THE COMPANIES ACT, 2015

(Act No. 17 of 2015, Laws of Kenya)

PUBLIC COMPANY LIMITED BY SHARES

ARTICLES OF ASSOCIATION

OF

TOTAL KENYA PLC
Company No. 3/89

(Articles of Association adopted by a Special Resolution passed on ……………………………… 2017)
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EXCLUSION OF THIRD SCHEDULE REGULATIONS

1. The Regulations contained in the Third Schedule (Model Articles for Public Companies limited by shares) of the Companies (General) Regulations, 2015 shall not apply to the Company except so far as the same are repeated or contained in these Articles.

PART 1—INTERPRETATION

2. Definition of expressions used in these articles

(1) In these articles—

a) the Act means the Companies Act, 2015;
b) alternate and alternate director mean a person appointed by a director as an alternate under article 76(1);
c) appointor—see article 76 (1);
d) articles means the articles of association of the company as now framed or as altered by special/ordinary resolution from time to time;

e) associated company means—

(i) a subsidiary of the company;
(ii) a holding company of the company; or
(iii) a subsidiary of such a holding company;

f) call—see article 17(1);
g) call notice—see article 17(1);
h) Company means Total Kenya PLC;
i) distribution recipient means, in relation to a share in respect of which a dividend or other sum is payable—

(i) the holder of the share;
(ii) if the share has 2 or more joint holders, whichever of them is named first in the register of members; or
(iii) if the holder is no longer entitled to the share because of death or bankruptcy or otherwise by operation of law, the transmittee;

j) fully paid, in relation to a share, means the price at which the share was issued has been fully paid to the company;
k) holder, in relation to a share, means the person whose name is entered in the register of members as the holder of the share;
l) managing director means any director who has day to day responsibility for managing the affairs of the company, irrespective of the title by which the director is known;
m) mentally disordered person means a person who is found under the Mental Health Act (Cap 243) to be incapable, because of mental disorder, of managing his or her affairs;

n) notice means notice in writing;
o) paid means paid or credited as paid;
p) partly paid, in relation to a share, means part of the price at which the share was issued remains unpaid;

q) proxy notice—see article 98(1);
r) register of members means the register of members of the company;
s) transmittee means a person entitled to a share because of the death or bankruptcy of a member or otherwise by operation of law.
(2) Other words or expressions used in these articles have the same meaning as in the Act in force on the date these articles become binding on the company.

(3) For the purposes of these articles, a document is authenticated if it is authenticated in any way in which the Act provides for documents or information to be authenticated for the purposes of the Act.

PART 2—THE COMPANY

3. Business of the Company

Any branch or kind of business which the Company is either expressly or by implication authorized to undertake may be undertaken by the Directors at such time or times as they shall deem fit and, further, may be permitted by them to be in abeyance, whether such branch or kind of business may have been actually commenced or not so long as the Directors may deem it expedient not to commence or proceed with the same.

4. The Registered Office of the Company

The registered office of the Company shall be at such place as the Directors shall from time to time appoint.

PART 3—SHARES AND DISTRIBUTIONS

Division 1—Issue of shares

5. Share Capital

The Share Capital of the Company as at the date of the amendment of these Articles is Kenya Shillings 10,008,150,008/- divided into 179,578,600 Ordinary Shares of Kenya Shillings 5/- each and 2,051,400 Ordinary Class “A” Shares of Kenya Shillings 5/- each and 123,478,388 Redeemable Preference Shares of Kenya Shillings 31.58 each (having the rights defined in Article 7) and 330,999,364 New Redeemable Preference Shares of Kenya Shillings 15.71 each (having the rights defined in Article 7).

6. Powers to issue different classes of shares

(1) Without affecting any special rights previously conferred on the holders of any existing shares or class of shares (which special rights shall not be modified or abrogated except with such consent or sanction as is provided by Article 8 hereof), the Company may issue shares that have—
   a) preferred, deferred or other special rights; or
   b) any restrictions, whether in regard to dividend, voting, return of capital or otherwise, that the Company may from time to time by ordinary resolution determine.

(2) Subject to Part XX of the Act, the Company may issue shares on the terms that they are to be redeemed, or liable to be redeemed, at the option of the Company or the holders of the shares.

(3) The directors may determine the terms, conditions and manner of redemption of the shares.

7. Redeemable Preference Shares

i) The Redeemable Preference Shares shall confer on their holders the following rights:-
   a) As to INCOME, the right to a dividend, pari passu (in monetary terms) with the existing ordinary shares of the Company (e.g., where each ordinary share receives a dividend of...
Kenya Shilling 1/- each Redeemable Preference Share will also receive a dividend of Kenya Shilling 1/-);
b) As to CAPITAL, the right, on a winding-up or other return of capital, to repayment, in priority to any payment to the holders of any other shares in the capital of the Company the amounts paid up on the Redeemable Preference Shares held by them; and
c) As to VOTING, the right to receive notice of, to be present and speak at but NOT to vote, at any general meeting of the Company.

ii) The Redeemable Preference Shares shall, subject to the provisions of the Companies Act, be redeemed upon and subject to the following terms and conditions:-

a) The Company shall have the right, at any time after the date of the allotment of any of the Redeemable Preference Shares (provided the Redeemable Preference Shares have been fully paid) to redeem any of those Redeemable Preference Shares at the same price at which it was issued and in the case of redemption of some but not all of the Redeemable Preference Shares in issue to redeem proportionately in respect of each holding of the Redeemable Preference Shares (at the same price at which they were issued)
b) Not less than one (1) month’s notice of the intention of the Company to redeem shall be given to the holders of the Redeemable Preference Shares to be redeemed. The notice shall be in writing and shall fix the time and place for the redemption. At the time and place fixed, the registered holders of the Redeemable Preference Shares to be redeemed must deliver the relative certificates up to the Company for cancellation, and the Company shall pay to them the redemption money in respect of those Redeemable Preference Shares.
c) At the time fixed for redemption of any of the Redeemable Preference Shares dividends shall cease to accrue on those Redeemable Preference Shares to be redeemed at such time except for an share in respect of which, on due presentation of the certificate or certificates (or an indemnity in respect of it or them in a form reasonably satisfactory to the Company), payment due at redemption was refused.
d) If any holder of Redeemable Preference Shares fails to or refuses to surrender the certificate or certificates for those shares, or fails or refuses to accept the redemption money payable in respect of them, the redemption money shall be retained and held by the Company in trust for the holder but without interest or further obligation whatsoever.
e) No Redeemable Preference Shares shall be redeemed otherwise than out of distributable profits or the proceeds of a fresh issue of shares made for the purposes of the redemption.
f) No Redeemable Preference Shares redeemed by the Company shall be capable of re-issue.

8. Modification of Rights

Whenever the capital of the Company is divided into different classes or groups of shares, the special rights attached to any classes or group may, subject to the provisions of the Statutes, either with the consent in writing of the holders of three-fourths of the issued shares of the class or group or with the sanction of a Special Resolution passed at a separate General Meeting of such holders (but not otherwise), be modified or abrogated and may be so modified or abrogated either whilst the Company is a going concern or during or in contemplation of a winding up. To every such separate General Meeting all the provisions of these Articles relating to General Meetings or to the proceedings thereat shall mutatis mutandis apply, except that the necessary quorum shall be three persons at least holding or representing by proxy one-third of the nominal amount of the issued shares of the class or group (but so that if at any adjourned meeting of such holders a quorum as above defined is not present, those members who are present shall be a quorum) and that the holders of shares of the class or group shall on a poll have one vote in respect of every share of the class or group held by them respectively. The special rights conferred upon the holders of any shares or class or group of shares issued with preferred or other special rights shall not, unless otherwise expressly provided by the conditions of issue of such shares, be deemed to be modified by the creation or issue of further shares ranking pari passu therewith.
9. Payment of commissions on subscription for shares

(1) If the conditions in sub-article (2) are satisfied, the Company may pay a commission to a person under section 331 of the Act.

(2) The conditions are that—

   a) the commission paid or agreed to be paid does not exceed 10 per cent of the price at which the shares in respect of which the commission is paid are issued;
   b) if those shares are offered to the public for subscription, the Company, before making the payment, discloses the amount or rate of the commission in the prospectus for the public offer; and
   c) if those shares are not offered to the public for subscription, the Company, before making the payment, discloses the amount or rate of the commission in any circular or notice issued by the Company inviting subscriptions for those shares.

(3) The commission may be paid—

   a) in cash;
   b) fully paid or partly paid shares; or
   c) partly in one way and partly in the other.

(4) The Company may also on any issue of shares pay a brokerage that is lawful.

Division 2—Interests in shares

10. Company only bound by absolute interests

(1) Except as required by law, no person shall be recognised by the Company as holding any share on any trust.

(2) Except as otherwise required by law or these articles, the Company is not in any way to be bound by or recognise any interest in a share other than the holder’s absolute ownership of it and all the rights attaching to it.

(3) Sub-article (2) applies even though the Company has notice of the interest.

(4) Where any shares are issued for the purpose of raising money to defray the expenses of the construction of any works or buildings or the provision of any plant which cannot be made profitable for a lengthened period, the Company may pay interest on so much of such share capital as is for the time being paid up for the period and subject to any of the conditions and restrictions of the Act, and may charge the same to capital as part of the cost of construction of the works, buildings or plant.

Division 3—Share certificates

11. Certificates to be issued except in certain cases

(1) The Company shall issue each member, free of charge, with one or more certificates in respect of the shares that the member holds, within—

   a) 2 months after allotment or lodgment of a proper document of transfer; or
   b) any other period that the conditions of issue provide.

(2) A certificate may not be issued in respect of shares of more than one class.
(3) If more than one person holds a share, only one certificate may be issued in respect of it.

12. **Contents and execution of share certificates**

(1) A certificate is invalid unless it specifies—

   a) in respect of how many shares and of what class the certificate is issued;
   b) the amount paid up on them; and
   c) any distinguishing numbers assigned to them.

