



Dear Shareholders,

**REVIEW OF THE MEMORANDUM & ARTICLES OF ASSOCIATION OF THE COMPANY**

KenGen's business environment continues to evolve hand-in-hand with global business and sustainability standards. Key features of this stated evolution include:

- a) a new legal and regulatory regime which will enhance business opportunities available to KenGen;
- b) a global shift towards sustainable business cultures implemented on the basis of the United Nations Sustainable Development Goals;
- c) internet-based business operations;
- d) diversification business strategies that go beyond conventional models and practices.
- e) policy adaptations in response to the dynamic operating environment; and
- f) business expansion to regional and potentially global spheres.

To set a sound platform for achievement of the stated standards, it is therefore necessary to review and enhance the Company's constitutive documents as a platform to achieve these ever-evolving objectives.

The Company has reviewed the current Memorandum and Articles of Association to:

- 1. Incorporate Special Resolutions passed by shareholders during past Annual General Meetings;
- 2. adapt to the new legal/regulatory environment;
- 3. adapt advancement in technology;
- 4. integrate emerging trends derived from and not limited to the current Companies Act 2015, Capital Markets Code of Corporate Governance for Public Listed Companies 2015, CDSC Act, Public Finance Management Act, Nairobi Securities Exchange regulations;
- 5. apply corporate governance, best practice and standards;
- 6. adhere to developments in the global business environment; and
- 7. crucially, to ensure they align with the company's sustainability, diversification and going concern strategies.

By Order of the Board

**FCS. AUSTIN OUKO**  
**COMPANY SECRETARY**

9<sup>th</sup> November 2023

THE COMPANIES ACT

(Act No. 17 of 2015)

COMPANY LIMITED BY SHARES

MEMORANDUM OF ASSOCIATION

OF

**KENYA ELECTRICITY GENERATING COMPANY PLC**

1. The name of the Company is **KENYA ELECTRICITY GENERATING COMPANY PLC**
2. The Registered Office of the Company will be situated in the Republic of Kenya.
3. The Company is a public limited company.
4. The objects for which the Company is established are:-
  - a) To carry on all or any business of renewable and/or non-renewable energy generation consultancy, training, exploration, drilling, manufacturing technology and infrastructure development, purchase, generation, storage, distribution, supply and sale with respect to electric energy, and any other business available to it under Kenyan Law or any other jurisdiction, in all its branches, offices and subsidiaries and/or any other areas of operation, to construct, lay down, erect, establish, fix, carry out, maintain, work and use all necessary mains, cables, wires, lines, accumulators, lamps and other works and to purchase, generate, accumulate, store, transform, distribute, supply, sell and use electrical energy for any purpose and to manufacture and sell by-products;
  - b) To enter into or adopt and carry into effect any agreement or agreement(s) or arrangement(s) with respect to any business involving electrical energy
  - c) To acquire (by purchase or otherwise) contract and equip and to enter into or adopt and carry into effect such agreements as may be thought necessary or proper for the acquisition (by purchase or otherwise), construction and equipment of an electricity generating station (s) or complete with all necessary building, machinery, plant, mains, apparatus, roads, ways tramways, railways, siding bridges, reservoirs, watercourses, piers, wharves, factories, warehouses, workshops and other works (including public works) of all kinds and to enter into adopt and carry into effect such agreement as may be thought necessary or proper for

the acquisition (by purchase or otherwise), construction and equipment of any extensions and additions or the effecting of any alterations to such generating station or stations and works, and to operate and maintain or make agreements or arrangements for the operation and maintenance of any generating station or works referred to in that sub-clause.

- d) To enter into or adopt and effect any agreement or agreements with authorized distributors or others in connection with any generating station or stations constructed, equipped or extended, by the Company as may be thought necessary or proper, and in particular to enter into an agreement or agreements for and to grant a lease or leases of any such generating station or stations and any extensions thereof, and of any other works of the Company to such company or person on such terms and for such period or periods as may from time to time be agreed.
- e) To enter into contracts in relation to, and to construct, erect, execute, carry out, equip, acquire, own, import, make, repair, maintain, develop, administer, manage or control public works of every description including bridges, engines, electric transport infrastructure, machinery, gas works, electric works, water works, drainage works, buildings and conveniences of all kinds, either alone or jointly with other companies or persons.
- f) To carry on the business of electricians, mechanical engineers, suppliers of electrical energy or other motive power, and manufacturers of and dealers in all apparatus and things required for or capable of being used in connection with the generation, transmission, distribution, supply, accumulation and employment of electrical energy or other motive power, and to supply steam, water or other motive power, and to make experiments in and public exhibitions of electrical machinery and appliances.
- g) To apply for, purchase or otherwise acquire or obtain any contracts, decrees, concessions or licences for or in relation to the construction, execution, carrying out, equipment, improvement, management, administration or control of any works or matters which the company is hereby authorized to undertake or carry on and to undertake, execute, carry out, dispose of or otherwise.
- h) To apply for, promote, support and obtain any Bill in or Act or Statute of the Republic of Kenya or foreign legislature or any provisional order and take all necessary and proper steps with the authorities, national, county, local, municipal or otherwise, of any place in which the Company may have or intend to acquire indirectly carrying or enabling the Company to carry any of its objects into effect or which may seem expedient and to oppose any proposed

legislation, proceedings or applications which may seem calculated directly or indirectly to prejudice the Company's interests.

- i) To carry on any other business or activity and do anything of any nature which may seem to the Company capable of being conveniently carried on or done in connection with the above or calculated directly or indirectly to enhance the value of or render more profitable any of the Company's business or property.
- j) To acquire by purchase, rent, lease, license, novation grant, easement or otherwise in any estate or interest and to take options over, construct and develop any property, movable or immovable, or rights of any kind whether situate or being in Kenya or any other Country, jurisdiction, protectorate, or territory which may appear to be necessary or convenient for any business of the Company including stocks, shares, debentures or any securitization and other interests in any Company the objects of which include carrying on of any business or activity within the objects for the time being of this Company.
- k) To guarantee and give indemnities or provide security, whether by personal covenant or by mortgage or charge upon all or part of the undertaking, property and assets (present and future) and the uncalled capital of the Company, or by all or any such methods, for the performance of any contracts or obligations and the payment of capital or principal (together with any premium) and dividends or interest on any shares, debentures or any other securities, of any person, firm or company including (without limiting the generality of the foregoing) any company which is for the time being the holding company of the Company or another subsidiary of such holding company or is associated with the Company in business.
- l) To lend money to or grant or provide credit or financial accommodation to any person company in any case in which such grant or provision is considered likely directly or indirectly to further any of the objects of the Company or the interests of its Members.
- m) To invest any moneys of the Company not immediately required for the purposes of the business of the Company in such investments (other than shares in the Company or its holding company, if any) and in such manner as may from time to time be determined and to hold, sell or otherwise deal with such investments
- n) On the basis of any contractual framework, to amalgamate with or enter into partnership for any joint purpose or profit-sharing arrangement with, or to co-operate or participate in any way with, or assist any Company or person carrying on or proposing to

carry on any business and for all purposes and in particular to *take over any operations or going concerns, joint ventures, joint developments, cooperation agreements and Public Private Partnerships* within the objects of the Company.

- o) To borrow or raise or secure the payment of money in such manner as the Company thinks fit and to secure the same or the repayment or performance of any debt liability contract guarantee or other engagement incurred or to be entered into by the company in any way in particular by any legal or equitable mortgage or charge upon any of the Company's property or by the issue of debentures charged upon any of the Company's property present and future (including its uncalled capital) or by the issue of any security whether registrable or not; and to purchase; redeem and pay off any such securities.
- p) To draw, make, accept, indorse, discount, negotiate, execute and issue and to buy, sell and deal in promissory notes, bills of exchange, bills of lading, warrants, debentures and other negotiable or transferable instruments.
- q) To sell, exchange, mortgage, lease, let on rent, share of profit royalty or otherwise, grant licenses, easements, options, servitudes and other rights over and in any other manner deal with or dispose of the undertaking, property, assets, rights and effects of the Company or any part thereof for such consideration as may be thought fit, and in particular for stocks, shares, debentures or other obligations or securities, whether fully or partly paid up, of any other company.
- r) To give any remuneration or other compensation or reward for services rendered or to be rendered in placing or procuring subscription of, or otherwise assisting in the issue of, any shares, debentures, options, carbon credit, derivatives or any other securitized products of the Company or in or about the formation of the Company or the conduct of its business.
- s) To establish or promote or concur or participate in establishing or promoting any Company, Subsidiary, Office or any business implementing entity in Kenya or any other Country or jurisdiction, the establishment or promotion of which shall be considered desirable in the interest of the Company and to subscribe for, under-write, purchase or otherwise acquire the shares, stocks and any other securities of any such Company, or of any Company carrying on or proposing to carry on any business or activity within the objects of the Company.

- t) To procure the registration, licensing, concession, decree, permit, approval or incorporation of the Company, its personnel, subsidiaries, offices or any other special legal rights and business operations in general in or under the laws of any other country or jurisdiction.
- u) To subscribe or guarantee money for any national, charitable including establishment and support of a foundation, benevolent, public, general or useful object, or for any exhibition, or form any purpose which may be considered likely directly or indirectly to further the objects of the Company of the interest of its members.
- v) To establish and maintain, and to contribute to, any pension or superannuation funds for the benefit of, and to give or procure the giving of donations, gratuities, pensions, allowances or emoluments to any present or former employees or officers of the Company or of its subsidiaries or holding company or other affiliated legal entities associated with the Company, and the beneficiary and or dependants of any such persons; to establish and subsidize or subscribe to any institutions, associations, clubs or funds which may be considered likely to benefit any such persons or to further the interests of the Company or of any such other company; and to make payments for or towards the insurance of any such persons.
- w) To act as secretaries, managers, registrars, or transfer agents for any other company.
- x) To distribute any of the property of the Company among its Members in specie or kind.
- y) To carry on the business of an investment trust Company and to acquire and hold vide any form of agreement, license, decree or concession or by way of investment any shares, stocks, debentures, debenture stock, bonds obligations, options, carbon credit derivatives or any securitized product of any government, state or authority whether supreme National, County, Municipal or local, whether in Kenya or any other Country, jurisdiction or territory or of any corporation, whereas incorporated, and any estate or interest in the same and when deemed expedient.
- z) To carry on the business of an investment and trust company and to buy, sell, underwrite, or otherwise deal in, acquire or hold, any bonds, stocks, obligations or securities of any government, state or authority whether supreme National, County, Municipal or local, in Kenya or any other Country, jurisdiction or territory, or the bonds, debentures, debenture stocks, notes, obligations, shares, stocks or securities of any company, corporation, firm or person, and whether incorporated or established in The Republic of Kenya or elsewhere. And also to invest, by way of purchase, mortgage or otherwise, in any freehold, leasehold

or property of any description and to deal with and turn to account the same as may seem expedient.

