

**THE COMPANIES ACT 2019 (ACT 992)**  
**CONSTITUTION FOR A PRIVATE COMPANY LIMITED BY SHARES**

1. The name of the Company is
2. The nature of the business which the Company is authorized to carry on are: -
3. The first director(s) of the company are: -

<b>TIN</b>	<b>First</b>	<b>Middle</b>	<b>Surname</b>
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4. Pursuant to section 18 of this Act, a company has the powers of a natural person of full capacity.
5. The powers of the board of directors are limited in accordance with sections 189 and 195 of this Act.
6. The liability of the members of the company is limited.
7. The company is a private company and accordingly,
  - (a) the right to transfer shares is restricted in that the directors may, in their absolute discretion and without assigning a reason, decline to register a transfer of a share;
  - (b) the number of members and debenture holders of the company, exclusive of persons who are genuinely in the employment of the company and of persons who having been formerly genuinely in the employment of the company were while in that employment and have continued after the determination of the employment to be members or debenture holders of the company, is limited to fifty, but where two or more persons hold one or more shares or debentures jointly, they shall for the purposes of this clause be treated as a single member;
  - (c) the company is prohibited from making an invitation to the public to acquire any of the shares or debentures of the company;
  - (d) the company is prohibited from making an invitation to the public to deposit money for fixed periods or payable at call whether bearing or not bearing interest

***Shares and variation of rights***

8. The company may, by a special resolution amend this constitution
  - (a) to increase the number of the shares by creating new shares;

- (b) to reduce the number of shares of the company by cancelling shares which have not been taken or agreed to be taken by a person, or by consolidating the existing shares, whether issued or not, into a smaller number of shares;
  - (c) to provide for different classes of shares by attaching to certain of the shares preferred, deferred or other special rights or restrictions whether with regard to dividend, voting, repayment or otherwise, but the voting rights of equity shares shall comply with sections 34 and 53 of this Act and the voting rights of preference shares shall comply with sections 34 and 52 of this Act; and
  - (d) in accordance with section 61 of this Act to create preference shares which are, at the option of the company liable, to be redeemed on the terms and in the manner that may be provided, but subject to compliance with sections 62 to 65 of the Act.
9. (1) The company shall not issue any new or unissued shares for cash unless the shares are offered in the first instance to the members or to the members of the class or classes of shares being issued in proportion as nearly as may be to the existing holdings of the members.
- (2) The offer to the existing members shall be by notice specifying the number of shares to which a member is entitled to subscribe and within a specified time, not being less than twenty-eight days after the date of service of the notice, after the expiration of which the offer, if not accepted, will be deemed to be declined.
  - (3) After the expiration of that time, or on receipt of an intimation from the member that the member declines to accept the shares offered, the board of directors may, subject to the terms of a resolution of the company and to section 189 of this Act dispose of the shares at a price not less than that specified in the offer in the manner that the board of directors think most beneficial to the company.
  - (4) This clause is not alterable except with the unanimous consent of the members of the company.
10. Where the shares are divided into different classes, the rights attached to a class may be varied with the written consent of the holders of at least three-fourths of the issued shares of that class or the sanction of special resolution of the holders of the shares of that class.
11. Subject to compliance with sections 62 to 65 of this Act, the company may exercise the powers conferred by section 61 of this Act to,
- (a) purchase its own shares;
  - (b) acquire its own shares by a voluntary transfer to the company or nominees of the company;
  - (c) forfeit in accordance with this constitution any shares issued with an unpaid liability for non-payment of calls or other sums payable in respect of those shares.

12. The company may pay commission or brokerage to a person in consideration of that person subscribing or agreeing to subscribe or agreeing to procure subscriptions for any shares in the company provided that, the payment does not exceed ten percent of the price at which the shares are issued.
13. Share certificates shall be issued in accordance with section 55 of this Act.

