

**THE COMPANIES ACT**  
**(NUMBER 17 OF 2015 OF THE LAWS OF KENYA)**

**PUBLIC COMPANY LIMITED BY SHARES**

**ARTICLES OF ASSOCIATION<sup>1</sup>**

**OF**

**SMEP MICROFINANCE BANK PUBLIC COMPANY LIMITED**

**AMENDED ARTICLES DRAWN BY:-**

**MBOYA WANGONG'U AND WAIYAKI  
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**mboya wangong'u & waiyaki**

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<sup>1</sup> These Articles were revised pursuant to a special resolution of the Members of the Company passed on 23<sup>rd</sup> January 2023

## DEFINITIONS& INTERPRETATION

1. In these Articles, unless the context otherwise requires, expressions defined in the Act 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>The Act</b>	The Companies Act, Number 17 of 2015, Laws of Kenya.
<b>The Company</b>	Means SMEP Microfinance Bank Public Company Limited.
<b>The Statutes</b>	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, its operation, business or winding up.
<b>Articles</b>	These Articles of Association as now framed or as from time to time altered in accordance with the Act.
<b>The Office</b>	The Registered Office for the time being of the Company.
<b>The Seal</b>	The Common Seal of the Company.
<b>The Directors</b>	The Directors of the Company or the Directors present at a duly convened meeting of Directors at which a quorum is present. "Director" shall have the corresponding singular meaning.
<b>The Board</b>	The Directors or a quorum of them acting as the Board of the Company.
<b>"Business"</b>	Means microfinance banking business conducted in accordance with the Microfinance Act of 2016, Kenya.
<b>Member</b>	Member or shareholder of the Company.
<b>Microfinance Act</b>	Means the Microfinance Act 2006 (including any regulations and guidelines issued thereunder or pursuant thereto)
<b>Class A Ordinary Shares</b>	Means ordinary shares of the company

that carry the rights/features set out in Articles 143 and 171 of these Articles and which in all other respects rank pari passu with other ordinary shares of the Company.

**Independent Directors**

Has the meaning ascribed to it under the Microfinance Act or any guidelines issued by the Central Bank of Kenya, and in the absence of such definition, means a member of a board of directors who-

- a) is not an executive director;
- b) does not have a material or pecuniary relationship with the Company or related persons;
- c) is compensated through sitting fees or allowances; and
- d) does not directly or indirectly own shares in the Company

Provided that after six years of continuous service as such director, such person shall no longer be considered as an independent director.

**The Register**

The Register of Members of the Company.

**Paid Up**

Paid Up or credited as paid up.

**Dividend**

Every description of distribution of the assets of the Company to its Members or any of them (whether in cash or otherwise) subject to the exceptions set out under the Act..

**Year**

From 1<sup>st</sup> January to 31<sup>st</sup> December both days inclusive.

**Month**

Calendar month.

**Days**

Calendar days and 'Day' shall have a corresponding meaning.

**Ordinary Business**

Means business which is transacted at an Annual General Meeting and includes:

- a) The consideration of financial statements and the reports of the Board of directors and auditors;

- b) The declaration of dividend;
- c) The appointment of directors in place of those retiring, and the fixing of remuneration of directors; and
- d) The appointment of, and the fixing of remuneration of, the auditors.

**Special Business** Means any other business, other than Ordinary Business, transacted either at an Annual General Meeting or an Extra-ordinary general meeting. Every business transacted at an Extra-ordinary general meeting shall be deemed special business.

**In writing**

Written or produced by any substitute for writing, or partly written and partly so produced.

**2. Interpretation**

Words importing the singular number only shall include the plural number and vice versa, and Words importing the masculine gender only shall include the feminine and neuter gender, and

Words importing persons shall include corporations and the expressions "debenture" and "debenture holder" shall include debenture stock and debenture stockholder and the expression "Secretary" shall include a temporary or assistant Secretary and any person appointed by the Directors to perform any of the duties of the Secretary.

Reference herein to any provisions of the Act shall, where the context so admits, be construed as a reference to such provision as modified by any statute for the time being in force.

The Model Articles contained in the Third Schedule to the Companies (General) Regulations, 2015 are hereby excluded from application to the Company.

**SHARE CAPITAL**

- 3. The share capital of the Company is Kenya Shillings One Billion One Hundred and Thirty Nine Million Two Hundred and Ninety Seven Thousand Five Hundred and Sixty (**KShs 1,139,297,560/=**)<sup>2</sup> divided into:
  - a) One Hundred and Eleven Million Six Hundred and Fifty One Thousand One Hundred and Sixty One (**111,651,161**) Ordinary Shares of Kenya Shillings Five (KShs. 5/-) each; and
  - b) One Hundred and Sixteen Million Two Hundred and Eight Thousand Three Hundred and Fifty One (**116,208,351**) Class A Ordinary shares of

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<sup>2</sup> The share capital was increased to Kshs. 1,139,297,560 by an ordinary resolution of the shareholders passed on 23<sup>rd</sup> January 2023.

