Regulatory Event occurs and, as a result of such occurrence, the raising of funding by the Company by means of the issue of the Preference Shares becomes more expensive for the Company or any of its shareholders; or
  - 9.4.2.3 the Preference Shares vote against any Voting Resolution, other than any Voting Resolution envisaged in clause 9.6.4.5 of this Memorandum of Association; or
  - 9.4.2.4 an Acquisition of Control occurs.
- 9.4.3 If the Company does not redeem the Preference Shares by 31 December 2012, the Preference Shares will automatically become entirely non-redeemable with effect from 1 January 2013.

### **Procedure**

- 9.4.4 If the Company wishes to redeem the Outstanding Preference Shares pursuant to the Company Redemption Provisions:
- 9.4.4.1 the Company shall publish, on each Exchange Information Service, an announcement (a "**Redemption Announcement**") which sets out (i) the grounds on which the Company is entitled to redeem the Outstanding Preference Shares, and (ii) the date (the "**Company Redemption Date**") on which the Company will redeem the Outstanding Preference Shares, the Company Redemption Date to be the first Dividend Payment Date which occurs after the publication of the Redemption Announcement or, if that first Dividend Payment Date will occur within 10 (ten) business days after the publication of the Redemption Announcement, the second Dividend Payment Date which occurs after that publication;
  - 9.4.4.2 the publication of a Redemption Announcement shall be revocable at the instance of the Company and shall not oblige the Company to redeem the Outstanding Preference Share whether on the Company Redemption Date set out in that Redemption Announcement or on any other date (but the Company shall not redeem some of the Outstanding Preference Shares without at the same time redeeming all the Outstanding Preference Shares); and
  - 9.4.4.3 if the Company publishes a Redemption Announcement and thereafter elects not to redeem the Outstanding Preference Shares the Company shall (i) make an announcement to such effect on each Exchange Information Service prior to the Company Redemption Date set out in the Redemption Announcement, and (ii) not thereafter be entitled to redeem the Outstanding Preference Shares without again publishing a Redemption Announcement.

### **Actual Redemption Date**

- 9.4.5 If the Company elects to redeem the Outstanding Preference Shares the Company shall, on the applicable Company Redemption Date, pay the Redemption Amount of each Outstanding Preference Share to each Holder (for onward payment to the Beneficiary of that Preference Share).

### **Acquisition of Own Shares**

- 9.4.6 The Outstanding Preference Shares may be acquired by the Company pursuant to Article 3(l) of the Articles of Association.

## **9.5 RETURN OF CAPITAL**

- 9.5.1 On the liquidation of the Company, each Preference Share shall confer on its Holder (for onward payment to the relevant Beneficiary in accordance with the agreement between the Holder and Beneficiary) a right to a return of capital in an amount equal to the Redemption Amount of that Preference Share calculated up to the day on which that return of capital is paid.
- 9.5.2 The Preference Shares' rights to a return of capital shall rank prior to the rights to a return of capital of all other classes of shares in the Company share capital including, but without limitation, the Ordinary Shares.
- 9.5.3 Save as envisaged in clause 9.5.1 of this Memorandum of Association, the Preference Shares shall not be entitled to participate in the Company's excess assets on its liquidation.

## **9.6 VOTING**

### **Company NAV**

- 9.6.1 The Company NAV shall, if the Company has:
- 9.6.1.1 published its net asset value as at the last day of its most recent financial quarter on each Exchange Information Service, be the net asset value thus published by the Company; or
  - 9.6.1.2 not published its net asset value as envisaged in clause 9.6.1.1, be the Company's net asset value as determined by the Company with reference to its most recent audited financial information,
- and if clause 9.6.2 applies the Company shall publish an announcement on each Exchange Information Service which sets out the Company's determination of the Company NAV.

