

COMPANIES ACT 2011

SCHEDULE 4 (Reg. 5)

Articles of Incorporation for a Single shareholding Company

Articles of Incorporation of

**EXECUTIVE BETTING & GAMBLING (PROPRIETARY) LIMITED**

Arrangement of articles

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## **Part 1- Preliminary**

### **Interpretation**

1. In these articles-

“Act” means the Companies Act 2011

“articles” means these articles of incorporation;

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

“chairperson” means the director appointed as such under article 32;

“company seal” means an official mark of a company, consisting of an embossed impression on paper evidencing the formality of the company's execution of the document and its intention to be bound;

“director” means a person occupying the position of director of the company by whatever name called;

“distribution recipient” has the meaning given in article 51 (1);

“document” includes, unless otherwise specified, a document in electronic form, that is, a document sent or supplied, kept, maintained or recorded –

(a) by electronic means including but not limited to, e-mail or fax; or

(b) by any other means while in an electronic form (for example, a disk delivered by hand or sent by post); or

(c) saved in computer.

“holder” in relation to shares means the person whose name is entered in the register of members as holders 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;

“insolvency” includes proceedings in a jurisdiction other than Lesotho which have an effect similar to that of insolvency in Lesotho;

“instrument” ” means a document in hard copy form, that is, in a paper copy or similar form capable of being read;

“participate” in relation to a directors’ meeting, has the meaning given in article 33;

“subsidiary” has the meaning given in section 2(2)(a) of the Act ;

“shares” means the interest of a shareholder in the company, measured by some of money for the purpose of liability and of interest;

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

### **Part 3- Regulation and management of the company**

#### **Power to issue shares**

2. (1) Without prejudice to any special rights previously conferred on the holder 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, return of capital or otherwise as the company may determine.

(2) Subject to the provision of section 21 of the Act, any preference shares may, by ordinary resolution, be issued on the terms that they are, or at the option of the company are liable, to be redeemed on such terms and in such manner as the company may determine before the issue of the shares.

### **Variation of rights attached to shares**

3. (1) 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 share of that class) may, whether or not the company is being dissolved, be varied with the consent in writing of the holders.

(2) The rights conferred upon the holder of the share 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.

### **Share certificate**

4. (1) A person whose name is entered as a shareholder in the register of a shareholder may, upon payment of twenty Maloti (M20) or such amount as the directors may determine, be issued with a share certificate after allotment or lodgment of transfer within such period as the conditions of issue may provide, but each class of shares shall be represented by a separate certificate.

(2) Every certificate shall be executed in accordance with section 27 of the Act and shall specify –

- (a) the name of the company;
- (b) the name of the person to whom it is issued;
- (c) the number, class and designation of shares issued;
- (d) rights, privileges and limitations; and
- (e) the amount paid for the shares.

(3) Share certificates shall have affixed to them the company's official seal.

(4) Where the company has not issued a share certificate, the company shall issue a shareholder with written statement, and such statement shall contain details specified in sub article (2).

### **Consolidation of share certificates**

5. (1) When a shareholder's holding of shares of a particular class increases, the company may issue that shareholder with—

- (a) a single, consolidated share certificate in respect of all the shares of a particular class which that shareholder holds; or
- (b) a separate share certificate in respect of only those shares by which that shareholder's holding has increased.



(2) When a shareholder's holding of shares of a particular class is reduced, the company shall ensure that the shareholder is issued with one or more share certificates in respect of the number of shares held by the shareholder after that reduction.

(3) A shareholder may request the company, in writing, to replace—

- (a) the shareholder's separate share certificates with a consolidated share certificate; or
- (b) the shareholder's consolidated certificate with two or more separate share certificates representing such proportion of the shares as the shareholder may specify.

(4) When the company complies with such a request it may charge such reasonable fee as the directors may decide.

(5) A consolidated share certificate shall not be issued unless the certificate which it is to replace has first been returned to the company for cancellation.

