

**MEMORANDUM OF ASSOCIATION**

**AND**

**ARTICLES OF ASSOCIATION**

**OF**

**SUNBIRD TOURISM PLC**

**COMPANY REGISTRATION NO. 2774**

**ADOPTED ON 15<sup>th</sup> DAY OF JUNE 2018**

Allan Hans Muhome  
Company Secretary  
Sunbird Tourism plc  
P O Box 376  
Blantyre  
MALAWI

**MEMORANDUM OF ASSOCIATION**

**SUNBIRD TOURISM PLC**

1. The name of the Company is **SUNBIRD TOURISM PLC.**
2. The business which the Company is authorized to carry on is unrestricted.
3. The liability of the members is limited.
4. The share capital of the Company is **K14,000,000.00 (FOURTEEN MILLION KWACHA) divided into 280,000,000 (Two Hundred and Eighty Million ordinary shares of 5 (five) tambala each)** with power for the Company to increase or reduce such capital and to issue any part of its capital, original or increased with or without any preference, priority or special privileges, or subject to any postponement of rights or to any conditions or restrictions, and so that unless the conditions of issue shall otherwise expressly declare, every issue of shares whether declared to be preference or otherwise shall be subject to the power hereinbefore contained.
5. The Company is a public Company.

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**ARTICLES OF ASSOCIATION**

**SUNBIRD TOURISM PLC**

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## PART I – PRELIMINARY

### Interpretation

1. (1) In these Articles, unless the context requires otherwise\_\_

“**alternate**” or “**alternate director**” has the meaning given in article 25;

“**appointor**” has the meaning given in article 25;

“**articles**” means the Company’s articles of association;

“**bankruptcy**” includes individual insolvency proceedings;

“**call**” has the meaning given in article 54;

“**call notice**” has the meaning given in article 54;

“**certificate**” means a paper certificate (other than a share warrant) evidencing a person’s title to specified shares or other securities;

“**certificated**” in relation to a share, means that it is not an uncertificated share or a share in respect of which a share warrant has been issued and is current;

“**Chairman**” has the meaning given in article 12;

“**Chairman of the meeting**” has the meaning given in article 31;

“**Company’s lien**” has the meaning given in article 52;

“**director**” means a director of the Company, and includes any person occupying the position of director, by whatever name called;

“**distribution recipient**” has the meaning given in article 72;

“**document**” includes, unless otherwise specified, any document sent or supplied in electronic form;

“**fully paid**” in relation to a share, means that the nominal value and any premium to be paid to the Company in respect of that share have been paid to the Company;

“**holder**” in relation to shares means the person whose name is entered in the register of members as the holder of the shares, or, in the case of a share in respect of which a share warrant has been issued (and not cancelled), the person in possession of that warrant;

“**instrument**” means a document in hard copy form;

**“lien enforcement notice”** has the meaning given in article 53;

**“member”** has the meaning given in section 2 of the Act;

**“ordinary resolution”** has the meaning given in section 2 of the Act;

**“paid”** means paid or credited as paid;

**“participate”**, in relation to a directors’ meeting, has the meaning given in article 9;

**“partly paid”** in relation to a share means that part of that share’s nominal value or any premium at which it was issued has not been paid to the Company;

**“proxy notice”** has the meaning given in article 38;

**“securities seal”** has the meaning given in article 47;

**“shares”** means shares in the Company;

**“special resolution”** has the meaning given in section 2 of the Act;

**“subsidiary”** has the meaning given in section 2 of the Act;

**“transmittee”** means a person entitled to a share by reason of the death or bankruptcy of a shareholder or otherwise by operation of law;

**“uncertificated”** in relation to a share means permitting title to shares to be evidenced and transferred without a certificate, and

**“writing”** means the representation or reproduction of words, symbols or other information in a visible form by any method or combination of methods, whether sent or supplied in electronic form or otherwise.

(2) Unless the context otherwise requires, other words or expressions contained in these articles bear the same meaning as in the Act as in force on the date when these articles become binding on the Company.

### **Liability of Members**

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



## **PART II - DIRECTORS, POWERS AND RESPONSIBILITIES**

### **Composition of the Board of Directors**

3. The Board shall consist of a minimum of three (3) Directors and a maximum of ten (10) Directors. The Directors shall be subject to approval and removal by the Company in a general meeting or as provided by these Articles.
4. The current majority shareholder, i.e., MDC Limited, (in liquidation) or any other Agent entrusted by the majority shareholder to administer the majority shareholder's investment in the Company shall, provided and so long as the majority shareholder holds at least 50% of the voting shares of the Company, be entitled to appoint seven (7) of the ten (10) Directors of the Company.
5. Any member or group of members holding more than 10% (ten percent) of the issued share capital of the Company (provided that each member, if it is a group, holds 1% (one percent) or more of the issued share capital of the Company) may by written notice to the Company appoint one Director for each 10% (ten percent) "shareholding and upon the Director or Directors so appointed retiring or otherwise ceasing to be Director or Directors, their replacements shall be appointed in accordance with the provisions of this Article.
6. In the event of any Director nominated by a Party under Article 4 resigning his office or removed from office or ceasing for any reason to be a Director, the Party on whose behalf he was appointed shall be responsible for appointing a replacement to fill the vacancy. No decision to fill the vacancy shall be made by the Board without the approval of the Party on whose behalf the appointment is being made".

## **Directors' General Powers**

7. Subject to the articles, the directors are responsible for the management of the Company's business, for which purpose they may exercise all the powers of the Company.

## **Members' Reserve Power**

8. (1) The members may, by special resolution, direct the directors to take, or refrain from taking, specified action.  
  
(2) No such special resolution invalidates anything which the directors have done before the passing of the resolution.

## **Delegation by Directors**

9. (1) Subject to the articles, the directors may delegate any of the powers which are conferred on them under the articles\_\_\_\_
  - (a) to such person or committee;
  - (b) by such means, including by power of attorney;
  - (c) to such an extent;
  - (d) in relation to such matters or territories; and
  - (e) on such terms and conditions, as they think fit.
- (2) If the directors so specify, any such delegation may authorize further delegation of the directors' powers by any person to whom they are delegated.
- (3) The directors may revoke any delegation in whole or part, or alter its terms and conditions.

## **Committees**

10. (1) Committees to which the directors delegate any of their powers shall follow procedures which are based as far as they are applicable on those provisions of the articles which govern the taking of decisions by directors.
- (2) The directors may make rules of procedure for all or any committees, which prevail over rules derived from the articles if they are not consistent with them.

## **Directors take Decisions Collectively**

11. Decisions of the directors may be taken\_\_\_
  - (a) at a directors' meeting; or
  - (b) in the form of a directors' written resolution.

## **Calling a Directors' Meeting**

12. (1) Any director may call a directors' meeting.
- (2) The Company secretary shall call a directors' meeting if a director so requests.
- (3) A directors' meeting shall be called by giving notice of the meeting to the directors.
- (4) Notice of any directors' meeting shall indicate\_\_\_
  - (a) its proposed date and time;
  - (b) where it shall take place; and
  - (c) if it is anticipated that directors participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting.

- (5) Notice of a directors' meeting shall be given to each director, but need not be in writing.
- (6) Notice of a directors' meeting need not be given to directors who waive their entitlement to notice of that meeting, by giving notice to that effect to the Company not more than seven days after the date on which the meeting is held. Where such notice is given after the meeting has been held, that shall not affect the validity of the meeting, or of any business conducted at it.