Kenya Shillings Five (KShs. 5/-) each

**SHARES**

4. Except as required by law, no person shall be recognised by the Company as holding any share upon any trust, and the Company shall not be bound by or be compelled in any way to recognise (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 share except an absolute right to the entirety thereof in the registered holder.
5. 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.
6. 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 upon which and the manner in which any such Preference shares shall be redeemed. Redemption of any Preference shares, including payment of any premium payable on redemption of such shares shall only be out of:
  - c) distributable profits of the company, as defined in the Act; or
  - d) the proceeds of a fresh issue of shares made for the purposes of the redemption.
7. 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 that 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 Members holding at least fifty per centum (50%) of the issued shares of that class present in person or by proxy 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.
8. 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.
9. Subject to the provisions of these Articles and the Act, any unissued shares in the capital of the Company shall be at the disposal of the Board which 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 it may determine provided that no shares shall be issued at a discount except as permitted by the Act.

10. Unless otherwise authorized by the Members by way of an ordinary resolution in a General Meeting, and except in respect of shares previously set aside for issue in an employee share option or ownership plan or its equivalent, whenever the Directors propose to issue any Shares which have not been allotted they shall be offered to such persons as at the date of the offer are entitled to receive notices from the Company of general meetings in proportion, as nearly as the circumstances admit, to the amount of the existing shares to which they are entitled. The offer shall be made by notice specifying the number of shares offered, and limiting a time 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 they think 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 opinion of the Directors, be conveniently offered under this Article PROVIDED THAT this regulation shall not apply to the issue of unallotted shares by the Company for the purposes of acquisition of another company's shares or business for which the Directors are hereby conferred with and shall have the general authority to issue unallotted shares for that purpose, except where such issue of shares would result in a shareholder (as a result of being issued shares for the acquisition) gaining control of the Company in which case such issue will require the approval by the Members by way of a special resolution of a general meeting.

For avoidance of doubt and notwithstanding the foregoing provisions of this Article 10, the Directors are specifically empowered to acquire through the allotment of shares or otherwise any business or shares that constitute not more than 10% of the then market capitalization of the Company.

Members shall only be entitled to receive, pursuant to the foregoing provision, shares of the same class as the class of shares then held by them immediately before such offer.

11. The Company may exercise the powers of paying commissions conferred by Section 331 of the Act, provided that the rate per cent or the amount of the commission paid or agreed to be paid and the number of shares for which persons have agreed for a commission to subscribe absolutely shall be disclosed to the Members and that such commission shall not exceed ten per cent (10%) of the price at which the shares in respect whereof the same is paid are issued or an amount equal to ten percent (10%) of such price (as the case may be). Such commission may be satisfied by the payment of cash or the allotment of fully or partly paid shares or partly in one way and partly in the other. The Company may also, on any issue of shares, pay such brokerage as may be lawful.
12. If any shares in the capital 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 costs of construction of the works or buildings or the provision of plant as the case may be.
13. The Company may by resolution create such share option or ownership plans, schemes or schemes for its employees, former employees, directors and former directors 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.

### OBJECTS

14. The objects for which the Company is established are unrestricted.
15. The Company shall endeavour to carry out its business in accordance with the following motivations and objectives:
  - a) To invest in the dreams of families in Kenya's underserved communities as the Company proclaims and lives out the Gospel.
  - b) To share the hope of Jesus Christ through providing biblically based trainings, savings services and loans that restore dignity and break the cycle of poverty.
  - c) To exemplify Christian compassion and love.

### CERTIFICATES

16. Every person whose name is entered as a member in the Register shall be entitled without payment to receive 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 1000/- 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.
17. 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 immobilized or dematerialized or are required by the regulations or rules issued under the Central Depositories 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 Depositories 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 of association, immobilization and dematerialized shall be construed in the same way as they are construed in the Central Depositories Act.
18. Where any securities of the Company are forfeited pursuant of 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.
19. Where a Member has sold some of the shares registered in his name, he shall be entitled to a certificate for the balance without charge.
20. 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 1000/- and on such terms, if any, as to evidence and indemnity as the Directors think fit.

### **PURCHASE OF OWN SHARES**

21. The Company may purchase any of its issued shares, subject to the provisions of these Articles and the Act. Payment for any shares so purchased shall only be out of:
  - a) distributable profits of the company, as defined in the Act; or
  - b) the proceeds of a fresh issue of shares made for the purpose of financing the purchase.

### **LIEN ON SHARES**

22. 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.
23. The Company may sell 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 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. Such shares shall be sold by the Directors in such manner as they deem fit but in all cases at fair value to existing shareholders and where such shareholders do not take up the shares, the Directors shall sell them at fair value to such other persons as they deem fit.
24. To give effect to any such sale the Directors may authorise 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.
25. 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.

### **CALLS ON SHARES**

26. The Directors may from time to time make calls upon the Members in respect of any monies unpaid on their shares, and each member shall (subject to receiving at least Fourteen days' notice specifying the time or times of payment) pay to the Company at the time or times so specified the amount called on his shares. A call may be revoked or postponed as the Board may determine.



