

- 6.6 For the purpose of this Section 6.5, Market Value shall mean, the value per share appraised by an internationally recognized independent appraiser, appointed by the Managing director of KPMG Hong Kong.
- 6.7 For the purpose of this Section 6.5, Net Asset value shall mean the book value of the Company as determined by its latest available audited financial statements, as adjusted for capital increase or decrease of the Company or other major corporate activities which may affect the content of such financial statements, such adjustments to be made and certified by the Company's auditors within 30 days after the Sale Notice or Purchase Notice was served.
- 6.8 In case of occurrence of the termination event set forth in the Subsection 6.3(a), the non-breaching Party shall, in addition to the rights as set forth in the Section 6.5, be entitled to demand the breaching Party to compensate its damages incurred by such termination event.

7. GENERAL CONDITIONS

- 7.1 Clause 7 shall survive termination of this Agreement. No termination shall relieve any Party from liability for any breach of this Agreement.
- 7.2 Confidentiality and Non-use
- 7.2.1 During a period beginning at the Effective Date and ending ten (10) years after the later of the termination of this Agreement, it shall be prohibited for either Party to disclose to any third party information which has been disclosed by the other, whether such disclosure is direct or indirect, by any means such as a writing, factory tour, or other means used to communicate information, provided that such information shall be documented or described in a tangible form and shall be marked "Confidential" (hereinafter "Confidential Information"). Any such Confidential Information shall be used only for the purposes of carrying out this Agreement.
- 7.2.2 Any other use of Confidential Information is prohibited. Each of the Parties will cause its own and employees of the Company to adhere to the obligations of this through provisions in their respective employment agreements or otherwise. Confidential Information specifically includes the terms of this Agreement and its conditions provided however that the Parties may in connection with an actual or proposed merger or acquisition, and in connection with the enforcement of its rights under this Agreement disclose the terms and conditions of this agreements in confidence to its legal counsel, accountants and other advisors.
- 7.3 Confidential Information does not include information:
- a) Which was obtained legally by the receiving Party prior to its receipt from the disclosing Party.
 - b) Which was or has become public not through any act of the receiving Party.
 - c) Which has been received from a third party with no obligation of confidentiality;

- d) Which has been independently developed by the receiving Party or its Affiliates.
- e) This obligation of confidentiality shall not apply in such case that information is requested by a government agency of competent jurisdiction but in any case that Confidential Information is disclosed under this paragraph the Party disclosing Confidential Information to such government agency shall give the other Party (the "Information Owning Party") notice prior to such disclosure which notice shall be reasonably sufficient to allow the Information Owning Party to seek appropriate action to prevent such disclosure.

8. FORCE MAJEURE

- 8.1 In the event that either Party is delayed in performing or is prevented from performing in whole or in part its obligations hereunder due to Force Majeure then the Party so affected shall have no liability to the other Party in respect of any resultant delay in performance or non-performance, partially or in whole, of its obligations under this Agreement (and the other Party shall to a similar extent not be liable for non performance or delay in performance of its obligations).
- 8.2 For the purpose of this Agreement, a Force Majeure shall exist only if and during a period when an event is beyond the control of the Party claiming Force Majeure. Such event of Force Majeure shall include but not be limited to:
 - a) labor disputes affecting the region,
 - b) fire, explosion directly affecting the facilities concerned, or
 - c) war or other hostilities, flood, earthquake, severe weather conditions of an extraordinary nature directly affecting the facilities concerned.
- 8.3 A Party wishing to invoke Force Majeure shall promptly notify the other Party in writing giving details thereof, and of the anticipated effect on this Agreement and of the estimated duration of Force Majeure. Such Party shall use its best endeavors to resume full performance of its obligations under this Agreement without avoidable delay.

9. APPLICABLE LAW AND DISPUTES

- 9.1 This Agreement shall be construed in accordance with and governed by the laws of South Africa and shall be interpreted thereunder.
- 9.2 In case of any dispute between the Parties to this Agreement or in case of any alleged breach of this Agreement, the Parties shall cooperate to reach an amicable resolution of such dispute. In such case that they are unable to reach such an amicable resolution, the Parties shall submit such dispute to arbitration under this subsection.
 - 9.2.1 The arbitration shall be held subject to the provisions of this clause:
 - i) Pretoria;

- ii) informally;
- (iii) in accordance with the provisions of the Arbitration Act No 42 of 1965, as amended and/or further Rules agreed on between the parties or directed by the arbitrator.

9.2.2 The parties will endeavour to nominate an arbitrator within seven days after the dispute has been referred to arbitration by any of the parties and if the parties are unable to nominate an arbitrator either party may approach the president of the Law Society of the Northern Provinces to appoint an arbitrator.

9.2.3 The arbitrator shall, if the question in issue is:

- (i) Primarily an accounting matter, an independent chartered accountant, together with a legal arbitrator referred to in ii) below or;
- (ii) primarily a legal matter, preferably a retired judge of the High Court of South Africa or a practicing senior counsel practicing at the Pretoria bar of advocates;
- (iii) any other matter, an independent person so agreed on or appointed.

9.2.4. The parties irrevocably agree that the decision in the arbitration proceedings shall be final and binding on them, shall be carried into effect and may be made an order of court on application of any of the parties. No party shall have the right to appeal.

9.2.5. Nothing contained in this clause shall preclude any of the parties from approaching a court of competent jurisdiction for interlocutory or urgent relief.

10 NOTICE

10.1 All notices required under this Agreement, and all communications made by agreement of the Parties, shall be made in writing, and shall be delivered either personally, by facsimile, or by mail. The date of actual receipt by the receiving party shall be deemed the date of notice under this Agreement. The addresses of each Party for purposes of notice under this Agreement shall be as follows:

For VRL:

Mr Pieter van der Merwe

10 Haggie road, Boksburg, RSA

Title: Chief Executive Officer Tel: 011 306 8000, Fax: 011 306 8018

E-mail: pieterm@vrlaser.co.za

For DLS:

Mr Stephan Burger

Title: Chief Executive Officer

Tel: 012 620 3481

Fax: 012 620 3384

E-mail: stephanb@dlsys.co.za

- 10.2 No right or obligation under this Agreement shall be transferable or assigned to any third party without the express agreement in writing of the other Party.
- 10.3 No modification or amendment of this Agreement shall be valid without such amendment being in writing and signed by both Parties.
- 10.4 If any provision contained in this Agreement is or becomes ineffective or is held to be invalid by a competent authority or court having final jurisdiction thereover, or the competent authorities find a provision to be invalid or request modifications, all other provisions of this Agreement shall remain in full force and effect and there shall be substituted for the said invalid provision a valid provision having an economic effect as similar as possible to the original provision.
- 10.5 This Agreement and any documents attached hereto constitute the entire agreement between the Parties with respect to the transactions contemplated hereby and, except as otherwise expressly set forth herein, supersedes all prior discussions, understandings, agreements and negotiations between the Parties with respect to such subject matter.

THIS DONE AND SIGNED AT PRETORIA ON THIS ____TH DAY OF JULY 2015.

WITNESSES:

1. _____

2. _____

MR _____ obo DLS

WITNESSES:

1. _____

2. _____

MR _____ obo VRL

"SF9.4"

From: Pieter van der Merwe <pieterm@vrlaser.co.za>
Sent on: Friday, October 16, 2015 6:15:04 AM
To: Kamal Singhala <kamals@vrlaser.co.za>; infoportal1@zoho.com;
tony@sahara.co.za
Subject: FW: ASIA AGREEMENT
Attachments: image001.jpg (11.34 KB), DENEL VR HONG KONG PARTNERSHIP
AGREEMENT 11.10.2015 denel update.docx (53.87 KB)

Morning sirs,
For your information, see my mail below.
Regards,
Pieter

From: Pieter van der Merwe
Sent: Friday, October 16, 2015 6:09 AM
To: 'Denise Govender'; patricia@vitoliconsulting.co.za
Cc: Matodzi Ramashia; Fortune Legoabe (Fortunel@denel.co.za); heidiw@denel.co.za; Stephan Burger;
zwelakhen@denel.co.za
Subject: ASIA AGREEMENT
Sensitivity: Confidential

Good morning,
Find attached hereto the latest agreement in which mark-ups have been accepted. Your legal team must still however please ensure that all their latest mark-ups indeed have been incorporated.
I however want to refer you to one more amendment in 3.3.1. It was discussed earlier that it might be necessary to open the office in Dubai, for practical reasons. I think it might be better to empower the Management Committee to take such decision, if it seems to be a better option after due deliberation.
Should there be any further queries please do not hesitate to contact me.
Regards,
IMG [660]

COOPERATION AGREEMENT

THIS AGREEMENT IS ENTERED INTO BY AND BETWEEN:

VR LASER ASIA LTD

(Certificate of Incorporation 2111273)

a limited company incorporated and existing in Hong Kong under the Companies Ordinance
(Chapter 622 of the Laws of Hong Kong)

having its business address at

BLK A, 15/F HILLIER COMM BUILDING, 65-67 BONHAM STRAND EAST, SHEUNG WAN, HONG KONG
("VR ASIA")

AND

DENEL SOC LTD

(Registration number: 1992/001337/30)

a company incorporated and existing under the laws of the Republic of South Africa

having its business address at

368 Selborne Avenue, Lyttelton, Centurion, Gauteng
("DENEL")

- WHEREAS** **VR LASER ASIA LTD** is a Company registered in Hong Kong and possesses skills and know-how in steel processing, particularly providing unique solutions for the defence industry and vehicle protection which includes, inter alia, laser cutting, armour works, fabrication, machining related to such fabrication and integration which services are supported by the latest technology and further understand the international fabrication market and industrial landscape; and
- WHEREAS** **VR LASER ASIA LTD** has an established network of potential business sources, which continues to expand.
- WHEREAS** **DENEL SOC LTD ("DENEL")** is a commercially driven state owned Company, renowned for innovative defence, security and related technology solutions. Denel offers turn-key solutions for defence equipment to its clients by designing, developing, integrating and supporting, inter alia, artillery, munitions, missiles, aerostructures, aircraft maintenance, unmanned aerial vehicle systems and optical payloads based on high-end technology; and
- WHEREAS** Denel has a number of equity partnerships, joint ventures and cooperation agreements with international players in the defence industry; and
- WHEREAS** both Parties have identified Asia, more particularly India as a key strategic region for cooperation between the Companies and are interested in co-operating with each other to, inter alia, support the requirements of key local and/or international clients and prospective clients in these countries;

NOW THEREFORE, the Parties agree and commit to work together on the terms and conditions contained in this agreement:

1. COMPANY TO BE FORMED AND INCORPORATED

- 1.1 The Parties agree to establish a joint venture company (hereinafter the "Company"), to be registered in Hong Kong.
- 1.2 The Company's core business will be to trade in various defence products, amongst others the marketing, selling, manufacturing and delivery of any products currently manufactured or sold by DENEL, as well as to bid or otherwise become involved in special projects for the provision of defence products and expertise as and when such opportunities arise within identified territories.
- 1.3 In addition to this Agreement, certain agreements (including a shareholders agreement) will be entered into among the Parties and the Company, either concurrently with the execution of this Agreements or upon establishment of the Company, alternatively as soon as possible after the incorporation/registration of the Company, in order to give effect to the purpose of this agreement.

- 1.4 The Parties shall act as quickly as possible to establish a company under the laws of Hong Kong. The name of the Company shall be Denel Asia. The Parties shall immediately attend to all practical requirements in order to register the Company. The Parties agree that KPMG will be appointed to register the Company and to attend to all ancillary agreements and requirements.
- 1.5 The Company shall adopt Articles of Incorporation pursuant to the laws of Hong Kong. The Articles of Association and Shareholders agreement shall be consistent with the terms of this Agreement and in case of any conflict, the terms of the Articles of Association and Shareholders agreement shall prevail.