### **Participation in Directors' Meetings**

13. (1) Subject to the articles, directors participate in a directors' meeting, or part of a directors' meeting, when\_\_\_
- (a) the meeting has been called and takes place in accordance with these Articles; and
  - (b) they can each communicate to the others any information or opinions they have on any particular item of the business of the meeting.
- (2) In determining whether directors are participating in a directors' meeting, it is irrelevant where any director is or how they communicate with each other.
- (3) If all the directors participating in a meeting are not in the same place, they may decide that the meeting shall be treated as taking place wherever any of them is.

### **Quorum for Directors' Meetings**

14. (1) At a directors' meeting, unless a quorum is participating, no proposal shall be voted on, except a proposal to call another meeting.
- (2) The quorum for directors' meetings may be fixed from time to time by a decision of the directors and unless otherwise fixed it shall be four.

### **Meetings where Total Number of Directors is Less than Quorum**

15. (1) This article applies where the total number of directors for the time being is less than the quorum for directors' meetings.
- (2) If there is only one director, the director may appoint sufficient directors to make up a quorum or call a general meeting to do so.
- (3) If there is more than one director\_\_
- (a) a directors' meeting may take place, if it is called in accordance with the articles and at least two directors participate in it, with a view to appointing sufficient directors to make up a quorum or calling a general meeting to do so, and
  - (b) if a directors' meeting is called but only one director attends at the appointed date and time to participate in it, that director may appoint sufficient directors to make up a quorum or call a general meeting to do so.

### **Chairing Directors' Meetings**

16. (1) The directors may appoint a director to chair their meetings.
- (2) The person so appointed for the time being is known as the Chairman.
- (3) The directors may appoint other directors as deputy or assistant chairmen to chair directors' meetings in the Chairman's absence.
- (4) The directors may terminate the appointment of the Chairman, deputy or assistant Chairman at any time.

- (5) If neither the Chairman nor any director appointed generally to chair directors' meetings in the Chairman's absence is participating in a meeting within ten minutes of the time at which it was to start, the participating directors shall appoint one of themselves to chair it.

### **Voting at Directors' Meetings**

17. (1) Subject to these Articles, a decision is taken at a directors' meeting by a majority of the votes of the participating directors.
- (2) Subject to these Articles, each director participating in a directors' meeting shall have one vote.
- (3) Subject to these Articles, if a director has an interest in an actual or proposed transaction or arrangement with the Company, the director and the director's alternate may not vote on any proposal relating to it: Provided that this does not preclude the alternate from voting in relation to that transaction or arrangement on behalf of another appointor who does not have such an interest.

### **Chairman's Casting Vote**

18. (1) If the numbers of votes for and against a proposal are equal, the Chairman or other director chairing the meeting shall have a casting vote.
- (2) Paragraph (1) shall not apply if, in accordance with the articles, the Chairman or other director is not to be counted as participating in the decision-making process for quorum or voting purposes.

### **Alternates Voting**

19. A director who is also an alternate director has an additional vote on behalf of each appointor who is\_\_
- (a) not participating in a directors' meeting; and
  - (b) would have been entitled to vote if they were participating in it.

### **Conflicts of Interest**

20. (1) If a directors' meeting, or part of a directors' meeting, is concerned with an actual or proposed transaction or arrangement with the Company in which a director is interested, the director shall not be counted as participating in that meeting, or part of a meeting, for quorum or voting purposes.
- (2) Where paragraph (3) applies, a director who is interested in an actual or proposed transaction or arrangement with the Company shall be counted as participating in a decision at a directors' meeting, or part of a directors' meeting, relating to it for quorum and voting purposes.
- (3) This paragraph shall apply when\_\_
- (a) the Company by ordinary resolution disapplies the provision of the articles which would otherwise prevent a director from being counted as participating in, or voting at, a directors' meeting;
  - (b) the director's interest cannot reasonably be regarded as likely to give rise to a conflict of interest; or
  - (c) the director's conflict of interest arises from a permitted cause.
- (4) For the purposes of this article, the following are permitted causes\_\_
- (a) a guarantee given, or to be given, by or to a director in respect of an obligation incurred by or on behalf of the Company or any of its subsidiaries;

- (b) subscription, or an agreement to subscribe, for shares or other securities of the Company or any of its subsidiaries, or to underwrite, sub-underwrite, or guarantee subscription for any such shares or securities; and
  - (c) arrangements pursuant to which benefits are made available to employees and directors or former employees and directors of the Company or any of its subsidiaries which do not provide special benefits for directors or former directors.
- (5) Subject to paragraph (6), if a question arises at a meeting of directors or of a committee of directors as to the right of a director to participate in the meeting (or part of the meeting) for voting or quorum purposes, the question may, before the conclusion of the meeting, be referred to the Chairman whose ruling in relation to any director other than the Chairman shall be final and conclusive.
- (6) Where any question as to the right to participate in the meeting or part of the meeting arises in respect of the Chairman, the question shall be decided by a decision of the directors at that meeting, for which purpose the Chairman shall not be counted as participating in the meeting or that part of the meeting for voting or quorum purposes.

### **Proposing Directors Meeting**

21. (1) Any director may propose a directors' written resolution.
- (2) The Company secretary shall propose a directors' written resolution if a director so requests.
- (3) A directors' written resolution shall be proposed by giving notice of the proposed resolution to the directors.



- (4) Notice of a proposed directors' written resolution shall indicate\_\_\_
- (a) the proposed resolution; and
  - (b) the time by which it is proposed that the directors should adopt it.
- (5) Notice of a proposed directors' written resolution shall be given in writing to each director.
- (6) Any decision which a person giving notice of a proposed directors' written resolution takes regarding the process of adopting that resolution shall be taken reasonably in good faith.

### **Adoption of Directors Written Resolutions**

22. (1) A proposed directors' written resolution shall be adopted when all the directors who would have been entitled to vote on the resolution at a directors' meeting have signed one or more copies of it, provided that those directors would have formed a quorum at such a meeting.
- (2) It is immaterial whether any director signs the resolution before or after the time by which the notice proposed that it should be adopted.
- (3) Once a directors' written resolution has been adopted, it shall be treated as if it had been a decision taken at a directors' meeting in accordance with these Articles.
- (4) A Company secretary shall ensure that the Company keeps a record, in writing, of all directors' written resolutions for at least ten years from the date of their adoption.

## **Directors Discretion to Make Further Rules**

23. Subject to the articles, the directors may make any rule which they think fit about how they take decisions, and about how such rules are to be recorded or communicated to directors.

## **Methods of Appointing Directors**

24. Any person who is willing to act as a director, and is permitted by law to do so, may be appointed to be a director\_\_
- (a) by ordinary resolution; or
  - (b) by a decision of the directors.

## **Retirement of Directors by Rotation**

25. (1) At the first annual general meeting of a Company, all directors shall retire from office.
- (2) At every subsequent annual general meeting any directors\_\_
- (a) who have been appointed by the directors since the last annual general meeting; or
  - (b) who were not appointed or reappointed at one of the preceding two annual general meetings, shall retire from office and may offer themselves for reappointment by the members.

## **Termination of Directors Appointment**

26. A person ceases to be a director as soon as\_\_
- (a) that person ceases to be a director by virtue of any provision of the Act or is prohibited from being a director by law;
  - (b) a bankruptcy order is made against that person;

- (c) a composition is made with that person's creditors generally in satisfaction of that person's debts;
- (d) a registered medical practitioner who is treating that person gives a written opinion to the Company stating that that person has become physically or mentally incapable of acting as a director and may remain so for more than three months;
- (e) by reason of that person's mental health, a court makes an order which wholly or partly prevents that person from personally exercising any powers or rights which that person would otherwise have; or
- (f) notification is received by the Company from the director that the director is resigning from office as director, and such resignation has taken effect in accordance with its terms.

