

HYPROP INVESTMENTS LIMITED
(Incorporated in the Republic of South Africa)
(Registration number 1987/005284/06)
JSE share code: HYP ISIN: ZAE000190724
JSE bond issuer code: HYPI
(Approved as a REIT by the JSE)
("Hyprop" or "the Company")



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WITHDRAWAL OF PREVIOUS CIRCULAR TO HYPROP SHAREHOLDERS DATED 21 DECEMBER 2020 AND POSTING OF A NEW CIRCULAR IN RESPECT OF THE DISTRIBUTIONS FOR THE 2020 FINANCIAL YEAR

BACKGROUND

Previous circular dated 21 December 2020

In fully considering the different ways of meeting the minimum distribution requirements for REITs provided for in the JSE Listings Requirements (the "**minimum distribution requirements**"), Hyprop has taken extensive advice from its sponsor, attorneys and senior counsel, and has engaged openly with the JSE.

This process commenced in August 2020 in advance of the publication of Hyprop's notice of the annual general meeting ("**AGM**") to be held in November 2020, which notice included, *inter alia*, Special Resolution 4 to enable Hyprop to settle the 2020 interim distribution by crediting a shareholder loan claim, provided that such indebtedness will be capable of being applied by shareholders to subscribe for ordinary shares with no par value in the share capital of Hyprop ("**shares**" or "**Hyprop shares**") in terms of a dividend reinvestment mechanism or the like on such basis as the directors may determine. Special Resolution 4 was passed by 98.3% of shareholders who voted at the AGM.

The notice of AGM also included Special Resolution 5 to afford Hyprop the flexibility that, in cases where a corporate action affords shareholders an election between more than one alternative (for example a share reinvestment plan, where shareholders can elect to retain a cash dividend or reinvest the cash dividend by subscribing for further Hyprop shares), the Hyprop board of directors (the "**Board**") will be able to determine which alternative will be the default option (which does not have to be the cash alternative). Special Resolution 5 was passed by 99.21% of shareholders who voted at the AGM.

The JSE declined to approve a proposed circular to shareholders which would have resulted in Hyprop settling its distributions for the 2020 financial year on credit (as contemplated in Special Resolution 4) rather than in cash, while allowing shareholders to reinvest the dividend by electing to subscribe for new shares in Hyprop under a dividend reinvestment plan. Hyprop objected to the JSE's decision, but the process to resolution of this objection and the difference of opinion underlying it would likely not have been concluded in time for Hyprop to implement its distributions for the 2020 financial year in the manner it intended prior to 31 December 2020 (being the deadline for Hyprop to comply with the minimum distribution requirements).

Against this background, and as set out in the SENS announcement published on 21 December 2020 and further detailed in the previous circular to shareholders issued on 21 December 2020 (the "**previous circular**"), the Board declared a further distribution for the 2020 financial year and resolved to settle the dividend as follows:

- the board declared a further distribution of 66.26291 cents per Hyprop share for the year ended 30 June 2020;
- the further distribution, together with Hyprop's interim distribution of 308.73709 cents per share resulted in a total declared distribution of 375 cents per share for the 2020 financial year (the "**dividend**"), equivalent to 76% of Hyprop's distributable income for the year ended 30 June 2020, which will be settled in cash (the "**cash dividend**"); and
- in accordance with the provisions of Hyprop's memorandum of incorporation (as amended by Special Resolution 5 at the AGM) shareholders were provided with an election to retain the cash dividend or to reinvest the cash

dividend in return for Hyprop shares (the “**share reinvestment alternative**”), on the basis that the default is the share reinvestment alternative.

Events subsequent to issuing the previous circular

Following the publication of the SENS announcement and the previous circular on 21 December 2020, the JSE advised Hyprop that, in the JSE’s view, as shareholders who wish to retain the cash dividend under the previous circular are required to make an election to retain the cash dividend (with the default election being the share reinvestment alternative), the cash dividend as proposed under the previous circular does not comply with the minimum distribution requirements. On this basis, the JSE instructed Hyprop to:

- remove the requirement for an election to be made in respect of the retention of the cash dividend (with the default election being the share reinvestment alternative) by withdrawing the previous circular; and
- issue a new circular whereby shareholders are required to make an election to receive the share reinvestment alternative (with the default being the retention of the cash dividend).