### **Replacement of share certificates**

6. (1) If a share certificate issued in respect of shareholder's shares is—

- (a) damaged or defaced; or
- (b) lost, stolen or destroyed,

the shareholder is entitled to be issued with a replacement share certificate in respect of the same shares upon –

- (i) presentation of the damaged or defaced share certificate, and in the case of lost, stolen or destroyed share certificate, an affidavit accompanied by a police report where applicable;
- (ii) compliance with such conditions as to evidence as the directors may decide;
- (iii) payment of a fee of fifty Maloti (M50) or such amount, if any, as the directors may determine.

(2) A shareholder exercising the right to be issued with a replacement share certificate may at the same time exercise the right to be issued with a single share certificate or separate share certificates.

### **Transfer of shares**

7. (1) Shares may be transferred by means of an instrument of transfer as prescribed in the Act.

(2) The instrument of transfer of any share shall be executed by or on behalf of the transferor and transferee, and the transferor shall be deemed to remain a holder of the share until the name of the transferee is entered in the register of the shareholder.

(3) Subject to restrictions of these articles as may be applicable, the shareholder may transfer all or any of the shareholder's shares by instrument in writing in any usual or common form or any other form which the directors may approve.

- (4) The directors shall only refuse to register the transfer of a share to a person whom they do not approve and shall, within 15 days, furnish the transferor and transferee with reasons for the refusal.
- (5) The directors may also decline to recognise any instrument of transfer unless-
- (a) a fee of fifty Maloti (M 50) or such sum as the directors may determine to be paid to the company.
  - (b) the instrument of transfer is accompanied by the certificate of the shares to which it relates, and such other evidence as the directors may reasonably require to show the right of the transferor to make the transfer; and
  - (c) the instrument of transfer is in respect of only one class of shares.
- (6) If the directors refuse to register a transfer they shall within 15 days after the date on which the transfer was lodged with the company send to the transferee notice of the refusal.
- (7) The registration of transfers may be suspended at such times and for such period as the directors may determine, but registration of transfer shall not be suspended for more than 30 days in any year.

### **Registration of other documents**

8. The company shall be entitled to charge a fee of five Maloti (M 5) or any fee as the directors may determine on the registration of every letter of

administration, certificate of death or marriage, power of attorney, deed of settlement or any other instrument.

### **Transmission of shares**

9. (1) In the case of death of a shareholder the executor of the deceased shall be the only person recognized by the company as having any title to the deceased's interest in the shares; but nothing herein contained shall release the estate of the deceased on any liability in respect of any share which was held by the deceased.
- (2) Any person entitled to a share in consequence of the death or insolvency of the shareholder may, upon such evidence being produced as may be required by the directors and subject as hereinafter provided, elect either to be registered as the holder of the share or to nominate another person to be 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 shareholder before death or insolvency as the case may be.
- (3) If a person becoming entitled to a share in consequence of the death or insolvency of a shareholder elects to be registered as the shareholder, that person shall deliver or send to the company a signed notice to that effect.
- (4) If the person referred to in sub article (1) elects to have another person registered as a shareholder, the person shall execute an instrument of transfer in favour of that other person.
- (5) All the limitations, restrictions and provisions of these articles relating to the right of transfer and the registration of transfers of shares shall be applicable to any such notice or transfer as aforesaid as if the death or

insolvency of the shareholder had not occurred and the notice of transfer were a transfer signed by that shareholder.

- (6) A person becoming entitled to a share by reason of the death or insolvency of the holder shall be entitled to the same dividends and other advantages to which the person would be entitled if the person was registered as a holder of the share, except that person shall not, before being registered as a shareholder in respect of the share, be entitled in respect of it to exercise any right conferred in relation to resolutions of the company:

Provided that the directors may at any time give notice requiring any such person to elect either to be registered or to transfer the share, and if the notice is not complied with within 15 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.