### **Directors Remuneration**

27. (1) A director may undertake any services for the Company that the directors decide.
- (2) A director shall be entitled to such remuneration as the directors determine\_\_
- (a) for their services to the Company as directors; and
  - (b) for any other service which they undertake for the Company.
- (3) Subject to these Articles, a director's remuneration may\_\_
- (a) take any form; and
  - (b) include any arrangements in connection with the payment of a pension, allowance or gratuity, or any death, sickness or disability benefits, to or in respect of that director.
- (4) Unless the directors decide otherwise, directors' remuneration accrues from day to day.

(5) Unless the directors decide otherwise, directors are not accountable to the Company for any remuneration which they receive as directors or other officers or employees of the Company's subsidiaries or of any other body corporate in which the Company is interested.

### **Directors Expenses**

28. The Company may pay any reasonable expenses which the directors properly incur in connection with their attendance at\_\_
- (a) meetings of directors or committees of directors,
  - (b) general meetings, or
  - (c) separate meetings of the holders of any class of shares or of debentures of the Company, or otherwise in connection with the exercise of their powers and the discharge of their responsibilities in relation to the Company.

### **Appointment and Removal of Alternates**

29. (1) Any director (the "appointor") may appoint as an alternate any other director, or any other person approved by resolution of the directors, to\_\_
- (a) exercise that director's powers; and
  - (b) carry out that director's responsibilities, in relation to the taking of decisions by the directors in the absence of the alternate's appointor.
- (2) Any appointment or removal of an alternate shall be effected by notice in writing to the Company signed by the appointor, or in any other manner approved by the directors.
- (3) The notice shall\_\_
- (a) identify the proposed alternate; and

- (b) in the case of a notice of appointment, contain a statement signed by the proposed alternate that the proposed alternate is willing to act as the alternate of the director giving the notice.

### **Rights and Responsibilities of Alternates**

- 30. (1) An alternate director has the same rights, in relation to any directors' meeting or directors' written resolution, as the alternate's appointor.
- (2) Except as the articles specify otherwise, alternate directors\_\_\_
  - (a) are deemed for all purposes to be directors;
  - (b) are liable for their own acts and omissions;
  - (c) are subject to the same restrictions as their appointors; and
  - (d) are not deemed to be agents of or for their appointors.
- (3) A person who is an alternate director but not a director\_\_\_
  - (a) may be counted as participating for the purposes of determining whether a quorum is participating (but only if that person's appointor is not participating); and
  - (b) may sign a written resolution (but only if it is not signed or to be signed by that person's appointor) and no alternate may be counted as more than one director for such purposes.
- (4) An alternate director shall not be entitled to receive any remuneration from the Company for serving as an alternate director except such part of the alternate's appointor's remuneration as the appointor may direct by notice in writing made to the Company.

## **Termination of Alternates Directorship**

31. An alternate director's appointment as an alternate terminates\_\_
- (a) when the alternate's appointor revokes the appointment by notice to the Company in writing specifying when it shall terminate;
  - (b) on the occurrence in relation to the alternate of any event which, if it occurred in relation to the alternate's appointor, would result in the termination of the appointor's appointment as a director;
  - (c) on the death of the alternate's appointor; or
  - (d) when the alternate's appointor's appointment as a director terminates, except that an alternate's appointment as an alternate does not terminate when the appointor retires by rotation at a general meeting and is then re-appointed as a director at the same general meeting.

## **PART III - DECISION MAKING**

### **Members can Call for a General Meeting**

32. (1) Where\_\_
- (a) the Company has fewer than two directors; and
  - (b) the director (if any) is unable or unwilling to appoint sufficient directors to make up a quorum or to call a general meeting to do so, then two or more members may call a general meeting (or instruct the Company secretary to do so) for the purpose of appointing one or more directors.
- (2) Annual General Meetings shall be called by twenty-one days' notice in writing at the least and all other meetings shall be called by fourteen days' notice at the least. 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 the 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 of the total voting rights at that meeting of all the members.

PROVIDED FURTHER that 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.

### **Attendance and Speaking at General Meetings**

33. (1) A person is able to exercise the right to speak at a general meeting when that person is in a position to communicate to all those attending the meeting, during the meeting, any information or opinions which that person has on the business of the meeting.
- (2) A person is able to exercise the right to vote at a general meeting when\_\_\_
- (a) that person is able to vote, during the meeting, on resolutions put to the vote at the meeting, and
  - (b) that person's vote can be taken into account in determining whether or not such resolutions are passed at the same time as the votes of all the other persons attending the meeting.
- (3) The directors may make whatever arrangements they consider appropriate to enable those attending a general meeting to exercise their rights to speak or vote at it.
- (4) In determining attendance at a general meeting, it is immaterial whether any two or more members attending it are in the same place as each other.

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

### **Quorum for General Meetings**

34. No business other than the appointment of the Chairman of the meeting shall be transacted at a general meeting if the persons attending it do not constitute a quorum. Four persons entitled to attend and vote upon the business to be transacted, each being a member or a duly authorised representative of a corporation, shall be a quorum.

### **Chairing General Meetings**

35. (1) Where the directors have appointed a Chairman, the Chairman shall chair general meetings if present and willing to do so.
- (2) Where the directors have not appointed a Chairman, or if the Chairman is unwilling to chair the meeting or is not present within ten minutes of the time at which a meeting was due to start—
- (a) the directors present; or
  - (b) if no directors are present, the meeting, shall appoint a director or member to chair the meeting, and the appointment of the Chairman of the meeting shall be the first business of the meeting.
- (3) The person chairing a meeting in accordance with this article is referred to as “the Chairman of the meeting”.



## **Attendance and Speaking by Directors and Non-Members**

36. (1) Directors may attend and speak at general meetings, whether or not they are members.
- (2) The Chairman of the meeting may permit other persons who are not\_\_\_
- (a) members of the Company; or
  - (b) Otherwise entitled to exercise the rights of members in relation to general meetings, to attend and speak at a general meeting.

## **Adjournment**

37. (1) If the persons attending a general meeting within half an hour of the time at which the meeting was due to start do not constitute a quorum, or if during a meeting a quorum ceases to be present, the Chairman of the meeting must adjourn it.
- (2) The Chairman of the meeting may adjourn a general meeting at which a quorum is present if\_\_\_
- (a) the meeting consents to an adjournment; or
  - (b) it appears to the Chairman of the meeting that an adjournment is necessary to protect the safety of any person attending the meeting or ensure that the business of the meeting is conducted in an orderly manner.
- (3) The Chairman of the meeting shall adjourn a general meeting if directed to do so by the meeting.
- (4) When adjourning a general meeting, the Chairman of the meeting shall\_\_\_
- (a) either specify the time and place to which it is adjourned or state that it shall continue at a time and place to be fixed by the directors; and (b) have

regard to any directions as to the time and place of any adjournment which have been given by the meeting.

- (5) If the continuation of an adjourned meeting shall take place more than fourteen days after it was adjourned, the Company must give at least seven clear days' notice of it, excluding the day of the adjourned meeting and the day on which the notice is given\_\_
- (a) to the same persons to whom notice of the Company's general meetings is required to be given; and
  - (b) containing the same information which such notice is required to contain.
- (6) No business may be transacted at an adjourned general meeting which could not properly have been transacted at the meeting if the adjournment had not taken place.

### **Voting**

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

### **Errors and Disputes**

39. (1) No objection may be raised to the qualification of any person voting at a general meeting except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting is valid.
- (2) Any such objection shall be referred to the Chairman of the meeting whose decision shall be final.

