

**COMPANIES ACT 2006**  
**ISLE OF MAN**  
**COMPANY LIMITED BY GUARANTEE**  
**ARTICLES OF ASSOCIATION**  
**OF**  
**B.U. INCORPORATED**  
**(THE "COMPANY")**

**1. PRELIMINARY**

Any model articles of association prescribed by the Registrar of Companies under section 6 of the Act shall not apply to the Company. The following articles (as may be amended from time to time) shall constitute the articles of association of the Company.

**2. DEFINITIONS AND INTERPRETATION**

2.1 In the Articles, if not inconsistent with the subject or context –

2.1.1 **"the Act"** means the Companies Act 2006 including any statutory modification or re-enactment of it for the time being in operation;

2.1.2 **"Articles"** means the Articles of Association of the Company as amended from time to time by way of a BUIP;

2.1.3 **"Articles of Federation"** means the Articles of Federation of the Company as agreed upon, from time to time, by way of a BUIP;

2.1.4 **"Board"** means the Officers of the Company;

2.1.5 **"BUIP"** means a **"B.U. Improvement Proposal"**;

2.1.6 **"B.U. Public Forum"** means the forum set up and sealed by the Company for the purposes of dialogue between the Members of the Company and between Members and non-Members as well as providing a means of achieving the Vision set out in the Articles of Federation and for the governance of the Company by facilitating BUIP;

2.1.7 **"Class"** in relation to Membership, means a class of members where each member's membership has identical rights, privileges, limitations and conditions applicable to it;

2.1.8 **"Distribution"** means, in relation to a distribution by the Company to a Member, the direct or indirect transfer of any assets to or for the benefit of a Member or the incurring of a debt to or for the benefit of a Member and whether by means of

- the purchase of an asset a transfer or assignment of indebtedness or otherwise, and includes a dividend;
- 2.1.9        “**Majority**” means the majority required to adopt a BUIP;
- 2.1.10       “**Member**” means a person whose name is entered in the Register of Members of the Company;
- 2.1.11       “**Memorandum**” means the Memorandum of Association of the Company as amended from time to time by way of a BUIP;
- 2.1.12       “**Officer**” means a director of the Company;
- 2.1.13       “**Ordinary Majority**” means a majority of at least 51% of the votes registered where at least 50% of the Members entitled to vote have registered a vote;
- 2.1.14       “**Person**” excludes a body corporate;
- 2.1.15       “**Proposer**” means the Board or the Member or Members who propose a BUIP.
- 2.1.16       “**Register of Members**” means the register of members maintained by the Company in accordance with the Act containing the Registered Name and Registered Address of the current members of the Company;
- 2.1.17       “**Register of Members’ Particulars**” means the register of members maintained by the Company that contains in addition to the information contained in the Register of Members:
- (a) Information necessary to confirm the identity of the Member;
  - (b) The public key of the accepted type of the Member;
  - (c) The date of entry into membership;
  - (d) The class of Membership;
  - (e) The date of cessation of Membership; and
  - (f) The reason for cessation of Membership;
- 2.1.18       “**Registered Name**” means the name by which a Member is commonly known which has been provided by that Member for the purposes of registration;
- 2.1.19       “**Registered Address**” means the address, electronic or otherwise, provided by that Member to which the Company may send any notices, information or written statement required by the Act;
- 2.1.20       “**Registrar**” means the Registrar of Companies appointed under section 205 (*registrar of companies*) of the Act;
- 2.1.21       “**Required Details**” means the details required to be provided to the Company’s nominated office by the Member by the Beneficial Ownership Act 2017
- 2.1.22       “**Seal**” means the electronic seal of the Company;

- 2.1.23 “**Sign**” or “**Signing**” means the use of a form of electronic signature recognised by the Company;
- 2.1.24 “**Solvency Test**” means the solvency test referred to in section 49 (*meaning of “solvency test” and “distribution”*) of the Act which the Company satisfies if it is able to pay its debts as they become due in the normal course of the Company’s business and the value of its assets exceeds the value of its liabilities;
- 2.1.25 “**Super Majority**” means the majority required to adopt a BUIP being at least 75% of the votes registered where at least 25% of the Members entitled to vote have registered a vote;
- 2.1.26 “**Voting Event**” means the process by which BUIP’s are proposed, discussed, voted on and, if the required majority the Company passes resolutions
- 2.1.27 “**Voting Rights**” means all the rights to vote on a BUIP of the Members or a class of Members according to the rights attached to the class of Membership held;
- 2.1.28 “**written**” or any similar term includes information generated, sent, received or stored by electronic, digital, magnetic, optical, electromagnetic, biometric or photonic means including electronic data interchange, electronic mail, telegram, telex or telecopy, and “**in writing**” shall be construed accordingly.
- 2.2 In the Articles, unless the context otherwise requires –
- 2.2.1 a reference to –
- (a) an “**Article**” is a reference to an article in the Articles;
- (b) voting on a BUIP is a reference to the casting of votes by means of signing and casting a vote by the members;
- 2.2.2 words denoting any one gender include all other genders and words denoting the singular shall include the plural and vice versa; and
- 2.2.3 words or phrases contained in the Articles bear the same meaning as they do in the Act but excluding any statutory modification to such meaning not in operation when the Articles become binding on the Company.
- 2.3 Headings are for ease of reference only and shall not affect the interpretation of the Articles.