#### ***Calls on shares***

14. (1) Where shares are issued on the terms that a part of the price payable for the shares is not payable at a fixed time, the board of directors may from time to time make calls upon the members in respect of any moneys unpaid on their shares, provided that, a call shall not be payable less than twenty-eight days from the date fixed for the payment of the last preceding call, and each member shall, subject to receiving not less than fourteen days notice specifying the time and place of payment, pay to the company at the time and place so specified, the amount called upon the shares of that person.
  - (2) A call may be revoked or postponed as the directors may determine.
15. A call is made at the time when the resolution of the directors authorising the call is passed and may be required to be paid by instalments.
16. The joint holders of a share are jointly and severally liable to pay all calls in respect of that share.
17. If a sum called in respect of a share is not paid before or on the day appointed for payment, the person from whom the sum is due shall pay interest on that sum from the date appointed for payment to the time of actual payment at the yearly rate not exceeding five percent as the board of directors may determine, but the board of directors shall be at liberty to waive payment of the interest in whole or in part.
18. A sum which by the terms of issue of a share becomes payable on application for the shares or on allotment, or at a fixed date is, for the purposes of this constitution, a call duly made and payable on the date on which by the terms of issue the sum becomes payable, and in the case of non-payment, all the relevant provisions of this constitution as to payment of interest and expenses, forfeiture, sale or otherwise shall apply as if the sum had become payable by virtue of a call duly made and notified.
19. As between shares of the same class the company shall not differentiate between the holders as to the amount of calls to be paid or the times of payment.
20. If the company receives from a shareholder all or any part of the moneys not presently payable or called upon any shares held by the member, the sum shall not be treated as a payment in respect of the shares until the sum becomes due and payable on those shares and in the meantime, shall be deemed to be a loan to the company upon which the company may pay interest at the rate prevailing as may be agreed between the board of directors and the member.

#### ***Forfeiture of shares***

21. Where a shareholder fails to pay any call or instalment of a call, including a sum which is a call under clause 15, the board of directors may at any time after the failure during

the time that a part of the call or instalment remains unpaid, serve a notice on the member requiring payment of so much of the call or instalment as is unpaid, together with the interest which may have accrued.

22. The notice shall state a further day not earlier than the expiration of fourteen days from the date of service of the notice on or before which the payment required by the notice is to be made, and shall state that, in the event of non-payment at or before the times appointed, the shares in respect of which the call was made will be liable to be forfeited.
23. If the requirements of the notice are not complied with, a share in respect of which the notice was given may, before the payment required by the notice has been made, be forfeited by a resolution of the directors to that effect.
24. A forfeited share may be cancelled by alteration of this constitution or may be retained as a treasury share until sold or otherwise disposed of on the terms and in the manner that the board of directors considers fit.
25. A person whose shares have been forfeited ceases to be a member in respect of the forfeited shares and is bound to surrender to the company for cancellation the share certificate or certificates in respect of the shares so forfeited but shall, despite that, remain liable to pay to the company the moneys which, at the date of the forfeiture, were payable by that person to the company in respect of the shares, but that liability shall cease if and when the company receives payment in full of the moneys in respect of the shares.
26. A statutory declaration in writing that the declarant is a director or the Company Secretary and that a share in the company has been duly forfeited on the date stated in the declaration, is conclusive evidence of the facts stated in the declaration as against the persons claiming to be entitled to the share.

#### ***Lien***

27. (1) The company shall have a first and paramount lien on all shares issued with an unpaid liability for the moneys, whether presently payable or not, called or payable at a fixed time in respect of that share.  
(2) The lien of the company extends to the dividends payable on the shares.
28. Where a sum in respect of which the company has a lien is presently payable by the board of directors, after serving the notice required by clauses 18 and 19 of this Schedule, the company may at any time before the payment required by the notice has been made, sell a share on which the company has the lien instead of forfeiting the share in accordance with clause 18.
29. (1) To give effect to a sale under clause 25, the board of directors may authorise a person to transfer the shares sold to the purchaser of those shares.  
(2) The purchaser shall be registered as the holder of the share stated in the transfer and the purchaser is not bound to see to the application of the purchase money nor shall the title of the purchaser to the shares be affected by an irregularity or invalidity in the proceedings in reference to the sale.
30. The proceeds of the sale shall be received by the company and applied in payment of the part of the amount in respect of which the existing payable lien, and the residue

shall, subject to a like lien for sums not presently payable, as existed upon the shares before the sale, be paid to the person entitled to the share at the date of the sale but, the company is not bound to make the payment unless and until that person has surrendered to the company for cancellation, the share certificate or certificates relating to the shares so sold.

#### ***Transfer and transmission of shares***

31. Subject to clause (4) (a) shares shall be transferable and transfers shall be registered in the manner provided by sections 98 and 101 of this Act.
32. In the event of the death of a member or in the event of the ownership of a share devolving upon a person by reason of that person being the legal personal representative, receiver, or trustee in bankruptcy of the holder, or by operation of law, section 102 of this Act shall apply.