Hyprop, together with its sponsor and attorneys, remain of the view that the cash dividend and the share reinvestment alternative proposed by Hyprop in the previous circular (i.e. that the default outcome will be the reinvestment of the cash dividend into Hyprop shares, utilising the flexibility provided by Special Resolution 5, rather than the more conventional retention of the cash dividend) are legally competent and compliant with the minimum distribution requirements.

Hyprop has once again objected to the JSE’s decision in respect of the previous circular. However, the objection process was not likely to be concluded in time to allow Hyprop to meet the minimum distribution requirements timeously and thereby retain its REIT status, which the Board believes is in the best interests of Hyprop shareholders.

Therefore, in order to retain its REIT status, Hyprop has no choice but to withdraw the previous circular and issue a new circular. In terms of the new circular shareholders will instead be required to make an election should they wish to reinvest the cash dividend in return for Hyprop shares (being the share reinvestment alternative) with the default being the retention of the cash dividend. Save for the change to the default election, all other terms of the further distribution, the dividend and the reinvestment alternative remain unchanged from the previous circular.

Accordingly, shareholders will be entitled, in respect of all or part of their shareholding, to elect to participate in the share reinvestment alternative, failing which, they will retain the cash dividend of 375 cents per share that will be paid to those shareholders not electing to participate in the share reinvestment alternative.

The number of shares to which shareholders are entitled under the share reinvestment alternative will be determined with reference to the ratio that 375.0 cents per share bears to the reinvestment price. The reinvestment price will be determined by Hyprop by no later than the finalisation date with reference to market conditions at the time, including the spot price per Hyprop share (less the cash dividend) and/or the volume weighted average trade price per Hyprop share for up to 30 days prior to the finalisation date (less the cash dividend). The reinvestment price will be announced on the finalisation date, which will be no later than 11:00 (SA time) on Tuesday, 12 January 2021.

The board of directors of Hyprop may, in its discretion, withdraw the share reinvestment alternative should market conditions warrant such action. Any such withdrawal will be communicated to shareholders prior to the release of the finalisation announcement on SENS by 11:00 (SA time) on Tuesday, 12 January 2021.

Circular to shareholders

A new circular providing further information to shareholders in respect of the election between retaining the cash dividend and receiving Hyprop shares pursuant to the share reinvestment alternative will be posted to shareholders who are residents of South Africa on Tuesday, 5 January 2021. A copy of the circular is available on the Company’s website at <https://www.hyprop.co.za/circulars.php>. **The new circular supersedes and replaces the previous circular to Hyprop shareholders dated 21 December 2020, which previous circular is accordingly withdrawn.**

Shareholders who have dematerialised their shares through a Central Securities Depository Participant (“**CSDP**”) or broker should instruct their CSDP or broker with regard to their election, in accordance with the terms of the custody agreement entered into between them and their CSDP or broker.

Circular and form of election posted to shareholders on/about, and announced on SENS on	Tuesday, 5 January
Finalisation information including the share ratio and reinvestment price per share published on SENS by 11:00 (SA time) (“ finalisation date ”)	Tuesday, 12 January
Last day to trade in order to receive the dividend (“ LDT ”)	Tuesday, 19 January
Shares trade ‘ <i>ex</i> ’ dividend	Wednesday, 20 January
Listing of maximum possible number of shares under the share reinvestment alternative	Friday, 22 January
Record date to receive the dividend (“ record date ”)	Friday, 22 January
Last day to elect to receive shares in terms of the share reinvestment alternative or to retain the cash dividend (no late forms of election will be accepted) at 12:00 (SA time)	Friday, 22 January
Results of cash dividend and share reinvestment alternative published on SENS	Monday, 25 January
Cash dividend paid to certificated shareholders by electronic funds transfer on or about	Monday, 25 January
Cash dividend credited by CSDP or broker to dematerialised shareholders’ accounts	Monday, 25 January
Share certificates posted to certificated shareholders (if applicable) on or about	Wednesday, 27 January
Dematerialised shareholders’ accounts updated with the new shares (if applicable) by CSDP or broker	Wednesday, 27 January
Adjustment to shares listed on or about	Friday, 29 January