2. SHAREHOLDING AND CONTROL

- 2.1 DENEL shall hold 51% of the share capital of the Company and VR ASIA shall hold 49%.
- 2.2 VR ASIA shall lend to the Company the equivalent of up to R100 000 000-00, over 5 years (R20 000 000 per year), as a shareholders loan, to set up an office for sales and marketing. This amount shall bear interest at the Repo Rate of the South African Reserve Bank, per annum, and this shareholder's loan plus such interests accruing thereon, shall be repaid from of the first profits of the Company. If there are insufficient profits to pay the full shareholder's loan plus interest no dividends shall be declared until such time as this shareholder's loan plus interest has been fully repaid.
- 2.3 Until such time as the Company has been formed, the proposed directors in 3.2.1 below shall act as a Management Committee in order to execute the terms and conditions of this agreement, as set out in clause 3.3 below. Each party shall be entitled to alternate their representatives, acting on the Management Committee, with written notice to the other party.
- 2.4 The Company shall provide for its own loan financing according to the decision of its Board of Directors. The Parties shall support the Company in obtaining the most favorable terms for its loan financing. None of the Parties shall be obliged to make any guarantees of financing unless this is separately agreed by the Parties. If project finance or other funding is required, the Shareholders shall provide financial assistance in proportion to their respective shareholding.
- 2.5 Neither Party shall, without the prior written consent of the other Party pledge, hypothecate or otherwise use its shares as security, or grant options over its legal and beneficial interest in its shares. Any action of a Party violating this provision shall be void and shall be considered a material breach of this Agreement.
- 2.6 No Party shall sell, transfer or otherwise dispose of its shares, unless all loans by any Party, to the Company, have been repaid and the party to whom the shares are being transferred to agrees in writing to be party to this Agreement or the shareholders agreement referred to in 1.3. In the case that either Party desires to sell to a *bona fide* third party all or any of its shares of the Company (such Party

hereinafter the "Selling Party"), the other Party shall have a right of first refusal to purchase such shares. The Selling Party shall first give a written notice to the other Party (hereinafter the "Receiving Party") and the Company, setting forth;

i) the number of shares proposed to be transferred (hereinafter the "Offered Shares");

ii) the proposed purchase price, terms and payment and other material terms and conditions received from a bona fide third party; and

iii) an irrevocable offer to sell Offered Shares to the Receiving Party (hereinafter the "Sale Offer") at the same price and on the same terms and conditions as set forth therein.

- 2.7 The Receiving Party shall have the right to purchase the Offered Shares pursuant to the Sale Offer, in whole or in part, by delivering a written notice to the Selling Party within 30 days from the date of the Sale Offer, irrevocably stating therein that all of the Offered Shares will be purchased by the Receiving Party.
- 2.8 If the Receiving Party provides to the Selling Party the notice specified in the immediately preceding paragraph, then the Receiving Party shall have 30 days to complete the purchase of the Offered Shares upon the terms set forth in the Sale Offer (hereinafter the "Purchase Period"), provided, however, that the Purchase Period shall be extended until such date as all required approvals, consents or authorizations in connection with such purchase are obtained.
- 2.9 If the Receiving Party shall not have completed such purchase within the Purchase Period, as extended as provided herein, then the Selling Party shall have the right for 90 days thereafter (hereinafter the "Transfer Period") to transfer the Offered Shares not subject to any of the restrictions set forth in this Agreement; provided, however, that such transfer is consummated on terms not more favorable to the purchasers thereof than the terms specified on the Sale Offer; and provided, further, that the Transfer Period shall be extended until such date as all required approvals, consents or authorizations in connection with such purchase are obtained.
- 2.10 If at the end of the Transfer Period, as extended as provided herein, the Selling Party has not completed the sale of the Offered Shares, the Selling Party shall no longer be permitted to sell such Offered Shares pursuant to this Section.
- 2.11 Notwithstanding anything to the contrary of other provisions set forth in this agreement, neither Party shall sell any of its shares of the Company to any Competitors of the Company, or to any other entity which has not signed and agreed to be bound by the provisions of the Company's Articles of Association and Shareholders Agreement. For purposes of this Agreement, a Competitor shall mean a company which conducts similar businesses of any of the parties or the Company at any time.

3. Management Structure and Operation

3.1 Shareholders Meeting

3.1.1 Matters to be decided by the Shareholders Meeting shall be as follows:

- (a) Revision of the Articles of Association;
- (b) Approval of the balance sheet and other financial statements received from the Board of Directors;
- (c) Determination of dividends and of disposition of losses;
- (d) Merger, consolidation, restructuring or reorganization of the Company;
- (e) Sale of all or substantially all assets of the Company;
- (f) Appointment and removal of the Company's auditors;
- (g) Voluntary submission by the Company to bankruptcy, or any similar status;
- (h) Establishment of subsidiaries, opening and closing of branch offices, acquisition of the whole or part of the assets of another company or business, establishment of new business sites and closing of existing ones;
- (i) Liquidation or dissolution of the Company; and
- (j) Other matters reserved to the determination of the Shareholders Meeting by the Company Law of Hong Kong.

3.1.2 Matters such as the method of announcing the Shareholders Meeting, the legally required number of attendants, and the required number of votes for decisions shall be in accordance with the Articles of Association of the Company and the Company Law of Hong Kong subject to the following:

- a) Each shareholder of the Company shall be given timely, written notice of the time, date, agenda and place of the Shareholders Meeting, in no event later than 15 days prior to the date of such meeting. All notices and agendas of Shareholders Meetings shall be accompanied by accurate and complete English language translations thereof.
- b) A quorum for a Shareholders Meeting shall require the presence, in person or by proxy, of shareholders of the Company holding more than 60% of the total outstanding shares of the Company.
- c) Resolutions of the Shareholders Meetings, on any of the matters described in 3.1.1 (a) to (i) shall be adopted by the affirmative vote of 75% of the shares represented in person or by proxy at a Shareholders Meeting, at which a quorum is present. Any other matters will be adopted by a normal majority vote.

- d) Each share shall be entitled to one vote.
- e) In case where a shareholder cannot attend a Shareholders Meeting, such shareholder may appoint a representative by issuing a proxy in writing in accordance with the laws of Hong Kong.

3.2 Directors and Chairman

3.2.1 The Company shall have a minimum of 4 directors. The first directors shall be Zwelakhe Ntshepe (DENEL), Stephan Burger (DENEL), Pieter van der Merwe (VR ASIA) and Kamal Singhala (VR ASIA). Each Party shall be entitled to nominate 2 directors and shall be entitled to replace their nominated directors. The Chairman shall have the casting vote.

3.2.2 If the Company needs to comply with legal requirements for the appointment of independent directors or a company secretary, as will be provided in the Company Law any other laws or regulations, the Parties agree to co-operate in good faith and to work out an appropriate contractual arrangement to maintain the Company as joint venture between the Parties as equal partners with regard to the directors, supervisors and the management of the Company.

3.2.3 The responsibilities of the Board of Directors shall be as follows:

- a) Appointment and removal of the Chairman of the Board. The first Chairman of the Board shall be a DENEL appointed representative.
- b) Approval of the annual and quarterly budgets (including but not limited to the production plan, the business plan, the profit and loss plan, the capital investment plan, and the financial plan);
- c) Change of issued and outstanding share capital of the Company;
- d) Determination of long term policies of the Company including substantial change in the organizational structure and business operation of the Company;
- e) Determination of employment terms including compensation packages;
- f) Setting the limits of authorities of various positions and approving the chart of authorities;
- g) Preparation and submission to the Shareholders Meeting of the financial accounts (including dividends and disposition of losses);
- h) Creation of pledge, hypothecation, encumbrance or other security on the Company's assets;
- i) Transfer, sale or any other disposal of major assets other than in the ordinary course of business in the amount of more than the equivalent (at time of the decision) of R5 000 000-00;
- j) Conclusion or termination of agreements regarding intellectual property rights and know how;
- k) Conclusion of any agreement or other arrangement with, or for the benefit of any director of the Company;
- l) Initiation of new product lines or discontinuation of existing product lines;
- m) The commencement of any litigation as plaintiff or the settlement by the Company of any litigation against it;

- n) Submission of other matters to the Shareholders Meeting for consideration or approval as may be required by law;
- o) Decision of other important matters related to the Company and transactions other than in the ordinary course of business of the Company;
- p) Any decision in regards to the allocation and/or payment of the loan amount mentioned in clause 2.2.

3.2.4 All the directors, in person or through representation, shall be necessary to form a quorum. Resolutions/decisions of the Board of Directors, as mentioned in 3.2.3 (a) to (p), shall be in writing, and shall be adopted by a 75% vote of all Directors. All other resolutions shall be adopted by a normal 51% majority.

3.2.5 In case where any director of the Company cannot attend a meeting of the Board of Directors, that director may appoint another director as representative in accordance with the Company law of Hong Kong. All or any of the directors may participate in a meeting of the Board of Directors by means of a video conference which allows all persons participating in the meeting to see and hear each other. A director so participating shall be deemed to be present in person at the meeting and shall be entitled to vote or be counted in a quorum accordingly.

3.2.6 Meetings of the Board of Directors shall be called by the Chairman. Each director of the Company shall be given timely, written notice of the time, date, agenda and place of the Directors meeting, in no event later than 15 days prior to the date of such meeting. In emergency cases the meeting of the Board of Directors can be called by the Chairman by giving a minimum of two working days notice.

3.2.7 Advisory Committee

3.2.7.1 After the Company has been established, an Advisory Committee will be constituted. The Advisory Committee shall provide the Board with advice and shall consist of experts nominated by the Board.

3.3 Management Committee

3.3.1 The parties shall within one month of the Effective Date of this cooperation agreement establish a management committee which shall be responsible for, and shall make decisions or determinations with regard to all matters arising out of this cooperation agreement, including matters which have been referred to it by any of the parties, until such time that the Board of the Company is formed. Notwithstanding any other provision in this agreement, and until the Shareholders agreement has been signed, the Management Committee shall be entitled to take any decision in regards to Denel Asia's anticipated office, including but not limited to its location.

3.3.2 The parties shall be entitled to appoint and replace from time to time by written notice to the other party, representatives on the management committee as follows:

3.3.2.1 DENEL shall appoint and replace 2 (two) representatives on the management committee;

- 3.3.2.2. VR ASIA shall appoint and replace 2 (two) representatives on the management committee.
- 3.3.3 Other persons shall be entitled to attend meetings of the management committee or be co-opted by the management committee, by invitation, which invitation shall require the mutual consent of the management committee. A member of the management committee may not unreasonably withhold his consent to the aforesaid invitation. Such co-opted or invited members shall not have any voting rights. Resolutions shall be adopted by a 75% vote of all members present.
- 3.3.4 The management committee shall meet as frequently as may reasonably be necessary to perform its functions in terms of this cooperation agreement.
- 3.3.5 A quorum of the management committee shall be a one representative of each party to this cooperation agreement. In the case of neither representatives of a party being able to attend a scheduled meeting and an alternative date cannot be set, the decisions taken at the meeting need to be ratified in writing by the other parties representative to make the said decisions binding. Decisions of the management committee shall be reached by consensus and will be binding on the parties.
- 3.3.6 In order for a decision of the management committee to have the effect of an amendment of this agreement, the decision must be reduced to writing and signed by a representative of each party who would ordinarily be entitled to sign an amendment to this agreement.
- 3.3.7 The Parties shall manage their relationship through the Management Committee, which shall be the highest decision making body for purposes of this Agreement.
- 3.3.8 The Parties shall ensure that their representatives on the Management Committee shall be duly authorised to bind the Parties in respect of all matters arising before the Management Committee.
- 3.3.9 The Management Committee shall monitor all costs anticipated to be incurred in respect of the obligations performed under this Agreement and shall procure that a quarterly reconciliation is done. The Parties shall reimburse each other to the extent as evidenced by such reconciliation, provided that the Parties may employ set-off where applicable and only make payments of net amounts. The Parties may determine how frequently such payments shall be made, provided that they occur (if applicable) at least twice a year.

4. **OPERATIONS**

- 4.1 Due to the nature of each Party's business, VR ASIA shall attend, advise and execute all functions in regards to fabrication, manufacturing and operational aspects at an agreed rate. DENEL shall make available to the Company, all products manufactured by DENEL in South Africa, for manufacturing and sale, and shall transfer all information in regards to these products to the Company on terms to be agreed between Denel and the company. DENEL and VR ASIA shall be jointly responsible for the sales and marketing of the Company and its products. DENEL

shall enter into a relevant licensing agreement with the Company. For the avoidance of doubt, DENEL shall not alienate its intellectual property in any way whatsoever.