#### ***Dividends***

33. The company may, by ordinary resolution, declare dividends in respect of a year or any other period but, a dividend shall not exceed the amount recommended by the board of directors.
34. A dividend shall not be paid unless,
  - (a) the company will, after the payment, be able to pay its debts as they fall due; and
  - (b) the amount of the payment does not exceed the amount of the retained earnings of the company immediately before making of the payment.
35. The board of directors may, before recommending a dividend, set aside out of the profits or retained earnings of the company, the sums that the board of directors think proper in order to provide for a known liability, including a disputed or contingent liability, or as a depreciation or replacement provision and may, carry forward any profits or retained earnings which the board of directors may consider prudent not to distribute.
36. Dividends shall be declared and paid as a fixed sum for each share and not as a proportion of the amount paid in respect of a share.
37. The board of directors may deduct from a dividend payable to a member the sums of money presently payable by the member to the company in respect of the shares of the member.
38. (1) A dividend payable in cash may be paid by cheque or warrant sent by post directed to the registered address of the member or, in the case of joint holders, to the registered address of the one who is first named on the register of members, or to the person and to the address that the holder or joint holders may in writing direct.
  - (2) The cheque or warrant shall be made payable to the order of the person to the whom the cheque or warrant is sent.
  - (3) Any one of two or more joint holders may give effectual receipts for any dividends.
  - (4) A dividend payment shall be accompanied by a statement showing the gross amount of the dividend, and the tax deducted or deemed to be deducted from the gross amount.

39. A dividend shall not bear interest against the company.

#### ***Capitalization Issues and Non-Cash Dividends***

40. The company, on the recommendation of the directors, may exercise the powers conferred by section 77 of this Act, to

- (a) make capitalisation issues of shares in accordance with subsection (1) of section 77,
- (b) resolve, in accordance with subsection (3) of section 77 that, a sum standing to the credit of the retained earnings of the company and which could have been distributed by way of dividend shall be applied in paying up amounts for the time being unpaid on shares,
- (c) direct, in accordance with subsection (4) of section 77 that, payment of a dividend shall be, wholly or partly, by distribution of securities for money or fully paid shares or debentures of another body corporate or of fully paid debentures of the company.

#### ***Accounts and audit***

41. Auditors, qualified in accordance with section 138 of this Act, shall be appointed and their duties regulated in accordance with sections 139 to 143 of this Act.

42. The board of directors shall cause proper books of account to be kept and financial statements to be prepared, audited and circulated in accordance with sections 127 to 137 of this Act.

#### ***General meetings and Resolutions***

43. The powers of the members in general meeting shall be as stated in section 144 of this Act.

44. Annual general meetings shall be held in accordance with section 157 of this Act.

45. Extraordinary general meetings may be convened by the directors whenever the directors think fit in accordance with section 158 of this Act and shall be convened by the directors on a requisition of members in accordance with section 299 of this Act.

46. Notice of general meetings shall be given in accordance with sections 160 and 168 and paragraphs 2 to 6 of the Eighth Schedule to the Act and accompanied by any statements required to be circulated with the notice in accordance with section 168 and paragraphs 5 and 6 of the Eighth Schedule of this Act.

47. Meetings may be attended by the persons referred to in section 157 of this Act but a member shall not be entitled to attend unless all calls or other sums presently payable by that member in respect of shares in the company have been paid.

48. The quorum required for a general meeting shall be as stated in paragraph 8 of the Eighth Schedule to this Act.

49. (1) In accordance with paragraph 9 of the Eighth Schedule of this Act, a member entitled to attend and vote at a meeting of the company is entitled to appoint another person, whether a member of

the company or not, as a proxy to attend and vote instead of that member, and the proxy shall have the same rights as the member to speak at the meeting.

(2) An instrument appointing a proxy shall be in the following form or a form as near to this form as circumstances admit

“John Mensah & Co., Limited

I/We .....of .....being a member/ members of the above-named company hereby appoint..... of .....or failing him/her as my/our proxy to vote for me/ us on my/our behalf at the annual/extraordinary general meeting of the company to be held on the .....day of ..... 20..... and at any adjournment thereof.

Signed this day of 20....

This form is to be used:

\*In favour of resolution numbered 1 against

\*In favour of resolution numbered 2 against”

[Delete if only one resolution is to be proposed; add further instructions if more than two resolutions are to be proposed.]