27. A call shall be deemed to have been made at the time when the resolution of the Directors authorising the call was passed and may be required to be paid in instalments.
28. The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.
29. 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 Fifteen per cent (15%) per annum 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.
30. 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.
31. 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.
32. 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 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) Fifteen per cent (15%) per annum, as may be agreed upon between the Directors and the member paying such sum in advance.

### **TRANSFER OF SHARES**

33. 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. Where the Company establishes an over the counter trading system, additional rules imposed by that system will apply to the fullest extent not prohibited by the statutes and these articles.
34. Every instrument of transfer shall be left at the transfer office of the Company at which it is presented for registration accompanied by the Certificate of the share to be transferred or such other evidence as the Company may require to move the title of the transfer or his right to transfer the share. All authorities to sign Transfer Deeds granted by a member for the purpose of transferring shares which may be lodged, produced or exhibited with or to the Company at any of its proper offices shall as between the Company and the grantor of such authorities be taken and deemed to continue and remain in full force and effect and the Company may allow the same to be acted upon until such time as express notice in writing of the revocation of the same shall have been given and lodged at the Company's transfer offices at which the authority was lodged, produced or exhibited.

Even after the giving and lodging of such notices the Company shall be entitled to give effect to any instruments signed under the authority to sign and certified by any officer of the Company as being in order before the giving and lodging of such notice.

35. The Board may decline to register the transfer of a share on which the company has a lien, or otherwise in accordance with the Act.
36. The Directors may refuse to register any instrument of transfer of shares, if:-
  - a) The registration fee of Kenya Shillings 100/- (or such lesser 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; 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
    - (iv) for so long as the Company's shares are not listed on a stock exchange
  - e) In the case of a transfer to joint holders, they exceed Four in number.
  - f) It breaches the provisions of the Micro Finance Act (Act No. 19 of 2006, Laws of Kenya) or any applicable law as to maximum individual shareholding.
37. There will be no registration fees in respect of shares traded at any recognized stock exchange.
38. If the Directors refuse to register a transfer, they shall within Two (2) months after the date on which the transfer was lodged with the Company send to the transferee notice of the refusal.
39. 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.
40. The Company shall be entitled to charge a fee not exceeding Kenya Shillings 50/- on the registration of every probate, letters of administration, certificate of death or marriage, power of attorney, or other instrument.
41. Nothing in these articles shall preclude the Directors from recognising a renunciation of the allotment of any share by the allottee in favour of some other person.

#### **TRANSMISSION OF SHARES**

42. 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 recognised 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.

43. 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.
44. 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 to 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 or transfer were a transfer signed by that member.
45. 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:
46. 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**

47. 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 remains unpaid, serve a notice on him requiring payment of so much of the call or instalment as is unpaid, together with any interest which may have accrued.
48. 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 made, and shall state that in the event of non-payment at or before the time appointed the shares in respect of which the call was made will be liable to be forfeited. The Board may accept the surrender of any shares liable to be forfeited hereunder and, in such case, references herein to forfeiture shall include surrender.
49. 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. Such forfeiture shall include all dividends declared in respect of the forfeited

shares and not actually paid before the forfeiture.

50. When any share has been forfeited, notice of the forfeiture shall forthwith be given to the holder of the share or to a person entitled to the share by reason of the death or bankruptcy of the holder as the case may be, but no forfeiture shall be invalidated by any omission or neglect to give such notice aforesaid.
51. 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.
52. 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 together with interest thereon, from and including the date of forfeiture to and including the date of payment, at such rate, not exceeding fifteen per cent per annum as the Board may determine, 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.
53. 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 authorise 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.
54. 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.

#### **ALTERATION OF CAPITAL**

55. 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. In addition, the Company's directors may increase the shares of the Company by allotting new shares in accordance with Section 404 of the Act. Without prejudice to the generality of the foregoing, but subject to the provisions of the Act and these Articles, the Directors of the Company may exercise the power of the Company:
  - a) to allot shares in the company; or
  - b) to grant rights to subscribe for or to convert any security into shares in the Company.
56. Subject to any direction to the contrary that may be given by the resolution sanctioning the increase of capital, all new shares shall, before issue, be offered to such persons as at the date of the offer hold ordinary shares in the Company in proportion, as nearly as the

circumstances admit, to the amount of the existing shares to which they are entitled. The offer shall be made by notice specifying the number of shares offered, and limiting a time 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 they think most beneficial to the Company subject always to any direction to the contrary by any resolution of the Members. The Directors may likewise, subject always to any direction to the contrary by any resolution of the Members, 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 opinion of the Directors, be conveniently offered under this Article.

57. Any new shares may be offered at par or at a premium.
58. The new shares shall be subject to the same provisions with reference to the payment of calls, liens, transfer, transmission, forfeiture and otherwise as the shares in the original share capital.
59. 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 authorised, and consent required, by law.