- 4.2 Notwithstanding anything contained in 4.1 above, it is specifically recorded that VR ASIA shall be obliged to utilize all its resources, including its established network of potential business sources as referred to in the preamble of this agreement, in performing marketing activities on behalf of the Company and in generally ensuring that potential business opportunities are fully exploited within the Company.
- 4.3 The Company shall be liable for any Offset Obligations and or similar obligations that may arise in the territories in which it has secured opportunities.
- 4.4 Each of the Parties shall transfer to the Company sufficient start-up training and other transfer support. Each party shall transfer technology, information and training to the Company in order to operate.
- 4.5 The Parties agree that the Company shall establish its own information systems organization that is responsible for procuring and/or providing all of the information systems and technology required for the operation of the Company (the "Company's IT Organization"). The Company's IT Organization shall establish and operate the Company's IT infrastructure, including information systems and all supporting services.
- 4.6 It is specifically agreed that where opportunities are identified which are in the interests of the Company, and in respect of which VR Asia or Denel may also benefit, thereby creating a conflict of interest, VR Asia and Denel shall defer its own interests to those of the Company, and shall ensure that all potential opportunities are first offered to the Company. Should the Board, for any reason, resolve not to pursue any such opportunity, then VR Asia or Denel may pursue such an opportunity and give due notice to the Board.

5. ACCOUNTING

- 5.1 The accounting year of the Company shall be determined by the Managing Committee.
- 5.2 Within 10 days after the end of each month and 20 days after the end of each quarter, the Company shall submit to each Party its unaudited balance sheet and profit and loss statement of such month or such quarter, as the case may be.
- 5.3 Each Party shall have the right to audit or have audited, and/or require copies of the accounts of the Company. The accounts of the Company shall be kept in accordance with the laws of Hong Kong.
- 5.4 Unless otherwise determined by the Board of Directors, the Parties agree to appoint KPMG as its certified public accountants.

6. DURATION

- 6.1 This Agreement (other than clause 7, 9, and 10 which shall be binding from the signature date) shall become effective upon final approval in terms of the Public Management Financing Act no 1 of 1999 or other approvals required for the implementation of this agreement (hereafter the "Effective Date"), and continue in force unless terminated on the grounds set out herein.
- 6.2 Other than set forth in the Sections 6.3 and 6.4 of this Agreement, this Agreement shall terminate on –
- 6.2.1 to the extent that the company is incorporated, the date on which the parties conclude the agreements, including the shareholders agreement, contemplated in 1.3;
- It being specifically agreed that the parties may terminate this agreement by mutual consent prior to incorporating the company.
- 6.3 In case of the occurrence of any of the following circumstances this Agreement may be terminated with immediate effect by either Party by serving written notice (the "Termination Notice") to the other Party:
- a) Material breach of this Agreement by a Party (where only the non-breaching Party shall have the right to unilaterally terminate this Agreement as specified in 6.3 and the breaching Party was granted a 60 days cure period before the Termination Notice is served and did not remedy the material breach within this 60 day period);
 - b) In the case that the non-terminating Party has applied for liquidation or reorganization under applicable insolvency law, or has applied for or is the subject of a third party action for insolvency or business rescue, or is unable to honor its debts, or in the case of a *Force Majeure* which continues uninterrupted for a period in excess of 12 months.
- 6.4 In the event that all the shares of the Company are transferred to one of the parties, the terms and conditions of this agreement shall still be applicable except insofar as any term refers to the parties as co-shareholders. For the avoidance of any doubt, the terms in regards to the operational duties of each party, such as the duties set out in 4.1 and 4.2 above, shall remain to apply.
- 6.5 In case any of the circumstances stipulated in Section 6.3 occurs, the Party serving Termination Notice may elect either of the following options:
- a) Within 45 days after the day the Termination Notice was served, to serve a sale notice (the "Sale Notice") on the other Party offering to sell all of its shares at 120% of the Market Value or Net Asset Value, whichever is higher (the "Put Option Price"). The Party who receives the Sale Notice must, by itself or through a third party nominee, accept the offer and must purchase all of the requesting Party's shares at the Put Option Price within 45 days after the above notice is served.

- b) Within 45 days after the day the Notice was served, to serve a purchase notice (the "Purchase Notice") on the other Party offering to purchase all of its shares at 70% of either the Market Value or Net Asset Value, whichever is lower (the "Call Option Price"). The Party who receives the Purchase Notice must, by itself or through a third party nominee, accept the offer and must sell all of its shares to the requesting Party at the Call Option Price within 45 days after the above notice is served.
- 6.6 For the purpose of this Section 6.5, Market Value shall mean, the value per share appraised by an internationally recognized independent appraiser, appointed by the Managing director of KPMG Hong Kong.
- 6.7 For the purpose of this Section 6.5, Net Asset value shall mean the book value of the Company as determined by its latest available audited financial statements, as adjusted for capital increase or decrease of the Company or other major corporate activities which may affect the content of such financial statements, such adjustments to be made and certified by the Company's auditors within 30 days after the Sale Notice or Purchase Notice was served.
- 6.8 In case of occurrence of the termination event set forth in the Subsection 6.3(a), the non-breaching Party shall, in addition to the rights as set forth in the Section 6.5, be entitled to demand the breaching Party to compensate its damages incurred by such termination event.
- 7. GENERAL CONDITIONS**
- 7.1 Notwithstanding any other provision, clause 7 shall become effective upon signature date and shall survive termination of this Agreement. No termination shall relieve any Party from liability for any breach of this Agreement.
- 7.2 Confidentiality and Non-use
 - 7.2.1 During a period beginning at the Effective Date and ending ten (10) years after the later of the termination of this Agreement, it shall be prohibited for either Party to disclose to any third party information which has been disclosed by the other, whether such disclosure is direct or indirect, by any means such as a writing, factory tour, or other means used to communicate information, provided that such information shall be documented or described in a tangible form and shall be marked "Confidential" (hereinafter "Confidential Information"). Any such Confidential Information shall be used only for the purposes of carrying out this Agreement.
 - 7.2.2 Any other use of Confidential Information is prohibited. Each of the Parties will cause its own and employees of the Company to adhere to the obligations of this through provisions in their respective employment agreements or otherwise. Confidential Information specifically includes the terms of this Agreement and its conditions provided however that the Parties may in connection with an actual or proposed merger or acquisition, and in connection with the enforcement of its rights under this Agreement disclose the terms and conditions of this agreements in confidence to its legal counsel, accountants and other advisors.

7.3 Confidential Information does not include information:

- a) Which was obtained legally by the receiving Party prior to its receipt from the disclosing Party.
- b) Which was or has become public not through any act of the receiving Party.
- c) Which has been received from a third party with no obligation of confidentiality;
- d) Which has been independently developed by the receiving Party or its Affiliates.
- e) This obligation of confidentiality shall not apply in such case that information is requested by a government agency of competent jurisdiction but in any case that Confidential Information is disclosed under this paragraph the Party disclosing Confidential Information to such government agency shall give the other Party (the "Information Owning Party") notice prior to such disclosure which notice shall be reasonably sufficient to allow the Information Owning Party to seek appropriate action to prevent such disclosure.

7.4 Non Circumvention

- 7.4.1 A Party shall not, without the prior written consent of the other Party, directly or indirectly initiate, solicit, negotiate, contract or enter into any business transactions, agreements or undertakings, with any third party identified or introduced by the other Party or the Company, or seek to bypass, compete, avoid or circumvent the other Party or Company from any business opportunity, that relates to the Company's business, by utilising any information received as a result of this agreement, or by otherwise exploiting or deriving any benefit from such information.

8. FORCE MAJEURE

- 8.1 In the event that either Party is delayed in performing or is prevented from performing in whole or in part its obligations hereunder due to Force Majeure then the Party so affected shall have no liability to the other Party in respect of any resultant delay in performance or non-performance, partially or in whole, of its obligations under this Agreement (and the other Party shall to a similar extent not be liable for non performance or delay in performance of its obligations).
- 8.2 For the purpose of this Agreement, a Force Majeure shall exist only if and during a period when an event is beyond the control of the Party claiming Force Majeure. Such event of Force Majeure shall include but not be limited to:
- a) labor disputes,
 - b) fire, explosion directly affecting the facilities concerned,
 - c) power outages or water shortages and any resultant losses incurred as a result, or
 - d) war or other hostilities, flood, earthquake, severe weather conditions of an extraordinary nature directly affecting the facilities concerned.

8.3 A Party wishing to invoke Force Majeure shall promptly notify the other Party in writing giving details thereof, and of the anticipated effect on this Agreement and of the estimated duration of Force Majeure. Such Party shall use its best endeavors to resume full performance of its obligations under this Agreement without avoidable delay.

8.4 Notwithstanding any provision in clause 8, Force Majeure cannot be invoked insofar as it relates to the Parties' rights and obligations as shareholders.

9. APPLICABLE LAW AND DISPUTES

9.1 This Agreement shall be construed in accordance with and governed by the laws of South Africa and shall be interpreted thereunder.

9.2 In case of any dispute between the Parties to this Agreement or in case of any alleged breach of this Agreement, the Parties shall cooperate to reach an amicable resolution of such dispute. In such case that they are unable to reach such an amicable resolution, the Parties shall submit such dispute to arbitration under this subsection.

9.2.1 The arbitration shall be held subject to the provisions of this clause:

- i) Pretoria;
- ii) informally;
- (iii) in accordance with the provisions of the Arbitration Act No 42 of 1965, as amended and/or further Rules agreed on between the parties or directed by the arbitrator.

9.2.2 The parties will endeavour to nominate an arbitrator within seven days after the dispute has been referred to arbitration by any of the parties and if the parties are unable to nominate an arbitrator either party may approach the president of the Law Society of the Northern Provinces to appoint an arbitrator.

9.2.3 The arbitrator shall, if the question in issue is:

- (i) primarily an accounting matter, an independent chartered accountant, together with a legal arbitrator referred to in ii) below or;
- (ii) primarily a legal matter, preferably a retired judge of the High Court of South Africa or a practicing senior counsel practicing at the Pretoria bar of advocates;
- (iii) any other matter, an independent person so agreed on or appointed.

9.2.4. The parties irrevocably agree that the decision in the arbitration proceedings shall be final and binding on them, shall be carried into effect and may be made an order of court on application of any of the parties. No party shall have the right to appeal.

- 9.2.5. Nothing contained in this clause shall preclude any of the parties from approaching a court of competent jurisdiction for interlocutory or urgent relief.

10 NOTICE

- 10.1 All notices required under this Agreement, and all communications made by agreement of the Parties, shall be made in writing, and shall be delivered either personally, by facsimile, e-mail or by mail. The date of actual receipt by the receiving party shall be deemed the date of notice under this Agreement. The addresses of each Party for purposes of notice under this Agreement shall be as follows:

For VR ASIA:

Mr Pieter van der Merwe

10 Haggie Road, Boksburg, RSA

PO Box 5362, Boksburg North, 1461

Tel: 011 306 8000, Fax: 011 306 8018

E-mail: pieterm@vrlaser.co.za

For DENEL:

Mr Zwelakhe Ntshepe

Denel SOC Ltd Office

Nellmapius Drive, Irene, Centurion

PO Box 8322, Centurion, 0046

Title: Chief Executive Officer

Tel: 012 671 2853

Fax: 012 671 2751

E-mail: zwelakhen@denel.co.za

- 10.2 No right or obligation under this Agreement shall be transferable or assigned to any third party without the express agreement in writing of the other Party.
- 10.3 No modification or amendment of this Agreement shall be valid without such amendment being in writing and signed by both Parties.
- 10.4 If any provision contained in this Agreement is or becomes ineffective or is held to be invalid by a competent authority or court having final jurisdiction thereover, or

the competent authorities find a provision to be invalid or request modifications, all other provisions of this Agreement shall remain in full force and effect and there shall be substituted for the said invalid provision a valid provision having an economic effect as similar as possible to the original provision.

- 10.5 This Agreement and any documents attached hereto constitute the entire agreement between the Parties with respect to the transactions contemplated hereby and, except as otherwise expressly set forth herein, supersedes all prior discussions, understandings, agreements and negotiations between the Parties with respect to such subject matter.

THIS DONE AND SIGNED AT PRETORIA ON THIS ____TH DAY OF OCTOBER 2015.

WITNESSES:

1. _____

2. _____

MR ZWELAKHE NTSHEPE OBO DENEL

WITNESSES:

1. _____

2. _____

MR PIETER VAN DER MERWE obo VR
ASIA

"SF9.5"

From: Pieter van der Merwe<pieterm@vrlaser.co.za>
Sent on: Wednesday, October 28, 2015 2:16:38 PM
To: Kamal Singhala <kamals@vrlaser.co.za>; infoportal1@zoho.com;
tony@sahara.co.za
Subject: INVESTMENT SPV
Attachments: ANIL GUPTA ADANI PARTNERSHIP AGREEMENT 27.10.2015.docx
(52.32 KB)

Good day sirs,

Find attached hereto the first of 2 agreements. This draft agreement is between Mr Anil Gupta and Adani to create the Investment SPV. My apologies for only finishing it now sir.