## **Demanding a Poll**

40. (1) A poll on a resolution may be demanded\_\_
- (a) in advance of the general meeting where it shall be put to the vote, or
  - (b) at a general meeting, either before a show of hands on that resolution or immediately after the result of a show of hands on that resolution is declared.
- (2) A poll may be demanded by\_\_
- (a) the Chairman of the meeting;
  - (b) the directors;
  - (c) two or more persons having the right to vote on the resolution; or
  - (d) a person or persons representing not less than one tenth of the total voting rights of all the members having the right to vote on the resolution.
- (3) A demand for a poll may be withdrawn if\_\_
- (a) the poll has not yet been taken; and
  - (b) the Chairman of the meeting consents to the withdrawal.

## **Procedure on a Poll**

41. (1) Subject to the articles, polls at general meetings shall be taken when, where and in such manner as the Chairman of the meeting directs.
- (2) The Chairman of the meeting may appoint scrutineers (who need not be members) and decide how and when the result of the poll shall be declared.
- (3) The result of a poll shall be the decision of the meeting in respect of the resolution on which the poll was demanded.
- (4) A poll on\_\_
- (a) the election of the Chairman of the meeting, or
  - (b) a question of adjournment, shall be taken immediately.

- (5) Other polls shall be taken within thirty days of their being demanded.
- (6) A demand for a poll shall not prevent a general meeting from continuing, except as regards the question on which the poll was demanded.
- (7) No notice need be given of a poll not taken immediately if the time and place at which it shall be taken are announced at the meeting at which it is demanded.
- (8) In any other case, at least seven days' notice shall be given specifying the time and place at which the poll shall be taken.

#### **Written Resolution**

42. 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 bodies corporate or unincorporated associations, by their duly authorised representatives) shall be as valid and effective as if it had been passed at a general meeting of the Company duly convened and held.

#### **Content of Proxy Notices**

43. (1) Proxies may only validly be appointed by a notice in writing (a "proxy notice" - below) which—
  - (a) states the name and address of the member appointing the proxy;
  - (b) identifies the person appointed to be that member's proxy and the general meeting in relation to which that person is appointed;
  - (c) is signed by or on behalf of the member appointing the proxy, or is authenticated in such manner as the directors may determine; and

- (d) is delivered to the Company in accordance with the articles and any instructions contained in the notice of the general meeting to which they relate.
- (2) The Company may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.
- (3) A proxy notice may specify how the proxy appointed under it shall vote or that the proxy is to abstain from voting on one or more resolutions.
- (4) Unless a proxy notice indicates otherwise, it shall be treated as\_\_
- (a) giving the person appointed under it as a proxy discretion on Procedure on a poll how to vote on any ancillary or procedural resolutions put to the meeting; and
  - (b) appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates as well as the meeting itself.
- (5) The Proxy Notice shall be in the following form or a form as near thereto as circumstances admit.

**SUNBIRD TOURISM PLC**

I/We .....of  
..... (address),  
being a member/members of the above-named Company, hereby appoint  
.....  
a member/members of the above-named Company, hereby appoint  
.....  
of ..... or failing  
him ..... of  
.....  
as my/our proxy to vote for me/us on my/our behalf at the (annual or extra-  
ordinary, as the case may be) general meeting of the Company, to be held on  
the ..... day of ..... 20 ....., and at any adjournment  
thereof.

This form is to be used –

In favour of  
..... resolution no. ....

Against  
In favour of  
\* ..... resolution no. ....

Against  
In favour of  
\* ..... resolution no. ....

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

Date ..... Signed .....

- Strike out whichever is not desired.  
A proxy need not be a member of the Company.

## Delivery of Proxy Notices

44. (1) Any notice of a general meeting shall specify the address or addresses (“proxy notification address”) at which the Company or its agents will receive proxy notices relating to that meeting, or any adjournment of it, delivered in hard copy or electronic form.
- (2) A person who is entitled to attend, speak or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the Company by or on behalf of that person.
- (3) Subject to paragraphs (4) and (5), a proxy notice shall be delivered to a proxy notification address not less than forty eight hours before the general meeting or adjourned meeting to which it relates.
- (4) In the case of a poll taken more than forty eight hours after it is demanded, the notice shall be delivered to a proxy notification address not less than twenty four hours before the time appointed for the taking of the poll.
- (5) In the case of a poll not taken during the meeting but taken not more than forty eight hours after it was demanded, the proxy notice shall be delivered\_\_
- (a) in accordance with paragraph (3); or
  - (b) at the meeting at which the poll was demanded to the Chairman, secretary or any director.
- (6) An appointment under a proxy notice may be revoked by delivering a notice in writing given by or on behalf of the person by whom or on whose behalf the proxy notice was given to a proxy notification address.

- (7) A notice revoking a proxy appointment only takes effect if it is delivered before\_\_
- (a) the start of the meeting or adjourned meeting to which it relates, or
  - (b) in the case of a poll not taken on the same day as the meeting or adjourned meeting the time appointed for taking the poll to which it relates.
- (8) Where a proxy notice is not signed by the person appointing the proxy, it shall be accompanied by written evidence of the authority of the person who executed it to execute it on the appointor's behalf.

### **Amendments to Resolutions**

45. (1) An ordinary resolution to be proposed at a general meeting may be amended by ordinary resolution if\_\_
- (a) notice of the proposed amendment is given to the Company secretary in writing by a person entitled to vote at the general meeting at which it shall be proposed not less than forty eight hours before the meeting is to take place or such later time as the Chairman of the meeting may determine; and
  - (b) the proposed amendment does not, in the reasonable opinion of the Chairman of the meeting, materially alter the scope of the resolution.
- (2) A special resolution to be proposed at a general meeting may be amended by ordinary resolution, if\_\_
- (a) the Chairman of the meeting proposes the amendment at the general meeting at which the resolution shall be proposed; and
  - (b) the amendment does not go beyond what is necessary to correct a grammatical or other non-substantive error in the resolution.
- (3) If the Chairman of the meeting, acting in good faith, wrongly decides that an amendment to a resolution is out of order, the Chairman's error shall not invalidate the vote on that resolution.



## **No Voting of Shares on which Money Owed to Company**

46. No voting rights attached to a share may be exercised at any general meeting, at any adjournment of it, or on any poll called at or in relation to it, unless all amounts payable to the Company in respect of that share have been paid.

## **Class Meetings**

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

## **PART IV - SHARES AND DISTRIBUTIONS**

### **Powers to Issue Different Classes of Shares**

48. (1) Subject to these Articles, but without prejudice to the rights attached to any existing share, the Company may issue shares with such rights or restrictions as may be determined by ordinary resolution.
- (2) The Company may issue shares which are to be redeemed, or are liable to be redeemed at the option of the Company or the holder, and the directors may determine the terms, conditions and manner of redemption of any such shares.

### **Payment of Commissions on Subscription for Shares**

49. (1) The Company may pay any person a commission in consideration for that person\_\_
- (a) subscribing, or agreeing to subscribe, for shares, or
  - (b) procuring, or agreeing to procure, subscriptions for shares.

- (2) Any such commission may be paid\_\_
  - (a) in cash, or in fully paid or partly paid shares or other securities, or partly in one way and partly in the other, and
  - (b) in respect of a conditional or an absolute subscription.

### **Company not Bound by Less than Absolute Interests**

- 50. Except as required by law, a person shall not be recognized by the Company as holding any share upon any trust, and except as otherwise required by law or the articles, the Company shall not in any way be bound by or recognize any interest in a share other than the holder's absolute ownership of it and all the rights attaching to it.

### **Share Certificates**

- 51. (1) The Company shall issue each member with one or more certificates in respect of the shares which that member holds.
- (2) This article does not apply to\_\_
  - (a) uncertificated shares;
  - (b) shares in respect of which a share warrant has been issued; or
  - (c) shares in respect of which the Act permits the Company not to issue a certificate.
- (3) Except as otherwise specified in these Articles, all certificates shall be issued free of charge.
- (4) No certificate may be issued in respect of shares of more than one class.
- (5) If more than one person holds a share, only one certificate may be issued in respect of it.