- aa) To constitute any trusts with a view to the issue of preferred and deferred or any other special stocks or securities based on representing any shares, stocks, or assets, specifically appropriated for the purposes of any such trust, and to settle and regulate and, if thought fit, to undertake and execute and such trusts and to issue, dispose of, or hold any such preferred, deferred, or other special stocks or securities and to undertake and transact all kinds of trust and agency business.
- bb) To facilitate and encourage the creation, issue or conversion of debentures, debenture stocks, bonds, obligations, shares, stocks and securities, and to guarantee the subscription of or underwrite any stocks, shares or securities, and to take part in the conversion of business concerns and undertakings into companies.
- cc) To undertake and execute any trusts the undertaking whereof may seem desirable and either gratuitously or otherwise and to act as Trustee of any deeds constituting or securing any debentures, debentures stock or other securities or obligations and also to undertake the office of executor, administrator, treasurer, or registrar, or to become manager of any business, and to keep for any company, government authority, or body, any register relating to any stocks, funds, shares or securities, or to undertake any duties in relation to the registration of transfers, the issue of certificates, or otherwise.
- dd) To acquire, hold, sell and deal with, shares, rights issue, equity, Employee Share Ownership Scheme (ESOP), Employee Share Purchase Plan (ESPP), stocks, debentures, debenture stocks, bonds, mortgages, obligations, derivatives and securities of any kind issued or guaranteed by any company, corporation or undertaking of whatever nature and wherever constituted or carrying on business, and shares, stocks, debentures, debenture stocks, bonds, obligations, and other securities issued or guaranteed by any government, sovereign ruler, commissioners, trust, local authority or other public body, whether in the Republic of Kenya or abroad, by subscription, syndicate participation, tender, purchase, exchange or otherwise, and to subscribe for or underwrite the issue of the same, either conditionally or otherwise.
- ee) To receive the dividends, interest, income, bonuses, rents, profits and advantages of every description from time to time payable to receivables in respect of any of the Company's investments, within and outside Kenya and to vary any such investments from time to time.

- ff) To purchase, take on lease or in exchange, hire or otherwise acquire and hold for investment or trust purposes or otherwise and lands, houses, buildings and hereditaments of any tenure or any other related interest in the same, and to exercise and enforce all rights and powers conferred by or incident to the ownership thereof.
- gg) To enter into hire, hire purchase and other agreements in respect of goods or articles dealt with and services supplied to or by the Company and to negotiate, assign, mortgage or pledge for cash or otherwise any such agreements or any payments or rights accruing thereunder.
- hh) To purchase or otherwise acquire, build, maintain, elater, enlarge, pull down, remove or replace any houses, offices, workshops, buildings and premises, and any fixed and movable machinery, tools, engines, boilers, plants, implements, patterns, stock-in-trade, patents and patent rights convenient to be used in or about the trade of power generation, and to join with any person, firm or company in doing any of the things aforesaid, and to work, manage and control the same or to join with others in so doing.
- ii) To enter into arrangements with any governments or authorities, supreme, national county, municipal, local or otherwise, that may seem conducive to the Company's objects or any of them and to obtain from any such government or authority any contracts, rights, privileges or concessions which the Company may think it desirable to obtain, and to carry out, exercise and comply with any such arrangements, contracts, rights, privileges and concessions.
- jj) To carry out and operationalise any programs, engagements, activities, infrastructural or other developments, and any other businesses or strategies which promote innovation, research and development in furtherance of the Company's objectives.
- kk) To adopt such means of making known the activities and products of the Company as may seem expedient, and in particular by advertising in the press, on radio, cinema or television, by circular, by purchase and exhibition of works of art or interest, by publication of books and periodicals and by granting prizes, rewards and donations.
- ll) To acquire, carry on and undertake all or any part of the business, property and liabilities of any person or company carrying on business similar to that which the company is authorized to carry on, or possessed of rights or property suitable for any of the purposes of the Company, and to purchase, acquire, sell and deal with the shares and securities of any such person or company.



- mm) To enter into partnership or into any arrangements for sharing profits, union of interest, co-operation, joint venture, reciprocal concessions or otherwise, with any person or company carrying on, or engaged in, or about to carry on or engage in any business or transaction which the Company is authorized to carry on or engage in, or any business or transaction capable of being conducted so as, directly or indirectly to benefit the Company; and to lend money to, guarantee the contracts of, or otherwise assist any such person or company and to take, purchase or otherwise acquire shares and securities of any such company and to sell, hold, re-issue with or without guarantee, or otherwise deal with the same.
- nn) To sell the property and undertaking of the Company or any part thereof, for such consideration as the Company may think fit, and in particular for shares, debentures, options, derivatives, carbon credits or any securitized products of any other company having objects altogether or in part similar to the objects of the Company.
- oo) To promote any other company for the purposes of acquiring all or any of the property and liabilities of the Company, or for any other purposes which may seem directly or indirectly calculated to benefit the Company, and to subsidise or otherwise assist any such company.
- pp) To take or otherwise acquire and hold shares in any other company, having objects altogether or in part similar to those of the Company, or carrying on any business capable of being conducted so as directly or indirectly to benefit the Company.
- qq) To take over, merge with or amalgamate with any other company having objects altogether or in part similar to those of the Company or to take over, merge with, or amalgamate with any building society or mortgage finance company.
- rr) To raise funds required for the Company by the issue of any capital markets instruments and to issue shares of the Company by way of listing on any stock exchange
- ss) To pay out the funds of the Company all expenses of and incidental to its formation and registration, and to remunerate any person or company, either in cash or by the allotment of shares credited as fully or partly paid up, for services rendered in the formation of the Company or in placing or assisting to place any of the shares in the Company's capital or in or about the promotion of the Company or the conduct of its business.
- tt) To purchase or otherwise acquire any patents, brevets d'invention, licences, concessions and the like, conferring any exclusive or non-exclusive or limited rights to use and invention

which may seem capable of being used for any purpose of the company, or the acquisition of which may seem calculated directly or indirectly, to benefit the Company and to use, exercise, and develop, or grant licences in respect of, or otherwise turn to account, the property and rights so acquired.

- uu) To pay or remunerate any employee, director, consultant or agent of the Company.
- vv) To issue and allot securities for the Company for cash or in payment or part payment for any real or personal property purchased or otherwise acquired by the Company or any services rendered to the Company or as security for any obligation or amount (even if less than the nominal amount of such securities) or for any other purpose.
- ww) To give any remuneration or other compensation or reward for services rendered or to be rendered in placing or procuring subscriptions of, or otherwise assisting in the issue of, any securities of the Company or in or about the formation of the Company or the conduct or course of its business, and to establish or promote, or concur or participate in establishing or promoting, any company, fund or trust and to subscribe for, underwrite, purchase or otherwise acquire securities of any company, fund or trust and to carry on the business of company, fund, trust or business promoters or managers and of underwriters or dealers in securities, and to act as director of and as secretary, manager, registrar or transfer agent for any other company.
- xx) To cease carrying on or wind up any business or activity of the Company and to cancel any registration of and to wind up or procure the dissolution of the Company in any state or territory.
- yy) To compensate for loss of office any directors or other officers of the Company and to make payments to any persons whose office, employment or duties may be terminated by virtue of any transaction in which the Company is engaged.
- zz) To carry on the business of a holding company and to acquire by purchase, exchange, subscription or otherwise and to hold the whole or any part of the securities and interests of and in any companies for the time being engaged, concerned or interested in any industry, trade or business and to promote the beneficial co-operation of any such companies as well with one another as with the Company and to exercise in respect of such investments and holdings all the rights, powers and privileges of ownership including the right to vote thereon.

- aaa) To employ the funds of the Company in the development, expansion and diversification of the business of the Company and all or any of its subsidiaries or associated companies and in any other Company whether now existing or hereafter to be formed and engaged in any like business of the Company or any of its subsidiaries or associated companies or of any other industry ancillary thereto or which can conveniently be carried on in connection therewith within or outside the Kenyan territory.
- bbb) To co-ordinate the administration, policies, management, supervision, control, research, development, planning, manufacture, trading and any and all other activities of, and to act as financial advisers and consultants to, any company or companies or group of companies now or hereafter formed or incorporated or acquired which may be or may become related or associated in any way with the Company or with any company related or associated therewith and either without remuneration or on such terms as to remuneration as may be agreed.
- ccc) To guarantee the payment of dividends on any shares in the capital of any of the companies in which this Company has or might at any time have an interest, and to become surety in respect of, endorse, or otherwise guarantee the payment of the principal of or interest on any shares or evidence of indebtedness issued or created by any such companies.
- ddd) To become surety for or guarantee the carrying out and performance of any and all contracts, leases and obligations of every kind, of any company any of whose shares or evidence of indebtedness are at any time held by or for this Company or in which this Company is interested or with which it is associated, and to do any acts or things designed to protect, preserve, improve or enhance the value of any such shares or evidence of indebtedness.
- eee) To organize, incorporate, reorganize, finance, aid and assist, financially or otherwise, companies and to underwrite or guarantee the subscription of shares, securities or notes of any kind, and to make and carry into effect arrangements for the issue, underwriting, resale, exchange or distribution thereof.
- fff) To insure against losses, damages, risks and liabilities of all kinds which may affect the Company.
- ggg) To act as directors or managers of or to appoint directors or managers of any registered subsidiary, project office, special purpose vehicle or of any other legal entity in which the Company is or may be interested in.

- hhh) To do all or any of the things or matters aforesaid in any part of the world and either as principals, agents, contractors, trustees or otherwise and by or through trustees, agents or otherwise and either alone or in Conjunction with others.
- iii) To design, install, procure, maintain, operate, lease, rent, and enter into any contractual agreements with respect to any data centre or hub containing physical or virtual network servers, and all other Information Technology-based infrastructure in Kenya or any other country.
- jjj) To develop, establish, subscribe to and adopt, via policy or otherwise, any business practices that further the realization of the Sustainable Development Goals and any other future national, regional, international or global goals, standards, protocols and policies, to which Kenya subscribes, which focus on environmental, social, economical and overall business sustainability.
- kkk) To apply for, seek or receive any credits, dividends, profits, accreditations, certifications or any other such benefits from business operations specifically linked to sustainable business practices and good corporate governance.
- lll) To establish or implement any policies, strategies, revised business approaches and practices with specific respect to responding, adapting to, or managing any adverse circumstances brought about by acts of God, pandemics, epidemics, or any other natural catastrophes affecting operations of the Company within Kenya or in any other country hosting company's business interests.
- mmm) To do all such other things as may be conducive or incidental to the attainment of the above objects.

*The objects set forth in any sub-clause of this Clause shall not be restrictively construed but the widest interpretation shall be given thereto, and they shall not, except when the context expressly so requires, be in any way limited to or restricted by reference to or inference from any other object or objects set forth in such sub-clause or from the terms of any other sub-clause or by the name of the Company. None of such sub-clauses or the object or objects therein specified or the powers thereby conferred shall be deemed subsidiary or ancillary to the objects or powers mentioned in any other sub-clause, but the Company shall have full power to exercise all or any of the powers and to achieve or to endeavour to achieve all or any of the objects conferred by and provided in any one or more of the said sub-clauses.*

*And it is hereby declared that the word a company @ in this clause, except where used in reference to this Company, shall be deemed to include any partnership or other body of persons, whether incorporated or not incorporated, and whether domiciled in Kenya or elsewhere and that the objects specified in different paragraphs of this clause shall not except where the context expressly so requires be in anywise limited or restricted by reference to or inference from the terms of any other paragraph or the name of the Company, but may be carried out in as full and ample a manner and shall be construed in as wide a sense as if each of the said paragraphs defined the objects of a separate distinct and independent company.*

4. The liability of the Members is limited.

5. The Authorised share capital of the Company is *Kenya Shillings* Twenty-five billion (25,000,000,000.00) divided into ten billion (10,000,000,000) ordinary shares of Kenya two shillings fifty cents only (2.50) each, with power for the Company to increase or reduce the said capital, and to issue any part of its capital, original or increased, with or without any preference, priority, or special privilege, or subject to any postponement of rights, or to any conditions or restrictions; and so that, unless the conditions of issue shall otherwise expressly declare, every issue of shares, whether declared to be preferential or otherwise, shall be subject to the power herein before contained. Subject and without prejudice to any special rights or privileges for the time being attached to any class of issued shares, the shares in the original capital of the Company or any increased capital may be divided into several classes, and there may be attached thereto respectively any preferential deferred or other special rights, privileges, conditions or restrictions as to dividend, capital, voting or otherwise.

