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LANTEOTC

INVESTOR TERMS AND CONDITIONS

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## Section A: Introduction and Preliminary Terms

These Terms and Conditions (“**Terms**”) govern your use of the LanteOTC website, [www.lanteotc.co.za](http://www.lanteotc.co.za). By using the website, you confirm that you accept these Terms and that you agree to comply with them. If you have any queries or concerns regarding these Terms, please contact us.

### 1. About Us

LanteOTC is a registered Financial Services Provider (FSP No. 45976) and a registered Credit Provider (NCRCP 7671) owned by Lante Investment Holdings (“**we**”, “**us**” or “**our**” as appropriate), a company incorporated in South Africa, with Registration Number 2014/114012/07. Our registered office address is 43 Montrose Street, Regus Building, Birchwood Court, Vorna Valley, Midrand. LanteOTC provides a platform for individuals and organisations registered with LanteOTC (“**Investors**”) to connect with high growth potential Small-Medium Enterprises (SMEs) (“**Companies**”) in South Africa (collectively called, “**Community Members**”).

### 2. Regulatory Framework

LanteOTC is an authorised Financial Services Provider (FSP) with FSP Number 45976 and is regulated under the Financial and Advisory and Intermediary Services Act (FAIS) by the Financial Service Board (FSB). LanteOTC is not an exchange, nor do we hold ourselves out to be one. As such LanteOTC is not regulated in the same way as a licensed exchange. LanteOTC is an intermediary service and does not offer any advice in relation to the investment. LanteOTC is a responsible FSP and as such it abides by the relevant legislation and codes in South Africa, including but not limited to the Promotion of Access to Information Act (PAIA), Financial Intelligence Centre Act (FICA), National Credit Regulator (NCR) and the Protection of Personal Information Act (POPI).

### 3. Definitions

To make these Terms quicker to read, we use a few key definitions: we refer to those that are acting on behalf of the companies seeking to raise funds as “**Company Representatives**”, their companies as “**Company(ies)**”, those that invest in these Companies as “**Investors**”, their contributions as “**Investments**”, the minimum total value of investments sought by a Company as a “**Funding Target**”, the maximum period for which investments can be made towards a Company as the “**Investment Period**” and the total value of Investments (excluding cancelled Investments) that a Company has received at the end of the Investment Period as “**Total Investments**”. Investors and other visitors to the site are referred to as “**Users**” or “**you**”, as applicable. If you are using LanteOTC in connection with a company, the terms 'you', 'your' or 'your organisation' in these Terms are also a reference to the entity (“**Business**”) on whose behalf you act when using LanteOTC. A company that has not raised the targeted amount of money within the Investment Period is deemed to have “**Expired**” and a Company is deemed as “**Successfully Funded**” if it manages to raise the targeted amount of money or exceeds the target within the Investment Period.

### 4. Access and Use of LanteOTC

Anyone who is at least 18 years of age may use the platform as an Investor. You agree that you will use or authorise anyone else to use your account on LanteOTC and any information and content obtained from it lawfully and only for the purposes for which it has been provided and in accordance with these Terms and Conditions. We reserve the right to have any user temporarily suspended or to terminate your access to the platform without notice.

Furthermore, we do not guarantee the availability or accessibility of the platform, nor do we guarantee that your access to LanteOTC, the content on it or the services we provide will be delivered uninterrupted, timely or error-free.

## **5. Personal Information and your Security and Privacy**

You agree to ensure that all information provided by you to LanteOTC is accurate, true and up to date in all respects and at all times and is not misleading in any way.

As required by legislation we will not sell or redistribute your contact information to any third party. By agreeing to these Terms, you are providing your consent for us to make use of anything lawful in order to improve the LanteOTC user experience. For more information please refer to the LanteOTC Privacy Policy on [www.lanteotc.co.za](http://www.lanteotc.co.za).

## **Section B: Making Investments**

### **6. Investments**

LanteOTC does not have any equity in the Companies nor is it in any way involved in the management of the Companies. We therefore do not accept any responsibility for the nature or quality of a Company's performance.

Any information provided on the platform should not be regarded as advice. We encourage Investors to supplement the information provided on the platform with independent research and to seek professional advice prior to Investing in a Company. Accordingly, when using LanteOTC, you take full responsibility for your Investments.

