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THE KENYA POWER AND LIGHTING COMPANY LIMITED PURPOSE OF THE BOARD MANUAL

This Board Manual is a reference guide for Directors of the Kenya Power and Lighting Company Limited (KPLC or the Company). It seeks to expound and explain the collective and individual powers, duties, obligations responsibilities and liabilities of Directors. It also highlights the requirements of good corporate governance, which are necessary to bring the level of standards of corporate governance in the Company up to international best practice.

The Manual has been inspired by the dictates of good corporate governance, which is pivotal for the success viability and sustainability of the Company as an enterprise of global stature.

The key tenets of good corporate governance can be summarised into five principles:

- i) **Accountability:** Leadership that must be ready to be called to account.
- ii) **Efficiency and Effectiveness:** Leadership that is focused and result-driven.
- iii) **Integrity and Fairness:** Probity, integrity and a leadership that is honest, faithful and diligent.
- iv) **Responsibility:** Leadership that is capable, responsible and conscious of the Company's institutional, social and environmental responsibilities.
- v) **Transparency:** An open leadership with accurate and timely disclosure of information in compliance with relevant laws, regulations, governance practices and accounting and auditing standards.

CHAPTER 1

BACKGROUND

- 1.1 The Kenya Power and Lighting Company Limited is a limited liability Company which was incorporated in 1922 as the East African Power and Lighting Company Limited, following the merger of two private power utilities in Nairobi and Mombasa. The Company changed its name to Kenya Power and Lighting Company Limited in 1983. The registered office of the Company is at Stima Plaza, Kolobot Road, Parklands, Nairobi.
- 1.2 The Company undertakes the business of transmission, distribution and retail of electricity in Kenya. By December 2005, the Company was the only licensed public electricity supplier in the country. The Company's operations are divided into four distinct business regions: Nairobi, Coast, Mount Kenya and West. The Central Office provides support for common/shared services to all the business units. The Company also operates the Rural Electrification, Generation and Distribution projects as a contractor for the Government of Kenya.
- 1.3 KPLC purchases bulk power from companies licensed under the Electric Power Act No.11 of 1997 and the now repealed Cap 314 of the Laws of Kenya. It also imports power from Uganda. The generating companies and their respective capacity contribution are as follows: the Kenya Electricity Generating Company Limited (KenGen) (77%); the Tsavo Power Company Limited (10%); Ibrafrica Power (EA) Limited (5.3%); OrPower-4 Inc. (2.3%); and the Uganda Electricity Transmission Company Limited (UETCL) (4.7%). KPLC generates 0.1% on behalf of the Government of Kenya (GoK) under the Rural Electrification Programme.

1.4 CORPORATE VISION

The Vision of the Company is to achieve world-class status as a quality service business enterprise so as to be the first-choice supplier of electrical energy in a competitive environment.

1.5 CORPORATE MISSION

The Mission of the Company is to efficiently transmit and distribute high quality electricity throughout Kenya at cost-effective tariffs; to achieve the highest standards of customer service; and to ensure the Company's long-term technical and financial viability.

1.6 CORE CORPORATE VALUES

The Company's Core Values signify:

- i) Customer service
- ii) Team work
- iii) Results
- iv) People
- v) Empowerment
- vi) Innovation
- vii) Professionalism
- viii) Equal opportunity
- ix) Ethics
- x) Social responsibility
- xi) Environment

CHAPTER 2

2. APPOINTMENT OF DIRECTORS AND COMPOSITION OF THE BOARD

- 2.1 Shareholders of the Company jointly and severally have the obligation to protect, preserve and exercise supreme authority in general meetings to:
- (i) elect competent and reliable persons as Directors of the Company;
 - (ii) ensure that the Board of Directors is constantly held accountable for efficiency and effective governance of the Company; and
 - (iii) change the composition of the Board that does not perform to expectation.
- 2.2 The Board of Directors shall have a minimum of seven (7) and a maximum of 10 Directors, with an appropriate mix of skills, experience, age, gender, geographic spread and team roles. The Board shall include a balance of executive and non-executive Directors, including independent and non-executive Directors, such that no individual or group of individuals or interest can dominate its decision making. At least one third of the Board shall consist of non-executive independent Directors.

An independent Director is defined as a non-executive Director who:

- i) is not a representative of a major shareholder or nominated by such a shareholder;
 - ii) has not been employed by the Company, or the group of which it currently forms part, in any executive capacity for the preceding five (5) years;
 - iii) is not a professional adviser to the Company or the group, other than in a directorial capacity;
 - iv) is not a significant supplier or customer to the Company or the group;
 - v) has no significant contractual relationship with the Company or the group; and
 - vi) is free from any business or other relationship which would be seen to materially interfere with the individual's capacity to act in an independent manner.
- 2.4 There shall be clear formal and transparent procedures for nomination and appointment of new Directors to the Board. In this regard, the Board shall:
- i) set up a Nomination Committee of the Board;
 - ii) review its composition at least once a year to ensure that the mix of the Board is appropriate and compatible with the needs of the Board, and that every non-executive Director commits adequate time to the responsibilities and contributes effectively to the Board.
 - iii) The Nomination Committee will, when necessary, recommend to the Board qualified, competent, fit and proper persons to be nominated for election to the Board.
 - iv) All Directors will be required to submit themselves for election by shareholders by rotation periodically, but in any event within a period not exceeding three years.
 - v) Service contracts for executive Directors shall not exceed three years, but may be renewed by the Board.

CHAPTER 3

3. RECOGNITION AND RESPECT OF SHAREHOLDERS RIGHTS

3.1 The shareholders rights shall be recognised and respected. These rights shall include the following:

a) Basic Rights:

- i) Securing methods of ownership registration.
 - ii) Conveying and transferring shares.
 - iii) Obtaining relevant information on the operation on a timely and regular basis.
 - iv) Participating and voting in general meetings of members.
 - v) Sharing in the residual profits of the Company.
 - vi) Participating and being sufficiently informed on decisions concerning fundamental corporate changes like amendments to the Memorandum and Articles of Association, additional share capital, and transactions that would result in the sale of the Company.
- b) Shareholders shall have the opportunity to participate effectively and vote in general shareholder meetings and shall be informed of the rules, including notice procedures that govern general shareholder meetings.
- i) Shareholders shall be furnished with sufficient and timely information concerning the date, location and agenda of general meetings as well as full and timely information regarding the issues to be decided at the meetings.
- ii) Opportunity shall be provided for shareholders to ask questions of the Board and to place items on the agenda at general meetings, subject to reasonable limitations.
- iii) Shareholders shall be able to vote in person or in absentia, and equal effect shall be given to votes whether cast in person or in absentia.
- iv) Shareholders shall be provided with adequate information regarding the competencies required on the Board and given options to elect Directors from a range of qualified, competent, fit and proper persons.
- c) Capital structures and arrangements that enable certain shareholders to obtain a degree of control disproportionate to their equity ownership shall be disclosed.

The Board shall endeavour to ensure that markets for corporate control are allowed to function in an efficient and transparent manner. In this regard, the Board shall always seek to ensure that:

- i) the rules and procedures governing the acquisition of corporate control in the capital market and extraordinary transactions, such as mergers and sales of substantial portions of corporate assets, shall be clearly articulated and disclosed so that investors understand their rights and recourse;
 - ii) transactions shall occur at transparent prices and under fair conditions that protect the rights of all shareholders according to their class;
 - iii) anti-takeover devices shall not be used to shield management from accountability; and
 - iv) shareholders, including corporate investors, shall consider the costs and benefits of using their voting rights.
- d) The Board of Directors shall ensure that there is equitable treatment of all shareholders. In particular, the Board shall ensure that:
- i) all shareholders of the same class are treated equally;
 - ii) all shareholders, including minority and foreign shareholders, are accorded equitable treatment;
 - iii) all shareholders shall have the opportunity to obtain effective redress for violation of their rights;
 - iv) within any class, all shareholders should have the same voting rights. All investors should be able to obtain information about voting rights affiliated with all classes of shares before they purchase them. Any changes in voting rights within or between classes of shares should be subject to shareholder vote;
 - v) votes shall be cast by custodians or nominees in a manner agreed upon with the beneficial owner of the shares;

- vi) Processes and procedures for general shareholder meetings shall allow for equitable treatment of shareholders;
 - vii) Company procedures do not make it unduly difficult or expensive to cast votes;
 - viii) self-dealing and insider trading are prohibited; and
 - ix) members of the Board and managers disclose their material interests in transactions on matters affecting the Company.
- 3.2 The shareholders, in turn, have a duty and are advised to exercise the supreme authority of the Company in general meetings to hold the Board accountable for the stewardship of the Company.

CHAPTER 4

4. AUTHORITY, POWERS, ROLES, FUNCTIONS AND LIABILITIES OF THE BOARD

Authority

- 4.1.1 The Directors of the Company shall have authority to exercise all the powers of the Company which are not specifically excluded or reserved to shareholders by other provisions of the Memorandum and Articles (i.e., electing Directors, approval of Directors remuneration) or by the Companies Act (i.e., allotment of shares, advancing loans to themselves, altering situation of registered office, amending the Memorandum and Articles, and altering share capital).

Roles and Functions of the Board

- 4.1.2 The Board shall exercise leadership, enterprise, integrity and good judgement in directing the Company so as to achieve continuing prosperity for the Company and shall always act in the best interest of the Company. The Board shall be responsible for ensuring that the Company is financially viable and properly managed so as to protect and enhance the interests of the Company over time. Each Director should endeavour to ensure that the Board fulfils its key purpose of safeguarding and improving the Company's prosperity.

- 4.1.3 In achieving this purpose, the Board will carry out the following key tasks:

- a) Exercise leadership, enterprise, integrity and sound judgement in directing the Company so as to achieve continuing prosperity and to act in the best interests of the enterprise while respecting the principles of transparency and accountability.
- b) Ensure that, through a managed and effective process, Board appointments are made that provide a mix of proficient Directors, each of whom is able to add value and bring independent judgement to bear on the decision-making process.
- c) Determine the Company's purpose and values, determine the strategy to achieve its purpose and to implement its values in order to ensure it survives and thrives, and ensure that procedures and practices that protect the Company's assets and reputation are in place.
- d) Monitor and evaluate the implementation of strategies, policies, management performance criteria and business plans.
- e) Ensure that the Company complies with all relevant laws, regulations and codes of best business practice.
- f) Ensure that the Company communicates with shareholders and other stakeholders effectively.
- g) Serve the legitimate interests of the shareholders and the Company and account to them fully.
- h) Identify the Company's internal and external stakeholders and agree on a policy, or policies, determining how the Company should relate to them.
- i) Ensure that no one person or bloc of persons has unfettered powers and that there is an appropriate balance of power and authority on the Board which is, inter alia, usually reflected by separating the roles of the Chief Executive Officer and the Chairman, and by having a balance between executive and non-executive Directors.
- j) Regularly review processes and procedures to ensure the effectiveness of its internal systems of control so that its decision-making capability and the accuracy of its reporting and financial results are maintained at a high level at all times.
- k) Regularly assess its performance and effectiveness as a whole, and that of the individual Directors, including the Managing Director.
- l) Appoint the Managing Director and at least participate in the appointment of the senior management.
- m) Ensure the motivation and protection of intellectual capital intrinsic to the Company.
- n) Ensure that there is adequate training in the Company for management and employees, and a succession plan for senior management.
- o) Ensure that all technology and systems used in the Company are adequate to properly run the business and for it to remain effectively competitive.
- p) Identify key risk areas and key performance indicators of the business and monitor these factors.
- q) Ensure annually that the Company will survive, thrive and continue as a viable concern.