*(As amended by Special Resolution passed on 20<sup>th</sup> December 2013)*

*(As amended by Special Resolution passed on 29<sup>th</sup> June 1998)*

*(As amended by Special Resolution passed 11<sup>th</sup> March 1986)*

*(As amended by Special Resolution passed 25<sup>th</sup> October 1979)*

*(As amended by Special Resolution passed on 18<sup>th</sup> May 1955)*

We the several persons whose names and address 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, Address and Descriptions of Subscribers	Number of Shares taken by each subscriber

J. M. CRABBE  
(JOHN MUSTARD CRABBE)  
P.O. Box 188, Nairobi

ONE

Engineer.

C.M TAYLOR  
CHARLES MACGREGOR TAYLOR  
P. O. Box 96, Nairobi

ONE

Company Director

Dated the 28<sup>th</sup> day of January 1954

WITNESS to the above signatures

GERALD HARRIS

Advocate

NAIROBI

**THE COMPANIES ACT (Act No. 17 of 2015)**

**PUBLIC COMPANY LIMITED BY SHARES**

**AMENDED ARTICLES OF**

**ASSOCIATION**

**OF**

**KENYA ELECTRICITY GENERATING CO. PLC**

**(Adopted by Special Resolution on.....of .....2022)**

**PRELIMINARY**

1. In these Articles, unless the context otherwise requires, expressions defined in the Companies Act (No. 17 of 2015) or any statutory modification thereof in force at the date at which these Articles become binding on the Company, shall have the meanings so defined and the words standing in the first column of the table next hereinafter contained shall bear the meanings set opposite to them respectively in the second column thereof, namely:-

<b>Words</b>	<b>Meanings</b>
(i) The Act	means the Companies Act, No. 17 of 2015
(ii) The Company	means Kenya Electricity Generating Company PLC
(iii) The Statutes	The Act, and every statutory modification thereof for the time being in force and every other Act for the time being in force affecting the Company.
(iv) Regulations	Subsidiary legislations passed pursuant to statutes for the time being in force concerning companies and affecting the Company
(v) These Articles	These Articles of Association as now framed or as from time to time altered by special resolution
(vi) The Office	The Registered Office for the time being of the Company

- |        |               |   |
|--------|---------------|---|
| (vii)  | The Seal      | The Common Seal of the Company.   |
| (viii) | The Directors | The Directors of the Company or the Directors present at a duly convened meeting of Directors at which a quorum is present. |
| (ix)   | Member        | Member of the Company.  |
| (x)    | The Register  | The Register of Members of the Company.   |
| (xi)   | Paid Up       | Paid up or credited as paid up.   |
| (xii)  | Dividend      | Dividend or bonus.  |
| (xiii) | Year          | Year from the 1st January to the 31st December inclusive.   |
| (xiv)  | Month         | Calendar month.   |
|        | In writing    | Written or produced by any substitute for writing, or partly written and partly so produced.                                |

2.0. The model articles prescribed in the Third Schedule to the Companies (General) Regulations, 2015, are to the greatest extent possible hereby adopted. Neither the regulations contained in Table A in the First Schedule to the Companies Act (Chapter 486) (repealed) nor the regulations contained in the Companies Act (General) Regulations 2015 (Model Articles for Public Companies Limited by Shares) shall apply to the Company except insofar as they are repeated or contained in these Articles.



## **BUSINESS**

3. The Directors shall have regard to the restrictions on the commencement of business imposed by the Act, if and so far as, these restrictions shall be binding on the Company.
4. The Directors of the Company may from time to time determine the kind of business the Company may engage in and the same shall be carried on and its affairs governed, directed, managed and controlled.

## **UNDERWRITING**

5. The Company may exercise the powers of paying commissions conferred by the Statutes; provided that the commission paid or agreed to be paid shall not exceed ten percent (10%) of the price at which the shares in respect of which the commission is paid, are issued and shall be disclosed in the manner required by the Statutes. Such commission may be satisfied by the payment of cash or the allotment of fully or partly paid up shares in one way and partly in another. The Company may also on any issue of shares pay such brokerage as may be lawful.

## **SHARE CAPITAL**

6. (a) The authorised share capital of the Company be and is hereby increased from Kenya Shillings Five Billion, Five Hundred and Thirty-Nine Million, Eight Hundred and Eighteen Thousand, Eight Hundred and Twenty only (Kshs.5,539,818,820.00) divided into Two Billion, Two Hundred and Fifteen Million, Nine Hundred and Twenty-Seven Thousand, Five Hundred and Twenty-Eight (2,215,927,528) ordinary shares of Kenya Two shillings Fifty cents only (Kshs.2.50) each to Kenya Shillings Twenty-Five Billion (Kshs.25,000,000,000.00) divided into Ten Billion (10,000,000,000) ordinary shares of Kenya Two shillings Fifty cents only (Kshs.2.50) by the creation of Seven Billion, Seven Hundred and Eight-Four Million, Seventy-Two Thousand, Four Hundred and Seventy-Two (7,784,072,472) new ordinary shares of Kenya Two shillings Fifty cents only (Kshs.2.50) each ranking *pari passu* in all respects with the existing ordinary shares in the capital of the Company.

### **(b) *Capital Restructuring***

“That subject to the passing of the above resolution, the Directors are hereby authorized to determine, pursue and implement a recapitalisation measure as a basis of providing the Company with the required capital and that should the needs of the Company require, issue up to Kenya shillings Two Billion, Two Hundred and Fifteen Million, Nine Hundred and Twenty-seven Thousand, Five Hundred and Twenty-

Eight (Kshs.2,215,927,528) ordinary shares, of Kenya Two shillings Fifty cents only (2.50) each in the capital of the Company, subject to any required regulatory and other approvals. At a price to be determined by the Directors to and amongst the holders of the issued ordinary shares of Kenya Two shillings Fifty cents only (Kshs.2.50) each in the capital of the Company registered at the close of business on such date and at such price as shall be determined by the Directors and notified to the Members through the press or otherwise in proportion to the Members' respective holdings in the issued share capital of the Company subject to the Articles of Association of the Company, and to do all such things as may be necessary to give effect to this resolution.

*(As amended by Special Resolution passed on 20<sup>th</sup> December 2013)*

*(As amended by Special Resolution passed on 29<sup>th</sup> June 1998)*

*(As amended by Special Resolution passed 11<sup>th</sup> March 1986)*

*(As amended by Special Resolution passed 25<sup>th</sup> October 1979)*

*(As amended by Special Resolution passed on 18<sup>th</sup> May 1955)*

## **SHARES**

7. Except as required by law, no person shall be recognized by the Company as holding any share upon any trust, and the Company shall not be bound by or compelled in any way to recognize (even when having notice thereof) any equitable, contingent, future or partial interest in any share or any interest in any fractional part of a share or (except only as by these Articles or by law otherwise provided) any other rights in respect of any shares except an absolute right to the entirety thereof by the registered holder.

8. Without prejudice to any special rights previously conferred on the holders of any existing shares or class of shares, any share in the Company may be issued with such preferred, deferred or other special rights or such restrictions, whether in regard to dividend, voting, return of capital or otherwise as the Company may from time to time by ordinary resolution determine.

9. The Company may by special resolution create and sanction the issue of Preference shares which are, or at the option of the Company are to be, liable to be redeemed, subject to and in accordance with the provisions of the Statutes. The special resolution sanctioning any such issue shall also specify by way of an addition to these Articles the terms in which and the manner in which such Preference shares shall be redeemed.

10. If, at any time, the share capital is divided into different classes of shares; the rights attached to any class (unless otherwise provided by the terms of issue of the shares of that class) may, whether or not the Company is being wound up, be varied with the consent in writing of the holders of three-fourths of the issued shares of that class, or with the sanction of a special resolution passed after a

separate general meeting of the holders of the shares of the class. To every such separate general meeting the provisions of these Articles relating to general meetings shall mutatis mutandis apply, but so that the necessary quorum shall be Two persons at least holding or representing by proxy one-third of the issued shares of the class and that any holder of shares of the class present in person or by proxy may demand a poll and if at any adjourned meeting of such holders a quorum is not present, the holders present shall form a quorum.

11. The rights conferred upon the holders of the shares of any class issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the shares of that class, be deemed to be varied by the creation or issue of further shares ranking *pari passu* therewith.

12. Unless otherwise determined by ordinary resolution and except in the case of the issue of shares pursuant to any rights previously conferred in accordance with Article 7, whenever the Directors propose to issue any shares it shall offer them in the first instance to Members, other than preference shareholders not specifically entitled to them under the terms of the issue of their preference shares, in proportion, as nearly as the circumstances admit, to the amount of the existing shares to which they are entitled. Such offer shall be made by notice specifying the number of shares offered, and limiting a time (being not less than three weeks) within which the offer, if not accepted, will be deemed to be declined, and after the expiration of that time, or on the receipt of an intimation from the person to whom the offer is made that he declines to accept the shares offered, the Directors may dispose of the same in such manner as it thinks most beneficial to the Company. The Directors may likewise so dispose of the same in such manner as it thinks most beneficial to the Company. The Directors may likewise so dispose of any new shares which, by reason of the ratio which the new shares bear to shares held by persons entitled to an offer of new shares, cannot, in the option of the Directors, be conveniently offered under this Article.

13. Subject to the foregoing provisions of these Articles, the shares in the capital of the Company, shall be at the disposal of the Directors who may allot, grant options over or otherwise dispose of them to such persons, for such consideration, on such terms and conditions and at such times as they may determine but so that no shares shall be issued at a discount except with in accordance with the Act.

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

## CERTIFICATES

15. Every person whose name is entered as a Member in the Register shall be entitled without payment to receive (except where such shares are to be issued in an immobilized or dematerialized form as such terms are defined under the Central Depository Act, 2000 or its re-enactment or modification) within two months after allotment or lodgment of transfer (or within such other period as the conditions of issue shall provide) one certificate in respect of each class of shares held by him, or, upon payment of such sum (if any) not exceeding Kenya Shillings 50/- for every certificate after the first as the Directors shall from time to time determine, to several certificates, each for one or more of his shares, except that shares of different classes may not be included with the same certificate. Every certificate shall be under the Seal and shall specify the shares to which it relates and the amount paid up thereon: PROVIDED that in respect of a share or shares held jointly by several persons the Company shall not be bound to issue more than one certificate, and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all such holders.

16. Where a Member has sold some of the shares registered in his name, he shall be entitled to a certificate or credit of the balance of shares in his Central Depository Settlement (CDS) account for the balance without charge.

17. If a share certificate is worn out, defaced, lost or destroyed it may be renewed on payment of such fee, if any, not exceeding Kenya Shillings 50/- and on such terms, if any, as to evidence and indemnity as the Directors think fit.

## PURCHASE OF SHARES

18. No part of the funds of the Company shall be employed in the purchase of, or in loans upon the security of, the Company's shares, but nothing in this Article shall prohibit transactions permitted under the Statutes.

19. Subject to and in accordance with the provisions of the Act and the Statutes and without prejudice to any relevant special rights attached to any class of shares of the Company, the Company may purchase any of its own shares of any class at any price (whether at par or above par). Any shares so purchased may be cancelled or held by the Company as treasury shares in accordance with the Act.