## Contents and Execution of Share Certificates

52. (1) Every certificate shall specify\_\_
- (a) in respect of how many shares, of what class, it is issued;
  - (b) the nominal value of those shares;
  - (c) the amount paid up on them; and
  - (d) any distinguishing numbers assigned to them.
- (2) Every certificate shall\_\_
- (a) have affixed to it the Company's common seal or an official seal which is a facsimile of the Company's common seal with the addition on its face of the word "Securities" (a "securities seal"); or
  - (b) be otherwise executed in accordance with the Act.

## Consolidated Share Certificates

53. (1) Where a member's holding of shares of a particular class increases, the Company may issue that member with\_\_
- (a) a single, consolidated certificate in respect of all the shares of a particular class which that member holds; or
  - (b) a separate certificate in respect of only those shares by which that member's holding has increased.
- (2) When a member's holding of shares of a particular class is reduced, the Company shall ensure that the member is issued with one or more certificates in respect of the number of shares held by the member after that reduction. But the Company need not, in the absence of a request from the member, issue any new certificate if\_\_
- (a) all the shares which the member no longer holds as a result of the reduction; and

- (b) none of the shares which the member retains following the reduction were, immediately before the reduction, represented by the same certificate.
- (3) A member may request the Company, in writing, to replace\_\_
  - (a) the member's separate certificates with a consolidated certificate; or
  - (b) the member's consolidated certificate with two or more separate certificates representing such proportion of the shares as the member may specify.
- (4) When the Company complies with such a request it may charge such reasonable fee as the directors may decide for doing so.
- (5) A consolidated certificate shall not be issued unless any certificates which it shall replace have first been returned to the Company for cancellation.

### **Replacement Share Certificates**

54. (1) Where a certificate issued in respect of a member's shares is \_\_
- (a) damaged or defaced; or
  - (b) said to be lost, stolen or destroyed, the member is entitled to be issued with a replacement certificate in respect of the same shares.
- (2) A member exercising the right to be issued with such a replacement certificate\_\_
- (a) may at the same time exercise the right to be issued with a single certificate or separate certificates;
  - (b) shall return the certificate which shall be replaced to the Company if it is damaged or defaced; and
  - (c) shall comply with such conditions as to evidence, indemnity and the payment of a reasonable fee as the directors decide.

## Uncertificated Shares

55. (1) In this article, the “relevant rules” means\_\_
- (a) any applicable provision of the Act about the holding, evidencing of title to, or transfer of shares other than in certificated form; and
  - (b) any applicable legislation, rules or other arrangements made under or by virtue of such provision.
- (2) The provisions of this article have effect subject to the relevant rules.
- (3) Any provision of the articles which is inconsistent with the relevant rules shall be disregarded, to the extent that it is inconsistent, whenever the relevant rules apply.
- (4) Any share or class of shares of the Company may be issued or held on such terms, or in such a way, that\_\_
- (a) title to it or them is not, or shall not be, evidenced by a certificate; or
  - (b) it or they may or shall be transferred wholly or partly without a certificate.
- (5) The directors have power to take such steps as they think fit in relation to\_\_
- (a) the evidencing of and transfer of title to uncertificated shares (including in connection with the issue of such shares);
  - (b) any records relating to the holding of uncertificated shares;
  - (c) the conversion of certificated shares into uncertificated shares; or
  - (d) the conversion of uncertificated shares into certificated shares.
- (6) The Company may, by notice to the holder of a share, require the share\_\_
- (a) if it is uncertificated, to be converted into certificated form; and
  - (b) if it is certificated, to be converted into uncertificated form, to enable it to be dealt with in accordance with the articles.

- (7) Where\_\_
- (a) the articles give the directors power to take action, or require other persons to take action, in order to sell, transfer or otherwise dispose of shares; and
  - (b) uncertificated shares are subject to that power, but the power is expressed in terms which assume the use of a certificate or other written instrument, the directors may take such action as is necessary or expedient to achieve the same results when exercising that power in relation to uncertificated shares.
- (8) In particular, the directors may take such action as they consider appropriate to achieve the sale, transfer, disposal, forfeiture, re-allotment or surrender of an uncertificated share or otherwise to enforce a lien in respect of it.
- (9) Unless the directors otherwise determine, shares which a member holds in uncertificated form shall be treated as separate holdings from any shares which that member holds in certificated form.
- (10) A class of shares shall not be treated as two classes simply because some shares of that class are held in certificated form and others are held in uncertificated form.

### **Share Warrants**

56. (1) The directors may issue a share warrant in respect of any fully paid share.
- (2) A share warrant shall be\_\_
- (a) issued in such form; and
  - (b) executed in such a manner as the directors may decide.
- (3) A share represented by a share warrant may be transferred by delivery of the warrant representing it.

- (4) The directors may make provision for the payment of dividends in respect of any share represented by a share warrant.
- (5) Subject to these Articles, the directors may decide the conditions on which any share warrant is issued. In particular, they may\_\_
- (a) decide the conditions on which new warrants are to be issued in place of warrants which are damaged or defaced, or said to have been lost, stolen or destroyed;
  - (b) decide the conditions on which bearers of warrants are entitled to attend and vote at general meetings;
  - (c) decide the conditions subject to which bearers of warrants may surrender their warrant so as to hold their shares in certificated or uncertificated form instead; and
  - (d) vary the conditions of issue of any warrant from time to time, and the bearer of a warrant is subject to the conditions and procedures in force in relation to it, whether or not they were decided or specified before the warrant was issued.
- (6) Subject to the conditions on which the warrants are issued from time to time, bearers of share warrants have the same rights and privileges as they would if their names had been included in the register as holders of the shares represented by their warrants.
- (7) The Company shall not in any way be bound by or recognize any interest in a share represented by a share warrant other than the absolute right of the bearer of that warrant to that warrant.

## **Lien over Shares**

57. (1) The Company shall have a lien (“the Company’s lien”) over every share which is partly paid for any part of\_\_
- (a) that share’s nominal value; and
  - (b) any premium at which it was issued, which has not been paid to the Company, and which is payable immediately or at some time in the future, whether or not a call notice has been sent in respect of it.
- (2) The Company’s lien over a share\_\_
- (a) takes priority over any third party’s interest in that share; and
  - (b) extends to any dividend or other money payable by the Company in respect of that share and (if the lien is enforced and the share is sold by the Company) the proceeds of sale of that share.
- (3) The directors may at any time decide that a share which is or would otherwise be subject to the Company’s lien shall not be subject to it, either wholly or in part.

## **Enforcement of Lien**

58. (1) Subject to the provisions of these Articles, if\_\_
- (a) a lien enforcement notice has been given in respect of a share; and
  - (b) the person to whom the notice was given has failed to comply with it, the Company may sell that share in such manner as the directors decide.
- (2) A lien enforcement notice\_\_
- (a) may only be given in respect of a share which is subject to the Company’s lien, in respect of which a sum is payable and the due date for payment of that sum has passed;
  - (b) shall specify the share concerned;
  - (c) shall require payment of the sum payable within fourteen days of the notice;



- (d) shall be addressed either to the holder of the share or to a person entitled to it by reason of the holder's death, bankruptcy or otherwise; and
- (e) shall state the Company's intention to sell the share if the notice is not complied with.

(3) Where shares are sold under this article\_\_

- (a) the directors may authorize any person to execute an instrument of transfer of the shares to the purchaser or a person nominated by the purchaser; and
- (b) the transferee is not bound to see to the application of the consideration, and the transferee's title is not affected by any irregularity in or invalidity of the process leading to the sale.