### **Alteration of share capital**

10. (1) The shareholder may increase the share capital by such sum, to be divided into shares of such amount, as the resolution shall prescribe.
- (2) The shareholder may-
- (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 these articles.
- (3) The shareholder may reduce capital redemption reserve fund or any share premium account in any manner required by the Act.

## **Shareholder's resolutions**

11. (1) Subject to these articles the shareholder may make rules which he or she thinks fit on how to take decisions which shall be recorded as resolutions, and such resolutions shall be recorded and kept in the company register.

(2) Subject to the Act—

(a) these resolutions have effect and may be enforced as if they constituted a contract between the—

- (i) company and the shareholder;
- (ii) company and each director; and

(b) the shareholder and the directors of the company have the rights, powers, duties, and obligations set out in these resolutions.

(2) Subject to the provisions of the Act, a resolution in writing shall be signed by the shareholder and such resolution shall be valid and effective.

(3) The shareholder may amend and revoke resolutions as he or she thinks fit.

## **Directors**

12.(1)The persons whose particulars appear in the Schedule shall be the first directors of the company and they shall hold office until directors are appointed by the shareholder in accordance with article 18.

(2)The minimum number of directors shall be one and there shall be no maximum number but, the shareholder may fix the number of directors.

## **Appointment of directors**

13. (1) Any person who is willing to act as a director, and is permitted by the Act to do so, may be appointed by the shareholder.

## **Company in distress**

14.(1) The directors shall, within 14 days of incorporation of the company, prepare and submit for approval by the shareholder a succession plan, and in the absence of such a plan, if for a period of 3 months the shareholder and directors either severally or collectively are unable to perform the functions of their office, whether arising from infirmity of body or mind or any such cause, the company shall be managed under Part XVII (Judicial Management) of the Act until the succession issue as to shareholding has been resolved.

(2) Where the shareholder and directors are unable to perform the functions of their office as provided for in sub article (1) a senior officer of the company shall notify the office of the Registrar of Companies.

(3) Within 14 working days after the succession as to shareholding referred to in sub article (1) has been resolved, the shareholder shall appoint directors of the company.

## **Directors' remuneration**

15.(1) Directors may undertake any services for the company that the directors and shareholder may decide.

(2) Directors are entitled to such remuneration as the shareholder 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) be in a form of-

(i) cash;

(ii) tangible or intangible assets ;or

(iii) movable or immovable property;

(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 shareholder decides 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 has an interest.

### **Directors' expenses**

16. 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)meetings with the shareholder or otherwise in connection with the exercise of their powers and the discharge of their responsibilities in relation to the company.

### **Directors borrowing powers**

17. (1)The directors may exercise all the powers of the company to borrow money, and to mortgage or charge its undertaking, property and uncalled capital, and other securities whether outright or as security for any debt, liability or obligation of the company.

(2) Notwithstanding sub article (1) the amount for the time being remaining unpaid of moneys borrowed or secured by the directors as aforesaid (apart from temporary loans obtained from the company's bankers in the ordinary course of business) shall not at any time exceed the nominal amount of the share capital of the company for the time being issued.

(3)No lender or other person dealing with the company shall be concerned to see or inquire whether the limit in sub article (2) is observed and no debt incurred or security given in excess of such limit shall be invalid or ineffectual except in the case of express notice to the lender or the recipient of the security at the time when the debt was incurred or security given that the limit hereby imposed had been or was thereby exceeded.

### **Powers and duties of directors**

18. (1)The business of the company shall be managed by the directors, who may pay all expenses incurred in promoting and registering the company, and

may exercise all such powers of the company prescribed by the Act or by these articles.

(2) Notwithstanding sub article (1) the shareholder may direct the directors to take or refrain from taking a specified action provided that no such resolution invalidated anything which the directors have done before the adoption of the resolution.

### **Delegation of powers by directors**

19.(1) Subject to these articles, the directors may delegate any of the powers which are conferred on them under these 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; and
- (e) on such terms and conditions,

as they think fit.