## LIEN ON SHARES

20. The Company shall have a first and paramount lien on every share (not being a fully paid share) for all moneys (whether presently payable or not) called or payable at a fixed time in respect of that share, and the Company shall also have a first and paramount lien on all shares (including fully paid

shares) standing registered in the name of any person for all moneys presently payable by him or his estate to the Company; but the Directors may at any time declare any share to be wholly or in part exempt from the provisions of this Article. The Company's lien, if any, on a share shall extend to all dividends payable thereon.

21. The Company may sell, in such manner as the Directors think fit any shares on which the Company has a lien, but no sale shall be made unless a sum in respect of which the lien exists is presently payable, nor until the expiration of Fourteen (14) days after a notice in writing, stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder for the time being of the share, or the person entitled thereto by reason of his death or bankruptcy.

22. To give effect to any such sale, the Directors may authorize some person to transfer the shares sold to the purchaser thereof. The purchaser shall be registered as the holder of the shares comprised in any such transfer, and he shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

23. The proceeds of the sale shall be received by the Company and applied in payment of such part of the amount in respect of which the lien exists as is presently payable and the residue if any, shall (subject to a like lien for sums not presently payable as existed upon the shares before the sale) be paid to the person entitled to the shares at the date of the sale.

24. A statutory declaration by a Director or the Secretary that a share has been sold to satisfy the Company's lien on a specified date is conclusive of the facts stated in it as against all persons claiming to be entitled to the share and constitutes good title to the share.

## **CALLS ON SHARES**

25. Subject to the terms of allotment of shares, the Directors may, from time to time, make calls upon the Members as it thinks fit in respect of any monies unpaid on their shares (whether in respect of the nominal value of the shares or by way of premium) and each Member shall, subject to the Company giving to him at least fourteen (14) days' notice (the **Call Notice**) specifying the time or times and place of payment (including the ability to make payments in instalments), pay to the Company at the time or times and place so specified, the amount (and no more than) called on his shares. Before the Company has received any call due under a Call Notice, the call may be amended, revoked or postponed to a later time for payment than is specified in the Call Notice, as the Directors may determine. A person on whom a call is made will remain liable for calls made upon him notwithstanding the subsequent transfer of the shares in respect of which the call was made.

26. A call shall be deemed to have been made at the time when the resolution of the Directors authorising the call was passed.
27. The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.
28. If a sum called in respect of a share is not paid before or on the day appointed for payment thereof, the person from whom the sum is due shall pay interest upon the sum at such rate not exceeding twenty per cent (20%) per annum as the Directors shall determine from the day appointed for the payment thereof to the time of the actual payment, but the Directors shall be at liberty to waive payment of such interest wholly or in part.
29. The provisions of these Articles as to payment of interest shall apply in the case of non- payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the amount of the share, or by way of premium, as if the same had become payable by virtue of a call duly made and notified.
30. The Directors may, on the issue of shares, differentiate between the holders as to the amount of calls to be paid and the times of payment.
31. The Directors may, if they think fit, receive from any Member willing to advance the same, all or any part of the moneys uncalled and unpaid upon any shares held by him, and upon all or any part of the moneys so advanced may (until the same would, but for such advance, become payable) pay interest at such rate not exceeding (unless the Company in general meeting shall otherwise direct) Nine per cent (9%) per annum, as may be agreed upon between the Directors and the Member paying such sum in advance.

## **TRANSFER OF SHARES**

32. Subject to the provisions hereinafter contained and any trading and settlement rules of any stock exchange on which the shares of the Company are traded or of any settlement and clearing house at which the Shares of the Company are cleared and settled, shares in the Company shall be transferable by written instrument in any common form executed by or on behalf of the transferor and the transferee; provided that the Directors may dispense with execution by the transferee in any case in which they think fit to do so, and will do so to the extent that any shares sought to be registered are traded on any recognized stock exchange. The transferor shall be deemed to remain the holder of the share until the name of the transferee is entered in the Register in respect thereof, provided that:-

- (a) The Provisions of the Central Depositories Act, 2000 as amended or modified from time to time shall apply to the Company to the extent that any securities of the Company are in part or in whole immobilised or dematerialised or are required by the regulations or rules issued under the Central Depositories Act 2000 to be immobilised or dematerialised in part or in whole, as the case may be. Any provisions of these Articles that are inconsistent with the

Central Depositories Act 2000 or any regulations or rules issued or made pursuant thereto shall be deemed to be modified to the extent of such inconsistencies in their application to such securities. For the purposes of these Articles of Association, immobilisation and dematerialisation shall be construed in the same way as construed in the Central Depositories Act 2000.

- (b) Where any securities of the Company are forfeited pursuant to these Articles of Association after being immobilised or dematerialised, the Company shall be entitled to transfer such securities to a securities account designated by the Directors for this purpose.

33. The Directors may decline to register the transfer of a share (not being a fully paid share) to a person of whom they do not approve, and they may also decline to register the transfer of a share on which the Company has a lien.

34. The Directors may also refuse to register any instrument of transfer of shares and the rules of any recognized securities exchange at which the shares are traded, if: -

- (a) The registration fee of Kenya shillings 50/- (or such fee (if any) as the Directors may from time to time prescribe as the registration fee) is not paid to the Company in respect thereof; or
- (b) It is not accompanied by the certificate for the shares to which it relates, and such other evidence as the Directors may reasonably require to show the rights of the transferor to make the transfer including such consents, if any, as may be necessary under the Statutes or otherwise to enable the transferee to be entered in the Register; or
- (c) It is of shares of more than one class; or
- (d) The transferee named therein is:-
  - (i) an infant person; or
  - (ii) a person incapable by reason of mental disorder of managing and administering his property and affairs; or
  - (iii) a partnership in its partnership name; or
- (e) In the case of a transfer to joint holders, they exceed Four (4) in number.

35. If the Directors refuse to register a transfer, they shall within Two months after the date on which the transfer was lodged with the Company send to the transferee notice of the refusal.

36. The registration of transfers may be suspended at such times and for such periods as the Directors may from time to time determine, provided always that such registration shall not be suspended for more than Thirty days in any year.

37. There shall be paid to the Company in respect of the registration of any probate, letters of administration, certificate of marriage or death, power of attorney or other document relating to or

affecting the title to any shares, such fees as the Directors may from time to time prescribe or required.

### **CENTRAL DEPOSITORY**

38. Notwithstanding any Article herein, the provisions of the Central Depository Act, No. 4 of 2000 (as may be amended from time to time) shall apply to the Company to the extent that any securities of the Company are in part or in whole immobilized or dematerialized or are required by the regulations or rules issued under the Central Depository Act to be immobilized or dematerialized in part or in whole, as the case may be. Any provisions of these articles that are inconsistent with the Central Depository Act or any regulations or rules issued or made pursuant thereto shall be deemed to be modified to the extent of such inconsistencies in their application to such securities. For the purposes of these Articles, immobilization and dematerialization shall be construed in the same way as they are construed in the Central Depository Act.

39. Where any securities of the Company are forfeited pursuant to these Articles after being immobilized or dematerialized, the Company shall be entitled to transfer such securities to a securities account designated by the Directors for this purpose.

### **TRANSMISSION OF SHARES**

40. In case of the death of a Member, the survivor or survivors where the deceased was a joint holder, and the legal personal representatives of the deceased where he was a sole holder, shall be the only persons recognized by the Company as having any title to his interest in the shares; but nothing herein contained shall release the estate of a deceased joint holder from any liability in respect of any share which had been jointly held by him with other persons.

41. Any person becoming entitled to a share in consequence of the death or bankruptcy of a Member may, upon such evidence being produced as may from time to time properly be required by the Directors and subject as hereinafter provided, elect either to be registered himself as holder of the share or to have some person nominated by him registered as the transferee thereof, but the Directors shall, in either case, have the same right to decline or suspend registration as they would have had in the case of a transfer of the share by that Member before his death or bankruptcy, as the case may be.

42. If the person so becoming entitled shall elect to be registered himself, he shall deliver or send to the Company a notice in writing signed by him stating that he so elects. If he shall elect to have another person registered, he shall testify his election by executing to that person a transfer of the share. All the limitations restrictions and provisions of these Articles relating to the right of transfer and the registration of transfers of shares shall be applicable to any such notice or transfer as aforesaid as if the death or bankruptcy of the Member had not occurred and the notice of transfer were a transfer



signed by that Member.

43. A person becoming entitled to a share by reason of the death or bankruptcy of the holder shall be entitled to the same dividends and other advantages to which he would be entitled if he were the registered holder of the share, except that he shall not, before being registered as a Member in respect of the share, be entitled in respect of it to exercise any right conferred by Membership in relation to meetings of the Company.

Provided always that the Directors may at any time give notice requiring any such person to elect either to be registered himself or to transfer the share, and if the notice is not complied with within Ninety days the Directors may thereafter withhold payment of all dividends, bonuses or other moneys payable in respect of the share until the requirements of the notice have been complied with.

### **FORFEITURE OF SHARES**

44. If a Member fails to pay any call or instalment of a call on the day appointed for payment thereof, the Directors may, at any time thereafter during such time as any part of the call or instalment as is unpaid, together with any interest which may have accrued.

45. The notice shall name a further day (not earlier than the expiration of Fourteen days from the date of service of the notice) on or before which the payment required by the notice is to be in respect of which the call was made will be liable to be forfeited.

46. If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the Directors to that effect.

47. A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the Directors think fit, and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the Directors think fit.

48. A person whose shares have been forfeited shall cease to be a Member in respect of the forfeited shares but shall, notwithstanding, remain liable to pay to the Company all moneys which, at the date of forfeiture, were payable by him to the Company in respect of the shares, but his liability shall cease if and when the Company shall have received payment in full of all such moneys in respect of the shares.

49. A statutory declaration in writing that the declarant is a Director or the Secretary of the Company, and that a share in the Company has been duly forfeited on a date stated in the declaration, shall be conclusive evidence of the facts therein stated as against all persons claiming to be entitled to the share. The company may receive the consideration, if any, given for the share on any sale or disposition thereof and may execute or authorize any person to execute a transfer of the share in favour of the person to whom the share is sold or disposed of and the transferee named therein shall thereupon be registered as the holder of the share, and he shall not be bound to see to the application of the purchase

money, if any, nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to the forfeiture, sale or disposal of the share.

50. The provisions of these Articles as to forfeiture shall apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the nominal value of the share or by way of premium, as if the same had been payable by virtue of a call duly made and notified.

## **CONVERSION OF SHARES INTO STOCK**

51. The Company may by ordinary resolution convert any paid-up shares into stock, and reconvert any stock into paid-up shares of any denomination.

52. The holders of stock may transfer the same, or any part thereof, in the same manner, and subject to the same regulations, as and subject to which the shares from which the stock arose might previously to conversion have been transferred, or as near thereto as circumstances admit; and the Directors may from time to time fix the minimum amount of stock transferable and direct that fractions of any sum shall not be dealt with, nevertheless, at their discretion to waive such stipulations in any particular case, and provided further that minimum amount of stock transferable shall not exceed the nominal amount of the shares from which the stock arose.

53. The holders of stock shall, according to the amount of stock held by them, have the same rights, privileges and advantages as regards dividends, voting at meetings of the Company and other matters as if they held the shares from which the stock arose, but no such privilege or advantage (except participation in the dividends and profits of the Company and in the assets on winding up) shall be conferred by an amount of stock which would not, if existing in shares, have conferred that privilege or advantage.