(4) The net proceeds of any such sale (after payment of the costs of sale and any other costs of enforcing the lien) shall be applied\_\_

- (a) first, in payment of so much of the sum for which the lien exists as was payable at the date of the lien enforcement notice; and
- (b) second, to the person entitled to the shares at the date of the sale, but only after the certificate for the shares sold has been surrendered to the Company for cancellation or a suitable indemnity has been given for any lost certificates, and subject to a lien equivalent to the Company's lien over the shares before the sale for any money payable in respect of the shares after the date of the lien enforcement notice.

(5) A statutory declaration by a director or the Company secretary that the declarant is a director or the Company secretary and that a share has been sold to satisfy the Company's lien on a specified date\_\_

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

## Call Notices

59. (1) Subject to the articles and the terms on which shares are allotted, the directors may send a notice (a "call notice") to a member requiring the member to pay the Company a specified sum of money (a "call") which is payable in respect of shares which that member holds at the date when the directors decide to send the call notice.

(2) A call notice\_\_

- (a) may not require a member to pay a call which exceeds the total sum unpaid on that member's shares, whether as to the share's nominal value or any amount payable to the Company by way of premium;
- (b) shall state when and how any call to which it relates shall be paid; and
- (c) may permit or require the call to be paid by installments.

(3) A member shall comply with the requirements of a call notice, but no member is obliged to pay any call before fourteen days have passed since the notice was sent.

(4) Before the Company has received any call due under a call notice, the directors may\_\_

- (a) revoke it wholly or in part; or
- (b) specify a later time for payment than is specified in the notice, by a further notice in writing to the member in respect of whose shares the call is made.

## Liability to Pay Calls

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

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

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

(a) to pay calls which are not the same; or

(b) to pay calls at different times.

### **When Call Notice to be Issued**

61. (1) A call notice need not be issued in respect of sums which are specified, in the terms on which a share is issued, as being payable to the Company in respect of that share, whether in respect of nominal value or premium\_\_

(a) on allotment;

(b) on the occurrence of a particular event; or

(c) on a date fixed by or in accordance with the terms of issue.

(2) Where the due date for payment of such a sum has passed and it has not been paid, the holder of the share concerned shall be treated in all respects as having failed to comply with a call notice in respect of that sum, and shall be liable to the same consequences as regards the payment of interest and forfeiture.

### **Failure to Comply with Call Notice**

62. (1) Where a person is liable to pay a call and fails to do so by the call payment date\_\_

(a) the directors may issue a notice of intended forfeiture to that person; and

(b) until the call is paid, the person shall pay the Company interest on the call from the call payment date at the relevant rate.

(2) For the purposes of this article\_\_

(a) the “call payment date” is the time when the call notice states that a call is payable, unless the directors give a notice specifying a later date, in which case the “call payment date” is that later date;

(b) the “relevant rate” is\_\_

(i) the rate fixed by the terms on which the share in respect of which the call is due was allotted;

(ii) such other rate as was fixed in the call notice which required payment of the call, or has otherwise been determined by the directors; or

(iii) if no rate is fixed in either of these ways, five per cent per annum.

(3) The relevant rate shall not exceed by more than five percentage points the base lending rate most recently set by the Reserve Bank of Malawi.

(4) The directors may waive any obligation to pay interest on a call wholly or in part.

### **Notice of Intended Forfeiture**

63. A notice of intended forfeiture\_\_

(a) may be sent in respect of any share in respect of which a call has not been paid as required by a call notice;

(b) shall be sent to the holder of that share or to a person entitled to it by reason of the holder’s death, bankruptcy or otherwise;

(c) shall require payment of the call and any accrued interest by a date which is not less than fourteen days after the date of the notice;

(d) shall state how the payment shall be made; and

(e) shall state that if the notice is not complied with, the shares in respect of which the call is payable will be liable to be forfeited.

## **Power to Forfeit Shares**

64. If a notice of intended forfeiture is not complied with before the date by which payment of the call is required in the notice of intended forfeiture, the directors may decide that any share in respect of which it was given be forfeited, and the forfeiture shall include all dividends or other moneys payable in respect of the forfeited shares and not paid before the forfeiture.

## **Effect of Forfeiture**

65. (1) Subject to these Articles, the forfeiture of a share extinguishes\_\_
- (a) all interests in that share, and all claims and demands against the Company in respect of it; and
  - (b) all other rights and liabilities incidental to the share as between the person whose share it was prior to the forfeiture and the Company.
- (2) Any share which is forfeited in accordance with the articles\_\_
- (a) is deemed to have been forfeited when the directors decide that it is forfeited;
  - (b) is deemed to be the property of the Company; and
  - (c) may be sold, re-allotted or otherwise disposed of as the directors think fit.
- (3) Where a person's shares have been forfeited\_\_
- (a) the Company shall send the person notice that forfeiture has occurred and record it in the register of members;
  - (b) the person ceases to be a member in respect of those shares;
  - (c) the person shall surrender the certificate for the shares forfeited to the Company for cancellation;
  - (d) that person remains liable to the Company for all sums payable by that person under the articles at the date of forfeiture in respect of those shares,

including any interest, whether accrued before or after the date of forfeiture ;  
and

(e) the directors may waive payment of such sums wholly or in part or enforce payment without any allowance for the value of the shares at the time of forfeiture or for any consideration received on their disposal.

(4) At any time before the Company disposes of a forfeited share, the directors may decide to cancel the forfeiture on payment of all calls and interest due in respect of it and on such other terms as they think fit.

### **Procedure following Forfeiture**

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

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

(a) is conclusive evidence of the facts stated in it as against all persons claiming to be entitled to the share; and

(b) subject to compliance with any other formalities of transfer required by the articles or by law, constitutes a good title to the share.

(3) A person to whom a forfeited share is transferred shall not be bound to see to the application of the consideration, if any, nor is that person's title to the share affected by any irregularity in or invalidity of the process leading to the forfeiture or transfer of the share.

- (4) If the Company sells a forfeited share, the person who held it prior to its forfeiture is entitled to receive from the Company the proceeds of such sale, net of any commission, and excluding any amount which\_\_
- (a) was, or would have become, payable; and
  - (b) had not, when that share was forfeited, been paid by that person in respect of that share:

Provided that no interest is payable to such a person in respect of such proceeds and the Company is not required to account for any money earned on them.

### **Surrender of Shares**

67. (1) A member may surrender any share\_\_
- (a) in respect of which the directors may issue a notice of intended forfeiture;
  - (b) which the directors may forfeit; or
  - (c) which has been forfeited.
- (2) The directors may accept the surrender of any such share.
- (3) The effect of surrender on a share is the same as the effect of forfeiture on that share.
- (4) A share which has been surrendered may be dealt with in the same way as a share which has been forfeited.

### **Transfer of Certificated Shares**

68. (1) Certificated shares may be transferred by means of an instrument of transfer in any usual form or any other form approved by the directors, which is executed by or on behalf of\_\_
- (a) the transferor; and

- (b) if any of the shares is partly paid, the transferee.
- (2) No fee may be charged for registering any instrument of transfer or other document relating to or affecting the title to any share.
- (3) The Company may retain any instrument of transfer which is registered.
- (4) The transferor remains the holder of a certificated share until the transferee's name is entered in the register of members as holder of it.
- (5) The directors may refuse to register the transfer of a certificated share if\_\_
- (a) the share is not fully paid;
  - (b) the transfer is not lodged at the Company's registered office or such other place as the directors have appointed;
  - (c) the transfer is not accompanied by the certificate for the shares to which it relates, or such other evidence as the directors may reasonably require to show the transferor's right to make the transfer, or evidence of the right of someone other than the transferor to make the transfer on the transferor's behalf;
  - (d) the transfer is in respect of more than one class of share; or
  - (e) the transfer is in favour of more than four transferees.
- (6) Where the directors refuse to register the transfer of a share, the instrument of transfer shall be returned to the transferee with the notice of refusal unless they suspect that the proposed transfer may be fraudulent.