I used the cooperation agreement between us and Denel as a basis –seeing that the cooperation concepts are the same (we agree on a company to be formed, shareholding therein and the parties' initial rights –until the company is formed). All the changes are marked in a different colour for easy reference. May I please highlight the following:

1. Clause 3.1.3 deals with our representation in Denel India. I am uncertain how one can formalize this in terms of the Indian Company laws and whether my wording, and our intention, is legally enforceable. Can we please check this with an attorney in India? I will correspond with them, if you require me to do so.

2. For dispute resolution I have opted for Arbitration. I do not know whether it is better in India to litigate in court or to arbitrate.

I expect Mr Adani to change a lot of clauses, but I can be contacted at any time to discuss with his legal team. If I must change anything please let me know sir. I will send the 2nd agreement also still today.

Regards,

Pieter

COOPERATION AGREEMENT

THIS AGREEMENT IS ENTERED INTO BY AND BETWEEN:

ANIL GUPTA

IDENTIFICATION NUMBER _____

having its residential address at

("AG")

AND

ADANI ENTERPRISES LIMITED

(Registration number: _____)

a company incorporated and existing under the laws of India
having its business address at

("AEL")

- WHEREAS** **ANIL GUPTA AND ADANI ENTERPRISES LIMITED** (collectively referred to as "the Parties") is desirous to engage in a business relationship as co-shareholders, in a company to be formed ("the Company"); and
- WHEREAS** the Parties hereto are keen to set out their business and commercial understanding/relationship, that would form the basis for the finalisation of definitive agreement(s), which would set out the contractual rights and obligations of the Parties; and
- WHEREAS** the Parties agree that they shall proceed forthwith with the implementation of the provisions of this Cooperation Agreement; and
- WHEREAS** the Parties wish to be legally bound by the provisions of this agreement, for the execution of the principles stipulated in this agreement;

NOW THEREFORE, the Parties agree and commit to work together on the terms and conditions contained in this agreement:

1. COMPANY TO BE FORMED AND INCORPORATED

- 1.1 The Parties agree to establish a joint venture company (hereinafter the "Company"), to be registered in India.
- 1.2 The Company's core business will be that of an investment company, owning shares, and sourcing manufacturing capabilities.
- 1.3 In addition to this Agreement, certain agreements (including a shareholders agreement) ~~will~~might be entered into among the Parties and the Company, either concurrently with the execution of this Agreements or upon establishment of the Company, alternatively as soon as possible after the incorporation/registration of the Company, in order to give effect to the purpose of this agreement.
- 1.4 The Parties shall act as quickly as possible to establish a company under the laws of India. The name of the Company shall be _____. The Parties shall immediately attend to all practical requirements in order to register the Company. The Parties agree that _____ will be appointed to register the Company and to attend to all ancillary agreements and requirements.
- 1.5 The Company shall adopt Articles of Incorporation pursuant to the laws of India. The Articles of Association and Shareholders agreement shall be consistent with the terms of this Agreement and in case of any conflict, the terms of the Articles of Association and Shareholders agreement shall prevail.

2. SHAREHOLDING AND CONTROL

- 2.1 AEL shall hold 65% of the share capital of the Company and AG shall hold 35%.
- 2.2 The relationship between the Parties, until the Company is registered and the Shareholder's agreement is signed, shall be governed by this agreement. The Management Committee, as set out in 3.3 below, shall ensure, in a bona fide manner, that this agreement is executed.
- 2.3 Until such time as the Company has been formed, the proposed directors in 3.2.1 below shall act as a Management Committee in order to execute the terms and conditions of this agreement, as set out in clause 3.3 below. Each party shall be entitled to alternate their representatives, acting on the Management Committee, with written notice to the other party.
- 2.4 The Company shall provide for its own loan financing according to the decision of its Board of Directors. The Parties shall support the Company in obtaining the most favorable terms for its loan financing. None of the Parties shall be obliged to make any guarantees of financing unless this is separately agreed by the Parties. If project finance or other funding is required, the Shareholders shall provide financial assistance in proportion to their respective shareholding.
- 2.5 Neither Party shall, without the prior written consent of the other Party pledge, hypothecate or otherwise use its shares as security, or grant options over its legal and beneficial interest in its shares. Any action of a Party violating this provision shall be void and shall be considered a material breach of this Agreement.
- 2.6 No Party shall sell, transfer or otherwise dispose of its shares, unless all loans by any Party, to the Company, have been repaid and the party to whom the shares are being transferred to agrees in writing to be party to this Agreement or the shareholders agreement referred to in 1.3. In the case that either Party desires to sell to a *bona fide* third party all or any of its shares of the Company (such Party hereinafter the "Selling Party"), the other Party shall have a right of first refusal to purchase such shares. The Selling Party shall first give a written notice to the other Party (hereinafter the "Receiving Party") and the Company, setting forth;
- i) the number of shares proposed to be transferred (hereinafter the "Offered Shares");
 - ii) the proposed purchase price, terms and payment and other material terms and conditions received from a bona fide third party; and
 - iii) an irrevocable offer to sell Offered Shares to the Receiving Party (hereinafter the "Sale Offer") at the same price and on the same terms and conditions as set forth therein.
- 2.7 The Receiving Party shall have the right to purchase the Offered Shares pursuant to the Sale Offer, in whole or in part, by delivering a written notice to the Selling Party within 30 days from the date of the Sale Offer, irrevocably stating therein that all of the Offered Shares will be purchased by the Receiving Party.

- 2.8 If the Receiving Party provides to the Selling Party the notice specified in the immediately preceding paragraph, then the Receiving Party shall have 30 days to complete the purchase of the Offered Shares upon the terms set forth in the Sale Offer (hereinafter the "Purchase Period"), provided, however, that the Purchase Period shall be extended until such date as all required approvals, consents or authorizations in connection with such purchase are obtained.
- 2.9 If the Receiving Party shall not have completed such purchase within the Purchase Period, as extended as provided herein, then the Selling Party shall have the right for 90 days thereafter (hereinafter the "Transfer Period") to transfer the Offered Shares not subject to any of the restrictions set forth in this Agreement; provided, however, that such transfer is consummated on terms not more favorable to the purchasers thereof than the terms specified on the Sale Offer; and provided, further, that the Transfer Period shall be extended until such date as all required approvals, consents or authorizations in connection with such purchase are obtained.
- 2.10 If at the end of the Transfer Period, as extended as provided herein, the Selling Party has not completed the sale of the Offered Shares, the Selling Party shall no longer be permitted to sell such Offered Shares pursuant to this Section.
- 2.11 Notwithstanding anything to the contrary of other provisions set forth in this agreement, neither Party shall sell any of its shares of the Company to any Competitors of the Company, or to any other entity which has not signed and agreed to be bound by the provisions of the Company's Articles of Association and Shareholders Agreement. For purposes of this Agreement, a Competitor shall mean a company which conducts similar businesses of any of the parties or the Company at any time.

3. Management Structure and Operation

3.1 Shareholders Meeting

3.1.1 Matters to be decided by the Shareholders Meeting shall be as follows:

- a) Revision of the Articles of Association and the terms stipulated in clause 3.1.3;
- (b) Approval of the balance sheet and other financial statements received from the Board of Directors;
- (c) Determination of dividends and of disposition of losses;
- (d) Merger, consolidation, restructuring or reorganization of the Company;
- (e) Sale of all or substantially all assets of the Company;
- (f) Appointment and removal of the Company's auditors;

- (g) Voluntary submission by the Company to bankruptcy, or any similar status;
- (h) Establishment of subsidiaries, opening and closing of branch offices, acquisition of the whole or part of the assets of another company or business, establishment of new business sites and closing of existing ones;
- (i) Liquidation or dissolution of the Company; and
- (j) Other matters reserved to the determination of the Shareholders Meeting by the Company Law of India.

3.1.2 Matters such as the method of announcing the Shareholders Meeting, the legally required number of attendants, and the required number of votes for decisions shall be in accordance with the Articles of Association of the Company and the Company Law of India subject to the following:

- a) Each shareholder of the Company shall be given timely, written notice of the time, date, agenda and place of the Shareholders Meeting, in no event later than 15 days prior to the date of such meeting. All notices and agendas of Shareholders Meetings shall be accompanied by accurate and complete English language translations thereof.
- b) A quorum for a Shareholders Meeting shall require the presence, in person or by proxy, of shareholders of the Company holding more than 60% of the total outstanding shares of the Company.
- c) Resolutions of the Shareholders Meetings, on any of the matters described in 3.1.1 (a) to (i) shall be adopted by the affirmative vote of 75% of the shares represented in person or by proxy at a Shareholders Meeting, at which a quorum is present. Any other matters will be adopted by a normal majority vote.
- d) Each share shall be entitled to one vote.
- e) In case where a shareholder cannot attend a Shareholders Meeting, such shareholder may appoint a representative by issuing a proxy in writing in accordance with the laws of India.

3.1.3 The Company shall own shares in other companies ("secondary companies"), some of which might still be formed. In regards to these companies, notwithstanding any other provision, the Parties agree as follows, which shall be incorporated into the shareholders agreement of the Company:

- a) The Parties agree that, for purposes of voting rights at shareholders meetings in secondary companies, each party shall be represented at such meetings by one person, in proportion to their shareholding in the Company. As an example, if the Company owns 80% shareholding in a

secondary company, AG shall have 28% voting rights at an Annual General Meeting (of the secondary company) and AEL shall have 52%.

- a)b) Each Party shall be entitled to nominate one person to act on the Board, as directors, in the secondary companies.

3.2 Directors and Chairman

3.2.1 The Company shall have a minimum of 2 directors. The first directors shall be _____. Each Party shall be entitled to nominate 1 director and shall be entitled to replace their nominated directors. The Chairman shall be _____.

3.2.2 If the Company needs to comply with legal requirements for the appointment of independent directors or a company secretary, as will be provided in the Company Law any other laws or regulations, the Parties agree to co-operate in good faith and to work out an appropriate contractual arrangement to maintain the Company as joint venture between the Parties as equal partners with regard to the directors, supervisors and the management of the Company.

3.2.3 The responsibilities of the Board of Directors shall be, amongst others, as follow:

- a) Appointment and removal of the Chairman of the Board.
- b) Approval of the annual and quarterly budgets (including but not limited to the production plan, the business plan, the profit and loss plan, the capital investment plan, and the financial plan);
- c) Change of issued and outstanding share capital of the Company;
- d) Determination of long term policies of the Company including substantial change in the organizational structure and business operation of the Company;
- e) Determination of employment terms including compensation packages;
- f) Setting the limits of authorities of various positions and approving the chart of authorities;
- g) Preparation and submission to the Shareholders Meeting of the financial accounts (including dividends and disposition of losses);
- h) Creation of pledge, hypothecation, encumbrance or other security on the Company's assets;
- i) Transfer, sale or any other disposal of major assets other than in the ordinary course of business in the amount of more than the equivalent (at time of the decision) of _____;
- j) Conclusion or termination of agreements regarding intellectual property rights and know how;
- k) Conclusion of any agreement or other arrangement with, or for the benefit of any director of the Company;
- l) Initiation of new product lines or discontinuation of existing product lines;
- m) The commencement of any litigation as plaintiff or the settlement by the Company of any litigation against it;
- n) Submission of other matters to the Shareholders Meeting for consideration or approval as may be required by law;
- o) Decision of other important matters related to the Company and transactions other than in the ordinary course of business of the Company;

- 3.2.4 All the directors, in person or through representation, shall be necessary to form a quorum. Resolutions/decisions of the Board of Directors, as mentioned in 3.2.3, shall be in writing, and shall be adopted by both Directors. All other resolutions shall be adopted by a normal 51% majority.
- 3.2.5 In case where any director of the Company cannot attend a meeting of the Board of Directors, that director may appoint another director as representative in accordance with the Company law of India. All or any of the directors may participate in a meeting of the Board of Directors by means of a video conference which allows all persons participating in the meeting to see and hear each other. A director so participating shall be deemed to be present in person at the meeting and shall be entitled to vote or be counted in a quorum accordingly.
- 3.2.6 Meetings of the Board of Directors shall be called by the Chairman. Each director of the Company shall be given timely, written notice of the time, date, agenda and place of the Directors meeting, in no event later than 15 days prior to the date of such meeting. In emergency cases the meeting of the Board of Directors can be called by the Chairman by giving a minimum of two working days notice.
- 3.2.7 Advisory Committee
- 3.2.7.1 After the Company has been established, an Advisory Committee may be constituted. The Advisory Committee shall provide the Board with advice and shall consist of experts nominated by the Board.
- 3.3 Management Committee
- 3.3.1 The parties shall, establish a management committee which shall be responsible for, and shall make decisions or determinations with regard to all matters arising out of this cooperation agreement, including matters which have been referred to it by any of the parties, until such time that the Board of the Company is formed.
- 3.3.2 The parties shall be entitled to appoint and replace from time to time by written notice to the other party, representatives on the management committee as follows:
- 3.3.2.1 AEL shall appoint and replace 2 (two) representatives on the management committee;
- 3.3.2.2 AG shall appoint and replace 2 (two) representatives on the management committee.
- 3.3.3 Other persons shall be entitled to attend meetings of the management committee or be co-opted by the management committee, by invitation, which invitation shall require the mutual consent of the management committee. A member of the management committee may not unreasonably withhold his consent to the aforesaid invitation. Such co-opted or invited members shall not have any voting rights. Resolutions shall be adopted by a 75% vote of all members present.

