

# KayDavGroup

## KAYDAV GROUP LIMITED

(Incorporated in the Republic of South Africa)

(Registration number: 2006/038698/06)

Share code: KDV ISIN: ZAE000108940

("Company")

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### NOTICE OF SUBMISSION OF PROPOSED RESOLUTIONS TO THE SHAREHOLDERS OF KAYDAV GROUP LIMITED ("COMPANY") IN TERMS OF SECTIONS 45 AND 66(9) OF THE COMPANIES ACT, 2008 ("ACT") PROPOSED TO BE ADOPTED IN TERMS OF SECTION 60 OF THE ACT

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Dear Shareholder

1. Shareholders are notified that the board of directors of the Company has resolved to propose that the shareholders of the Company consider the special resolutions set out in Annexure 1 ("Special Resolutions") in terms of sections 45 and 66(9) of the Act by written consent in terms of section 60 of the Act.
2. In terms of section 60 of the Act, a resolution that could be voted on at a shareholders meeting may instead be submitted for consideration to the shareholders entitled to exercise voting rights in relation to the resolution, and be voted on in writing by shareholders entitled to exercise voting rights in relation to the resolution, within 20 business days after the resolution was submitted to them.
3. Section 60(2) of the Act further provides that a resolution contemplated in section 60(1) of the Act will have been adopted if it is supported by persons entitled to exercise sufficient voting rights for it to have been adopted as an ordinary or special resolution, as the case may be, at a properly constituted shareholders meeting, and if adopted such resolution will have the same effect as if it had been approved by voting at a meeting.
4. Section 65(2) of the Act provides that the board may propose any resolution to be considered by shareholders and may determine whether that resolution will be considered at a meeting, or by vote or written consent in terms of section 60 of the Act. The board of directors of the Company has determined by resolution that the Special Resolutions be considered by the shareholders of the Company by written consent in terms of section 60 of the Act.
5. Shareholders who have dematerialised their shares (other than own-name dematerialised shareholders) in terms of the Securities Services Act, 2004 should advise their Central Securities Depository Participant ("CSDP") or broker as to what action they wish to take. This must be done in terms of the agreement entered into between them and their CSDP or broker. Shareholders who have dematerialised their shares (other than own-name dematerialised shareholders) must not return the form of written consent set out in Annexure 2 ("Written Consent") to the transfer secretaries. Their instructions must be sent to their CSDP or broker for action.
6. Certificated shareholders and own-name dematerialised shareholders may indicate, by the insertion of the relevant number of votes exercisable by that shareholder in the appropriate box provided on the Written Consent, how they cast their votes in relation to the relevant Special Resolutions. Please return a copy of the completed and signed Written Consent to Link Market Services South Africa Proprietary Limited (the transfer secretaries of the Company) within 20 business days of the date of receipt hereof at any one of the following addresses:
  - 6.1 physical address: 13<sup>th</sup> Floor, Rennie House, 19 Ameshoff Street, Braamfontein;
  - 6.2 postal address: Link Market Services South Africa (Proprietary) Limited, PO Box 4844, Johannesburg, 2000;
  - 6.3 fax: +27 86 674 2450; and/or
  - 6.4 email: meetfax@linkmarketservices.co.za.
7. Where a shareholder has received this letter attaching the Special Resolutions by means of fax, such shareholder is deemed to have received these documents on the date and at the time recorded by the fax receiver, unless there is conclusive evidence that it was delivered on a different date or at a different time.
8. Where a shareholder has received this letter attaching the Special Resolutions by means of electronic mail, such shareholder is deemed to have received these documents on the date and at the time recorded by the computer used by the sender, unless there is conclusive evidence that it was delivered on a different date or at a different time.
9. Where a shareholder has received this letter attaching the Special Resolutions by means of registered post, such shareholder is deemed to have received these documents on the 7<sup>th</sup> (seventh) day following the day on which the notice or document was posted as recorded by a post office, unless there is conclusive evidence that it was delivered on a different day.
10. Where a shareholder has received this letter attaching the Special Resolutions by hand in the case of a natural person or, in the case of a company or body corporate, by hand to a responsible employee at its registered office or its principal place of business within the Republic of South Africa, then such shareholder is deemed to have received these documents on the date and at the time recorded on the receipt for delivery, unless there is conclusive evidence that it was delivered on a different date or at a different time.
11. The directors of the Company have resolved that the record date for determining which shareholders are entitled to vote on the Special Resolutions in terms of the Written Consent shall be 3 October 2011, being the 7<sup>th</sup> (seventh) day following the date on which this letter including the annexures is posted by registered post to shareholders of the Company.