### **Voting Rights**

- 9.6.2 The Holders shall not have the right to attend, vote at or receive notice of general meetings of the Company, except in respect of the Voting Resolutions. In relation to the Voting Resolutions other than the Voting Resolution contained in clause 9.6.4.5 of this Memorandum of Association:
- 9.6.2.1 the Preference Shares shall vote as a separate class;
  - 9.6.2.2 in such a vote each Outstanding Preference Share shall carry one vote; and
  - 9.6.2.3 no such Voting Resolution shall be carried except if passed by an extraordinary resolution pursuant to which at least 75% (seventy five per cent) of the votes exercisable by all the Holders who attend and vote at the meeting convened to consider that Voting Resolution have voted in favour thereof and at least 51% (fifty-one per cent) in nominal value of all the shares entitled to vote at the meeting have voted in favour thereof.
- 9.6.3 In relation to any Voting Resolution envisaged in clause 9.6.4.5 of this Memorandum of Association:
- 9.6.3.1 the Preference Shares shall not vote as a separate class but shall vote together with the other shareholders; and
  - 9.6.3.2 each Preference Share shall confer on its Holder such a percentage of the votes exercisable in relation to that resolution as is equal to the ratio, expressed as a percentage, of the nominal value of that Preference Share to the aggregate of the nominal values of all the issued shares of all classes in the Company's share capital.



## **Voting Resolutions**

- 9.6.4 The Voting Resolutions are any resolution proposed at a general meeting of the Company:
- 9.6.4.1 which directly affects the rights of the Preference Shares;
  - 9.6.4.2 which is required to approve of (i) the reduction of the Company's share capital of any class, or (ii) the making of a Distribution, if that resolution will have the effect that:
    - 9.6.4.2.1 the Company NAV will be less than R10 000 000 000 (ten billion Rand) after the resolution is implemented; or
    - 9.6.4.2.2 the ratio of (i) the aggregate of the Deemed Issue Prices of all the Outstanding Preference Share, to (ii) the Company NAV after that resolution has been implemented, is equal to or more than 10% (ten per cent); and
  - 9.6.4.3 to delist the Company's Ordinary Shares;
  - 9.6.4.4 after an Acquisition of Control has occurred if that resolution, if implemented, will result in the conclusion of a transaction by the Company, the value of which is equal to or exceeds 25% (twenty five per cent) of the Company NAV;
  - 9.6.4.5 during any period which (i) commences on the date 90 (ninety) days after the date on which the Company declared any Preference Dividends, and (ii) ends on the date on which those Preference Dividends are paid.

## **Non-implementation**

- 9.6.5 If (i) the Company proposes a Voting Resolution other than any Voting Resolution envisaged in clause 9.6.4.5 of this Memorandum of Association, and (ii) the Holders vote against that resolution:
- 9.6.5.1 the Company shall be entitled to elect to redeem the Outstanding Preference Shares in accordance with the Company Redemption Provisions; and
  - 9.6.5.2 the Company shall not implement that Voting Resolution until it has redeemed the Outstanding Preference Share in terms of the Company Redemption Provisions.

## **9.7 NON-VARIATION**

In accordance with Article 116 of the Companies Act, no change of the Preference Shares into another class and no variation of the rights attached to the Preference Share (which variation shall include the issue of any class of shares ranking in priority to the Preference Shares either in relation to dividends or in relation to returns of capital on a liquidation) shall take place unless such change or variation is consented to by means of an extraordinary resolution (as described in Article 20 of the Articles of Association) passed at separate meetings of the Preference Shares and of any other class of shares affected thereby.

**The remaining clauses of the Memorandum of Association are renumbered with the existing clauses 9, 10 and 11 becoming clauses 10, 11 and 12.**

## **AMENDMENTS TO THE ARTICLES OF ASSOCIATION**

**Article 3(f) shall be deleted in its entirety and replaced with the following:**

"If at any time the share capital is divided into different classes of shares, the rights attached to any class (unless otherwise provided by the terms of the issue of shares of that class) may, whether or not the Company is being wound up, be varied with the sanction of an extraordinary resolution passed at a separate general meeting of the holders of that class of shares and of any other class affected thereby. To every such separate general meeting the provisions of these Articles relating to general meetings shall apply."