Investments can be cancelled at any time except during the last ten (10) days of the investment period. Investments made during this period can only be refunded if the Companies do not accept the invested amount. Any investments cancelled will be refunded the Investment amount less the admin fee equal to the transaction fee paid by the investor.

If the Investment Period ends without the Company being deemed Successfully Funded, you will receive a full refund of your Investment, including the transaction fee and the securities tax.

The contract relating to the provision of funds from Investments and the fulfilment of shares is made solely between a Company and Investors, signed on the Investors behalf by the Administrator, subject always to these Terms and Conditions. By making an Investment, an Investor is making an offer to enter into a contract with the applicable Company provided that the Company is deemed Successfully Funded at the end of the Investment Period.

The Company reserves the right to reject the Investor's offer. Following an acceptance, expressly or tacitly as the case may be, a binding contract is made between them, at the time the Company is Successfully Funded. Accordingly, nothing that we or the Company says or does will amount to any acceptance of an Investor's offer until this occurs.

## 7. The Investment Agreement

This agreement is between You, the Investor, and LanteOTC, the Administrator. By continuing to use LanteOTC you agree to this agreement.

Forthwith after confirming an investment, the Investor:

- Appoints LanteOTC as the Administrator for his or her shares;
- agrees not to require any certificates for Shares;
- undertakes not to sell, transfer or otherwise dispose of any Shares to any party within the lock in period as agreed between the Shareholder and the Administrator;
- undertakes, after the lock in period, not to sell, transfer or otherwise dispose of any Shares to any party who has not adhered to this Agreement as an Investor; and
- to the extent applicable, undertakes to vote and act at the general meetings of shareholders of the Company and otherwise in accordance with the provisions and objectives of this Agreement.

### a) Quorum and Voting For Shareholders Meetings

The quorum for Shareholders' meetings of The Company shall be a representative of the Shareholders of at least 25% of the issued share capital of The Company, either personally or by proxy. Provided that if, within 1(one) hour from the time appointed for a meeting, a quorum is not present, the meeting shall stand adjourned to the same day in the next week, at the same time and place or, if that day be a public holiday, to the next succeeding day other than a Saturday, Sunday or public holiday and if, at such adjourned meeting, a quorum is not present within 1(One) hour from the time appointed for the meeting, the Shareholders then present in person or proxy shall be a quorum.

At the meetings of the Shareholders, decisions shall be taken by majority vote, based on the principle that each Shareholder shall have such number of votes as are equal to the number of Shares held by them.

### b) Calling of Shareholders Meetings

The Board, or any other person specified in The Company's Memorandum of Incorporation or rules, may call a Shareholders' meeting at any time.

Subject to section 61 of the Companies Act, The Company must hold a Shareholders' meeting:

- At any time that the Board is required by the Companies Act nor the MOI to refer a matter to Shareholders for decision;
- Whenever required in terms of section 70 (3) of the Companies Act to fill a vacancy on the Board; and
- when otherwise required:
  - In terms of subsection 3 or 7 of Section 61 of the Companies Act; or
  - By the Company's MOI.
- Subject to subsections (5) and (6) of section 61 of the Companies Act, the Board or any other person specified in the Company's MOI, must call a Shareholders' meeting if one or more written and signed demands for such a meeting are delivered to The Company, and
- each such demand describes the specific purpose for which the meeting is proposed; and

- in aggregate, demands for substantially the same purpose are made and signed by the holders, as of the earliest time specified in any of those demands, of at least 10% of the voting rights entitled to be exercised in relation to the matter proposed to be considered at the meeting.

### **c) Written Resolutions**

A resolution of Directors or Shareholders (as the case may be) signed by all persons required to be present at the meeting of Directors or Shareholders (as the case may be) to constitute a **50 % of the Shares in issue** quorum shall be as valid and effective as if it had been adopted by a duly convened meeting of Directors or Shareholders.

Unless the contrary is stated therein, any such resolution shall be deemed to have been passed on the date on which it was last signed by the Director or Shareholder last signing it.

A facsimile transmission or an advance electronic signature in terms of the Electronic Communications and Transactions Act of 2002 of a Directors' or Shareholders' signed resolution shall be acceptable evidence that such a Resolution has been signed by the Director or Shareholder, whose signature appears on the facsimile transmission.