### 3. MEMBERSHIP

- 3.1 A Member may propose that a person be invited to become a member by submitting a BUIP (a “**Nomination BUIP**”).
- 3.2 A person who has accepted the invitation given in accordance with an adopted Nomination BUIP shall be admitted as a Member upon deliver to the Company of that person’s public key and such other information as the adopted Nomination BUIP requires to register that person as a Member.

- 3.3 Members shall supply a public key when applying for membership and Sign all formal communications using the corresponding public key.
- 3.4 No body corporate (whether incorporated in the Island or elsewhere) shall be admitted as a Member.
- 3.5 Joint Membership is prohibited.
- 3.6 Membership of the Company is not transferable.
- 3.7 The fact that the name of a person has been entered in the Register of Members shall be conclusive evidence of that person's membership.
- 3.8 Where there are different classes of membership, a Special BUIP to change the class rights of a class must first be adopted as a Special BUIP by each class affected by the proposed changes before the BUIP being proposed to the Membership as a whole for adoption as a Special BUIP.
- 3.9 Every Member may have issued to him, upon request, a digital Certificate of Membership electronically sealed with the Seal.
- 3.10 Every Member of the Company shall have a single vote on any BUIP that Member is entitled to attend and vote.
- 3.11 Formal interaction between Members, including but not limited to BUIP submission and voting must occur via cryptographically verified identities.

#### **4. CLASS OF MEMBERSHIP**

4.1 There shall be two classes of Members:

4.1.1 Identified Members; and

4.1.2 Unidentified Members.

##### **Identified Members**

- 4.2 Members who have provided their Required Details shall be registered as Identified Members.
- 4.3 Identified Members shall be entitled to vote on all BUIP's.
- 4.4 Identified Members are eligible to submit their names as candidates for Office during the Discussion Period of an Election BUIP.
- 4.5 Identified Members may, by submitting a request to the Secretary, become Unidentified Members. Upon receipt of the request, the Secretary shall destroy all personal data processed by the Company in respect of that Member other than the minimum information required to be held by the Company in accordance with the Act and in accordance with any other legal or contractual obligations of the Company. Upon deletion of the information, the Member will become an Unidentified Member.

### **Unidentified Members**

- 4.6 Members who 's identity the Company is unable to be confirmed but have provided the information required by their Nomination BUIP shall be registered as an Identified Member.
- 4.7 Unidentified Members shall be entitled only to vote on the following BUIP's:
- 4.7.1 Technical BUIP;
- 4.7.2 Patch BUIP; or
- 4.7.3 A Special BUIP to be passed by their class in respect of changes to their class rights.
- 4.8 An Unidentified Member may apply to the Secretary to become an Identified member by submitting the Required Details. Upon receipt and confirmation of the Required Details the in respect that Member

## **5. REGISTER OF MEMBERS**

- 5.1 The Company shall keep the Register of Members and the Register of Members' Particulars in any such form as the Company may approve providing that the Company is able to produce legible evidence of its contents.

## **6. DISTRIBUTIONS**

- 6.1 The income and property of the Company shall be applied solely towards the promotion of the Articles of Federation and no portion shall be paid or transferred, directly or indirectly, by way of dividend, Distribution, bonus or otherwise by way of profit, to Members of the Company, provided that nothing herein shall prevent any payment in good faith by the Company of reasonable and proper remuneration to any Member, Officer or employee of the Company for any services rendered to the Company

## **7. CESSATION OF MEMBERSHIP**

- 7.1 Membership shall cease:
- 7.1.1 On the receipt by the Company from a Member of a notice in writing to the effect that the Member is resigning their Membership of the Company;
- 7.1.2 On the death or bankruptcy of a Member;
- 7.1.3 On the expulsion of a Member from Membership of the Company as provided by 7.6 below.
- 7.2 A Member may be suspended by the Officers for a serious breach of the Articles of Federation who will then propose a Removal BUIP.
- 7.3 A Member may be expelled from membership of the Company by a Removal BUIP. The suspended member whom it is proposed to expel from membership of the

Company shall be entitled to attach an opinion to the Removal BUIP. The membership of a person so expelled shall cease on and from the adoption of the said Removal BUIP.