(2) A certificate is also invalid unless it—

   a) has affixed to it the Company’s common seal or the Company’s official seal in accordance with Part IV of the Act; or
   b) is otherwise executed in accordance with the Act.

13. **Consolidated share certificates**

(1) A member may request the company to replace—

   a) the member’s separate certificates with a consolidated certificate; or
   b) the member’s consolidated certificate with 2 or more separate certificates representing the proportion of the shares that the member specifies.

(2) A consolidated certificate may be issued only if any certificates that it is to replace have first been returned to the Company for cancellation.

(3) Separate certificates may be issued only if the consolidated certificate that they are to replace has first been returned to the Company for cancellation.

14. **Replacement share certificates**

(1) If a certificate issued in respect of a member’s shares is defaced, damaged, lost or destroyed, the member is entitled to be issued with a replacement certificate in respect of the same shares.

(2) A member exercising the right to be issued with a replacement certificate—

   a) may at the same time exercise the right to be issued with a single certificate, separate certificates or a consolidated certificate;
   b) shall return the certificate that is to be replaced to the Company if it is defaced or damaged; and
   c) shall comply with the conditions as to evidence, indemnity and the payment of a reasonable fee that the directors decide.

**Division 4—Partly paid shares**

15. **Company’s lien over partly paid shares**

(1) The Company has a first and paramount lien on any share that is partly paid for all money (whether presently payable or not) called or payable at a fixed time in respect of that share.

(2) The Company also has a first and paramount lien on any share that is partly paid standing registered in the name of a single person for all money presently payable by the person or the person’s estate to the Company.

(3) The Company’s lien on a share extends to any dividend payable in respect of that share.

(4) The directors may at any time declare a share to be wholly or in part exempt from this article.
16. **Enforcement of company’s lien**

(1) In this article, *lien enforcement notice* means a notice to enforce a lien in respect of a share of the Company.

(2) Subject to this article, the Company may sell a share in a manner the directors consider appropriate if—

   a) a lien enforcement notice has been issued in respect of the share; and  
   b) the person to whom the notice was issued has failed to comply with it.

(3) A lien enforcement notice is valid only if it—

   a) is issued in respect of a share on which the Company has a lien, in respect of which a sum is presently payable;  
   b) specifies the share concerned;  
   c) requires payment of the sum within 14 days after the issue of the notice;  
   d) is issued to the holder of the share or to the person entitled to it because of the holder’s death, bankruptcy or otherwise; and  
   e) states the Company’s intention to sell the share if the notice is not complied with.

(4) To give effect to the sale of shares under this article, the directors may authorise any person to transfer the shares to the purchaser, and the purchaser is to be registered as the holder of those shares.

(5) The purchaser is not bound to see to the application of the purchase money, and the purchaser’s title to the shares is not affected by any irregularity in or invalidity of the process leading to the sale.

(6) The net proceeds of the sale (after payment of the costs of sale and any other costs of enforcing the lien) are to be applied—

   a) firstly, in payment of so much of the sum for which the lien exists as was payable at the date of the lien enforcement notice;  
   b) secondly, to the person entitled to the shares at the date of the sale.

(7) Sub-article (6)(b) applies—

   a) only after the certificate for the shares sold has been surrendered to the Company for cancellation or a suitable indemnity has been given for any lost certificates; and  
   b) subject to a lien equivalent to the Company’s lien on the shares before the sale for any money payable in respect of the shares after the date of the lien enforcement notice.

(8) A statutory declaration by a director or the company secretary that the declarant is a director or the company secretary and that a share has been sold to satisfy the Company’s lien on a specified date—

   a) is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share; and  
   b) subject to compliance with any other formalities of transfer required by these articles or by law, constitutes a good title to the share.
17. Call notices

(1) In this article—

a) **call** means a specified sum of money that is payable by a member of the Company in respect of shares held by the member at a time determined by the directors of the Company; and

b) **call notice** means a notice requiring a member of the Company to pay the amount of a call.

(2) Subject to these articles and the terms on which shares are allotted, the directors may send a call notice to a member requiring the member to pay the Company a call.

(3) A call notice is not effective if—

a) it requires a member to pay a call that exceeds the total sum unpaid on that member’s shares;

b) it does not specify when and how any call to which it relates is to be paid; and

c) does not permit or require the call to be paid by instalments.

(4) A member shall comply with the requirements of a call notice, but is not obliged to pay any call before the elapse of 14 days from the date on which the notice was sent.

(5) Before the Company has received any call due under a call notice, the directors may, by a further notice to the member in respect of whose shares the call is made—

a) revoke the call notice wholly or in part; or

b) specify a later time for payment than is specified in the call notice.

(6) The Board may from time to time make arrangements on the issue of shares for a difference between the holders of such shares in the amount of calls to be paid and in the time of payment of such calls.

(7) The Board may if it thinks fit, receive from any shareholder willing to advance the same, all or any part of the moneys due upon his shares beyond the sums actually called up thereon and, upon all or any of the moneys so advanced, the Board may, until the same would, but for such advance, become presently payable, pay or allow such interest, not exceeding, without the consent of a General Meeting, 10 per cent per annum as may be agreed upon between it and such shareholder in addition to the dividend payable upon such part of the share in respect of which such advance has been made as is actually called up. No sum paid up in advance of calls shall entitle the holder of a share in respect thereof to any portion of a dividend subsequently declared in respect of any period prior to date upon which sum would, but for such payment, have become presently payable.

18. When call is taken to be made

A call is taken to have been made at the time when the resolution of the directors authorising the call was passed.

19. Liability to pay calls

(1) Liability to pay a call is not extinguished or transferred by transferring the shares in respect of which it is required to be paid.

(2) Joint holders of a share are jointly and severally liable to pay all calls in respect of that share.

(3) Subject to the terms on which shares are allotted, the directors may, when issuing shares, provide that call notices sent to the holders of those shares may require them—

a) to pay calls that are not the same; or
b) to pay calls at different times.

20. **When call notice need not be issued**

   (1) A call notice need not be issued in respect of sums that are specified, in the terms on which a share is issued, as being payable to the Company in respect of that share—

   a) on allotment;
   b) on the occurrence of a particular event; or
   c) on a date fixed by or in accordance with the terms of issue.

   (2) But if the due date for payment of such a sum has passed and it has not been paid, the holder of the share concerned is—

   a) treated in all respects as having failed to comply with a call notice in respect of that sum; and
   b) liable to the same consequences as regards the payment of interest and forfeiture.

21. **Failure to comply with call notice: automatic consequences**

   (1) If a member is liable to pay a call or instalment of a call and fails to do so by the date specified for its payment, the member shall pay the Company interest on the call or instalment from that date until the call or instalment is paid.

   (2) The interest rate is to be determined by the directors but may not exceed 10 per cent per year.

   (3) The directors may waive the payment of the interest wholly or in part.

22. **Notice of intended forfeiture**

   (1) If a member is liable to pay a call or instalment of a call and fails to do so by the date specified for its payment, the directors may, for so long as any part of the call or instalment remains unpaid, serve a notice on the member requiring payment of the part of the call or instalment that is unpaid, together with any interest that may have accrued.

   (2) The notice is invalid unless it—

   a) specifies a further date (not before the end of 14 days after the date of service of the notice) on or before which the payment required by the notice is to be made;
   b) states how that payment is to be made; and
   c) states that if the notice is not complied with, the shares in respect of which the call was made will be liable to be forfeited.

23. **Directors’ power to forfeit shares**

   If the requirements of the notice of intended forfeiture under article 22 are not complied with, the shares in respect of which the call was made may, before the payment required by the notice has been made, be forfeited by a resolution of the directors to that effect.

24. **Effect of forfeiture**

   (1) Subject to these articles, the forfeiture of a share extinguishes—

   a) all interests in the share, and all claims and demands against the Company in respect of it; and
   b) all other rights and liabilities incidental to the share between the person whose share it was prior to the forfeiture and the Company.
(2) When a person’s shares have been forfeited, the following provisions have effect:

a) the Company shall send that person a notice that forfeiture has occurred and record it in the register of members;
b) that person ceases to be a member in respect of those shares;
c) that person is required to surrender the certificate for the shares forfeited to the Company for cancellation;
d) that person remains liable to the Company for all sums payable by that person under these articles at the date of forfeiture in respect of those shares, including any interest (whether accrued before or after the date of forfeiture); and
e) the directors may waive the payment of those sums wholly or in part or enforce the payment without any allowance for the value of the shares at the time of forfeiture or for any consideration received on their disposal.

(3) Notwithstanding any such forfeiture as aforesaid, the Directors may, at any time before the forfeited share has been otherwise disposed of, permit the share so forfeited to be redeemed upon the terms of payment of all calls and interest due upon and expenses incurred in respect of the share, and upon any further or other terms it may fit.

25. Procedure following forfeiture

(1) If a forfeited share is to be disposed of by being transferred, the Company may receive the consideration for the transfer and the directors may authorise any person to execute the document of transfer.

(2) A statutory declaration by a director or the company secretary that the declarant is a director or the company secretary and that a share has been forfeited on a specified date—

a) is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share; and
b) subject to compliance with any other formalities of transfer required by these articles or by law, constitutes a good title to the share.

(3) A person to whom a forfeited share is transferred is not bound to see to the application of the consideration (if any).

(4) The person’s title to the share is not affected by any irregularity in or invalidity of the process leading to the forfeiture or transfer of the share.

(5) If the Company sells a forfeited share, the person who held it prior to its forfeiture is entitled to receive from the Company the proceeds of the sale, net of any commission, and excluding any amount that—

a) was, or would have become, payable; and
b) had not, when the share was forfeited, been paid by that person in respect of the share.