### GENERAL MEETINGS

60. The Company shall in each year hold a general meeting as its annual general meeting in addition to any other meetings in that year, and shall specify the matter as such in the notices calling it, within six months from and including the day following its accounting reference date in that 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. Notwithstanding anything contained in the Articles, shareholders meetings may be also held by way of telephonic conference, closed circuit television, video and teleconferencing or other electronic means of audio/ visual communication or a combination of a physical meeting and video or telephonic conferencing means. Notwithstanding that the members are not present in one place at the time of a teleconference or video-conference or any of the means set out hereinbefore, a resolution passed by members constituting a quorum at such a conference as aforementioned shall be deemed to have been passed at a meeting of the Members as held on the day on which and at the time at which the conference was held and as specified by the Notice calling it.

61. All general meetings other than annual general meetings shall be called extraordinary general meetings.
62. 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.

#### **NOTICE OF GENERAL MEETINGS**

63. An annual general meeting and a meeting called for the passing of a special resolution shall be called by Twenty-one days' notice in writing at the least, and a meeting of the Company other than an annual general meeting or a meeting for the passing of a special resolution shall also be called by Twenty-one days' notice in writing at the least. The notice shall be exclusive of the day of 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 it 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.
64. 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 be a Member.
  65. 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.
  66. Notices of General Meetings of the Company (including any document accompanying such notices) may be given by post, by advertisement in the print media, by display on the Company's website or otherwise on the internet, by electronic mail or by such other means as in the opinion of the Directors it would be reasonable to expect the notice will come to the attention of the members entitled to attend the meeting.

#### **PROCEEDINGS AT GENERAL MEETINGS**

67. 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 and the fixing of the remuneration of the Auditors and the remuneration of Directors.

68. 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, four (4) Members present in person or by proxy holding at least fifty per cent (50%) of the issued shares of the Company, shall be a quorum.
69. If within half an hour from the time appointed for the meeting a quorum is not present, the meeting shall stand adjourned to the same day in the next week, at the same time and place or to such other day and at such other time, not exceeding fourteen (14) days from the first date of meeting, 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.
70. The Chairman of the Board of Directors (or in his absence the Vice-Chairman, if any) shall preside at every general meeting of the Company.
71. If there is no such Chairman (or Vice-Chairman) or if at any meeting he is not present within Thirty minutes after the time appointed for holding the meeting, or is unwilling to act as Chairman, the Directors present shall choose one of their number to be Chairman. If no Director is willing to act as Chairman or no Director is present within Thirty minutes after the time appointed for holding the meeting, the Members present shall choose one of their number to be Chairman of the meeting.
72. 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.
73. At any General Meeting, resolutions on Ordinary Business put to the vote of the Meeting shall be decided on a show of hands unless a poll is (before or on the declaration of the result of the show of hands) demanded:
  - a) by the Chairman; or
  - b) by 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 on the resolution; or
  - c) by at least five (5) Members present in person or by proxy and having the right to vote on the resolution; or
  - d) by a Member or Members present in person or by proxy and holding shares in the Company conferring a right to vote on the resolution, being shares on which an aggregate amount has been paid up equal to not less than ten per cent of the total amount paid up on all the shares conferring that right.

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 to that effect in the book containing the minutes of the proceedings of the Company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution. The demand for a poll may be withdrawn.

74. At any General Meeting, all resolutions on Special Business shall be decided by way of poll.
75. Except as provided in Article 78, if a poll is duly demanded or is required under Article 74, 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.
76. In the case of an equality of votes, whether on a show of hands or on a poll, the Chairman of the meeting at which the show of hands takes place or at which the poll is demanded, shall be entitled to a second or casting vote.
77. The demand for a poll shall not prevent the continuance of a meeting for the transaction of any business other than the question on which a poll has been demanded and the demand may be withdrawn at any time. On a poll, votes may be given personally or by proxy or attorney or by a representative of a corporation appointed in accordance with Article 93.91.
78. 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 the rejection of the vote shall reduce the number of members to less than the quorum required to hold a valid meeting.
79. A poll demanded on the election of 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.
80. Subject to the provisions of the Act, a resolution in writing signed by all the Members for the time being entitled to receive notice of and to attend and vote at General Meetings or, being corporations, by their representatives appointed in accordance with Article 93, shall be as valid and effective as if the same had been passed at a General Meeting of the Company duly convened and held. Such resolution may be contained in one document or in several documents in like form each signed by one or more of the Members or their representatives as aforesaid.

#### **VOTES OF MEMBERS**

81. Subject to any rights or restrictions for the time being attached to any class or classes of shares, on a show of hands 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, provided that the share(s) held entitle(s) the Member to vote at the relevant general meeting or on the relevant resolution.
82. In the 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.

83. A Member incapable by reason of mental disorder of managing and administering his property and affairs may vote, whether on a show of hands or on a poll, 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.
84. No Member shall be entitled to vote at any general meeting unless all calls or other sums presently payable by him in respect of shares in the Company have been paid.
85. No objection shall be raised to the qualification of any voter 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.
86. On a poll votes may be given either personally or by proxy.
87. 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 appointer 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.
88. The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of the 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 for holding the meeting or adjourned meeting, at which the person named in the instrument proposes 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.
89. An instrument appointing a proxy shall be in the following form, or in any other form of which the Directors shall approve:-

**"SMEP MICROFINANCE BANK PUBLIC COMPANY LIMITED"**

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 General  
Meeting/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.....

