

# **International Dzogchen Community of Kunselling**

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## **Articles of Association**

**[Adopted by a special resolution dated [10 December 2016]**

Company Number 2527115

Registered Charity Number 1019101

**The Companies Act[s 1985 to] 2006**

**Company not having a share capital**

**Articles of Association**

**[Adopted by a special resolution dated [00 month year]]**

**of**

**International Dzogchen Community of Kunselling**

**1 Name**

1.1 The name of the company is International Dzogchen Community of Kunselling (**Charity**)

**2 Registered office**

2.1 The registered office of the Charity is in England and Wales.

**3 Objects**

3.1 The objects for which the Charity is established are:

To advance the Dzogchen teaching and practice in its Buddhist and Bön forms throughout the United Kingdom and elsewhere and to promote greater understanding of all Tibetan culture and traditions according to the teaching and spiritual guidance of Namkahi Norbu Rinpoche and his nominated successors.

**4 Powers**

4.1 The Charity has the power to do anything within the law which may promote or may help to promote the Objects or any of them including (but without limitation) the power:

- 4.1.1 to hold and promote festivals, seminars, conferences, lectures, tours and courses;
- 4.1.2 to encourage public dialogue on themes such as the preservation of traditional knowledge of Dzogchen and Buddhist teachings;
- 4.1.3 to promote greater understanding of Tibetan culture and traditions;
- 4.1.4 to promote or carry out research and to disseminate such research;
- 4.1.5 to support and promote the translation and publication of the original literature on Dzogchen and Buddhist teachings;
- 4.1.6 to provide advice;
- 4.1.7 to support and facilitate the teaching activity of the Chögyal Namkhai Norbu and the transmission of his teachings;
- 4.1.8 to document, publish or distribute information in any form including in relation to the traditional knowledge of Dzogchen and Buddhist teachings and the activities of the Charity;

- 4.1.9 to co-operate with and to enter into joint ventures, collaborations and partnerships with charitable and non-charitable bodies;
- 4.1.10 to support, administer or set up charities and to act as trustee of any charitable funds, endowments or trusts;
- 4.1.11 to affiliate with and merge with any charity affiliated to the IDC, having similar objects to the Objects;
- 4.1.12 to raise funds;
- 4.1.13 to borrow money, including entering into any derivative arrangement relating to that borrowing provided that the derivative arrangement is an integral part of managing the Charity's debt and not a speculative venture;
- 4.1.14 to give security for loans, grants and other obligations over the assets of the Charity (but only in accordance with the restrictions imposed by the Charities Act 2011);
- 4.1.15 to acquire, rent or hire property of any kind;
- 4.1.16 to sell, let, license, mortgage or dispose of property of any kind (but only in accordance with the restrictions imposed by the Charities Act 2011);
- 4.1.17 to make grants, awards, prizes or donations;
- 4.1.18 to make loans of money and give credit and to give guarantees or security for the performance of any obligations by any person or company;
- 4.1.19 to set aside funds for special purposes or as reserves against future expenditure, but only in accordance with a written policy on reserves;
- 4.1.20 to deposit or invest funds in any manner (but to invest only after taking such advice as the trustees consider is reasonably necessary from such person as is reasonably believed by the trustee to be qualified to give it by his or her ability in and practical experience of financial and other relevant matters);
- 4.1.21 to enter into any derivative arrangement in connection with any investment provided that the derivative arrangement is ancillary to the investment (being entered into in order to manage the risk and / or transaction costs associated with the investment) and is not a speculative venture;
- 4.1.22 to delegate the management of investments to any person provided that:
  - (a) the delegate is authorised to carry on investment business under the provisions of the Financial Services and Markets Act 2000;
  - (b) the investment policy is set out in writing by the Trustees;
  - (c) the performance of the investments is reviewed regularly with the Trustees;

