

THE COMPANIES ACT, 2015

PUBLIC COMPANY LIMITED BY SHARES

MEMORANDUM AND ARTICLES OF ASSOCIATION

OF

UNGA GROUP PLC

**Adopted by a Special Resolution of the Members dated _____
2017**

Drafted by:

Hamilton Harrison & Mathews

Advocates

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Kenya

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P.O. Box 10643-00100, Nairobi, Kenya

THE COMPANIES ACT, 2015
PUBLIC COMPANY LIMITED BY SHARES
MEMORANDUM OF ASSOCIATION
OF
UNGA GROUP PLC

1. The name of the Company is “Unga Group Plc”.
2. The registered office of the Company will be situated in the Republic of Kenya.
3. The objects for which the Company is established are unrestricted, and the Company has full capacity to carry on or undertake any business or activity, do any act or enter into any transaction. For purposes of section 28 of the Companies Act, there are no limitations on the business that the Company may carry on.
4. The Company shall have and be capable of exercising all the functions, rights, powers, and privileges of a natural person of full capacity irrespective of any question of corporate benefit.
5. The liability of the members is limited.
6. The authorised share capital of the company is Kenya Shillings four hundred and thirteen million eight hundred thousand (KES 413,800,000) divided into eighty-two million seven hundred and sixty thousand shares (82,760,000) of Kenya Shillings five (KES 5) each.

WE the several persons, whose names, addresses and descriptions are subscribed, are desirous of being formed into a Company in pursuance of this Memorandum of Association and we respectively agree to take the number of shares in the capital of the Company set opposite our respective names.

Names	Addresses	Descriptions	Number of shares taken by each subscriber
H. SAYER (Humphrey)	Molo	Farmer	One Ordinary
W.K. TUCKER (William Kington Tucker)	Nairobi	Company Director	One Ordinary

Dated the 21st day of November 1928.

WITNESS to the above signatures: -

A. K. CONSTANTINE,
NJORO,
Company Manager

CERTIFIED this document is produced by the process of xerography.

HAMILTON HARRISON & MATHEWS
ADVOCATES
ESSO HOUSE
MAMA NGINA STREET
P. O. BOX 30333
NAIROBI

THE COMPANIES ACT, 2015
PUBLIC COMPANY LIMITED BY SHARES
ARTICLES OF ASSOCIATION
OF
UNGA GROUP PLC

1. **EXCLUSION OF MODEL ARTICLES (AND ANY OTHER PRESCRIBED REGULATIONS)**

The regulations in the Companies (General) Regulations 2015, and regulations or articles set out in any statute, including any set out under any former enactment relating to companies shall not apply as the articles of the Company.

The following shall be the Articles of Association of the Company.

2. **INTERPRETATION**

2.1 In these Articles, unless the context otherwise requires:

Act: The Companies Act, 2015 (Act No. 17 of 2015);

address: includes any number or address used for the purposes of sending or receiving documents or information by electronic means;

alternate and alternate director: a person appointed by a director as an alternate under article 72;

Articles: these articles of association as altered from time to time and "Article" shall be construed accordingly;

Board: the board of Directors for the time being of the Company or the Directors present or deemed to be present at a duly convened quorate meeting of the Directors;

certificated shares: a share which is not an uncertificated share and references in these Articles to a share being held in certificated form shall be construed accordingly;

clear days: in relation to a period of notice means that period excluding the day when the notice is served or deemed to be served and the day for which it is given or on which it is to take effect;

Company: Unga Group Plc;

Director: a director for the time being of the Company;

electronic form: has the meaning given to it in section 3 of the Act;

electronic means: has the meaning given to it in section 3 of the Act;

KES: means Kenya shillings;

managing director: means any director who has day to day responsibility for managing the affairs of the company, irrespective the title by which the director is known;

member: a member of the Company, or where the context requires, a member of the Board or of any committee;

Office: the registered office from time to time of the Company;

Official List: the list of securities that have been admitted to listing which is maintained by the Nairobi Securities Exchange or any other securities exchange where the Companies securities have been admitted to listing;

Operator: Central Depository & Settlement Corporation Limited or such other person as may for the time being be approved by the Capital Markets Act as Operator under the Central Depositories Act, (No. 4 of 2000) or such other person as may for the time being be approved by a relevant securities regulator in any other jurisdiction where the Company's securities have been admitted to listing;

paid up: paid up or credited as paid up;

participating class: a class of shares title to which is permitted by the Operator to be transferred by means of a relevant system;

partly paid: in relation to a share, means part of the price at which the share was issued remains unpaid;

Register: the register of members of the Company to be maintained under the Act or as the case may be any overseas branch register maintained under Article 88;

relevant system: a computer-based system which allows units of securities without written instruments to be transferred and endorsed pursuant to the uncertificated securities rules;

Seal: the common seal of the Company or, where the context allows, any official seal kept by the Company under section 38 and 42 respectively of the Act;

Statutes: shall mean the Act and every other statute or subordinate legislation and regulations for the time being in force concerning companies and affecting the Company (including The Capital Markets Act (Chapter 485A), The Central Depositories Act, 2000 and The Unclaimed Financial Assets Act, No. 4 of 2011) including every amendment or re-enactment (with or without amendment) thereof for the time being in force;

uncertificated securities rules: any provision of the Statutes relating to the holding, evidencing of title to, or transfer of uncertificated shares, and any other rules or regulations as may be passed by a relevant securities regulator in any other jurisdiction where the Company's securities have been admitted to listing together with any legislation, rules or other arrangements made under or by virtue of such provisions;

uncertificated share: a share of a class which is at the relevant time a participating class, title to which is recorded on the Register as being held in uncertificated form and references in these Articles to a share being held in uncertificated form shall be construed accordingly;

- 2.2 Headings are used for convenience only and shall not affect the construction or interpretation of these Articles.
- 2.3 A **person** includes a corporate and an unincorporated body (whether or not having separate legal personality).
- 2.4 Words in the singular shall include the plural and vice versa.
- 2.5 A reference to one gender shall include a reference to the other gender.

- 2.6 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 2.7 Any words or expressions defined in the Statutes in force when these Articles or any part of these Articles are adopted shall (if not inconsistent with the subject or context in which they appear) have the same meaning in these Articles or that part, save that the word "company" shall include any body corporate.
- 2.8 A reference to a document **being signed** or to **signature** includes references to its being executed under hand or under seal or by any other method and, in the case of a communication in electronic form, such references are to its being authenticated as specified by the Statutes.
- 2.9 A reference to **writing** or **written** includes references to any method of representing or reproducing words in a legible and non-transitory form whether sent or supplied in electronic form or otherwise.
- 2.10 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.
- 2.11 A reference to documents or information **being sent or supplied by or to** a company (including the Company) shall be construed in accordance with Part XL of the Act.

3. REGISTERED OFFICE

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

4. LIMITED LIABILITY

The liability of the members of the Company is limited to the amount, if any, unpaid on the shares in the Company held by them.

5. POWER TO ISSUE DIFFERENT CLASSES OF SHARES

- 5.1 Without affecting any special rights previously conferred on the holders of any existing shares or class of shares, the company may issue shares that have
- 5.1.1 preferred, deferred or other special rights; or
- 5.1.2 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.
- 5.2 Subject to the Act and to any rights attaching to existing shares, any share may be issued which can be redeemed or is liable to be redeemed at the option of the Company or the holder.
- 5.3 The Board may determine the terms, conditions and manner of redemption of any redeemable shares which are issued. Such terms and conditions shall apply to such shares as if the same were set out in these Articles.
- 5.4 Where any purchase of shares that have been issued on terms that they are redeemable is to be by tender, such tender shall be available to all shareholders alike.

6. ALLOTMENT OF SHARES AND PRE-EMPTION

- 6.1 Subject to the Statutes, these Articles and to any relevant authority of the Company in general meeting required by the Act, the Board may offer, allot (with or without conferring rights of renunciation), grant options over or otherwise deal with or dispose of shares or grant rights to subscribe for or convert any

security into shares to such persons, at such times and upon such terms as the Board may decide. No share may be issued at a discount.

- 6.2 The Board may, at any time after the allotment of any share but before any person has been entered in the Register, recognise a renunciation by the allottee in favour of some other person and accord to the allottee of a share a right to effect such renunciation and/or allow the rights to be represented to be one or more participating securities, in each case upon the subject to such terms and conditions as the Board may think fit to impose.
- 6.3 Under and in accordance with section 329 of the Act, the Directors shall be generally and unconditionally authorised to exercise for each prescribed period all the powers of the Company to allot shares up to the aggregate nominal amount stated in the relevant ordinary or special resolution.
- 6.4 Under and within the terms of the said authority or otherwise in accordance with section 348 of the Act, the Directors shall be empowered during each prescribed period to allot equity securities (as defined by the Act) wholly for cash:
- (a) in connection with a rights issue; and
 - (a) otherwise than in connection with a rights issue up to the aggregate nominal amount stated in the relevant ordinary or special resolution.
- 6.5 During each prescribed period the Company and its Directors by such authority and power may make offers or agreements which would or might require equity securities or other securities to be allotted after the expiry of such period.
- 6.6 For the purposes of this Article:
- (a) **rights issue** means an offer of equity securities (as defined by the Act) open for acceptance for a period fixed by the Board to holders of equity securities on the Register on a fixed record date in proportion to their respective holdings of such securities or in accordance with the rights attached to them but subject to such exclusions or other arrangements as the Board may deem necessary or expedient with regard to treasury shares, fractional entitlements or legal or practical problems under the laws of any territory or under the requirements of any recognised regulatory body or stock exchange in any territory;
 - (b) **prescribed period** means any period (not exceeding five years on any occasion) for which the authority, in the case of Article 6.3, or Article 6.4 is conferred or renewed by ordinary or special resolution;
 - (c) the nominal amount of any securities shall be taken to be, in the case of rights to subscribe for or to convert any securities into shares of the Company, the nominal amount of such shares which may be allotted pursuant to such rights.

7. PARI PASSU ISSUES

If new shares are created or issued which rank equally with any other existing shares, the rights of the existing shares shall not be regarded as changed or abrogated unless the terms of the existing shares expressly say otherwise.

8. VARIATION OF RIGHTS

- 8.1 Subject to the Statutes, the rights attached to any class of shares can be varied or abrogated either with the consent in writing of the holders of not less than three-quarters in nominal value of the issued share of that class (excluding any shares of that class held as treasury shares) or with the authority of a special

resolution passed at a separate meeting of the holders of the relevant class of shares known as a **class meeting**.

8.2 The provisions of this Article shall apply to any variation or abrogation of rights of shares forming part of a class. Each part of the class which is being treated differently is treated as a separate class in applying this Article.

8.3 All the provisions in these Articles as to general meetings shall apply, with any necessary modifications, to every class meeting except that:

- (a) the quorum at every such meeting shall not be less than two persons holding or representing by proxy at least one-third of the nominal amount paid up on the issued shares of the class) (excluding any shares of that class held as treasury shares) provided that if there is only one person holding such shares, such person shall be capable of forming a quorum; and
- (b) if at any adjourned meeting of such holders such quorum as set out above is not present, at least one person holding shares of the class who is present in person or by proxy shall be a quorum.

8.4 The Board may convene a class meeting whenever it thinks fit and whether or not the business to be transacted involves a variation or abrogation of class rights.

9. **PAYMENT OF COMMISSION**

The Company may in connection with the issue of any shares or the sale for cash of treasury shares exercise all powers of paying commission and brokerage conferred or permitted by the Statutes. Any such commission or brokerage may be satisfied by the payment of cash or by the allotment of fully or partly paid shares or other securities or the grant of an option to call for an allotment of shares or any combination of such methods.

10. **TRUSTS NOT RECOGNISED**

Except as otherwise expressly provided by these Articles, required by law or as ordered by a court of competent jurisdiction, the Company shall not recognise any person as holding any share on any trust, and the Company shall not be bound by or required in any way to recognise (even when having notice of it) any equitable, contingent, future, partial or other claim to or interest in any share other than an absolute right of the holder of the whole of the share.

11. **UNCERTIFICATED SHARES**

11.1 Under and subject to any applicable uncertificated securities rules, the Board may permit title to shares of any class to be evidenced otherwise than by certificate and title to shares of such a class to be transferred by means of a relevant system and may make arrangements for a class of shares (if all shares of that class are in all respects identical) to become a participating class. Title to shares of a particular class may only be evidenced otherwise than by a certificate where that class of shares is at the relevant time a participating class. The Board may also, subject to compliance with the uncertificated securities rules, determine at any time that title to any class of shares may from a date specified by the Board no longer be evidenced otherwise than by a certificate or that title to such a class shall cease to be transferred by means of any particular relevant system.

11.2 In relation to a class of shares which is a participating class and for so long as it remains a participating class, no provision of these Articles shall apply or have effect to the extent that it is inconsistent in any respect with:

- (a) the holding of shares of that class in uncertificated form;

- (b) the transfer of title to shares of that class by means of a relevant system; or
- (c) any provision of the uncertificated securities rules;

and, without prejudice to the generality of this Article, no provision of these Articles shall apply or have effect to the extent that it is in any respect inconsistent with the maintenance, keeping or entering up by the Operator, so long as that is permitted or required by the uncertificated securities rules, of an Operator register of securities in respect of that class of shares in uncertificated form.

11.3 Shares of a class which is at the relevant time a participating class may be changed from uncertificated to certificated form, and from certificated to uncertificated form, in accordance with and subject as provided in any applicable uncertificated securities rules.