Notes:

1. **Shareholders electing the share reinvestment alternative are alerted to the fact that the new shares will be listed on LDT + 3 and that these new shares can only be traded on LDT + 3 due to the fact that settlement of the shares will be three days after the record date, which differs from the conventional one day after record date settlement process.**
2. Shares may not be dematerialised or rematerialised between Wednesday, 20 January 2021 and Friday, 22 January 2021, both days inclusive.
3. The above dates and times are subject to change. Any changes will be released on SENS.

FRACTIONS

Trading in the Strate environment does not permit fractions and fractional entitlements. Where a shareholder’s entitlement to the shares in relation to the share reinvestment alternative gives rise to an entitlement to a fraction of a new share, such fraction will be rounded down to the nearest whole number with the balance of the cash dividend being retained by the shareholders.

TAX IMPLICATIONS

Hyprop was granted REIT status by the JSE with effect from 1 July 2013 in line with the REIT structure as provided for in the Income Tax Act, No. 58 of 1962, as amended from time to time (the “**Income Tax Act**”) and section 13 of the JSE Listings Requirements.

The REIT structure is a tax regime that allows a REIT to deduct qualifying distributions to investors, in determining its taxable income.

The dividend of 375.0 cents per share meets the requirements of a “qualifying distribution” for the purposes of section 25BB of the Income Tax Act (a “**qualifying distribution**”) with the result that:

- qualifying distributions received by resident Hyprop shareholders must be included in the gross income of such shareholders (as a non-exempt dividend in terms of section 10(1)(k)(i)(aa) of the Income Tax Act), with the effect that the qualifying distribution is taxable as income in the hands of the Hyprop shareholder. These qualifying distributions are however exempt from dividends withholding tax, provided that the South African resident shareholders provided the following forms to their CSDP or broker, as the case may be, in respect of uncertificated shares, or the company, in respect of certificated shares:
 - a declaration that the dividend is exempt from dividends tax; and
 - a written undertaking to inform the CSDP, broker or the company, as the case may be, should the circumstances affecting the exemption change or the beneficial owner cease to be the beneficial owner,

both in the form prescribed by the Commissioner for the South African Revenue Service. Shareholders are advised to contact their CSDP, broker or the company, as the case may be, to arrange for the abovementioned documents to be submitted prior to payment of the dividend, if such documents have not already been submitted.

Shareholders who are South African residents are advised that in electing to participate in the share reinvestment alternative, pre-taxation funds are utilised for reinvestment purposes and that taxation will be due on the total cash dividend amount of 375.0 cents per share.

- qualifying distributions received by non-resident Hyprop shareholders will not be taxable as income and instead will be treated as ordinary dividends but which are exempt in terms of the usual dividend exemptions per section 10(1)(k) of the Income Tax Act. Any qualifying distribution is subject to dividends withholding tax, at 20%, unless the rate is reduced in terms of any applicable agreement for the avoidance of double taxation (“DTA”) between South Africa and the country of residence of the shareholder. Assuming dividends withholding tax will be withheld at a rate of 20%, the net dividend amount due to non-resident shareholders is 300.0 cents per share. A reduced dividend withholding rate in terms of the applicable DTA, may only be relied upon if the non-resident shareholder has provided the following forms to their CSDP or broker, as the case may be, in respect of uncertificated shares, or the company, in respect of certificated shares:
 - a declaration that the dividend is subject to a reduced rate as a result of the application of a DTA; and
 - a written undertaking to inform their CSDP, broker or the company, as the case may be, should the circumstances affecting the reduced rate change or the beneficial owner ceases to be the beneficial owner,

both in the form prescribed by the Commissioner for the South African Revenue Service. Non-resident shareholders are advised to contact their CSDP, broker or the company, as the case may be, to arrange for the abovementioned documents to be submitted prior to payment of the dividend if such documents have not already been submitted, if applicable.