(6) Despite sub-article (5), interest is not payable to such a person in respect of the proceeds and the Company is not required to account for any money earned on them.

26. Surrender of shares

(1) A member may surrender any share—

a) in respect of which the directors may serve a notice of intended forfeiture under article 22;
b) that the directors may forfeit; or
c) that has been forfeited.
The directors may accept the surrender of such a share.

The effect of surrender on a share is the same as the effect of forfeiture on that share.

A share that has been surrendered may be dealt with in the same way as a share that has been forfeited.

Division 5—Transfer and transmission of shares

27. Transfer of shares

(1) Shares may be transferred by means of a document of transfer in any usual form or any other form approved by the directors, which is executed by or on behalf of both the transferor and the transferee.

(2) A fee may not be charged by the Company for registering any document of transfer or other document relating to or affecting the title to any share.

(3) The Company may retain any document of transfer that is registered.

(4) The transferor remains the holder of a share until the transferee’s name is entered in the register of members as holder of it.

(5) Shares of different classes shall not be transferred by the same instrument of transfer without the consent of the Board.

(6) Nothing herein contained shall preclude the Directors from recognizing a renunciation of the allotment of any share by the allottee in favour of some other person.

(7) The transfer books, the register and the register of debenture holders shall be closed during such time as the Board thinks fit, not exceeding in the whole thirty days in each year.

28. Power of directors to refuse transfer of shares

(1) The directors may refuse to register the transfer of a share if—

a) the share is not fully paid;

b) the document of transfer is not lodged at the Company’s registered office or another place that the directors have appointed;

c) the document of transfer is not accompanied by the certificate for the share to which it relates, or other evidence the directors reasonably require to show the transferor’s right to make the transfer, or evidence of the right of someone other than the transferor to make the transfer on the transferor’s behalf; or

d) the transfer is in respect of more than one class of shares.

(2) If the directors refuse to register the transfer of a share—

a) the transferor or transferee may request a statement of the reasons for the refusal; and

b) the document of transfer is required to be returned to the transferor or transferee who lodged it unless the directors suspect that the proposed transfer may be fraudulent.

(3) The document of transfer is required to be returned in accordance with sub-article (2)(b) together with a notice of refusal within 2 months after the date on which the document of transfer was lodged with the Company.

(4) If a request is made under sub-article (2)(a), the directors shall, within 28 days after receiving the request—

a) send the transferor or transferee who made the request a statement of the reasons for the refusal; or

b) register the transfer.
29. **Power of directors to suspend registration of transfer of shares**

The directors may suspend the registration of a transfer of a share for any period or periods not exceeding 30 days in each financial year of the Company.

30. **Immobilization of shares**

(1) Pursuant to and subject to the Central Depositories Act 2000, title to immobilised and dematerialised shares will be evidenced otherwise than by a certificate and title to such shares shall be transferred by means of a book-entry transfer in accordance with the provisions of the Central Depositories Act 2000.

(2) No provision of these Articles shall apply or have effect in relation to any shares which have been immobilised or dematerialised under the Central Depositories Act 2000 to the extent that it is inconsistent in any respect with:

   a) the holding of such shares in uncertificated form;
   b) the transfer of title to such shares by means of a book-entry transfer; and
   c) any provision of the Central Depositories Act 2000

(3) Transfers of Securities which have been immobilised or dematerialised under the Central Depositories Act 2000 shall be effected in the manner prescribed thereunder.

(4) Where the Company refuses to register transfers of Securities required to be registered under Section 14 and 15 of the Central Depositories Act 2000, it shall serve the transferor and transferee with written notice of the reasons for such refusal in accordance with Section 14(5) of the Central Depositories Act 2000.

(5) An instrument of transfer lodged with the Company pursuant to Section 14(1) of the Central Depositories Act 2000 shall be capable of registration in the name of a central depository or its nominee company if such instrument has been certified by a central depository agent instead of being executed by the central depository or its nominee Company.

(6) With effect from the Dematerialization Date, any reference to a transfer of shares or debentures shall be a reference to a book entry transfer performed by the central depository in accordance with Section 27(1) (b) of the Central Depositories Act 2000.

(7) Any provisions in the Articles inconsistent with the requirements of the Central Depositories Act 2000 or as prescribed by the Authority under Regulations in respect of registration, transfer, immobilization or dematerialization of securities shall be deemed to be modified to the extent of such inconsistency in their application to securities which are in part or in whole immobilized or dematerialized or are required by the Central Depository Act 2000 or Regulations and Rules issued there under to be immobilized or dematerialized in part or whole as the case may be.

31. **Transmission of shares**

(1) If a member dies, the Company may only recognise the following person or persons as having any title to a share of the deceased member—

   a) if the deceased member was a joint holder of the share, the surviving holder or holders of the share; and
   b) if the deceased member was a sole holder of the share, the legal personal representative of the deceased member.

(2) Nothing in these articles releases the estate of a deceased member from any liability in respect of a share that had been jointly held by the deceased member with other persons.
32. **Transmittees’ rights**

(1) If a transmittee produces evidence of entitlement to the share as the directors properly require, the transmittee may, subject to these articles, choose to become the holder of the share or to have the share transferred to another person.

(2) The directors have the same right to refuse or suspend the registration as they would have had if the holder had transferred the share before the transmission.

(3) A transmittee is entitled to the same dividends and other advantages to which the transmittee would be entitled if the transmittee were the holder of the share, except that the transmittee is not, before being registered as a member in respect of the share, entitled in respect of it to exercise any right conferred by membership in relation to meetings of the Company.

(4) The directors may at any time give notice requiring a transmittee to choose to become the holder of the share or to have the share transferred to another person.

(5) If the notice is not complied with within 90 days after the notice is given, the directors may withhold payment of all dividends, bonuses or other money payable in respect of the share until the requirements of the notice have been complied with.

33. **Exercise of transmittees’ rights**

(1) If a transmittee chooses to become the holder of a share, the transmittee shall notify the Company in writing of the choice.

(2) Within 2 months after receiving the notice, the directors shall—

   a) register the transmittee as the holder of the share; or
   b) send the transmittee a notice of refusal of registration.

(3) If the directors refuse registration, the transmittee may request a statement of the reasons for the refusal.

(4) If a request is made under sub-article (3), the directors shall, within 28 days after receiving the request—

   a) send the transmittee a statement of the reasons for the refusal; or
   b) register the transmittee as the holder of the share.

(5) If the transmittee chooses to have the share transferred to another person, the transmittee shall execute a document of transfer in respect of it.

(6) All the limitations, restrictions and other provisions of these articles relating to the right to transfer and the registration of transfer of shares apply to the notice under sub-article (1) or the transfer under sub-article (5), as if the transmission had not occurred and the transfer were a transfer made by the holder of the share before the transmission.

34. **Transmittees bound by prior notices**

If a notice is given to a member in respect of shares and a transmittee is entitled to those shares, the transmittee is bound by the notice if it was given to the member before the transmittee’s name has been entered in the register of members.

**Division 6—Alteration and reduction of share capital, acquisition of own shares and allotment of shares**

35. **Alteration of share capital**

The Company may by ordinary resolution alter its share capital in any one or more of the ways set out in Division 1 of Part XV of the Act (Alteration and consolidation of share capital).
36. Reduction of share capital

The Company may by special resolution reduce its share capital in accordance with Division 2 of Part XV of the Act (Reduction of share capital).

37. Acquisition by company of its own shares

The Company may acquire its own shares in accordance with Part XVI of the Act (Acquisition by limited company of its own shares).

38. Allotment of shares

The directors may not exercise any power conferred on them to allot shares in the Company without the prior authorisation of the Company by resolution if the authorisation is required by section 329 of the Act (Power of directors to allot shares: authorisation by company).

Division 7—Dividends and other distributions

39. Procedure for declaring dividends

(1) The Company may, at a general meeting, declare dividends, but a dividend may not exceed the amount recommended by the directors.
(2) The directors may from time to time pay the members interim dividends that appear to the directors to be justified by the profits of the Company.
(3) A dividend may be paid only out of the profits in accordance with Part XVII of the Act (How company’s assets are to be distributed).
(4) Unless the members’ resolution to declare or directors’ decision to pay a dividend, or the terms on which shares are issued, specify otherwise, it is payable by reference to each member’s holding of shares on the date of the resolution or decision to declare or pay it.
(5) Before recommending any dividend, the directors may set aside out of the profits of the Company any sums they consider appropriate as reserves.
(6) The directors may—

   a) apply the reserves for any purpose to which the profits of the Company may be properly applied; and
   b) pending such an application, employ the reserves in the business of the Company or invest them in any investments (other than shares of the Company) that they consider appropriate.

(7) The directors may divide the reserve into such special funds as it thinks fit, and may consolidate into one fund any special funds or any part of any special funds into which the reserve may have been divided as it thinks fit. The directors may also without placing the sums to reserve carry forward any profits that they think prudent not to divide.
(8) Where any asset, business or property is bought by the Company as from a past date (whether such date be before or after the incorporation of the Company) upon the terms that the Company shall as from that date take the profits and bear the losses thereof as the case may be, such profits or losses shall, at the discretion of the Board, be credited or debited wholly or in part to revenue account, and in that case the amount so credited or debited shall, for the purpose of ascertaining the fund available for dividends, be treated as a profit or loss arising from the business of the Company and available for dividend accordingly.
(9) If any shares or securities are purchased cum-dividend or interest, such dividends or interest when paid may at the discretion of the Board be treated as revenue and it shall not be obligatory to capitalize the same or any part thereof.
40. Calculation of dividends

(1) Dividends are valid only if they are—
   a) declared and paid according to the amounts paid on the shares in respect of which the dividend is paid; and
   b) apportioned and paid proportionately to the amounts paid on the shares during any portion or portions of the period in respect of which the dividend is paid.

(2) Sub-article (1) is subject to any rights of persons who are entitled to shares with special rights regarding dividend.