4.1.4 In order to fulfil these functions, the Board of Directors shall:

- i) meet regularly and retain full and effective control over the Company;
- ii) evolve procedures for the selection and removal of individual Directors (including the Chairman and the Managing Director) to facilitate regular alteration of the mix and composition of the Board, ensuring relevant rejuvenation;
- iii) define the limits of authority of the Managing Director and other top executives;
- iv) compile and communicate Company policies and strategies covering the style of operation; external and internal relationships; markets and business; required rates of return and performance standards; growth and change policies; and planning and budgetary procedures;
- v) review and approve strategic plans and arrange that meaningful plans are produced at all levels on an ongoing basis covering the longest realistic time scale;
- vi) determine the total (actual and potential) resources of the Company in terms of people, money, methods, equipment and market position, and to allocate these by unit and time scale, defining closely what returns are expected and when;
- vii) devote sufficient time to their responsibilities;
- viii) monitor management performance quarterly;
- ix) map out the mechanisms for internal and external liaison and communications;
- x) define how the Board will operate including:
 - What information or reports it requires on a monthly or quarterly basis.
 - How, with what data and by what means, it will constantly monitor management performance and the financial progress of the Company.
 - How it will evaluate its own performance at least once every year.
- xi) ensure that the Company is properly managed and for the attainment of lawful objectives;
- xii) ensure that the Company's affairs are not managed or conducted in a manner oppressive to any of its shareholders or for fraudulent purposes;
- xiii) ensure that the Company complies with all statutory requirements;
- xiv) ensure that the rights of stakeholders that are protected by law are respected;
- xv) ensure that, where stakeholder interests are protected by law, stakeholders have the opportunity to seek effective redress for any violation of their rights;
- xvi) permit and facilitate performance-enhancing mechanisms for stakeholder participation; and
- xvii) ensure that, where stakeholders participate in performance-enhancing mechanisms, they have access to all relevant information.

4.2 DIRECTORS DUTIES, LIABILITIES AND CONDUCT

4.2.1 Directors' duties and liabilities arise under common law, the Companies Act, the Memorandum and Articles of the Company and other statutes, regulations and rules.

Duties and liabilities of Directors under the statutes, contract and common law include the following:

- i) Directors' duties are owed to the Company only.
- ii) Directors must have regard to the interests of the Company's shareholders, employees, the general public under certain environmental, health and safety legislation, and if the Company is or may be insolvent-creditors.
- iii) All Directors on the Board share their legal responsibilities equally, whether they are executive or non-executive Directors, and regardless of any particular duties under service agreements as employees.
- iv) In general, Directors are not liable for the Company's debts or losses, unless they have given personal guarantees; but they may be made personally liable if they have acted in breach of their duties.
- v) Directors shall not act ultra vires the objects of the Company under its Memorandum of Association, and shall also operate within limitations on their powers imposed by its Articles.
- vi) Directors should endeavour to attend all Board meetings, being absent only with good reason. Persistent non-attendance may amount to a breach of duty. Under the Articles of the Company, a Director may lose office if he or she does not attend Board meetings on three occasions each year.
- vii) Directors have a duty to act in the best interests of the Company in good faith and exercise care and skill.

- viii) Directors owe fiduciary duties to the Company, which means that they are required to act in good faith in the best interests of the Company; exercise their powers for the proper purposes for which they were conferred, and not place themselves in a position where there is a conflict (actual or potential) between their duties to the Company and their personal interests (or the interests of any associated organisation or person) or duties to third parties. Fiduciary obligations can apply in circumstances which are not always obvious, and where no intentional dishonesty is involved.
- ix) Each Director shall, at all times, respect the truth and act honestly in business dealings and in the exercise of all the responsibilities as a Director.
- x) A Director shall not obtain, attempt to obtain or accept any bribe, secret commission or illegal inducement of any sort. Integrity should be the hallmark of each Board member's conduct in decision making, uninfluenced by shareholdings, business, political or personal commitments and relationships external to his or her Company duties.
- xi) The Company's assets and resources shall be applied only for proper purposes and in the interest of the Company and not to benefit themselves or anyone else. The Directors will be liable for the loss caused to the Company and/or to restore the Company's assets if they misapply them.
- xii) As a rule, a Director shall not enter into an agreement with a third party under which he or she fetters his or her power to exercise an independent judgement except where he or she believes in good faith that it is in the interest of the Company to do so.
- xiii) A Director must not take advantage of his or her position as a Director to gain, directly or indirectly, a personal advantage or an advantage for any associated person unless permitted by the Company's Memorandum and Articles of Association or after the situation has been disclosed to the Company in a general meeting and the Company has consented.
- xiv) A Director must not make improper use of information acquired by virtue of his or her position as a Director. This prohibition shall apply irrespective of whether or not the Director or any associated person would gain directly a personal advantage or whether or not the Company might be harmed.
- xv) Directors shall not use inside information for gain and will be liable to account to the Company for their gain (i.e. profit not authorised by a shareholder resolution or in accordance with the Company's Articles) if they use their position to make a secret profit.
- xvi) A Director shall make sure that any information which is not in the public domain and which would have a significant effect on the Company's share price if publicly available is not provided to anyone who may be influenced to subscribe for, buy or sell shares, or may advise others to do so. Such information includes, but is not limited to, profit forecasts, proposed share issues, borrowings, impending takeovers, impending litigation, significant changes in operations, new products, new discoveries, and financial problems. Listing rules require Directors of a Company listed on the Stock Exchange to make adequate and timely disclosure to the Stock Exchange.
- xvii) A Director shall not buy or sell shares while in possession of confidential information as a Director of a Company which, if disclosed publicly, would be likely materially to affect the price of the Company's shares.
- xviii) A Director has a general duty to avoid any actual or potential conflict between his or her own personal interests, or the interests of any associated organisation or person, and his or her duties to the Company.
- xix) If a Director, a member of his/her immediate family or other connected person has a personal interest in some transaction involving the Company, the Director must declare that interest to the Board.
- xx) In the extreme case of continuing material conflict of interest, good practice requires the Director to resign from the Board.

- xxi) Conflict of interest may arise where a Director is appointed to a Board at the instigation of a third party with a substantial interest in the Company, such as a major shareholder or a creditor. The Director's duty in such circumstances is to make a contribution in the interests of the Company and not in the particular interest of the sponsor. If obligations to a third party preclude a Director from taking an independent position on an issue, it is good practice to disclose the situation to the rest of the Company Board and it is for the Board to judge whether or not the individual Director should take part in the Board's consideration of the particular issue.
- xxii) A Director's service agreement under which the Director's employment may continue for more than five years (during which period it cannot be terminated by the Company by notice or can only be so terminated in specified circumstances) must be approved by a resolution of the shareholders in a general meeting.
- xxiii) Directors are responsible for the Company's due administration, including maintenance of proper accounting records, minutes of meetings and filing information at Companies Registry. In practice Directors can delegate these duties and the Company Secretary may handle much of the administration, but this does not relieve the Directors of the ultimate responsibility.
- xxiv) Loans by the Company to a Director are prohibited. Nor is the Company allowed to provide a guarantee or other security for any loans to a Director.

4.3 Preparation of Accounts

- 4.3.1 Under the Companies Act, it is the duty of all Directors to cause to be kept proper and accurate books and accounts in respect of all sums of money received and expended by the Company, and the matters in respect of which receipt or expenditure takes place; all sales and purchases by the Company; and all assets and liabilities of the Company, as necessary to give, with reasonable accuracy at the time, the financial position of the Company; and to lay the accounts and report before the shareholders in a general meeting, and to ensure that the Company sends copies to all its shareholders and the Registrar of Companies.

4.3.2 Directors are consequently responsible for:

- (i) maintaining adequate systems of financial management and internal control over the Company;
 - (ii) ensuring the integrity and adequacy of the accounting and financial systems;
 - (iii) ensuring that qualified, competent and fit persons are employed to undertake accounting and financial responsibilities; and
 - (iv) ensuring that the Company complies with international accounting standards.
- 4.3.3 Directors shall ensure that the head of the finance and accounting function is a qualified chartered public accountant and member of the Chartered Institute of Public Accountants of Kenya.
 - 4.3.4 The Board shall ensure that qualified and competent firms are appointed as auditors of the Company. The Board shall further establish a formal and transparent arrangement of maintaining an arm's length relationship with the external auditors.
 - 4.3.5 Directors may be liable for wrongful trading unless they took all proper steps to minimise the creditors' potential losses, once they knew or ought to have concluded that there was a reasonable prospect that insolvent liquidation could be avoided.

CHAPTER 5

5. ROLES OF THE CHAIRMAN AND THE MANAGING DIRECTOR

5.1 As a general rule, there shall be a clear division of duties and roles of the Chairman and the Managing Director.

5.2 Role and Responsibilities of the Chairman

The Chairman of the Board shall be appointed by the Board in accordance with provisions of the Company's Articles of Association.

The Chairman's responsibilities shall include the following:

- (i) To provide overall leadership to the Board.
- (ii) To ensure that the membership of the Board is properly balanced in terms of skills, experience, expertise, age and corporate experience.
- (iii) To ensure that there is a formal succession plan for the Board.
- (iv) To play a key role in setting of agenda for Board meetings.
- (v) To ensure that new Directors are properly inducted and that there are adequate training programmes for Directors to keep them abreast of developments and good corporate governance practices.
- (vi) To endeavour to ascertain that the role of the Board and the key tasks of the Board are properly understood by all the Board members.
- (vii) To ensure that there are constant strategies for monitoring and evaluating the effectiveness of the Board, the Chairman, individual Directors, senior management and the entire Company.
- (viii) To chair meetings of shareholders.
- (ix) Efficiently conduct Board meetings and guide the Board decision-making process.
- (x) Maintain close but independent working relationship with the Managing Director.
- (xi) Act as an informal link between the Board, management and shareholders.

5.3 Role and Responsibilities of the Managing Director

The Managing Director is the chief executive and a member of the Board, and is accountable and responsible for:

- (i) the day-to-day running and management of the Company in accordance with the overall directions, strategies and policies agreed by the Board;
- (ii) representing and promoting the interests of the Company both nationally and internationally;
- (iii) providing regular reports on the financial and operating performance of the Company as required by the Board;
- (iv) overseeing the preparation and submission of annual budgets, for the approval of the Board, to an agreed timetable;
- (v) developing and recommending to the Board a long-term strategy and annual business plans for the Company;
- (vi) establishing proper internal financial controls and risk management systems, and ensuring efficient and effective application;
- (vii) implementing and communicating policies, strategies and decisions adopted by the Board;
- (viii) preparing proposals and submitting them for consideration by the Board;
- (ix) attending to personnel matters including recruitment and dismissal of staff other than departmental Directors;
- (x) ensuring continuous improvement in the quality and value of the services of the Company;
- (xi) consistently striving to achieve the Company's financial and operating goals;
- (xii) ensuring that the Company has an effective management team structure and management succession plans;
- (xiii) maintaining a work environment conducive for attracting, retaining and motivating employees; and
- (xiv) fostering a corporate culture that promotes ethical practices.