### **Transfer of Uncertificated Shares**

69. A transfer of an uncertificated share shall not be registered if it is in favour of more than four transferees.



## **Transmission of Shares**

70. (1) Where title to a share passes to a transmittee, the Company may only recognize the transmittee as having any title to that share.
- (2) Nothing in these articles releases the estate of a deceased member from any liability in respect of a share solely or jointly held by that member.

## **Transmittee Rights**

71. (1) A transmittee who produces such evidence of entitlement to shares as the directors may properly require\_\_
- (a) may, subject to these Articles, choose either to become the holder of those shares or to have them transferred to another person; and
- (b) subject to these Articles, and pending any transfer of the shares to another person, has the same rights as the holder had.
- (2) A transmittee shall not have the right to attend or vote at a general meeting in respect of shares to which they are entitled, by reason of the holder's death or bankruptcy or otherwise, unless they become the holders of those shares.

## **Exercise of Transmittee's Rights**

72. (1) Transmittees who wish to become the holders of shares to which they have become entitled shall notify the Company in writing of that wish.
- (2) If the share is a certificated share and a transmittee wishes to have it transferred to another person, the transmittee shall execute an instrument of transfer in respect of it.
- (3) If the share is an uncertificated share and the transmittee wishes to have it transferred to another person, the transmittee shall\_\_

- (a) procure that all appropriate instructions are given to effect the transfer; or
  - (b) procure that the uncertificated share is changed into certificated form and then execute an instrument of transfer in respect of it.
- (4) Any transfer made or executed under this article shall be treated as if it were made or executed by the person from whom the transmittee has derived rights in respect of the share, and as if the event which gave rise to the transmission had not occurred.

### **Transmittees Bound by Prior Notices**

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

### **Procedure for Disposing of Fractions of Shares**

74. (1) This article applies where\_\_
- (a) there has been a consolidation or division of shares; and
  - (b) as a result, members are entitled to fractions of shares.
- (2) The directors may\_\_
- (a) sell the shares representing the fractions to any person including the Company for the best price reasonably obtainable;
  - (b) in the case of a certificated share, authorize any person to execute an instrument of transfer of the shares to the purchaser or a person nominated by the purchaser; and
  - (c) distribute the net proceeds of sale in due proportion among the holders of the shares.

- (3) Where any holder's entitlement to a portion of the proceeds of sale amounts to less than a minimum figure determined by the directors, that member's portion may be distributed to an organization which is a charity for the purposes of any written laws.
- (4) A person to whom the shares are transferred shall not be obliged to ensure that any purchase money is received by the person entitled to the relevant fractions.
- (5) The transferee's title to the shares shall not be affected by any irregularity in or invalidity of the process leading to their sale.

### **Procedure for Declaring Dividends**

75. (1) The Company may by ordinary resolution declare dividends, and the directors may decide to pay interim dividends.
- (2) A dividend shall not be declared unless the directors have made a recommendation as to its amount. Such a dividend shall not exceed the amount recommended by the directors.
- (3) No dividend may be declared or paid unless it is in accordance with members' respective rights.
- (4) Unless the members' resolution to declare or directors' decision to pay a dividend, or the terms on which shares are issued, specify otherwise, it shall be paid by reference to each member's holding of shares on the date of the resolution or decision to declare or pay it.
- (5) If the Company's share capital is divided into different classes, no interim dividend may be paid on shares carrying deferred or non-preferred rights if, at the time of payment, any preferential dividend is in arrears.

- (6) The directors may pay at intervals any dividend payable at a fixed rate if it appears to them that the profits available for distribution justify the payment.
- (7) If the directors act in good faith, they shall not incur any liability to the holders of shares conferring preferred rights for any loss they may suffer by the lawful payment of an interim dividend on shares with deferred or non-preferred rights.

### **Calculation of Dividends**

76. (1) Except as otherwise provided by these Articles or the rights attached to shares, all dividends shall be\_\_
- (a) declared and paid according to the amounts paid up on the shares on which the dividend is paid; and
  - (b) apportioned and paid proportionately to the amounts paid up on the shares during any portion or portions of the period in respect of which the dividend is paid.
- (2) If any share is issued on terms providing that it ranks for dividend as from a particular date that share ranks for dividend accordingly.
- (3) For the purposes of calculating dividends, no account shall be taken of any amount which has been paid up on a share in advance of the due date for payment of that amount.

### **Payment of Dividends and other Distributions**

77. (1) Where a dividend or other sum which is a distribution is payable in respect of a share, it shall be paid by one or more of the following means\_\_
- (a) transfer to a bank account specified by the distribution recipient either in writing or as the directors may otherwise decide;

- (b) sending a cheque made payable to the distribution recipient by post to the distribution recipient at the distribution recipient's registered address (if the distribution recipient is a holder of the share), or (in any other case) to an address specified by the distribution recipient either in writing or as the directors may otherwise decide;
  - (c) sending a cheque made payable to such person by post to such person at such address as the distribution recipient has specified either in writing or as the directors may otherwise decide; or
  - (d) any other means of payment as the directors agree with the distribution recipient either in writing or by such other means as the directors decide.
- (2) In the articles, "the distribution recipient" means, in respect of a share in respect of which a dividend or other sum is payable\_\_
- (a) the holder of the share;
  - (b) if the share has two or more joint holders, whichever of them is named first in the register of members; or
  - (c) if the holder is no longer entitled to the share by reason of death or bankruptcy, or otherwise by operation of law, the transmittee.

### **Deductions from Distributions**

78. (1) If\_\_
- (a) a share is subject to the Company's lien; and
  - (b) the directors are entitled to issue a lien enforcement notice in respect of it, they may, instead of issuing a lien enforcement notice, deduct from any dividend or other sum payable in respect of the share any sum of money which is payable to the Company in respect of that share to the extent that they are entitled to require payment under a lien enforcement notice.
- (2) The sums of money deducted under paragraph (1), shall be used to pay any of the sums payable in respect of that share.

- (3) The Company shall notify the distribution recipient in writing of\_\_
- (a) the fact and amount of any such deduction;
  - (b) any non-payment of a dividend or other sum payable in respect of a share resulting from any such deduction; and
  - (c) how the money deducted has been applied.

### **No Interest on Distributions**

79. The Company may not pay interest on any dividend or other sum payable in respect of a share unless otherwise provided by\_\_
- (a) the terms on which the share was issued; or
  - (b) the provisions of another agreement between the holder of that share and the Company.

### **Unclaimed Distributions**

80. (1) All dividends or other sums which are\_\_
- (a) payable in respect of shares; and
  - (b) unclaimed after having been declared or become payable, may be invested or otherwise made use of by the directors for the benefit of the Company until claimed.
- (2) The payment of any such dividend or other sum into a separate account shall not make the Company a trustee in respect of it.
- (3) If\_\_
- (a) twelve years have passed from the date on which a dividend or other sum became due for payment; and

- (b) the distribution recipient has not claimed it, the distribution recipient shall no longer be entitled to that dividend or other sum and it shall cease to remain owing by the Company.