(3) If a share is issued on terms providing that it ranks for dividend as from a particular date, the share ranks for dividend accordingly.

(4) For the purposes of this article, an amount paid on a share in advance of calls is not to be treated as paid on the share.

41. Payment of dividends and other distributions

(1) If a dividend or other sum that is a distribution is payable in respect of a share, it is payable only by one or more of the following means:
   a) a transfer to a bank account specified by the distribution recipient either in writing or as the directors decide;
   b) sending a cheque made payable to the distribution recipient by post—
      i) if the distribution recipient is a holder of the relevant share—to the distribution recipient at that recipient’s registered address; or
      ii) in any other case—to an address specified by the distribution recipient either in writing or as the directors decide;
   c) sending a cheque made payable to the specified person by post to the specified person at the address the distribution recipient has specified either in writing or as the directors decide;
   d) any other means of payment as the directors agree with the distribution recipient either in writing or as the directors decide.
   e) If two or more persons are registered as joint holders of any share, one of such persons may give effectual receipts for any dividends, bonuses or other moneys payable in respect of such share.

(2) In this article—

   specified person means a person specified by the distribution recipient either in writing or as the directors decide.

42. Deductions from dividends and other distributions in respect of sums owed to the Company

(1) This article applies if—
   a) a share is subject to the Company’s lien under article 15; and
   b) the directors are entitled to issue a lien enforcement notice under article 16 in respect of it.

(2) Instead of issuing the lien enforcement notice, the directors may deduct from any dividend or other sum payable in respect of the share any sum of money that is payable to the Company in
respect of that share to the extent that they are entitled to require payment under the lien enforcement notice.

(3) The money deducted is required to be used to pay any of the sums payable in respect of the share.

(4) The Company shall notify the distribution recipient in writing of—

a) the fact and amount of the deduction;
   b) any non-payment of a dividend or other sum payable in respect of a share resulting from the deduction; and
   c) how the money deducted has been applied.

43. **Interest not payable on dividend and other distributions**

The Company may not pay interest on any dividend or other sum payable in respect of a share unless otherwise provided by—

a) the terms on which the share was issued; or
b) the provisions of another agreement between the holder of the share and the Company.

44. **Unclaimed dividends and other distributions**

(1) The payment of the dividends or other sums into a separate account does not make the Company a trustee in respect of it.

(2) The Company may, if required by law, deliver or pay to any prescribed regulatory authority any unclaimed financial assets including but not limited to shares in the Company presumed to be abandoned or unclaimed in law and any dividends thereon remaining unclaimed beyond prescribed statutory periods. Upon such delivery or payment, the unclaimed financial assets shall cease to remain owing by the Company and the Company shall no longer be responsible to the owner or holder or his or her estate, for the relevant unclaimed financial assets.

45. **Non-cash distributions**

(1) Subject to the terms of issue of the share in question, the Company may, by ordinary resolution on the recommendation of the directors, decide to pay all or part of a dividend or other distribution payable in respect of a share by transferring non-cash assets of equivalent value (including, without limitation, shares or other securities in any company).

(2) For paying a non-cash distribution, the directors may make whatever arrangements they consider appropriate, including, if any difficulty arises regarding the distribution—

   a) fixing the value of any assets;
   b) paying cash to any distribution recipient on the basis of that value in order to adjust the rights of recipients; and
   c) vesting any assets in trustees.

46. **Waiver of distributions**

(1) Distribution recipients may waive their entitlement to a dividend or other distribution payable in respect of a share by executing to the Company a deed to that effect.

(2) But if the share has more than one holder or more than one person is entitled to the share (whether because of the death or bankruptcy of one or more joint holders, or otherwise), the deed is not effective unless it is expressed to be executed by all the holders or other persons entitled to the share.
Division 8—Capitalisation of profits

47. Capitalisation of profits

(1) The Company may by ordinary resolution on the recommendation of the directors capitalise profits.

(2) If the capitalisation is to be accompanied by the issue of shares or debentures, the directors may apply the sum capitalised in the proportions in which the members would be entitled if the sum was distributed by way of dividend.

(3) To the extent necessary to adjust the rights of the members among themselves if shares or debentures become issuable in fractions, the directors may make any arrangements they consider appropriate, including the issuing of fractional certificates or the making of cash payments or adopting a rounding policy.

(4) A general meeting may resolve that any surplus moneys arising from the realisation of any capital assets of the Company, or any investments representing the same, or any other undistributed profits of the Company not subject to charge for income tax, be distributed among the members on the footing that they receive the same as capital.

PART 4—DIRECTORS AND COMPANY SECRETARY

Division 1—Directors’ powers and responsibilities

48. Directors’ general authority

(1) Subject to the Act and these articles, the directors are responsible for managing the business and affairs of the Company and may exercise all the powers of the Company.

(2) The directors may exercise all the powers of the Company to borrow or raise money and to mortgage or charge its undertaking, property and un-called capital and to issue debentures, debenture stock, legal and equitable mortgages and charges and other securities whether outright or as security (principal or collateral) for any debt, liability or obligation of the Company or any third party.

(3) An alteration of these articles does not invalidate any prior act of the directors that would have been valid if the alteration had not been made.

(4) All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments, and all receipts for moneys paid to the Company, shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner as the Directors shall from time to time by resolution determine.

(5) The Company, or the Board on behalf of the Company may cause to be kept in any part of the world outside Kenya in which the Company transacts business a branch register or registers of members resident in any such part of the world and the Board may (subject to the provisions of the Companies Act and every other Act for the time being in force concerning joint stock companies and affecting the Company) make and vary such regulations as it may think fit respecting the keeping of any such register.

(6) The Directors shall cause minutes to be made in books provided for the purpose:

a) of all appointments of officers made by the Directors;

b) of all resolutions and proceedings at all meetings of the Company, and of the Directors, and of committees of Directors.

(7) The Board may arrange that any branch of the business carried on by the Company or any other business in which the Company may be interested shall be carried on by or through one or more subsidiary companies, and it may on behalf of the Company make such arrangements as it thinks advisable for taking the profits or bearing the loss of any branch or business so carried on or for financing, assisting or subsidizing any such subsidiary company or
guaranteeing its contracts, obligations or liabilities, and it may appoint, remove and re-appoint any person (whether members of its own body or not) to act as Directors or Managing Directors or Managers of any such company or any other company in which the Company may be interested and may determine the remuneration (whether by way of salary, commission on profits or otherwise) of any person so appointed and any directors of the Company may retain any remuneration so payable to them.

(8) The Board may establish any Local Boards or Agencies for managing any of the affairs of the Company, either in Kenya or elsewhere, and may appoint any persons to be members of such Local Boards, or any Managers or Agents, and may fix their remuneration and may delegate to any Local Board, Manager or Agent in the Board any powers, authorities and discretions vested in the Board, with power to sub-delegate, and may authorize the members of any local Board, or any of them to fill any vacancies therein, and to act notwithstanding vacancies, and any such appointment or delegation may be made upon such terms and subject to such conditions as the Board may think fit, and the Board may remove any person so appointed, and may annul or vary such delegation, but no person dealing in good faith and without notice of any such annulment or variation shall be affected thereby.

(9) The Directors may grant retirement pensions or annuities or other gratuities or allowances, including allowances on death, to any person or to the widow or dependants of any person in respect of services rendered by him to the Company whether as Managing Director or in any other office or employment under the Company or indirectly as an officer or employee of any subsidiary company of the Company, notwithstanding that he may be or may have been a Director of the Company and may make payments towards insurances or trusts for such purposes in respect of such persons and may include rights in respect of such pensions, annuities and allowances in the terms of engagement of any such person.

(10) The powers given by this article are not limited by any other power given to the directors by these articles.

(11) A directors’ meeting at which a quorum is present may exercise all powers exercisable by the directors.

49. Members’ reserve power

(1) The members may, by special resolution, direct the directors to take, or refrain from taking, specified action.

(2) The special resolution does not invalidate anything that the directors have done before the passing of the resolution.

50. Directors may delegate their powers

(1) Subject to these articles, the directors may, if they consider appropriate, delegate any of the powers that are conferred on them under these articles—

   a) to any person or committee;
   b) by any means (including by power of attorney);
   c) to any extent and without territorial limit;
   d) in relation to any matter; and
   e) on any terms and conditions.

(2) If the directors so specify, the delegation may authorise further delegation of the directors’ powers by any person to whom they are delegated.

(3) The directors may—

   a) revoke the delegation wholly or in part; or
   b) revoke or alter its terms and conditions.
51. **Committees of directors**

(1) The directors may make rules providing for the conduct of business of the committees to which they have delegated any of their powers.

(2) The committees to comply with the rules.

**Division 2—Decision-taking by directors**

52. **Directors to take decision collectively**

A decision of the directors can be taken only—

a) at a directors’ meeting; or

b) in the form of a directors’ written resolution.

53. **Convening directors’ meetings**

(1) Any director may convene a directors’ meeting.

(2) The company secretary shall convene a directors’ meeting if a director requests it.

(3) A directors’ meeting is convened by giving notice of the meeting to the directors.

(4) A notice of a directors’ meeting is not effective unless it indicates—

a) its proposed date and time; and

b) where it is to take place.

(5) The Company shall give notice of a directors’ meeting to each director, but the notice need not be in writing.

(6) If a notice of a directors’ meeting has not been given to a director (the failure) but the director waives his or her entitlement to the notice by giving notice to that effect to the Company not more than 7 days after the meeting, the failure does not affect the validity of the meeting, or of any business conducted at it.

54. **Participation in directors’ meetings**

(1) Subject to these articles, directors participate in a directors’ meeting, or part of a directors’ meeting, when—

a) the meeting has been convened and takes place in accordance with these articles; and

b) they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.

(2) In determining whether directors are participating in a directors’ meeting, it is irrelevant where a director is and how they communicate with each other.