5.5 Role and Responsibilities of the Company Secretary

The Board shall ensure that it has a qualified and competent Company Secretary, whose services shall be accessible to all Directors and who shall be an adviser to the Board on legal and corporate governance matters. The Company Secretary will fulfil the following duties:

5.5.1 Board Meetings

Facilitating the smooth operation of the Company's formal decision-making and reporting machinery; organising Board and Board committee meetings (e.g., audit, remuneration, nomination committees, etc); formulating meeting agendas with the Chairman and/or the Chief Executive and advising management on content and organisation; preparing memoranda or presentations for the meetings; collecting, organising and distributing information, documents and other papers required for the meeting; ensuring that all meetings are minuted and that the minute books are properly maintained, and that all Board committees are properly constituted and provided with clear terms of reference.

5.5.2 General Meetings

Ensuring that an Annual General Meeting (AGM) is held in accordance with the requirements of the Companies Act and the Company's Articles of Association; obtaining internal and external agreement to all documentation for circulation to shareholders; preparing and issuing notices of meetings, and distributing proxy forms; preparing Directors for any shareholder questions and helping them create briefing materials; and overseeing preparations for security arrangements.

At meetings, ensuring that proxy forms are correctly processed and that the voting process is carried out correctly and coordinating the administration and minuting of meetings.

5.5.3 Memorandum and Articles of Association

Ensuring that the Company complies with its Memorandum and Articles of Association, and draft and incorporate amendments in accordance with the correct procedures.

5.5.4 Stock Exchange Requirements

Monitoring and ensuring compliance with the Stock Exchange requirements; releasing information to the market; ensuring the security of unreleased price-sensitive information; and making applications for listing of additional issues of securities.

5.5.6 Statutory Registers

Maintaining the statutory registers.

5.5.7 Statutory Returns

Filing information with the Registrar of Companies to report certain changes regarding the Company or to comply with requirements for periodic filing.

CHAPTER 6

6.1 MATTERS RESERVED FOR THE BOARD

The following matters are reserved for the Board:

- (i) Approval of Corporate Vision, Mission and Core Values.
- (ii) Approval of the corporate strategy and business plan.
- (iii) Approval of annual budget.
- (iv) Approval of the interim and final financial statements.
- (v) Approval of the interim dividend and recommendations of the final dividend.
- (vi) Approval of all circulars and listing particulars to the Securities exchanges.
- (vii) AGM approvals notice, venue, date and time.
- (viii) Setting the terms and conditions of service for members of the Board, the Managing Director and approving those of staff.
- (ix) Appointment of senior management up to the level of chief officers and their removal.
- (x) Setting Board Committees, including their terms of reference.
- (xi) Appointment of Auditors for recommendation to the shareholders and approval of audit fees.
- (xii) Approval of banking/authority levels.
- (xiii) Review of Audit Management Letter.
- (xiv) Approval of major restructuring.
- (xv) Settlement of major litigation/claims.
- (xvi) Changes relating to the Company's capital structure.
- (xvii) Approval of major changes in the provident fund and appointment of sponsor-nominated trustees.
- (xviii) Approval of any significant change in accounting policies or practices.
- (xix) Approval of treasury policies (including foreign exchange exposures).
- (xx) Approval of Risk Management Strategy.
- (xxi) Approval of Corporate Social Responsibility policy, including donations policy.
- (xxii) Approval of material contracts of the Company in the ordinary course of business other than those authorised by the Tender Committees or falling within the Managing Director's delegated financial authority levels.
- (xxiii) Approval of corporate image/branding.
- (xxiv) Approval of health and safety policy.
- (xxv) Approval of insurance portfolio.
- (xxvi) Approval of human resources policies and regulations.

6.2 MATTERS DELEGATED BY THE BOARD TO MANAGEMENT

The following authority has been delegated by the Board to the Managing Director:

6.2.1 Procurement

Other than the Central Tender Committee, which shall be set up by the Board in accordance with the requirements of the law, the Managing Director shall constitute tender committees with such terms of reference and authority limits as shall be approved by the Board from time to time.

Procurement shall be carried out in accordance with the Company's procurement procedures approved by the Board and prevailing from time to time.

The Managing Director shall be authorised to sign and to delegate the signing of, all contractual documents of such financial limits as shall be approved by the Board from time to time. Contracts where the amounts involved are above KSh5 million shall be subject to prior vetting by the Company Secretary's Division.

The Managing Director and another Director, or the Company Secretary, shall witness all contracts and documents requiring signing under the Common Seal of the Company.

6.2.2 Operating Expenditure and Capital Expenditure

The Managing Director is authorised to approve, and to delegate in writing approvals, for all operating expenses subject to the budgetary allocation approved by the Board. The expenditure which involves procurement shall be subject to the provisions on the procurement above.

6.2.3 Debt Write-Off

The Managing Director shall be authorised to write off debts not exceeding KSh5 million.

CHAPTER 7

7 COMMUNICATION WITH SHAREHOLDERS AND STAKEHOLDERS

- 7.1 The duties of the Board are owed to the Company but, in evaluating the interests of the Company, a Board of Directors is accountable to the shareholders as a whole for the stewardship of the Company.
- 7.2 Over and above any legal or regulatory constraints, in deciding what is in the best interest of the Company and its continuing prosperity, the Board may wish to take into account the interests of stakeholders where the Board judges they have an appropriate interest in or influence over the achievement of Company objectives and the way in which these objectives are achieved. In certain circumstances, the Board may judge that the Company's intentions or actions should be explained or even justified to them. This is likely to be particularly the case in times of a major change or crisis (for example, large redundancy programmes, disasters, takeover bids, etc).
- 7.3 The Board is responsible for communicating fully with shareholders and aligning the Company with their interests. The Board must ensure the Company complies with its legal obligations as to the disclosure of information.
- 7.4 There shall be sufficient transparency about the activities of the Board in particular and the Company in general, to secure the confidence and trust of employees, customers, suppliers and the community which the Company serves, without sacrificing commercial confidentiality. Reasonable transparency is a prerequisite for worthwhile relationships with all the parties associated with a Company. This goes beyond the duty that Directors owe to the Company and beyond the discharge of their duties of disclosure created by the Act.
- 7.5 The Board shall take care to protect such information as the Company holds in confidence. This applies equally to commercially and personally confidential information affecting the Company and its employees, customers, suppliers, business partners or others.
- 7.6 A Director shall not disclose, or allow to be disclosed, confidential information received in the course of the exercise of his/her duties as a Director, unless that disclosure has been authorised by the Board of the Company or is required by law. Trade secrets, matters that are an intellectual property right of the Company, and processes and statistics affecting financial results, in particular, must not be disclosed.
- 7.7 The Board will develop a policy on disclosure and confidentiality of information, which it will regularly monitor and review. The Board should ensure that its own actions are consistent with this policy.

CHAPTER 8

CODE OF ETHICS, SOCIAL RESPONSIBILITIES AND GENERAL REQUIREMENTS

- 8.1 The Board of Directors acknowledges that the success of the Company's business rests upon recognition and support of the needs of the society in which the Company operates, including employees, to meet social welfare and economic needs. Further, the Board recognises that the success of the Company can only be guaranteed by people's trust in the Company. Consequently, the Company shall continually strive to ensure that its actions and decisions are guided by the highest ethical standards and integrity.

8.2 Code of Ethics

The Board of Directors shall develop and put in place a code of ethics outlining the values, ethics and beliefs that shall guide the policy and behaviour of the Company, and define the ethical standards applicable to it and to all who work with it.

8.3 Social Responsibilities

- 8.3.1 The Board of Directors will monitor the social responsibilities of the Company and promulgate policies consistent with the Company's legitimate interests and good business practices. In particular, the Board of Directors shall:

- (i) promote fair, just and equitable employment policies;
- (ii) promote and be sensitive to the preservation and protection of the natural environment;
- (iii) be sensitive to and conscious of gender interests and concerns;
- (iv) promote and protect the rights of children and other vulnerable groups; and
- (v) enhance and promote the rights and participation of host communities.

8.4 Corporate Governance

- 8.4.1 The Board and the Company shall adhere to the reputable standards of corporate governance in order to bring the level of governance in the Company to international standards. The standards of corporate governance, which may be adopted by the Board from time to time, shall be deemed to form part and part of this Board Manual.

8.4.2 General

Conscious of its responsibilities to investors, suppliers, creditors, employees and society, the Board of Directors shall:

- (i) issue a certificate at the end of every year confirming that it has complied with the law, conducted its affairs in accordance with the best principles and practices of corporate governance and that to the best of the knowledge of the Board and management, no person, employee or agent acting on behalf of the Company with the knowledge or authority of the Board or management, committed any offence under the Prevention of Corruption Act or indulged in any unethical behaviour in the conduct of the Company's business, or been involved in money laundering, or any practice or activity contrary to national laws or international conventions; and
- (ii) develop a policy on Corporate Social Responsibility and publish a Social Responsibility report every year indicating how it has dealt with its social and environmental responsibilities.

CHAPTER 9

9. PROCEDURES FOR THE CONDUCT OF BOARD BUSINESS

9.1.1 In the conduct of Board business, two fundamental concepts shall be observed:

- (i) All Directors should receive the same information at the same time.
- (ii) Each Director should be given sufficient time in which to consider any such information.

9.1.2 The Board shall, prior to or at the commencement of each financial year, cause to be prepared a work plan and calendar of meetings of the Board and its Committees for the ensuing financial year.

9.1.3 The Managing Director and the Chairman of the Board shall ensure that the papers submitted to the Board are comprehensive, accurate and relevant to enable the Board to make informed decisions.

9.1.4 Decisions regarding the content of the agenda for individual meetings of the Board and concerning the presentation of agenda items shall be taken by the chairman in consultation with the Managing Director and the Company Secretary.

9.1.5 A report on the matters arising from the previous minutes shall be prepared by the Managing Director for circulation to the Board.

9.1.6 The Board shall be given reasonable notice of the meeting and the Agenda and papers of a regular meeting shall be circulated to the Board in reasonable time.

9.1.7 On an exceptional basis, decisions of the Board may be obtained by means of a written resolution to be signed by all Directors.

9.1.8 The minutes of meetings shall record the decisions taken and provide sufficient background to those decisions. All papers presented at the meeting shall be identified clearly in the minutes and retained for reference.

9.1.9 The minutes shall be circulated to Directors as soon as they have been approved by the Chairman. The minutes of all meetings of Committees shall be circulated to the Board prior to its next meeting and members shall be given an opportunity to ask any questions thereon.