- 7.4 A Member may resign as a Member of the Company by notice in writing signed by such Member served on the Company the date of resignation being the date of service of such notice upon the Company. On the service of such notice such Member shall be deemed to have ceased to be a Member of the Company and his name shall be deleted from the Register of Members.
- 7.5 A Member who is declared bankrupt or who in any way becomes by legal process incapable of exercising his full rights as a Member of the Company shall be deemed to have resigned as a Member with effect from the time of such bankruptcy or legal process, and article 7.1 shall apply to such deemed resignation as if the Member had resigned pursuant to that article. Such a person may, when he ceases to be bankrupt or otherwise incapable of exercising his full legal rights, be entitled to reapply for election as a Member at the discretion of the Directors.
- 7.6 Where a person ceases to be a Member, neither the former Member nor his assigns or successors shall have any right to any compensation or other payment of any kind related to the cessation of Membership, nor to the return of any monies that such Member may have paid to the Company by way of subscription monies.
- 7.7 Upon the death of a Member, the membership of such Member shall terminate, and all rights, privileges and benefits derived therefrom shall also terminate. The assigns or successors of the deceased Member shall not have any right to any compensation or other payment of any kind related to the cessation of membership, nor to the return of any contributions that such Member may have made to the Company.

## **8. VOTING EVENTS**

- 8.1 The Board may propose any BUIP that they consider necessary for the effective running of the Company.
- 8.2 Any Member may propose a BUIP. A Member may also submit a proposal on behalf of a person who is not a Member.
- 8.3 Where the BUIP is nor a Technical BUIP nor a Patch BUIP, the Board has up to two weeks to make the proposal publicly accessible on the B.U. Public Forum (the “**Review Period**”) during which period the Board may review the proposal and suggest modifications to the Proposer and in particular:
- (a) The President may consider how the proposal may affect the administration of the Company;
  - (b) The Secretary may consider how proposal adheres to BUIP standards as set out in the Articles of Federation; and

(c) The Developer may consider how the proposal relates to the Company's code.

With the agreement of the Proposer, the Board may extend the Review Period by a further 2 weeks or withdraw the proposal. The Review Period for a Technical BUIP and a Patch BUIP is set out in Article below.

- 8.4 When a proposal is ready to be made publicly accessible, the Board shall assign each proposed BUIP a unique number and publish it.
- 8.5 When a proposed BUIP is made public, the Board may, concurrently, publish an opinion or opinions in respect of the proposed BUIP or a counter BUIP to the proposed BUIP.
- 8.6 The proposal will be open for discussion on the B.U. Public Forum for a period not less than two weeks (the "**Discussion Period**") from the date of publication. The Discussion Period may be extended by the Proposer for a further period, if Required, providing that such extension will not exceed a period of 26 weeks from the date of publication.
- 8.7 At the end of the Discussion Period, the Board shall suspend discussion on the B.U. Public Forum and open voting on the BUIP for a period decided by the Board in consultation with the Proposer, such period to be for a minimum period of 48 hours up to a maximum period of 120 hours from the time at which the BUIP became open for voting (the "**Voting Period**").
- 8.8 Where both a BUIP and a counter BUIP to that BUIP is proposed, there shall be two Voting Periods which shall run consecutively, the first to vote on which of the BUIP or the counter BUIP shall be voted on during the second Voting Period and the second Voting Period to vote on whichever BUIP was voted for in the first Voting Period. The length of time the voting shall be open for during the second Voting Period will be decided by the Board in consultation with the Proposer, such period to be for a minimum period of 48 hours up to a maximum period of 120 hours from the time at which the BUIP became open for voting.
- 8.9 Members shall sign all votes made by them to confirm their eligibility to vote.
- 8.10 Where a Majority is achieved for a BUIP, it shall be adopted by the Company from the date and time the Voting Period or Voting Periods close.
- 8.11 Where a Member is aware that they will be unavailable to vote, they may appoint the Secretary their proxy to vote on their behalf, such a proxy may contain specific instructions on how to vote.

## **9. BUIP**

9.1 The Members and the Board may propose the following types of BUIP:

9.1.1 Technical BUIP

- 9.1.2 Patch BUIP
- 9.1.3 Nomination BUIP
- 9.1.4 Election BUIP
- 9.1.5 Removal BUIP
- 9.1.6 General BUIP
- 9.1.7 Special BUIP
- 9.1.8 Indicative BUIP

### **Technical BUIP**

- 9.2 Where the BUIP proposed suggests technical changes (a “**Technical BUIP**”), it will be for the Proposer to produce the patches necessary to implement that technical change. Upon receipt of the proposed patches, the Technical BUIP will be published, reviewed and voted upon as if it was a Patch BUIP.