90. The instrument appointing a proxy shall be deemed to confer authority to demand or join in demanding a poll.
91. 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, of the authority under which the proxy was executed or the transfer of the share in respect of which the proxy is given, provided 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.

92. Notwithstanding any other provision of these Articles or any agreement entered into between or among any Members of the Company, the following actions shall not be taken without the affirmative vote of holders of at least 75% of the Company's ordinary shares, that is to say:
- a) Carrying by the Company of any other business other than the Business;
  - b) creation of new subsidiaries or joint ventures;
  - c) Opening any business outside Kenya;
  - d) Changes in the size of the Board of Directors;
  - e) the creation of issuance of any securities convertible into, or carrying a right to subscribe for, or any other right to subscribe or acquire, Shares or shares in the Company;
  - f) any variation to the rights attaching to the Class A Ordinary Shares;
  - g) any variation of these Articles;
  - a) Effect a liquidation, voluntary bankruptcy, winding up, merger, or sale or purchase of substantially all the assets of the Company and/or the Company's subsidiaries;
  - b) Any listing of any shares or other securities of the Company on any securities exchanges.

### **CORPORATIONS**

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

### **DIRECTORS**

94. Unless and until otherwise from time to time determined by a resolution of the Company (as a shareholder reserved matter) and subject to the relevant laws, the number of the Directors (excluding Alternates) shall not be less than Five (5) nor more than Eleven (11) in number (including the Managing Director). The Board shall comprise of such independent directors as well as non-executive directors as shall from time to time be

required under the law of Kenya. 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.

95. The Board 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) as 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.
96. The Directors (other than those Directors whose remuneration is determined by agreement between the Company and such Directors) shall be paid out of the funds of the Company by way of remuneration for their services such sums as the Board may from time to time determine and such remuneration shall be divided among them in such proportion and manner as the Directors may determine. 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 Board, or of committees of the Board, or general meetings, or which they may otherwise properly incur in or about the business of the Company.
97. Any Director who by request performs special services or goes or resides abroad for any purposes of the Company may be paid such extra remuneration by way of salary, percentage of profits or otherwise as the Board may determine.
98. 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.
99. The Chairman of the Board of Directors at the date of the adoption of these Articles shall continue to be Chairman until he resigns from office, ceases to be a Director or is removed from office by a resolution of the Board. In the event that the office of the Chairman becomes vacant as provided hereinbefore, the Board of Directors shall elect a new non-executive Chairman from the members of the Board.

#### **ALTERNATE DIRECTORS**

100. Any Director may with the consent of the Board (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 and shall not as such be entitled to receive any remuneration from the Company. 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.
101. An Alternate Director shall be entitled to receive notices of all meetings of the Board 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.
102. 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.

103. 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.
104. 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.
105. 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 Board 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**

106. The Business 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 meetings 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.
107. The Directors may exercise all the powers of the Company to borrow, raise money or secure obligations and to mortgage or charge its undertaking, property and uncalled capital and to issue debentures, bonds, notes, mortgages, 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.
108. 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 notifications of any changes therein provided that any register required to be kept by the Company may be kept in electronic form as the directors deem fit.
109. 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 any such powers of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney as the Directors may think fit and may also authorise any such attorney to delegate all or any of the powers, authorities and discretions vested in him.
110. The Company may exercise the powers conferred by the Act with regard to having an official seal for use abroad, and such powers shall be vested in the Directors.

### **MANAGING DIRECTOR**

111. (1) The Directors may appoint a Managing Director who shall be the Chief Executive of the Company for such period and on such terms 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 may think fit and, subject to the terms of any agreement entered into in any particular case, may revoke any such appointment. Such Managing Director shall not however be appointed without the prior approval of the Central Bank of Kenya or without such other authorization as will be required by the relevant laws as enacted and amended from time to time.

(2) Any person appointed to be the Managing Director as aforesaid shall not, while he holds such office, be subject to retirement by rotation nor shall he be taken into account in determining the rotation in which the Directors retire. The Managing Director shall nonetheless be taken into account in reckoning the total number of directors for purposes of Article 94. His appointment as Director shall immediately determine if he ceases for any reason to be the Managing Director.

(3) The Directors shall entrust to and confer upon any such Managing Director as aforesaid, any of the powers exercisable by them as Directors (other than the powers of making calls and issuing shares) including in particular all executive powers and the day-to-day management and operation of the Company.

(4) The Managing Director shall be entitled to attend and speak at all meetings of the Board but will not be entitled to vote.

(5) Without prejudice to the generality of the foregoing, the duties of the Managing Director will include:

- a) to conduct the business of the Company in accordance with the policy guidelines formulated by the Board and any regulatory body;
- b) to cause the Company's funds and securities to be kept under safe custody at all times;
- c) to keep or cause to be kept, full and accurate accounts of all receipts and payments in books of the Company;
- d) to make such payments from the funds of the Company as may be necessary for the day-to-day operations of the Company;
- e) to prepare, or cause to be prepared, the Annual Report of the Company;
- f) to prepare, or cause to be prepared, the Balance Sheet and Accounts for audit and for submission to the Board;
- g) to render to the Board at its meetings, or at such other times as required, an account of all the transactions and the financial position of the Company; and
- h) to perform such other duties as may be prescribed by the Board.