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

\*Strike out whichever is not desired.

50. A body corporate which is a member of the company may attend and vote by proxy or by a representative appointed in accordance with paragraph 11 of the Eighth Schedule to this Act.

51. (1) Meetings shall be conducted in accordance with paragraphs 12 to 19 of the Eighth Schedule to this Act.

(2) On a poll being demanded, the chairperson of the meeting shall not be required to direct a postal ballot in accordance with subparagraphs (f), (g) and (h) of paragraph 16 of the Eighth Schedule to this Act unless the chairperson thinks fit or an ordinary resolution to that effect is moved at the meeting and passed on a show of hands.

52. In accordance with section 163 of this Act a resolution in writing signed by the members for the time being entitled to attend and vote at general meetings, or being bodies corporate by their duly authorised representatives, and if the company has only one member entitled to attend and vote, the vote by that member shall be as valid and effective for all purposes, except as provided by section 163, as if the resolution had been passed at a general meeting of the company duly convened and held, and if described as a special resolution shall be deemed to be a special resolution within the meaning of this Act.

53. Minutes of general meetings shall be kept in accordance with section 166 of this Act.

54. If at any time the shares of the company are divided into different classes, this constitution shall apply to a meeting of a class of members in like manner as the constitution apply to general meetings but the necessary quorum shall be as set out in section 164 of the Act.

### ***Votes of members***

55. Subject to any rights or restrictions for the time being attached to a class of preference shares and which may be validly attached, that class, pursuant to section 51 of this Act, (a) on a show of hands each member and each proxy lawfully present at the meeting shall have one vote, and on a poll each member present in person or by proxy shall have one vote for each share held by that member; or (b) in the event of a postal ballot being directed pursuant to subparagraphs (f), (g) and (h) of paragraph 16 of the Eighth Schedule to this Act, each member entitled to attend and vote at the meeting shall have one vote for each share held by that member.

### ***Directors***

56. The number of directors, not being less than two or more than five, shall be determined by ordinary resolution of the members in general meeting and until so determined shall be two.
57. The continuing directors may act despite a vacancy in the number of directors but if and so long as their number is reduced below two or below the number fixed by the directors as the necessary quorum, they may act for four weeks after the number is so reduced, but after that, may act only for the purpose of increasing the number of directors to that number or of summoning a general meeting of the company and for no other purpose.
58. The appointment of directors shall be regulated by sections 172 and 300 of this Act.
59. The persons referred to in section 173 of the Act shall not be competent to be appointed directors of the company.
60. A director need not hold any shares in the company.
61. The office of director shall be vacated in accordance with section 175 of this Act and a director may be removed from office in accordance with section 176 of this Act.
62. (1) The company may appoint substitute directors in accordance with section 180 of this Act and a director may appoint an alternate director in accordance with section 181 of this Act.
- (2) An alternate director shall not be entitled to be remunerated otherwise than out of the remuneration of the director appointing that alternate director.
63. At least one director of the company shall at all times be resident in Ghana.
64. The remuneration payable to a director in whatever capacity shall be determined or approved by the members in general meeting in accordance with section 185 of this Act.
65. The proceedings of the directors shall be regulated by section 188 of this Act and the board of directors may delegate any of their powers to committees of the directors in accordance with that section.
66. Minutes of meetings of the board of directors and of a committee of directors shall be kept in accordance with section 188 of this Act.



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

67. (1) The business of the company shall be managed by the directors who may pay all expenses incurred in promoting and registering the company.
- (2) Subject to section 189 of this Act, the board of directors may exercise the powers of the company, including power to borrow money and to mortgage or charge the property of the company and undertaking or a part of the property and undertaking and to issue debentures, which are not by the Act or this constitution required to be exercised by the members in general meeting.
68. In a transaction with the company or on behalf of the company and in the exercise of powers, the directors shall observe the duties and obligations imposed on them by sections 190 to 192 of this Act.
69. Subject to compliance with section 194 of this Act, a director may enter into a contract with the company and the contract or any other contract of the company in which a director is in any way interested, shall neither be liable to be avoided nor shall a director be liable to account for a profit made by virtue of that contract, by reason of the director holding the office of director or of the fiduciary relationship established by the status as a director.
70. A director may act personally or by the firm of that director in a professional capacity for the company, except as auditor, and the director or the firm shall be entitled to proper remuneration for professional services as if the director were not a director.