Non-resident shareholders are further advised that in participating in the share reinvestment alternative, post dividend withholding tax funds are utilised for reinvestment purposes.

Other information:

- The ordinary issued share capital of Hyprop is 255 894 516 ordinary shares of no par value before the share reinvestment alternative.
- Income Tax Reference Number of Hyprop: 9425177715.

The cash dividend or share reinvestment alternative may have tax implications for resident as well as non-resident shareholders. Shareholders are therefore encouraged to consult their tax and/or professional advisors should they be in any doubt as to the appropriate action to take.

INFORMATION RELATING TO FOREIGN SHAREHOLDERS

The release, publication or distribution of the circular and/or accompanying documents and the right to elect to receive shares pursuant to the share reinvestment alternative in jurisdictions other than the Republic of South Africa may be restricted or affected by the laws of such jurisdictions, and a failure to comply with any of those restrictions may constitute a violation of the securities laws of any such jurisdictions. The shares issued pursuant to the share reinvestment alternative may not be offered, sold, taken up, exercised, resold, renounced, transferred or delivered within Australia, Canada, Hong Kong or Japan.

United States of America

The Hyprop shares issued pursuant to the share reinvestment alternative have not been approved or disapproved by the U.S. Securities and Exchange Commission, any state securities commission in the United States or any other U.S. regulatory authority, nor have any of such regulatory authorities passed comment or opinion upon or endorsed the merits of the share reinvestment alternative or the accuracy or adequacy of this circular. Any representation to the contrary is a criminal offence in the United States.

Shareholders who are citizens or residents of the United States are advised that the Hyprop Shares have not been and will not be registered under the U.S. Securities Act, or under any securities laws of any state or other jurisdiction of the United States and may not be offered, sold, taken up, exercised, resold, renounced, transferred or delivered, directly or indirectly, within the United States, except pursuant to an applicable exemption from, or in a transaction not subject to, the registration requirements of the U.S. Securities Act and in compliance with applicable state and other securities laws of the United States.

The Hyprop Shares have not been and will not be registered under the U.S. Securities Act or with any securities regulatory authority of any state or other jurisdiction of the United States and may not be offered, sold, taken up, exercised, resold,

renounced, transferred or delivered, directly or indirectly, within the United States, except pursuant to an exemption from or, in a transaction not subject to, the registration requirements of the U.S. Securities Act and in compliance with any applicable securities laws of any state or other jurisdiction of the United States.

Accordingly, the Company is not offering the Hyprop Shares into the United States unless an applicable exemption from the registration requirements of the U.S. Securities Act is available and, subject to certain exceptions, this circular does not constitute nor will it constitute an offer or an invitation to apply for, or an offer or an invitation to acquire, any Hyprop Shares in the United States. Subject to certain exceptions, this circular will not be sent to any shareholder in, or with a registered address in, the United States. Any person in the United States wishing to receive Hyprop shares must execute and deliver to the Company an investor letter satisfactory to the Company to the effect that such person and any account for which it is acquiring the shares is a QIB and satisfies certain other requirements. The investor letter may be requested or obtained from Hyprop by emailing dripinfo@hyprop.co.za. For the avoidance of doubt, all shareholders located in the United States are entitled to receive the cash dividend.

Subject to certain exceptions, any person who acquires Hyprop Shares will be deemed to have declared, warranted and agreed, by accepting delivery of this circular, the share reinvestment alternative, selling or renouncing their Hyprop Shares or accepting delivery of the Hyprop Shares that it is not, and that at the time of acquiring the Hyprop Shares, it will not be, in the United States or acting on behalf of, or for the account or benefit of, a person on a non-discretionary basis in the United States or any state of the United States.

In addition, until 9 March 2021 (40 days after posting of the certificated shares and updating the accounts of dematerialised shareholders with the new shares), an offer, sale or transfer of the shares within the United States by a dealer (whether or not participating in the share reinvestment alternative transaction) may violate the registration requirements of the U.S. Securities Act.