**Article 3(l) shall be deleted in its entirety and replaced with the following:**

"The Company is authorised to acquire its own shares, including the Preference Shares, in terms of Article 106 of the Act."

**Article 11(a) shall be deleted in its entirety and replaced with the following:**

"Notice of any general meeting shall be given to all members of the Company who have the right to attend and vote at the said meeting, to all directors and to the auditors of the Company."

**Article 12(d) shall be deleted in its entirety and replaced with the following:**

"Except as provided for in clause 9 of the Memorandum of Association, each share shall entitle the member to one (1) vote."

# Brait SE – SE 1

4th Floor, Avantech Building,  
St Julian's Road  
San Gwann SGN 2805, Malta

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## Notice of Extraordinary General Meeting (“EGM”) of Brait shareholders

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Notice is hereby given to all the members, directors and auditors of BRAIT SE (the “**Company**”) of an Extraordinary General Meeting of the Company to be held at its registered office at 10:00 CET on 25 July 2012 to consider and, if deemed fit, approve the following resolutions:

### **1. Increase in the authorised share capital of the Company and amendments to the Memorandum and Articles of Association of the Company (M&A).**

#### ***Purpose***

The board of directors of the Company (“**Board**”) is proposing the Company raises new finance by embarking on a programme for the issue of a maximum number of 20 000 000 cumulative, non-participating Preference Shares (“**Preference Shares**”) to be listed on the Luxembourg Stock Exchange (“**LuxSE**”) and the Johannesburg Stock Exchange (“**JSE**”) (the “**Preference Share Issue Programme**”) pursuant to a pre-listing statement for LuxSE and JSE purposes (“**PLS**”). The pre-listing statement will also serve as a prospectus for the purposes of the Companies Act (Cap. 386 of the Laws of Malta) (the “**Companies Act**”) and is in the process of being approved by the Malta Registry of Companies (the “**Prospectus**”).

For this purpose, the Board is proposing changes in the M&A consisting of the increase of the authorised share capital of the Company through the creation of 20 000 000 Preference Shares and other amendments to the M&A for the purpose of including the rights and obligations of the Preference Shares, to be approved by means of an extraordinary resolution. The full amendments to the M&A are set out in Annexure 1 to the circular to which this notice is attached.

#### ***Proposal***

- (a) The Company’s current authorised share capital be hereby increased from €330 000 000 (three hundred and thirty million Euro) divided into 1 500 000 000 (one billion and five hundred million) Ordinary shares of €0.22 each to €330 200 000 (three hundred and thirty million two hundred thousand Euro) divided into 1 500 000 000 (one billion and five hundred million) Ordinary Shares of €0.22 each and 20 000 000 (twenty million) Preference Shares of €0.01 each representing an increase in the authorised share capital of €200 000 (two hundred thousand Euro) divided into 20 000 000 (twenty million) Preference Shares of €0.01 each.
- (b) The M&A be deleted in their entirety and substituted by a new M&A to incorporate the changes as set out in Annexure 1 and which are approved by these resolutions.
- (c) The Company secretary be authorised to authenticate as a certified true copy a revised and updated M&A and to file same at the Registry of Companies in Malta.

### **2. Issuance of Preference Shares**

Subject to the approval of Resolution 1 and the registration of the revised and updated M&A with the Registry of Companies in Malta, and the obtaining of all regulatory approvals in connection with the PLS and Prospectus, the Board is proposing that the shareholders approve by means of an ordinary resolution, the issuance of up to 20 000 000 (twenty million) new fully paid up Preference Shares of a nominal value of €0.01 each at a subscription price of the Euro equivalent of ZAR100.00 per share as at 17:00 on 30 July 2012, being the closing date of the offer for subscription for the initial issuance of Preference Shares (or such later date as the offer closes) (“**Closing**”), as part of the Preference Share Issue Programme to those persons who duly meet the subscription conditions of the PLS and Prospectus.