- 3.3.4 The management committee shall meet as frequently as may reasonably be necessary to perform its functions in terms of this cooperation agreement.
- 3.3.5 A quorum of the management committee shall be a one representative of each party to this cooperation agreement. In the case of neither representatives of a party being able to attend a scheduled meeting and an alternative date cannot be set, the decisions taken at the meeting need to be ratified in writing by the other parties representative to make the said decisions binding. Decisions of the management committee shall be reached by consensus and will be binding on the parties.
- 3.3.6 In order for a decision of the management committee to have the effect of an amendment of this agreement, the decision must be reduced to writing and signed by a representative of each party who would ordinarily be entitled to sign an amendment to this agreement.
- 3.3.7 The Parties shall manage their relationship through the Management Committee, which shall be the highest decision making body for purposes of this Agreement.
- 3.3.8 The Parties shall ensure that their representatives on the Management Committee shall be duly authorised to bind the Parties in respect of all matters arising before the Management Committee.
- 3.3.9 The Management Committee shall monitor all costs anticipated to be incurred in respect of the obligations performed under this Agreement and shall procure that a quarterly reconciliation is done. The Parties shall reimburse each other to the extent as evidenced by such reconciliation, provided that the Parties may employ set-off where applicable and only make payments of net amounts. The Parties may determine how frequently such payments shall be made, provided that they occur (if applicable) at least twice a year.

4. OPERATIONS

- 4.1 The Company shall be an Investment company and shall be the owner of shares in other Companies.
- 4.2 The Parties shall be obliged to utilize all its resources, including its established network of potential business sources, in performing marketing activities on behalf of the Company and in generally ensuring that potential business opportunities are fully exploited within the Company or the companies of which shares are owned by the Company.
- 4.3 The Company shall be liable for any Offset Obligations and or similar obligations that may arise in the territories in which it has secured opportunities.
- 4.4 Each of the Parties shall transfer to the Company sufficient start-up training and other transfer support, to the extent necessary to ensure compliance with the execution of this agreement.
- 4.5 It is specifically agreed that where opportunities are identified which are in the interests of the Company, or in the interest and in the field of the company whose

shares are being owned by the Company (to be formed in terms hereof), and in respect of which AG or AEL may also benefit, thereby creating a conflict of interest, AG and AEL shall defer its own interests to those of the Company, or the company whose shares are being owned by the Company and shall ensure that all potential opportunities are first offered to them. Should the Board, for any reason, resolve not to pursue any such opportunity, then AG or AEL may pursue such an opportunity and give due notice to the Board.

5. ACCOUNTING

- 5.1 The accounting year of the Company shall be determined by the Managing Committee.
- 5.2 Within 10 days after the end of each month and 20 days after the end of each quarter, the Company shall submit to each Party its unaudited balance sheet and profit and loss statement of such month or such quarter, as the case may be.
- 5.3 Each Party shall have the right to audit or have audited, and/or require copies of the accounts of the Company. The accounts of the Company shall be kept in accordance with the laws of India.
- 5.4 Unless otherwise determined by the Board of Directors, the Parties agree to appoint KPMG as its certified public accountants.

6. DURATION

- 6.1 This Agreement (~~other than clause 7, 9, and 10 which shall be binding from the signature date~~) shall become effective upon final approval in terms of the Public Management Financing Act no 1 of 1999 or other approvals required for the implementation of this agreement signature hereof (hereafter the "Effective Date"), and continue in force unless terminated on the grounds set out herein.
- 6.2 Other than set forth in the Sections 6.3 and 6.4 of this Agreement, this Agreement shall terminate on –
 - 6.2.1 to the extent that the company is incorporated, the date on which the parties conclude the agreements, including the shareholders agreement, contemplated in 1.3;

It being specifically agreed that the parties may terminate this agreement by mutual consent prior to incorporating the company.
- 6.3 In case of the occurrence of any of the following circumstances this Agreement may be terminated with immediate effect by either Party by serving written notice (the "Termination Notice") to the other Party:
 - a) Material breach of this Agreement by a Party (where only the non-breaching Party shall have the right to unilaterally terminate this Agreement as

- specified in 6.3 and the breaching Party was granted a 60 days cure period before the Termination Notice is served and did not remedy the material breach within this 60 day period);
- b) In the case that the non-terminating Party has applied for liquidation or reorganization under applicable insolvency law, or has applied for or is the subject of a third party action for insolvency or business rescue, or is unable to honor its debts, or in the case of a *Force Majeure* which continues uninterrupted for a period in excess of 12 months.
- 6.4 In the event that all the shares of the Company are transferred to one of the parties, the terms and conditions of this agreement shall still be applicable except insofar as any term refers to the parties as co-shareholders.
- 6.5 In case any of the circumstances stipulated in Section 6.3 occurs, the Party serving Termination Notice may elect either of the following options:
- a) Within 45 days after the day the Termination Notice was served, to serve a sale notice (the "Sale Notice") on the other Party offering to sell all of its shares at 120% of the Market Value or Net Asset Value, whichever is higher (the "Put Option Price"). The Party who receives the Sale Notice must, by itself or through a third party nominee, accept the offer and must purchase all of the requesting Party's shares at the Put Option Price within 45 days after the above notice is served.
- b) Within 45 days after the day the Notice was served, to serve a purchase notice (the "Purchase Notice") on the other Party offering to purchase all of its shares at 70% of either the Market Value or Net Asset Value, whichever is lower (the "Call Option Price"). The Party who receives the Purchase Notice must, by itself or through a third party nominee, accept the offer and must sell all of its shares to the requesting Party at the Call Option Price within 45 days after the above notice is served.
- 6.6 For the purpose of this Section 6.5, Market Value shall mean, the value per share appraised by an internationally recognized independent appraiser, appointed by the Managing director of KPMG India.
- 6.7 For the purpose of this Section 6.5, Net Asset value shall mean the book value of the Company as determined by its latest available audited financial statements, as adjusted for capital increase or decrease of the Company or other major corporate activities which may affect the content of such financial statements, such adjustments to be made and certified by the Company's auditors within 30 days after the Sale Notice or Purchase Notice was served.
- 6.8 In case of occurrence of the termination event set forth in the Subsection 6.3(a), the non-breaching Party shall, in addition to the rights as set forth in the Section 6.5, be entitled to demand the breaching Party to compensate its damages incurred by such termination event.
- 7. GENERAL CONDITIONS**

7.1 Notwithstanding any other provision, clause 7 shall become effective upon signature date and shall survive termination of this Agreement. No termination shall relieve any Party from liability for any breach of this Agreement.

7.2 Confidentiality and Non-use

7.2.1 During a period beginning at the Effective Date and ending ten (10) years after the later of the termination of this Agreement, it shall be prohibited for either Party to disclose to any third party information which has been disclosed by the other, whether such disclosure is direct or indirect, by any means such as a writing, factory tour, or other means used to communicate information, provided that such information shall be documented or described in a tangible form and shall be marked "Confidential" (hereinafter "Confidential Information"). Any such Confidential Information shall be used only for the purposes of carrying out this Agreement.

7.2.2 Any other use of Confidential Information is prohibited. Each of the Parties will cause its own and employees of the Company to adhere to the obligations of this through provisions in their respective employment agreements or otherwise. Confidential Information specifically includes the terms of this Agreement and its conditions provided however that the Parties may in connection with an actual or proposed merger or acquisition, and in connection with the enforcement of its rights under this Agreement disclose the terms and conditions of this agreements in confidence to its legal counsel, accountants and other advisors.

7.2.3 The Shareholding in the Company shall also be confidential and will not be divulged to 3rd parties without the written consent of the other party.

7.3 Confidential Information does not include information:

- a) Which was obtained legally by the receiving Party prior to its receipt from the disclosing Party.
- b) Which was or has become public not through any act of the receiving Party.
- c) Which has been received from a third party with no obligation of confidentiality;
- d) Which has been independently developed by the receiving Party or its Affiliates.
- e) This obligation of confidentiality shall not apply in such case that information is requested by a government agency of competent jurisdiction but in any case that Confidential Information is disclosed under this paragraph the Party disclosing Confidential Information to such government agency shall give the other Party (the "Information Owning Party") notice prior to such disclosure which notice shall be reasonably sufficient to allow the Information Owning Party to seek appropriate action to prevent such disclosure.

7.4 Non Circumvention

7.4.1 A Party shall not, without the prior written consent of the other Party, directly or indirectly initiate, solicit, negotiate, contract or enter into any business

transactions, agreements or undertakings, with any third party identified or introduced by the other Party or the Company, or seek to bypass, compete, avoid or circumvent the other Party or Company from any business opportunity, that relates to the Company's business, by utilising any information received as a result of this agreement, or by otherwise exploiting or deriving any benefit from such information.

8. FORCE MAJEURE

- 8.1 In the event that either Party is delayed in performing or is prevented from performing in whole or in part its obligations hereunder due to Force Majeure then the Party so affected shall have no liability to the other Party in respect of any resultant delay in performance or non-performance, partially or in whole, of its obligations under this Agreement (and the other Party shall to a similar extent not be liable for non performance or delay in performance of its obligations).
- 8.2 For the purpose of this Agreement, a Force Majeure shall exist only if and during a period when an event is beyond the control of the Party claiming Force Majeure. Such event of Force Majeure shall include but not be limited to:
- a) labor disputes,
 - b) fire, explosion directly affecting the facilities concerned,
 - c) power outages or water shortages and any resultant losses incurred as a result, or
 - d) war or other hostilities, flood, earthquake, severe weather conditions of an extraordinary nature directly affecting the facilities concerned.
- 8.3 A Party wishing to invoke Force Majeure shall promptly notify the other Party in writing giving details thereof, and of the anticipated effect on this Agreement and of the estimated duration of Force Majeure. Such Party shall use its best endeavors to resume full performance of its obligations under this Agreement without avoidable delay.
- 8.4 Notwithstanding any provision in clause 8, Force Majeure cannot be invoked insofar as it relates to the Parties' rights and obligations as shareholders.

9. APPLICABLE LAW AND DISPUTES

- 9.1 This Agreement shall be construed in accordance with and governed by the laws of India and shall be interpreted thereunder.
- 9.2 In case of any dispute between the Parties to this Agreement or in case of any alleged breach of this Agreement, the Parties shall cooperate to reach an amicable resolution of such dispute. In such case that they are unable to reach such an amicable resolution, the Parties shall submit such dispute to arbitration under this subsection.
- 9.2.1 Any dispute or difference whatsoever arising between the parties out of or relating to the construction, meaning, scope, operation or effect of this contract or the

validity or the breach thereof shall be settled by arbitration in accordance with the Rules of Arbitration of the Indian Council of Arbitration and the award made in pursuance thereof shall be binding on the parties.