(2) The delegation in sub article (1) may not authorise further delegation of the directors' powers by any person to whom they are delegated.

(3) The directors may revoke any delegation in whole or in part, or alter its terms and conditions.

## **Conflict of interest**

20. (1) If a proposed decision of the directors is concerned with an actual or proposed transaction or arrangement with the company in which a director is interested, that director shall be counted as participating in the decision-making process and, the director shall further comply with sections 65 and 67 of the Act.
- (2) A director shall not hold more than 5 directorship positions while serving as a director in the company.
- (3) A director or the directors' firm may act for the company in a professional capacity, and the director's firm shall be entitled to remuneration for professional services as if the director were not a director, but a director or the directors' firm shall not act as an auditor to the company.

## **Payments by and to the company**

- 21.(1) 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 may determine.
- (2) The directors on behalf of the company may pay a gratuity or pension or allowance on retirement to any director who has held any other salaried office or place of profit with the company or to his or her widow or dependants and may make contributions to any fund and pay premiums for the purchase or provision of any such gratuity, pension or allowance.

## **Rotation of Directors**

- 22.(1) The shareholder on annual basis shall cause directors to retire from office.
- (2) The directors to retire in every year shall be those who have been longest in office since their last appointment, but as between persons who became directors on the same day those to retire shall (unless they otherwise agree among themselves) be determined by lot.
- (3) A retiring director shall be eligible for re-appointment.
- (4) Where a director has retired in accordance with this article, the shareholder may fill the vacated office by appointing a person thereto, and in default the retiring director, if he or she has offered to be re-appointed, shall be deemed to have been re-appointed, unless the shareholder expressly resolved not to fill such vacant office.

## **Filling of vacancies of directors**

- 23.(1) The shareholder shall have power to appoint any person to be a 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 at any time exceed the number fixed in accordance with these articles.
- (2) A person appointed in place of a director removed or to fill a vacancy shall be subject to retirement at the same time as if the person had become a director on the day on which the director in whose place he or

she is appointed but shall not be taken into account in determining the directors who are to retire by rotation in sub article (1).

### **Removal of directors**

24. The shareholder may remove any director from office before the expiration of the directors period in office, notwithstanding anything in these articles or in any agreement between the company and such director. Such removal shall be without prejudice to any claim such director may have for damages for breach of any contract of service between him or her and the company.

### **Directors meetings**

25.(1) Subject to these articles directors may meet together for the dispatch of business, adjourn, and otherwise regulate their meetings, as they think fit.

(2) Any director may call a directors' meeting by giving notice of the meeting to the directors or by authorising the company secretary (if any) to give such notice.

(3) Notice of any directors' meeting shall indicate—

(a) the proposed date and time of the meeting;

(b) where the meeting is to take place; and

(c) if it is anticipated that directors participating in the meeting will not be in the same place, how they will communicate with each other during the meeting.

(4) Notice of a directors' meeting shall be given to each director, but need not be in writing.

(5) At the instance of the director who was not notified contrary to sub-article 3, the decision made at that directors meeting shall be nullified.

(5) Directors may waive their entitlement to notice of the meeting, by giving notice to that effect to the company not more than 7 days after the date on which the meeting was held.

(6) A director who waives the right to receive a notice of a meeting loses the entitlement to nullify decisions taken at that meeting or any business conducted at the meeting.

(7) Where a director and the shareholder is the same person, the director need not hold meetings but adopt resolutions as set out in article 16.

### **Quorum at directors meeting**

26.(1) The quorum necessary for the transaction of the business of the directors shall not be less than a simple majority of all directors.

(2) The 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 these articles as the necessary quorum of directors, the directors may request the shareholder to appoint sufficient directors.

### **Chairing directors meeting**

27. (1) The directors may appoint a chairperson to chair their meetings and a vice-chairperson who shall chair meetings in the absence of the chairperson.