European Economic Area and United Kingdom

In relation to each member state of the European Economic Area and the United Kingdom (each a “**Relevant State**”), with effect from and including the date of this circular, no shares have been offered pursuant to the share reinvestment alternative to the public in that Relevant State. The offer of shares pursuant to the share reinvestment alternative contemplated by this circular may not be made to the public in that Relevant State except that an offer to the public in that Relevant State of any shares pursuant to the share reinvestment alternative may be made at any time under the following exemptions under the Prospectus Regulation:

- (A) to any legal entity which is a qualified investor as defined under the Prospectus Regulation;
- (B) to fewer than 150 natural or legal persons (other than qualified investors as defined under the Prospectus Regulation), as permitted under the Prospectus Regulation; or
- (C) in any other circumstances falling within Article 1(4) of the Prospectus Regulation,

provided that no such offer of shares pursuant to the share reinvestment alternative shall require the Company to publish a prospectus pursuant to Article 3 of the Prospectus Regulation or supplement a prospectus pursuant to Article 23 of the Prospectus Regulation.

For the purposes of this provision, the expression an “offer to the public” (and similar expressions) in relation to any shares offered pursuant to the share reinvestment alternative in any Relevant State means the communication in any form and by any means of sufficient information on the terms of the share reinvestment alternative and the shares to be offered pursuant thereto so as to enable an investor to decide to purchase or subscribe for any shares pursuant to the share reinvestment alternative, and the expression “Prospectus Regulation” means Regulation (EU) 2017/1129.

Any person located in any Relevant State that elects to receive any shares pursuant to the share reinvestment alternative, will be deemed to represent, warrant, agree and confirm that they are a qualified investor as defined under the Prospectus Regulation. Any person located in any Relevant State that wishes to receive shares pursuant to the share reinvestment alternative is requested to contact the Company by emailing dripinfo@hyprop.co.za. In the case of any shares pursuant to the share reinvestment alternative being acquired by a financial intermediary as that term is used in Article 5(1) of the Prospectus Regulation, such financial intermediary will be deemed to have represented, acknowledged and agreed that the shares acquired by it pursuant to the share reinvestment alternative have not been acquired on a non-discretionary basis on behalf of, nor have they been acquired with a view to their offer or resale to, persons in a Relevant State in circumstances which may give rise to an offer of any shares issued pursuant to the share reinvestment alternative to the public other than their offer or resale in a Relevant State to qualified investors as defined under the Prospectus Regulation.

The Company and its affiliates and others will rely upon the truth and accuracy of the foregoing representation, warranty, acknowledgement and agreement.

United Kingdom

In the United Kingdom, this circular is only being distributed and communicated to, and any investment or investment activity to which this circular relates is available only to, and will be engaged in only with, persons: (i) having professional experience in matters relating to investments who fall within the definition of “investment professionals” in Article 19(5) of the Financial Services and Markets Act, 2000 (Financial Promotion) Order 2005 (the “**Order**”); or (ii) who are high net worth entities falling within Article 49(2)(a) to (d) of the Order (all such persons together being referred to as “**Relevant Persons**”). Persons who are not Relevant Persons should not take any action on the basis of this circular and should not act or rely on it. Relevant Persons that wish to receive shares pursuant to the share reinvestment alternative are requested to contact the Company by emailing dripinfo@hyprop.co.za.

Disclaimer

This announcement does not constitute or form part of an offer to sell securities, or the solicitation of any offer to buy or subscribe for any securities, to or from any person in the United States (or to, or for the account or benefit of, any such person or any U.S. person, as defined in Regulation S under the U.S. Securities Act) or in any other jurisdiction in which, or to or from any other person to or from whom, such offer or solicitation is unlawful. The securities referred to in this announcement have not been and will not be registered under the U.S. Securities Act, and may not be offered or sold in the United States or to, or for the account or benefit of, U.S. persons absent registration with the United States Securities and Exchange Commission or an exemption from registration. There will be no public offer of the securities in the United States.

5 January 2021

Corporate advisor and sponsor

JAVACAPITAL

Legal advisor