### **Non-Cash Distributions**

81. (1) Subject to the terms of issue of the share in question, the Company may, by ordinary resolution on the recommendation of the directors, decide to pay all or part of a dividend or other distribution payable in respect of a share by transferring non-cash assets of equivalent value including, without limitation, shares or other securities in any Company.
- (2) If the shares in respect of which such a non-cash distribution is paid are uncertificated, any shares in the Company which are issued as a non-cash distribution in respect of them shall be uncertificated.
- (3) For the purposes of paying a non-cash distribution, the directors may make whatever arrangements they think fit, including, where any difficulty arises regarding the distribution\_\_\_
- (a) fixing the value of any assets;
  - (b) paying cash to any distribution recipient on the basis of that value in order to adjust the rights of recipients; and
  - (c) vesting any assets in trustees.

### **Waiver of Distributions**

82. Distribution recipients may waive their entitlement to a dividend or other distribution payable in respect of a share by giving the Company notice in writing to that effect, but if\_\_\_
- (a) the share has more than one holder; or

- (b) more than one person is entitled to the share, whether by reason of the death or bankruptcy of one or more joint holders, or otherwise, the notice is not effective unless it is expressed to be given, and signed, by all the holders or persons otherwise entitled to the share.

### **Authority to Capitalize**

83. (1) The directors may, if so authorized by an ordinary resolution\_\_
- (a) decide to capitalize any profits of the Company whether or not they are available for distribution, which are not required for paying a preferential dividend, or any sum standing to the credit of the Company's share premium account or capital redemption reserve; and
  - (b) appropriate any sum which they so decide to capitalize a "capitalized sum") to the persons who would have been entitled to it if it were distributed by way of dividend (the "persons entitled") and in the same proportions.
- (2) The sums capitalized under paragraph (1), shall be applied\_\_
- (a) on behalf of the persons entitled; and
  - (b) in the same proportions as a dividend would have been distributed to them.
- (3) Any capitalized sum may be applied in paying up new shares of a nominal amount equal to the capitalized sum which are then allotted credited as fully paid to the persons entitled or as they may direct.
- (4) A capitalized sum which was appropriated from profits available for distribution may be applied\_\_
- (a) in or towards paying up any amounts unpaid on existing shares held by the persons entitled; or
  - (b) in paying up new debentures of the Company which are then allotted credited as fully paid to the persons entitled or as they may direct.



- (5) Subject to these Articles, the directors may\_\_\_
- (a) apply capitalized sums in accordance with paragraphs (3) and (4) partly in one way and partly in another;
  - (b) make such arrangements as they think fit to deal with shares or debentures becoming distributable in fractions under this article including the issuing of fractional certificates or the making of cash payments; and
  - (c) authorize any person to enter into an agreement with the Company on behalf of all the persons entitled which is binding on them in respect of the allotment of shares and debentures to them under this article.

## **PART V- MISCELLANEOUS PROVISIONS**

### **Means of Communication**

84. (1) Subject to these Articles, anything sent or supplied by or to the Company under the articles may be sent or supplied in any way in which the Act, provides for documents or information which are authorized or required by any provision of that Act to be sent or supplied by or to the Company.
- (2) Subject to these Articles, any notice or document to be sent or supplied to a director in connection with the taking of decisions by directors may also be sent or supplied by the means by which that director has asked to be sent or supplied with such notices or documents for the time being.
- (3) A director may agree with the Company that notices or documents sent to that director in a particular way are to be deemed to have been received within a specified time of their being sent, and for the specified time to be less than forty eight hours.

## Failure to Notify Contract Details

85. (1) If\_\_

- (a) the Company sends two consecutive documents to a member over a period of at least twelve months; and
- (b) each of those documents is returned undelivered, or the Company receives notification that it has not been delivered, that member ceases to be entitled to receive notices from the Company.

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

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

## Company Seals

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

(2) The directors may decide by what means and in what form any common seal or securities seal shall be used.

(3) Unless otherwise decided by the directors, if the Company has a common seal and it is affixed to a document, the document shall also be signed by at least one authorized person in the presence of a witness who attests the signature.

(4) For the purposes of this article, an authorized person is\_\_

- (a) any director of the Company;
- (b) the Company secretary; or

- (c) any person authorized by the directors for the purpose of signing documents to which the common seal is applied.
- (5) If the Company has an official seal for use abroad, it may only be affixed to a document if its use on that document, or documents of a class to which it belongs, has been authorized by a decision of the directors.
- (6) If the Company has a securities seal, it may only be affixed to securities by the Company secretary or a person authorized to apply it to securities by the Company secretary.
- (7) For the purposes of these Articles, references to the securities seal being affixed to any document include the reproduction of the image of that seal on or in a document by any mechanical or electronic means which has been approved by the directors in relation to that document or documents of a class to which it belongs.

#### **Destruction of Documents**

87. (1) The Company shall be entitled to destroy\_\_
- (a) all instruments of transfer of shares which have been registered, and all other documents on the basis of which any entries are made in the register of members, from six years after the date of registration;
  - (b) all dividend mandates, variations or cancellations of dividend mandates, and notifications of change of address, from two years after they have been recorded;
  - (c) all share certificates which have been cancelled from one year after the date of the cancellation;
  - (d) all paid dividend warrants and cheques from one year after the date of actual payment; and
  - (e) all proxy notices from one year after the end of the meeting to which the proxy notice relates.

- (2) If the Company destroys a document in good faith, in accordance with the articles, and without notice of any claim to which that document may be relevant, it is conclusively presumed in favour of the Company that\_\_
- (a) entries in the register purporting to have been made on the basis of an instrument of transfer or other document so destroyed were duly and properly made;
  - (b) any instrument of transfer so destroyed was a valid and effective instrument duly and properly registered;
  - (c) any share certificate so destroyed was a valid and effective certificate duly and properly cancelled; and
  - (d) any other document so destroyed was a valid and effective document in accordance with its recorded particulars in the books or records of the Company.
- (3) This article shall not impose on the Company any liability which it would not otherwise have if it destroys any document before the time at which this article permits it to do so.
- (4) In this article, references to the destruction of any document include a reference to its being disposed of in any manner.

#### **No right to inspect Accounts and Other Records**

88. Except as provided by any written law or authorized by the directors or an ordinary resolution of the Company, no person shall be entitled to inspect any of the Company's accounting or other records or documents merely by virtue of being a member.

## **Provision for Employees on Cessation of Business**

89. The directors may decide to make provision for the benefit of persons employed or formerly employed by the Company or any of its subsidiaries, other than a director or former director or shadow director, in connection with the cessation or transfer to any person of the whole or part of the undertaking of the Company or that subsidiary.

### **Indemnity**

90. (1) Subject to paragraph (2), a relevant director of the Company or an associated Company may be indemnified out of the Company's assets against\_\_
- (a) any liability incurred by that director in connection with any negligence, default, breach of duty or breach of trust in relation to the Company or an associated Company;
  - (b) any liability incurred by that director in connection with the activities of the Company or an associated Company in its capacity as a trustee of an occupational pension scheme; and
  - (c) any other liability incurred by that director as an officer of the Company or an associated Company.
- (2) This article shall not authorize any indemnity which would be prohibited or rendered void by any provision of the Act or by any other law.
- (3) In this article\_\_
- (a) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate; and
  - (b) a "relevant director" means any director or former director of the Company or an associated Company.

## Insurance

91. (1) The directors may decide to purchase and maintain insurance, at the expense of the Company, for the benefit of any relevant director in respect of any relevant loss.

(2) In this article\_\_

- (a) a “relevant director” means any director or former director of the Company or an associated Company;
- (b) a “relevant loss” means any loss or liability which has been or may be incurred by a relevant director in connection with that director’s duties or powers in relation to the Company, any associated Company or any pension fund or employees’ share scheme of the Company or associated Company; and
- (c) companies are associated if one is a subsidiary of the other or both are subsidiaries of the same body corporate.

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