11.4 If, under these Articles or the Statutes, the Company is entitled to sell, transfer or otherwise dispose of, forfeit, re-allot, accept the surrender of or otherwise enforce a lien over an uncertificated share, then, subject to these Articles and the Statutes, such entitlement shall include the right of the Board to:

- (a) require the holder of the uncertificated share by notice in writing to change that share from uncertificated to certificated form within such period as may be specified in the notice and keep it as a certificated share for as long as the Board requires;
- (b) appoint any person to take such other steps, by instruction given by means of a relevant system or otherwise, in the name of the holder of such share as may be required to effect the transfer of such share and such steps shall be as effective as if they had been taken by the registered holder of that share; and
- (c) take such other action that the Board considers appropriate to achieve the sale, transfer, disposal, forfeiture, re-allotment or surrender of that share or otherwise to enforce a lien in respect of that share.

11.5 Unless the Board determines otherwise, shares which a member holds in uncertificated form shall be treated as separate holdings from any shares which that member holds in certificated form but a class of shares shall not be treated as two classes simply because some shares of that class are held in certificated form and others in uncertificated form.

11.6 Unless the Board determines otherwise or any applicable uncertificated securities rules require otherwise, any shares issued or created out of or in respect of any uncertificated shares shall be uncertificated shares and any shares issued or created out of or in respect of any certificated shares shall be certificated shares.

11.7 The Company shall be entitled to assume that the entries on any record of securities maintained by it in accordance with the uncertificated securities rules and regularly reconciled with the relevant Operator register of securities are a complete and accurate reproduction of the particulars entered in the Operator register of securities and shall accordingly not be liable in respect of any act or thing done or omitted to be done by or on behalf of the Company in reliance on such assumption. Any provision of these Articles which requires or envisages that action shall be taken in reliance on information contained in the Register shall be construed to permit that action to be taken in reliance on information contained in any relevant record of securities (as so maintained and reconciled).

12. **LIEN ON SHARES NOT FULLY PAID**

The Company shall have a first and paramount lien on every share, not being a fully paid share, for all amounts payable to the Company (whether presently or not) in respect of that share. The Company's lien over a share takes priority over any third party's interest in that share, and extends to any dividend or other

money payable by the Company in respect of that share (and, if the lien is enforced and the share is sold by the Company, the proceeds of sale of that share). The Board may at any time, either generally or in any particular case, waive any lien that has arisen or declare any share to be wholly or in part exempt from the provisions of this Article.

13. **ENFORCEMENT OF LIEN BY SALE**

The Company may sell, in such manner as the Board may decide, any share over which the Company has a lien if a sum in respect of which the lien exists is presently payable and is not paid within 14 clear days after a notice has been served on the holder of the share or the person who is entitled by transmission to the share, demanding payment and stating that if the notice is not complied with the share may be sold. For giving effect to the sale, in the case of a certificated share, the Board may authorise some person to sign an instrument of transfer of the share sold to, or in accordance with the directions, of the buyer. In the case of an uncertificated share, the Board may require the Operator to convert the share into certificated form and after such conversion, authorise any person to sign the instrument of transfer of the share to effect the sale of the share. The buyer shall not be bound to see to the application of the purchase money, nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the sale.

14. **APPLICATION OF PROCEEDS OF SALE**

The net proceeds of any sale of shares subject to any lien, after payment of the costs, shall be applied:

- (a) first, in or towards satisfaction of so much of the amount due to the Company or of the liability or engagement (as the case may be) as is presently payable or is liable to be presently fulfilled or discharged; and
- (b) second, any residue shall be paid to the person who was entitled to the share at the time of the sale but only after the certificate for the shares sold has been surrendered to the company for cancellation, or an indemnity in a form reasonably satisfactory to the directors has been given for any lost certificates, and subject to a like lien for debts or liabilities not presently payable as existed on the share prior to the sale.

15. **CALLS**

- 15.1 Subject to these Articles and the terms on which the shares are allotted, the Board may from time to time make calls on the members in respect of any monies unpaid on their shares (whether in respect of nominal value or premium) and not payable on a date fixed by or in accordance with the terms of issue.
- 15.2 Each member shall (subject to the Company serving upon him at least 14 clear days' notice specifying when and where payment is to be made and whether or not by instalments) pay to the Company as required by the notice the amount called on for his shares.
- 15.3 A call shall be deemed to have been made at the time when the resolution of the Board authorising the call was passed.
- 15.4 A call may be revoked or postponed, in whole or in part, as the Board may decide.
- 15.5 Liability to pay a call is not extinguished or transferred by transferring the shares in respect of which the call is required to be paid.
- 15.6 The joint holders of a share shall be jointly and severally liable to pay all calls in respect of the share.
- 15.7 If a call remains unpaid after it has become due and payable, the person from whom it is due and payable shall pay all expenses that have been incurred by the Company by reason of such non-payment together with interest on the amount unpaid from the day it is due and payable to the time of actual payment at

such rate (not exceeding the Central Bank of Kenya base rate by more than five percentage points) as the Board may decide. The Board may waive payment of the interest or the expenses in whole or in part.

15.8 On or before the issue of shares, the Board may decide that allottees or holders of shares can be called on to pay different amounts or that they can be called on at different times.

15.9 The Board may, if it thinks fit, receive from any member willing to advance the same, all or any part of the monies uncalled and unpaid on the shares held by him. Such payment in advance of calls shall, to the extent of the payment, extinguish the liability on the shares on which it is made. The Company may pay interest on the money paid in advance, or so much of it as exceeds the amount for the time being called upon the shares in respect of which such advance has been made, at such rate as the Board may decide. The Board may at any time repay the amount so advanced by giving at least three months' notice in writing to such member of its intention to do so, unless before the expiration of such notice the amount so advanced shall have been called up on the shares in respect of which it was advanced.

16. **NOTICE IF CALL OR INSTALMENT NOT PAID**

If any member fails to pay the whole of any call (or any instalment of any call) by the date when payment is due, the Board may at any time give notice in writing to such member (or to any person entitled to the shares by transmission), requiring payment of the amount unpaid (and any accrued interest and any expenses incurred by the Company by reason of such non-payment) by a date not less than 14 clear days from the date of the notice. The notice shall name the place where the payment is to be made and state that, if the notice is not complied with, the shares in respect of which such call was made will be liable to be forfeited.

17. **FORFEITURE FOR NON-COMPLIANCE**

If the notice referred to in Article 16 is not complied with, any share for which it was given may be forfeited, by resolution of the Board to that effect, at any time before the payment required by the notice has been made. Such forfeiture shall include all dividends declared or other monies payable in respect of the forfeited shares and not paid before the forfeiture.

18. **NOTICE AFTER FORFEITURE**

When any share has been forfeited, notice of the forfeiture shall be served on the holder of the share or the person entitled to such share by transmission (as the case may be) before forfeiture. An entry of such notice having been given and of the forfeiture and the date of forfeiture shall immediately be made in the Register in respect of such share. However, no forfeiture shall be invalidated by any omission to give such notice or to make such entry in the Register.

19. **FORFEITURE MAY BE ANNULLED**

The Board may annul the forfeiture of a share, at any time before any forfeited share has been cancelled or sold, re-allotted or otherwise disposed of, on the terms that payment shall be made of all calls and interest due on it and all expenses incurred in respect of the share and on such further terms (if any) as the Board shall see fit.

20. **SURRENDER**

The Board may accept the surrender of any share liable to be forfeited. The effect of a surrender on a share is the same as the effect of forfeiture on that share, and a share that has been surrendered may be dealt with in the same way as a share that has been forfeited. In any event, references in these Articles to forfeiture shall include surrender.

21. SALE OF FORFEITED SHARES

- 21.1 A forfeited share shall become the property of the Company.
- 21.2 Subject to the Statutes, any such share may be sold, re-allotted or otherwise disposed of, on such terms and in such manner as the Board thinks fit.
- 21.3 The Board may, for the purposes of the disposal, authorise some person to transfer the share in question and may enter the name of the transferee in respect of the transferred share in the Register even if no share certificate is lodged and may issue a new certificate to the transferee. An instrument of transfer executed by that person shall be as effective as if it had been executed by the holder of, or the person entitled by transmission to, the share. The Company may receive the consideration (if any) given for the share on its disposal.

22. EFFECT OF FORFEITURE

A shareholder whose shares have been forfeited shall cease to be a member in respect of such forfeited shares and shall surrender the certificate for such shares to the Company for cancellation. Such shareholder shall remain liable to pay to the Company all sums which at the date of forfeiture were presently payable by him to the Company in respect of such shares with interest (not exceeding the Central Bank of Kenya base rate by five percentage points) from the date of the forfeiture to the date of payment. The Directors may waive payment of interest wholly or in part and may enforce payment, without any reduction or allowance for the value of the shares at the time of forfeiture or for any consideration received on their disposal.

23. EVIDENCE OF FORFEITURE

A statutory declaration by a Director or the Secretary that a share has been forfeited on a specified date shall be conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share. The declaration shall (subject to the execution of an instrument of transfer if necessary) constitute a good title to the share. The person to whom the share is transferred or sold shall not be bound to see to the application of the purchase money or other consideration (if any), nor shall his title to the share be affected by any act, omission or irregularity relating to or connected with the proceedings in reference to the forfeiture or disposal of the share.

24. FORM OF TRANSFER

- 24.1 Subject to these Articles:
- (a) each member may transfer all or any of his shares which are in uncertificated form by means of a relevant system in such manner provided for, and subject as provided in, the uncertificated securities rules. No provision of these Articles shall apply in respect of an uncertificated share to the extent that it requires or contemplates the effecting of a transfer by an instrument in writing or the production of a certificate for the share to be transferred
 - (b) each member may transfer all or any of his shares which are in certificated form by instrument of transfer in writing in any usual form or in any form approved by the Board. Such instrument shall be executed by or on behalf of the transferor and (in the case of a transfer of a share which is not fully paid up) by or on behalf of the transferee. All instruments of transfer, when registered, may be retained by the Company.
- 24.2 The transferor of a share shall be deemed to remain the holder of the share concerned until the name of the transferee is entered in the Register in respect of it.

25. RIGHT TO REFUSE REGISTRATION OF TRANSFER

25.1 The Board may, in its absolute discretion, refuse to register any transfer of a share in certificated form (or renunciation of a renounceable letter of allotment) unless:

- (a) it is for a share which is fully paid up;
- (b) it is for a share upon which the Company has no lien;
- (c) it is only for one class of share;
- (d) it is in favour of a single transferee or no more than four joint transferees;
- (e) it is duly stamped or is duly certificated or otherwise shown to the satisfaction of the Board to be exempt from stamp duty (if this is required); and
- (f) it is delivered for registration to the Office (or such other place as the Board may determine), accompanied (except in the case of a transfer by a person to whom the Company is not required by law to issue a certificate and to whom a certificate has not been issued or in the case of a renunciation) by the certificate for the shares to which it relates and such other evidence as the Board may reasonably require to prove the title of the transferor (or person renouncing) and the due execution of the transfer or renunciation by him or, if the transfer or renunciation is executed by some other person on his behalf, the authority of that person to do so.

25.2 The Board shall not refuse to register any transfer or renunciation of partly paid shares which are admitted to the Official List on the grounds that they are partly paid shares in circumstances where such refusal would prevent dealings in such shares from taking place on an open and proper basis.

25.3 Transfers of shares will not be registered in the circumstances referred to in Article 61.

25.4 The Board may refuse to register a transfer of uncertificated shares in any circumstances that are allowed or required by the uncertificated securities rules and the relevant system.

26. NOTICE OF REFUSAL TO REGISTER A TRANSFER

If the Board refuses to register a transfer of a share it shall notify the transferee of the refusal and the reasons for it within sixty days after the date on which the transfer was lodged with the Company or the instructions to the relevant system received. Any instrument of transfer which the Board refuses to register shall be returned to the person depositing it (except if there is suspected or actual fraud). All instruments of transfer which are registered may be retained by the Company.

27. OTHER POWERS IN RELATION TO TRANSFERS

Nothing in these Articles shall prevent the Board:

- (a) from recognising a renunciation of the allotment of any share by the allottee in favour of another person; or
- (b) (if empowered to do so by these Articles) from authorising any person to execute an instrument of transfer of a share and from authorising any person to transfer that share in accordance with any procedures implemented under Article 13.

28. TRANSMISSION OF SHARES ON DEATH

If a member dies, the survivors or survivor (where he was a joint holder), and his executors or administrators (where he was a sole or the only survivor of joint holders), shall be the only persons recognised by the

Company as having any title to his shares. Nothing in these Articles shall release the estate of a deceased member from any liability for any share which has been solely or jointly held by him.

29. ELECTION OF PERSON ENTITLED BY TRANSMISSION

29.1 Any person becoming entitled to a share because of the death or bankruptcy of a member, or otherwise by operation of law, may (on such evidence as to his title being produced as the Board may require) elect either to become registered as a member or to have some person nominated by him registered as a member. If he elects to become registered himself, he shall notify the Company to that effect. If he elects to have some other person registered, he shall execute an instrument of transfer of such share to that person. All the provisions of these Articles relating to the transfer of shares shall apply to the notice or instrument of transfer (as the case may be) as if it were an instrument of transfer executed by the member and his death, bankruptcy or other event had not occurred. Where the entitlement of a person to a share because of the death or bankruptcy of a member or otherwise by operation of law is proved to the satisfaction of the Board, the Board shall within sixty days after proof cause the entitlement of that person to be noted in the Register.

29.2 A person entitled by transmission to a share in uncertificated form who elects to have some other person registered shall either:

- (a) procure that instructions are given by means of the relevant system to effect transfer of such uncertificated share to that person; or
- (b) subject to applicable law, change the uncertificated share to certificated form and execute an instrument of transfer of that certificated share to that person.