### **3. Waiver of pre-emption rights in respect of Issuance of Preference Shares under Resolution 2**

#### ***Purpose***

The Board is proposing that the Company’s shareholders, in accordance with Article 88(5) of the Companies Act and Article 3(i) of the Articles of Association of the Company, waive by means of an extraordinary resolution their pre-emption rights in relation to the Preference Shares issued under Resolution 2.

The Board in accordance with Article 88(5) of the Companies Act is circulating by means of paragraph 2.1 of the Circular to which this Notice is attached, a written report indicating the reasons for the withdrawal of the shareholders' pre-emption rights in respect of the issue of the Preference Shares under Resolution 2 and justifying the proposed subscription price.

### ***Proposal***

Subject to the approval of Resolutions 1 and 2, all and any pre-emption rights which the shareholders of the Company may be entitled to under the Company's M&A or under Maltese law in connection with the issuance of up to the 20 000 000 new fully paid up Preference Shares of a nominal value of €0.01 each at a Subscription Price of the Euro equivalent of ZAR100.00 per share as at Closing, as part of the Preference Share Issue Programme, are hereby waived to the fullest extent possible by all the shareholders of the Company.

## **4. General authority to directors to make further issues of Preference Shares pursuant to the Preference Share Issue Programme and to restrict Pre-Emption Rights**

### ***Purpose***

The Board is proposing that the shareholders by means of an extraordinary resolution delegate to the Board the power of the Company to issue any Preference Shares which for any reason whatsoever are not taken up in the issue authorised in Resolution 2 at a Subscription Price to be determined by the Board based on market conditions at the relevant time and authorise the Board to restrict or withdraw the pre-emption rights of the Company's shareholders for as long as the Board remains so authorised to issue the Preference Shares.

The Board is proposing that this authority to make further issues of Preference Shares and to restrict or withdraw the Company's shareholders' pre-emption rights shall expire 18 months from the date of this resolution, provided that any offers and issue of said Preference Shares are made in compliance with all applicable legislation, including the issue of supplements to the Prospectus or the issue of a new prospectus altogether. On the strength of such authority proposed to be given to the Board, and on the basis of the report of the Board set out at paragraph 2.1 of the Circular, the Prospectus will alert prospective investors wishing to acquire the Preference Shares that they will have no pre-emption rights on any further issues of Preference Shares pursuant to the Preference Share Issue Programme.

### ***Proposal***

Subject to the approval of Resolutions 1, 2 and 3, and, without prejudice and in addition to the authority to issue and allot Ordinary Shares granted to the Board at the Annual General Meeting of the Company on 25 July, 2011, the Board be generally and unconditionally authorised to exercise all the powers of the Company to make issues of Preference Shares, up to the maximum number of authorised but unissued Preference Shares under the Preference Share Issue Programme, including any Preference Shares which for any reason whatsoever are not taken up in the issue authorised in Resolution 2, at a subscription price to be determined by the Board based on market conditions at the relevant time, for a period expiring 18 months from the date of this resolution, provided that any offers and issue of said Preference Shares are made in compliance with all applicable legislation, including the issue of supplements to the Prospectus or the issue of a new prospectus altogether.

Pursuant to Article 88(7) of the Companies Act and in accordance with Article 3(i) of the Articles of Association of the Company, the Board of Directors be generally authorised to restrict or withdraw the statutory pre-emption rights of the Company's shareholders for as long as the Board of Directors remains authorised to issue the Preference Shares.