- (d) the investment policy and the delegation arrangements are reviewed at least once a year;
  - (e) all payments due to the delegate are on a scale or at a level which is agreed in advance and are notified promptly to the Trustees on receipt by the delegate; and
  - (f) the delegate must not do anything outside the powers of the Trustees;
- 4.1.23 to arrange for the investments or other property of the Charity to be held in the name of a nominee (being a corporate body registered or having an established place of business in England and Wales) under the control of the Trustees or of any person to whom the management of investments is delegated and to pay any reasonable fee required;
  - 4.1.24 to insure the property of the Charity against any foreseeable risk and take out other insurance policies to protect the Charity when required;
  - 4.1.25 to take out indemnity insurance to insure the Trustees against the costs of a successful defence to criminal proceedings brought against them as charity trustees or against personal liability incurred in respect of any act or omission which is or is alleged to be in breach of trust or breach of duty, unless the Trustee concerned knew that, or was reckless whether, the act or omission was a breach of trust or breach of duty;
  - 4.1.26 subject to Articles 13 and 14, to employ paid or unpaid agents, staff or advisers;
  - 4.1.27 to enter into contracts to provide services to or on behalf of other bodies;
  - 4.1.28 to establish, support or acquire subsidiary companies;
  - 4.1.29 to pay the costs of forming the Charity;
  - 4.1.30 to open and operate bank accounts and banking facilities;
  - 4.1.31 to solicit and accept grants, donations, endowments, gifts, legacies and bequests of assets on any terms;
  - 4.1.32 to enter into any licence or sponsorship agreement;
  - 4.1.33 to enter into any contract or agreement (including any finance lease);
  - 4.1.34 to carry on any trade in so far as the trade is;
- (a) exercised in the course of the actual carrying out of the Objects of the Charity; or
  - (b) ancillary to the carrying out of the Objects; or
  - (c) not taxable trading.

## 5 **Limited liability**

- 5.1 The liability of the Members is limited to £1, being the amount each Member undertakes to contribute to the Charity's assets if the Charity shall be wound up while he, she or it is a Member, or within one year after he she or it ceases to be a Member, for payment of the Charity's debts and liabilities contracted before he, she or it ceases to be a Member and of the costs, charges and expenses of winding up and for the adjustment of the rights of the contributories among themselves.

### 5A **The IDC and Merigar West**

- 5A.1 The Charity is affiliated with both the IDC and Merigar West and adheres to the mission and guiding principles of the IDC founded by Chögyal Namkhai Norbu. The Charity is integrated with the organisational structure of the International Dzogchen Community but maintains its administrative autonomy. Within the international organisation structure are 'Gars' (being the main seats of the international Dzogchen community in a specific geographical area and which include Merigar West), and 'Lings' (being the local seats within a single country). The Charity recognises itself, so far as the law of England and Wales allows, as a 'Ling'. In addition to 'Gars' and 'Lings', the organisational structure of the international Dzogchen community includes associations, foundations, study centers, universities, cooperatives, companies and other institutions.
- 5A.2 The Charity brings together people who are committed to study and practice the 'Dzogchen Ati Teaching' under the guidance of a master possessing authentic knowledge of the state of Dzogchen and supports the evolution of individuals and promote social aims.
- 5A.3 The Charity is non-political and non-sectarian. It is founded on the principles of Dzogchen teaching as it has been transmitted by Prahevajra and by the uninterrupted lineage of the masters within Buddhist and Bön traditions down to Chögyal Namkhai Norbu.
- 5A.4 The Charity recognises the four noble truths, taught by the Buddha Guatama Siddhartha Shakyamuni (5th century B.C.), in his sermon at Sarnath, as an integral part of the basic principles of Dzogchen teaching, and promotes respect for the world's cultural and spiritual diversity through exchange and comparison without any prejudice.
- 5A.5 For the avoidance of doubt, such affiliation shall not place any obligation on:
- 5A.5.1 Merigar West or the IDC to assume any liability or obligation of the Charity save as may be specifically documented between the Charity and the IDC; or
- 5A.5.2 the Charity to assume any liability or obligation of Merigar West or the IDC save as may be specifically documented between the Charity and the IDC.
- 5A.6 Such affiliation shall not affect the duty of the Trustees, as charity trustees under the law of England and Wales to act at all times in the best interests of the Charity.
- 5A.7 The Charity acknowledges that:
- 5A.7.1 the right to use the Intellectual Property including but not limited to the name "International Dzogchen Community of Kunselling" is granted to the Charity by the IDC through a specific agreement;
- 5A.7.2 the Intellectual Property may only be used by the Charity according to the statute of the IDC, the 'Protocol for Affiliation' signed by the Charity and the IDC and ancillary documents published by the IDC from time to time relating to the use of the Intellectual Property; and

5A.7.3 the IDC has the right to revoke the right to use the Intellectual Property and to amend any ancillary documents published by the IDC from time to time relating to the use of the Intellectual Property.