### ***Executive and managing directors***

71. The board of directors may exercise the powers conferred by section 183 of this Act to appoint one or more of the members of the board of directors to any other office or place of profit under the company, other than the office of auditor, for the period and on the terms that the board of directors may determine and, subject to the terms of an agreement entered into in a particular case, may revoke that appointment.
72. (1) The board of directors may exercise the power conferred by section 184 of this Act to appoint one or more of the members of the board of directors to the office of managing director for the period and on the terms that the board of directors may determine and, subject to the terms of an agreement entered into in a particular case, may revoke the appointment and the appointment shall be automatically determined if the holder of the office ceases for any cause to be a director.
- (2) The directors may entrust to and confer on a managing director any of the powers exercisable by the directors on the terms and with the restrictions that they think fit, and either collaterally with, or on the exclusion of, their own powers, and subject to the terms of an agreement entered into in a particular case, may from time to time revoke or vary all or any of those powers.

73. Remuneration shall not be payable to a director in respect of any office or place of profit to which the director is appointed in this constitution, unless and until, the terms of the appointment have been approved by ordinary resolution of the company in general meeting in accordance with section 185 of this Act.

#### ***Company Secretary and officers and agents***

74. The Company Secretary shall be appointed by the board of directors for the time, at the remuneration, and on the conditions that board considers fit, and a Company Secretary so appointed may be removed by the board of directors, subject to the right of the Company Secretary to claim damages if removed in breach of contract.
75. A provision in this Act or this constitution requiring or authorizing a thing to be done by a director and the Company Secretary shall not be satisfied by the thing being done by that person acting both as director and as, or in place of, the Company Secretary.
76. (1) The board of directors may from time to time appoint officers and agents of the company and may appoint a body corporate, firm, or body of persons, whether nominated directly or indirectly, by the board of directors, to be the attorney or attorneys of the company for the purposes and with the powers, authorities and discretions, not exceeding those vested in or exercisable by the directors in this constitution, and for the period and subject to the conditions that the board of directors may consider fit.
- (2) The powers of attorney may contain the provisions for the protection and convenience of persons dealing with that attorney that the directors may consider fit, and may also authorise that attorney to delegate all or any of the powers, authorities and discretions vested in that attorney.

#### ***Service of documents***

77. A document may be served by the company on a member, debenture holder or director of the company in the manner provided by section 290 of this Act.

#### ***Winding-up***

78. (1) Where the company is being wound up, the liquidator may, with the sanction of a special resolution of the company and any other sanction required by this Act or by the Bodies Corporate (Official Liquidations) Act, 1963 (Act 180), divide amongst the members in specie or kind, the whole or a part of the assets of the company, whether they consist of property of the same kind or not, and may for that purpose set the value that the liquidator thinks fair on the property to be divided, and may determine how the division shall be carried out as between the members or different classes of members.
- (2) The liquidator may, with the like sanction, vest the whole or a part of the assets in trustees upon the trusts for the benefit of the members that the liquidator, with the like sanction, thinks fit.
- (3) Despite subparagraphs (1) and (2), a member shall not be compelled to accept any securities on which there is a liability.

### ***Interpretation***

79. In this constitution unless the context otherwise requires,

(a) “Act” means the Companies Act, 2019 (Act 992);

(b) words or expressions have the meanings assigned to them in this Act; and

(c) references to sections of this Act mean the sections as specified in this Act.

A private company may, in a constitution registered by the private company, exclude or modify any of the provisions of this Schedule to the extent permitted by this Act.

“I/We the undersigned am/are desirous of forming an incorporated body in pursuance of this Constitution and I/We agree to take the number of shares in the company to set opposite my/our name/s and pay therefore in cash the consideration stated”.

<b>TIN</b>	<b>Name</b>	<b>Address</b>	<b>No. of Shares</b>	<b>Consideration in Cash(GHS)</b>	<b>Signature</b>
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Address and description of Shareholder  
Corporate Body

<b>TIN</b>	<b>Corporate Name</b>	<b>Address</b>	<b>No. of Shares</b>	<b>Consideration in Cash(GHS)</b>
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<b>TIN</b>	<b>Name of Representative</b>	<b>Address</b>	<b>Signature</b>	<b>Nationality</b>	<b>Corporate Stamp/Seal</b>
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Witness to the above Signatures

Dated on the.....

Name.....

Address.....

Occupation .....