### **Patch BUIP**

- 9.3 Where the BUIP contains a patch, upon receipt of the proposed BUIP, the Board will assign it a unique number and publish it. The Developer, in collaboration with the Proposer, will then undertake a review of the patch for acceptability including, but not limited to, potential bugs, testing undertaking and coding standards. The Developer may work with the Proposer and any other parties the Developer and the Proposer may consider would assist in the preparation of the patch for as long as possible to ensure that the patch is acceptable to be voted upon.
- 9.4 If the process of reviewing and preparing the patch has been ongoing for a period exceeding two calendar months from receipt of the proposed patch, the Proposer, the President or the Secretary may propose that that BUIP be marked “commit as is” and put to a vote. The Voting Period for the vote will open not less than a week after the Patch BUIP has been marked “commit as is” and shall remain open for a period not less than 48 hours and not more than 120 hours, such period to be set by the person proposing that the BUIP be so marked.

### **Nomination BUIP**

- 9.5 A Nomination BUIP is a BUIP nominating a person to be invited to become a Member of the Company and requires an Ordinary Majority to be adopted.

### **Election BUIP**

- 9.6 An Election BUIP is a BUIP electing a person to an office of the Company.
- 9.7 When a vacancy on the Board occurs or is about to occur within the following two months, the Board will publish an Election BUIP and invite Members willing to be considered for the vacant Office to submit their candidature, together with



confirmation of their real identity and supporting information to the BUIP during the Discussion Period for the Election BUIP.

9.8 The Discussion Period for the BUIP shall be not less than 4 weeks from the publication of the proposed Election BUIP.

9.9 Where there are only one or two candidates, the Voting Period for the Election BUIP shall be 48 hours from the closure of the Discussion Period. The Majority required for a candidate to be elected to the vacancy is over 50% of the votes recorded and, upon confirmation of the count the Secretary shall confirm that the Election BUIP naming the successful candidate as the new holder of the Office is adopted.

9.10 Where there are more than two candidates, there shall be two rounds of voting. The first Voting Period shall be 48 hours from the closure of the Discussion Period. The Members will then vote for either of the two candidates receiving the highest votes during the second Voting Period. The second Voting Period shall be 48 hours from the announcement of the names of the two candidates with the two highest votes at the end of the first Voting Period. The Majority required at the end of the second Voting Period for the successful candidate to be elected to the vacancy is over 50% of the votes recorded and, upon confirmation of the count the Secretary shall confirm that the Election BUIP naming the successful candidate as the new holder of the Office is adopted.

#### **Removal BUIP**

9.11 A Removal BUIP is a BUIP proposing that a Member be expelled from Membership or an Officer be removed from office and requires a Special Majority to be adopted.

9.12 A Removal BUIP for the removal of an Officer from their office may not be proposed within 4 months of a previously unsuccessful Removal BUIP in respect of removing that same Officer from their office.

#### **General BUIP**

9.13 A General BUIP is a BUIP proposing the following business:

9.13.1 Audit of accounts;

9.13.2 Appointment of Auditor; or

9.13.3 Such other BUIP required by the Company not being one of the other forms of BUIP.

9.14 A General BUIP requires an Ordinary Majority to be adopted.

#### **Special BUIP**

9.15 A Special BUIP is a BUIP proposing the following business:

9.15.1 Changes to the Memorandum of Association, Articles of Association or the Articles of Federation; or

9.15.2 Winding up of the Company

9.16 A Special BUIP requires a Special Majority to be adopted.

**Indicative BUIP**

9.17 An Indicative BUIP is a BUIP intended to promote discussion amongst the Members or seek the views of the Members but that will not be binding on the Company. The Discussion period for an Indicative BUIP will be determined by the Prosper of the Indicative BUIP.

9.18 Where no discussion has occurred for a period of three months, the Discussion Period will be automatically closed.

**10. OFFICERS**

10.1 The Company shall have three Officers each appointed to the following offices:

10.1.1 The President who:

(a) Shall be an Identified Member

(b) Is responsible for the ongoing activities of the Company; and

(c) Shall resolve BUIP number conflicts, organize BUIP discussion (in the B.U. Public Forum, Sealed by the Company), and managing voting (within the limits specified in these articles).

10.1.2 The Secretary who:

(a) Shall be an Identified Member;

(b) Is responsible for recording activities and vote results, and making this information publicly available;

(c) Shall keep the records and registers required to be maintained by the Act

(d) Is responsible for creating, maintaining and moderating the B.U. Public Forum where discussion can be held such moderation being exclusively limited to moving content with an indication of it being moved not deleting it; and

(e) shall tally and report on votes.