30. RIGHTS ON TRANSMISSION

Where a person becomes entitled to a share because of the death or bankruptcy of any member, or otherwise by operation of law, the rights of the holder in relation to such share shall cease. However, the person so entitled may give a good discharge for any dividends and other monies payable in respect of it and shall have the same rights to which he would be entitled if he were the holder of the share, except that he shall not be entitled to receive notice of, or to attend or vote at, any meeting of the Company or an separate meeting of the holders of any class of shares of the Company before he is registered as the holder of the share. The Board may at any time give notice requiring any such person to elect either to be registered himself or to transfer the share. If the notice is not complied with within three months, the Board may withhold payment of all dividends and the other monies payable in respect of such share until the requirements of the notice have been complied with.

31. DESTRUCTION OF DOCUMENTS

31.1 The Company may destroy any:

- (a) instrument of transfer, after ten years from the date on which it is registered;
- (b) dividend mandate or any variation or cancellation of a dividend mandate or any notification of change of name or address, after three years from the date on which it is recorded;
- (c) share certificate, after one year from the date on which it is cancelled;
- (d) instrument of proxy which has been used for the purpose of a poll at any time after one year has elapsed from the date of use;
- (e) instrument of proxy which has not been used for the purpose of a poll at any time after a period of one month has elapsed from the end of the meeting to which the instrument of proxy relates;

- (f) other document for which any entry in the Register is made, after ten years from the date on which an entry was first made in the Register in respect of it,

provided that the Company may destroy any such type of document at a date earlier than that authorised by this Article if a copy of such document is made and retained (whether electronically, by microfilm, by digital imaging or by other similar means) until the expiration of the period applicable to the destruction of the original of such document.

31.2 It shall be conclusively presumed in favour of the Company that every:

- (a) entry in the Register purporting to have been made on the basis of a document so destroyed was duly and properly made;
- (b) instrument of transfer so destroyed was duly registered;
- (c) share certificate so destroyed was duly cancelled; and
- (d) other document so destroyed had been properly dealt with under its terms and was valid and effective according to the particulars in the records of the Company.

31.3 This Article shall only apply to the destruction of a document in good faith and without notice of any claim (regardless of the parties to it) to which the document might be relevant. Nothing in this Article shall be construed as imposing any liability on the Company in respect of the destruction of any such document other than as provided for in this Article which would not attach to the Company in the absence of this Article. References in this Article to the destruction of any document include references to the disposal of it in any manner.

31.4 References in this Article to instruments of transfer shall include, in relation to uncertificated shares, instructions and/or notifications made in accordance with the relevant system relating to the transfer of such shares.

32. INCREASE OF SHARES

The Company may from time to time by ordinary resolution increase its capital by the issue of shares of such sum divided into shares of such amounts as the resolution shall prescribe. All new shares shall be subject to the provisions of the Statutes and of these Articles with reference to allotment, payment of calls, lien, transfer, transmission, forfeiture and otherwise.

33. CONSOLIDATION AND SUBDIVISION OF SHARES

33.1 The Company may by ordinary resolution:

- (a) consolidate or consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;
- (b) cancel any shares which, at the date of the passing of the resolution, have not been taken, or agreed to be taken, by any person and diminish the amount of its capital by the amount of the shares so cancelled;
- (c) sub-divide or consolidate and sub-divide its shares, or any of them, into shares of smaller amount than is fixed by the resolution originally creating such shares (subject, nevertheless, to the provisions of the Statutes), and so that the resolution whereby any share is sub-divided may determine that, as between the holders of the shares resulting from such sub-division, one or more of the shares may, as compared with the others, have any such preferred, deferred or other

special rights, or be subject to any such restrictions, as the Company has power to attach to unissued or new shares.

- 33.2 Whenever as a result of a consolidation and/or sub-division of shares any members would become entitled to fractions of a share, the Directors may deal with the fractions as they think fit and in particular may sell the shares representing the fractions to any person (including, subject to the provisions of the Statutes, the Company) and distribute the net proceeds of sale in due proportion among those members and the Directors may authorise some person to transfer or deliver the shares to, or in accordance with the directions of, the purchaser. The person to whom any shares are transferred or delivered shall not be bound to see to the application of the purchase monies nor shall his title to the shares be affected by any irregularity in, or invalidity of, the proceedings relating to the sale.
- 33.3 Subject to the provisions of the Statutes, the Company may purchase any of its own shares (including any redeemable shares). Every contract for the purchase by the Company of, or under which it may become entitled or obliged to purchase, its own shares shall, in addition to such authorisation as may be required by the Statutes, be sanctioned by a separate General Meeting of the holders of each class of shares in issue convertible into equity share capital of the Company, unless the terms of issue of such shares provide for the Company purchasing its own equity shares. Neither the Company nor the Directors shall be required to select the shares to be purchased rateably or in any other particular manner as between the holders of shares of the same class or as between them and the holders of shares of any other class or in accordance with the rights as to dividends or capital conferred by any class of shares. Notwithstanding anything to the contrary contained in these Articles, the special rights attached to any class of shares shall be deemed not to be varied by anything done by the Company pursuant to this Article.
- 33.4 Subject to the provisions of the Statutes, the Company may reduce its share capital or any capital redemption reserve, share premium account or other undistributable reserve in any manner authorised by law.

34. **PURCHASE OF OWN SHARES**

The Company may acquire its own shares in accordance with Part XVI of the Act.

35. **ANNUAL GENERAL MEETINGS**

An annual general meeting shall be held once a year, within six months from and including the day following its accounting reference date in each year, or at such time (consistent with the terms of the Statutes) and place as may be determined by the Board.

36. **CONVENING OF GENERAL MEETINGS**

All meetings other than annual general meetings shall be called general meetings. The Board may, whenever it thinks fit, and shall on requisition in accordance with the Statutes, proceed to convene a general meeting.

37. **NOTICE OF GENERAL MEETINGS**

- 37.1 The directors may convene an annual general and or a general meeting only by giving members at least 21 days' notice of the meeting.
- 37.2 The period of notice shall in either case be exclusive of the day on which it is served or deemed to be served and of the day on which the meeting is to be held and shall be given to all members other than those who are not entitled to receive such notices from the Company.
- 37.3 The Company may give such notice by any means or combination of means permitted by the Statutes.

38. **CONTENTS OF NOTICE OF MEETINGS**

- 38.1 Every notice calling a meeting shall specify the place, date and time of the meeting, and there shall appear with reasonable prominence in every such notice a statement that a member entitled to attend and vote is entitled to a proxy or (if he has more than one share) proxies to exercise all or any of his rights to attend, speak and vote and that a proxy need not be a member of the Company. Such notice shall also include the address of the website on which the information required by the Act is published, state the procedures with which members must comply in order to be able to attend and vote at the meeting (including the date by which they must comply), provide details of any forms to be used for the appointment of a proxy and state that a member has the right to ask questions at the meeting in accordance with the Act.
- 38.2 The notice shall specify the general nature of the business to be transacted at the meeting and shall set out the text of all resolutions to be considered by the meeting and shall state in each case whether it is proposed as an ordinary resolution or as a special resolution.
- 38.3 In the case of an annual general meeting, the notice shall also specify the meeting as such.
- 38.4 For the purposes of determining which persons are entitled to attend or vote at a meeting and how many votes a person may cast, the Company may specify in the notice of meeting a time, not more than 48 hours before the time fixed for the meeting (not taking into account non-working days) by which a person must be entered in the Register in order to have the right to attend or vote at the meeting or appoint a proxy to do so.

39. **OMISSION TO GIVE NOTICE AND NON-RECEIPT OF NOTICE**

The accidental omission to give notice of any meeting or to send an instrument of proxy (where this is intended to be sent out with the notice) to, or the non-receipt of either by, any person entitled to receive the same shall not invalidate the proceedings of that meeting.

40. **POSTPONEMENT OF GENERAL MEETING**

If the Board considers that it is impracticable or unreasonable to hold a general meeting on the date or at the time or place stated in the notice calling the meeting, it may postpone or move the meeting (or do both). The Board shall take reasonable steps to ensure that notice of the date, time and place of the rearranged meeting is given to any member trying to attend the meeting at the original time and place. Notice of the date, time and place of the rearranged meeting shall, if practicable, also be placed in at least two national newspapers published in the Republic of Kenya. Notice of the business to be transacted at such rearranged meeting shall not be required. If a meeting is rearranged in this way, appointments of proxy are valid if they are received as required by these Articles not less than 48 hours before the time appointed for holding the rearranged meeting and for the purpose of calculating this period, the Board can decide in their absolute discretion, not to take account of any part of a day that is not a working day. The Board may also postpone or move the rearranged meeting (or do both) under this Article.

41. **QUORUM AT GENERAL MEETING**

No business shall be transacted at any general meeting unless a quorum is present. If a quorum is not present a chairman of the meeting can still be chosen and this will not be treated as part of the business of the meeting. Two (2) members present in person or by proxy or by attorney or, in the case of a corporation, represented in accordance with Article 60 and entitled to attend and to vote on the business to be transacted and holding not less than one-tenth of the voting power shall be a quorum.

42. **PROCEDURE IF QUORUM NOT PRESENT**

If a quorum is not present within thirty minutes (or such longer interval as the chairman in his absolute discretion thinks fit) from the time appointed for holding a general meeting, or if a quorum ceases to be present during a meeting, the meeting shall be dissolved if convened on the requisition of members. In any other case, the meeting shall stand adjourned to another day, (not being less than ten clear days after the date of the original meeting), and at such time and place as the chairman (or, in default, the Board) may determine. If at such adjourned meeting a quorum is not present within thirty minutes from the time appointed for holding the meeting, one person entitled to vote on the business to be transacted, being a member or a proxy for a member or a duly authorised representative of a corporation which is a member, shall be a quorum and any notice of an adjourned meeting shall state this.

43. **CHAIRMAN OF GENERAL MEETING**

The chairman of the Board shall preside at every general meeting of the Company. If there is no such chairman or if at any meeting he shall not be present within fifteen minutes after the time appointed for holding the meeting, or shall be unwilling to act as chairman, the deputy chairman (if any) of the Board shall, if present and willing to act, preside at such meeting. If more than one deputy chairman is present they shall agree amongst themselves who is to take the chair or, if they cannot agree, the deputy chairman who has been in office as a director the longest shall take the chair. If no chairman or deputy chairman shall be so present and willing to act, the Directors present shall choose one of their number to act or, if there be only one Director present, he shall be chairman if willing to act. If there be no Director present and willing to act, the members present and entitled to vote shall choose one of their number to be chairman of the meeting. Nothing in these Articles shall restrict or exclude any of the powers or rights of a chairman of a meeting which are given by law.

44. **ENTITLEMENT TO ATTEND AND SPEAK**

A Director (and any other person invited by the chairman to do so) may attend and speak at any general meeting and at any separate meeting of the holders of any class of shares of the Company, whether or not he is a member.

45. **ADJOURNMENTS**

The chairman may, with the consent of a meeting at which a quorum is present, and shall, if so directed by the meeting, adjourn any meeting from time to time (or indefinitely) and from place to place as the meeting shall determine. However, without prejudice to any other power which he may have under these Articles or at common law, the chairman may, without the need for the consent of the meeting, interrupt or adjourn any meeting from time to time and from place to place or for an indefinite period if he is of the opinion that it has become necessary to do so in order to secure the proper and orderly conduct of the meeting or to give all persons entitled to do so a reasonable opportunity of attending, speaking and voting at the meeting or to ensure that the business of the meeting is properly disposed of.

46. **NOTICE OF ADJOURNMENT**

If the meeting is adjourned indefinitely or for more than thirty days, notice of the adjourned meeting shall be given in the same manner as in the case of the original meeting. Except as provided in these Articles, there is no need to give notice of the adjourned meeting or of the business to be considered there.

47. **BUSINESS OF ADJOURNED MEETING**

No business shall be transacted at any adjourned meeting other than the business which might properly have been transacted at the meeting from which the adjournment took place.

48. **SECURITY ARRANGEMENTS AND ORDERLY CONDUCT**

- 48.1 The Board may direct that any person wishing to attend any meeting should provide such evidence of identity and submit to such searches or other security arrangements or restrictions as the Board shall consider appropriate in the circumstances and shall be entitled in its absolute discretion to refuse entry to any meeting to any person who fails to provide such evidence of identity or to submit to such searches or to otherwise comply with such security arrangements or restrictions.
- 48.2 The chairman shall take such action or give directions as he thinks fit to promote the orderly conduct of the business of the meeting as laid down in the notice of the meeting and to ensure the security of the meeting and the safety of the people attending the meeting. The chairman's decision on matters of procedure or arising incidentally from the business of the meeting shall be final as shall be his determination as to whether any matter is of such a nature.

49. **OVERFLOW MEETING ROOMS**

- 49.1 The Board may, in accordance with this Article, make arrangements for members and proxies who are entitled to attend and participate in a general meeting, but who cannot be seated in the main meeting room where the chairman will be, to attend and take part in a general meeting in an overflow room or rooms. Any overflow room will have appropriate links to the main room and will enable audio-visual communication between the meeting rooms throughout the meeting. The Board will decide how to divide members and proxies between the main room and the overflow room. If an overflow room is used, the meeting will be treated as being held and taking place in the main meeting room and the meeting will consist of all the members and proxies who are attending both in the main meeting room and the overflow room.
- 49.2 Details of any arrangements for overflow rooms will be set out in the notice of the meeting but failure to do so will not invalidate the meeting.