#### **EXECUTIVE DIRECTORS**

112. (1) The directors may from time to time appoint a person (or persons) of such qualification as the directors may from time to time determine to the office of Executive Director, and reporting to the Board of Directors, for such period and on such terms and with such powers as they may think fit and subject to the terms of any agreement entered into in any particular case, may revoke any such appointment.

(2) Such person shall be entitled to attend and speak but not to vote at board meetings.

(3) An Executive Director so appointed shall not, whilst holding that office be subject to retirement by rotation or be taken into account in determining the rotation or retirement of directors but shall cease to be a Director of the Company if he ceases to be such Executive Director for any reason or cause. Such a director shall nonetheless be taken into account in reckoning the total number of directors for purposes of Article 94.

(4) An executive director shall receive such remuneration (whether by way of salary, commission or participation in profits, or partly in one way and partly in another) as the directors may determine.

### DIRECTORS CONTRACTS

113. (1) 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 to the other Directors and the members of the Company in accordance with Section 151 of the Act.

(2) 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 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 realised 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.

(3) A director shall neither vote nor participate in the discussions in respect of any contract or arrangement in which he is interested, and if he shall do so his vote shall not be counted, nor shall he be counted in the quorum present at the meeting, but neither of these prohibitions shall apply to:-

- a) any arrangement for giving any director any security or indemnity in respect of money lent by him or obligations undertaken by him for the benefit of the company; or
- b) to any arrangement for the giving by the company of any security to a third party in respect of a debt obligation of the company for which the director himself has assumed responsibility in whole or in part under a guarantee or indemnity or by deposit of a security; or
- c) any contract by a director to subscribe for or underwrite shares or debentures of the company; or
- d) any contract or arrangement with any other company in which he is interested only as officer of the Company or as a holder of minority shares or other securities.

(4) 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.

(5) 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 authorise a Director or his firm to act as Auditor to the Company.

(6) 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.

114. 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.
115. The Directors shall cause minutes to be made, in books provided for the purpose, recording in respect of every meeting of the Company, of the Directors and of Committees of Directors the names of all persons present and all resolutions and proceedings at such meeting. The minutes of every such Meeting shall be read at the next Meeting of the Company, of the Directors or of the Committee of directors, as the case may be, and, after being amended or corrected if necessary, approved by the meeting, shall be signed by the Chairman of the meeting and, once so signed, shall be prima facie evidence of the matters stated therein.
116. The Directors may grant retirement pensions or annuities or other gratuities or share options or units, 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 or 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, options, and allowances in the terms of engagement of any such person.

#### **DISQUALIFICATION OF DIRECTORS**

117. The office of Director shall be vacated if the Director:
  - a) ceases to be qualified to hold a directorship in a Bank in Kenya under the Central Bank of Kenya Prudential Guidelines;
  - b) ceases to be or is prohibited from being a Director by virtue of any provision of the Act or any other applicable law; or
  - c) becomes bankrupt; or
  - d) becomes incapable by reason of mental disorder of exercising his functions as Director; or
  - e) resigns his office by notice in writing to the Company;
  - f) is absent, without the previous sanction of the Directors, for a period of

- more than Six months from meetings of the Directors held during such period and the Directors resolve that his office be vacated accordingly; or
- g) is requested to vacate office by a unanimous vote of all Directors on account of conduct which in the opinion of the directors is inconsistent with the values of the Company.

### ROTATION OF DIRECTORS

118. Directors will retire on the third anniversary of their appointment but shall be eligible for re-election, subject to this Article 118 . A director who has served for two terms may only be offered for re-election on the proposal of the Board for reasons which must be detailed by the Board to the meeting of members considering such re- election.
119. 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 office 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.
120. The company at the meeting at which a Director retires in the manner aforesaid, may fill the vacated office by electing a person thereto and, in default, the retiring Director shall if offering himself for re-election, be deemed to have been re- elected unless, at such meeting, it is expressly resolved not to fill such vacated office or a resolution for the re- election of such Director shall have been put to the meeting and lost.
121. 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 authorised 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.
122. The Company may from time to time by ordinary resolution increase or reduce the number of Directors and may also determine in what rotation the increased or reduced number is to go out of office.
123. 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 Article 120 hereof, may by an ordinary resolution of which special notice has been given in accordance with the Act 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 of 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.
124. Notwithstanding the foregoing, a member shall be entitled to nominate and have appointed to the Board one (1) Director for every complete ten per cent (10%) of Shares held by such member and shall have the right to remove from time to time such



Director(s) so appointed by it from the Board as it may consider fit and to nominate for appointment replacements. The Directors appointed to the Board under this Article may from time to time nominate for appointment upto three (3) independent persons as Independent Directors. For purposes of this Article, related parties may aggregate their shareholding for purposes of achieving the thresholds for appointment and removal of directors.