## **6 Membership**

- 6.1 The number of Members with which the Charity is registered is unlimited.
- 6.2 The Charity must maintain a register of Members.
- 6.3 The Members of the Charity on the date of adoption of these Articles and such other persons as are admitted to membership by the Trustees shall be the Members of the Charity.
- 6.4 The Trustees shall determine the criteria for Membership of the Charity and in doing so, shall conform with the IDC's 'Membership Regulations' from time to time provided that where any such document conflicts with the law of England and Wales, law of England and Wales shall take precedence.
- 6.5 Every Member shall sign a written consent to become a Member and to become at the same time a member of the IDC and Merigar West. The part of the Membership fee to be respectively allocated to the IDC, Merigar West and the Charity will be defined by the IDC in consultation with Merigar West and the Trustees.
- 6.6 The Trustees and Chögyal Namkhai Norbu shall each have the right to terminate the Membership of any Member if they consider that such Member's continued Membership is not in the best interests of the Charity, provided always that the Member shall be heard before a final decision is made.
- 6.7 Notwithstanding Article 6.6, Membership is terminated if the Member concerned:
- 6.7.1 gives written notice of resignation to the Charity, Merigar West and the IDC; or
  - 6.7.2 fails to pay the annual comprehensive Membership fee which includes the Membership fee of the Charity, the Merigar West and the IDC; or
  - 6.7.3 dies; or
  - 6.7.4 within six months of being admitted to Membership by the Trustees, is given notice by the IDC in its complete discretion that his or her Membership is being terminated; or
  - 6.7.5 makes an arrangement or composition with his or her creditors and is removed by a resolution of the Trustees.
- 6.8 The decision to expel a Member may be taken, in consultation, by the Charity, Merigar West and the IDC on serious grounds including behaviour or activities in clear conflict with the aims of the Charity. Such expulsion shall take effect from the date of notification by the Charity or Merigar West or the IDC and the notification shall contain reasons why the expulsion has been made. The Member expelled may appeal against the expulsion within 30 days of the notification to the 'College of Guarantors' of the IDC and a final decision shall be made within 60 days of such appeal.
- 6.9 Membership of the Charity is not transferable.

6.10 The Trustees may admit such persons as they see fit as associate members in accordance with any criteria or rules set out by the Trustees from time to time, provided that associate members shall not be members of the Charity for the purposes of the Act and accordingly such membership shall not bestow upon any associate member the right to attend or vote on any matter at any general meeting of the Charity.

#### 6A **Amendments and alterations to the Articles**

6A.1 No alteration or addition shall be made to this Article 6A or to any of Articles 1, 3 or 21 by the Members in general meeting unless a majority of the Members have first indicated their approval to the change(s) in writing.

### 7 **General meetings**

7.1 The Charity shall hold a general meeting in every calendar year as its annual general meeting (**AGM**) and each AGM shall be held not more than fifteen months after the holding of the last preceding AGM.

7.2 Members are entitled to attend general meetings either personally or by proxy. General meetings are called on at least 14 clear days' written notice specifying the business to be discussed. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

7.3 A general meeting may be called at any time by the Trustees and must be called in accordance with the terms of the Act within 21 days of a written request from the Members made in accordance with the provisions of the Act.

#### 7.4 **Quorum**

7.4.1 There is a quorum at a general meeting if two-tenths of the total number of the Members (or eighteen Members if less) entitled to attend and vote at that meeting are present in person or by proxy. If the Charity has fewer than 18 Members, those Members present in person or by proxy shall constitute a quorum.

7.4.2 If within 15 minutes from the time appointed for the holding of a general meeting a quorum is not present, the meeting will be adjourned to such other day and at such time as the Board may determine. If at such adjourned meeting a quorum is not present within 15 minutes from the time appointed for holding the meeting the Members present in person or by proxy shall be a quorum.

#### 7.5 **Chair**

7.5.1 The Chair or (if the Chair is unable or unwilling to do so) some other Trustee elected by those present shall preside as chair at a general meeting. The Chair may, with the consent of a meeting at which a quorum is present, and shall if so directed by the meeting, adjourn any meeting from time to time and from place to place as the Chair shall determine.

#### 7.6 **Voting**

7.6.1 A resolution put to the vote of a meeting will be decided on a show of hands unless before or upon the declaration of the result of the show of hands a poll is demanded by:

- (a) the Chair;
- (b) at least five Members entitled to vote on the resolution present in person or by proxy; or
- (c) a Member or Members representing at least ten per cent of the total voting rights of all of the Members entitled to vote on the resolution present in person or by proxy.