Yours faithfully

For: Kaydav Group Limited

Martin Slier  
*Chief Financial Officer*  
26 September 2011

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**RESOLUTION OF THE SHAREHOLDERS OF THE COMPANY ADOPTED IN TERMS OF SECTION 60(1) OF THE COMPANIES ACT, 2008**


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**1. NOTED THAT:**

1.1 in terms of section 45 of the Companies Act, 2008 ("Act"), the Company may not provide financial assistance to a related company or an inter-related company unless the shareholders of the Company have adopted a special resolution within the previous two years approving such assistance;

1.2 financial assistance is defined in the Act as:

*"(a) includes lending money, guaranteeing a loan or other obligation, and securing any debt or obligation; but*

*(b) does not include:*

*(i) lending money in the ordinary course of business by a company whose primary business is the lending of money;*

*(ii) an accountable advance to meet – (aa) legal expenses in relation to a matter concerning the company; or (bb) anticipated expenses to be incurred by the person on behalf of the company; or*

*(iii) an amount to defray the person's expenses for removal at the company's request."*

("Financial Assistance");

1.3 a related company is defined in the Act as:

*"when used in respect of two persons, means persons who are connected to one another in any manner contemplated in section 2(1)(a) to (c)";*

1.4 an inter-related Company is defined in the Act as:

*"when used in respect of three or more persons, means persons who are related to one another in a linked series of relationships, such that two of the persons are related in a manner contemplated in section 2(1) and one of them is related to the third in any such manner, and so forth in an unbroken series";*

1.5 section 2(1) of the Act states:

*"For all purposes of this Act:*

*(a) an individual is related to another individual if they:*

*(i) are married, or live together in a relationship similar to a marriage; or*

*(ii) are separated by no more than two degrees of natural or adopted consanguinity or affinity;*

*(b) an individual is related to a juristic person if the individual directly or indirectly controls the juristic person, as determined in accordance with subsection (2); and*

*(c) a juristic person is related to another juristic person if:*

*(i) either of them directly or indirectly controls the other, or the business of the other, as determined in accordance with subsection (2);*

*(ii) either is a subsidiary of the other; or*

*(iii) a person directly or indirectly controls each of them, or the business of each of them, as determined in accordance with subsection (2).";*

1.6 in order for the Company and its subsidiaries to carry on business, the Company will be required, from time to time, to provide Financial Assistance to its subsidiaries and certain other companies and corporations contemplated in section 45(2) of the Act;

1.7 inasmuch as the Company's provision of Financial Assistance to its subsidiaries will at any and all times be in excess of one-tenth of 1% of the Company's net worth, the Company shall provide notice to its shareholders of that fact in the special resolution to be submitted for consideration by shareholders;

1.8 in terms of section 66(9) of the Act, the Company requires a special resolution of the shareholders of the Company in order to pay remuneration to its directors for their services as directors;

1.9 the Company has historically (prior to the Act becoming effective) paid remuneration to its directors for their services as directors;

1.10 the board of directors of the Company has determined that the shareholders of the Company consider by written consent the resolutions set out below in terms of section 60(1) of the Act; and

1.11 where applicable and appropriate the terms defined above bear the same meanings in the resolutions set out below.

**2. SPECIAL RESOLUTION NUMBER 1 – financial assistance to a related or inter-related company**

To consider and if deemed fit, to pass with or without modification, the following special resolution:

"Resolved that, to the extent required by the Act, the board of directors of the Company may, subject to compliance with the requirements of the Company's Memorandum of Incorporation, the Act and the JSE Listings Requirements, each as presently constituted and as amended from time to time, authorise the Company to provide direct or indirect Financial Assistance in terms of section 45

of the Act by way of loans, guarantees, the provisions of security or otherwise, to any of its present or future subsidiaries and/or any other company or corporation that is or becomes related or inter-related (as defined in the Act) to the Company for any purpose or in connection with any matter, such authority to endure until the annual general meeting of the Company to be held in 2012."

**Reason and effect:**

**The reason and effect for special resolution number 1:**

The Company, when the need previously arose, had to provide loans to and guarantee loans or other obligations of subsidiaries and was not precluded from doing so in terms of its Memorandum of Incorporation or in terms of the Companies Act, 61 of 1973, as amended. The Company would like the ability to continue to provide Financial Assistance, if necessary, also in other circumstances, in accordance with section 45 of the Act. This authority is necessary for the Company to continue to provide Financial Assistance in appropriate circumstances. Under the Act, the Company will, however, require the special resolution referred to above to be adopted, provided that the board of directors of the Company be satisfied that the terms under which the Financial Assistance is proposed to be given are fair and reasonable to the Company and, immediately after providing the Financial Assistance, the Company would satisfy the solvency and liquidity test contemplated in the Act. In the circumstances and in order to, *inter alia*, ensure that the Company's subsidiaries and other related and inter-related companies and corporations have access to financing and/or financial backing from the Company (as opposed to banks), it is necessary to obtain the approval of shareholders, as set out in special resolution number 1. Therefore, the reason for, and effect of, special resolution number 1 is to permit the Company to provide direct or indirect Financial Assistance (within the meaning attributed to that term in section 45 of the Act) to the entities referred to in special resolution number 1 above.

**Percentage of voting rights required for the adoption of special resolution number 1:**

In order for special resolution number 1 to be adopted, the support of 75% of the total number of votes exercisable by shareholders, present in person or by proxy, is required to pass this resolution.