### PROCEEDINGS OF DIRECTORS

125. The Directors may meet together for the despatch 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. The Chairman may, and on the requisition in writing of a majority of the directors shall, at any time summon a meeting of the Directors. Directors may hold meetings by telephone, either by conference telephone connection(s) or by a series of telephone conversations or by any communication equipment which allows all persons participating in the meeting to speak with and hear each other, or by a combination of physical meetings and video conferencing and telephonic means. A Director shall be deemed to be present at any Board or board committee meeting conducted by way of such communication equipment. A resolution passed at any meeting held in this manner, shall be valid and effectual as if it had been passed a meeting at which Directors are physically present.
126. The quorum necessary for the transaction of the business of the Directors shall be at least one half of the number of the Directors then in office.
127. 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.
128. The Directors may elect a Vice-Chairman to assist the Chairman for their meetings and determine the period for which he is to hold office. If at any meeting neither the Chairman nor the Vice-Chairman is present within thirty minutes after the time appointed for holding the same, the Directors present may choose one of their number to be Chairman for that meeting.
129. The Directors may delegate any of their powers to committees consisting of such Member or Members of their body as they think fit; any such committee shall conform to any regulation that may be imposed on it by the Directors.
130. 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 thirty minutes after the time appointed for holding the same, the Members present may choose one of their number to be Chairman of the meeting.
131. The meetings and proceedings of any committee consisting of two or more persons shall be governed by the provisions herein contained for regulating the meetings and proceedings of the Directors so far as the same are applicable and are not superseded by any regulations imposed by the directors under Article 129.

132. 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.
133. A resolution in writing signed by all of the Directors, or of all the members of a committee, shall be as valid and effectual 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.
134. Notwithstanding anything contained in this Articles, the following matters (hereinafter referred to as the "Board Reserved Matters") shall not be undertaken or decided on by the Board and the Company without the affirmative vote of at least two thirds of the board of directors in office shall have been given:
  - a) Amendment of the approved Business Plan;
  - b) Sale or purchase of significant assets for amounts in excess of 25% of the Company's total assets;
  - c) Establishment of any employee share purchase or similar equity-based plans;
  - d) The sale, licensing, or transferring any of the Company's patents, copyrights, trademarks or other intellectual property other than in the ordinary course of its business;
  - e) Recommendation for declaration or payment of any dividend outside of the approved dividend policy;
  - f) The dealing, in any manner, with any dividend amount retained on account of the Class A Ordinary Shares pursuant to Article 143.

#### **BOARD COMMITTEES**

135. The Board shall constitute such committees as it may deem necessary for the running of the affairs of the Board including but not limited to the following:
  - a) Human Resource, Governance & Spiritual Integration Committee
  - b) Credit Committee
  - c) Audit & Risk Committee
  - d) Finance & Strategy Committee.
136. The membership of the above committees shall comprise, as their majority, directors appointed by the majority shareholder or alternates to such Directors or any other representative(s) nominated by the majority shareholder.
137. The terms of reference, mandate and operations of Board committees shall be detailed in a board manual and such other documents as the Board may choose to adopt.

#### **SECRETARY**

138. 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.

139. 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) is not the holder of the qualification required by law for that office.
140. A provision of the Act or these Articles requiring or authorising a thing to be done by or to a Director and the Secretary shall not be satisfied by its being done by or to the same person acting both as Director and as, or in place of, the Secretary.

#### THE SEAL

141. (1) Where the Company elects to maintain the Seal, the Directors shall provide for safe custody of the Seal which shall only be used by the authority of the Directors or of a committee of the Directors authorized by the Directors in that behalf; and every instrument to which the Seal shall be affixed shall be signed by two Directors or one Director and the Company Secretary or one director and such other person as the Directors may appoint for the purpose.
- (2) Unless a contract specifically requires to be signed under the seal, a contract may be made by the Company in writing and on behalf of the Company by a person acting under its authority, express or implied; and a document may be validly executed by the Company if it is signed on behalf of the Company either by two authorized signatories or by a director of the Company in the presence of a witness who attests the signature or by an attorney duly authorized in accordance with Article 109.

#### DIVIDENDS AND RESERVE

142. The Company in general meeting may declare dividends, but no dividend shall exceed the amount recommended by the Directors. The dividend may be in the form of cash, shares or scrip or partially in one form and partially in another.
143. Where dividends have been declared with respect to the shares and the Class A Ordinary Shareholders have resolved not to receive their dividends, the amount that would have been otherwise payable to the Class A Ordinary Shares shall be utilized in the following order of priority:
- a) To be held in an account with the Company for a period of not less than two years from the date of declaration of dividend;
  - b) To be converted into equity on such terms as shall be agreed between the Class A Ordinary Shares and the Company;
  - c) To be dealt with in such other manner as the Company and the Class A Ordinary Shareholders shall agree.