(3) If all the directors participating in a directors’ meeting are not in the same place, they may regard the meeting as taking place wherever any one of them is.

55. **Quorum for directors’ meetings**

(1) At a directors’ meeting, unless a quorum is participating, no proposal is to be voted on, except a proposal to convene another meeting.

(2) The quorum for directors’ meetings may be fixed from time to time by a decision of the directors, and unless so fixed shall when the number of directors exceeds 6 be 4 and when the number of directors does not exceed 6 be 3.
56. Meetings if the total number of directors is less than quorum

The continuing directors may act notwithstanding any vacancy in their body, but if and so long as their number is reduced below the number fixed by or pursuant to the regulations of the Company as the necessary quorum of Directors, the continuing Directors may act for the purpose of increasing the number of Directors to the number or of summoning a General Meeting of the Company, but for no other purpose.

57. Who is to preside at directors’ meetings

(1) The directors may appoint a director to preside at their meetings.
(2) The person appointed for the time being is known as the chairperson.
(3) The directors may appoint other directors as deputy or assistant chairpersons to preside at directors’ meetings in the chairperson’s absence.
(4) The directors may terminate the appointment of the chairperson, or deputy or assistant chairperson at any time.
(5) If neither the chairperson nor the deputy or assistant chairperson is participating in a directors’ meeting within 10 minutes of the time at which it was to start or is willing to preside at the meeting, the participating directors may appoint one of themselves to preside over it.

58. Voting at directors’ meetings: general rules

(1) Subject to these articles, a decision is taken at a directors’ meeting by a majority of the votes of the participating directors.
(2) Subject to these articles, each director participating in a directors’ meeting has one vote.

59. Casting vote of person presiding at directors’ meetings

(1) If the numbers of votes for and against a proposal are equal, the person presiding at the directors’ meeting has a casting vote.
(2) Sub-article (1) does not apply if, in accordance with these articles, the person presiding is not to be counted as participating in the decision-making process for quorum or voting purposes.

60. Alternates voting at directors’ meetings

A director who is also an alternate director has an additional vote on behalf of each appointor who—

a) is not participating in a directors’ meeting; and
b) would have been entitled to vote if he or she were participating in it.

61. Conflicts of interest

(1) This article applies if—

a) a director or a body corporate connected with the director is in any way (directly or indirectly) interested in a transaction, arrangement or contract with the Company that is significant in relation to the Company’s business; and
b) the director’s or the entity’s interest is material.

(2) The director shall declare the nature and extent of the director’s or the entity’s interest to the other directors in accordance with section 151 of the Act (Director to declare interest in proposed or existing transaction or arrangement).
(3) The director and the director’s alternate must neither—

a) vote in respect of the transaction, arrangement or contract in which the director or the entity is so interested; nor
b) be counted for quorum purposes in respect of the transaction, arrangement or contract.

(4) Sub-article (3) does not preclude the alternate from—

a) voting in respect of the transaction, arrangement or contract on behalf of another appointor who does not have such an interest; and
b) being counted for quorum purposes in respect of the transaction, arrangement or contract.

(5) If the director or the director’s alternate contravenes sub-article (3)(a), the vote may not be counted.

(6) Sub-article (3) does not apply to—

a) an arrangement for giving a director any security or indemnity in respect of money lent by the director to or obligations undertaken by the director for the benefit of the Company;
b) an arrangement for the Company to give any security to a third party in respect of a debt or obligation of the Company for which the director has assumed responsibility wholly or in part under a guarantee or indemnity or by the deposit of a security;
c) an arrangement under which benefits are made available to employees and directors or former employees and directors of the Company or any of its subsidiaries, which do not provide special benefits for directors or former directors; or
d) an arrangement to subscribe for or underwrite shares.

(7) A reference in this article to a body corporate connected with a director has the meaning given by section 124 of the Act (When director connected with a body corporate for the purposes of Part IX of the Act).

(8) A reference in this article (except in sub-articles (6)(d) and (9)) to a transaction, arrangement or contract includes a proposed transaction, arrangement or contract.

(9) In this article—

arrangement to subscribe for or underwrite shares means—

a) a subscription or proposed subscription for shares or other securities of the Company; b) an agreement or proposed agreement to subscribe for shares or other securities of the Company; or c) an agreement or proposed agreement to underwrite any of those shares or securities.

62. Supplementary provisions as to conflicts of interest

(1) A director may hold any other office or position of profit under the Company (other than the office of auditor or the office of Company Secretary) in conjunction with the office of director for a period and on terms (as to remuneration or otherwise) that the directors determine.

(2) A director or intending director is not disqualified by the office of director from contracting with the Company—

a) with regard to the tenure of the other office or position of profit mentioned in sub-article (1); or
b) as vendor, purchaser or otherwise.
(3) The contract mentioned in sub-article (2) or any transaction, arrangement or contract entered into by or on behalf of the Company in which any director is in any way interested is not liable to be avoided.

(4) A director who has entered into a contract mentioned in sub-article (2) or is interested in a transaction, arrangement or contract mentioned in sub-article (3) is not liable to account to the Company for any profit realised by the transaction, arrangement or contract because of—

a) the director holding the office; or
b) the fiduciary relation established by the office.

(5) Sub-article (1), (2), (3) or (4) applies only if the director has declared the nature and extent of the director’s interest under the sub-article to the other directors in accordance with section 151 of the Act (Director to declare interest in proposed or existing transaction or arrangement).

(6) A director of the Company may be a director or other officer of, or be otherwise interested in—

a) any company promoted by the Company; or
b) any company in which the Company may be interested as shareholder or otherwise.

(7) Subject to the Act, the director is not accountable to the Company for any remuneration or other benefits received by the director as a director or officer of, or from the director’s interest in the other company unless the Company otherwise directs.

63. Proposing directors’ written resolutions

(1) Any director may propose a directors’ written resolution.
(2) The company secretary shall propose a directors’ written resolution if a director requests it.
(3) A directors’ written resolution is proposed by giving notice of the proposed resolution to each director.
(4) A notice of a proposed directors’ written resolution has no effect unless it indicates—

a) the proposed resolution; and
b) the time by which it is proposed that the directors should adopt it.

(5) Any decision that a person giving notice of a proposed directors’ written resolution takes regarding the process of adopting the resolution is to be regarded as having been made in good faith.

64. Adoption of directors’ written resolutions

(1) A proposed directors’ written resolution is adopted when all the directors who would have been entitled to vote on the resolution at a directors’ meeting have signed one or more copies of it.
(2) It is immaterial whether any director signs the resolution before or after the time by which the notice proposed that it should be adopted.

65. Effect of directors’ written resolutions

If a proposed directors’ written resolution has been adopted, it is as valid and effectual as if it had been passed at a directors’ meeting duly convened and held.
66. **Validity of acts of meeting of directors**

The acts of any meeting of directors or of a committee of directors or the acts of any person acting as a director are as valid as if the directors or the person had been duly appointed as a director and was qualified to be a director, even if it is afterwards discovered that—

a) there was a defect in the appointment of any of the directors or of the person acting as a director;
b) any one or more of them were not qualified to be a director or were disqualified from being a director;
c) any one or more of them had ceased to hold office as a director; or
d) any one or more of them were not entitled to vote on the matter in question.

67. **Record of decisions to be kept**

The directors shall ensure that the Company keeps a written record of every decision taken by the directors under article 52 for at least 10 years from the date of the decision.

68. **Directors’ discretion to make further rules**

Subject to these articles, the directors may make any rule that they consider appropriate about—

a) how they take decisions; and
b) how the rules are to be recorded or communicated to directors.

**Division 3—Appointment and retirement of directors**

69. **Appointment of directors**

(1) Unless and until otherwise from time to time determined by an ordinary resolution of the Company, the number of the Directors (excluding Alternates) shall not be less than Three (3) nor more than Seven (7).

(2) A person who is willing to act as a director, and is permitted by law to do so, may be appointed to be a director—

   a) by ordinary resolution; or
   b) by a decision of the directors.

(3) An appointment under sub-article (2)(b) may only be made to—

   a) fill a casual vacancy; or
   b) appoint a director as an addition to the existing directors if the total number of directors does not exceed the number fixed in accordance with these articles.

(4) A director need not be a shareholder but shall be entitled to receive notice of and to attend and speak at General Meetings of the Company or at any separate meetings of the holders of any class of shares of the Company.

70. **Retirement of directors by rotation**

(1) Every Director appointed at an Annual General Meeting or appointed to fill a vacancy shall hold office for a term of three years and shall retire at the third Annual General Meeting after his appointment.
(2) At the annual general meeting at which a director retires, the Company may appoint a person to fill the vacated office.

(3) A retiring director is regarded as having been reappointed to the office if—

   a) the Company does not appoint a person to the vacated office; and
   b) the retiring director has not given notice to the Company of the intention to decline reappointment to the office.

(4) However, a retiring director is not regarded as having been reappointed to the office if—

   a) at the meeting at which the director retires, it is expressly resolved not to fill the vacated office; or
   b) a resolution for the reappointment of the director has been put to the meeting and lost.

(5) A person is not eligible for appointment to the office of director at any general meeting unless—

   a) the person is a director retiring at the meeting;
   b) the person is recommended by the directors for appointment to the office; or
   c) a member qualified to attend and vote at the meeting has sent the Company a notice of the member’s intention to propose the person for appointment to the office, and the person has also sent the Company a notice of the person’s willingness to be appointed.

(6) The member who intends to propose the person for appointment to the office shall authenticate the notice and the person shall endorse on the notice his or her willingness to be appointed. The member shall send the notice to the Company in hard copy form or in electronic form and ensure that it is received by the Company at least 7 days before the date of the general meeting.

71. Retiring director eligible for reappointment

A retiring director is eligible for reappointment to the office and shall act as director throughout the meeting at which he retires.