### **d) Financing**

Save to the extent to the contrary provided in the Agreement, the Shareholders shall each use reasonable endeavours to procure that the financial requirements of The Company are met as far as practicable from its own resources or by borrowings from banks and other similar sources on the most favourable terms reasonably obtainable as to interest, repayment and security, but without allowing any prospective lender a right to participate in the equity/share capital of The Company as a condition of any loan unless the Shareholders agree otherwise.

The amount for value of Shareholders contributions may from time to time be increased by additional contributions of money or property as the Shareholders may resolve.

Such amount referred to above shall be determined by the Board from time to time, and in the event that The Company is unable to procure such sums, the Shareholders shall provide same pro rata to their shareholding in The Company.

### **e) Pre-emption Rights and Transfers of Shares**

The provisions of this clause shall apply in relation to any transfer, or proposed transfer of Shares in The Company or any interest in such Shares.

Except as permitted in terms of this clause or with the prior written consent of the Parties, no Shareholder shall;

- transfer its Shares in and claims against The Company (hereinafter referred to as "its share"); or
- grant, declare, create or dispose of any right or Interest in its Shares; or
- create or permit to exist any pledge, lien, charge or other encumbrance of its Shares;

before the expiry of the lock in period as agreed between the Shareholder and the Company. After the expiry of the lock in period, should the Shareholder wish to dispose of its Shares ("the seller"), the seller shall first give to the remaining Shareholders ("the Remaining Shareholders") notice in writing ("transfer notice") of any proposed transfer together with details of the proposed third Party purchaser thereof ("third party purchaser"), the purchase price and other material terms agreed between the seller and the third party purchaser. A transfer notice shall, except as hereinafter provided, be irrevocable.

On receipt of the transfer notice, the remaining Shareholders shall have the right to purchase all of the Shares at the purchase price specified in the transfer notice or at such other price which shall be agreed between the seller and the Remaining Shareholders by giving written notice to the seller within 30 (Thirty) days of receipt of the transfer notice (“the Acceptance period”).

If the remaining Shareholders wish to purchase the seller’s Shares but are unwilling to accept the price specified in the Transfer notice and fail to agree on a price with the seller within the acceptance period, then the remaining Shareholders shall be entitled to refer the question of the purchase price to the auditor to certify the fair price thereof. The following principles shall apply:

- the Shareholders shall procure that there is made available to the auditor such information relating to The Company as it reasonably require in order to determine a fair price;
- In certifying the fair price, the auditor shall take into account all factors it considers to be relevant including the purchase price and other material terms agreed between the seller and the Third party Purchaser;
- the auditor shall be deemed to be acting as an expert and not an arbitrator and his decision shall be final and binding on the Parties;
- the cost of obtaining the auditor’s certificate (“The Certificates”) shall be borne by the seller and the remaining Shareholders equally unless the seller shall give notice of revocation, in which case the seller shall bear the cost.

If the seller is not willing to accept a price which is the price determined by the independent valuer, then it shall, save if the Remaining Shareholders are then willing to purchase the seller’s Shares at the price specified in the transfer notice, be entitled to revoke the transfer notice by notice in writing given within a period of 7 (Seven) days after the date of issue of the Certificate which, for the avoidance of doubt, shall be issued to both the seller and the remaining Shareholders in the event of such revocation, the seller shall not be entitled to Transfer the seller’s Shares or any of them without again first complying with this clause.

If the transfer notice shall not have been duly revoked, the remaining Shareholders shall have the right to purchase the seller’s Shares at a price equal to the price determined by the auditor within 7 (Seven) days of the expiry period of 7 (Seven) days.

If the remaining Shareholders do not exercise their rights to purchase, the seller shall, be entitled to transfer the sale Shares in a bona fide Arm’s length sale to a third party at a price not less than the price determined by the auditor, provided that-

- the remaining Shareholders must first approve the third party purchaser or any Shareholder or Trustee therein, which approval shall not be unreasonably withheld; and
- any transfer shall have been completed within a period of 45 (Forty Five) days after the latest of:
  - the date of the transfer notice; or
  - If the question of the purchase Price shall have been referred to the independent valuer, the date of the issue of the certificate.

The Shareholders undertake to give such approvals as may be required under the provisions of the Memorandum of Incorporation of the Company to any transfer of Shares permitted by the Terms of this clause.