50. **AMENDMENT TO RESOLUTIONS**

- 50.1 If an amendment to any resolution under consideration is proposed but is ruled out of order by the chairman of the meeting in good faith, any error in such ruling shall not invalidate the proceedings on the original resolution.
- 50.2 In the case of a resolution duly proposed as a special resolution, no amendment to it (other than an amendment to correct a patent error) may in any event be considered or voted on. In the case of a resolution duly proposed as an ordinary resolution no amendment to it (other than an amendment to correct a patent error) may be considered or voted on unless either at least 48 hours prior to the time appointed for holding the meeting or adjourned meeting at which such ordinary resolution is to be proposed, notice in writing of the terms of the amendment and intention to move the same has been lodged at the Office or received in electronic form at the electronic address at which the Company has or is deemed to have agreed to receive it or the chairman of the meeting in his absolute discretion decides that it may be considered or voted on.

51. **MEMBERS' RESOLUTIONS**

- 51.1 Members of the Company shall have the rights provided by the Statutes to have the Company circulate and give notice of a resolution which may be properly moved, and is intended to be moved, at the Company's next annual general meeting.
- 51.2 Expenses of complying with these rights shall be borne in accordance with the Statutes.

52. METHOD OF VOTING

- 52.1 At any general meeting a resolution put to a vote of the meeting shall be decided on a show of hands, unless (before or on the declaration of the result of the show of hands) a poll is duly demanded.
- 52.2 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.
- 52.3 Subject to the Companies Act, a poll may be demanded by:
- (a) the chairman of the meeting; or
 - (b) at least two members present in person (or by proxy) and entitled to vote at the meeting; or
 - (c) a member or members present in person (or by proxy) representing at least 10% of the total voting rights of all the members having the right to vote at the meeting; or
 - (d) a member or members present in person (or by proxy) holding shares conferring a right to vote at the meeting, being shares on which an aggregate sum has been paid up equal to at least 10% of the total sum paid up on all the shares conferring that right.
- 52.4 The chairman of the meeting may also demand a poll before a resolution is put to the vote on a show of hands.
- 52.5 At general meetings, resolutions shall be put to the vote by the chairman of the meeting and there shall be no requirement for the resolution to be proposed or seconded by any person.
- 52.6 Unless a poll is duly demanded and the demand is not withdrawn, a declaration by the chairman of the meeting that a resolution has on a show of hands been carried, or carried unanimously or by a particular majority, or lost, or not carried by a particular majority, and an entry to that effect in the book containing the minutes of proceedings of the Company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of or against such resolution.

53. OBJECTION TO ERROR IN VOTING

No objection shall be raised to the qualification of any voter or to the counting of, or failure to count, any vote, except at the meeting or adjourned meeting at which the vote objected to is given or tendered or at which the error occurs. Any objection or error shall be referred to the chairman of the meeting and shall only vitiate the decision of the meeting on any resolution if the chairman decides that the same is of sufficient magnitude to vitiate the resolution or may otherwise have affected the decision of the meeting. The decision of the chairman of the meeting on such matters shall be final and conclusive.

54. PROCEDURE ON A POLL

- 54.1 Any poll duly demanded on the election of a chairman or on any question of adjournment shall be taken immediately. A poll duly demanded on any other matter shall be taken in such manner (including the use of ballot or voting papers or tickets) and either immediately or at such time and place, not more than 30 days from the date of the meeting or adjourned meeting at which the poll was demanded, as the chairman shall direct. The chairman may appoint scrutineers who need not be members. It is not necessary to give notice of a poll not taken immediately if the time and place at which it is to be taken are announced at the meeting at which it is demanded. In any other case, at least seven clear days' notice shall be given

specifying the time, date and place at which the poll shall be taken. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

54.2 The demand for a poll (other than on the election of a chairman or any question of adjournment) shall not prevent the continuance of the meeting for the transaction of any business other than the question on which a poll has been demanded.

54.3 The demand for a poll may, before the poll is taken, be withdrawn, but only with the consent of the chairman of the meeting. A demand so withdrawn validates the result of a show of hands declared before the demand was made. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting shall continue as if the demand had not been made.

54.4 On a poll votes may be given in person or by proxy. A member entitled to more than one vote need not, if he votes, use all his votes or cast all the votes he uses in the same way.

55. **VOTES OF MEMBERS**

55.1 Subject to Article 55.2, the Companies Act, to any special terms as to voting on which any shares may have been issued or may for the time being be held and to any suspension or abrogation of voting rights under these Articles, at any general meeting every member who is present in person (or by proxy) shall on a show of hands have one vote and every member present in person (or by proxy) shall on a poll have one vote for each share of which he is the holder.

55.2 On a show of hands, a duly appointed proxy has one vote for and one vote against a resolution if the proxy has been appointed by more than one member entitled to vote on the resolution and the proxy has been instructed:

- (a) by one or more of those members to vote for the resolution and by one or more other of those members to vote against it; or
- (b) by one or more of those members to vote either for or against the resolution and by one or more other of those members to use his/her discretion as to how to vote.

55.3 If two or more persons are joint holders of a share, then in voting on any question the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders. For this purpose seniority shall be determined by the order in which the names of the holders stand in the Register.

55.4 Where in Kenya or elsewhere a receiver or other person (by whatever name called) has been appointed by any court claiming jurisdiction in that behalf to exercise powers with respect to the property or affairs of any member on the ground (however formulated) of mental disorder, the Board may in its absolute discretion, upon or subject to production of such evidence of the appointment as the Board may require, permit such receiver or other person on behalf of such member to vote in person, on a show of hands or on a poll, by proxy on behalf of such member at any general meeting or to exercise any other right conferred by membership in relation to meetings of the Company. Evidence to the satisfaction of the Board of the authority of the person claiming to exercise the right to vote shall be deposited at the Office, or at such other place as is specified in accordance with these Articles for the deposit of instruments of proxy, at least 48 hours before the time appointed for holding the meeting or adjourned meeting at which the right to vote is to be exercised and, in default, the right to vote shall not be exercisable.

55.5 In the case of equality of votes whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded shall be entitled to a casting vote.

56. NO RIGHT TO VOTE WHERE SUMS OVERDUE ON SHARES

No member may vote at a general meeting (or any separate meeting of the holders of any class of shares), either in person or by proxy, or to exercise any other right or privilege as a member in respect of a share held by him unless:

- (a) all calls or other sums presently due and payable by him in respect of that share whether alone or jointly with any other person together with interest and expenses (if any) have been paid to the Company; or
- (b) the Board determines otherwise.

57. VOTING BY PROXY

57.1 Subject to Article 57.2, an instrument appointing a proxy shall be in writing in any usual form (or in another form approved by the Board) executed under the hand of the appointor or his duly constituted attorney or, if the appointor is a corporation, under its seal or signed by a duly authorised officer or attorney or other person authorised to sign.

57.2 Subject to the Statutes, the Board may accept the appointment of a proxy received by electronic means on such terms and subject to such conditions as it considers fit. The appointment of a proxy received by electronic means shall not be subject to the requirements of Article 57.1.

57.3 For the purposes of Articles 57.1 and 57.2, the Board may require such reasonable evidence it considers necessary to determine:

- (a) the identity of the member and the proxy; and
- (b) where the proxy is appointed by a person acting on behalf of the member, the authority of that person to make the appointment.

57.4 A member may appoint another person as his proxy to exercise all or any of his rights to attend and to speak and to vote (both on a show of hands and on a poll) on a resolution or amendment of a resolution, or on other business arising, at a meeting or meetings of the Company. Unless the contrary is stated in it, the appointment of a proxy shall be deemed to confer authority to exercise all such rights, as the proxy thinks fit.

57.5 A proxy need not be a member.

57.6 A member may appoint more than one proxy in relation to a meeting, provided that each proxy is appointed to exercise the rights attached to different shares held by the member. When two or more valid but differing appointments of proxy are delivered or received for the same share for use at the same meeting, the one which is last validly delivered or received (regardless of its date or the date of its execution) shall be treated as replacing and revoking the other or others as regards that share. If the Company is unable to determine which appointment was last validly delivered or received, none of them shall be treated as valid in respect of that share.

57.7 Delivery or receipt of an appointment of proxy does not prevent a member attending and voting in person at the meeting or an adjournment of the meeting or on a poll.

57.8 The appointment of a proxy shall (unless the contrary is stated in it) be valid for an adjournment of the meeting as well as for the meeting or meetings to which it relates. The appointment of a proxy shall be valid for 12 months from the date of execution or, in the case of an appointment of proxy delivered by electronic means, for 12 months from the date of delivery unless otherwise specified by the Board.

57.9 An instrument appointing a proxy shall be in the following form or in any other form which the Directors may approve:

"UNGA GROUP Plc"

I/We, of, being a Member/Members of the above-named Company, hereby appoint of or failing him of whom failing, the duly appointed Chairman of the Meeting, as my/our proxy to vote for me/us on my/our behalf at the Annual/ General Meeting of the Company to be held on the day of 20 and at any adjournment thereof.

Signed this.....day of.....20.....

This form is to be used *in favour of/against the resolution. Unless otherwise instructed, the proxy will vote as he thinks fit.

**Strike out whichever is not desired'*

57.10 Where the Board considers in its discretion that it is desirable to afford the members an opportunity of voting for or against a resolution or a number of resolutions, the instrument appointing a proxy shall follow the form set out in the preceding Article or a form as near thereto as circumstances admit, but with the addition of the following phrases, either:

(a) “This form is to be used *in favour of/against the resolution. Unless otherwise instructed, the proxy may vote or abstain as he thinks fit.

**Strike out whichever is not desired”;*

or

(b) “Please indicate with an X in the spaces below how you wish your votes to be cast. Either place your X in the “For” column if you wish to vote in favour of the specified resolution, or place your X in the “Against” column if you wish to vote against the specified resolution. If you place an X in both columns in respect of the same resolution your vote shall be spoilt and shall not count. If you do not place an X against the resolution(s) the proxy may vote or abstain as he thinks fit.

	For/Yes	Against/No
<i>resolution 1</i>		
<i>resolution 2</i>		
<i>etc.”</i>		

58. **RECEIPT OF PROXY**

58.1 An instrument appointing a proxy and any reasonable evidence required by the Board in accordance with Article 57.3 shall:

(a) subject to Articles 58.1(c) and (d), in the case of an instrument of proxy in hard copy form, delivered to the office, or another place in Kenya specified in the notice convening the meeting or in the form of appointment of proxy or other accompanying document sent by the Company in relation to the meeting (a "**proxy notification address**") not at least 24 hours before the time

for holding the meeting or adjourned meeting at which the person named in the form of appointment of proxy proposes to vote;

- (b) subject to Articles 58.1(c) and (d), in the case of an appointment of a proxy sent by electronic means, where the Company has given an electronic address (a "**proxy notification electronic address**"):
 - (i) in the notice calling the meeting;
 - (ii) in an instrument of proxy sent out by the Company in relation to the meeting;
 - (iii) in an invitation to appoint a proxy issued by the Company in relation to the meeting; or
 - (iv) on a website maintained by or on behalf of the Company on which any information relating to the meeting is required by the Act to be kept,

it shall be received at such proxy notification electronic address at least 24 hours before the time for holding the meeting or adjourned meeting at which the person named in the form of appointment of proxy proposes to vote;

- (c) in the case of a poll taken more than 48 hours after it is demanded, delivered or received at a proxy notification address or a proxy notification electronic address and not less than 24 hours before the time appointed for the holding of the adjourned meeting or the taking of the poll; or
- (d) in the case of a poll which is not taken at the meeting at which it is demanded but is taken 48 hours or less after it is demanded, or in the case of an adjourned meeting to be held 48 hours or less after the time fixed for holding the original meeting, received:
 - (i) at a proxy notification address or a proxy notification electronic address in accordance with Articles 58.1(a) or (b);
 - (ii) by the chairman of the meeting or the secretary or any director at the meeting at which the poll is demanded or, as the case may be, at the original meeting; or
 - (iii) at a proxy notification address or a proxy notification electronic address by such time as the chairman of the meeting may direct at the meeting at which the poll is demanded.

In calculating the periods in this Article, no account shall be taken of any part of a day that is not a working day.

58.2 The Board may decide, either generally or in any particular case, to treat a proxy appointment as valid notwithstanding that the appointment or any of the information required under Article 57.3 has not been received in accordance with the requirements of this Article.

58.3 Subject to Article 58.2, if the proxy appointment and any of the information required under Article 57.3 is not received in the manner set out in Article 58.1, the appointee shall not be entitled to vote in respect of the shares in question.

58.4 Without limiting the foregoing, in relation to any uncertificated shares, the Board may from time to time:

- (a) permit appointments of a proxy by means of a communication sent in electronic form in the form of an uncertificated proxy instruction; and
- (b) permit supplements to, or amendments or revocations of, any such uncertificated proxy instruction by the same means.

The Board may in addition prescribe the method of determining the time at which any such uncertificated proxy instruction is to be treated as received by the Company or a participant acting on its behalf. The Board may treat any such uncertificated proxy instruction which purports to be or is expressed to be sent on behalf of a holder of a share as sufficient evidence of the authority of the person sending that instruction to send it on behalf of that holder.

59. **REVOCATION OF PROXY**

A vote given or poll demanded by a proxy shall be valid in the event of the death or mental disorder of the principal or the revocation of the instrument of proxy, or of the authority under which the instrument of proxy was executed, or the transfer of the share for which the instrument of proxy is given, unless notice in writing of such death, mental disorder, revocation or transfer shall have been received by the Company at the Office, or at such other place as has been appointed for the deposit of instruments of proxy, no later than the last time at which an appointment of a proxy should have been received in order for it to be valid for use at the meeting or on the holding of the poll at which the vote was given or the poll taken.