(2) The directors may determine the period for which a chairperson and vice-chairperson may hold office but the directors may terminate the chairperson's or vice-chairperson's appointment at any time.

(3) If the chairperson or vice-chairperson is not present in a directors' meeting within half an hour of the time at which it was to start, the directors present shall appoint one of themselves to chair the meeting.

### **Participation in directors meetings**

28.(1) Subject to these articles, directors participate in 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 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 is to be treated as taking place wherever any of them is.

### **Directors' decisions**

29.(1) Subject to these articles, a decision is taken at a directors' meeting by-

(a) unanimous decision of the participating directors; and

(b) majority of the votes of the participating directors.

- (2) Subject to these articles, each director participating in a directors' meeting has one vote and if the number of votes for and against a proposal is equal, the chairperson of the meeting has a second or casting vote.
- (3) Subject to these articles, the directors may make any rule which they think fit about how they take decisions, and such rules shall be recorded and kept in the Company Register and shall be open for inspection by the shareholder.
- (4) Decisions of the directors may be taken at a directors' meeting or in the form of a directors' written resolution.

### **Unanimous decisions**

- 30.(1) A decision of the directors is unanimous when all eligible directors indicate to each other by any means that they share a common view on a matter.
- (2) Such a decision may take the form of a resolution in writing, copies of which have been signed by each eligible director or to which each eligible director has otherwise indicated agreement in writing.
- (3) References in this article to eligible directors are to directors who would have been entitled to vote on the matter had it been proposed as a resolution at a directors' meeting.
- (5) A decision may not be taken in accordance with this article if the eligible directors would not have formed a quorum at such a meeting.



## **Validity of directors' decision**

31. 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.

## **Records of directors' meetings**

32.(1) The directors shall cause minutes of meetings to record-

(a) the names of the directors present at each meeting of the directors and of any committee of the directors; and

(b) all resolutions and proceedings at all meetings of the company, and of the directors, and of committees of directors.

(2) Every director present at any meeting of directors or committee of directors shall sign their names in a book to be kept for that purpose.

(3) The directors shall cause separate books to be kept for recording-

(a) all appointments of officers made by the directors;

(b) the names of the directors present at each meeting of the directors and of any committee of the directors; and

(c) all resolutions and proceedings at all meetings of the company, and of the directors, and of committees of directors.

## **Directors' written resolutions**

- 33.(1) Any director may propose a directors' written resolution by giving a written notice of the proposed resolution to each director and the notice shall indicate-
- (a) the proposed resolution, and
  - (b) the time and date by which it is proposed that the directors should adopt it.
- (2) The company secretary shall issue a notice proposing a directors' written resolution if the director so requests.

## **Adoption of directors' written resolutions**

- 34.(1) A proposed directors' written resolution is adopted when the majority of 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) A resolution in writing, signed by all the directors for the time being entitled to receive notice of a meeting of the directors, shall be as valid and effectual as if it had been passed at the meeting of the directors duly convened and held.
- (3) It is immaterial, whether any director signs the resolution before or after the time and date by which it was proposed, that the directors should adopt the resolution.

(4) The company secretary shall ensure that the company keeps a record, in writing, of all directors' written resolutions for at least 10 years from the date of their adoption.

### **Directors' committees**

35.(1)The directors may establish committees consisting of such member or members of their body as they think fit.

(2)The directors may delegate any of their powers to committees established in sub article (1).

(3)Unless directors make rules for committees, such committees shall follow procedures which govern the proceedings of directors.

(4) A committee may elect a chairperson of its meetings, if no such chairperson is elected, or if at any meeting the chairperson is not present within half an hour after the time appointed for holding the same, the members present may choose one of their numbers to be chairperson of the meeting.

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

## **Suspension and termination of director's appointment**

36.(1) The shareholder may suspend the board of directors pending investigation into affairs of the company.

(2) A person ceases to be a director if disqualified from being a director in terms of section 57 of the Act.