7.6.2 Unless a poll is duly demanded a declaration by the Chair that a resolution has been carried unanimously or by a particular majority or lost or not carried by a particular majority and an entry to that effect in the minutes of the meeting shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against the resolution.

7.6.3 The demand for a poll may, before the poll is taken, be withdrawn but only with the consent of the Chair and a demand so withdrawn shall not be taken to have invalidated the result of a show of hands declared before the demand was made.

7.6.4 A poll shall be taken as the Chair directs. The result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.

7.6.5 A poll demanded on the election of a Chair or on a question of adjournment will be taken forthwith. A poll demanded on any other question will be taken either forthwith or at such time and place as the Chair directs not being more than 30 days after the poll is demanded. The demand for a poll will not prevent the continuance of a meeting for the transaction of any business other than the question on which the poll was demanded. If a poll is demanded before the declaration of the result of a show of hands and the demand is duly withdrawn, the meeting will continue as if the demand had never been made.

7.6.6 No notice need be given of a poll not taken forthwith if the time and place at which it is to be taken are announced at the meeting at which it is demanded. In any other case at least seven clear days' notice shall be given specifying the time and place at which the poll is to be taken.

7.6.7 Except for the Chair of the meeting, who in the event of an equality of votes has a second or casting vote, on a show of hands or a poll every Member present in person or by proxy shall have one vote.

7.6.8 No objection may be raised to the qualification of any person voting at a general meeting except at the meeting or adjourned meeting at which the vote objected to is tendered, and every vote not disallowed at the meeting is valid. Any such objection must be referred to the Chair of the meeting whose decision is final.

## 7.7 Proxy notices

7.7.1 Proxies may only validly be appointed by a notice in writing (a **proxy notice**) which:



- (a) states the name and address of the Member appointing the proxy;
- (b) identifies the person appointed to be that Member's proxy and the general meeting in relation to which that person is appointed;
- (c) is signed by or on behalf of the Member appointing the proxy or is authenticated in such manner as the directors may determine; and
- (d) is delivered to the Charity in accordance with these Articles and any instructions contained in the notice of the general meeting to which they relate.

7.7.2 The Charity may require proxy notices to be delivered in a particular form, and may specify different forms for different purposes.

7.7.3 Proxy notices may specify how the proxy appointed under them is to vote (or that the proxy is to abstain from voting) on one or more resolutions.

7.7.4 Unless a proxy notice indicates otherwise, it must be treated as:

- (a) allowing the person appointed under it as a proxy discretion as to how to vote on any ancillary or procedural resolutions put to the meeting; and
- (b) by appointing that person as a proxy in relation to any adjournment of the general meeting to which it relates, as well as to the meeting itself.

7.7.5 A person who is entitled to speak, attend or vote (either on a show of hands or on a poll) at a general meeting remains so entitled in respect of that meeting or any adjournment of it, even though a valid proxy notice has been delivered to the Charity by or on behalf of that person.

7.7.6 An appointment under a proxy notice may be revoked by delivering to the Charity a notice in writing given by or on behalf of the person by whom or on whose behalf the proxy notice was given.

7.7.7 A notice revoking a proxy appointment only takes effect if it is delivered before the start of the meeting or adjourned meeting to which it relates.

7.7.8 If a proxy notice is not executed by the person appointing the proxy, it must be accompanied by written evidence of the authority of the person who executed it to execute it on the appointer's behalf.

## 7.8 Written resolutions

7.8.1 A written resolution passed in accordance with the Act is as valid as a resolution actually passed at a general meeting (and for this purpose the written resolution may be set out in more than one document). A written resolution passed under this Article will lapse if not passed before the end of six calendar months beginning with the circulation date (as defined in section 290 of the Companies Act 2006).