10.1.3 The Developer who:

(a) Shall be an Identified Member;

(b) Is responsible for maintaining the B.U. code repository, choosing which committers have access to the software repository, reviewing and merging patches, and periodically releasing B.U. software;

(c) Must actively work to encourage Members to work on submissions, and to convert one-time submitters into regular committers.

- 10.2 Each Officer shall hold their for the term of two years from the date of adoption of the Election BUIP recording their appointment or until such person's earlier death, resignation or removal or until such person is no longer permitted to act as a Director under section 93 of the Act.
- 10.3 An Officer may be removed from office by a Removal BUIP.
- 10.4 An Officer may resign from office by giving written notice of resignation to the B.U. Public Forum and the resignation has effect from the date the notice is published or from such later date as may be specified in the notice.
- 10.5 The Company shall keep a Register of Officers containing –
- 10.5.1 the names and business or residential address of the persons who are Office holders provided that if the register does not contain the residential address of an Officer, the registered agent of the Company shall maintain a separate record of such address;
- 10.5.2 the date on which each person whose name is entered in the register was appointed to their Office; and
- 10.5.3 the date on which each Officer ceased to hold their Office.
- 10.6 The Register of Officers may be kept in any such form as the Board may approve, but if it is in magnetic, electronic or other data storage form, the Board must be able to produce legible evidence of its contents.
- 10.7 The Members may, by General BUIP, fix the emoluments of Directors with respect to services to be rendered in any capacity to the Company.
- 10.8 The Members may, by General BUIP, pay the Officers all expenses properly incurred by the Officers in the discharge of their duties.
11. Powers of Directors
- 11.1 The business and affairs of the Company shall be managed by, or under the direction or supervision of the Board. The Officers have all the powers necessary for managing, and for directing and supervising, the business and affairs of the Company. The Officers may exercise all such powers of the Company other than those required by the Act or by the Memorandum or the Articles to be exercised by the Members.
- 11.2 Each Officer shall exercise that person's powers as Officer for a proper purpose and shall not act or agree to the Company acting in a manner that contravenes the Act, the Memorandum or the Articles. Each Officer, in exercising powers or performing duties as Officer, shall act honestly and in good faith in what the Officer believes to be the best interests of the Company.
- 11.3 The Officer may exercise all the powers of the Company to incur indebtedness, liabilities or obligations and to secure indebtedness, liabilities or obligations whether of the Company or of any third party.

- 11.4 All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for moneys paid to the Company shall be signed, drawn, accepted, endorsed or otherwise executed, as the case may be, in such manner as shall from time to time be determined by the Board.
- 11.5 Any written contract, deed, instrument, power of attorney or other document may be made or executed on behalf of the Company by any person acting with the authority of the Board and for these purposes any Officer shall be deemed to have such authority.

## **12. PROCEEDINGS OF DIRECTORS**

- 12.1 Unless otherwise specified in the Act or in the Memorandum or Articles, the exercise by the Board of a power given to them under the Act or the Memorandum or Articles shall be by a resolution consented to in writing by, the Board or any committee of the Board.
- 12.2 Subject to the provisions of the Articles, the Board may regulate their proceedings as they see fit.
- 12.3 The Board or any committee of the Board may meet at such times and in such manner and places within or outside the Isle of Man as they may determine to be necessary or desirable.
- 12.4 An person is deemed to be present at a meeting of the Board or at a meeting of any committee of the Board if such person participates by electronic means and all participants in the meeting are able to communicate with each other.
- 12.5 A meeting of the Board is duly constituted and quorate for all purposes if at the commencement of the meeting there are 2 Officers present.
- 12.6 If the Company has only one Officer, the provisions contained in this Article for meetings of the Officers do not apply and such sole Officer has full power to represent and act for the Company in all matters as are not by the Act, the Memorandum or the Articles required to be exercised by the Members. In lieu of minutes of a meeting, the sole Officer shall record in writing and sign a note or memorandum of all matters requiring a resolution of Officers signed with their public key. Such a note or memorandum constitutes sufficient evidence of such resolution for all purposes.
- 12.7 At meetings of the Board at which the President is present, such person shall chair the meeting. If the President is not present, the Officers present shall choose one of their number to chair the meeting.
- 12.8 Any action that may be taken by the Board or a committee of the Board at a meeting may also be taken by a resolution of the Board or a committee of Board consented to in writing by unanimous written consent.