54. All the provisions of these Articles are applicable to fully paid up shares and shall apply to stock. And the words "Share" "Shareholder" and "Member" shall be construed accordingly.

## **ALTERATION OF RIGHTS**

55. Subject to the provisions of the Company's Act the special rights attached to any class may be varied or abrogated either while a company is a going concern or during or in contemplation of a winding up, with the consent in writing of the holders of three-fourths of the issued shares of a class or with the sanctions of an extraordinary resolution passed at a separate meeting of holders of the shares of the class. To every such separate meeting all the provisions relating to General Meetings of the Company shall *mutatis mutandis*, apply, except that the necessary quorum shall be two persons at least holding or representing by proxy one-third in nominal amount of the issued shares of the class (but so that in any adjourned meeting of such holders, a quorum as above defined is not present, those Members who are present shall be a quorum), and that the holders of shares of the class shall, on a poll, have one vote in

respect of every share held by them respectively.

## **RIGHTS ISSUE**

56. (i) THAT the Directors are generally authorized until the date of the next annual general meeting of the Company subject to the receipt of any required regulatory approvals including the approval of the Capital Markets Authority and the Nairobi Securities Exchange to exercise all the powers of the Company to allot shares in the Company, but the maximum aggregate nominal amount of ordinary shares in the Company, but the maximum aggregate nominal amount of ordinary shares which may be allotted in accordance with this authority shall be, seven billion eight hundred and one million six hundred and thirty eight thousand five hundred and forty four (7,801,638,544) ordinary shares of shilling 2.50 each ranking pari passu in all respects being the total number of existing unissued ordinary shares in the capital of the Company.

(ii) THAT subject to the limit as to the number of shares and period set out in the preceding resolution (i) above and subject also to any regulatory approvals the Directors be and are hereby authorized to do the following:

### **(a) Rights Issue**

To offer shares by way of rights to holders of ordinary shares of the Company in such a proportion to the existing shares held by them at close of business on such a date to be fixed by the Directors and at such price as shall be determined by the Directors and to deal with fractional shares in such a manner as they deem fit.

### **(b) Conversion of part of the debt owing to the Government of Kenya**

To accept payment of the Government of Kenya's share entitlement in the proposed rights issue by way of conversion of part of the loans on-lent by the Government of Kenya to the Company.

### **(c) Directors' powers to deal with untaken shares**

To dispose of the shares not taken up by any shareholders or the shares not issued by reason of fractions of shares being disregarded, at such price and on such terms and they may consider expedient."

### **(iii) Revocation of limit on shares issuable in the Rights Issue**

THAT the limitation placed on the Directors by the shareholders resolution passed on 20<sup>th</sup> December 2013 to issue only up to two billion, two hundred and fifteen million, nine hundred and twenty-seven thousand, five hundred and twenty-eight (2,215,927,528) is hereby revoked and the Directors are hereby authorized to proceed in the manner set out in the preceding resolutions.

(iv) THAT the Directors of the Company be and are hereby authorized to sign all documents and to do all such things as may be necessary to give effect to the above resolutions.

(v) THAT the Company Secretary be and is hereby instructed to file all such returns and make all such entries as required by law in order to give effect to the matters resolved or otherwise determined at this meeting.

### **ALTERATION OF CAPITAL**

57. The Company may, from time to time by ordinary resolution, increase the share capital by such sum, to be divided into shares of such amount, as the resolution shall direct, or, in default of such direction, as the Directors shall determine.

58. The new shares shall be subject to the same provisions with reference to the payment of calls, lien, transfer, transmission, forfeiture and otherwise as the shares in the original share capital.

59. Subject to the provisions of these Articles, the unissued and any new shares in the capital of the Company shall be at the disposal of the Directors who may allot, grant options over or otherwise dispose of them to such persons, at such times and for such consideration and upon such terms and conditions as the Directors may determine.

60. Any new shares may be offered at par, at a premium or (subject to the provisions of the Act) at a discount as the Directors may decide.

61. The new shares shall be subject to the same provisions with reference to the payment of calls, lien, transfer, transmission, forfeiture and otherwise as the shares in the original share capital.

62. The Company may, by ordinary resolution:

- (a) Consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;
- (b) Sub-divide its existing shares, or any of them, into shares of smaller amount than is fixed by the Memorandum of Association subject, nevertheless, to the provisions of the Act;
- (c) Cancel any shares which, at the date of the passing of the resolution, have not been taken or agreed to be taken by any persons;

And may, by special resolution:

- (d) Reduce its share capital, any capital redemption reserve fund and any share premium account in any manner and with, and subject to, any incident authorized and consent required, by law.

63. The Company may from time to time, by special resolution, reduce its share capital, any capital redemption reserve fund or any share premium account in any manner and subject to any incident authorised and consent required by law.

### **ADJUSTMENTS ON CONSOLIDATION**

64. Whenever, as a result of a consolidation of shares, any Members would become entitled to fractions of a share, the Directors may, in its absolute discretion, settle any difficulty relating thereto. In particular, the Directors may determine which shares are consolidated into each consolidated share and may, on behalf of those Members, sell the shares representing the fractions for the best price reasonably obtainable (or at any other price approved by the Company) to any person. The Directors may distribute the net proceeds of sale (subject to the retention by the Company of small amounts the cost of distribution of which would be disproportionate to the amounts involved) in due proportion among those Members and may authorise some person to execute an instrument of transfer of the shares to, or in accordance with, the directions of the purchaser of the shares. The purchaser is not bound to see to the application of the purchase money nor is his title to the shares affected by any irregularity in, or invalidity of, the proceedings in reference to the sale.

### **ACQUISITION BY THE COMPANY OF ITS OWN SHARES**

65. The Company may and as it deems suitable acquire its own shares in accordance with Part XVI of the Companies Act.

### **UNCLAIMED ASSETS**

66. The Company may, if required by law, deliver or pay to any prescribed regulatory authority and unclaimed assets including but not limited to share in the Company presumed to be abandoned or unclaimed in law and any dividends or interest thereon remaining unclaimed beyond prescribed statutory periods. 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 owner or holder or his or her estate, for the relevant unclaimed assets.

*(Resolution passed on 28<sup>th</sup> November 2012)*

### **GENERAL MEETINGS**

67. The Company shall in each year hold a general meeting as its Annual General Meeting in addition to any other meetings in that year. In so doing the Company shall specify the matter as such in the notices calling it. Not more than Fifteen months shall elapse between the date of one annual general meeting of the Company and that of the next. Provided that if the first annual general meeting is held within Eighteen months of the date of incorporation of the Company, it need not be held in the year of incorporation nor in the next following year. Annual and extraordinary general meetings shall be held at such times and places within Kenya as the Directors shall, from time to time, appoint. The Company shall hold annual general meetings and other general meetings as follows:-

- (a) a physical meeting at such times and places as the Directors shall appoint; or
- (b) a virtual meeting using electronic means (including video-conferencing or tele-conferencing) at such time as the Directors shall appoint; or
- (c) a hybrid meeting comprising a partly physical meeting and a partly virtual meeting as set out in paragraphs (a) and (b) above.

Save for physical general meetings under paragraph (a), attendance by a Member via electronic means shall be sufficient for all intents and purposes of the relevant general meeting.

68. The Members may, if they think fit, confer or hold a meeting by radio, telephone, closed circuit television, video conferencing or other electronic, or other, means of audio or audio/visual communication, or a combination thereof (“Conference”). Notwithstanding that the Members are not present together in one place at the time of the Conference, a resolution passed by the Members constituting a quorum at such a Conference shall be deemed to have been passed at a General Meeting held on the day on which and at the time at which the Conference was held. The provisions of these Articles relating to proceedings of Members apply insofar as they are capable of application *mutatis mutandis* to such Conference

*(As amended by Special Resolution passed on 3<sup>rd</sup> November 2020)*

69. All general meetings other than annual general meetings shall be called extraordinary general meetings.

70. The Directors may, whenever they think fit, convene an extraordinary general meeting, and extraordinary general meetings shall also be convened on such requisition, or, in default, may be convened by such requisitionists, as provided by the Act. If at any time there are not within Kenya sufficient Directors capable of acting to form a quorum, any Director or any two Members of the Company may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the Directors .

## **NOTICE OF GENERAL MEETINGS**

71. Every general meeting shall be called by issuance of at least a Twenty-one (21) calendar days’ notice in writing at the least. The Company may serve any notice to be given to Members by publishing such notice in two daily newspapers with nation-wide circulation; or by sending such notice through the post addressed to such Member at their registered postal address or by electronic mail or any other electronic means not prohibited by law including the publication thereof on the website of the Company. The notice shall be exclusive of the day in which it is served or deemed to be served and of the day for which it is given, and shall specify the place, the day and the hour of meeting and, in case of special business, the general nature of that business, and shall be given, in manner hereinafter mentioned or in such other manner, if any, as may be prescribed by the Company in general meeting, to such persons as are, under the regulations of the Company,

entitled to receive such notices from the Company.

Provided that a meeting of the Company shall, notwithstanding that is called by shorter notice than that specified in this Article be deemed to have been duly called if it is so agreed:

- (a) in the case of a meeting called as the annual general meeting, by all Members entitled to attend and vote thereat; and
- (b) in the case of any other meeting, by a majority in number of the Members having a right to attend and vote at the meeting, being a majority together holding not less than Ninety-five per cent (95%) in nominal value of the shares giving that right.

72. In every notice calling a meeting of the Company there shall appear with reasonable prominence a statement that a Member entitled to attend and vote is entitled to appoint one or more proxies to attend and vote in his stead and that a proxy need not to be a Member.

73. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

74. If the Directors, in its absolute discretion, considers that it is impractical or unreasonable for any reason to hold a general meeting (physical meeting, virtual meeting or hybrid meeting) on the date or at the time or place or using the means specified in the notice calling the general meeting; it may postpone the general meeting to another date, time and or place. When a meeting is so postponed, notice of the means of attending, date, time and place of the postponed meeting shall be placed in two (2) national newspapers in Kenya and on the Company's website. Notice of the business to be transacted at the postponed meeting shall not be required unless it is postponed for thirty (30) days or more.

## **PROCEEDINGS AT GENERAL MEETINGS**

75. All business shall be deemed special that is transacted at an extraordinary general meeting, and also all business that is transacted at an annual general meeting, with the exception of declaring a dividend, the consideration of the accounts, balance sheets and the reports of the Directors and Auditors, the election of Directors in the place of those retiring (if any), and the appointment of Audit & Risk Committee and the fixing of the remuneration of the Auditors.

76. No business shall be transacted at any general meeting unless a quorum of Members is present at the time when the meeting proceeds to business; save as herein otherwise provided, One Hundred Members personally present shall be a quorum.

77. The Members or proxies at the place or places at which persons are participating via electronic means shall be considered in the quorum for, and be entitled to vote at, the General Meeting in question and that meeting shall be duly constituted and its proceedings valid if the Chairman of the meeting is satisfied that adequate facilities are available throughout the meeting to ensure that the Members or

proxies attending at the place or places at which persons are participating via electronic means.

78. For the purposes of all other provisions of this Articles (unless the context requires otherwise), the Members shall be treated as meeting at the principal place.

79. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of Members, shall be dissolved; in any other case it shall stand adjourned to the same day in the next week, at the same time and place or to such other day and at such other time and place as the Directors may determine, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting, the Members present shall be a quorum.

80. The Chairman, if any, of the Directors of Directors (or in his absence the Deputy-Chairman, if any) shall preside as Chairman at every general meeting of the Company.