(3) Before a person is disqualified under section 57(6)(f) of the Act from being a director on the ground of unsound mind, a registered medical practitioner who is treating that person shall give a written opinion to the company stating that the person has become mentally incapable of acting as a director and may remain so for a period of more than three months.

(4) A company may remove a director from office if a Court has declared that the director is incapable of managing his or her financial affairs.

(5) The office of director shall be vacated if a director is absent without permission of the chairperson of the board for 3 consecutive meetings of the board.

## **Managing Director**

37.(1) The shareholder may appoint one of the directors to the office of managing director for such period and on such terms as the shareholder thinks fit and, may revoke such appointment.

(2) A director appointed pursuant to sub article (1) shall not, while holding that office, be subject to retirement by rotation or be taken into account in

determining the rotation of retirement of directors, but his or her directorship shall be automatically reviewed if he or she ceases for any cause to be managing director.

(3) A managing 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 shareholder may determine.

(4) The directors may entrust to and confer upon such a managing director any of the powers exercisable by them upon such terms and conditions and with such restrictions as they may think fit, and either collaterally with or to the exclusion of their own powers and may revoke, withdraw, alter or vary all or any of such powers.

### **Secretary**

38. (1) The company shall have a secretary who shall be appointed by the directors.

(2) The secretary shall be appointed on such terms and conditions as the directors think fit and, the appointment may be revoked.

(3) No person shall be appointed or hold office as secretary if the person is a director of the company or a body corporate.

### **Indemnity**

39. Every director, managing director, agent, auditor, secretary and other officer of the company shall be indemnified out of the assets of the company against any liability incurred by that person in defending any civil proceedings, in which judgment is given in his or her favor.

## **Insurance**

40.(1) The directors may decide to purchase and maintain insurance, at the expense of the company, for the benefit of any director, managing director, agent, auditor, secretary and other officer of the company in respect of any-

- (a) liability, not being a criminal liability, for any act or omission in his or her capacity as an officer or an employee;
- (b) costs incurred by that officer or employee in-
  - (i) defending or settling any claim or proceedings relating to any such liability; and
  - (ii) defending any criminal proceedings relating to the activities of the company in which he or she is acquitted.

## **The company seal**

41. (1) The company shall have a seal and the directors shall provide for its safe custody.

(2) The company seal shall only be used by the authority of the directors or of a committee of the directors authorised by the directors on their behalf, and every instrument to which the seal shall be affixed shall be signed by a director and shall be countersigned by the secretary or by a second director or by some other person appointed by the directors for that purpose.

## **Accounts**

42.(1) The directors shall cause proper books of accounts to be kept with respect to-

(a) all sum 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 purchase of goods by the company; and

(c) the assets and liabilities of the company.

(2) Proper books of accounts shall not be deemed to be kept if such books do not reflect a true and fair view of the state of the company's affairs.

(3) The books of account shall be kept at the registered office of the company, or, subject to section 84 of the Act, at such other place or places as the directors think fit, and shall be open to inspection of the directors and shareholder.

(4) The directors shall, in accordance with section 94 of the Act, cause to be prepared and to be laid before the company in meeting with the shareholder such accounts referred to in that section.

(5) Not less than 21 days before the date of the meeting between shareholder and directors, a copy of the company accounts (including every document required by the Act to be annexed thereto) which are to be laid before the company in the meeting, shall be sent to the shareholder.

(6) Sub article (1) shall not require a copy of those documents to be sent to any person of whose address the company is not aware of.

## **Annual report**

43. The directors shall prepare an annual report in respect of any financial year, in accordance with the provisions of the Act.

## **Dividends and reserve**

44.(1) Subject to sub article (2), the company may declare dividends.

(2) The company shall not-

(a) declare any dividends unless the company satisfies the solvency test;

(b) declare dividends that exceed the amount recommended by the directors; and

(c) pay dividends otherwise than out of profits of the company.