### **13. COMMITTEES**

- 13.1 The Officers may designate one or more committees, each consisting of one or more Officers and such other Members as may be considered by the Officers necessary or expedient, to appoint and delegate one or more of their powers, including the power to affix the Seal, to the committee. Any such delegation may be made subject to any conditions the Board may impose, may be made collaterally with, or to the exclusion of, their own powers and may be revoked or altered.
- 13.2 The Board has no power to delegate to a committee of the board any of the following powers –
- 13.2.1 to amend the Memorandum or the Articles;
  - 13.2.2 to change the registered office or registered agent;
  - 13.2.3 to designate committees of the Board;
  - 13.2.4 to delegate powers to a committee of the Board;
  - 13.2.5 to appoint or remove the Board;
  - 13.2.6 to appoint or remove an agent to act on behalf of the Company;
  - 13.2.7 to approve a scheme of merger, consolidation or arrangement;
  - 13.2.8 to make a declaration of solvency; or
  - 13.2.9 to authorise the Company to continue as a company incorporated under the laws of a jurisdiction outside the Isle of Man.
- 13.3 Articles 12.2.3 and 12.2.4 do not prevent a committee of the Board, where authorised by the Board, from appointing such committee or, by a subsequent resolution of the Board, from appointing a sub-committee and delegating powers exercisable by the committee to the sub-committee.
- 13.4 The meetings and proceedings of each committee consisting of 2 or more persons shall be governed *mutatis mutandis* by the provisions of the Articles regulating the proceedings of meeting of the Board so far as they are not superseded by any provisions in the resolution of the Board establishing the committee.

### **14. AGENTS AND ATTORNEYS**

- 14.1 The Board may appoint any person, including a person who is an Officer, to be an agent of the Company. An agent of the Company shall have such powers and authority of the Board, including the power and authority to affix the Seal, as are set forth in the Resolution of Board appointing the agent, except that no agent has any power or authority to approve any of the following acts–
- 14.1.1 to amend the Memorandum or the Articles;
  - 14.1.2 to change the registered office or registered agent;

- 14.1.3 to designate committees of the Board;
  - 14.1.4 to delegate powers to a committee of the Board;
  - 14.1.5 to appoint or remove an agent to act on behalf of the Company;
  - 14.1.6 to approve a scheme of merger, consolidation or arrangement;
  - 14.1.7 to make a declaration of solvency or
  - 14.1.8 to authorise the Company to continue as a company incorporated under the laws of a jurisdiction outside the Isle of Man.
- 14.2 The resolution of the Board appointing an agent may authorise the agent to appoint one or more substitutes or delegates to exercise some or all of the powers conferred on the agent by the Company. The Board may remove an agent appointed by the Company and may revoke or vary a power conferred on such agent.
- 14.3 The Company may, by instrument in writing executed in accordance with section 86 of the Act, appoint a person as its attorney either generally or in relation to a specific matter on such terms and conditions as the Directors determine.

## **15. CHANGE OF REGISTERED AGENT, REGISTERED OFFICE AND NAME**

- 15.1 The Company may by adopting a General BUIP or by resolution of the Board change the location of its registered office or change its registered agent.
- 15.2 The Company may make an application to the Registrar to change its name. Such an application to the Registrar may be authorised by adopting a General BUIP or by resolution of the Board.

## **16. CONFLICT OF INTERESTS**

- 16.1 An Officer shall, forthwith after becoming aware of the fact that he is interested in a transaction entered into or to be entered into by the Company, disclose the interest to the Board.
- 16.2 For the purposes of Article 16.1, a disclosure to the Board to the effect that an Officer is also a member, director, officer or trustee of another named company or any other arrangement and is to be regarded as interested in any transaction which may, after the date of the disclosure, be entered into between the Company and that other company or person, is a sufficient disclosure of interest in relation to that transaction.
- 16.3 A disclosure made pursuant to Article 16.1 shall be made or brought to the attention of every Officer of the Company provided that a disclosure shall be deemed to have been so made if it is made at the meeting of the Board at which the transaction was first considered or, if the Director in question was not at the date of that meeting interested in the transaction or aware that such Officer was so interested, at the first

meeting of the Board held after the Officer became so aware or so interested (as the case may be).

16.4 Subject to Articles 16.1 to 16.3, an Officer who is interested in a transaction entered into or to be entered into by the Company may –

16.4.1 vote on a matter relating to the transaction;

16.4.2 attend a meeting of the Board at which a matter relating to the transaction arises and be included among the Officers present at the meeting for the purposes of a quorum; and

16.4.3 sign a document on behalf of the Company, or do any other thing in that person's capacity as an Officer, that relates to the transaction.

16.5 Provided that an Officer has disclosed any interest in accordance with the Act and the Articles, a Director, notwithstanding his office –

16.5.1 may be a party to, or otherwise interested in, any transaction or arrangement with the Company or in which the Company is otherwise interested;

16.5.2 may be a director or other officer of, or employed by, or a party to any transaction or arrangement with, or otherwise interested in, any body corporate promoted by the Company or in which the Company is otherwise interested; and

16.5.3 shall not by reason of his or her office, be accountable to the Company for any benefit which such Director derives from any such office or employment or from any such transaction or arrangement or from any interest in any such body corporate and no such transaction or arrangement shall be liable to be avoided on the ground of any such interest or benefit.