10 NOTICE

- 10.1 All notices required under this Agreement, and all communications made by agreement of the Parties, shall be made in writing, and shall be delivered either personally, by facsimile, e-mail or by mail. The date of actual receipt by the receiving party shall be deemed the date of notice under this Agreement. The addresses of each Party for purposes of notice under this Agreement shall be as follows:

For AG:

Tel: _____

Fax: _____

E-mail: _____

For AEL:

Tel: _____

Fax: _____

E-mail: _____

- 10.2 No right or obligation under this Agreement shall be transferable or assigned to any third party without the express agreement in writing of the other Party.
- 10.3 No modification or amendment of this Agreement shall be valid without such amendment being in writing and signed by both Parties.
- 10.4 If any provision contained in this Agreement is or becomes ineffective or is held to be invalid by a competent authority or court having final jurisdiction thereover, or the competent authorities find a provision to be invalid or request modifications, all other provisions of this Agreement shall remain in full force and effect and there shall be substituted for the said invalid provision a valid provision having an economic effect as similar as possible to the original provision.

- 10.5 This Agreement and any documents attached hereto constitute the entire agreement between the Parties with respect to the transactions contemplated hereby and, except as otherwise expressly set forth herein, supersedes all prior discussions, understandings, agreements and negotiations between the Parties with respect to such subject matter.

THIS DONE AND SIGNED AT _____ ON THIS ____TH DAY OF OCTOBER 2015.

WITNESSES:

1. _____

2. _____

obo Adani Enterprises LTD

WITNESSES:

1. _____

2. _____

MR Anil Gupta

"SF9.6"

From: Pieter van der Merwe <pieterm@vrlaser.co.za>
Sent on: Wednesday, October 28, 2015 9:25:42 PM
To: tony@sahara.co.za; infoportal1@zoho.com; Kamal Singhala <kamals@vrlaser.co.za>
Subject: DENEL ASIA ISPV PARTNERSHIP AGREEMENT
Attachments: DENEL ASIA ISPV PARTNERSHIP AGREEMENT 28 10 2015.docx (54.12 KB)

Good evening sirs,

Herewith the 2nd agreement. I think I have mentioned the main points. Please let me know if I must change any points or if I have misunderstood certain instructions. Again, I would just like to send this to one of our lawyers in India to ensure compliance with India legislation.

Trust this is in order sirs.

Regards sir,

Pieter

COOPERATION DENEL ASIAREEMENT

THIS DENEL ASIAREEMENT IS ENTERED INTO BY AND BETWEEN:

DENEL ASIA LTD

(Certificate of Incorporation _____)

a limited offshore company incorporated and existing in Hong Kong under the Companies Ordinance (Chapter 622 of the Laws of Hong Kong)
having its business address at

("DENEL ASIA")

AND

INVESTMENT SPV

(Registration number: _____)

a company incorporated and existing under the laws of India
having its business address at

("ISPV")

(collectively referred to as "the Parties")

- WHEREAS** DENEL ASIA is renowned for innovative defence, security and related technology solutions, through various partners, and offers turn-key solutions for defence equipment to its clients by designing, developing, integrating and supporting, inter alia, artillery, munitions, missiles, aerostructures, aircraft maintenance, unmanned aerial vehicle systems and optical payloads based on high-end technology; and
- WHEREAS** INVESTMENT SPV possesses skills, knowledge and know how in regards to the Indian defence market, including but not limited to marketing strategies, customer and product requirements as well as local market trends; and
- WHEREAS** the Parties are desirous to engage in a business relationship as co-shareholders, in a company to be formed ("the Company"); and
- WHEREAS** the Parties hereto are keen to set out their business and commercial understanding/relationship, that would form the basis for the finalisation of definitive agreement(s), which would ultimately set out the contractual rights and obligations of the Parties in the Company; and
- WHEREAS** the Parties agree that they shall proceed forthwith with the implementation of the provisions of this Cooperation Agreement; and
- WHEREAS** the Parties wish to be legally bound by the provisions of this agreement, for the execution of the terms stipulated herein;

NOW THEREFORE, the Parties agree and commit to work together on the terms and conditions contained in this agreement:

1. COMPANY TO BE FORMED AND INCORPORATED

- 1.1** The Parties agree to establish a joint venture company (hereinafter the "Company"), to be registered in India. The name of the Company will be Denel India.
- 1.2** The Company's core business will be to provide defence products in India to various clients. The Company will only be entitled to market and sell the products, in terms of a license agreement with Denel Asia. ISPV shall have a right of first refusal of manufacturing these products. Denel India shall not be entitled to offer the manufacturing of any of the products to any other party, without having offered it to ISPV, on the same terms and conditions, including the product quality requirements. ISPV shall have the right to accept the offer within 20 business days after receipt of written notification of the offer.
- 1.3** In addition to this Agreement, certain agreements (including a licensing and shareholders agreement) ~~will~~might be entered into among the Parties and the Company, either concurrently with the execution of this Agreements or upon

establishment of the Company, alternatively as soon as possible after the incorporation/registration of the Company, in order to give effect to the purpose of this agreement.

- 1.4 The Parties shall act as quickly as possible to establish a company under the laws of India. The Parties shall immediately attend to all practical requirements in order to register the Company. The Parties agree that _____ will be appointed to register the Company and to attend to all ancillary agreements and requirements.
- 1.5 The Company shall adopt Articles of Incorporation pursuant to the laws of India. The Articles of Association and Shareholders agreement shall be consistent with the terms of this Agreement and in case of any conflict, the terms of the Articles of Association and Shareholders agreement shall prevail.

2. SHAREHOLDING AND CONTROL

- 2.1 ISPV shall hold 51% of the share capital of the Company and DENEL ASIA shall hold 49%.
- 2.2 The relationship between the Parties, until the Company is registered and the Shareholder's agreement is signed, shall be governed by this agreement. The Management Committee, as set out in 3.3 below, shall ensure, in a bona fide manner, that this agreement is executed.
- 2.3 Until such time as the Company has been formed, the proposed directors in 3.2.1 below shall act as a Management Committee in order to execute the terms and conditions of this agreement, as set out in clause 3.3 below. Each party shall be entitled to alternate their representatives, acting on the Management Committee, with written notice to the other party.
- 2.4 The Company shall provide for its own loan financing according to the decision of its Board of Directors. The Parties shall support the Company in obtaining the most favorable terms for its loan financing. None of the Parties shall be obliged to make any guarantees of financing unless this is separately agreed by the Parties. If project finance or other funding is required, the Shareholders shall provide financial assistance in proportion to their respective shareholding.
- 2.5 Neither Party shall, without the prior written consent of the other Party pledge, hypothecate or otherwise use its shares as security, or grant options over its legal and beneficial interest in its shares. Any action of a Party violating this provision shall be void and shall be considered a material breach of this Agreement.
- 2.6 No Party shall sell, transfer or otherwise dispose of its shares, unless all loans by any Party, to the Company, have been repaid and the party to whom the shares are being transferred to agrees in writing to be party to this Agreement or the shareholders agreement referred to in 1.3. In the case that either Party desires to sell to a *bona fide* third party all or any of its shares of the Company (such Party hereinafter the "Selling Party"), the other Party shall have a right of first refusal to

purchase such shares. The Selling Party shall first give a written notice to the other Party (hereinafter the "Receiving Party") and the Company, setting forth;

i) the number of shares proposed to be transferred (hereinafter the "Offered Shares");

ii) the proposed purchase price, terms and payment and other material terms and conditions received from a bona fide third party; and

iii) an irrevocable offer to sell Offered Shares to the Receiving Party (hereinafter the "Sale Offer") at the same price and on the same terms and conditions as set forth therein.

- 2.7 The Receiving Party shall have the right to purchase the Offered Shares pursuant to the Sale Offer, in whole or in part, by delivering a written notice to the Selling Party within 30 days from the date of the Sale Offer, irrevocably stating therein that all of the Offered Shares will be purchased by the Receiving Party.
- 2.8 If the Receiving Party provides to the Selling Party the notice specified in the immediately preceding paragraph, then the Receiving Party shall have 30 days to complete the purchase of the Offered Shares upon the terms set forth in the Sale Offer (hereinafter the "Purchase Period"), provided, however, that the Purchase Period shall be extended until such date as all required approvals, consents or authorizations in connection with such purchase are obtained.
- 2.9 If the Receiving Party shall not have completed such purchase within the Purchase Period, as extended as provided herein, then the Selling Party shall have the right for 90 days thereafter (hereinafter the "Transfer Period") to transfer the Offered Shares not subject to any of the restrictions set forth in this Agreement; provided, however, that such transfer is consummated on terms not more favorable to the purchasers thereof than the terms specified on the Sale Offer; and provided, further, that the Transfer Period shall be extended until such date as all required approvals, consents or authorizations in connection with such purchase are obtained.
- 2.10 If at the end of the Transfer Period, as extended as provided herein, the Selling Party has not completed the sale of the Offered Shares, the Selling Party shall no longer be permitted to sell such Offered Shares pursuant to this Section.
- 2.11 Notwithstanding anything to the contrary of other provisions set forth in this agreement, neither Party shall sell any of its shares of the Company to any Competitors of the Company, or to any other entity which has not signed and agreed to be bound by the provisions of the Company's Articles of Association and Shareholders Agreement. For purposes of this Agreement, a Competitor shall mean a company which conducts similar businesses of any of the parties or the Company at any time.

3. Management Structure and Operation

3.1 Shareholders Meeting

3.1.1 Matters to be decided by the Shareholders Meeting shall be as follows:

- a) Revision of the Articles of Association;
- (b) Approval of the balance sheet and other financial statements received from the Board of Directors;
- (c) Determination of dividends and of disposition of losses;
- (d) Merger, consolidation, restructuring or reorganization of the Company;
- (e) Sale of all or substantially all assets of the Company;
- (f) Appointment and removal of the Company's auditors;
- (g) Voluntary submission by the Company to bankruptcy, or any similar status;
- (h) Establishment of subsidiaries, opening and closing of branch offices, acquisition of the whole or part of the assets of another company or business, establishment of new business sites and closing of existing ones;
- (i) Liquidation or dissolution of the Company; and
- (j) Other matters reserved to the determination of the Shareholders Meeting by the Company Law of India.

3.1.2 Matters such as the method of announcing the Shareholders Meeting, the legally required number of attendants, and the required number of votes for decisions shall be in accordance with the Articles of Association of the Company and the Company Law of India subject to the following:

- a) Each shareholder of the Company shall be given timely, written notice of the time, date, agenda and place of the Shareholders Meeting, in no event later than 15 days prior to the date of such meeting. All notices and agendas of Shareholders Meetings shall be accompanied by accurate and complete English language translations thereof.
- b) A quorum for a Shareholders Meeting shall require the presence, in person or by proxy, of shareholders of the Company holding more than 60% of the total outstanding shares of the Company.
- c) Resolutions of the Shareholders Meetings, on any of the matters described in 3.1.1 (a) to (i) shall be adopted by the affirmative vote of 75% of the shares represented in person or by proxy at a Shareholders Meeting, at which a quorum is present. Any other matters will be adopted by a normal majority vote.
- d) Each share shall be entitled to one vote.

- e) In case where a shareholder cannot attend a Shareholders Meeting, such shareholder may appoint a representative by issuing a proxy in writing in accordance with the laws of India.

3.1.3 The Parties agree that, for purposes of voting rights at shareholders meetings in the Company, each party shall be represented at such meeting by one person, for each shareholder in that specific company (either ISPV or DENEI ASIA), in proportion to their shareholding in the respective companies, calculated in relation to Parties' shareholding. As an example, if Denei Asia has four shareholders which each holds 25% shareholding in Denei Asia, each shareholder in Denei Asia shall be entitled to be represented at the Company's Annual General Meeting, and shall each hold 12.25% voting rights (25% of 49%).

3.2 Directors and Chairman

3.2.1 The Company shall have a minimum of four (4) directors. The first directors shall be _____. Each Party shall be entitled to nominate 2 directors and shall be entitled to replace their nominated directors. The Chairman shall be _____.

3.2.2 If the Company needs to comply with legal requirements for the appointment of independent directors or a company secretary, as will be provided in the Company Law any other laws or regulations, the Parties agree to co-operate in good faith and to work out an appropriate contractual arrangement to maintain the Company as joint venture between the Parties as equal partners with regard to the directors, supervisors and the management of the Company.