**SPECIAL RESOLUTION NUMBER 2 – approval of directors' remuneration for their services as directors**

"To consider and if deemed fit, to pass with or without modification, the following special resolutions by way of separate resolutions:

2.1 "Resolved, as a special resolution, that the fees payable by the company to the non-executive directors for their services as directors (in terms of section 66 of the Act) for the year ending 31 December 2011 be and are hereby approved for a period of two years from the passing of this resolution or until its renewal, whichever is the earliest, as follows:

Fees for 2011 financial year	Board fee	Total fee
Ian Stern	415 450	415 450
Jonathan Hertz	215 433	215 433

2.2 "Resolved, as a special resolution, that an annual increase not exceeding 15% of the fees payable by the Company to the non-executive directors for their services as directors be and is hereby approved for a period of two years from the passing of this resolution or until its renewal, whichever is the earliest."

**Reasons and effect:**

**The reason and effect for special resolution number 2.1:**

To obtain shareholder approval by way of a special resolution in accordance with section 66(9) of the Act for the payment by the Company of remuneration of each of the non-executive directors of the Company for each non-executive director's services as a non-executive director for the ensuing financial year in the amounts set out under special resolution number 2.1. For purposes of comparative analysis the remuneration of each of the non-executive directors of the Company for the preceding financial year 2010 are set out below:

Fees for 2010 financial year	Board fee	Total fee
Ian Stern	385 200	385 200
Jonathan Hertz	192 600	192 600

**The reason and effect for special resolution number 2.2:**

As the fees payable to non-executive directors are, from time to time, benchmarked to other companies with a similar market capitalisation taking into account the estimated time and the other requirements of directors, an annual increase not exceeding 15% is proposed for approval in the subsequent year.

**Percentage of voting rights required for the adoption of special resolution number 2:**

In order for special resolutions numbers 2.1 and 2.2 to be adopted, the support of 75% of the total number of votes exercisable by shareholders, present in person or by proxy, is required to pass this resolution.

# KayDavGroup

## KAYDAV GROUP LIMITED

(Incorporated in the Republic of South Africa)

(Registration number: 2006/038698/06)

Share code: KDV ISIN: ZAE000108940

("Company")

### FORM OF WRITTEN CONSENT IN TERMS OF SECTION 60 OF THE COMPANIES ACT, 2008 ("ACT")

#### FOR USE BY CERTIFICATED SHAREHOLDERS AND OWN-NAME DEMATERIALIZED SHAREHOLDERS IN TERMS OF SECTION 60 OF THE ACT

Shareholders who have dematerialised their shares, other than own-name dematerialised shareholders, should advise their CSDP or broker as to what action they wish to take. This must be done in terms of the agreement entered into between them and their CSDP or broker. Shareholders, other than own-name dematerialised shareholders who have dematerialised their shares, must not return this form of written consent to the transfer secretaries of the Company, Link Market Services South Africa (Proprietary) Limited. Their instructions must be sent to their CSDP or broker for action.

I/We (FULL NAME IN BLOCK LETTERS)

of (ADDRESS)

being the holder/s of  shares in the issued share capital of the Company

hereby vote as follows:

	For	Against	Abstain
<b>Special Resolution 1</b> In terms of section 45 of the Act – Financial assistance to related parties and to inter-related parties			
<b>Special Resolution 2.1</b> In terms of section 66(9) of the Act – Remuneration of directors for services as directors			
<b>Special Resolution 2.2</b> In terms of section 66 (9) of the Act – Remuneration of directors for services as directors			

Please indicate how you wish your votes to be cast in the appropriate box provided.

Signed this \_\_\_\_\_ day of \_\_\_\_\_ 2011

Signature of shareholder (s)

Assisted by me (where applicable)

**Notes:**

1. A person signing this written consent in a representative capacity must attach the documentary evidence establishing such authority to this form of written consent, unless previously recorded by the transfer secretaries of the Company.
2. The completed and signed written consent and authority (if any) under which it is signed must be either delivered, posted, faxed, and/or emailed to Link Market Services South Africa (Proprietary) Limited (the transfer secretaries of the Company) within 20 business days of the date of receipt hereof, at the following addresses:
  - 2.1 physical address: 13<sup>th</sup> Floor, Rennie House, 19 Ameshoff Street, Braamfontein;
  - 2.2 postal address: Link Market Services South Africa Proprietary Limited, PO Box 4844, Johannesburg, 2000;
  - 2.3 fax: +27 86 674 2450; and/or
  - 2.4 email: meetfax@linkmarketservices.co.za.
3. A certified or own-name dematerialised shareholder's instructions on the form of written consent must be indicated by the insertion of the relevant number of votes exercisable by that shareholder in the appropriate box provided. A certified or own-name dematerialised shareholder is not obliged to use all the votes exercisable by the shareholder, but the total number of votes cast and in respect of which abstention is recorded may not exceed the total number of votes exercisable by the certified or own-name dematerialised shareholder.