## **17. INDEMNIFICATION**

17.1 The Company may indemnify against all expenses, including legal fees, and against all judgments, fines and amounts paid in settlement and reasonably incurred in connection with legal, administrative or investigative proceedings any person who –

17.1.1 is or was a party or is threatened to be made a party to any threatened, pending or completed proceedings, whether civil, criminal, administrative or investigative, by reason of the fact that the person is or was an Officer; or

17.1.2 is or was, at the request of the Company, serving as a director of, or in any other capacity is or was acting for, another body corporate or a partnership, joint venture, trust or other enterprise.

17.2 The indemnity in Article 17.1 only applies if the person acted honestly and in good faith with a view to the best interests of the Company and, in the case of criminal proceedings, the person had no reasonable cause to believe that the conduct of such person was unlawful.

- 17.3 The decision of the Board as to whether the person acted honestly and in good faith and with a view to the best interests of the Company and as to whether the person had no reasonable cause to believe that such person's conduct was unlawful is, in the absence of fraud, sufficient for the purposes of the Articles unless a question of law is involved.
- 17.4 The termination of any proceedings by any judgment, order, settlement or conviction does not, by itself, create a presumption that the person did not act honestly and in good faith and with a view to the best interests of the Company or that the person had reasonable cause to believe that the conduct of such person was unlawful.
- 17.5 Expenses, including legal fees, incurred by an Officer or a former Officer in defending any legal, administrative or investigative proceedings may be paid by the Company in advance of the final disposal of such proceedings upon receipt of an undertaking given by or on behalf of the Officer or former Officer to repay the amount if it shall ultimately be determined that the Officer or former Officer is not entitled to be indemnified by the Company in accordance with Article 17.1.
- 17.6 The indemnification and advancement of expenses provided by or granted pursuant to this Article is not exclusive of any other rights to which the person seeking indemnification or advancement of expenses may be entitled under any agreement, BUIP, resolution of the Board or otherwise, both as to acting in the person's official capacity and as to acting in another capacity while serving as an Officer.
- 17.7 If a person referred to in Article 17.1 has been successful in defence of any proceedings referred to in Article 17.1, that person is entitled to be indemnified against all expenses, including legal fees, and against all judgments, fines and amounts paid in settlement and reasonably incurred by such person in connection with the proceedings.
- 17.8 The Company may purchase and maintain insurance in relation to any person who is or was an Officer or liquidator of the Company, or who at the request of the Company is or was serving as an Officer or liquidator of, or in any other capacity is or was acting for, another body corporate or a partnership, joint venture, trust or other enterprise, against any liability asserted against that person and incurred by that person in that capacity, whether or not the Company has or would have had the power to indemnify the person against the liability as provided in the Articles.

## **18. RECORDS**

- 18.1 The Company shall keep the following documents at the office of its registered agent –
- 18.1.1 copies of the Memorandum and the Articles signed by each of the subscribers;
- 18.1.2 the Register of Members, or a copy of the Register of Members;



- 18.1.3 the register of directors, or a copy of the Register of Officers;
- 18.1.4 the register of charges, or a copy of the Register of charges;
- 18.1.5 copies of all notices and other documents filed by the Company with the Registrar in the previous 6 years;
- 18.1.6 any accounting records that it is required to keep under the Act; and
- 18.1.7 if the register of Officers does not show a person's residential address, a separate record of such person's residential address.
- 18.2 Unless the Officers determine otherwise, the Company shall keep the original Register of Members, the original register of Officers and the original register of charges at the office of its registered agent.
- 18.3 If the Company maintains only a copy of the Register of Members or a copy of the register of Officers or a copy of the register of charges at the office of its registered agent, it shall –
  - 18.3.1 provide the registered agent with a written record of the place or places at which the original register of members or the original register of Directors or the original register of charges is kept;
  - 18.3.2 if the place at which any such records are kept is changed, immediately provide the registered agent with the new location of the records; and
  - 18.3.3 immediately notify the registered agent in writing of any change to any register.
- 18.4 The Company shall keep the following records at the office of its registered agent or at such other place or places, within or outside the Isle of Man, as the Directors may determine –
  - 18.4.1 BUIP's; and
  - 18.4.2 minutes of meetings and resolutions of the Board and committees of the Board.
- 18.5 If the records referred to in Article 18.4 are not kept at the office of the Company's registered agent, the Company shall –
  - 18.5.1 provide the registered agent with a written record of place of places at which such records are kept; and
  - 18.5.2 if the place at which any such records are kept is changed, provide the registered agent with the new location of the records within 14 days of the change of location.
- 18.6 The records kept by the Company under this Article must be kept in written form or either wholly or partly as electronic records complying with the requirements of the Electronic Transactions Act 2000.