9.1.10 Notwithstanding the absence of a formal agenda item, the Chairman shall permit any Director or the Company Secretary to raise at any Board meeting any matter, and the same may be discussed with consent of all Directors, failing which the item will be discussed in the next meeting.

9.2 Decision Making

9.2.1 In general terms, members of the Board should accept collective responsibility for the decisions of the Board as its loyal members. This does not preclude a Director, if necessary, to express disagreement with colleagues, including the Chairman or the Managing Director, but it does mean that he or she should accept that resignation or dismissal may sometimes be the ultimate consequence of sustained protest on a matter of Company policy, conscience or principle.

9.2.2 When a Director concludes that he or she is unable to acquiesce in a decision of the Board, some or all of the following steps should be considered:

- a) Making his/her dissent and its possible consequences clear to the Board as a means of seeking to influence the decision.
- b) Asking for additional legal, accounting or other professional advice at the expense of the Company.
- c) Asking that the decision be postponed to the next meeting to allow time for further consideration and informal discussion.
- d) Tabling a statement of dissent or writing to the Chairman asking that the statement or letter be minuted.
- e) Calling a special Board meeting to consider the matter.
- f) Resigning and considering advising the appropriate regulator.

9.2.3 A Director who chooses to resign on a point of principle or other important matter should disclose the reasons for resignation to shareholders or to the appropriate regulator, though a Director should bear in the duty not to disclose confidential information.

CHAPTER 10

10 DIRECTORS INDUCTION AND DEVELOPMENT

10.1 Each Director shall, on appointment, be provided with sufficient information to enable him or her perform his or her duties. These shall include copies of:

- ¥ The Board Manual
- ¥ The corporate strategy
- ¥ The annual budget for the current year
- ¥ A list of Board Directors and senior management and their contacts
- ¥ The organisational structure of the Company
- ¥ The Memorandum and Articles of the Company
- ¥ Directors fees and related benefits
- ¥ Board calendar and work plan for the current year.

10.2 Induction of newly-appointed Directors will be organised by the Chairman.

10.3 The Board shall ensure that all Directors keep abreast of both practical and theoretical developments, and that their expertise is constantly relevant. Director development will comprise induction and enhancement of skills derived from regular evaluations.

10.4 The Board shall take time to evaluate its own performance once every year. The evaluation will comprise individual assessment, that of the Chairman and of the Board as a collective agency. The output from the evaluation will form a basis for identifying shortfalls in skills and competencies. Short training courses will be organised for the Directors to address such gaps.

CHAPTER 11

11 BOARD COMMITTEES AND TERMS OF REFERENCE

11.1.1 There shall be a minimum of five standing committees of the Board:

- Audit Committee
- Strategy Committee
- Staff and Remuneration Committee
- IT Committee
- Central Tender Committee

11.1.2 The Board shall also establish two additional Committees:

- Nominations Committee
- Remuneration Committee

11.1.3 The Board shall constitute such other standing or ad hoc committees as it shall deem appropriate.

11.1.4 The Directors shall remain collectively responsible and accountable for the powers exercised by and decisions made by the Board Committees.

11.1.5 The constitution of any Committee of the Board and delegation of powers thereto shall be exercised by the Board at a properly convened and constituted meeting of the Board through a valid resolution of the Board.

11.1.6 The resolution establishing a committee must specify the membership of the Committee, its Directors and powers (terms of reference), its quorum and any conditions imposed by the Board on the exercise of those powers.

11.1.7 The proceedings of Committee meetings shall be governed by the articles regulating the proceedings of Board meetings so far as they are capable of applying.

11.2 Existing Committees and their Terms of Reference

AUDIT COMMITTEE

Membership

1. The Committee shall be appointed by the Board from amongst the non-executive Directors of the Company and shall consist of not less than three members. A quorum shall be two members.
2. The Chairman of the Committee shall be appointed by the Board.

Attendance at Meetings

3. The Managing Director, Finance Director, Internal Audit Manager and a representative of the external auditors shall normally attend meetings. Other Board members shall also have the right of attendance. (However, at least once a year, the Committee shall meet with the external auditors without the executive Board members). Other departmental Directors may be invited to attend to respond to specific issues concerning their functions. The Company Secretary shall be the Secretary of the Committee.

Frequency of Meetings

4. Meetings shall be held not less than twice a year. The external auditors may request a meeting if they consider one necessary.

Authority

5. The Committee is authorised by the Board to investigate any activity within its terms of reference. It is authorised to seek any information it requires from any employee and all employees are directed to cooperate with any request made by the Committee.

6. The Committee is authorised by the Board to obtain outside legal, independent professional advice and to secure the attendance of outsiders with relevant experience and expertise, if it considers this necessary.

Duties

7. The duties of the Committee shall be:

- a) To consider the appointment of the external auditor, the audit fee and any question of resignation or dismissal.
- b) To prioritise each year's audit according to the various degrees of risk inherent within the Company operations and the financial impact arising from non-compliance of set standards or ineffective internal controls.
- c) To discuss with the external auditor before the audit commences the nature and scope of the audit, and ensure coordination where more than one audit firm is involved.
- d) To review the half-year and annual financial statements before submission to the Board, focusing particularly on:
 - i) any changes in accounting policies and practices;
 - ii) major judgemental areas;
 - iii) significant adjustments resulting from the audit;
 - iv) the going concern assumption;
 - v) compliance with accounting standards;
 - vi) compliance with stock exchange and legal requirements; and
 - vii) approval of any communication of half-year/full year performance by the Company to the shareholders.
- e) To discuss problems and reservations arising from the interim and final audits, and any matters the auditor may wish to discuss (in the absence of management where necessary).
- f) To review the auditor's management letter and management's response.
- g) To review the Company's statement on internal control systems prior to endorsement by the Board.
- h) To review the internal audit programme, ensure coordination between internal and external auditors, and ensure that the internal audit function is adequately resourced and has appropriate standing within the Company.
 - i) To consider the major findings of internal investigations and management's response.
 - j) To consider other topics as defined by the Board.

Reporting Procedures

8. The Secretary shall circulate minutes of meetings of the Committee to all members of the Board.

STRATEGY COMMITTEE

Membership

1. The Committee shall be appointed by the Board from amongst the Directors of the Company, a majority of whom must be non-executive, and shall consist of not less than three members. The Managing Director shall be a member of the Committee. A quorum shall be two members.
2. The Chairman of the Committee shall be appointed by the Board.

Attendance at Meetings

3. The Finance Director shall normally attend meetings. Other Board members shall have the right of attendance. The Company Secretary shall be the Secretary of the Committee.

Frequency of Meetings

4. Meetings shall be held not less than twice a year.

Authority

5. The Committee is authorised by the Board to investigate any activity within its terms of reference. It is authorised to seek any information it requires from any employee and all employees are directed to consent to any request made by the Committee.

6. The Committee is authorised by the Board to obtain outside independent professional advice and the attendance of outsiders with relevant experience and expertise, if it considers necessary.

Powers

7. The Committee shall have the powers to employ the services of such advisers as it deems necessary its responsibilities.

Duties

8. The duties of the Committee shall be:

- a) To advise the Board on matters of strategies to be adopted in order to enhance performance of the Company.
 - b) To receive and consider the financial analysis of all proposed new business practices, policies, operations, major offices and capital developments.
 - c) To review, recommend, do or cause to be done, in consultation where necessary with other relevant Committees all measures considered necessary to reduce the Company's expenditure.
 - d) To review options for raising capital.
 - e) To review and give guidelines to management on the investment of Company funds.
 - f) To review the placing of the Company's insurance portfolio and options for covering all insurable risk.
 - g) To report to the Board its findings and recommendations in all matters listed above, and to undertake other functions and projects requested by the Board.
9. The Secretary shall circulate minutes of meetings of the Committee to all members of the Board.

STAFF AND REMUNERATION COMMITTEE

Membership

1. The Committee shall be appointed by the Board from amongst the Directors of the Company, a majority of whom must be non-executive, and shall consist of not less than five members. The Managing Director shall be a member of the Committee. A quorum shall be three members.
2. The Chairman of the Committee shall be appointed by the Board.

Attendance at Meetings

3. The Head of Human Resources and Administration shall normally attend meetings. Other Board members shall have the right of attendance. The Managing Director shall be the Secretary of the Committee.

Frequency of Meetings

4. Meetings shall be held not less than twice a year.

Authority

5. The Committee is authorised by the Board to investigate and take action in relation to any activity within the terms of reference. It is authorised to seek any information it requires from any employee through the Managing Director and all employees are directed to consent to any request made by the Committee.
6. The Committee is authorised by the Board to obtain outside, independent professional advice, and to secure the attendance of outsiders with relevant experience and expertise, if it considers necessary.

Duties

7. The duties of the Committee shall be:

- a) To consider and make recommendations to the Board on all appointments of Departmental Directors positions and in connection with disciplinary matters affecting the holders of these positions.
 - b) To consider and make recommendations to the Board on the remuneration of the management staff.
 - c) To consider and make recommendations to the Board on the grading and remuneration, including bonus payment and other incentives, for management.
 - d) To investigate and report to the Board as specifically directed by the Board.
 - e) To do all those things which are beneficial to the work of the Committee.
8. The Secretary shall circulate minutes of meetings of the Committee to all members of the Board.

INFORMATION TECHNOLOGY COMMITTEE

Membership

1. The Committee shall be appointed by the Board from amongst the Directors of the Company a majority of whom must be non-executive and shall consist of not less than three members. The Managing Director shall be a member of the Committee. A quorum shall be two members.
2. The Chairman of the Committee shall be appointed by the Board.

Attendance at Meetings

3. The Head of Information Technology and Telecommunications shall normally attend meetings. Other Board members shall have the right of attendance. The Company Secretary shall be the Secretary of the Committee.

Frequency of Meetings

4. Meetings shall be held not less than twice a year.

Authority

5. The Committee is authorised by the Board to investigate and take action in relation to any activity within its terms of reference. It is authorised to seek any information it requires from any employee through the Managing Director and all employees are directed to cooperate with any request made by the Committee.
6. The Committee is authorised by the Board to obtain outside independent professional advice and to secure the attendance of outsiders with relevant experience and expertise, if it considers necessary.

Duties

7. The duties of the Committee shall be:

- a) To consider and make recommendations to the Board on all matters relating to IT security and IT internal controls.
- b) To consider and make recommendations to the Board on the installation of new IT systems and facilities.
- c) To consider and make recommendations to the Board on the installation of IT and information risk management strategies and disaster planning.
- d) To investigate and report to the Board as specifically directed by the Board.
- e) To do all those things which are beneficial to the work of the Committee.

4. The Secretary shall circulate minutes of meetings of the Committee to all members of the B

CENTRAL TENDER COMMITTEE

The Central Tender Committee shall be constituted in accordance with the legal requirements. The terms of reference and membership shall be in accordance with the legal requirement and, in the absence of legal requirements, in accordance with rules as shall be determined by the Board.