3.2.3 The responsibilities of the Board of Directors shall be, amongst others, as follow:

- a) Appointment and removal of the Chairman of the Board.
- b) Approval of the annual and quarterly budgets (including but not limited to the production plan, the business plan, the profit and loss plan, the capital investment plan, and the financial plan);
- c) Change of issued and outstanding share capital of the Company;
- d) Determination of long term policies of the Company including substantial change in the organizational structure and business operation of the Company;
- e) Determination of employment terms including compensation packages;
- f) Setting the limits of authorities of various positions and approving the chart of authorities;
- g) Preparation and submission to the Shareholders Meeting of the financial accounts (including dividends and disposition of losses);
- h) Creation of pledge, hypothecation, encumbrance or other security on the Company's assets;
- i) Transfer, sale or any other disposal of major assets other than in the ordinary course of business in the amount of more than the equivalent (at time of the decision) of _____;
- j) Conclusion or termination of agreements regarding intellectual property rights or know how, or selling products to the value of _____ or more;

- k) Conclusion of any agreement or other arrangement with, or for the benefit of any director of the Company;
- l) Initiation of new product lines or discontinuation of existing product lines;
- m) The commencement of any litigation as plaintiff or the settlement by the Company of any litigation against it;
- n) Submission of other matters to the Shareholders Meeting for consideration or approval as may be required by law;
- o) Decision of other important matters related to the Company and transactions other than in the ordinary course of business of the Company;

3.2.4 Seventy five percent (75%) of the directors, in person or through representation, shall be necessary to form a quorum. Resolutions/decisions of the Board of Directors, as mentioned in 3.2.3, shall be in writing, and shall be adopted by 75% of the Directors present. All other resolutions shall be adopted by a normal 51% majority.

3.2.5 In case where any director of the Company cannot attend a meeting of the Board of Directors, that director may appoint another director as representative in accordance with the Company law of India. All or any of the directors may participate in a meeting of the Board of Directors by means of a video conference which allows all persons participating in the meeting to see and hear each other. A director so participating shall be deemed to be present in person at the meeting and shall be entitled to vote or be counted in a quorum accordingly.

3.2.6 Meetings of the Board of Directors shall be called by the Chairman. Each director of the Company shall be given timely, written notice of the time, date, agenda and place of the Directors meeting, in no event later than 15 days prior to the date of such meeting. In emergency cases the meeting of the Board of Directors can be called by the Chairman by giving a minimum of two working days notice.

3.2.7 Advisory Committee

3.2.7.1 After the Company has been established, an Advisory Committee may be constituted. The Advisory Committee shall provide the Board with advice and shall consist of experts nominated by the Board.

3.3 Management Committee

3.3.1 The parties shall, establish a management committee which shall be responsible for, and shall make decisions or determinations with regard to all matters arising out of this cooperation agreement, including matters which have been referred to it by any of the parties, until such time that the Board of the Company is formed.

3.3.2 The parties shall be entitled to appoint and replace from time to time by written notice to the other party, representatives on the management committee as follows:

3.3.2.1 ISPV shall appoint and replace 2 (two) representatives on the management committee;

- 3.3.2.2. DENEL ASIA shall appoint and replace 2 (two) representatives on the management committee.
- 3.3.3 Other persons shall be entitled to attend meetings of the management committee or be co-opted by the management committee, by invitation, which invitation shall require the mutual consent of the management committee. A member of the management committee may not unreasonably withhold his consent to the aforesaid invitation. Such co-opted or invited members shall not have any voting rights. Resolutions shall be adopted by a 75% vote of all members present.
- 3.3.4 The management committee shall meet as frequently as may reasonably be necessary to perform its functions in terms of this cooperation agreement.
- 3.3.5 A quorum of the management committee shall be a one representative of each party to this cooperation agreement. In the case of neither representatives of a party being able to attend a scheduled meeting and an alternative date cannot be set, the decisions taken at the meeting need to be ratified in writing by the other parties representative to make the said decisions binding. Decisions of the management committee shall be reached by consensus and will be binding on the parties.
- 3.3.6 In order for a decision of the management committee to have the effect of an amendment of this agreement, the decision must be reduced to writing and signed by a representative of each party who would ordinarily be entitled to sign an amendment to this agreement.
- 3.3.7 The Parties shall manage their relationship through the Management Committee, which shall be the highest decision making body for purposes of this Agreement.
- 3.3.8 The Parties shall ensure that their representatives on the Management Committee shall be duly authorised to bind the Parties in respect of all matters arising before the Management Committee.
- 3.3.9 The Management Committee shall monitor all costs anticipated to be incurred in respect of the obligations performed under this Agreement and shall procure that a quarterly reconciliation is done. The Parties shall reimburse each other to the extent as evidenced by such reconciliation, provided that the Parties may employ set-off where applicable and only make payments of net amounts. The Parties may determine how frequently such payments shall be made, provided that they occur (if applicable) at least twice a year.

4. OPERATIONS

- 4.1 Due to the nature of each Party's business, DENEL ASIA shall make available, for selling and manufacturing, all products under licensing agreement with Denel SOC South Africa. ISPV shall be responsible for the procurement of contracts and sales, for DENEL ASIA's products, in India.
- 4.2 The Parties shall be obliged to utilize all its resources, including its established network of potential business sources, in performing marketing activities on behalf of the Company

and in generally ensuring that potential business opportunities are fully exploited within the Company.

- 4.3 The Company shall be liable for any Offset Obligations and or similar obligations that may arise in the territories in which it has secured opportunities.
- 4.4 Each of the Parties shall transfer to the Company sufficient start-up training and other transfer support. Each party shall transfer technology, information and training to the Company in order to operate.
- 4.5 The Parties agree that the Company shall establish it's own information systems organization that is responsible for procuring and/or providing all of the information systems and technology required for the operation of the Company (the "Company's IT Organization"). The Company's IT Organization shall establish and operate the Company's IT infrastructure, including information systems and all supporting services.
- 4.6 It is specifically agreed that where opportunities are identified which are in the interests of the Company, and in respect of which DENEL ASIA or ISPV may also benefit, thereby creating a conflict of interest, DENEL ASIA and ISPV shall defer its own interests to those of the Company, and shall ensure that all potential opportunities are first offered to the Company. Should the Board, for any reason, resolve not to pursue any such opportunity, then DENEL ASIA or ISPV may pursue such an opportunity and give due notice to the Board.
- 4.7 ISPV will be allowed to procure the services of a 3rd party if DENEL ASIA is not able to provide a product to a prospective client's requirements.

5. ACCOUNTING

- 5.1 The accounting year of the Company shall be determined by the Managing Committee.
- 5.2 Within 10 days after the end of each month and 20 days after the end of each quarter, the Company shall submit to each Party its unaudited balance sheet and profit and loss statement of such month or such quarter, as the case may be.
- 5.3 Each Party shall have the right to audit or have audited, and/or require copies of the accounts of the Company. The accounts of the Company shall be kept in accordance with the laws of India.
- 5.4 Unless otherwise determined by the Board of Directors, the Parties agree to appoint KPMG as its certified public accountants.

6. DURATION

- 6.1 This Agreement ~~(other than clause 7, 8, and 10 which shall be binding from the signature date)~~ shall become effective upon final approval in terms of the Public Management Financing Act no 1 of 1999 or other approvals required for the

~~implementation of this agreement signature hereof~~ (hereafter the "Effective Date"), and continue in force unless terminated on the grounds set out herein.

- 6.2 Other than set forth in the Sections 6.3 and 6.4 of this Agreement, this Agreement shall terminate on –

6.2.1 to the extent that the company is incorporated, the date on which the parties conclude the agreements, including the shareholders agreement, contemplated in 1.3;

It being specifically agreed that the parties may terminate this agreement by mutual consent prior to incorporating the company.

- 6.3 In case of the occurrence of any of the following circumstances this Agreement may be terminated with immediate effect by either Party by serving written notice (the "Termination Notice") to the other Party:

- a) Material breach of this Agreement by a Party (where only the non-breaching Party shall have the right to unilaterally terminate this Agreement as specified in 6.3 and the breaching Party was granted a 60 days cure period before the Termination Notice is served and did not remedy the material breach within this 60 day period);
- b) In the case that the non-terminating Party has applied for liquidation or reorganization under applicable insolvency law, or has applied for or is the subject of a third party action for insolvency or business rescue, or is unable to honor its debts, or in the case of a *Force Majeure* which continues uninterrupted for a period in excess of 12 months.

- 6.4 In the event that all the shares of the Company are transferred to one of the parties, the terms and conditions of this agreement shall still be applicable except insofar as any term refers to the parties as co-shareholders.

- 6.5 In case any of the circumstances stipulated in Section 6.3 occurs, the Party serving Termination Notice may elect either of the following options:

- a) Within 45 days after the day the Termination Notice was served, to serve a sale notice (the "Sale Notice") on the other Party offering to sell all of its shares at 120% of the Market Value or Net Asset Value, whichever is higher (the "Put Option Price"). The Party who receives the Sale Notice must, by itself or through a third party nominee, accept the offer and must purchase all of the requesting Party's shares at the Put Option Price within 45 days after the above notice is served.
- b) Within 45 days after the day the Notice was served, to serve a purchase notice (the "Purchase Notice") on the other Party offering to purchase all of its shares at 70% of either the Market Value or Net Asset Value, whichever is lower (the "Call Option Price"). The Party who receives the Purchase Notice must, by itself or through a third party nominee, accept the offer and must sell all of its shares to the requesting Party at the Call Option Price within 45 days after the above notice is served.

- 6.6 For the purpose of this Section 6.5, Market Value shall mean, the value per share appraised by an internationally recognized independent appraiser, appointed by the Managing director of KPMG India.
- 6.7 For the purpose of this Section 6.5, Net Asset value shall mean the book value of the Company as determined by its latest available audited financial statements, as adjusted for capital increase or decrease of the Company or other major corporate activities which may affect the content of such financial statements, such adjustments to be made and certified by the Company's auditors within 30 days after the Sale Notice or Purchase Notice was served.
- 6.8 In case of occurrence of the termination event set forth in the Subsection 6.3(a), the non-breaching Party shall, in addition to the rights as set forth in the Section 6.5, be entitled to demand the breaching Party to compensate its damages incurred by such termination event.
- 7. GENERAL CONDITIONS**
- 7.1 Notwithstanding any other provision, clause 7 shall become effective upon signature date and shall survive termination of this Agreement. No termination shall relieve any Party from liability for any breach of this Agreement.
- 7.2 Confidentiality and Non-use
- 7.2.1 During a period beginning at the Effective Date and ending ten (10) years after the later of the termination of this Agreement, it shall be prohibited for either Party to disclose to any third party information which has been disclosed by the other, whether such disclosure is direct or indirect, by any means such as a writing, factory tour, or other means used to communicate information, provided that such information shall be documented or described in a tangible form and shall be marked "Confidential" (hereinafter "Confidential Information"). Any such Confidential Information shall be used only for the purposes of carrying out this Agreement.
- 7.2.2 Any other use of Confidential Information is prohibited. Each of the Parties will cause its own and employees of the Company to adhere to the obligations of this through provisions in their respective employment agreements or otherwise. Confidential Information specifically includes the terms of this Agreement and its conditions provided however that the Parties may in connection with an actual or proposed merger or acquisition, and in connection with the enforcement of its rights under this Agreement disclose the terms and conditions of this agreements in confidence to its legal counsel, accountants and other advisors.
- 7.3 Confidential Information does not include information:
- a) Which was obtained legally by the receiving Party prior to its receipt from the disclosing Party.
 - b) Which was or has become public not through any act of the receiving Party.
 - c) Which has been received from a third party with no obligation of confidentiality;

- d) Which has been independently developed by the receiving Party or its Affiliates.
- e) This obligation of confidentiality shall not apply in such case that information is requested by a government agency of competent jurisdiction but in any case that Confidential Information is disclosed under this paragraph the Party disclosing Confidential Information to such government agency shall give the other Party (the "Information Owning Party") notice prior to such disclosure which notice shall be reasonably sufficient to allow the Information Owning Party to seek appropriate action to prevent such disclosure.

7.4 Non Circumvention

- 7.4.1 A Party shall not, without the prior written consent of the other Party, directly or indirectly initiate, solicit, negotiate, contract or enter into any business transactions, agreements or undertakings, with any third party identified or introduced by the other Party or the Company, or seek to bypass, compete, avoid or circumvent the other Party or Company from any business opportunity, that relates to the Company's business, by utilising any information received as a result of this agreement, or by otherwise exploiting or deriving any benefit from such information.