60. **CORPORATE REPRESENTATIVES**

60.1 A corporation (whether or not a company within the meaning of the Act) which is a member may, by resolution of its directors or other governing body, authorise such person as it thinks fit to act as its representative (or, as the case may be, representatives) at any meeting of the Company or at any separate meeting of the holders of any class of shares.

60.2 Any person so authorised shall be entitled to exercise the same powers on behalf of the corporation (in respect of that part of the corporation's holdings to which the authority relates) as the corporation could exercise if it were an individual member.

60.3 The corporation shall for the purposes of these Articles be deemed to be present in person and at any such meeting if a person so authorised is present at it, and all references to attendance and voting in person shall be construed accordingly.

60.4 A Director, the Secretary or some person authorised for the purpose by the Secretary may require the representative to produce a certified copy of the resolution so authorising him or such other evidence of his authority reasonably satisfactory to them before permitting him to exercise his powers.

60.5 A vote given or a poll demanded by a corporate representative shall be valid notwithstanding that he is no longer authorised to represent the member unless notice of the revocation of appointment was delivered in writing to the Company at such place or address and by such time as is specified in Article 59 for the revocation of the appointment of a proxy.

61. **FAILURE TO DISCLOSE INTERESTS IN SHARES**

61.1 If a member, or any other person appearing to be interested in shares held by that member, has been issued with a notice under section 536 of the Act (**section 536 notice**) and the member or such other person appearing to be interested in shares has failed in relation to any shares (**default shares**, which expression includes any shares issued after the date of such notice in right of those shares) to give the Company the information required by the section 536 notice within the prescribed period from the service of the notice, the following sanctions shall apply unless the Board determines otherwise:

- (a) the member shall not be entitled in respect of the default shares to be present or to vote (either in person or by representative or proxy) at any general meeting or at any separate meeting of the holders of any class of shares or on any poll or to exercise any other right conferred by membership in relation to any such meeting or poll;

- (b) no dividend shall be payable on the default shares; and
 - (c) no transfer, other than an excepted transfer, of any shares held by the member shall be registered unless the member himself is not in default of supplying the required information and the member proves to the satisfaction of the Board that no person in default of supplying such information is interested in any of the shares that are the subject of the transfer.
- 61.2 Where the sanctions under Article 61.1 apply in relation to any shares, they shall cease to have effect (and any dividends withheld under Article 61.1(b) shall become payable):
- (a) if the shares are transferred by means of an excepted transfer but only in respect of the shares transferred; or
 - (b) at the end of the period of seven days (or such shorter period as the Board may determine) following receipt by the Company of the information required by the section 536 notice and the Board being fully satisfied that such information is full and complete.
- 61.3 Where, on the basis of information obtained from a member in respect of any share held by him, the Company issues a section 536 notice to any other person, it shall at the same time send a copy of the notice to the member, but the accidental omission to do so, or the non-receipt by the member of the copy, shall not invalidate or otherwise affect the application of Article 61.1.
- 61.4 For the purposes of this Article:
- (a) a person, other than the member holding a share, shall be treated as appearing to be interested in that share if the member has informed the Company that the person is, or may be, so interested, or if the Company (after taking account of any information obtained from the member or, pursuant to a section 536 notice, from anyone else) knows or has reasonable cause to believe that the person is, or may be, so interested;
 - (b) **interested** shall be construed as it is for the purpose of section 536 of the Act;
 - (c) reference to a person having failed to give the Company the information required by a notice, or being in default as regards supplying such information, includes reference:
 - (i) to his having failed or refused to give all or any part of it; and
 - (ii) to his having given information which he knows to be false in a material particular or having recklessly given information which is false in a material particular;
 - (d) **prescribed period** means 14 days;
 - (e) **excepted transfer** means, in relation to any shares held by a member:
 - (i) a transfer by way of or pursuant to acceptance of a takeover offer for the Company; or
 - (ii) a transfer in consequence of a sale made through a recognised investment exchange or any other stock exchange outside Kenya on which the Company's shares are normally traded; or
 - (iii) a transfer which is shown to the satisfaction of the Board to be made in consequence of a sale of the whole of the beneficial interest in the shares to a person who is unconnected with the member and with any other person appearing to be interested in the shares.

61.5 Nothing contained in this Article shall be taken to limit the powers of the Company under section 537 of the Act.

62. POWER OF SALE OF SHARES OF UNTRACED MEMBERS

62.1 The Company shall, as required by the Unclaimed Financial Assets Act, deliver or pay to the Unclaimed Financial Assets Authority any unclaimed assets including but not limited to shares and dividends in the Company presumed to be abandoned or unclaimed in law and any dividends remaining unclaimed beyond prescribed statutory periods and the Board may perform such acts as may be necessary to effect such delivery or payment. Upon such delivery or payment, the unclaimed assets shall cease to remain owing by the Company and the Company shall no longer be responsible to the Member or his or her estate, for the relevant unclaimed assets.

62.2 To give effect to any sale of shares under this Article, the Board may authorise some person to transfer the shares in question and may enter the name of the transferee in respect of the transferred shares in the Register even if no share certificate has been lodged for such shares and may issue a new certificate to the transferee. An instrument of transfer executed by that person shall be as effective as if it had been executed by the holder of, or the person entitled by transmission to, the shares. The buyer shall not be bound to see to the application of the purchase monies, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale. If the shares are in uncertificated form, in accordance with the uncertificated securities rules, the Board may issue a written notification to the Operator requiring the conversion of the share to certificated form.

63. NUMBER OF DIRECTORS

Unless otherwise determined by the Company by ordinary resolution, the number of Directors (other than any alternate Directors) shall be at least five (5) and not more than ten (10).

64. POWER OF COMPANY TO APPOINT DIRECTORS

Subject to these Articles and the Statutes, the Company may by ordinary resolution appoint a person who is willing to act to be a Director, either to fill a vacancy or as an addition to the existing Board but the total number of Directors shall not exceed any maximum number fixed in accordance with these Articles.

65. POWER OF BOARD TO APPOINT DIRECTORS

Subject to these Articles, the Board shall have power at any time to appoint any person who is willing to act as a Director, either to fill a vacancy or as an addition to the existing Board but the total number of Directors shall not exceed any maximum number fixed in accordance with these Articles.

66. ELIGIBILITY OF NEW DIRECTORS

66.1 Subject to Article 70.1, no person, other than a retiring Director (by rotation or otherwise), shall be appointed or re-appointed a Director at any general meeting unless:

- (a) he is recommended by the Board; or
- (b) at least three but not more than 14 clear days before the date appointed for the meeting the Company has received notice from a member (other than the person proposed) entitled to vote at the meeting of his intention to propose a resolution for the appointment or re-appointment of that person, stating the particulars which would, if he were so appointed or re-appointed, be required to be included in the Company's register of directors and a notice executed by that person of his willingness to be appointed or re-appointed, is lodged at the Office.

66.2 A Director need not be a member of the Company.

67. **RETIREMENT OF DIRECTORS**

67.1 At each Annual General Meeting one-third of the Directors, other than executive Directors, for the time being or, if their number is not a multiple of three, the number nearest to but not greater than one-third shall retire from office. A Director retiring at a meeting shall retain office until the close of the meeting, whether adjourned or not.

67.2 The Directors to retire in every year shall be those who

- (i) have been appointed by the Board since the previous Annual General Meeting in accordance with Article 65;
- (ii) being subject to retirement by rotation, have been the longest in office since their election or appointment. For persons who became or were last re-elected Directors on the same day, those to retire shall (unless they otherwise agree among themselves) be determined by lot.

67.3 A Director who retires at an Annual General Meeting, or at any other meeting of the Board or the Members, shall (unless he is removed from office or his office is vacated in accordance with these Articles) retain office until the close of the meeting at which he retires.

67.4 A retiring Director shall be eligible for re-election.

68. **DEEMED RE-APPOINTMENT**

The Company at any meeting at which a Director retires in accordance with these Articles may by ordinary resolution fill the vacated office by electing a person thereto. 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 his intention to decline reappointment to the office. However, a retiring Director is not regarded as having been reappointed to the office if (i) at the meeting at which the Director retires, it is expressly resolved not to fill the vacated office; or (ii) a resolution for the reappointment of the Director has been put to the meeting and lost.

69. **REMOVAL OF DIRECTORS**

In addition to any power of removal conferred by the Statutes, the Company may by ordinary resolution of which special notice has been given in accordance with section 139(2) of the Act, remove a director before the expiry of his period of office (without prejudice to a claim for damages for breach of contract or otherwise) and may (subject to these Articles) by ordinary resolution appoint another person who is willing to be a Director in his place.

70. **VACATION OF OFFICE BY DIRECTOR**

70.1 Without prejudice to the provisions for retirement (by rotation or otherwise) contained in these Articles, the office of a Director shall be vacated if:

- (a) he resigns by notice in writing delivered to the Company;
- (b) he ceases to be a Director by virtue of any provision of the Statutes, is removed from office pursuant to these Articles or the Act or becomes prohibited by law from being a Director;
- (c) he becomes bankrupt or makes an arrangement or composition with his creditors generally;
- (d) he has become physically or mentally incapable of acting as a Director and may remain so for more than three months, or he is or has been suffering from mental or physical ill health and the Board resolves that his office be vacated;

- (e) he is absent (whether or not his alternate Director appointed by him attends), without the permission of the Board, from three consecutive meetings of the Board and the Board resolves, subject to these Articles that, by reason of such failure, he shall cease to be a Directors;
- (f) he is requested in writing by all his co-Directors to resign; and
- (g) being the managing Director, or any other executive Director his appointment as such shall be terminated by the Board.

70.2 If the office of a Director is vacated for any reason, he shall cease to be a member of any committee or sub-committee of the Board, as well as holding any position in any subsidiary, affiliate entity or pension fund, employee share ownership scheme where he held such position by virtue of being a Director.

71. RESOLUTION AS TO VACANCY CONCLUSIVE

A resolution of the Board declaring a Director to have vacated office under the terms of Article 70 shall be conclusive as to the fact and ground of vacation stated in the resolution.

72. APPOINTMENT OF ALTERNATE DIRECTORS

72.1 Each Director may appoint any person (including another Director) to be his alternate and may at his discretion remove an alternate Director so appointed. Any appointment or removal of an alternate Director must be by written notice delivered to the Office or at an address specified by the Company for the purposes of communication by electronic means or tendered at a Board meeting or in any other manner approved by the Board. The appointment requires the approval of the Board unless it has been previously approved or the appointee is another Director.

72.2 An alternate Director must provide the particulars, and sign any form for public filing required by the Companies Act relating to his appointment.

73. ALTERNATE DIRECTORS' PARTICIPATION IN BOARD MEETINGS

73.1 Every alternate Director is (subject to his giving to the Company an address within Kenya at which notices may be served on him (and, if applicable, an address in relation to which electronic communications may be received by him)) entitled to receive notice of all meetings of the Board and all committees of the Board of which his appointor is a member and, in his appointor's absence, to attend and vote at such meetings and to exercise all the powers, rights, duties and authorities of his appointor. Each person acting as an alternate Director shall have a separate vote at Board meetings for each Director for whom he acts as alternate Director in addition to his own vote if he is also a Director, but he shall count as only one for the purpose of determining whether a quorum is present.

73.2 Signature by an alternate Director of any resolution in writing of the Board or a committee of the Board shall, unless the notice of his appointment provides otherwise, be as effective as signature by his appointor.

74. ALTERNATE DIRECTOR RESPONSIBLE FOR OWN ACTS

Each person acting as an alternate Director will be an officer of the Company, will alone be responsible to the Company for his own acts and defaults and will not be deemed to be the agent of the Director appointing him.

75. INTERESTS OF ALTERNATE DIRECTOR

An alternate Director is entitled to contract and be interested in and benefit from contracts or arrangements with the Company, to be repaid expenses and to be indemnified to the same extent as if he were a Director.

However, he is not entitled to receive from the Company any fees for his services as alternate, except such part (if any) of the fee payable to his appointor as such appointor may by written notice to the Company direct.

76. **REVOCATION OF ALTERNATE DIRECTOR**

An alternate Director shall cease to be an alternate Director:

- (a) if his appointor revokes his appointment; or
- (b) if he resigns his office by notice in writing to the Company; or
- (c) if his appointor ceases for any reason to be a Director, provided that if any Director retires but is re-appointed or deemed to be re-appointed at the same meeting, any valid appointment of an alternate Director which was in force immediately before his retirement shall remain in force; or
- (d) if any event happens in relation to him which, if he were a Director otherwise appointed, would cause him to vacate his office.

77. **DIRECTORS' FEES**

Each of the Directors may be paid a fee at such rate as may from time to time be determined by the Board. Any fees payable under this Article shall be distinct from any salary, remuneration or other amounts payable to a Director under any other provisions of these Articles and shall accrue from day to day.

78. **EXPENSES**

Each Director may be paid his reasonable travelling, hotel and other expenses properly incurred by him in or about the performance of his duties as Director, including any expenses incurred in attending meetings of the Board or any committee of the Board or general meetings or separate meetings of the holders of any class of shares or debentures of the Company. Subject to the Act, the Directors shall have the power to make arrangements to provide a Director with funds to meet expenditure incurred or to be incurred by him for the purposes of the Company or for the purpose of enabling him to perform his duties as an officer of the Company or to enable him to avoid incurring any such expenditure.

79. **ADDITIONAL REMUNERATION**

If by arrangement with the Board any Director shall perform or render any special duties or services outside his ordinary duties as a Director and not in his capacity as a holder of employment or executive office, he may be paid such reasonable additional remuneration (whether by way of salary, commission, participation in profits or otherwise) as the Board may determine.