ANNEXES

ANNEX 1

CAPITAL MARKETS AUTHORITY GUIDELINES ON CORPORATE GOVERNANCE

GAZETTE NOTICE NO. 3362 (May 14, 2002)

1 THE CAPITAL MARKETS ACT (Cap. 485A)

GUIDELINES ON CORPORATE GOVERNANCE PRACTICES BY PUBLIC LISTED COMPANIES IN KENYA

In exercise of the powers conferred by sections 11(3)(v) and 12 of the Capital Markets Act, the Capital Markets Authority issues the Guidelines set out in the Schedule hereto, for observance by public listed companies in Kenya, in order to enhance corporate governance practices by such companies.

SCHEDULE

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GUIDELINES ON CORPORATE GOVERNANCE PRACTICES BY PUBLIC LISTED COMPANIES IN KENYA

1. Introduction.

- 1.1 The Capital Markets Authority (the Authority) has developed these guidelines for good corporate governance practices by public listed companies in Kenya in response to the growing importance of governance both in emerging and developing economies and for promoting growth in domestic and regional markets. It is also in recognition of the role of good governance in corporate performance, capital and maximisation of shareholders value as well as protection of investors' rights.
- 1.2 Corporate governance, for the purpose of these guidelines, is defined as the process and structures that direct and manage business affairs of the Company towards enhancing prosperity and corporate performance with the ultimate objective of realising shareholders long-term value while taking into account the interests of other stakeholders.
- 1.3 These guidelines have been developed taking into account the work which has been undertaken elsewhere by several jurisdictions through many task forces and committees, including, but not limited to, the United Kingdom, Malaysia, South Africa, Organisation for Economic Cooperation and Development (OECD) and the Commonwealth Association for Corporate Governance.

The Authority has also supported development of a code of best practice for corporate governance issued by the Private Sector Corporate Governance Trust, Kenya, whose efforts have also been used in the development of these guidelines and are supplementary thereto.
- 1.4 The objective of these guidelines is to strengthen corporate governance practices by public listed companies in Kenya and to promote the standards of self-regulation so as to bring the level of governance in line with international trends.
- 1.5 The Authority, in developing these guidelines, has adopted both a prescriptive and a non-prescriptive approach in order to provide for flexibility and innovative dynamism to corporate governance practices by public listed companies.
- 1.6 Good corporate governance practices must be nurtured and encouraged to evolve as a matter of best practice but certain aspects of operation in a body corporate must of necessity require minimum standards of good governance. In this regard, the Authority expects the Directors of every public listed company to undertake or commit themselves to adopt good corporate governance practices as part of their continuing listing obligations.
- 1.7 It is important that the extent of compliance with these guidelines should form an essential part of disclosures in the corporate annual reports. It is equally important that the extent of non-compliance be also disclosed.
- 1.8 Every public listed company shall disclose, on an annual basis, in its annual report, a statement of the Directors as to whether the Company is complying with these guidelines on corporate governance with effect from the financial year ending during 2002, as prescribed under the Capital Markets (Securities) (Public Offers, Listing and Disclosures) Regulations, 2002.

- 1.9 All issuers of fixed income securities or debt instruments through the capital markets such as bonds and commercial paper shall also comply with these guidelines. The issuer of the fixed income securities or debt instrument shall disclose in the information memorandum the extent of compliance with these guidelines.
- 1.10 Where the company or issuer is not fully compliant with these guidelines, the issuer shall identify the reasons for non-compliance and indicate the steps being taken to become compliant.

Whilst these guidelines have been developed for public listed companies and issuers of fixed income securities and debt instruments in Kenya's capital market, companies in the private sector are also encouraged to practice good corporate governance.

2. Principles of Good Corporate Governance Practices

There are a number of principles that are essential for good corporate governance practices, of which the following have been identified as representing critical foundation and virtues of good corporate governance practices:

2.1 Directors

Every public listed company should be headed by an effective board to offer strategic guidance, lead and control the company and be accountable to its shareholders.

2.1.1 The Board and Board Committees

- (i) The Board should establish relevant committees and delegate specific mandates to such committees as may be necessary.
- (ii) The Board shall specifically establish an audit and nominating committee.

2.1.2 Directors Remuneration

- (i) The Directors' remuneration should be sufficient to attract and retain Directors to run the Company effectively, and should be approved by shareholders.
- (ii) The executive Directors' remuneration should be competitively structured and linked to performance.
- (iii) The non-executive Directors' remunerations should be competitive in line with remuneration for other Directors in competing sectors.

Companies should establish a formal and transparent procedure for remuneration of Directors, which should be approved by the shareholders.

2.1.3 Supply and disclosure of information

- (i) The Board should be supplied with relevant, accurate and timely information to enable the Board discharge its duties.
- (ii) Every Board should annually disclose in its annual report, its policies for remuneration, including incentives for the Board and senior management, particularly the following:
 - (a) Quantum and component of remuneration for Directors including non-executive Directors on a consolidated basis in the following categories:
 - (aa) executive Directors' fees;
 - (bb) executive Directors' emoluments;
 - (cc) non-executive Directors' fees;
 - (dd) non-executive Directors' emoluments;

- (b) A list of ten major shareholders of the Company;
- (c) Share options and other forms of executive compensation that have to be made or have been made during the course of the financial year; and aggregate Directors' loans.

2.1.4 Board Balance

The Board should compose of a balance of executive Directors and non-executive Directors (including at least one third independent and non-executive Directors) of diverse skills or expertise in order to ensure that no individual or small group of individuals can dominate the Board's decision-making processes.

2.1.4.1 Independent Director means a Director who:

- (i) has not been employed by the Company in an executive capacity within the last five years;
- (ii) is not associated to an adviser or consultant to the Company or a member of the Company's senior management or a significant customer or supplier of the Company or with a not-for-profit entity that receives significant contributions from the Company; or within the last five years, has not had any business relationship with the Company (other than service as a Director) for which the Company has been required to make disclosure;
- (iii) has no personal service contract(s) with the Company, or is not a member of the Company's senior management;
- (iv) is not employed by a public listed Company at which an executive officer of the Company serves as a Director;
- (v) is not a member of the immediate family of any person described above; or has not had any of the relationships described above with any affiliate of the Company.

2.1.4.2 Non-Executive Director means a Director who is not involved in the administrative or managerial operations of the Company.

2.1.5 Appointments to the Board

There should be a formal and transparent procedure in the appointment of Directors to the Board and persons offering themselves for appointment, as Directors should disclose any potential area of conflict that may undermine their position or service as Director.

2.1.6 Multiple Directorships

Every person save a corporate Director who is a Director of a listed Company shall not hold such position in more than five public listed companies at any one time to ensure effective participation in the Board and in the case where the corporate Director has appointed an alternate Director, the appointment of such alternate shall be restricted to three public listed companies, at any one time, subject to the requirements under the Capital Markets (Securities) (Public Offers, Listing and Disclosures) Regulations, 2002.

2.1.7 Re-election of Directors

- (a) All Directors except the managing Director should be required to submit themselves for re-election at regular intervals or at least every three years.
- (b) Executive Directors should have a fixed service contract not exceeding five years with a provision to renew subject to:
 - (i) Regular performance appraisal; and
 - (ii) Shareholders' approval.
- (c) Disclosure should be made to the shareholders at the annual general meeting and in the annual reports of all Directors approaching their seventieth (70th) birthday that respective year.

2.1.8 Resignation of Directors

Resignation by a serving Director should be disclosed in the annual report together with the details of the circumstances necessitating the resignation.

2.2 Role of Chairman and Chief Executive

2.2.1 There should be a clear separation of the role and responsibilities of the chairman and chief executive, which will ensure a balance of power of authority and provide for checks and balances such that no one individual has unfettered powers of decision making. Where such roles are combined a rationale for the same should be disclosed to the shareholders in the annual report of the Company.

Every person who is a Chairperson of a public listed Company shall not hold such position in more than two public listed companies at any one time, in order to ensure effective participation in the Board, subject to the requirements under the Capital Markets (Securities) (Public Offers, Listing and Disclosures) Regulations, 2002.

2.3 Shareholders

2.3.1 Approval of Major Decisions by Shareholders

There should be shareholders participation in major decisions of the Company. The Board should therefore provide the shareholders with information on matters that include but are not limited to major disposal of the Company's assets, restructuring, takeovers, mergers, acquisitions or reorganisation.

2.3.2 Annual General Meetings

- (i) The Board should provide to all its shareholders sufficient and timely information concerning the date, location and agenda of the general meeting as well as full and timely information regarding issues to be decided during the general meeting;
- (ii) The Board should make shareholders' expenses and convenience primary criteria when selecting venue and location of annual general meetings; and
- (iii) The Directors should provide sufficient time for shareholders' questions on matters pertaining to the Company's performance and seek to explain to the shareholders their concern.

2.4 Accountability and Audit

2.4.1 Annual Reports and Accounts

The Board should present an objective and understandable assessment of the Company's operating position and prospects. The Board should ensure that accounts are presented in line with International Accounting Standards.

2.4.2 Internal Control

The Board should maintain a sound system of internal control to safeguard the shareholders' investments and assets.

2.4.3 Independent Auditors

The Board should establish a formal and transparent arrangement for shareholders to effect the appointment of independent auditors at each annual general meeting.

2.4.4 Relationship with Auditors

The Board should establish a formal and transparent arrangement for maintaining a professional interaction with the Company's auditors.

2.5 General

2.5.1 Public disclosure

There shall be public disclosure in respect of any management or business agreements entered into between the Company and its related companies, which may result in a conflict of interest.

Chief Financial Officers of Public Listed Companies

The Chief Financial Officers and persons heading the accounting department of every issuer shall be members of the Institute of Certified Public Accountants established under the Accountants Act.

Where the persons referred to in paragraph (i) are members of other internationally recognised professional bodies and are yet to register as members of the Institute of Certified Public Accountants such person shall register as members of the Institute within a period of twelve months from the date of appointment to that position, subject to requirements under the Capital Markets (Securities) (Public Offers, Listing and Disclosures) Regulations, 2002.

Company Secretaries of Public Listed Companies

The Company Secretary of every public listed Company shall be a member of the Institute of Certified Public Secretaries of Kenya established under the Certified Public Secretaries of Kenya Act.

Auditors of Public Listed Companies

The auditor of a public listed Company shall be a member of the Institute of Certified Public Accountants and shall comply with the International Auditing Standards.

3. Recommended Best Practices in Corporate Governance by Public listed companies

The adoption of international standards in corporate governance best practices is essential for public companies in Kenya in order to maximise shareholders' value through effective and efficient management of corporate resources. As a matter of best practice, every public listed Company should endeavour to achieve the following:

3.1 Best Practices Relating to the Board of Directors

3.1.1 The Role and Responsibilities of the Board of Directors

The Board of Directors should assume a primary responsibility of fostering the long-term business of the Company consistent with their fiduciary responsibility to the shareholders. The Board of Directors should accord sufficient time to their functions and act on a fully informed basis while treating all shareholders fairly in the discharge of the following responsibilities, among others:

- (i) Define the Company's mission, its strategy, goals, risk policy plans and objectives including approval of its annual budgets;
- (ii) Oversee the corporate management and operations, management accounts, major capital expenditures and review corporate performance and strategies at least on a quarterly basis;
- (iii) Identify the corporate business opportunities as well as principal risks in its operating environment, including the implementation of appropriate measures to manage such risks or anticipated changes impacting on the corporate business;
- (iv) Development of appropriate staffing and remuneration policy including the appointment of chief executive and the senior staff, particularly the Finance Director, Operations Director and the Company Secretary as may be applicable;

- (v) Regular review of the adequacy and integrity of the Company's internal control, acquisition and divestitures and management information systems including compliance with applicable laws, regulations, rules and guidelines;
- (vi) Establishment and implementation of a system that provides necessary information to the shareholders including shareholder communication policy for the Company;
- (vii) Monitoring the effectiveness of the corporate governance practices under which the Company operates and propose revisions as may be required from time to time;
- (viii) Take into consideration the interests of the Company's stakeholders in its decision-making process.