81. If there is no such Chairman (or Deputy-Chairman) or if at any meeting he is not present within Fifteen minutes after the time appointed for holding the meeting, or is unwilling to act as Chairman, the Directors present shall choose someone of their number to be Chairman. If no Director is willing to act as Chairman or no Director is present within Fifteen minutes after the time appointed for holding the meeting, the Members present shall choose one of their number to be Chairman of the meeting.

82. The Chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for Thirty days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

83. In addition, the Chairman of any meeting may at any time, without the consent of the meeting, postpone or adjourn any meeting (whether or not it has commenced, or whether or not a quorum is present) either to such date, time and or place as he thinks fit and allowing for attendance using applicable means such as electronic means, where it appears to him that:-

- (a) the Members wishing to attend cannot be conveniently accommodated in the place appointed for the meeting; or
- (b) the conduct of persons present at the meeting prevents or is likely to prevent the orderly continuation of business; or
- (c) an adjournment is necessary to protect the safety of any person or persons attending the meeting; or
- (d) an adjournment is otherwise necessary so that the business of the meeting may be properly conducted; or



- (e) in relation to virtual and hybrid meetings, Members cannot reasonably participate at a general meeting using the electronic means provided.

84. At any general meeting convened, a resolution put to the vote of the meeting shall be decided by voting on a show of hands, ballot or voting electronically, unless (before or on the declaration of the result of the vote or on withdrawal of any other demand for a poll) a poll is demanded by:-

- (a) the Chairman: or
- (b) any Member or Members present in person or by proxy and representing not less than one-tenth of the total voting rights of all the Members having the right to vote at the meeting.

Unless a poll be so demanded, a declaration by the Chairman that a resolution has on a show of hands been carried, or carried unanimously, or by a particular majority, or lost and an entry is made to that effect in the book containing the minutes of the proceedings of the Company, it 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. The demand for a poll may be withdrawn.

85. Except as provided for under these Articles, if a poll is duly demanded it shall be taken in such manner as the Chairman directs and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

86. In the case of an equality of votes, whether on a show of hands or on a poll by ballot or electronically, the Chairman of the meeting at which the poll is demanded, shall be entitled to a second or casting vote.

87. A poll demanded on the election of a Chairman or on a question of adjournment shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the Chairman of the meeting directs, and any business other than that upon which a poll has been demanded may be proceeded with pending the taking of the poll. The results of a poll may be made public on the Company's official website or other electronic means.

88. If any vote shall be counted which ought not to have been counted or might have been rejected, the error shall not vitiate the resolution unless it is pointed out at the same meeting and not, in that case, unless it shall, in the opinion of the Chairman of the meeting be of sufficient magnitude to vitiate the resolution.

## **VOTES OF MEMBERS**

89. Subject to any rights or restrictions for the time being attached to any class or classes of shares, on voting by whatever means every Member present in person shall have one vote, and on a poll every Member present in person or by proxy shall have one vote for each share of which he is the holder.

90. In case of joint holders 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; and for this purpose seniority

shall be determined by the order in which the names stand in the Register.

91. A Member incapable by reason of mental disorder of managing and administering his property and affairs may vote, by whatever means by his receiver, or other person authorized by any Court of competent jurisdiction to act on his behalf, and such person may on a poll vote by proxy.

92. No Member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respects of shares in the Company have been paid.

93. No objection shall be raised to the qualification of any vote except at the meeting or adjourned meeting at which the vote objected to is given or tendered, and every vote not disallowed at such meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the Chairman of the meeting, whose decision shall be final and conclusive.

94. On a poll votes may be given either personally or by proxy.

95. The instrument appointing a proxy shall be in writing under the hand of the appointor or of his attorney duly authorized in writing, or, if the appointor is a Corporation, either under seal, or under the hand of an officer or attorney duly authorized. A proxy need not be a Member of the Company.

96. The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarised certified copy of that power or authority shall be deposited at the Office or at such other place within Kenya as is specified for that purpose in the notice convening the meeting, not less than Forty-eight hours before the time of holding the meeting or adjourned meeting, at which the person named in the instrument purposes to vote, or, in the case of a poll, not less than Twenty four hours before the time appointed for the taking of the poll, and in default the instrument of proxy shall not be treated as valid.

97. An instrument appointing a proxy shall be in the following form, or in any other form of which the Directors shall approve: -

#### **KENYA ELECTRICITY GENERATING COMPANY PLC**

I/We, \_\_\_\_\_, of \_\_\_\_\_, being a  
Member/Members of the above-named Company, hereby appoint \_\_\_\_\_, of  
\_\_\_\_\_, or failing him \_\_\_\_\_, of \_\_\_\_\_, as my/our proxy to  
vote for me/us on my/our behalf at the Annual (or Extraordinary, as the case may be) General  
Meeting of the Company to be held on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and at  
any adjournment thereof.

As witness my/our hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

This form is to be used \*in favour of the resolution

\*against

Unless otherwise instructed, the proxy will vote as he thinks fit.

\*Strike out whichever is not desired.”

98. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.

99. A vote given in accordance with the terms of an instrument of proxy shall be valid notwithstanding the previous death or incapacity of the principal, revocation of the proxy, or the authority under which the proxy was executed, or the transfer of the share in respect of which the proxy is given, provide that no intimation in writing of such death, incapacity, revocation or transfer as aforesaid shall have been received by the Company at the Office before the commencement of the meeting or adjourned meeting at which the proxy is used.

### **CORPORATIONS**

100. Any corporation which is a member of the Company may, by resolution of its Directors or other governing body, appoint such person as it thinks fit to act as its representative at any meeting of the Company or of any class of members of the Company.

The production at a meeting of a copy (whether physical or electronic) of a resolution certified by a director (other than the appointee if he himself shall be a director) and the secretary (or their equivalents) of such corporation to be a true copy of the resolution, shall be accepted by the Company as sufficient evidence of the validity of his appointment. The person so appointed shall be entitled to exercise the same powers on behalf of such corporation as it could exercise if it were an individual Member of the Company.

### **DIRECTORS**

101. Unless and until otherwise from time to time determined by an ordinary resolution of the Company, the number of Directors, (excluding alternates) shall not be less than Five (5) not more than Eleven (11) in number.

102. The first Directors shall be appointed by the Subscribers to the Memorandum of Association, or a majority thereof, by notice in writing.

103. If at any time the number of Directors falls below the minimum number fixed by or in accordance with these Articles, the remaining Directors may act for the purpose of convening a general meeting or for the purpose of bringing the number of Directors to such minimum, and for no other purpose.

104. The Directors shall cause to be kept a Register of the Directors' holdings of shares and debentures of the Company and of its subsidiaries or holding Company (if any) required by the Act

and shall cause the same to be available for inspection during the period and by the persons prescribed and shall produce the same at every Annual General Meeting as required by the Act.

105. Directors shall not be required to hold any share qualification but shall be entitled to receive notice of and to attend and speak at all general meetings of the Company.

106. The Directors shall be paid out of the funds of the Company by way of remuneration for their services such sums as the Company may from time to time by ordinary resolution determine and such remuneration shall be divided among them in such proportion and manner as the Directors may determine and, in default of such determination within a reasonable period, equally. Subject as aforesaid, a Director holding office for part only of a year shall be entitled to a proportionate part of a full year's remuneration. The Directors shall also be entitled to be repaid by the Company all such reasonable travelling (including hotel and incidental) expenses as they may incur in attending meetings of the Directors, or of committees of the Directors, or general meeting, or which they may otherwise properly incur in or about the business of the Company.

### **ALTERNATE DIRECTORS**

107. Any Director may with the consent of the Directors (such consent not to be unreasonably withheld), appoint any person to be an Alternate Director of the Company, and may at any time remove any Alternate Director so appointed by him from office. An Alternate Director so appointed shall not be entitled to appoint an alternate to himself. The remuneration of an Alternate Director shall be payable out of the remuneration of his appointor and shall be such proportion thereof as shall be agreed between them. Every person acting as an Alternate Director shall be an officer of the Company, and he shall not be deemed to be the agent of the Director by whom he was appointed.

108. An Alternate Director shall be entitled to receive notices of all meetings of the Directors and to attend and vote as a Director at any such meeting at which the Director appointing him is not personally present, and generally to perform all the functions of his appointor as a Director in his absence, including that of being counted as part of a quorum at any such meeting.

109. An Alternate Director shall ipso facto cease to be an Alternate Director if his appointor ceases for any reason to be a Director or if of his own volition he resigns.

110. Every appointment and removal of an Alternate Director shall be effected by notice in writing to the Company under the hand of the Director making or revoking such appointment.

111. A Director or any other person duly appointed as an Alternate Director may act to represent more than one Director, and a Director appointed as an Alternate Director shall be entitled at Directors meetings to One vote for every Director whom he represents in addition to his own vote (if any) as a Director.

## POWERS AND DUTIES OF DIRECTORS

112. The business of the Company shall be managed by the Directors who may pay all expenses incurred in promoting and registering the Company, and may exercise all such powers of the Company as are not, by the Act or by these Articles, required to be exercised by the Company in general meeting, and the exercise of the said powers shall be subject also to the control and regulation of any general meeting of the Company, but no resolution of the Company in general Meeting shall invalidate any prior act of the Directors which would have been valid if such resolution had not been passed.

113. The Directors may from time to time appoint one or more of their body to the office of Managing Director or Manager for such period and on such terms and with such powers, and at such remuneration (whether by way of salary, or commission, or participation in profits, or partly in one way, and partly in another), as they think fit and either in addition to or in lieu of his remuneration as a Director and, subject to the terms of any agreement entered into in any particular case, may revoke any such appointment.

114. A Managing Director so appointed shall not, while holding such office, be subject to retirement by rotation or taken into account in determining the rotation of retirement of Directors, but his appointment shall (without prejudice to any claim he may have for damages for breach of any contract of service between him and the Company) *ipso facto* determine if he ceases from any cause to be a Director.

115. The Directors may entrust to and confer upon a Managing Director any of the powers exercisable by the Directors (other than the powers to borrow money, charge the property and assets of the Company, pay dividends and the power conferred by this Article) upon such terms and conditions and with such restrictions as it thinks fit, and either collaterally with or to the exclusion of its own powers, and may from time to time to think fit, and either collaterally with or the exclusion of its own powers, and may from time to time (subject to the terms of any agreement entered into in any particular case) revoke, withdraw, alter or vary all or any of such powers.

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

117. The Directors shall duly comply with the provisions of the Statutes, and in particular with the provisions in regard to the registration of the particulars of mortgages and charges and other securities whether outright or as security (principal or collateral) for any debt, liability or obligation of the Company or any third party.

118. The Directors shall duly comply with the provisions of the Statutes, and in particular with the

provisions in regard to the registration of the particulars of mortgages and charges affecting the property of the Company, or created by it, and to keeping a register of the Directors and Secretaries, and to sending to the Registrar of Companies an annual list of Members, and a summary of particulars relating thereto, and notice of any consolidation or increase of share capital, or conversion of shares into stock, and copies of special resolutions, and a copy of the register of Directors and notification of any change therein.

119. The Directors may from time to time and at any time by power of attorney appoint any company, firm or person or body of persons, whether nominated directly or indirectly by the Directors, to be the attorney or attorneys of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under these Articles) and for such period and subject to such conditions as they may think fit and also authorize any such attorney to delegate all or any of the powers, authorities and discretions vested in him.