80. **REMUNERATION OF EXECUTIVE DIRECTORS**

The salary or remuneration of any Director appointed to hold any employment or executive office in accordance with these Articles may be either a fixed sum of money, or may altogether or in part be governed by business done or profits made or otherwise determined by the Board, and may be in addition to or instead of any fee payable to him for his services as Director under these Articles.

81. **PENSIONS AND OTHER BENEFITS**

- 81.1 The Board may grant pensions, annuities, gratuities or other allowances on death, sickness, disability or retirement or share options or other employee share ownership participations to any person who is or has been employed by or in the service of the Company or of its holding company or any subsidiary company of the Company or to any person who is or has been a Director or other officer of the Company or of its holding company or any such subsidiary company and to the widow, family or dependants of any such

person. The Board may establish and maintain or concur with such holding or subsidiary company (if any) as aforesaid in establishing and maintaining any schemes or funds for providing such benefits as aforesaid and may pay out of the funds of the Company any premiums, contributions or sums payable by the Company under the provisions of any such scheme, options or fund.

- 81.2 The Board may establish, maintain, subscribe and contribute to any scheme, institution, association, club, trust or fund and pay premiums and, subject to the Statutes, lend money or make payments to, guarantee or give an indemnity in respect of, or give any financial or other assistance in connection with any of the matters set out in Article 81.1 above. The Board may procure any of such matters to be done by the Company either alone or in conjunction with any other person. Any Director or former Director shall be entitled to receive and retain for his own benefit any pension or other benefit provided under this Article and shall not have to account for it to the Company. The receipt of any such benefit will not disqualify any person from being or becoming a Director of the Company.

82. POWERS OF THE BOARD

- 82.1 Subject to the Statutes, these Articles and to any directions given by resolution of the Company, the business of the Company will be managed by the Board, which may exercise all the powers of the Company, whether relating to the management of the business or not.
- 82.2 No alteration of these Articles and no such direction given by the Company shall invalidate any prior act of the Board which would have been valid if such alteration had not been made or such direction had not been given. Provisions contained elsewhere in these Articles as to any specific power of the Board shall not be deemed to limit the general powers given by this Article.

83. POWERS OF DIRECTORS IF LESS THAN MINIMUM NUMBER

If the number of Directors is less than the minimum prescribed in Article 63 or decided by the Company by ordinary resolution, the remaining Director or Directors may act only for the purposes of appointing an additional Director or Directors to make up that minimum or convening a general meeting of the Company for the purpose of making such appointment. If no Director or Directors is or are able or willing to act, two members may convene a general meeting for the purpose of appointing Directors. An additional Director appointed in this way holds office (subject to these Articles) only until the dissolution of the next annual general meeting after his appointment unless he is reappointed during the annual general meeting.

84. EXECUTIVE DIRECTORS

- 84.1 The Directors may from time to time appoint one or more of their body to be the holder of any executive office on such terms and for such period as they may (subject to the provisions of the Statutes) determine and, without prejudice to the terms of any contract entered into in any particular case, may at any time revoke any such appointment.
- 84.2 The appointment of any Director to any other executive office shall automatically determine if he ceases from any cause to be a Director, unless the contract or resolution under which he holds office shall expressly state otherwise. Such determination shall be without prejudice to any claim for damages for breach of any contract of service between him and the Company.
- 84.3 The Directors may entrust to and confer upon any Director holding any executive office any of the powers exercisable by them as Directors upon such terms and conditions and with such restrictions as they think fit, and either collaterally with or to the exclusion of their own powers, and may from time to time revoke, withdraw, alter or vary all or any of such powers.

84.4 An executive Director shall receive such remuneration (whether by way of salary, commission, participation in profits or otherwise) as the Board may determine and either in addition to or in lieu of his remuneration as a Director.

85. **DELEGATION TO COMMITTEES**

85.1 The Board may delegate any of its powers, authorities and discretions (with power to sub-delegate) for such time on such terms and subject to such conditions as it thinks fit to any committee consisting of one or more Directors and (if thought fit) one or more other persons provided that:

- (a) a majority of the members of a committee shall be Directors; and
- (b) no resolution of a committee shall be effective unless a majority of those present when it is passed are Directors or alternate Directors.

85.2 The Board may confer such powers either collaterally with, or to the exclusion of and in substitution for, all or any of the powers of the Board in that respect and may revoke, withdraw, alter or vary any such powers and discharge any such committee in whole or in part. Insofar as any power, authority or discretion is so delegated, any reference in these Articles to the exercise by the Board of such power, authority or discretion shall be construed as if it were a reference to the exercise of such power, authority or discretion by such committee.

86. **POWER OF ATTORNEY**

The Board may, by power of attorney or otherwise, appoint any person or persons to be the agent or attorney of the Company and may delegate to any such person or persons any of its powers, authorities and discretions (with power to sub-delegate), in each case for such purposes and for such time, on such terms (including as to remuneration) and conditions as it thinks fit. The Board may confer such powers either collaterally with, or to the exclusion of and in substitution for, all or any of the powers of the Board in that respect and may revoke, withdraw, alter or vary any of such powers.

87. **EXERCISE OF VOTING POWER**

The Board may exercise or cause to be exercised the voting power conferred by the shares in any other company held or owned by the Company, or any power of appointment to be exercised by the Company, in such manner as it thinks fit (including the exercise of the voting power or power of appointment in favour of the appointment of any Director as a director or other officer or employee of such company or in favour of the payment of remuneration to the directors, officers or employees of such company).

88. **OVERSEAS REGISTERS**

Subject to the Statutes, the Company may keep an overseas, local or other register and the Board may make and vary such regulations as it thinks fit respecting the keeping of any such register.

89. **LOCAL BOARDS**

Subject to Article 85, 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 managers or agents and may fix their remuneration and may delegate to any local board, manager or agent any of the powers, authorities and discretions vested in the Board, with power to sub-delegate, and may authorise the members of any local board or any of them to fill any vacancies therein and to act notwithstanding vacancies. 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 any such delegation but no person dealing in good faith and without notice of any such annulment or variation shall be affected thereby.

90. BORROWING POWERS

Subject to these Articles and the Statutes, the Board may exercise all the powers of the Company to:

- (a) borrow money;
- (b) indemnify and guarantee;
- (c) mortgage or charge all or any part of the undertaking, property and assets (present and future) and uncalled capital of the Company;
- (d) create and issue debentures and other securities; and
- (e) give security either outright or as collateral security for any debt, liability or obligation of the Company or of any third party.

91. BOARD MEETINGS

- 91.1 The Directors shall decide when and where to have meetings and how they will be conducted. They may also adjourn meetings.
- 91.2 A Board meeting can be called by any Director. The Secretary must call a Board meeting if asked to do so by a Director.

92. NOTICE OF BOARD MEETINGS

- 92.1 Notice of a Board meeting shall be deemed to be duly given to a Director if it is given to him personally or by word of mouth or given in writing or by electronic means to him at his last known address or any other address given by him to the Company for that purpose.
- 92.2 A Director may waive the requirement that notice be given to him of any Board meeting, either prospectively or retrospectively and any retrospective waiver shall not affect the validity of the meeting or of any business conducted at the meeting.

93. QUORUM

- 93.1 The quorum necessary for the transaction of business shall be more than one half of the number of Directors for the time being holding office or their alternates. A duly convened meeting of the Board at which a quorum is present shall be competent to exercise all or any of the authorities, powers, and discretions for the time being vested in or exercisable by the Board.
- 93.2 If a Director ceases to be a director at a Board meeting, he can continue to be present and to act as a director and be counted in the quorum until the end of the meeting if no other Director objects and if otherwise a quorum of Directors would not be present.

94. CHAIRMAN AND DEPUTY CHAIRMAN

- 94.1 The Board may appoint one or more of its body as chairman and one or more of its body as deputy chairman of its meetings and may determine the period for which he is or they are to hold office and may at any time remove him or them from office.
- 94.2 If no such chairman or deputy chairman is elected, or if at any meeting neither a chairman nor a deputy chairman is present within fifteen minutes of the time appointed for holding the same, the Directors present shall choose one of their number to be chairman of such meeting. In the event two or more joint

Chairmen or, in the absence of a chairman, two or more deputy chairman being present, the joint chairman or deputy chairman to act as chairman of the meeting shall be decided by those Directors present.

95. **VOTING**

Questions arising at any Board meeting shall be determined by a majority of votes. In the case of an equality of votes the chairman of that meeting shall have a second or casting vote.

96. **PARTICIPATION BY TELEPHONE OR OTHER FORM OF COMMUNICATION**

96.1 Any Director or his alternate may validly participate in a meeting of the Board or a committee of the Board through the medium of conference telephone or any other form of communications equipment (whether in use when these Articles are adopted or developed subsequently), provided that all persons participating in the meeting are able to hear and speak to each other throughout such meeting.

96.2 A person so participating by telephone or other communication shall be deemed to be present in person at the meeting and shall be counted in a quorum and entitled to vote. Such a meeting shall be deemed to take place where the largest group of those participating is assembled or, if there is no group which is larger than any other group, where the chairman of the meeting then is.

96.3 A resolution passed at any meeting held in the above manner, and signed by the chairman of the meeting, shall be as valid and effectual as if it had been passed at a meeting of the Board (or committee, as the case may be) duly convened and held.

97. **RESOLUTION IN WRITING**

97.1 Any director, or the company secretary, may propose a directors' written resolution. A directors' written resolution is proposed by giving notice of the proposed resolution to each director. 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.

97.2 A resolution in writing signed or confirmed electronically by all the Directors for the time being entitled to receive notice of a Board meeting and to vote on the resolution and not being less than a quorum (or by all the members of a committee of the Board for the time being entitled to receive notice of such committee meeting and to vote on the resolution and not being less than a quorum of that committee), shall be as valid and effective for all purposes as a resolution duly passed at a meeting of the Board (or committee, as the case may be).

97.3 It is immaterial whether any Director signs the resolution before or after the time by which the notice proposed that it should be adopted.

97.4 Such a resolution may consist of several documents or electronic communications in the same form each signed or authenticated by one or more of the Directors or members of the relevant committee.

98. **PROCEEDINGS OF COMMITTEES**

All committees of the Board shall, in the exercise of the powers delegated to them and in the transaction of business, conform with any mode of proceedings and regulations which the Board may prescribe and subject to this shall be governed by such of these Articles as regulate the proceedings of the Board as are capable of applying.

99. **MINUTES OF PROCEEDINGS**

99.1 The Board shall keep minutes of all shareholder meetings, all Board meetings and meetings of committees of the Board. The minutes must include the names of the Directors present.

99.2 Any such minutes, if purporting to be signed by the chairman of the meeting at which the proceedings were held or by the chairman of the next meeting or the Secretary, shall be evidence of the matters stated in such minutes without any further proof.

100. **VALIDITY OF PROCEEDINGS**

All acts done by a meeting of the Board, or of a committee of the Board, or by any person acting as a Director, alternate Director or member of a committee shall be valid even if it is discovered afterwards that there was some defect in the appointment of any person or persons acting, or that they or any of them were or was disqualified from holding office or not entitled to vote, or had in any way vacated their or his office.

101. **TRANSACTIONS OR OTHER ARRANGEMENTS WITH THE COMPANY**

101.1 Subject to the Companies Act and provided he has declared the nature and extent of his interest in accordance with the requirements of the Statutes, a Director who is in any way, whether directly or indirectly, interested in an existing or proposed transaction or arrangement with the Company may:

- (a) be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise (directly or indirectly) interested;
- (b) act by himself or through his firm in a professional capacity for the Company (otherwise than as auditor) and he or his firm shall be entitled to remuneration for professional services as if he were not a Director;
- (c) be or become a director or other officer of, or employed by, or a party to a transaction or arrangement with, or otherwise interested in, any body corporate in which the Company is otherwise (directly or indirectly) interested; and
- (d) hold any office or place of profit with the Company (except as auditor) in conjunction with his office of Director for such period and upon such terms, including as to remuneration as the Board may decide.

101.2 A Director shall not, save as he may otherwise agree, be accountable to the Company for any benefit which he derives from any such contract, transaction or arrangement or from any such office or employment or from any interest in any such body corporate and no such contract, transaction or arrangement shall be liable to be avoided on the grounds of any such interest or benefit nor shall the receipt of any such remuneration or other benefit constitute a breach of his duty under the Act.

102. **AUTHORISATION OF DIRECTORS' CONFLICTS OF INTEREST**

102.1 The Board may, in accordance with the requirements set out in this Article, authorise any matter or situation proposed to them by any Director which would, if not authorised, involve a Director (an **Interested Director**) breaching his duty under the Act to avoid conflicts of interest.

102.2 A Director seeking authorisation in respect of a conflict of interest shall declare to the Board the nature and extent of his interest in a conflict of interest as soon as is reasonably practicable. The Director shall provide the Board with such details of the matter as are necessary for the Board to decide how to address the conflict of interest together with such additional information as may be requested by the Board.

102.3 Any authorisation under this article shall be effective only if:

- (a) to the extent permitted by the Act, the matter in question shall have been proposed by any Director for consideration in the same way that any other matter may be proposed to the Directors under the provisions of these Articles;
- (b) any requirement as to the quorum for consideration of the relevant matter is met without counting the Interested Director and any other interested Director; and
- (c) the matter is agreed to without the Interested Director voting or would be agreed to if the Interested Director's and any other interested Director's vote is not counted.