3.1.2 A Balanced Board Constitutes an Effective Board

- (i) The Board of Directors of every listed Company should reflect a balance between independent, non-executive Directors and executive Directors.
- (ii) The independent and non-executive Directors should form at least one third of the membership of the Board.
- (iii) The structure of the Board should also comprise a number of Directors, which fairly reflects the Company's shareholding structure. The Board composition should not be biased towards representation by a substantial shareholder but should reflect the Company's broad shareholding structure. The composition of the Board should also provide a mechanism for representation of the minority shareholders without undermining the collective responsibility of the Directors.
- (iv) A substantial shareholder, for the purpose of these guidelines, is a person who holds not less than 15 per cent of the voting shares of a listed Company and has the ability to exercise a majority voting for the election of the Directors.

In circumstances where there is no major shareholder but there is a substantial shareholder the Board should exercise judgement in determining the representation on the Board of such shareholder and of the other shareholders that effectively reflects the shareholding structure of the Company.

- (vi) The Board should disclose in its annual report whether independent and non-executive Directors constitute one third of the Board and if it satisfies the representation of the minority shareholders.
- (vii) The size of the Board should not be too large to undermine an inter-active discussion during Board meetings or too small such that the inclusion of a wider expertise and skills to improve the effectiveness of the Board is compromised.

The Board should monitor and manage potential conflict of interest at management, Board and shareholder levels.

3.1.3 Appointment and Qualifications of Directors

- (i) The Board of every public listed Company should appoint a nominating committee consisting mainly of independent and non-executive Directors with the responsibility of proposing new nominees for the Board and for assessing the performance and effectiveness of Directors in the Company.
- (ii) The nominating committee should consider only persons of calibre, credibility and who have the necessary skills and expertise to exercise independent judgement on issues that are necessary to promote the Company's objectives and performance in its area of business.
- (iii) The Nominating Committee should also consider candidates for directorship proposed by the Chief Executive and shareholders.
- (iv) The Board, through the Nominating Committee, should on an annual basis review its required mix of skills and expertise that the executive Directors as well as independent and non-executive Directors bring to the Board and make disclosure of the same in the annual report.

(v) The Board should also implement a process of assessing the effectiveness of the Board as a whole, the committees of the Board, as well as of each individual Director and such task should be assigned to the nominating committee.

(vi) Newly-appointed Directors should be provided with necessary orientation in the area of the Company's business in order to enhance their effectiveness in the Board.

The Nominating Committee should recommend to the Board candidates for Directorship to be filled by the shareholders as the responsibility of nominating rests on the full Board, after considering the recommendations of the Nominating Committee.

(viii) The process of the appointment of Directors should be sensitive to gender representation, national outlook and should not be perceived to represent single or narrow community interest.

No person shall be a Director in more than five public listed companies at any one time in order to ensure effective participation in the Board.

3.1.4 Remuneration of the Directors

(i) The Board of Directors of every listed Company should appoint a remuneration committee or assign a mandate to a Nominating Committee consisting mainly of independent and non-executive Directors to recommend to the Board the remuneration of the executive Directors and the structure of their compensation package.

(ii) The determination of the remuneration for the non-executive and independent Directors should be a matter for the whole Board.

(iii) The remuneration of the executive Director should include an element that is linked to corporate performance including a share option scheme so as to ensure the maximisation of the shareholders' value.

(iv) The consolidated total remuneration of the Directors should be disclosed to the shareholders in the annual report specifying the following categories:

- (a) Total remuneration for executive Directors;
- (b) Total fees for non-executive and independent Directors.

3.2 Best Practices Relating to the Position of Chairman and Chief Executive

(i) Every public listed Company should as a matter of best practice separate the role of the chairman and chief executive in order to ensure a balance of power and authority and provide for checks and balances.

(ii) Where the role of the Chairman and the Chief Executive is combined, there should be a clear rationale and justification which must:

- a) be for a limited period;
- b) be approved by the shareholders;
- c) include measures that have been implemented to ensure that no one individual has unfettered powers of decision in the Company; and
- d) include plan for separation of the role where such combined role is deemed necessary for a limited period during the restructuring or change process.

(iii) Chairmanship of a public listed company should be held by an independent and non-executive Director.

(iv) No person shall be a chairman in more than two public listed companies at any one time in order to ensure effective participation in the Board.

(v) Every public listed Company should also have a clear succession plan for its chairman and chief executive in order to avoid unplanned and sudden departures, which could undermine the Company's and shareholders' interest.

- (vi) The chief executive should be responsible for implementing the Board corporate decision and there should be a clear flow of information between management and the Board in order to facilitate both quantitative and qualitative evaluation and appraisal of the Company's performance.

The chairman of the Board should undertake a primary responsibility for organising information necessary for the Board to deal with and for providing necessary information to the Directors on a timely basis.

The chief executive is obliged to provide such necessary information to the Board in the discharge of the Board's business.

3.3 Best Practices Relating to the Rights of the Shareholders

The essence of good corporate governance practices is to promote and protect shareholders' rights.

- (i) A Board of a public listed Company should ensure equitable terms of shareholders, including the minority and foreign shareholders.
- (ii) All shareholders should receive relevant information on the Company's performance through distribution of regular annual reports and accounts, half-yearly results and quarterly results as a matter of best practice.
- (iii) The shareholders should receive a secure method of transfer and registration of ownership as well as a certificate or statement evidencing such ownership in the case of a central depository environment.
- (iv) Every shareholder shall have a right to participate and vote at the general shareholders' meeting, including the election of Directors.
- (v) Every shareholder shall be entitled to ask questions, seek clarification on the Company's performance as reflected in the annual reports and accounts or in any matter that may be relevant to the Company's performance or promotion of shareholders' interests and to receive explanation by the Directors and/or management.
- (vi) Every shareholder shall be entitled to distributed profit in form of dividend and other rights for bonus shares, script dividend or rights issue, as applicable and in the proportion of its shareholding in the Company.
- (vii) The Board should maintain an effective communication policy that enables both management and the Board to communicate effectively with its shareholders, stakeholders and the public in general.
- (viii) The annual report and accounts to the shareholders must include highlights of the operation of the Company and financial performance.
- (ix) All shareholders should be encouraged to participate in the annual general meetings and to exercise their votes.
- (x) Institutional investors are particularly encouraged to make direct contact with the Company's senior management and Board members to discuss performance and corporate governance matters as well as vote during the annual general meetings of the Company.
- (xi) Companies, as a matter of best practice, are encouraged to organise regular investor briefings and in particular when the half-yearly and annual results are declared or as may be necessary to explain their performance and promote interaction with investors.
- (xii) Every public listed Company should encourage the establishment and use of the Company's website by shareholders to ease communication and interaction among shareholders and the Company.
- (xiii) Every public listed Company should encourage and facilitate the establishment of a Shareholders Association to promote dialogue between the Company and the shareholders. The Association should play an important role in promoting good corporate governance and actively encourage all shareholders to participate in the annual general meeting of the Company or assign necessary voting proxy.

- (xiv) Shareholders while exercising their right of participation and voting during annual general meetings, the Company should not act in a disrespectful manner as such action may undermine the Company's reputation.

3.4 Best Practices Relating to the Conduct at Annual General Meetings

The Board of a public listed Company should ensure that shareholders' right of full participation in annual general meetings are protected by giving shareholders:

- (i) sufficient information on voting rules or procedures;
 - (ii) the opportunity to quiz management;
 - (iii) the opportunity to place items on the agenda at annual general meetings;
 - (iv) the opportunity to vote in absentia;
- sufficient information to enable them to consider the costs and benefits of their votes.

3.5 Best Practices Relating to Accountability and the Role of Audit Committees

As a matter of best practice, the constitution of audit committees represents an important step towards promoting good corporate governance. The following shall represent the recommended best practices relating to the role and constitution of audit committees by public listed companies:

3.5.1 The Audit Committee

The Board shall establish an audit committee of at least three independent and non-executive Directors. The audit committee shall report to the Board with written terms of reference, which deal clearly with its authority and duties. The chairman of the Audit Committee should be an independent and non-executive Director. The Board should disclose in its annual report whether it has an audit committee and the mandate of such committee.

3.5.2 Attributes of Audit Committee members

Important attributes of committee members should include:

- i. broad business knowledge relevant to the Company's business;
- ii. keen awareness of the interests of the investing public and familiarity with basic accounting principles;
- iii. objectivity in carrying out their mandate and no conflict of interest.

3.5.3 Duties of Audit Committees

Audit Committees should have adequate resources and authority to discharge their responsibilities. The members of the audit committee shall:

- (i) be informed, vigilant and effective overseers of the financial reporting process and the Company's internal controls;
- (ii) review and make recommendations on management programmes established to monitor compliance with the code of conduct;
- (iii) consider the appointment of the external auditor, the audit fee and any questions of resignation or dismissal of the external auditor;
- (iv) discuss with the external auditor before the audit commences, the nature and scope of the audit, and ensure coordination where more than one audit firm is involved;
- (v) review management's evaluation of factors related to the independence of the Company's external auditor. Both the Audit Committee and management should assist the external auditor in preserving its independence;
- (vi) review the quarterly, half-yearly and year-end financial statements of the Company, focusing particularly on:
 - (a) any changes in accounting policies and practices;

- (b) significant adjustments arising from the audit;
- (c) the going concern assumption; and
- (d) compliance with International Accounting Standards and other legal requirements;
- (vii) discuss problems and reservations arising from the interim and final audits, and any matter the external auditor may wish to discuss (in the absence of management where necessary);
- (viii) review any communication between external auditor(s) and management;
- (ix) consider any related party transactions that may arise within the Company or group;
- (x) consider the major findings of internal investigations and management's response;
- (xi) have explicit authority to investigate any matter within its terms of reference, the resources that it needs to do so and full access to information;
- (xii) obtain external professional advice and to invite outsiders with relevant experience to attend, if necessary; and
- (xiii) consider other issues as defined by the Board including regular review of the capacity of the internal audit function.