120. The Directors shall cause minutes to be made in books provided for the purpose of all:-

- (a) appointments of officers made by the Directors;
- (b) resolutions and proceedings at all meetings of the Company, and of the Directors, and of Committees of Directors.

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

122 (a) A Director who is in any way, whether directly or indirectly, interested in a contract or proposed contract with the Company shall declare the nature of his interest at a meeting of the Directors in accordance with Section 146 of the Companies Act and any other relevant laws in regard to conflict of interest.

(b) A Director may hold any other office or place of profit under the Company (other than the office of Auditor) in conjunction with his office of Director for such period and on such terms (as to remuneration and otherwise) as the Directors may determine and no Director shall be disqualified by his office from contracting with the Company either as a vendor, purchaser, or otherwise, or from being interested whether directly or indirectly in any contract or arrangement proposed to be entered into or in fact entered into by or on behalf of the Company; nor shall any such contract or arrangement

in which any Director shall be so interested be avoided, nor shall any Director so contracting, or being interested, be liable to account to the Company for any profit realized by him from such contract or arrangement in which he shall be so interested by reason of such Director holding that office or the fiduciary relation thereby established.

(c) No Director shall vote as a Director in respect of any contract or arrangement in which he is interested (and if he shall do so his vote shall be counted) and he may be counted for the purpose of any resolution regarding the same in the quorum present at the meeting.

(d) A Director, notwithstanding his interest, may be counted in the quorum present at any meeting whereat he or any other Director is appointed to hold any such office or place of profit under the Company or whereat the terms of any such appointment are arranged and he may vote on any such appointment or arrangement other than his own appointment or the arrangement of the terms thereof.

(e) Any Director may act by himself or his firm in a professional capacity for the Company, and he or his firm shall be entitled to remuneration for professional services as if he were not a Director; provided that nothing herein contained shall authorize a Director or his firm to act as Auditor to the Company.

(f) A general notice given to the Directors by any Director to the effect that he is a member of any specified company or firm and is to be regarded as interested in any contract which may thereafter be made with that company or firm shall be deemed a sufficient declaration of interest in regard to any contract so made but no such notice shall be of effect unless either it is given at a meeting of the Directors or the Director takes reasonable steps to secure that it is brought up and read at the next meeting of the Directors after it is given.

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

123. The Directors shall cause minutes to be made in books provided for the purpose

- (a) of all appointments of officers made by the Directors;
- (b) of all resolutions and proceedings at all meetings of the Company, and of the Directors ,  
and of committees of Directors

### **DISQUALIFICATION OF DIRECTORS**

124. In addition to any power of removal under the Act, the Company may, by special resolution, remove a Director before the expiration of his period of office and, subject to these Articles, may, by

ordinary resolution, appoint another person who is willing to act as a Director, and is permitted by law to do so, to be a Director instead of him. A person so appointed shall be treated, for the purposes of determining the time at which he or any other Director is to retire, as if he had become a Director on the day on which the Director in whose place he is appointed was last appointed or reappointed a Director.

125. A person ceases to be a Director as soon as:-

- (a) that person ceases to be a Director by virtue of any provision of the Act or is prohibited from being a Director by law; or
- (b) a bankruptcy order is made against that person; or
- (c) a composition is made with that person's creditors generally in satisfaction of that person's debts; or
- (d) by reason of that person's mental health or any other reason, a court makes an order which wholly or partly prevents that person from personally exercising any powers or rights which that person would otherwise have; or
- (e) notification is received by the Company from that person that he is resigning or retiring from his office as Director, and such resignation or retirement has taken effect in accordance with its terms; or
- (f) in the case of a Director who holds any executive office, his appointment as such is terminated or expires and the Directors resolve that he should cease to be a Director; or
- (g) that person is absent without permission of the Chairman from meetings of the Directors for more than three (3) consecutive meetings and the other Directors resolve that he should cease to be a Director; or
- (h) he is removed from office by an ordinary resolution of the Company passed in accordance with the relevant laws.

## **ROTATION OF DIRECTORS**

126. (a) At the Annual General Meeting in each year one-third of the Directors or the number nearest to but not exceeding one-third of them shall retire from office, the Directors to retire each year (unless they otherwise agree among themselves) being those who have been longest in office since their last election and as between persons who become Directors on the same day determined by lot.

(b) A retiring director shall be eligible for re-election and shall act as a Director throughout the meeting at which he retires



(c) The Company may at the meeting at which any Director retires in manner aforesaid, fill up the vacated office by electing a person thereto. In default, the retiring Director shall be deemed to have been re-elected unless at such meeting, it is expressly resolved not to fill up the vacated office or a resolution for the re-election of the retiring Director has been rejected.

(d) At a General Meeting a motion for the appointment of two (2) or more persons as Directors by a single resolution shall not be made, unless a resolution that it shall be so made has first been agreed to by the meeting without any vote being given against it. For the purposes of this Article a motion for approving a person's appointment or for nominating a person for appointment shall be treated as a motion for his appointment.

(e) No person other than a Director retiring at the meeting shall unless recommended by the Directors, be eligible for election to the office of Director at any General Meeting unless not less than Three or more than Twenty-one days before the date appointed for the meeting there shall have been left at the registered office of the Company notice in writing signed by a member duly qualified to attend and vote at the meeting for which such notice is given, of his intention to propose such person for election, and also notice in writing, signed by that person of his willingness to be elected.

#### **CASUAL VACANCIES, INCREASE OR REDUCTION OF NUMBER OF DIRECTORS AND REMOVAL OF DIRECTORS**

127. The Directors shall have power at any time, and from time to time to appoint a person as an additional Director either to fill a casual vacancy or as an addition to the existing Directors but so that the total number of Directors shall not exceed the maximum authorized by these Articles; but any person so appointed shall retire from office at the next following ordinary general meeting, but shall be eligible for election by the Company at that meeting as an additional Director but shall not be taken into account in determining the Directors who are to retire by rotation at such a meeting.

128. The Company may from time to time by ordinary resolution increase or reduce the number of Directors.

129. The Company may by ordinary resolution, of which special notice has been given in accordance with the Act remove any Director before the expiration of his period of office, and, without prejudice to the powers of the Directors under these Articles hereof, may by an ordinary resolution appoint another person in his stead; the person so appointed shall be subject to retirement at the same time as if he had become a Director on the day on which the Director in whose place he is appointed was last elected a Director. Such power or removal may be exercised notwithstanding anything in these Articles or in any agreement between the Company and such Director but without prejudice to any claim such Director may have for damages for breach of contract of service between him and the Company.

## **PROCEEDINGS OF DIRECTORS MEETINGS**

130. The Directors may meet together for the dispatch of business, adjourn, and otherwise regulate their meetings, as they think fit. Questions arising at any meeting shall be decided by a majority of votes. In case of an equality of votes, the Chairman shall have a second or casting vote. A Director may, and the Secretary on the requisition of a Director shall, at any time summon a meeting of Directors and issue notice to any Director for the time being absent from Kenya. A meeting of the Directors may be held by way of a tele-conference, video-conference or such other suitable means of telecommunication provided that all Directors attending such meeting are able to hear each other clearly.

131. The Directors may, if they think fit, confer or hold a meeting by radio, telephone, closed circuit television, video conferencing or other electronic, or other, means of audio or audio/visual communication, or a combination thereof ("Conference"). Notwithstanding that the Directors are not present together in one place at the time of the Conference, a resolution passed by the Directors constituting a quorum at such a Conference shall be deemed to have been passed at a meeting of the Directors held on the day on which and at the time at which the Conference was held. The provisions of these relating to proceedings of Directors apply insofar as they are capable of application mutatis mutandis to such Conference.”

*(As amended by Special Resolution passed on 3<sup>rd</sup> November 2020)*

132. The quorum necessary for the transaction of the business of the Directors may be fixed by the Directors, and unless so fixed shall be Five (5) present either personally or by alternate.

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

134. The Directors may elect a Chairman and Deputy-Chairman for their meetings and determine the period for which they are each to hold office, but if no such Chairman or Deputy-Chairman is elected, or if at any meeting neither the Chairman nor the Deputy-Chairman is present within Five minutes after the time appointed for holding the same, the Directors present may choose one of their number to be Chairman of the meeting.

## **COMMITTEES OF DIRECTORS**

135. The Directors shall be entitled to establish and maintain such number of Directors committees (whether standing or *ad hoc*) to assist the Directors to properly discharge their duties and responsibilities and to effectively execute its decision-making process and mandate as provided under these articles, the

Companies Act and other relevant Statutes, regulations and guidelines.

136. Without prejudice to the generality of the foregoing, the Company shall establish an Audit & Risk Committee, which shall be a standing committee of the Directors. Members of the Audit & Risk Committee shall be appointed by the Members at every Annual General Meeting, on the recommendation of the Directors.

137. The Directors shall make and document rules providing for the conduct of business, life span, roles and reporting procedures of the committees to which they have delegated any of their powers.

138. If the Directors so specify, the delegation may authorise further delegation of the Directors' powers by any person to whom they are delegated.

139. The Directors may—

- (a) revoke the delegation wholly or in part; or
- (b) revoke or alter its terms and conditions.

140. A committee may elect a Chairman of its meetings; if no such Chairman is elected, or if at any meeting the Chairman is not present within five minutes after the time appointed for holding the same, the Members present may choose one of their number to be Chairman of the meeting.

141. A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the Members present, and in the case of an equality of votes the Chairman shall have a second or casting vote.

142. All acts done by any meeting of the Directors or of a committee of Directors or by any person acting as a Director shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such Director or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director.

### **DIRECTORS WRITTEN RESOLUTIONS**

143. A resolution in writing signed by the Chairman and Secretary or a simple majority of the Directors, or by all the Members of a committee, shall be as valid and effective as if it had been passed at a meeting of the Directors or of the committee (as the case may be) duly convened and held. Such a resolution may be circulated to the Directors by electronic means and signed electronically.

144. The resolution in writing may consist of several instruments in the same form each duly executed by one or more Directors and shall be deemed, unless a statement to the contrary is made in that resolution, to have been passed on the day on which it is signed by the last Director who signed it.

145. Such a resolution need not be signed by an alternate Director if it is signed by the Director who appointed him and a resolution signed by an alternate need not also be signed by his appointor.

### **SECRETARY**

146. The Secretary shall be appointed by the Directors for such term, at such remuneration and upon

such conditions as they may think fit; and any Secretary so appointed may be removed by them.

147. No person shall be appointed or hold office as Secretary who is:-

- (a) the sole Director of the Company; or
- (b) a Corporation, the sole Director of which is the sole Director of the Company; or
- (c) the sole Director of a Corporation which is the sole Director of the Company; or
- (d) not the holder of the qualification required by law for that office.

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

### **THE COMPANY SEAL**

149. The Seal shall not be affixed to any instrument except by the authority of a resolution of the Board of Directors or of a committee of the Directors authorized by the Directors in that behalf, and in the presence of Two Directors, or One Director and the Secretary or One Director and such other person as the Directors may appoint for the purpose; and such persons aforesaid shall sign every instrument to which the Seal of the Company is so affixed in their presence either autographically or mechanically by a system of application controlled by the Auditors or Bankers of the Company.

### **DIVIDENDS RESERVES**

150. The Company in general meeting may declare dividends, but no dividend shall exceed the amount recommended by the Directors.

151. The Directors may from time to time pay to the Members such interim dividends (including therein the fixed dividends payable upon any preference or other shares as stated times) as appear to the Directors to be justified by the profits of the Company.