Any transfer of Shares to a third party purchaser shall be subject to the suspensive conditions that:

- the third party purchaser shall have entered into an Agreement with the remaining Shareholders whereby it agrees to be bound (in terms reasonably satisfactory to the remaining Shareholders) by provisions corresponding to the provisions of this Agreement binding upon the seller; and
- If and insofar as the seller requires the third Party Purchaser to assume the obligations of the Seller under any guarantees and/or counter Indemnities to third Parties in relation to the Business of the Company, such assumptions shall first have taken place.

If any disposing shareholder wishes to dispose of its/their Shares in The Company and the remaining shareholders do not exercise their pre-emptive rights set out in this clause, then the remaining shareholders shall be entitled to require the disposing shareholder to ensure that the third party who purchases the disposing Shareholder's Shares and claims shall also simultaneously purchase the disposing shareholder's Shares and claims and purchase that remaining Shareholder's Shares and claims on the same terms and conditions pro rata as those on which the disposing shareholder disposed of its Shares.

#### **f) Determination of Purchase Price**

When it is required to determine the purchase price of the Equity of a Shareholder for the purposes of this Agreement, such purchase price shall be the value determined in accordance with the provisions of this clause.

The purchase price of the Equity of a Shareholder for the purposes of this Agreement shall be as agreed by the Parties.

In the event of a dispute between the Parties as to the purchase price, it shall be determined by an independent chartered accountant whose identity is agreed in writing between the Parties and failing such Agreement, within 15 days of written request by any of the Parties, then the person selected by the President of the South African Institute of Chartered Accountants on the request of any of the Parties ("the Independent Expert").

The Independent Expert shall act as an expert and not as an arbitrator and may apply such methods and principles to his valuation as determined by him, taking into account the factors determined by the Shareholders. The Independent Expert shall have access to such books, documents and other records of the Company and shall be entitled to receive such additional information from the interested Parties as he may require.

The valuation of the Independent Expert shall, in the absence of manifest error, be final and binding on the interested Parties.

The fees and disbursements of the Independent Expert shall be borne and paid by the Shareholder disposing of his Shares as to one half thereof and the purchasing party or Parties as to the other half.

#### **g) Deemed Offers**

A Shareholder ("**Deemed Disposer**") shall be deemed to have offered its Equity for sale to the remaining Shareholders ("**Deemed Offer**") upon the Deemed Disposer, being an Individual Shareholder, dies or is sequestrated or placed under curatorship, whether provisionally or finally, or commits an act of insolvency as defined in the Insolvency Act, 1936, or compromises with his/her creditors generally, or attempts to do so;

The Deemed Offer will be deemed to have been made by the Deemed Disposer on the business day preceding the happening of the relevant event, upon *mutatis mutandis* the same terms and conditions as are contained in the clause with the heading 'Pre-emption and Transfer of Shares', save that—

- the provisions that the relevant offer has to be accepted in full failing which it will not be of any

force or effect, shall not apply;

- the purchase consideration payable for the Equity will be the Fair Market Value thereof; and
- the 30 (thirty) business day period referred to in that clause will be extended by such number of days as may be necessary in order to finally determine the Fair Market Value of the Equity.

#### **h) Liquidation of a Shareholder**

If a Shareholder (“the Disposer”), being a corporate, is liquidated, whether provisionally or finally, the Equity of such Shareholder shall automatically be deemed to have been offered to the remaining Shareholder(s) in proportion to their existing shareholding in the Company. Such offer shall be irrevocable for a period of 30 days after the purchase price has been determined. If the remaining Shareholder(s) do not accept such an offer in full, in writing, in proportion to their shareholding (or such other proportion as the remaining Shareholder(s) may agree) such an offer shall automatically lapse. If such offer is accepted in full, the sale concluded pursuant to the acceptance of such offer shall be on the following terms and conditions:

- The effective date of the sale shall be the date on which the offer is accepted.
- The purchase price of the Equity shall be the purchase price determined in terms of this agreement.
- The purchase price shall be paid within 30 days of the effective date or within 30 days from the date on which the purchase price is determined, whichever is the later, against compliance by the Disposer’s curator/liquidator with the below obligations.