72. Composite resolution

   (1) This article applies if proposals are under consideration concerning the appointment of 2 or more directors to offices or employments with the Company or any other body corporate.
   (2) The proposals may be divided and considered in relation to each director separately.
   (3) Each of the directors concerned is entitled to vote (if the director is not for another reason precluded from voting) and be counted in the quorum in respect of each resolution except that concerning the director’s own appointment.

73. Termination of director’s appointment

   (1) A person ceases to be a director if the person—

       a) ceases to be a director under the Act or the Insolvency Act, 2015, or is prohibited from being a director by law;
       b) becomes bankrupt or makes any arrangement or composition with the person’s creditors generally;
       c) becomes a mentally disordered person;
       d) resigns the office of director by notice of the resignation;
e) for more than 6 months has been absent without the directors’ permission from directors’
meetings held during that period; or
f) is removed from the office of director by an ordinary resolution passed in accordance with
section 139 of the Act (Resolutions to remove directors from office).

(2) If a notice of the resignation of a director of the Company is required to be given in
accordance with these articles or in accordance with any agreement with the Company, the
resignation does not have effect unless the director gives notice of the resignation—

a) in accordance with the requirement;
b) by leaving it at the registered office of the Company; or
c) by sending it to the Company in hard copy form or in electronic form.

74. Directors’ remuneration

(1) Directors’ remuneration may be determined only by the Company at a general meeting.

(2) A director’s remuneration may—

a) take any form; and
b) include any arrangements in connection with the payment of a retirement benefit to or in
respect of that director.

(3) Directors’ remuneration accrues from day to day.

75. Directors’ expenses

The Company may pay any travelling, accommodation and other expenses properly incurred by
directors in connection with—

a) their attendance at—

i) meetings of directors or committees of directors;
ii) general meetings; or
iii) separate meetings of the holders of any class of shares or of debentures of the Company; or

b) the exercise of their powers and the discharge of their responsibilities in relation to the
Company.

Division 4—Alternate directors

76. Appointment and removal of alternates

(1) A director may appoint as an alternate any other director, or any other person approved by
resolution of the directors.

(2) An alternate may exercise the powers and carry out the responsibilities of the alternate’s
appointor, in relation to the taking of decisions by the directors in the absence of the
alternate’s appointor.

(3) An appointment or removal of an alternate by the alternate’s appointor may be effected only—

a) by notice to the Company; or
b) in any other means approved by the directors.

(4) The appointor is required to authenticate the appointment or removal.

(5) The notice is effective only if it—
a) identifies the proposed alternate; and  
b) if it is a notice of appointment, contains a statement authenticated by the proposed alternate indicating the proposed alternate’s willingness to act as the alternate of the appointor.

(6) If an alternate is removed by resolution of the directors, the Company shall as soon as practicable give notice of the removal to the alternate’s appointor.

77. Rights and responsibilities of alternate directors

(1) An alternate director has the same rights as the alternate’s appointor in relation to any decision taken by the directors under article 52.

(2) Unless these articles specify otherwise, alternate directors—

a) are deemed for all purposes to be directors;  
b) are liable for their own acts and omissions;  
c) are subject to the same restrictions as their appointors; and  
d) are deemed to be agents of or for their appointors.

(3) Subject to article 61(3), a person who is an alternate director but not a director—

a) may be counted as participating for determining whether a quorum is participating (but only if that person’s appointor is not participating); and  
b) may sign a written resolution (but only if it is not signed or to be signed by that person’s appointor).

(4) An alternate director may not be counted or regarded as more than one director for determining whether—

a) a quorum is participating; or  
b) a directors’ written resolution is adopted.

(5) An alternate director is not entitled to receive any remuneration from the Company for serving as an alternate director.

(6) But the alternate’s appointor may, by notice made to the Company, direct that any part of the appointor’s remuneration be paid to the alternate.

78. Termination of alternate directorship

(1) An alternate director’s appointment as an alternate terminates—

a) if the alternate’s appointor revokes the appointment by notice to the Company in writing specifying when it is to terminate;  
b) on the occurrence in relation to the alternate of any event which, if it occurred in relation to the alternate’s appointor, would result in the termination of the appointor’s appointment as a director;  
c) on the death of the alternate’s appointor; or  
d) when the alternate’s appointor’s appointment as a director terminates.

(2) Sub-article (1)(d) does not apply if the appointor is reappointed after having retired by rotation at a general meeting or is regarded as having been reappointed as a director at the same general meeting, and in such a case, the alternate director’s appointment as an alternate continues after the reappointment.
(3) If the alternate was not a director when appointed as an alternate, the alternate’s appointment as an alternate terminates if—

a) the approval under article 76(1) is withdrawn or revoked; or
b) the Company by an ordinary resolution passed at a general meeting terminates the appointment.

Division 5—Managing directors

79. Appointment of managing directors and termination of appointment

(1) The directors may—

a) from time to time appoint one or more of themselves to the office of managing director for a period and on terms they consider appropriate; and
b) subject to the terms of an agreement entered into in any particular case, revoke the appointment.

(2) A director appointed to the office of managing director is not, while holding the office, subject to retirement by rotation under article 70.

(3) The appointment as a managing director is automatically terminated if the managing director ceases to be a director for any reason.

(4) The directors may determine a managing director’s remuneration, whether in the form of salary, commission or participation in profits, or a combination of them.

80. Powers of managing directors

(1) The directors may entrust to and confer on a managing director any of the powers exercisable by them on terms and conditions and with restrictions they consider appropriate, either collaterally with or to the exclusion of their own powers.

(2) The directors may from time to time revoke, withdraw, alter or vary all or any of those powers.

Division 6—Directors’ indemnity and insurance

81. Indemnity of directors for certain liabilities

(1) A director or former director of the Company may be indemnified out of the Company’s assets against any liability incurred by the director to a person other than the Company or an associated company of the Company in connection with any negligence, default, breach of duty or breach of trust in relation to the Company or associated Company.

(2) Sub-article (1) applies only if the indemnity does not cover—

a) any liability of the director to pay—

i) a fine imposed in criminal proceedings; or
ii) a sum payable by way of a penalty in respect of non-compliance with any requirement of a regulatory nature; or

b) any liability incurred by the director—

i) in defending criminal proceedings in which the director is convicted;
ii) in defending civil proceedings brought by the Company, or an associated company of the Company, in which judgment is given against the director;
iii) in defending civil proceedings brought on behalf of the Company by a member of the Company or of an associated company of the Company, in which judgment is given against the director;
iv) in defending civil proceedings brought on behalf of an associated company of the Company by a member of the associated company or by a member of an associated company of the associated company, in which judgment is given against the director; or
v) in connection with an application for relief made under section 763 (Court may grant company officer etc. relief for misconduct on officer’s application) or section 1005 (Power of the Court to grant relief in certain cases) of the Act.

(3) A reference in sub-article (2)(b) to a conviction, judgment or refusal of relief is a reference to the final decision in the proceedings.

(4) For the purposes of sub-article (3), a conviction, judgment or refusal of relief—

a) if not appealed against, becomes final at the end of the period for bringing an appeal; or
b) if appealed against, becomes final when the appeal, or any further appeal, is disposed of.

(5) For the purposes of sub-article (4)(b), an appeal is disposed of if—

a) it is determined, and the period for bringing any further appeal has ended; or
b) it is abandoned or otherwise ceases to have effect.

Division 7—Company Secretary

82. Appointment and removal of company secretary

(1) The directors shall appoint a company secretary for such term, at such remuneration and on such other conditions they may determine.

(2) The company secretary should be holder of the qualification required by law for that office.

(3) A provision of the Act or these Articles requiring or authorising a thing to be done by or to a Director and the Secretary shall not be satisfied by its being done by or to the same person acting both as Director and as, or in place of, the Secretary.

(4) The directors may, for misbehaviour, incompetence or lassitude, remove a company secretary appointed by them.

PART 5—DECISION-TAKING BY MEMBERS

Division 1—Organisation of general meetings

83. General meetings

(1) Subject to Division 5 of Part XIII of the Act, the Company shall, in respect of each financial year of the Company, hold a general meeting as its annual general meeting within six months from and including the day following its accounting reference date in each year, whether or not it holds other meetings during that period and in accordance with section 310 of the Act.

(2) The directors may, if they consider appropriate, convene a general meeting.

(3) If the directors are required to convene a general meeting under section 277 of the Act (Right of members to require directors to convene general meeting), they shall convene it in accordance with section 278 of the Act (Directors’ duty to convene general meetings required by members).

(4) If the directors do not convene a general meeting in accordance with section 278 of the Act, the members who requested the meeting, or any of them representing more than one half of the total voting rights of all of them, may themselves convene a general meeting in accordance with section 279 of the Act.
84. Notice of general meetings

(1) The directors may convene a general meeting by giving members at least 21 days’ notice of the meeting.

(2) The notice is to be exclusive of the day on which it is served or deemed to be served but inclusive of the day for which it is given.

(3) The directors shall ensure that the notice—

a) specifies the date and time of the meeting;
b) specifies the place of the meeting (and if the meeting is to be held in two or more places, the principal place of the meeting and the other place or places of the meeting);
c) states the general nature of the business to be dealt with at the meeting;
d) for a notice convening an annual general meeting, states that the meeting is an annual general meeting;
e) if a resolution (whether or not a special resolution) is intended to be moved at the meeting—
i) include notice of the resolution; and
ii) include or be accompanied by a statement containing any information or explanation that is reasonably necessary to indicate the purpose of the resolution;

a) if a special resolution is intended to be moved at the meeting, specifies the intention and include the text of the special resolution; and
b) contains a statement specifying a member’s right to appoint a proxy under section 298 of the Act.

(4) Sub-article (3)(e) does not apply in relation to a resolution of which

a) notice has been included in the notice of the meeting under section 278(2) or section 279(2) of the Act; or
b) notice has been given under section 289 of the Act (Members’ power to request circulation of resolution for annual general meeting).