144. 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 at stated times) as appear to the Directors to be justified by the profits of the Company.
145. No dividend shall be paid otherwise than out of profits of the Company available for that purpose.
146. The Company may only make a distribution if the amount of its net assets is not less than the aggregate of its called-up share capital and un-distributable reserves and if, and to the extent that, the distribution does not reduce the amount of those assets to less than that aggregate.
147. 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 credited 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 regulation 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 providing that it shall rank for dividend as from a particular date such share shall rank for dividend accordingly.
148. 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.
149. Notice of any dividend that may have been declared shall be given in manner hereinafter mentioned to the persons entitled to share therein.
150. 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.
151. The Directors may retain any dividend or other money payable on or in respect of a share on which the Company has lien and may apply the same in or towards satisfaction of the debts, liabilities or engagements in respect of which the lien exists.
152. 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 Member 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.

153. Any dividend, interest or other moneys payable in respect of shares may be paid by cheque or warrant sent through the post directed to the registered address of the holder or, in the case of joint holders, to the registered address of that one of the joint holders who is first named on the Register or to such person and to such address as the holder or joint holders may in writing direct. Every such cheque or warrant shall be made payable to the order of the person to whom it is sent. Any one of two or more joint holders may give effectual receipts for any dividends, bonuses or other moneys payable in respect of the shares held by them as joint holders.
154. No dividends shall bear interest against the Company.
155. Any dividend or bonus share or other right unclaimed for a period of more than Twelve years from the date of the declaration thereof may at any time thereafter be forfeited by resolution of the Directors. Prior to the expiry of the twelve-year period, such dividend bonus share or right shall be recognised in the Company's books of accounts as a contingent liability but the Company shall not be liable to invest the same in any manner whatsoever or to account for any interest or other profit earned on account of such unclaimed dividend share or other right.

#### ACCOUNTS

156. 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 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 Company's affairs and to explain its transactions.

157. The books of account shall be kept at the Office, 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.
158. 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 opened to the inspection of Members not being Directors, and no Member (not being a Director) shall have any right of inspecting any account or book or document of the Company except as conferred by statute or authorised by the Directors or by the Company in general meeting.
159. 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 required by the Act.
160. 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 Auditors' report, shall not less than Twenty-one days before the date of the meeting be sent to every Member of, and every holder of debentures of, the Company and to every person registered in the register of members, and to every other 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.

### CAPITALISATION OF PROFITS

161. The Company in general meeting may upon the recommendation of the Directors resolve that it is desirable to capitalise 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 account 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.
162. 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 capitalised thereby, and all allotments and issues 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 any shares or debentures becoming distributable in fractions, and also to authorise 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 capitalisation, 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 capitalised, 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

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

### NOTICES

164. Any notice or other document may be served by the Company on any member or Director either personally or by sending it through the post in a prepaid cover addressed to such member or Director at his registered address as appearing in the Register or the Company's other records whether such address shall be within or outside Kenya by telegram or telefax addressed as aforesaid.
165. A notice may be given by the Company to the joint holders of a share by giving notice to

the joint holder first named in the register of members in respect of the share and such notice shall be sufficient to all joint holders.

166. Any member whose registered address is not within Kenya may by notice in writing require the Company to register an address in 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.
167. Where a notice or other document is sent by post it shall be deemed to have been served on the third day after the day of which it was posted if addressed outside Kenya and in the latter case any such notice or other document shall be dispatched by air mail. In providing such service or sending, it shall be sufficient to prove that the cover containing the notice or document was properly addressed and put in the post office as a prepaid letter or airmail letter. Where notice is sent by telegram, telex or telefax it shall be deemed to have been served on the day after the one which it was sent. For the purposes of this article "day" means a working day, excluding Saturdays, Sundays and public holidays.
168. A notice may be given by the Company to the person entitled to a 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.
169. Any notice required or capable of being served by the Company may, notwithstanding the provisions of Articles 164 to 168, be served by electronic or other means, and in particular by being displayed or placed on the website of the Company or other modern forms of displaying or placing such information such that such information is accessible for printing or reading or is capable of being received or viewed by the Members, regardless of whether or not a member did actually see, receive, access or view such notice or information.

#### **WINDING UP**

170. 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 Statutes, 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.
171. Notwithstanding the provisions of Clause 170, the holders of the Class A Ordinary shares shall be entitled to repayment of the Class A Ordinary Shares in priority to the other shareholders of the Company in the event of winding up.

## INDEMNITY

172. Subject to the provisions of the Act but without prejudice to any other indemnity to which a Director, Managing Director, officer or agent may otherwise be entitled, every Director, Managing Director, Auditor, Secretary, other officer and agent for the time being of the Company shall be indemnified out of the assets of the Company against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favor or in which he is acquitted or in connection with any application under Section 763 of the Act in which relief is granted to him by the Court, or in any other case where he has acted in good faith, honestly and reasonably.



**I CERTIFY that this is a reprint of the Articles of Association of the Company incorporating changes adopted by special resolutions passed at a General Meeting of the Company held on 23<sup>RD</sup> JANUARY 2023.**

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**NELSON KURIA (DR.)  
CHAIRMAN**

**Amended Articles Drawn By:-**

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