The Disposer’s curator/liquidator shall be obliged to deliver to the remaining Shareholder(s), against payment of the purchase price, transfer declarations in respect thereof.

#### **i) General Conditions of Transfer**

Any transfer of Shares to any person who is not already a Shareholder or a party to this Agreement, shall be subject to the condition that the transferee is joined and bound to all the terms and conditions of this Agreement.

Save as provided in this Agreement, no Equity may be transferred disposed of, pledged or otherwise encumbered in any manner without the prior written consent of all the Shareholders and as required in the MOI.

Except where the contrary is expressly agreed, any transferee of Shares in the Company shall be vested with all the rights and obligations of the transferor, of such Shares, as contemplated in this Agreement.

#### **j) Distributions**

After taking into account such considerations as –

- The Companies Act
- Tax considerations of the Shareholders and the Company;
- The cash flow and working capital requirements of the Company;
- All investments that the Board believes are required for the long-term growth of the Company and the Business; and

- The payment of staff bonuses to operational staff members of the Company and approved by the Shareholders from time to time,

It is the intention of the Shareholders that the Company maximises the income payments to the Shareholders.

The Shareholders shall procure that:

- subject to the provisions of this Agreement, sections 4, 28, 29 and section 44 to 48 of the Companies Act and any other relevant provisions regulating distributions, solvency, liquidity and Directors duties in this regard, and
- provided that The Company does not borrow funds in excess of its funding policy and gearing ratio from time to time to enable it to pay the dividend;

The Company declares and pay dividends as agreed out of the distributable profits of The Company (for which purpose secondary tax on companies in respect of the dividend in question shall be taken into account in determining the amount of the distributable profits) in each of its Financial Years which declaration and payment shall be made within 60 (sixty) days after the end of each Financial Year or as soon as possible thereafter, it being agreed between the Parties that no dividends are to be paid unless the financial position and obligations of The Company permits such payments.

#### **k) Rights to Information, Confidentiality**

All communications between the Shareholders, the Company and any of the Parties will be kept confidential by the recipient unless or until the recipient can reasonably demonstrate that any such communication, information and material is, or part of it is, in the public domain through no fault of his or its own, whereupon to the extent that it is in the public domain or is required to be disclosed by law or regulation or in pursuance of employment duties, this obligation shall cease.

The Shareholders shall use all reasonable endeavours to procure the observance of the above restrictions by the Company and shall take all reasonable steps to minimise the risk of disclosure of confidential information.

The obligation contained in this clause shall endure, even after the termination of this Agreement, without limit in point of time except and until such confidential information enters the public domain as set out above.

A Shareholder on ceasing to be a Shareholder will hand over to the Company all correspondence, budgets, schedules, documents and records belonging to or relating to the business of the Company and will not keep any copies thereof.

## **8. Interest on Investments**

Any interest on Investments or other funds held by us during the Investment Period shall accrue to our benefit and neither the Company nor Investors shall be entitled to such interest in relation to distributed funds or refunded Investments.

## **Section C: General Terms**

## **9. Intellectual Property**

You may not, except as permitted under these Terms and Conditions, copy, modify, or distribute our content or trademarks from LanteOTC or Companies' copyright material and trademarks or any content or trademarks owned by a third party unless you have their explicit permission. You may also not harvest or otherwise collect or use information about Companies without their explicit consent.

## **10. Disputes between Companies and Investors**

We are under no obligation to become involved in disputes between any Company and Investors, or between Users and any third party arising in connection with the use of LanteOTC. This includes, but is not limited to, the fulfilment of shares and services, and any other terms, conditions, warranties, or representations associated with Companies on LanteOTC. However, we will co-operate with any law enforcement authorities in any investigations arising out of your dispute with another Community Member.

Although we require Companies to send us performance reports periodically, we are not liable to you for the performance or functionality of Companies nor do we endorse them.

## **11. Third-Parties Platforms**

You may need to download, activate or use certain software and platforms in order to use certain content available on LanteOTC. We have no responsibility or control over such third-party software and will not be responsible for any content thereon or for any damages, losses, costs and expenses in relation to the use of such platforms. You decide to access any of these third-party platforms entirely at your own risk.

## **12. Exclusion of Liability and Disclaimer**

We operate LanteOTC with reasonable skill and care and to the fullest extent permissible under applicable law we disclaim any and all promises, warranties, conditions, or representations relating to LanteOTC and its content, whether express, implied, oral or written.