8. FORCE MAJEURE

- 8.1 In the event that either Party is delayed in performing or is prevented from performing in whole or in part its obligations hereunder due to Force Majeure then the Party so affected shall have no liability to the other Party in respect of any resultant delay in performance or non-performance, partially or in whole, of its obligations under this Agreement (and the other Party shall to a similar extent not be liable for non performance or delay in performance of its obligations).
- 8.2 For the purpose of this Agreement, a Force Majeure shall exist only if and during a period when an event is beyond the control of the Party claiming Force Majeure. Such event of Force Majeure shall include but not be limited to:
 - a) labor disputes,
 - b) fire, explosion directly affecting the facilities concerned,
 - c) power outages or water shortages and any resultant losses incurred as a result, or
 - d) war or other hostilities, flood, earthquake, severe weather conditions of an extraordinary nature directly affecting the facilities concerned.
- 8.3 A Party wishing to invoke Force Majeure shall promptly notify the other Party in writing giving details thereof, and of the anticipated effect on this Agreement and of the estimated duration of Force Majeure. Such Party shall use its best endeavors to resume full performance of its obligations under this Agreement without avoidable delay.

- 8.4 Notwithstanding any provision in clause 8, Force Majeure cannot be invoked insofar as it relates to the Parties' rights and obligations as shareholders.

9. APPLICABLE LAW AND DISPUTES

- 9.1 This Agreement shall be construed in accordance with and governed by the laws of India and shall be interpreted thereunder.
- 9.2 In case of any dispute between the Parties to this Agreement or in case of any alleged breach of this Agreement, the Parties shall cooperate to reach an amicable resolution of such dispute. In such case that they are unable to reach such an amicable resolution, the Parties shall submit such dispute to arbitration under this subsection.
- 9.2.1 Any dispute or difference whatsoever arising between the parties out of or relating to the construction, meaning, scope, operation or effect of this contract or the validity or the breach thereof shall be settled by arbitration in accordance with the Rules of Arbitration of the Indian Council of Arbitration and the award made in pursuance thereof shall be binding on the parties.

10 NOTICE

- 10.1 All notices required under this Agreement, and all communications made by agreement of the Parties, shall be made in writing, and shall be delivered either personally, by facsimile, e-mail or by mail. The date of actual receipt by the receiving party shall be deemed the date of notice under this Agreement. The addresses of each Party for purposes of notice under this Agreement shall be as follows:

For DENEL ASIA:

Tel: _____

Fax: _____

E-mail: _____

For ISPV:

Tel: _____

Fax: _____

E-mail: _____

- 10.2 No right or obligation under this Agreement shall be transferable or assigned to any third party without the express agreement in writing of the other Party.
- 10.3 No modification or amendment of this Agreement shall be valid without such amendment being in writing and signed by both Parties.
- 10.4 If any provision contained in this Agreement is or becomes ineffective or is held to be invalid by a competent authority or court having final jurisdiction thereover, or the competent authorities find a provision to be invalid or request modifications, all other provisions of this Agreement shall remain in full force and effect and there shall be substituted for the said invalid provision a valid provision having an economic effect as similar as possible to the original provision.
- 10.5 This Agreement and any documents attached hereto constitute the entire agreement between the Parties with respect to the transactions contemplated hereby and, except as otherwise expressly set forth herein, supersedes all prior discussions, understandings, agreements and negotiations between the Parties with respect to such subject matter.

THIS DONE AND SIGNED AT _____ ON THIS ____TH DAY OF OCTOBER 2015.

WITNESSES:

1. _____

2. _____

obo ISPV

WITNESSES:

1. _____

2. _____

DENEL ASIA

"SF 9.7"

From: Pieter van der Merwe <pieterm@vrlaser.co.za>
Sent on: Tuesday, February 16, 2016 2:39:53 PM
To: infoportal1@zoho.com; Tony Gupta <tony@sahara.co.za>; Santosh Choubey <santosh@saharasystems.co.za>
Subject: FW: DENEL ASIA AND INDIA OPPORTUNITIES
Attachments: image003.jpg (11.34 KB), DENEL ASIA SH RESOLUTION 16.02.2016.docx (14.23 KB)

From: Pieter van der Merwe
Sent: Tuesday, February 16, 2016 2:38 PM
To: Zwelakhe Ntshepe DCO (zwelakhen@denel.co.za); Stephan Burger; Kamal Singhala
Subject: DENEL ASIA AND INDIA OPPORTUNITIES

Good day sirs,

IN RE: DENEL ASIA AND INDIA BUSINESS OPPORTUNITIES

I trust all is well.

It is with disappointment that I have noted certain negative news articles about the partnership between Denel and VR Asia. This morning's Business Day for instance reported that the formation of Denel Asia is "illegal". It mentions that no approval has been granted by DPE and Treasury and that certain processes were not followed. I think it is important to take stock of our situation at this stage, in order to promote transparency and planning, and to collaborate on our business strategy. I also think it is important to state, for the record, certain points:

1. Both parties have entered into this agreement to ensure that Denel's products get sold into a market which has not been successfully penetrated. VR Asia has committed to introduce Denel to important role players in the Asian markets and further agreed to fund Denel Asia, for setting up the infrastructure, to an amount of R100 000 000-00. This was proposed on sound business principles without any expectation for undisclosed favours whatsoever. Our intention remains to assist growing Denel into the market leader when it comes to defence products. If any authorised person, at any stage, feels uncomfortable with partnering with VR Asia, or think that anything was "illegal" we will gladly withdraw from this transaction. We would not like to enter into any transaction which Denel is not completely happy with.

2. Having said the above, Denel Asia has been formed. The Indian market requirements necessitates that we act urgently, otherwise we will surely miss enormous business opportunities.

3. In the Denel Asia agreement there are 6 suspensive conditions that needed to be fulfilled. According to my understanding these conditions have been fulfilled. If I am wrong, please advise me accordingly.

4. I am of the opinion that the following must happen in chronological order:

a. We need to have assurance that the suspensive conditions have been fulfilled;

b. the Shareholders need to adopt a resolution in terms of clause 5.8 of the agreement;

c. a business plan needs to be drafted and presented in terms of clause 13.2.2.

5. Find attached hereto a resolution that I believe needs to be adopted by the shareholders. As a Board, I believe we have the duty to act as soon as possible to secure business opportunities, but we also need to ensure that we allow for all the approvals to be obtained. If we do not have a mandate from the shareholders we will be negligent.

If you have any suggestions please do not hesitate reply or amend any of my suggestions.

Regards,

IMG [660]



MINISTRY
PUBLIC ENTERPRISES
REPUBLIC OF SOUTH AFRICA

Private Bag X15, Hatfield, 0028 Tel: (012) 431 1118/1150 Fax: (012) 431 1038
Private Bag X9079, CAPE TOWN, 8000 Tel: (021) 481 6376/71489 6760 Fax: (021) 465 2381/461 1741

Mr Lungisani Daniel Mantsha
Chairperson of the Denel Board
Denel SOC Ltd
P O Box 8322
Centurion
0046

Tel: (011) 11 781 0099 / (012) 671 2938

E-mail: dan@lungisanimantshaattorneys.co.za / info@lugisanimantshaattorneys.co.za /
fortune@denel.co.za / tanyav@denel.co.za

Dear Mr Mantsha

Re: PFMA Section 54 (2) Pre-Notification on the Proposed Formation of Denel Asia

The above matter has reference.

I concur with yourself that Pacific Asia defence market will remain on upward trajectory for the foreseeable future. It would therefore make strategic business sense for Denel to position itself to take advantage of the envisaged growth.

However, accessing the Asian market is likely to be daunting for the new entity. Global defence original equipment manufacturers (OEMs) are targeting the growing Asian defence market to compensate for the stagnation at their home markets. They bring with them substantial offset and funding proposals which small companies such as Denel may not be able to provide. The value proposition of VR Laser Asia wanting a tie up with Denel is not clear especially on how it plans to break into this highly competitive market given its own limited global reach.

Given the strategic importance of the Asia-Pacific defence market, I hereby grant in-principle approval for Denel to continue discussions with VR Laser and Denel can submit a section 54 (2) PFMA application to both myself as the Executive Authority and the Minister of Finance.

In order to protect Denel's status as the holding company, the application should include, amongst other things:

- a) a comprehensive detailed business case to enable the Minister to express an opinion on the joint venture transaction;
- b) a comprehensive due diligence report on the financial regulatory legal requirement and regulatory laws governing foreign owned entities in Hong Kong;
- c) funding plans, all the transaction documents (including the MOU and Cooperation agreements);
- d) the process followed to select VR Laser as a partner of choice;

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- e) the proposed structure of the proposed new company and breakdown of estimated operational costs (five year horizon budget indicating clear cost allocation of both parties);
- f) a comprehensive due diligence of VR Laser which includes its financial standing, capabilities and ownership, defence and security product/service range and client base in Asia;
- g) registration details of the company and shareholding of VR Laser Asia;
- h) the reason(s) for a Continent specific versus a Country specific arrangement and indicate the preference of Hong Kong as a preferred *domicile*;
- i) any studies that were undertaken by the SOC that led to the conclusion that this partner is the most suitable, after VR Laser approached Denel with this business proposition; and
- j) reason(s) why this transaction or similar to it is not proposed in the 2015/16 Corporate Plan.

Thereafter, Denel is required to apply and get approval from the Minister of Finance in terms of Section 51(g) of the PFMA, which is a prerequisite when establishing a new entity. Once such approval has been obtained, all the negotiations, agreements and regulatory processes can be completed.

The Board must also ensure that there is adequate governance oversight regarding the processes that underpin transaction discussions. Issues of conflict of interest, real or perceived, should be adequately monitored. All efforts should be made to minimise risk exposure to both Denel and the Shareholder.

Yours sincerely



MS LYNNE BROWN, MP
MINISTER OF PUBLIC ENTERPRISES
 DATE: 23/11/2015

cc Mr Nhlanhla Nene, MP
 ∴ Minister of Finance

Tel: (012) 315-5559
 Email: minreg@treasury.gov.za

cc Mr Zwelakhe Ntshepe
 ∴ Acting Group Chief Executive Officer
 Denel SOC Ltd

Tel: 012 671-2938
 Email: ZwelakheN@denel.co.za / CharleneT@denel.co.za

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From: dan <info@lugisanimantshaattorneys.co.za>
Sent on: Tuesday, November 24, 2015 3:40:03 PM
To: ashu@sahara.co.za
Subject: FW: letter from minister
Attachments: image002.png (9.5 KB), image003.jpg (17.21 KB), image001.jpg (17.21 KB), image004.png (160.13 KB), SKMBT_C36415112314120.pdf (708.85 KB), _Certification_.htm (239 Bytes)

Good day
 Please see email below for your attention.
 Regards
 Yvonne

IMG [_x0000_i1028]
 From: dan@lugisanimantshaattorneys.co.za [mailto:dan@lugisanimantshaattorneys.co.za]
 Sent: Tuesday, November 24, 2015 3:33 PM
 To: info@lugisanimantshaattorneys.co.za
 Subject: FW: letter from minister
 IMG [_x0000_i1025]
 From: Marietjie Strydom [mailto:MarietjieS@denel.co.za]
 Sent: 24 November 2015 01:31 PM
 To: dan@lugisanimantshaattorneys.co.za
 Subject: RE: letter from minister

Dear Chair
 Attached the letter as requested.
 Kind regards
 Marietjie Strydom
 IMG [_x0000_i1026]
 Irene Campus, Nelmapius Drive, Centurion
): +27 (0) 12 671 2758
 7: +27 (0) 12 671 2751
 E : +27 (0) 82 909 3561

8 marietjies@denel.co.za [mailto:marietjies@denel.co.za]
 0 www.denel.co.za
 From: dan@lugisanimantshaattorneys.co.za [mailto:dan@lugisanimantshaattorneys.co.za]
 Sent: Tuesday, November 24, 2015 12:06 PM
 To: Marietjie Strydom
 Subject: RE: letter from minister

Hi
 May you kindly forward to me the letter from the minister .
 Regards
 IMG [Picture_x0020_1]
 From: Marietjie Strydom [mailto:MarietjieS@denel.co.za [mailto:MarietjieS@denel.co.za]]
 Sent: 23 November 2015 05:20 PM
 To: dan@lugisanimantshaattorneys.co.za [mailto:dan@lugisanimantshaattorneys.co.za]
 Subject: Apology for Absence Ltr - 23 November 2015.docx

Dear Chair
 Attached please find a draft letter for your approval and signature.
 Kind regards
 Marietjie
 On behalf of
 Zwelakhe Ntshepe

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