## **Notes**

Any shareholder may, in writing, appoint a proxy, who need not be a shareholder, to represent him/her at any general meeting. Any company, being a shareholder, may execute a form of proxy under the hand of a duly authorised officer. The instrument appointing a proxy together with evidence of the authority of the person by whom the proxy is signed (except in the case of a proxy signed by the shareholder), shall be deposited at the registered office of the Company, 24 hours before the time for the holding of the meeting or adjourned meeting (as the case may be) at which the person named in such instrument proposes to vote. No instrument appointing a proxy shall be valid after the expiration of 12 months from the date of its execution. Any shareholder may, instead of sending the proxy form to the registered office, send the proxy form (completed in accordance with its instructions) to the appropriate transfer agent 48 hours prior to the EGM in order that the Transfer Agents may be able to send the proxy form on your behalf to the registered office 24 hours before the time for holding of the meeting.

A form of proxy is enclosed with this notice, the completion of which will not preclude a shareholder from attending and voting at the meeting in person to the exclusion of any proxy appointed. Resolutions 1, 3 and 4 are to be proposed as extraordinary resolutions and Resolution 2 is to be proposed as an ordinary resolution.

Ordinary resolutions may be passed at the EGM by a simple majority representing more than 50 per cent of the voting rights attached to shares represented and entitled to vote at the meeting. Extraordinary Resolutions require a 75 per cent majority by nominal value of shares represented at the EGM and entitled to vote and at least 51 per cent in nominal value of all the shares entitled to vote at the EGM. The quorum requirement in relation to both ordinary resolutions and extraordinary resolutions is at least two members holding shares granting the right to vote in the Company who are present or represented at the EGM.

By order of the Board

**Dr Nadine Cachia**  
*Company secretary*

3 July 2012

**Registered office**

4th Floor, Avantech Building  
St Julian's Road  
San Gwann SGN 2805  
Malta

**Registrar and Transfer Agent**

**South Africa**

Computershare Investor Services (Proprietary) Limited  
Ground Floor  
70 Marshall Street  
Johannesburg  
2001  
(PO Box 61051, Marshalltown 2107)

**Registrar and Transfer Agent**

**Luxembourg**

Maitland Luxembourg S.A.  
58, Rue Charles Martel  
Luxembourg  
L-2134



## BRAIT SE

(Formerly "Brait S.A.")  
(Registered in Malta as a European Company)  
(Registration number SE1)  
Listed in Luxembourg and South Africa  
Share code: BAT ISIN: LU0011857645  
("the Company" or "Brait")

### Form of proxy for use by certificated Brait shareholders and "own-name" dematerialised Brait shareholders only

#### CREATION OF 20 000 000 (TWENTY MILLION) CUMULATIVE, NON-PARTICIPATING PREFERENCE SHARES

##### For use only:

- by holders of **certificated shares** of the Company; and
- holders of **dematerialised shares** in the Company held through a Central Securities Depository Participant ("CSDP") or broker and **who have selected "own-name"** registration;
- at the Extraordinary General Meeting of the Company to be held at 10:00 CET on Wednesday, 25 July 2012, at the Company's registered office or at any adjournment thereof ("Extraordinary General Meeting").

If you are a Brait shareholder entitled to attend and vote at the Extraordinary General Meeting you can appoint a proxy or proxies to attend, vote and speak in your stead. A proxy need not be a Brait shareholder of the Company.

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

I/We

(full names in block letters)

of (address)

being a holder/s of  **shares** in the Company, hereby appoint (see note 2)

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

	Number of votes (one per share)		
	In favour	Against	Abstain
<b>RESOLUTION NUMBER 1</b> Increase in authorised share capital and other amendments to the M&A in regards to Preference Shares			
<b>RESOLUTION NUMBER 2</b> Issuance of Preference Shares			
<b>RESOLUTION NUMBER 3</b> Waiver of pre-emption rights in respect of issuance of Preference Shares under Resolution 2			
<b>RESOLUTION NUMBER 4</b> General authority to directors to make further issues of Preference Shares pursuant to the Preference Share Issue Programme and to restrict pre-emption rights			