3.5.4 Audit Committee and Internal Audit Functions

The Board should establish an internal audit function. The internal audit function should be independent of the activities they audit and should be performed with impartiality, proficiency and due care. The Audit Committee should determine the remit of the internal audit function and in particular:

- (i) review of the adequacy, scope, functions and resources of the internal audit function, and ensure that it has the necessary authority to carry out its work;
- (ii) review the internal audit program and results of the internal audit process and where necessary ensure that appropriate action is taken on the recommendations of the internal audit function;
- (iii) review any appraisal or assessment of the performance of members of the internal audit function;
- (iv) approve any appointment or termination of senior staff members of the internal audit function;
- (v) ensure that the internal audit function is independent of the activities of the Company and is performed with impartiality, proficiency and due professional care;
- (vi) determine the effectiveness of the internal audit function; and
- (vii) be informed of resignations of internal audit staff members and provide the resigning staff members an opportunity to submit reasons for resigning.

3.5.5 Participation in the Meetings of Audit Committees

The Finance Director, the Head of Internal Audit (where such a function exists) and a representative of the external auditors shall normally attend meetings of the audit committee while other Board members may attend meetings upon the invitation by the Audit Committee.

At least once a year, the Committee shall meet with the external auditors without the executive Board members.

The Audit Committee should meet regularly, with adequate notice of the issues to be discussed and should record its conclusions.

The Board should disclose, in an informative way, details of the activities of audit committees, the number of committee meetings held in a year and details of attendance of each audit committee member at such meetings.

4. Revocation of Gazette Notice No. 369 of 2002

The Capital Markets Guidelines on corporate Governance Practices by Public Listed Companies are revoked.

Made on , 2002

DENIS D. AFANDE,
Chairman,
Capital Markets Authority

PAUL K. MELLY,
Chief Executive,
Capital Markets Authority.

ANNEX II: DISCLOSURE POLICY

1. Objective: To Provide Timely, Accurate and Balanced Disclosure

KPLC is committed to providing timely, accurate and balanced disclosure of all material information about the Company to the widest possible audience all the time. This Disclosure Policy demonstrates our commitment to transparency in our reporting obligations to our shareholders and the public.

This Disclosure Policy extends to our Board of Directors, officers and all other employees of KPLC, or anyone else who speaks on our behalf. This Disclosure Policy covers disclosures of material information in any medium, including KPLC's quarterly and annual reports and other documents filed with securities regulators, news releases, letters to shareholders; presentations by senior management and information contained on KPLC's website and other electronic communications; oral statements made in meetings and telephone conversations with analysts and investors interviews with the media as well as speeches, press conferences and conference calls.

This Disclosure Policy confirms, in writing, our existing disclosure philosophy, policies and practices. The main purposes of this Disclosure Policy are as follows:

- ¥ To establish the steps that KPLC will take when it has material information to release to the public;
- ¥ To outline the roles and responsibilities relating to the release of material information of various individuals or groups at KPLC, including KPLC's Disclosure Committee and the Audit Committee of the Board of Directors; and
- ¥ To ensure that Directors, officers and employees of KPLC are aware of our disclosure practices and policies and provide them with a reference guide.

2. What is Material Information?

Material information is any information relating to the business and affairs of KPLC that results in, or would reasonably be expected to result in, a significant change in the market price or value of any of KPLC's securities.

In making determinations regarding materiality, KPLC may also look at such considerations, including whether there is a substantial likelihood that the information would be considered significant by a reasonable investor in making an investment decision.

How will KPLC Determine if Information is Material Information ?

The Company Secretary, Chief Manager, Finance or Corporate Communications Manager shall constitute a Disclosure Committee. The Company Secretary or his or her delegate in consultation with at least one other member of the Disclosure Committee will monitor developments and issues within KPLC that may necessitate disclosure to the public. These matters include changes to our securities, our earnings, our assets and our businesses. In making materiality judgements, KPLC will take into account a number of factors that cannot be captured in a simple well-defined standard or test. These include the nature of the information itself, the volatility of KPLC's securities and prevailing market conditions. KPLC will also take into account the impact of such an event, development or change on its assets, liabilities and earnings and on its reputation and overall operations and strategic direction. As a matter of policy, KPLC will err on the side of caution when determining materiality. In situations where the determination of materiality is not crystal clear, the Company Secretary will consult with as many members of the Disclosure Committee as is practicable in the circumstances as well as other appropriate senior officers. The Company Secretary, in consultation with at least one other member of the Disclosure Committee, will then ensure such information is released publicly in accordance with the procedures outlined in this Disclosure Policy.

KPLC has a number of systems and practices in place to ensure that information is communicated up the chain to Disclosure Committee members. However, as an additional precaution, all employees are asked to alert either the Company Secretary, Chief Manager (Finance) or Corporate Communications Manager if they become aware of a development that may be material and if the employees do not believe the development will otherwise be communicated to them.

The Assistant Company Secretary will monitor the market's reaction to information as it is released in order to KPLC in making future materiality judgements. The Assistant Company Secretary will report his or her findings to the Disclosure Committee on a regular basis.

3. Releasing Information about KPLC

We are committed to providing timely, accurate and balanced disclosure of all material information about KPLC.

It is our policy that undisclosed material information shall not be disclosed to selected individuals (for example, an interview with an analyst or in a telephone conversation with an investor). If previously undisclosed material information has been inadvertently disclosed to an analyst or any other person outside of KPLC not bound by an express confidentiality obligation, such information will be broadly disclosed immediately via a news release in accordance with this Disclosure Policy.

When KPLC releases its financial statements, both quarterly and annually, we follow these best practices:

- ¥ We communicate our financial statements to the public on a timely basis. Our financial statements are released to the public as soon as they are reviewed by KPLC's Audit Committee, and within 24 hours after they are approved by the Board of Directors, and our typical practice is to release that information within four months of the end of the reporting period;
- ¥ We release complete financial information, including financial statements, not just a summary;
- ¥ We ensure the information is kept confidential until released and then we ensure it is released in a manner that will reach the broadest possible audience;
- ¥ We make a complete record available on our website, including the financial statements and any supplemental financial information, or any presentations; and
- ¥ Our goal is to ensure that our financial reporting provides information that is factual and balanced, neither over-emphasising favourable news nor under-emphasising unfavourable news.

When KPLC releases material information, we follow these best practices:

- ¥ We communicate material information to the public on a timely basis. We issue the information through a news release by way of an external, full text news service that provides simultaneous national distribution;
- ¥ We ensure the information is kept confidential until released and then we ensure it is released in a manner that will reach the broadest possible audience; and
- ¥ When the nature of the announcement makes it appropriate, we will hold an information session with analysts to discuss the announcement. These information sessions will be available to the public and the media. Any written supplemental information made available to analysts will be concurrently posted on our website and, therefore, will be available to the public.

4. A Word About Releasing Non-material Information

Given the size and complexity of KPLC, it makes many announcements to the public that would not meet the definition as set out above. These announcements would not be subject to this Disclosure Policy.

5. Spokespersons

In order to minimise the risk of selective disclosure and to ensure a clear message is communicated to the public, KPLC has designated a limited group to speak on its behalf when material information may be disclosed. They are the Chairman of the Board, the Managing Director, the Company Secretary, Chief Manager (Finance) and Corporate Communications Manager of KPLC (to be called the spokespersons). The spokespersons may designate other Directors, officers, employees or agents to respond to specific inquiries as necessary or appropriate. Unless so designated, no Director, officer, employee or agent of KPLC may communicate on behalf of the Company, with regulators, investors, shareholders, analysts and the media with respect to any disclosure that

may include material information about KPLC. The Spokespersons are knowledgeable about KPLC's public disclosure and the views of the investment community relating to KPLC, as well as the rules and regulations regarding disclosure and this Disclosure Policy.

6. Contact with Analysts and Investors on an Individual or Small Group Basis

KPLC views meetings on an individual or small group basis with analysts and significant investors as an important element of KPLC's investor relations programme, in keeping with current industry practices. Only Spokespersons or those designated by them may meet with analysts and investors on an individual or small group basis whether on the telephone or in person and such spokespersons will provide only public or non-material information in such meetings. These meetings will be conducted in accordance with KPLC's guidelines for conducting such meetings, including that the Chief Manager (Finance) must be present at all such meetings. KPLC will, through its website or otherwise, provide the same sort of detailed, non-material information to individual investors or the media that it has provided to analysts and institutional investors. The Corporate Communications Manager will keep a record of contact with analysts and investors and will be responsible for considering the discussion at such meetings to confirm no disclosure of previously disclosed material information has occurred (and to take action in accordance with this Disclosure Policy if it has).

7. Quiet Periods

Directors, officers and other employees of KPLC shall observe a quiet period commencing at each quarter end and expiring upon the public release of the earnings for the quarter. During this time, any communication with shareholders, investors, analysts, other securities market professionals, the media and other members of the public, for example, public speaking engagements, shall be restricted so as to minimise the risk of implicitly or explicitly disclosing material information selectively to any person concerning earnings and other developments being formulated internally, but not yet publicly disclosed. As a general rule, no other news releases should be issued on the same day as an earnings release for KPLC.

8. Inadvertent Disclosure

If there is reason to believe that an unintentional breach of this Disclosure Policy might have occurred, resulting in the release of material information to a select group or individual, such breach shall immediately be reported to the Company Secretary, Chief Manager (Finance) or Corporate Communications Manager, and KPLC shall make immediate public disclosure of that information as soon as reasonably possible. Parties in receipt of previously undisclosed material information will be advised that such information is material and has not yet been publicly disclosed.

9. Analyst Reports

Directors, officers and other employees of KPLC shall not distribute to third parties analyst reports or third party newsletters or tip sheets that contain earnings-related information about KPLC as distribution may be construed as an endorsement of the report and the conclusions of the analyst. If interested persons request a list of analysts who cover KPLC, the Corporate Communications Manager will provide a list only if the list includes all analysts and firms that are known to follow KPLC regardless of their recommendations. The only purpose for which draft analyst reports provided to KPLC will be reviewed is to confirm the accuracy and completeness of publicly disclosed information.

Information and confirmation of such information will only be communicated by the Corporate Communications Manager if it does, not, in and of itself, communicate additional or new material information that has not been publicly disclosed.

10. Corrections to Previously Released Material Information

Disclosure must be corrected immediately if KPLC subsequently learns that earlier disclosure by KPLC contained a material error at the time it was given and the correction would constitute material information. The Company Secretary shall, in consultation with the Corporate Communications Manager and the Chief Manager (Finance), ensure that a news release is issued immediately to correct the error and that appropriate notifications are made to the exchanges upon which KPLC's shares trade so that a halt to trading may be instituted, if necessary.

11. Chat Rooms, Bulletin Boards and Addressing Market Rumours

No Director, officer or other employee of KPLC shall participate or host or link to chat rooms or bulletin boards in relation to KPLC matters. In addition, the Directors, officers and other employees of KPLC shall only comment or respond to market rumours in accordance with this Disclosure Policy, including in instances when specifically required or requested to do so by a stock exchange, a provincial securities commission or international regulator or otherwise. Rumours include comments voiced over the telephone, in meetings or posted on websites.

12. Trading Restrictions and Blackout Periods

It is illegal for a Director, officer or other employee of KPLC to trade in securities of KPLC with knowledge of material information affecting KPLC that has not been publicly disclosed. Except in the necessary course of business, it is also illegal for any Director, officer or other employee of KPLC to inform any other person of material non-public information about KPLC. Questions regarding the application of this Disclosure Policy in any particular circumstance should be directed to the Company Secretary. This Disclosure Policy is in addition to KPLC's internal trading policies. All policies of KPLC, with respect to dealing in KPLC's shares, or with information about KPLC, must be adhered to.