## **19. REGISTER OF CHARGES**

- 19.1 The Company shall keep a Register of Charges in which there shall be entered the following particulars regarding each mortgage, charge and other encumbrance created by the Company over any property of the Company –
- 19.1.1 the date of creation of the charge or, if the charge is a charge existing on property acquired by the Company, the date on which the property was acquired;
  - 19.1.2 a short description of the liability secured by the charge;
  - 19.1.3 a short description of the property charged;
  - 19.1.4 the name and address of the chargee;
  - 19.1.5 details of any prohibition or restriction contained in the instrument creating the charge on the power of the Company to create any future charge ranking in priority to or equally with the charge;
  - 19.1.6 any variation in the terms of the charge; and
  - 19.1.7 if any charge ceases to affect the property of the Company.

## **20. SEAL**

- 20.1 A Seal may be adopted by the Company by resolution of the Officers. The Officers shall provide for the safe custody of the Seal and for the public key of it to be kept at the office of its registered agent. The Seal shall be affixed to any written instrument by a person authorised by the Officers to do so.

## **21. ACCOUNTS AND AUDIT**

- 21.1 The Company shall keep reliable accounting records which correctly explain the Company's transactions, enable the financial position of the Company to be determined with reasonable accuracy at any time and allow financial statements to be prepared.
- 21.2 The Members may, by adoption of a General BUIP, require financial statements of the Company to be prepared. Such financial statements shall comprise a statement recording the assets and liabilities of the Company and a statement recording the receipts, payments and other financial transactions undertaken by the Company together with such notes as may be necessary for a reasonable understanding of such statements.
- 21.3 The Members may, by adoption of a General BUIP, require the financial statements to be examined by an auditor and, in such a case, Articles 20.4 to 20.8 shall apply.
- 21.4 Auditors shall be appointed and removed by a General BUIP.
- 21.5 No Member or Officer of the Company shall be eligible to be an auditor of the Company.

- 21.6 The remuneration of the auditor of the Company may be fixed by a General BUIP.
- 21.7 The auditor shall examine the financial statements and shall state in a written report whether or not –
- 21.7.1 in the opinion of the auditor, the financial statements give a true and fair view respectively of the receipts, payments and other transactions undertaken by the Company for the period covered by the financial statements, and of the assets and liabilities of the Company at the end of that period; and
- 21.7.2 all the information and explanations required by the auditor have been obtained.
- 21.8 Every auditor shall have a right of access at all times to the accounting records and vouchers of the Company and shall be entitled to require from the Directors and officers of the Company such information and explanations as such auditor thinks necessary for the performance of the auditor's duties.

## **22. NOTICES**

- 22.1 Any notice, information or written statement to be given by the Company to Members may be given by –
- 22.1.1 electronic communication to the Member;
- 22.1.2 personal service addressed to the Member at the address shown in the Register of Members; or
- 22.1.3 mail addressed to the Member at the address shown in the Register of Members.
- 22.2 Any summons, notice, order, document, process, information or written statement to be served on the Company may be served by leaving it with, or by sending it by registered mail to, the registered office or registered agent of the Company.
- 22.3 Service of any summons, notice, order, document, process, information or written statement to be served on the Company may be proved by showing that the summons, notice, order, document, process, information or written statement was delivered to the registered office or the registered agent of the Company or that it was mailed in such time as to admit to its being delivered to the registered office or the registered agent of the Company in the normal course of delivery within the period prescribed for service and was correctly addressed and the postage was prepaid.

## **23. DISCONTINUANCE**

- 23.1 The Company may apply to the Registrar for consent to be continued in a country or territory outside the Isle of Man in accordance with section 167 of the Act.

## **24. RE-REGISTRATION**

24.1 The Company may apply to the Registrar under section 143 of the Act to re-register as a company of another type specified in section 1 of the Act. The Company may only re-register as a company limited by guarantee or an unlimited company without shares if, upon re-registration, it shall have no Shares in issue.

## **25. MERGER OR CONSOLIDATION**

25.1 The Company may merge or consolidate with other companies in accordance with section 153 of the Act.

## **26. ARRANGEMENTS**

26.1 The Company may make arrangements in accordance with section 157 of the Act.

## **27. VOLUNTARY WINDING UP**

27.1 The Company may be wound up voluntarily by the adoption of Special BUIP proposing that it should be.

27.2 In a winding up, the Liquidator shall apply the surplus assets of the Company to such charity or other not for profit organisation (“**NFPO**”) as may be nominated by the Members and failing such nomination to such NFPO as he may choose, provided that any such NFPO so nominated or chosen shall have amongst its own objects which are broadly similar to the objects of the Company as set out in the Articles of Federation.