152. No dividend shall be paid otherwise than out of profits available for that purpose.

153. Subject to the rights of persons, if any, entitled to shares with special rights as to dividends, all dividends shall be declared and paid according to the amounts paid or certified as paid on the shares, but if and so long as nothing is paid up on any of the shares in the Company dividends may be declared and paid according to the amounts of the shares. No amount paid or credited as paid on a share in advance of calls shall, while carrying interest, be treated for the purposes of this Article as paid on the share. All dividends shall be apportioned and paid proportionately to the amounts paid or credited as paid on the share during any portion or portions of the period in respect of which the dividend is paid;

but if any share is issued on terms provided that it shall rank for dividend as from a particular date such share shall rank for dividend accordingly.

154. The Directors may, before recommending any dividend, set aside out of the profits of the Company such sums as they think proper as a reserve or reserves which shall, at the discretion of the Directors, be applicable for any purpose to which the profits of the Company may be properly applied, and pending such application may, at the like discretion, either be employed in the business of the Company or be invested in such investments (other than shares of the Company) as the Directors may from time to time think fit. The Directors may also without placing the same to reserve carry forward any profits which they may think prudent not to divide.

155. Notice of any dividend that may have been declared shall be given in manner hereinafter mentioned to the persons entitled to share therein.

156. The Directors may deduct from any dividend payable to any Member all sums of money (if any) presently payable by him to the Company on account of calls or otherwise in relation to the shares of the Company.

157. Any General Meeting declaring a dividend or bonus may direct payment of such dividend or bonus wholly or partly by the distribution of specific assets and in particular of paid up shares, debentures or debenture stock of any other company or in any one or more of such ways, and the Directors shall give effect to such resolution, and where any difficulty arises in regard to such distribution, the Directors may settle the same as they think expedient, and in particular may issue fractional certificates and fix the value for distribution of such specific assets or any part thereof and may determine that cash payments shall be made to any Members upon the footing of the value so fixed in order to adjust the rights of all parties and may vest any such specific assets in trustees as may seem expedient to the Directors.

158. (a) Any dividend or other money payable in cash on or in respect of shares may be paid by electronic funds transfer or other automated system of bank transfer, electronic or mobile money transfer system, transmitted to such bank or electronic or mobile telephone address as shown in the Register of Members or by cheque or warrant payable at such place of business as the Company shall specify in writing, sent through the post to the address of the Member or person entitled to it as shown in the Register of Members or if two or more persons are registered as joint holders of the shares, to the registered address of the joint holder who is first named in the Register of Members or in the case of two or more persons being entitled thereto in consequence of the death or bankruptcy of the holder, to any one of such persons at such address as the persons being entitled to receive payment may in writing direct.

(b) Every such cheque or warrant or funds transfer shall be made payable to or to the order of the

person to whom it is sent or to such person who may be entitled to the same. Payment of the cheque or warrant, if purporting to be endorsed or enfaced, by the addressee or as the case may be, confirmation of payment having been made by the transmitting entity to the addressee of a direct debit, bank transfer or other automated system of bank transfer or via a mobile money transfer system, shall in each case be a good discharge to the Company. Every such payment whether by cheque or warrant or electronic funds transfer or mobile money payments system shall be sent at the risk of the person entitled to the money represented by it.”

*(As amended by resolution passed on 9<sup>th</sup> December 2010)*

159. In the case of electronic money transfers, the funds shall be transmitted to the bank account or mobile telephone number or account information provided by the Member (or Joint holders) to the Company. Payment into such account or mobile telephone number shall be a good discharge to the Company.

160. Payment by cheque or warrant shall be dispatched to the last known address of the Member (or Joint holders) and in each case, both modes of payment shall be a good discharge to the Company.

161. No dividend shall bear interest against the Company.

162. All dividends, interest or other sum payable and unclaimed for twelve (12) months after having become payable may be invested or otherwise made use of by the Directors for the benefit of the Company until claimed or such period as required to be handed to the Unclaimed Financial Asset Authority or its successor (as applicable) and the Company shall not be constituted a trustee in respect thereof.

## **ACCOUNTS**

163. The Directors shall cause proper books of account to be kept with respect to:

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

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

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

of the Directors.

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

166. The Directors shall from time to time, in accordance with the Act, cause to be prepared and to be laid before the Company in general meeting such profit and loss accounts, balance sheets, group accounts (if any) and reports as are referred to in the Act.

167. A copy of every balance sheet (including every document required by law to be annexed thereto) which is to be laid before the Company in general meeting, together with a copy of the Auditor's report, shall not less than Twenty-one days before the date of the meeting be sent or delivered or be made available by electronic means, to every Member of, and every holder of debentures in the Company and every person who is entitled to receive notice of general meetings of the Company but this Article shall not require a copy of these documents to be sent to any person of whose address the Company is not aware, nor to more than one of the joint holders of any shares or debentures, and such documents may be sent using any of the modes set out in these Articles.

168. (a) The accounts may be sent or otherwise made available by electronic means and not by post. This Article shall not require a copy of the Accounts to be sent or otherwise made available by electronic means to any person of whose electronic or postal address the Company is not aware, nor to more than the first named of any joint holders of any shares or debentures.

(b) The Company may also send the Accounts to all persons entitled thereto by publishing the Accounts on the Company's official website provided that the Company shall send to every Member or publish a summary of the financial statements and Auditors Report in two daily newspapers with national circulation for two consecutive days drawing attention to the website on which the Accounts in full may be read, and the address to which a request for a printed copy of the Accounts may be submitted to the Company Secretary and upon any such publication the Accounts shall be deemed to have been sent to every Member or other person entitled to receive a copy of the Accounts.

(c) Such notice may also be given by publishing a notice in at least two local daily newspapers with national circulation for at least two consecutive days.

(d) Where a notice is published in a daily newspaper, it shall be deemed to be served on the day on which it is first published."

*(As amended by resolution passed on 10<sup>th</sup> December 2009)*

## **CAPITALISATION OF PROFITS**

169. The Company in general meeting may upon the recommendation of the Directors resolve that it is desirable to capitalize any part of the amount for the time being standing to the credit of any of the Company's reserve accounts or to the credit of the profit and loss accounts or otherwise available for distribution, and accordingly that such sum be set free for distribution amongst the Members who would have been entitled thereto if distributed by way of dividend and in the same proportions on condition that the same be not paid in cash but be applied either in or towards paying up any amounts for the time being unpaid on any shares held by such Members respectively or paying up in full unissued shares or debentures of the Company to be allotted and distributed credited as fully paid up to and amongst such Members in the proportion aforesaid, or partly in the one way and partly in the other, and the Directors shall give effect to such resolution: Provided that a share premium account and a capital redemption reserve fund may, for the purposes of this Article, only be applied in the paying up of unissued shares to be issued to Members of the Company as fully paid bonus shares.

170. Whenever such a resolution as aforesaid shall have been passed, the Directors shall make all appropriations and applications of the undivided profits resolved to be capitalized thereby, and all allotments and issue of fully paid shares or debentures, if any, and generally shall do all acts and things required to give effect thereto, with full power to the Directors to make such provision by the issue of fractional certificates or by payment in cash or otherwise as they think fit for the case of shares or debentures becoming distributable in fractions, and also to authorize any person to enter on behalf of all the Members entitled thereto into an agreement with the Company providing for the allotment to them respectively, credited as fully paid up, of any further shares or debentures to which they may be entitled upon such capitalization, or (as the case may require) for the payment up by the Company on their behalf, by the application thereto of their respective proportions of the profits resolved to be capitalized, of the amounts or any part of the amounts remaining unpaid on their existing shares, and any agreement made under such authority shall be effective and binding on all such Members.

## **AUDIT**

171. Auditors shall be appointed and their duties regulated in accordance with the Act.

## **NOTICES**

172. The Company may issue notices and any other communication to its Members through any of, or any combination of the following ways: -

- (a) Post or Delivery to the registered address;
- (b) Electronic transmission to the registered electronic addresses of Members;
- (c) Publication, on the same date, in two daily newspapers of nationwide



circulation; and

- (d) Publication on the Company's official website.

For this purpose, the Company may create and maintain a database of its Members registered physical, postal and electronic addresses. All notices must include the physical, postal and electronic addresses to which communications to the Company may be relayed and Members may issue communications to the Company through any of these addresses. In the case of joint holders of a share, all notices shall be given to that one of the joint shareholders whose name stands first in the Register and notice so given shall be sufficient notice to all the joint shareholders.

173. Any Member whose registered address is not within Kenya may by notice in writing require the Company to register an address within Kenya, which, for the purpose of the service of notices, shall be deemed to be his registered address. A Member who has no registered address within Kenya, and who has not given notice as aforesaid, shall be entitled to receive notices from the Company at his address outside Kenya.

174. Any notice if sent by post shall be deemed to have been served on the third day after the day on which it was posted if addressed within Kenya, and on the seventh day after the day on which it was posted if addressed outside Kenya, in proving such service it shall be sufficient to prove that the envelope containing the notice was properly addressed, stamped, and posted. Where a notice is sent by telefax, telegram or electronic mail it shall be deemed to have been served at the expiration of twenty-four hours after the time it was sent.

175. Where a notice is published in a daily newspaper, it shall be deemed to be served on the day on which it is first published.

176. A notice may be given by the Company to the person entitled to share in consequence of the death or bankruptcy of a Member by sending it through the post in a prepaid letter addressed to him by name, or by the title of representative of the deceased, or trustee of the bankrupt, or by any like description, at the registered address, of the person claiming to be so entitled, or (until such an address has been so supplied) by giving the notice in any manner in which the same might have been given if the death or bankruptcy had not occurred.

### **SHARE OPTION SCHEME**

177. The Company may by resolution create such share option or ownership plans, schemes or schemes for its employees, Directors, former Directors, current and former committee Members, as it may determine, and may further empower its Directors to implement and in particular to allocate and issue shares to such plans, schemes or arrangements and to implement such plans, schemes or arrangements.

178. The Directors may do all acts and things necessary to establish and carry into effect a trust

scheme comprising of one or more Employee Share Option Plan (ESOP) and/or Employee Share Purchase Plan (ESPP) including drafting and amending the instrument of the ESOP and/or ESPP as Directors in their discretion deem appropriate.

## **WINDING UP**

179. If the Company shall be wound up the liquidator may, with the sanction of a special resolution of the Company and any other sanction required by the Act, divide amongst the Members in specie or kind the whole or any part of the assets of the Company (whether they shall consist of property of the same kind or not) and may, for such purpose set such value as he deems fair upon any property to be divided as aforesaid and may determine how such division shall be carried out as between the Members or different classes of Members. The liquidator may, with the like sanction, vest the whole or any part of such assets in trustees upon such trusts for the benefit of the contributories as the liquidator, with the like sanction, shall think fit, but so that no Member shall be compelled to accept any shares or other securities whereon there is any liability.

## **INDEMNITY**

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

## **INSURANCE FOR DIRECTORS**

181. The Company may purchase and maintain insurance for any person who is or was a Director of the Company, or a Director of an associated company, against any liability to any person attaching to the Director in connection with any negligence, default, breach of duty or breach of trust (except for fraud) in relation to the Company or associated company; or any liability incurred by the Director in defending any proceedings (whether civil or criminal) taken against the Director for any negligence, default, breach of duty or breach of trust (including fraud) in relation to the Company or associated company.

## **CONFLICT WITH THE COMPANIES ACT, 2015**

182. a) In the event of there being any conflict between these Articles and the Act, the provisions of the Act shall prevail.
- b) In the event of there being any conflict between the Companies Act, 2015 and the

Capital Markets Act, the provisions of the Capital Markets Act shall prevail.