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

Signed at this day of 2012

Signature

**NOTES:**

- (i) The following dates are applicable to all shareholders. This notice is being mailed to the members on the Register of Members of the Company as at Friday, 22 June 2012. Members registered on the Register of Members as at Friday, 20 July 2012 (“the Record Date”) shall have the right to participate and vote at the meeting. Accordingly, the last day to trade for shareholders in order to be able to participate and vote at the meeting is Friday, 13 July 2012. Any change to an entry on the Register after the Record Date shall be disregarded in determining the right of any person to attend and vote at the Extraordinary General Meeting.
- (ii) A member entitled to vote may appoint a proxy to attend and vote instead of him/her using the enclosed Form of Proxy; the appointed proxy need not be a member. To be valid the Form of Proxy must be signed and must reach the Office of the Company secretary at Brait SE, 4th Floor, Avantech Building, St Julian’s Road, San Gwann, SGN 2805, Malta by not later than Tuesday, 24 July 2012 at 10:00 CET.
- (iii) Should you not wish to send the duly-completed proxy directly to the Company secretary you may send it to the appropriate transfer agent:
- for the Luxembourg share register: Maitland Luxembourg S.A., 58, Rue Charles Martel, Luxembourg, L-2134, Tel: +352 402 505 417, Fax: 402 505 66; or
  - for the South African share register: Computershare Investor Services (Pty) Limited PO Box 61051, Marshalltown, 2107, Tel: +27 11 370 5000, Fax: +27 11 668 5200
- by not later than Monday, 23 July 2012 at 10:00 CET, in order to enable the Transfer Agent to send it on your behalf for receipt by the Company secretary by not later than Tuesday, 24 July 2012 at 10:00 CET.
- (iv) In order to participate and to vote at the meeting, a member or his/her proxy is to present his/her Identity Card or other means of identification. In the case of a member being a body corporate, association of persons, foundation or other body of persons, a representative thereof will only be eligible to attend and be admitted to the meeting, and to vote there at, if a Form of Proxy has been (a) duly executed in his/her favour by the competent organ of the entity which he/she represents, and (b) submitted to the Company secretary in accordance with the procedures set out under (ii) above.
- (v) A member/s holding not less than 10% of the voting issued share capital of Brait may:
- (a) request Brait to include items on the agenda of the meeting, provided that each item is accompanied by a justification or a draft resolution to be adopted at the Extraordinary General Meeting; and
  - (b) table draft resolutions for items included in the agenda of a general meeting.
- Provided that with respect to the request to put items on the agenda of the meeting or draft resolution shall be submitted to Brait in hard copy form or in electronic form at least forty six (46) days before the date set for the meeting and it shall be authenticated by the person or persons making it. In the event that such a request or resolution is received after the lapse of the 46 day time limit set out above, Brait shall not be obliged to entertain any requests by the member/s.
- (vi) In the case of shares held jointly by several persons, the person who had been nominated by the joint holders to be the registered holder of such shares shall be entitled to attend and vote at the meeting. In the event that the joint holders failed to nominate such person, the first named joint holder on the register of members of the Company shall be entitled to attend and vote at the meeting.
- (vii) A member who is a minor may be represented at the meeting by his/her Legal Guardian who will be required to present his/her Identity Card.
- (viii) Admission to the meeting will commence one hour before the advertised and appointed time.
- (ix) After the meeting has proceeded to business, voting documents will continue to be issued until such time as the meeting proceeds to vote on the first resolution of the agenda whether by show of hands or by poll. Thereafter no further voting documents will be issued and admittance to the meeting will be discontinued.
- (x) The following information is also made available to the members on [www.brait.com](http://www.brait.com) in the Investor Relations section:
- (a) a copy of this notice;
  - (b) the total number of shares and voting rights at the date of the notice (including separate totals for each Class of Shares where the Issuer’s capital is divided into two or more Classes of Shares);
  - (c) the documents to be submitted to the general meeting; and
  - (d) the proxy forms.