13. Communication and Enforcement

This Disclosure Policy extends to our Board of Directors, officers and all other employees of KPLC who, given their position, are required to have knowledge of this Disclosure Policy. They will be provided with a copy of the Disclosure Policy and will be educated about its importance. This Disclosure Policy will be posted on KPLC's website, which is accessible by all officers and other employees. Annually (or more frequently, if required), a reminder will be sent to all Directors, officers and other employees advising them of the Disclosure Policy.

Any Director, officer and other employee who violates this Disclosure Policy may face disciplinary action up to and including termination of his or her services, or employment with KPLC, without notice. The violation of this Disclosure Policy may also violate securities laws. If it appears that a Director, an officer or other employee may have violated such securities laws, KPLC may refer the matter to the appropriate regulatory authorities, which could lead to penalties, fines or imprisonment.

14. Responsibility for Policy

The Audit Committee of the Board has the ultimate responsibility for the Disclosure Policy. The Disclosure Committee will monitor the Disclosure Policy in line with regulatory guidance, best practices and experience, and make recommendations to the Audit Committee at least annually. The Managing Director on the Disclosure Policy and disclosure issues that may arise.

ANNEX III: DIRECTORS CODE OF CONDUCT

THE CODE OF CONDUCT FOR DIRECTORS OF THE KENYA POWER AND LIGHTING COMPANY LIMITED

Each Director derives his or her position from a popular democratic election. However, once the office of Director is conferred, the Director becomes bound by the overriding fiduciary duty to act in good faith in the pursuit of the best interests of the company as a whole.

In the discharge of their duties, Directors necessarily operate within the framework of a collective board. In order to enable a board to operate effectively in the single-minded pursuit of the best interests of a company as a whole, there must be clearly understood and observed rules governing the conduct of individual Directors. This is widely recognised in the corporate world and the Directors Code of Conduct is based on that code.

The Code of Conduct for Directors of KPLC

This Directors Code of Conduct applies to Directors of KPLC. References to the Company should be understood as meaning KPLC.

- (i) A Director must act honestly, in good faith and in the best interests of the company as a whole.
- (ii) A Director has a duty to perform the functions of office and exercise the powers attached to that office with a degree of care and diligence that a reasonable person would exercise if they were a Director in the same circumstances.
- (iii) A Director may legitimately rely on information and advice received from KPLC's officers and employees, but only if the Director believes, on reasonable grounds, that the officer or employee is reliable and competent in relation to the matters concerned. Reliance must also be made in good faith and after the Director has made an independent assessment of the information or advice.
- (iv) Director who makes a business judgement will be deemed to have satisfied the duty in paragraph 2 if he or she:
 - a. makes the judgement in good faith for a proper purpose;
 - b. does not have a material personal interest in the subject matter of the judgement;
 - c. informs himself or herself about the subject matter of the judgement to the extent he or she reasonably believes to be appropriate; and
 - d. rationally believes that the judgement is in the best interests of the company. (The belief that a judgement is in the best interests of the company is a rational one unless the belief is one that no reasonable person in the Director's position would hold).
- (v) A Director must use the powers of office for a proper purpose that is, for the purpose for which a particular power is given, rather than a collateral purpose. For example, a Director must not directly or indirectly use his or her powers for the purpose of protecting his or her own position or office.
- (vi) A Director must recognise that, in acting as a Director of KPLC, his or her dominant purpose or object must be to serve the interests of the members of the Company as a whole, not the interests of any particular group of Directors or stakeholders, or the Director's personal or commercial interests. Directors are not expected to be unaware of other interests, as that would be unrealistic, but the primary purpose of a Director must not be to serve those other interests. In circumstances of insolvency or near insolvency, the duty to act in the best interests of members is overridden by a duty to act in the best interests of creditors.
- (vii) A Director must not make improper use of information acquired as a Director to gain a personal advantage or to cause detriment to the company.
- (viii) A Director must not take improper advantage of the position of Director to gain a personal advantage or to cause detriment to the company.

- ix) A Director must not place himself or herself in a position where there is a real sensible possibility of conflict between his or her personal or business interests, the interests of any associated person or his or her duties to any other company, on the one hand, and the interests of the Company or his or her duties to the Company, on the other. The action which a Director will be required to take if he or she is faced with an actual or potential conflict of interest or duties in relation to a particular matter being considered by the Board will depend on the nature and circumstances of the conflict and may include any of the following:
- a. fully and frankly informing the Board about the circumstances giving rise to the conflict;
 - b. abstaining from voting on any motion relating to the matter and absenting himself or herself from the Board deliberations relating to the matter; or
 - c. resigning from the Board.

If a Director believes that he or she may have a conflict of interest or duty in relation to a particular matter, the Director should seek independent legal advice about the steps required to be taken by him or her in the circumstances.

- x) A Director who has a material personal interest in a matter should notify the other Directors of the interest to do so under the Companies Act. A Director who has a material personal interest in a matter that is being considered at a Board meeting must not vote on the matter or be present while the matter is being considered unless:
- (a) the interest is not required to be disclosed under the Companies Act; or
 - (b) approval for participation is obtained from other non-interested Directors; or
 - (c) approval for participation is obtained from the Capital Markets Authority.
- xi) A Director must bring an open and independent mind to Board meetings, listen to the debate on each issue raised, consider the arguments for and against each motion and reach a decision that he or she believes, in good faith and on reasonable grounds, to be in the best interests of the Company as a whole. A Director should not make a decision about a matter before attending a Board or Committee meeting and participating in the deliberations of the meeting.
- xii) An opportunity must be provided for a Director to put his or her views on issues before the Board or a committee on which he or she sits. While Directors must treat each other with courtesy and observe the other rules in this Directors' Code of Conduct, they should be able to engage in vigorous debate on matters of principle.
- xiii) Confidential information (including Board or Committee papers) received by a Director in the course of the exercise of directorial duties remains the property of the company from which it was obtained and it is improper to disclose it, or allow it to be disclosed.
- xiv) A Director must not disclose the content of discussions at Board or Committee meetings outside appropriate and responsible circles within the Company with a legitimate interest in the subject of the disclosure.
- xv) In exceptional circumstances, where it is in the interests of the Company as a whole for disclosure of particular discussions to be made public, it may be appropriate for a Director to publicly disclose the content of discussions which took place during Board or Committee meetings. In such exceptional circumstances, and subject to prior discussion with the Chairman and notification to the Board, a Director may publicly disclose the content of those discussions only if the Director honestly and reasonably believes that it is in the best interests of the company as a whole to do so.
- xvi) Where a decision is not unanimous, a dissenting Director may disclose the fact that he or she dissented.
- xvii) A Director must not be discourteous towards fellow Directors or staff or make personal attacks on a fellow Director or a member of staff, whether in Board, Committee or other internal KPLC meetings, in discussion with others or in public statements.

- xix) A Director generally must not engage in conduct or make any public statement likely to prejudice the Company's business or likely to harm, defame or otherwise bring discredit upon or denigrate the Company, fellow Directors or staff. A Director may make such a statement only if he or she believes in good faith that it is in the best interests of the Company as a whole to make such a statement.
- xx) A Director shall adhere to corporate governance procedures prescribed by the Board, including periodic appraisals of the performance of the Board.
- xxi) A non-executive Director must devote such time as is necessary to carry out the duties of the non-executive Director as determined by the Board.
- xxii) A Director has an obligation, at all times, to comply with the spirit, as well as the letter of the law, and of the principles of this Directors Code of Conduct.
- xxiii) KPLC has a strong interest in its Directors being able to make decisions in what they personally believe to be the interests of the members, without those Directors being subjected to threats or pressure designed to deflect them from doing so. A Director, therefore, must not engage in conduct, including by way of threats to court action against another Director or other Directors personally, which is calculated or intended to intimidate those other Directors from supporting or seeking to further a policy, proposal or other matter which those other Directors may support or are supporting in discharge of their duty to act in what they honestly believe to be the best interests of KPLC. Intimidation may be by a threat to a Director personally, without any wider communication of it, or it may be published more broadly. Repeated threats indicating a systematic course of conduct designed to intimidate Directors are particularly reprehensible. It is not necessary, in order to show conduct which intimidates, that it be established that the Director responsible for the conduct had a purpose or motive to intimidate the Directors from discharging their duties. Conduct which has that effect must not be engaged in.

Sanctions

If the Directors Code of Conduct is to be adhered to, there must be sanctions which can be imposed in respect of breaches. Such breaches may be relatively minor and warrant only a caution or reprimand, or they may be serious or engaged in repeatedly, or as part of a course of conduct which is a serious threat to the interests of KPLC, including where Directors are hampered in or deflected from performing their duties.

Sanctions which may be Imposed by the Board

If there has been a complaint about an alleged breach of the Directors Code of Conduct and:

- (a) the Board believes that mediation is not appropriate or is unlikely to resolve the matter, having regard to the circumstances of the complaint and the nature and seriousness of the allegations involved; or
- (b) the complaint has been referred to mediation but has not been able to be resolved by mediation; or
- (c) the Board does not believe that the outcome of the mediation is satisfactory having regard to the circumstances of the complaint and the nature and seriousness of the allegations involved, the Board (or its duly appointed delegate) will investigate the complaint to determine whether or not a breach of the Directors Code of Conduct has occurred and, if so, the appropriate sanctions to be applied in the circumstances.

When the Board (or its delegate) is considering whether there has been a breach of the Directors Code of Conduct or the sanctions which are appropriate, the Board (or its delegate) will notify the Director whose conduct is in question and give him or her a right to be heard by the Board (or its delegate). However, the Board is not obliged to allow legal representation before it. If a breach has been alleged, the Board (or its delegate) will:

- (d) give consideration to the serious consequences of a finding that there has been a breach of the Directors Code of Conduct by a Director; and

- (e) make a finding that a breach has occurred on the basis of the balance of probabilities.

The Board should consider how serious the contravention of the Directors Code of Conduct is and may impose such sanctions as it considers warranted. The sanctions which may be imposed include, but are not limited to, the following:

- (i) Suspension of the guilty Director from membership of any Committee or Committees of which he or she is a member and termination of payment of fees to that Director in respect of services on the Committees for the period of suspension;
- (ii) removal of the guilty Director from such Committee or Committees of which he or she is a member as the Board considers appropriate and termination of payment of fees payable in respect of the services involved;
- (iv) referral to CMA or any other appropriate regulatory authority of a complaint in respect of the conduct where the conduct may have involved a breach of the Director's general law or statutory duties or the matter requires further investigation;
- (v) court action in respect of alleged breaches of the general law or statutory duties owed by the Director; and
- (vi) giving notice of intention, in accordance with the Companies Act, to move a motion for the removal of the Director from his or her office as Director of the Company and calling a meeting of members for consideration of such a motion.

A Director may be removed or suspended from membership of the Board or a Committee whether or not the proceedings of that Board or Committee relate to the subject matter involved in the breach of the Directors Code of Conduct.