(3) The directors may, if they are so authorised by the shareholder, before recommending any dividend, set aside out of the profits of the company such sums as they think proper as a reserve for any purpose to which the profit of the company may be properly applied, and pending such application such funds shall, be invested in such investments (other than shares of the company) as the directors may think fit.

## **Payment of dividends**

45.(1) All dividends shall be declared and paid according to the amounts paid or credited as paid on the share in respect of the dividend paid.



- (2) All dividends shall be apportioned and paid proportionately to the amount paid or portion 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.
- (3) The director may deduct from any dividend payable to the shareholder all sums of money, if any, presently payable by that shareholder in relation to the shares of the company.
- (4) Subject to the terms of issue of the share in question, the shareholder on recommendation by directors, may 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) to the distribution recipient or shareholder.
- (5) For the purposes of paying non-cash dividends, 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; or
  - (c) vesting any assets in a trustee or beneficiary.

## Method of payment of dividends

46.(1) In these articles, “**the distribution recipient**” means, in respect of a share which a dividend or other sum is payable—

(a) the holder of the share; or

(b) if the holder is no longer entitled to the share by reason of death or insolvency, or otherwise by operation of law, the agent, trustee or other beneficiary.

(2) 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 or any financial institution or society account specified by the distribution recipient either in writing or as the distribution recipient may otherwise decide;

(b) sending a cheque made payable to the distribution recipient by registered post to the recipient’s registered address or to an address specified by the distribution recipient either in writing or as the distribution recipient may otherwise decide;

(c) payment of cash or any other means of payment as the directors may agree with the distribution recipient either in writing or by such other means as the distribution recipient may decide.

## **Interest on dividends**

47.No dividends shall bear interest against the company unless otherwise provided for by-

- (a) the terms on which the share was issued; or
- (b) the provisions of another agreement between the shareholder and the company.

## **Capitalization of profits**

48.(1) The shareholder may upon recommendations by directors-

(a) decide to capitalise 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 capitalise (a "capitalised sum") to 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) Capitalised sums 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 capitalised sum may be applied in paying up new shares of a nominal amount equal to the capitalised sum which are then allotted and credited as fully paid to the persons entitled or as shareholder may direct.

(4) Subject to these articles the directors may apply capitalised sums in accordance with sub article (3) partly in one way and partly in another.

### **Service of documents**

49.(1) Subject to these articles-

(a) anything sent or supplied by or to the company under these articles may be sent or supplied in any way in which the Act provides; and

(b) 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 indicated.

(2) 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 the specified time shall not be less than 2 working days.

(3) A notice may be given by the company to the persons entitled to a share in consequence of the death or insolvency of a shareholder by sending it through a registered mail addressed to them by name, or by the title of representatives of the

deceased, or trustee of the insolvent, or by any like description, at the address, if any, within Lesotho supplied for the purpose by the persons claiming to be so entitled, or (until such an address has been supplied) by giving the notice in any manner in which the same might have been given if the death or insolvency had not occurred.

### **Failure to update contact details**

50. The shareholder shall update his or her contact details as and when a need arises.

### **Dissolution**

51.(1) The company may be dissolved in accordance with the provisions of the Act.

(2) 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) in connection with the cessation or transfer to any person of the whole or part of the undertaking of the company or that subsidiary.

## Schedule

### Particulars of first directors- article 18 (1)

Title	Full names	ID number	Physical Address	Postal Address	Email Address (if any)	Signature

Dated the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

### **EXPLANATORY NOTE**

This document prescribes standard model articles for single share holding. A company can either adopt these model articles or prepare its own. However, if a company prepares its own articles and the articles make no provision for a matter for which provision is included in these model articles and they do not expressly exclude that provision, the provision in the standard model article is deemed to apply. Furthermore, these articles shall be read with the relevant provisions of the Act, and where provisions of these articles are in conflict with the provisions of the Act, the provisions of the Act shall prevail.