102.4 Any authorisation of a conflict of interest under this Article must be recorded in writing (but the authority shall be effective whether or not the terms are so recorded) and may (whether at the time of giving the authorisation or subsequently):

- (a) extend to any actual or potential conflict of interest which may reasonably be expected to arise out of the matter or situation so authorised;
- (b) provide that the Interested Director be excluded from the receipt of documents and information and the participation in discussions (whether at meetings of the Directors or otherwise) related to the conflict of interest;
- (c) impose upon the Interested Director such other terms for the purposes of dealing with the conflict of interest as the Directors think fit;
- (d) provide that, where the Interested Director obtains, or has obtained (through his involvement in the conflict of interest and otherwise than through his position as a Director) information that is confidential to a third party, he shall not be obliged to disclose that information to the Company, or to use it in relation to the Company's affairs where to do so would amount to a breach of that confidence; and
- (e) permit the Interested Director to absent himself from the discussion of matters relating to the conflict of interest at any meeting of the Directors and be excused from reviewing papers prepared by, or for, the Directors to the extent they relate to such matters.

102.5 Where the Directors authorise a conflict of interest, the Interested Director shall be obliged to conduct himself in accordance with any terms and conditions imposed by the Directors in relation to the conflict of interest.

102.6 The Directors may revoke or vary such authorisation at any time, but this shall not affect anything done by the Interested Director, prior to such revocation or variation, in accordance with the terms of such authorisation.

102.7 A Director is not required, by reason of being a Director (or because of the fiduciary relationship established by reason of being a director), to account to the Company for any remuneration, profit or other benefit which he derives from or in connection with a relationship involving a conflict of interest which has been authorised by the directors or by the Company in general meeting (subject in each case to any terms, limits or conditions attaching to that authorisation) and no contract shall be liable to be avoided on such grounds.

103. **DIRECTORS' PERMITTED INTERESTS**

103.1 A Director cannot vote or be counted in the quorum on any resolution relating to any transaction or arrangement with the Company in which he has an interest and which may reasonably be regarded as likely to give rise to a conflict of interest but can vote (and be counted in the quorum) on the following:

- (a) giving him any security, guarantee or indemnity for any money or any liability which he, or any other person, has lent or obligations he or any other person has undertaken at the request, or for the benefit, of the Company or any of its subsidiary undertakings;
- (b) giving any security, guarantee or indemnity to any other person for a debt or obligation which is owed by the Company or any of its subsidiary undertakings, to that other person if the Director has taken responsibility for some or all of that debt or obligation. The Director can take this responsibility by giving a guarantee, indemnity or security;
- (c) a proposal or contract relating to an offer of any shares or debentures or other securities for subscription or purchase by the Company or any of its subsidiary undertakings, if the Director takes part because he is a holder of shares, debentures or other securities, or if he takes part in the underwriting or sub-underwriting of the offer;
- (d) any arrangement for the benefit of employees of the Company or any of its subsidiary undertakings which only gives him benefits which are also generally given to employees to whom the arrangement relates;
- (e) any arrangement involving any other company if the Director (together with any person connected with the Director) has an interest of any kind in that company (including an interest by holding any position in that company or by being a shareholder of that company). This does not apply if he knows that he has a Relevant Interest.
- (f) a contract relating to insurance which the Company can buy or renew for the benefit of the Directors or a group of people which includes Directors; and
- (g) a contract relating to a pension, superannuation or similar scheme or a retirement, death, disability benefits scheme or employees' share scheme which gives the Director benefits which are also generally given to the employees to whom the scheme relates.
- (h) to any contract or dealing in which the Director is interested by reason only of his being a director or other officer, employee or nominee of any government or corporation or company which, being a Member of the Company or holding shares in a corporation or company which is a Member of the Company, is interested in such contract or dealing whether directly or indirectly and this exception shall not cease to have effect merely by reason of the fact that the Director is also a shareholder or creditor of any such government, corporation or company or of any corporation or company in which it is interested.

103.2 A Director cannot vote or be counted in the quorum on a resolution relating to his own appointment or the settlement or variation of the terms of his appointment to an office or place of profit with the Company or any other company in which the Company has an interest.

103.3 Where the Directors are considering proposals about the appointment, or the settlement or variation of the terms or the termination of the appointment of two or more Directors to other offices or places of profit with the Company or any company in which the Company has an interest, a separate resolution may be put in relation to each Director and in that case each of the Directors concerned shall be entitled to vote and be counted in the quorum in respect of each resolution unless it concerns his own appointment or the settlement or variation of the terms or the termination of his own appointment or the appointment of another director to an office or place of profit with a company in which the Company has an interest and the Director seeking to vote or be counted in the quorum has a Relevant Interest in it.

- 103.4 A company shall be deemed to be one in which the Director has a **Relevant Interest** if and so long as (but only if and so long as) he is to his knowledge (either directly or indirectly) the holder of or beneficially interested in one per cent or more of any class of the equity share capital of that company (calculated exclusive of any shares of that class in that company held as treasury shares) or of the voting rights available to members of that company. In relation to an alternate Director, an interest of his appointor shall be treated as an interest of the alternate Director without prejudice to any interest which the alternate Director has otherwise. Where a company in which a Director has Relevant Interest is interested in a contract, he also shall be deemed interested in that contract.
- 103.5 If a question arises at a Board meeting about whether a Director (other than the chairman of the meeting) has an interest which is likely to give rise to a conflict of interest, or whether he can vote or be counted in the quorum, and the Director does not agree to abstain from voting on the issue or not to be counted in the quorum, the question must be referred to the chairman of the meeting. The chairman's ruling about the relevant Director is final and conclusive, unless the nature and extent of the Director's interests have not been fairly disclosed to the Directors. If the question arises about the chairman of the meeting, the question must be directed to the Directors. The chairman cannot vote on the question but can be counted in the quorum. The Directors' resolution about the chairman is final and conclusive, unless the nature and extent of the chairman's interests have not been fairly disclosed to the Directors.

104. **GENERAL**

For the purposes of Articles 100 to 103 inclusive (which shall apply equally to alternate Directors):

- 104.1 An interest of a person who is connected (which word shall have the meaning given to it by section 122 of the Act) with a Director shall be treated as an interest of the Director.
- 104.2 A contract includes references to any proposed contract and to any transaction or arrangement or proposed transaction or arrangement whether or not consulting a contract.
- 104.3 A conflict of interest includes a conflict of interest and duty and a conflict of duties.
- 104.4 Subject to the Companies Act, the Company may by ordinary resolution suspend or relax the provisions of Articles 100 to 103 to any extent or ratify any contract not properly authorised by reason of a contravention of any of the provisions of Articles 100 to 103.

105. **POWER TO AUTHENTICATE DOCUMENTS**

Any Director, the Secretary or any person appointed by the Board for the purpose shall have power to authenticate any documents affecting the constitution of the Company and any resolution passed by the Company or the Board or any committee, and any books, records, documents and accounts relating to the business of the Company, and to certify copies or extracts as true copies or extracts. Where any books, records, documents or accounts are not at the Office, the local manager or other officer of the Company who has their custody shall be deemed to be a person appointed by the Board for this purpose. A document purporting to be a copy of a resolution, or an extract from the minutes of a meeting, of the Company or the Board or any committee which is so certified shall be conclusive evidence in favour of all persons dealing with the Company that such resolution has been duly passed or, as the case may be, that any minute so extracted is a true and accurate record of proceedings at a duly constituted meeting.

106. **APPOINTMENT AND REMOVAL OF COMPANY SECRETARY**

The company secretary, who shall be a member of the Institute of Certified Public Secretaries of Kenya established under the Certified Public Secretaries of Kenya Act (Cap 534 of the laws of Kenya), shall be appointed by the Directors on such terms and for such period as they may think fit. Any Secretary so

appointed may at any time be removed from office by the Directors, but without prejudice to any claim for damages for breach of any contract of service between him and the Company. If thought fit two or more persons may be appointed as joint secretaries. The Directors may also appoint from time to time on such terms as they may think fit one or more deputy or assistant secretaries.

107. USE OF SEALS

107.1 The Board shall provide for the safe custody of the Seal. A Seal shall not be used without the authority of the Board or of a committee of the Board so authorised.

107.2 Subject as otherwise provided in these Articles, or unless otherwise decided by the directors every document which is sealed using the Seal must be signed by at least one Director and one other authorised person. An authorised person for this purpose is any Director, the Secretary or any other person authorised by the Directors for the purpose of signing documents to which the Seal is applied.

107.3 The Board may decide for what means and in what form a common seal or official seal is to be used.

107.4 The Board may decide who will sign an instrument to which a Seal is affixed (or in the case of a share certificate, on which the Seal may be printed) either generally or in relation to a particular instrument or type of instrument and may also determine either generally or in a particular case that a signature may be dispensed with or affixed by mechanical means.

108. DECLARATION OF DIVIDENDS

Subject to the Act and these Articles, the Company may by ordinary resolution declare dividends to be paid to members according to their respective rights and interests in the profits of the Company. However, no dividend shall exceed the amount recommended by the Board.

109. INTERIM DIVIDENDS

Subject to the Act, the Board may declare and pay such interim dividends (including any dividend at a fixed rate) as appears to the Board to be justified by the profits of the Company available for distribution. If the Board acts in good faith, it shall not incur any liability to the holders of shares for any loss that they may suffer by the lawful payment of any interim dividend on any other class of shares ranking with or after those shares.

110. CALCULATION AND CURRENCY OF DIVIDENDS

Except as provided otherwise by the rights attached to shares, all dividends:

- (a) shall be declared and paid accordingly to the amounts paid up (otherwise than in advance of calls) on the shares on which the dividend is paid;
- (b) shall be apportioned and paid proportionately to the amounts paid up on the shares during any portion or portions of the period in respect of which the dividend is paid, but if any share is issued on terms that it shall rank for dividend as from a particular date, it shall rank for dividend accordingly; and
- (c) may be declared or paid in any currency. The Board may decide the rate of exchange for any currency conversions that may be required and how any costs involved are to be met.

111. AMOUNTS DUE ON SHARES CAN BE DEDUCTED FROM DIVIDENDS

111.1 The Board may deduct from any dividend or other money payable to any person on or in respect of a share all such sums as may be due from him to the Company on account of calls, lien or otherwise in

relation to the shares of the Company to the extent that they are entitled to require payment. Sums so deducted can be used to pay amounts owing to the Company in respect of the shares.

- 111.2 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.

112. DIVIDENDS NOT IN CASH

The Board may, by ordinary resolution of the Company direct, or in the case of an interim dividend may without the authority of an ordinary resolution direct, that payment of any dividend declared may be satisfied wholly or partly by the distribution of assets, and in particular of paid up shares or debentures of any other company, or in any one or more of such ways. Where any difficulty arises regarding such distribution, the Board may settle it as it thinks fit. In particular, the Board may:

- (a) ignore fractions;
- (b) fix the value for distribution of such assets or any part of them and determine that cash payments may be made to any members on the footing of the values so fixed, in order to adjust the rights of members; and
- (c) vest any such assets in trustees on trust for the person entitled to the dividend.

113. NO INTEREST ON DIVIDENDS

Unless otherwise provided by the rights attached to the share, no dividend or other monies payable by the Company or in respect of a share shall bear interest as against the Company.

114. METHOD OF PAYMENT

- 114.1 The Company may pay any dividend, interest or other sum payable in respect of a share in cash or by direct debit, bank transfer, cheque, dividend warrant, or money order or by any other method, including by electronic means and mobile money transfer system, as the Board may consider appropriate. For uncertificated shares, any payment may be made by means of the relevant system (subject always to the facilities and requirements of the relevant system) and such payment may be made by the Company or any person on its behalf by sending an instruction to the operator of the relevant system to credit the cash memorandum account of the holder or joint holders of such shares or, if permitted by the Company, of such person as the holder or joint holders may in writing direct.
- 114.2 The Company may send such payment by post or other delivery service (or by such means offered by the Company as the member or person entitled to it may agree in writing) to the registered address of the member or person entitled to it (or, if two or more persons are holders of the share or are jointly entitled to it because of the death or bankruptcy of the member or otherwise by operation of law, to the registered address of such of those persons as is first named in the Register) or to such person and such address as such member or person may direct in writing.
- 114.3 Every cheque, warrant, order or other form of payment is sent at the risk of the person entitled to the money represented by it, shall be made payable to the person or persons entitled, or to such other person as the person or persons entitled may direct in writing. Payment of the cheque, warrant, order or other form of payment (including transmission of funds through a bank transfer or other funds transfer system or by such other electronic means as permitted by these Articles or in accordance with the facilities and requirements of the relevant system concerned) shall be good discharge to the Company. If any such

cheque, warrant, order or other form of payment has or shall be alleged to have been lost, stolen or destroyed the Company shall not be responsible.

- 114.4 Any joint holder or other person jointly entitled to a share may give an effective receipt for any dividend or other monies payable in respect of such share.
- 114.5 If a holder (or joint holder) does not specify an address, or does not specify an account or such other details and in each case that information is necessary in order to make a payment of a dividend, interest or other sum by the means by which in accordance with this Article the Board have decided that a payment is to be made or by which the holder (or joint holder) has validly elected to receive payment or the payment cannot be made by the Company using the details provided by the holder (or joint holders), the dividend, interest or other sum shall be treated as unclaimed for the purposes of these Articles.
- 114.6 The Board may, at its discretion, make provisions to enable any member as the Board shall determine to receive duly declared dividends in a currency or currencies other than Kenya Shillings. For the purposes of the calculation of the amount receivable in respect of any dividend, the rate of exchange to be used to determine the foreign currency equivalent of any sum payable as a dividend shall be such rate or rates and the payment shall be on such terms and conditions as the Board may in its absolute discretion determine.

115. UNCASHED DIVIDENDS

If cheques, warrants or orders for dividends or other sums payable in respect of a share sent by the Company to the person entitled to them are returned to the Company or left uncashed on two consecutive occasions or, following one occasion, reasonable enquires have failed to establish any new address to be used for the purpose, the Company does not have to send any dividends or other monies payable in respect of that share due to that person until he notifies the Company of an address to be used for the purpose.