(5) Despite the fact that a general meeting is convened by shorter notice than that specified in this article, it is regarded as having been duly convened if it is so agreed—

a) for an annual general meeting, by all the members entitled to attend and vote at the meeting; and
b) in any other case, by a majority in number of the members entitled to attend and vote at the meeting, being a majority together representing at least 95 per cent of the total voting rights at the meeting of all the members.

85. Persons entitled to receive notice of general meetings

(1) Each member and each director are entitled to be given notice of a general meeting.

(2) In sub-article (1), the reference to a member includes a transmittee, if the Company has been notified of the transmittee’s entitlement to a share.

(3) If notice of a general meeting or any other document relating to the meeting is required to be given to a member, the Company shall give a copy of it to its auditor (if more than one auditor, to each of them) at the same time as the notice or the other document is given to the member.
86. **Accidental omission to give notice of general meetings**

An accidental omission to give notice of a general meeting to, or any non-receipt of notice of a
general meeting by, any person entitled to receive notice does not invalidate the proceedings at the
meeting.

87. **Attendance and speaking at general meetings**

(1) A person is able to exercise the right to speak at a general meeting when the person is in a
position, during the meeting, to communicate to all those attending the meeting any
information or opinions that the person has on the business of the meeting.

(2) A person is able to exercise the right to vote at a general meeting when—

   a) the person is, during the meeting, able to vote on resolutions put to the vote at the meeting; and
   
   b) the person’s vote can be taken into account in determining whether or not those resolutions
   are passed at the same time as the votes of all the other persons attending the meeting.

(3) The directors may make whatever arrangements they consider appropriate to enable those
attending a general meeting to exercise their rights to speak or vote at it.

(4) In determining attendance at a general meeting, it is immaterial whether any 2 or more
members attending it are in the same place as each other.

(5) Two or more persons who are not in the same place as each other attend a general meeting if
their circumstances are such that if they have rights to speak and vote at the meeting, they are
able to exercise them.

88. **Quorum for general meetings**

(1) Save as otherwise provide by these articles, three (3) members present in person or by proxy
or in the case of a corporation, represented in accordance with Article 100 and holding
together not less than 51% of the issued share capital of the Company, for the time being shall
constitute a quorum at a general meeting provided that one member or one person holding the
proxies of one or more members shall not be deemed to constitute a quorum.

(2) Business other than the appointment of the person presiding at the meeting may not be
transacted at a general meeting if the persons attending it do not constitute a quorum.

89. **Who is to preside at general meetings**

(1) If the chairperson (if any) of the Board of Directors is present at a general meeting and is
willing to preside at the meeting, the chairperson is required to preside over the meeting.

(2) The directors present at a general meeting shall elect one of themselves to preside at the
meeting if—

   a) there is no chairperson of the Board of Directors;
   b) the chairperson is not present within 15 minutes after the time fixed for holding the
   meeting;
   c) the chairperson is unwilling to act; or
   d) the chairperson has given notice to the Company of the intention not to attend the meeting.

(3) The members present at a general meeting shall elect one of themselves to preside at the
meeting if—

   a) no director is willing to preside at the meeting; or
   b) no director is present within 15 minutes after the time fixed for holding the meeting.
(4) A proxy may be elected to preside at a general meeting by a resolution of the Company passed at the meeting.

90. **Attendance and speaking by non-members**

(1) Directors may attend and speak at general meetings, whether or not they are members of the Company.

(2) The person presiding at a general meeting may permit other persons to attend and speak at a general meeting even though they are not—

   a) members of the Company; or
   b) otherwise entitled to exercise the rights of members in relation to general meetings.

91. **Adjournment of general meetings**

(1) If a quorum is not present within half an hour from the time fixed for holding a general meeting, the meeting—

   a) if convened at the request of members, is dissolved; or
   b) in any other case, is adjourned to the same day in the next week, at the same time and place, or to another day and at another time and place that the directors determine.

(2) If at the adjourned meeting, a quorum is not present within half an hour from the time fixed for holding the meeting, the member or members present in person or by proxy constitute a quorum.

(3) The person presiding at a general meeting at which a quorum is present may adjourn the meeting if—

   a) the meeting consents to an adjournment; or
   b) it appears to that person that an adjournment is necessary to protect the safety of any person attending the meeting or ensure that the business of the meeting is conducted in an orderly manner.

(4) The person presiding shall adjourn a general meeting if directed to do so by the meeting.

(5) When adjourning a general meeting, the person presiding shall specify the date, time and place to which it is adjourned.

(6) Only the business left unfinished at the general meeting may be transacted at the adjourned meeting.

(7) If a general meeting is adjourned for 30 days or more, the Company shall give notice of the adjourned meeting as for an original meeting.

(8) If a general meeting is adjourned for less than 30 days, it is not necessary to give any notice of the adjourned meeting.

Division 2—Voting at general meetings

92. **General rules on voting**

(1) A resolution put to the vote of a general meeting is to be decided on a show of hands unless a poll is duly demanded in accordance with these articles.

(2) If there is an equality of votes (whether on a show of hands or on a poll), the person presiding at the meeting at which the show of hands takes place or at which the poll is demanded, is entitled to a second or casting vote.
(3) On a vote on a resolution on a show of hands at a general meeting, a declaration by the person presiding that the resolution—

a) has or has not been passed; or
b) has passed by a particular majority,

is conclusive evidence of that fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

(4) An entry in respect of the declaration in the minutes of the meeting is also conclusive evidence of that fact without the proof.

93. Errors and disputes

(1) Any objection to the qualification of any person voting at a general meeting may only be raised at the meeting or adjourned meeting at which the vote objected to is tendered, and a vote not disallowed at the meeting is valid.

(2) Any objection is to be referred to the person presiding at the meeting. That person’s decision is final.

94. When poll may be demanded

(1) A poll on a resolution may be demanded—

a) in advance of the general meeting where it is to be put to the vote; or
b) at a general meeting, either before or on the declaration of the result of a show of hands on that resolution.

(2) A poll on a resolution may be demanded by—

a) the person presiding at the meeting;
b) at least 3 members present in person or by proxy; or
c) any member or members present in person or by proxy and representing at least 5 per cent of the total voting rights of all the members having the right to vote at the meeting.

(3) The document appointing a proxy is regarded as conferring authority to demand or join in demanding a poll on a resolution.

(4) A demand for a poll on a resolution may be withdrawn.

95. Number of votes to which a member is entitled

(1) On a vote on a resolution on a show of hands at a general meeting—

a) each member present in person has one vote; and
b) each proxy present who has been duly appointed by a member entitled to vote on the resolution has one vote.

(2) If a member appoints more than one proxy, the proxies so appointed are not entitled to vote on the resolution on a show of hands.

(3) On a vote on a resolution on a poll taken at a general meeting—

a) each member present in person has one vote for each share held by the member; and
b) each proxy present who has been duly appointed by a member has one vote for each share in respect of which the proxy is appointed.
This article has effect subject to any rights or restrictions attached to any shares or class of shares.

96. **Votes of joint holders of shares**

(1) For joint holders of shares, only the vote of the most senior holder who votes (and any proxies duly authorised by the holder) may be counted.

(2) For the purposes of this article, the seniority of a holder of a share is determined by the order in which the names of the joint holders appear in the register of members.

97. **Votes of mentally disordered members**

(1) A member who is a mentally disordered person may vote, whether on a show of hands or on a poll, by the member’s committee, receiver, guardian or other person in the nature of a committee, receiver or guardian appointed by the Court.

(2) The committee, receiver, guardian or other person may vote by proxy on a show of hands or on a poll.

98. **Content of proxy notices**

(1) A proxy may validly be appointed only by a notice that—

   a) states the name and address of the member appointing the proxy;
   b) identifies the person appointed to be that member’s proxy and the general meeting in relation to which that person is appointed;
   c) is authenticated, or is signed on behalf of the member appointing the proxy; and
   d) is delivered to the Company in accordance with these articles and any instructions contained in the notice of the general meeting in relation to which the proxy is appointed.

(2) The Company may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.

(3) If the Company requires or allows a proxy notice to be delivered to it in electronic form, it may require the delivery to be properly protected by a security arrangement it specifies.

(4) A proxy notice may specify how the proxy appointed under it is to vote (or that the proxy is to abstain from voting) on one or more resolutions dealing with any business to be transacted at a general meeting.

(5) Unless a proxy notice indicates otherwise, the notice is taken—

   a) to give the person appointed under it discretion as to how to vote on any ancillary or procedural resolutions put to the general meeting; and
   b) to appoint that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.

99. **Execution of appointment of proxy on behalf of member appointing the proxy**

If a proxy notice is not authenticated, it has effect only if it is accompanied by written evidence of the authority of the person who executed the appointment to execute it on behalf of the member who appointed the proxy.

100. **Appointment of proxy on behalf of member corporations**

Any Corporation which is a Member of the Company may, by resolution of its Directors or other governing body, appoint such person as it thinks fit to act as its representative at any meeting of the
Company or of any class of Members of the Company. The production at a meeting of a copy of a resolution certified by one Director (other than the appointee if he himself shall be a Director) and the Secretary, if any, of such Corporation to be a true copy of the resolution, shall be accepted by the Company as sufficient evidence of the validity of his appointment. The person so appointed shall be entitled to exercise the same powers on behalf of such Corporation as it could exercise if it were an individual Member of the Company.

101. **Delivery of proxy notice and notice revoking appointment of proxy**

(1) A proxy notice does not take effect unless it is received by the Company—

a) for a general meeting or adjourned general meeting, at least 48 hours before the time fixed for holding the meeting or adjourned meeting; and
b) for a poll taken more than 48 hours after it was demanded, at least 24 hours before the time fixed for taking the poll.