The use of LanteOTC is done at your own risk and you will be solely responsible for any damage or loss that results from the use of LanteOTC. This includes, but is not limited to any losses related to any personal loss, loss to any business of yours including but not limited to lost data, profits, revenue, savings, business, opportunity, goodwill, reputation, business interruption or any pure economic loss (in each case, whether such loss is direct or indirect); or any form of indirect, consequential or special loss,

We will not be responsible or liable if we are prevented or delayed from complying with our obligations under these Terms and Conditions by anything you (or anyone acting on your behalf) does or fails to do or due to events or circumstances beyond our reasonable control.

Moreover, you agree only to use LanteOTC in accordance with these Terms and Conditions. You agree that you will compensate us (and our employees, officers, agents and suppliers) in full for any damages, losses, costs and expenses, including reasonable legal fees we incur that arise out of any breach by you of these Terms and Conditions or any liability we incur as a result of the use of LanteOTC by you and any other person that uses your account with your permission or as a result of your negligence.

## **13. Written Communications**

When using LanteOTC, you accept that communication with us will be electronic and subject to any legal requirement that some communications will be in writing.

## 14. General

- a) Severability: If any part of these Terms and Conditions is found to be unenforceable as a matter of law, all other parts of these Terms and Conditions will not be affected and shall remain in force. For the avoidance of doubt, should these Terms and Conditions or any part of them be deemed void or voidable, this shall not affect the validity of any licence or authorization provided under these Terms and Conditions.
- b) Entire Agreement: These Terms and Conditions govern our relationship with you and represent our entire agreement with you.
- c) Assignment: You may not assign, sub-license or otherwise transfer any of your rights under these Terms and Conditions.
- d) Waiver: If you breach these Terms and Conditions and we choose to ignore your breach, we will still be entitled to use our rights and remedies at a later date or in any other situation where you breach the Terms and Conditions again.
- e) Exclusion of third party rights: These Terms and Conditions do not create any right enforceable by any person who is not a party to them or any contract made under them.
- f) Language: These Terms and Conditions may be presented to you in more than one language. However, the English language version of these Terms and Conditions shall prevail. All contracts made under these Terms and Conditions will be concluded in English.
- g) Jurisdiction: LanteOTC is controlled and operated from South Africa. If you choose to access LanteOTC from outside South Africa, we make no representation that the content and operation of LanteOTC will comply with local laws.
- h) Governing law and dispute resolution: Any disputes or claims between us arising out of or in connection with these Terms and Conditions or any contract made under them (including non-contractual disputes or claims) are governed by and construed in accordance with South African law. If a dispute arises between us out of or in connection with these Terms and Conditions or any contract made under them, we will both attempt to settle it by mediation. If either or both of us refuse to initiate the mediation procedure within 30 days of the dispute arising or if we both fail to agree terms of settlement within a further 40 days of the initiation of the procedure, either of us will be free to initiate arbitration proceedings under the Restricted Representation Rules of the Association of Arbitrators (Southern Africa) with an arbitrator appointed under those rules. The arbitrator may exercise any power conferred on a court or other tribunal under applicable laws that is appropriate to be exercised by a private arbitrator regarding a matter that is capable of settlement by the parties by agreement. The arbitrator also has the power to make a declaratory order and an order for joinder in the circumstances referred to in article 17.5 of the Standard Procedure Rules.

## 15. Changes to these Terms and to LanteOTC

We reserve the right to change, suspend or discontinue the LanteOTC platform and/or the service we provide through it (including the availability of any feature, functionality database or content) at any time and for any reason. We may also introduce or remove limits on certain features or restrict your access to all or certain parts of LanteOTC without notice to you and without incurring any liability.

## 16. Queries and Complaints

As LanteOTC we take pride in delivering excellent service to our investors, if you have any queries, complaints or compliments feel free to contact us using the information below;

**Address:**

LanteOTC  
3 Exchange Square  
87 Maude Street  
Sandton  
2146

**Office Opening Times:**

Mon to Fri - 0800 to 1700  
Saturday - CLOSED  
Sunday – CLOSED  
Tel: 011 883 0031  
Email: [info@lanteotc.co.za](mailto:info@lanteotc.co.za)