116. SCRIP DIVIDENDS

Subject to the Act, the Board may, by ordinary resolution of the Company and subject to such terms and conditions as the Board may determine, offer to any holders of ordinary shares (excluding any member holding shares as treasury shares) the right to elect to receive ordinary shares, credited as fully paid, instead of cash in respect of the whole (or some part, to be determined by the Board) of any dividend specified by the ordinary resolution.

117. CAPITALISATION OF RESERVES

The Board may, with the authority of an ordinary resolution of the Company:

- (a) subject as provided in this Article, and the Statutes, resolve to capitalise any undivided profits of the Company not required for paying any preferential dividend (whether or not they are available for distribution) or any sum standing to the credit of any reserve or fund of the Company which is available for distribution or standing to the credit of the share premium account or capital redemption reserve or other undistributable reserve;
- (b) appropriate the sum resolved to be capitalised to the members in proportion to the nominal amounts of the shares (whether or not fully paid) held by them respectively which would entitle them to participate in a distribution of that sum if the shares were fully paid and the sum were then distributable and were distributed by way of dividend and apply such sum on their behalf either in or towards paying up the amounts, if any, for the time being unpaid on any shares held by them respectively, or in paying up in full unissued shares or debentures of the Company of a nominal amount equal to that sum, and allot the shares or debentures credited as fully paid to

those members or as they may direct, in those proportions, or partly in one way and partly in the other, provided that:

- (i) the share premium account, the capital redemption reserve, any other undistributable reserve and any profits which are not available for distribution may, for the purposes of this Article, only be applied in paying up in full shares to be allotted to members credited as fully paid; and
 - (ii) in a case where any sum is applied in paying amounts for the time being unpaid on any shares of the Company or in paying up in full debentures of the Company, the amount of the net assets of the Company at that time in not less than the aggregate of the called up share capital of the Company and its undistributable reserves as shown in the latest audited accounts of the Company or such other accounts as may be relevant and would not be reduced below that aggregate by the payment of it;
- (c) resolve that any shares so allotted to any member in respect of a holding by him of any partly paid shares shall, so long as such shares remain partly paid, rank for dividends only to the extent that such partly paid shares rank for dividends;
- (d) make such provision by the issue of fractional certificates (or by ignoring fractions or by accruing the benefit of it to the Company rather than to the members concerned) or by payment in cash or otherwise as it thinks fit in the case of shares or debentures becoming distributable in fractions;
- (e) authorise any person to enter on behalf of such members concerned into an agreement with the Company providing for either:
- (i) the allotment to them respectively, credited as fully paid up, of any shares or debentures to which they may be entitled on such capitalisation; or
 - (ii) the payment up by the Company on behalf of such members by the application of their respective proportions of the reserves or profits resolved to be capitalised, of the amounts or any part of the amounts remaining unpaid on their existing shares,
- (any agreement made under such authority being effective and binding on all such members);
and
- (f) generally do all acts and things required to give effect to such resolution.

118. RECORD DATES

- 118.1 Notwithstanding any other provision of these Articles but without prejudice to the rights attached to any shares and subject always to the Act, the Company or the Board may by resolution specify any date (**record date**) as the date at the close of business (or such other time as the Board may determine) on which persons registered as the holders of shares or other securities shall be entitled to receipt of any dividend, distribution, interest, allotment, issue, notice, information, document or circular. Such record date may be before, on or after the date on which the dividend, distribution, interest, allotment, issue, notice, information, document or circular is declared, made, paid, given, or served.
- 118.2 In the absence of a record date being fixed, entitlement to any dividend, distribution, interest, allotment, issue, notice, information, document or circular shall be determined by reference to the date on which the dividend is declared, the distribution allotment or issue is made or the notice, information, document or circular made, given or served.

119. ACCOUNT TO BE SENT TO MEMBERS

119.1 In respect of each financial year, a copy of the Company's annual accounts, the Directors' report, the auditor's report on those accounts shall be sent or supplied to:

- (a) Every member (whether or not entitled to receive notices of general meetings);
- (b) Every other person who is entitled to receive notice of general meetings;

not less than 21 clear days before the date of the meeting at which copies of those documents are to be laid in accordance with the Act.

119.2 This Article does not require copies of the documents to which it applies to be sent or supplied to:

- (a) A member or holder of debentures of whose address the Company is unaware; or
- (b) More than one of the joint holders of shares or debentures.

119.3 The Board may determine that persons entitled to receive a copy of the Company's annual accounts and reports are those persons entered on the Register at the close of business on a day determined by the Board, provided that the day determined by the Board may not be more than 21 days before the day that the relevant copies are being sent.

120. SERVICE OF NOTICES

120.1 The Company can send, deliver or serve any notice or other document, warrant, mandate including a share certificate, to or on a member:

- (a) personally;
- (b) by sending it through the postal system addressed to the member at his registered address or by leaving it at that address addressed to the member;
- (c) through a relevant system, where the notice or document relates to uncertificated shares;
- (d) where appropriate, by sending or supplying it in electronic form to an address notified by the member to the Company for that purpose;
- (e) where appropriate, by making it available on a website and notifying the member of its availability in accordance with this Article;
- (f) where appropriate, by publishing it in two daily newspapers with nationwide circulation; or
- (g) by any other means authorised in writing by the member.

120.2 In the case of joint holders of a share:

- (a) service, sending or supply of any notice, document or other information on or to one of the joint holders shall for all purposes be deemed a sufficient service on, sending or supplying to all the joint holders; and
- (b) anything to be agreed or specified in relation to any notice, document or other information to be served on, sent or supplied to them may be agreed or specified by any one of the joint holders and the agreement or specification of the first named in the Register shall be accepted to the exclusion of that of the other joint holders.

120.3 Where a member (or, in the case of a joint holders, the person first named in the Register) has a registered address outside the Republic of Kenya but has notified the Company of an address within the Republic of

Kenya at which notices, documents or other information may be given to him or has given to the Company an address for the purposes of communications by electronic means at which notices, documents or other information may be served, sent or supplied to him, he shall be entitled to have notices served, sent or supplied to him at such address or, where applicable, the Company may make them available on a website and notify the holder of that address. Otherwise no such member shall be entitled to receive any notice, document or other information from the Company.

- 120.4 If on three consecutive occasions any notice, document or other information has been sent to any member at his registered address or his address for the service of notices (by electronic means or otherwise) but has been returned undelivered, such member shall not be entitled to receive notices, documents or other information from the Company until he shall have communicated with the Company and supplied in writing a new registered address or address within the Republic of Kenya for the service of notices or has informed the Company of an address for the service of notices and the sending or supply of documents and other information in electronic form. For these purposes, any notice, document or other information served, sent or supplied by post shall be treated as returned undelivered if the notice, document or other information is served, sent or supplied back to the Company (or its agents) and a notice, document or other information served, sent or supplied in electronic form shall be treated as returned undelivered if the Company (or its agents) receives notification that the notice, document or other information was not delivered to the address to which it was served, sent or supplied.
- 120.5 The Company may at any time and in its sole discretion choose to serve, send or supply notices, documents or other information in hard copy form alone to some or all of the members.

121. NOTICE ON PERSON ENTITLED BY TRANSMISSION

The Company may give notice to the person entitled to a share because of the death or bankruptcy of a member or otherwise by operation of law, by sending or delivering it in any manner authorised by these Articles for the giving of notice to a member, addressed to that person by name, or by the title of representative of the deceased or trustee of the bankrupt or representative by operation of law or by any like description, at the address (if any) within the Republic of Kenya supplied for the purpose by the person claimed to be so entitled or to which notices may be sent in electronic form. Until such an address has been so supplied, a notice may be given in any manner in which it might have been given if the death or bankruptcy or operation of law had not occurred.

122. RECORD DATE FOR SERVICE

Any notice, document or other information may be served, sent or supplied by the Company by reference to the register as it stands at any time not more than 15 days before the date of service, sending or supplying. No change in the register after that time shall invalidate that service, sending or supply. Where any notice, document or other information is served on, sent or supplied to any person in respect of a share in accordance with these Articles, no person deriving any title or interest in that share shall be entitled to any further service, sending or supplying of that notice, document or other information.

123. EVIDENCE OF SERVICE

- 123.1 Any notice, document or other information, addressed to a member at his registered address or address for service in the Republic of Kenya shall, if served, sent or supplied by first class post, be deemed to have been served or delivered on the day after the day when it was put in the post (or, where second class post is employed, on the second day after the day when it was put in the post). Proof that an envelope containing the notice, document or other information was properly addressed and put into the post as a prepaid letter shall be conclusive evidence that the notice was given.

- 123.2 Any notice, document or other information not served, sent or supplied by post but delivered or left at a registered address or address for service in the Republic of Kenya (other than an address for the purposes of communications by electronic means) shall be deemed to have been served or delivered on the day on which it was so delivered or left.
- 123.3 Any notice, document or other information, if served, sent or supplied by electronic means shall be deemed to have been received on the day on which the electronic communication was sent by or on behalf of the Company notwithstanding that the Company subsequently sends a hard copy of such notice, document or other information by post. Any notice, document or other information made available on a website shall be deemed to have been received on the day on which the notice, document or other information was first made available on the website or, if later, when a notice of availability is received or deemed to have been received pursuant to this Article. Proof that the notice, document or other information was properly addressed shall be conclusive evidence that the notice by electronic means was given.
- 123.4 Any notice, document or other information served, sent or supplied by the Company by means of a relevant system shall be deemed to have been received when the Company or any sponsoring system-participant acting on its behalf sends the issuer-instruction relating to the notice, document or other information.
- 123.5 Any notice, document or other information served, sent or supplied by the Company by any other means authorised in writing by the member concerned shall be deemed to have been received when the Company has carried out the action it has been authorised to take for that purpose.
- 123.6 Any notice, document or other information served, sent or supplied by the Company by means of publishing it in a daily newspaper shall be deemed to have been received on 9.00 a.m. on the day it was served, and if that day is not a business day, on 9.00 a.m. on the next business day.

124. **NOTICE WHEN POST NOT AVAILABLE**

If at any time by reason of the suspension, interruption or curtailment of postal services within the Republic of Kenya the Company is unable effectively to convene a general meeting by notices sent through the post, the Company need only give notice of a general meeting to those members with whom the Company can communicate by electronic means and who have provided the Company with an address for this purpose. The Company shall also advertise the notice in at least two national newspapers published in the Republic of Kenya and make it available on its website from the date of such advertisement until the conclusion of the meeting or any adjournment of it. In any such case the Company shall send confirmatory copies of the notice by post to those members to whom notice cannot be given by electronic means if, at least seven days prior to the meeting, the posting of notices to addresses throughout the Republic of Kenya again becomes practicable.

125. **INDEMNITY AND INSURANCE**

125.1 In this Article:

- (a) companies are **associated** if one is a subsidiary of the other or both are subsidiaries of the same body corporate;
- (b) a **relevant officer** means any Director or other officer or former director or other officer of the Company or an associated company (including any company which is a trustee of a pension scheme (as defined by section 3 of the Act), but excluding in each case any person engaged by the Company (or associated company) as auditor (whether or not he is also a director or other officer), to the extent he acts in his capacity as auditor); and

- (c) **relevant loss** means any loss or liability which has been or may be incurred by a relevant officer in connection with that relevant officer's duties or powers in relation to the company, any associated company or any pension fund or employees' share scheme of the company or associated company.
- 125.2 Subject to Article 125.3, but without prejudice to any indemnity to which a relevant officer is otherwise entitled:
- (a) each relevant officer shall be indemnified out of the Company's assets against all relevant loss including any liability incurred by him in defending any civil or criminal proceedings, in which judgment is given in his favour or in which he is acquitted or the proceedings are otherwise disposed of without any finding or admission of any material breach of duty on his part or in connection with any application in which the court grants him, in his capacity as a relevant officer, relief from liability for negligence, default, breach of duty or breach of trust in relation to the Company's (or any associated company's) affairs; and
 - (b) the Company may provide any relevant officer with funds to meet expenditure incurred or to be incurred by him in connection with any proceedings or application referred to in Article 125.2(a) and otherwise may take any action to enable any such relevant officer to avoid incurring such expenditure.
- 125.3 This Article does not authorise any indemnity which would be prohibited or rendered void by any provision of the Statutes or by any other provision of law.
- 125.4 The Directors may decide to purchase and maintain insurance, at the expense of the Company, for the benefit of any relevant officer in respect of any relevant loss.

126. WINDING UP

- 126.1 If the Company is wound up, the liquidator may, with the authority of a special resolution and any other authority required by law, divide among the members in specie the whole or any part of the assets of the Company. This applies whether the assets shall consist of property of one kind or different kinds. For this purpose, the liquidator may set such value as the liquidator considers fair on any asset or assets and may determine how to divide it between the members or different classes of members. The liquidator may, with the authority of a special resolution and any other authority required by the law, transfer all or any part of the assets to trustees on such trusts for the benefit of members as the liquidator decides. Where the liquidator divides or transfers any assets in pursuance of the powers in this article, no member shall be required to accept any asset in respect of which there is a liability.
- 126.2 Article 126.1 is without prejudice to any right or power that the liquidator may have, in the absence of the rights expressly conferred by Article 126.1, to divide or transfer the assets in specie as contemplated in article 126.1 without a special resolution.

The foregoing Articles were adopted as the Articles of Association of the Company by Special Resolution duly passed at an Annual General Meeting of the Company held on _____ 2017 in substitution for and to the exclusion of the existing Articles of the Company