(2) An appointment under a proxy notice may be revoked by delivering to the Company a notice given by or on behalf of the person by whom or on whose behalf the proxy notice was given.

(3) A notice revoking the appointment only takes effect if it is received by the Company—

a) for a general meeting or adjourned general meeting, at least 48 hours before the time fixed for holding the meeting or adjourned meeting; and
b) for a poll taken more than 48 hours after it was demanded, at least 24 hours before the time fixed for taking the poll.

102. **Effect of member’s voting in person on proxy’s authority**

(1) A proxy’s authority in relation to a resolution is to be regarded as revoked if the member who has appointed the proxy—

a) attends in person the general meeting at which the resolution is to be decided; and
b) exercises, in relation to the resolution, the voting right attached to the shares in respect of which the proxy is appointed.

(2) A member who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of the meeting or any adjournment of it, even though a valid proxy notice has been delivered to the Company by or on behalf of the member.

103. **Effect of proxy votes in case of death, mental disorder, etc. of member appointing the proxy**

(1) A vote given in accordance with the terms of a proxy notice is valid despite—

a) the previous death or mental disorder of the member appointing the proxy;
b) the revocation of the appointment of the proxy or of the authority under which the appointment of the proxy is executed; or
c) the transfer of the share in respect of which the proxy is appointed.

(2) Sub-article (1) does not apply if notice of the death, mental disorder, revocation or transfer is received by the company—

a) for a general meeting or adjourned general meeting, at least 48 hours before the time appointed for holding the meeting or adjourned meeting; and
b) for a poll taken more than 48 hours after it was demanded, at least 24 hours before the time appointed for taking the poll.
104. Amendments to proposed resolutions

(1) An ordinary resolution to be proposed at a general meeting may be amended by ordinary resolution if—

a) notice of the proposed amendment is given to the company secretary in writing; and
b) the proposed amendment does not, in the reasonable opinion of the person presiding at the meeting, materially alter the scope of the resolution.

(2) The notice is required to be given by a person entitled to vote at the general meeting at which it is to be proposed at least 48 hours before the meeting is to take place (or a later time the person presiding at the meeting determines).

(3) A special resolution to be proposed at a general meeting may be amended by ordinary resolution if—

a) the person presiding at the meeting proposes the amendment at the meeting at which the special resolution is to be proposed; and
b) the amendment merely corrects a grammatical or other non-substantive error in the special resolution.

(4) If the person presiding at the meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, the vote on that resolution remains valid unless the Court orders otherwise.

Division 3—Restrictions on members’ rights

105. Member not entitled to vote if money is owed to company in respect of shares

A member is not entitled to vote at any general meeting unless all calls or other sums presently payable by the member in respect of shares in the Company have been paid.

Division 4—Application of rules to class meetings

106. Class meetings

The provisions of these articles relating to general meetings apply, with any necessary modifications, to meetings of the holders of any class of shares.

PART 6—SUPPLEMENTARY PROVISIONS

Division 1—Communications to and by the Company

107. Means of communication to be used

(1) Subject to these articles, anything sent or supplied by or to the Company under these articles may be sent or supplied in any way in which Part XL of the Act provides for documents or information to be sent or supplied by or to the Company for the purposes of the Act.

(2) Subject to these articles, any notice or document to be sent or supplied to a director in connection with the taking of decisions by directors may also be sent or supplied by the means by which that director has asked to be sent or supplied with such a notice or document for the time being.

(3) A director may agree with the Company that notices or documents sent to that director in a particular way are to be taken to have been received within a specified time of their being sent, and for the specified time to be less than 48 hours.
108. Failure to notify contact details

(1) A member ceases to be entitled to receive notices from the Company if—

a) the Company sends 2 consecutive documents to the member over a period of at least 12 months; and
b) each of those documents is returned undelivered, or the Company receives notification that it has not been delivered.

(2) A member who has ceased to be entitled to receive notices from the Company becomes entitled to receive those notices again by sending the Company—

a) an address to be recorded in the register of members; or
b) if the member has agreed that the Company should use a means of communication other than sending things to such an address, the information that the Company needs to use that means of communication effectively.

Division 2—Administrative arrangements

109. Company seals

(1) A common seal may be used only by the authority of the directors.

(2) The Company shall ensure that its common seal is made from a durable metal that has the Company’s name engraved on it in legible form.

(3) Subject to sub-article (2), the directors may decide by what means and in what form a common seal or official seal (whether for use outside Kenya or for sealing securities) is to be used.

(4) If the Company has a common seal and it is affixed to a document, the document is, unless otherwise decided by the directors, valid only if it is also signed by at least one director of the Company and one authorised person.

(5) For the purposes of this article, an authorised person is—

a) any director of the company;
b) the company secretary; or
c) any person authorised by the directors for signing documents to which the common seal is applied.

(6) If the Company has an official seal for use outside Kenya, it may be affixed to a document only if its use on the document, or documents of a class to which it belongs, has been authorised by a decision of the directors.

(7) If the Company has an official seal for sealing securities, it may be affixed to securities only by the company secretary or a person authorised to apply it to securities by the company secretary.

110. Restrictions on right to inspect accounts and other records of the Company

A person is not entitled to inspect any of the Company’s accounting or other records or documents merely because of being a member, unless the person is authorised to do so by—

a) a written law;
b) an order of the Court under section 320 of the Act or under regulations made under section 1008 of the Act;
c) the directors; or
d) an ordinary resolution of the Company.
111. Preparation and keeping of Accounts

(1) The Director shall cause proper books of account to be kept with respect to:

a) all sums of money received and expended by the Company and the matters in respect of which the receipt and expenditure take place;
b) all sales and purchases of goods by the Company; and
c) the assets and liabilities of the Company.

Proper books shall not be deemed to be kept if there are not kept such books of account as are necessary to give a true and fair view of the state of the Company's affairs and to explain its transactions.

(2) The books of account shall be kept at the registered office of the Company, or, subject to the Act, at such other place or places as the Directors think fit, and shall always be open to the inspection of the Directors.

(3) The Directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of the Company or any of them shall be open to the inspection of Members not being Directors, and no Member (not being a Director) shall have any right of inspecting any account or book or document of the Company except as conferred by statute or authorised by the Directors or by the Company in general meeting.

(4) The Directors shall from time to time, in accordance with the Act, cause to be prepared and to be laid before the Company in general meeting such profit and loss accounts, financial position, group accounts (if any) and reports as are required by the Act.

(5) Every such financial position as aforesaid shall be signed on behalf of the Board by two of the Directors, and shall have attached to it a report of the directors as to the state of the Company’s affairs and the amount which they recommend to be paid by way of dividend to the members, and the amount (if any) which they have carried or propose to carry to the reserve fund, general reserve or reserve account shown specifically on the financial position or to be shown specifically on a subsequent financial position. The financial position shall also have attached or annexed to it, the Auditors’ Report and such other documents as the Act may require.

(6) A copy of every financial position (including every document required by law to be annexed thereto) which is to be laid before the Company in general meeting, together with a copy of the Auditors' report, shall not less than Twenty-one days before the date of the meeting be sent to:

a) every Member of the Company; and
b) every holder of debenture of the Company; and
c) every person registered under Article 31; and

But this Article shall not require a copy of these documents to be sent to any person of whose address the Company is not aware, nor to more than the first named of the joint holders of any shares or debentures.

(7) The Accounts may be sent or otherwise made available by electronic means and not by post. This Article shall not require a copy of the Accounts to be sent or otherwise made available by electronic means to any person whose electronic or postal address the Company is not aware of, nor to more than the first named of any joint holders of any shares. The Company may also send the accounts to all persons entitled thereto by publishing the Accounts on the Company’s official website provided that the Company shall send to every Member or publish a summary of the Financial Statements and Auditors Report in two daily newspapers with national circulation for one day drawing attention to the website on which the Accounts in full may be read, and the address to which a request for a printed copy of the Accounts may be submitted.
to the Company Secretary and, upon any such publication, the Accounts shall be deemed to have been sent to every Member or other person entitled to receive a copy of the Accounts.

112. Appointment of Auditors

Auditors shall be appointed and their duties regulated in accordance with the Act and any other applicable law.

113. Auditor’s insurance

(1) The directors may decide to purchase and maintain insurance, at the expense of the Company, for an auditor of the Company, or an auditor of an associated company of the Company, against—

   a) any liability to any person attaching to the auditor in connection with any negligence, default, breach of duty or breach of trust (except for fraud) occurring in the course of performance of the duties of auditor in relation to the Company or associated company (as the case may be); or
   b) any liability incurred by the auditor in defending any proceedings (whether civil or criminal) taken against the auditor for any negligence, default, breach of duty or breach of trust (including fraud) occurring in the course of performance of the duties of auditor in relation to the Company or associated company.

(2) In this article, a reference to performance of the duties of auditor includes the performance of the duties specified in section 748 and section 751 of the Act.

114. Distribution of surplus on liquidation of the Company

(1) If the Company is liquidated and a surplus remains after the payment of debts proved in the winding up, the liquidator—

   a) may, with the required sanction, divide amongst the members in specie or kind the whole or any part of the assets of the Company (whether they consist of property of the same kind or not) and may, for this purpose, set a value the liquidator thinks fair on any property to be so divided; and
   b) may determine how the division is to be carried out between the members or different classes of members.

(2) The liquidator may, with the required sanction, vest the whole or part of those assets in trustees on trust for the benefit of the contributories that the liquidator, with the required sanction, thinks fit, but a member may not be compelled to accept any shares or other securities that are subject to any liability.

(3) In this article—

*required sanction* means the sanction of a special resolution of the Company and any other sanction required by the Act.

115. Indemnity Clause

Every Managing Director, Secretary, other officer and agent for the time being of the Company shall be indemnified out of the assets of the Company against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgement is given in his favour or in which he is acquitted or in connection with any application under Section 1005 of the Act in which relief is granted to him by the Court.