## 8 Trustees

- 8.1 The Trustees are the charity trustees of the Charity and have control of the Charity and its property and funds. Within the international organisational structure of the IDC, the Trustees are known as the 'gakyil' which takes its name from a traditional Tibetan symbol: a circle with three crescents of different colours (yellow, red and blue). Each colour represents an area of competence that the 'gakyil' should have.
- 8.2 All Trustees shall:
- 8.2.1 be Members of the Charity;
  - 8.2.2 subject to Article 5A, have those qualifications as defined by 'The Dzogchen Community, Principles and Guidelines for Practitioners and Gakyil Members (published by Shang Shung Editions, Italy)'; and
  - 8.2.3 subject to Article 5A, abide by the principles and guidelines set out in the statute of the IDC and ancillary documents published by the IDC from time to time provided that where the statute of the IDC and/or any such document conflicts with the law of England and Wales, the law of England and Wales shall take precedence.
- 8.3 The Board shall consist of not more than nine and not less than three Trustees elected by the Members in accordance with Article 8,6 (the **Elected Trustees**).
- 8.4 From the adoption of these Articles, the existing Trustees shall continue to hold office on their existing terms.
- 8.5 The Elected Trustees shall be elected by a resolution of the Members at the AGM and, subject to Articles 8.7 and 8.9, shall hold office until the end of the second AGM of the Charity following the AGM at which they were appointed but shall be eligible for re-election.
- 8.6 Subject to Article 8.2, the Trustees may appoint any individual as a Trustee to fill a vacancy on the Board and, subject to Articles 8.7 and 8.9, shall hold office until the end of the first AGM of the Charity following their appointment, but shall be eligible for re-election as an Elected Trustee.
- 8.7 After a Trustee has served two consecutive terms in office, or otherwise vacates office, he shall be eligible for re-election only after two years have elapsed since he retired as a Trustee. For the avoidance of doubt, any term of office of a Trustee appointed pursuant to Article 8.6 shall not count towards the two consecutive terms of office.
- 8.8 Every Trustee shall sign a written consent to become a Trustee. Every Trustee will hold office until he or she vacates office in accordance with Article 8.9.
- 8.9 A Trustee's term of office automatically terminates if he or she:
- 8.9.1 is disqualified under the Charities Act 2011 from acting as a charity trustee;
  - 8.9.2 a registered medical practitioner who is treating that person gives a written opinion to the Trustees stating that that person has become physically or mentally incapable of acting as a Trustee and may remain so for more than three months;
  - 8.9.3 is absent from two consecutive meetings of the Board without the consent of the Trustees and the Trustees resolve that his or her office is vacated;

- 8.9.4 is removed as a Trustee by the Members pursuant to the Act;
  - 8.9.5 resigns by written notice to the Trustees (but only if at least three Trustees will remain in office);
  - 8.9.6 becomes bankrupt, has an interim receiving order made against him or her, makes any arrangement or compounds with his or her creditors generally or applies to the court for an interim order in respect of a voluntary arrangement;
  - 8.9.7 is convicted of an offence and the Trustees shall resolve that it is undesirable in the interests of the Charity that he or she remains a Trustee of the Charity;
  - 8.9.8 ceases to be a Member of the Charity;
  - 8.9.9 is removed by unanimous resolution of the other Trustees; or
  - 8.9.10 is directed to resign by the Chögyal Namkhai Norbu.
- 8.10 A technical defect in the appointment of a Trustee of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting of the Board.

## 9 Proceedings of the Board

- 9.1 The Trustees shall meet as often as necessary each year. Any Trustee may call a meeting of the Board by giving notice of the meeting to the Trustees or by authorising the Secretary (if any) to give such notice provided that:
- 9.1.1 such notice must indicate the proposed date, time and location of the meeting and, if it is anticipated that Trustees participating in the meeting will not be in the same place, how it is proposed that they should communicate with each other during the meeting;
  - 9.1.2 such notice must be given to each Trustee, but need not be in writing; and
  - 9.1.3 such notice need not be given to Trustees who waive their entitlement to notice of that meeting by giving notice to that effect to the Charity not more than seven days after the date on which the meeting is held (and where such notice is given after the meeting has been held, that does not affect the validity of the meeting, or of any business conducted at it).
- 9.2 The quorum necessary at a meeting of the Board shall be determined by the Board and unless and until otherwise determined shall be three or one-half of the total number of Trustees whichever is greater. If the total number of Trustees for the time being is less than the quorum required, the Trustees must not take any decision other than a decision to:
- 9.2.1 call a general meeting to enable the Members to appoint further Trustees;
  - 9.2.2 to call a meeting of the Trustees to enable the Trustees to appoint further Trustees in accordance with Article 8,6;
  - 9.2.3 appoint an administrator, administrative or other receiver or a licensed insolvency practitioner in any other role relating to the

Charity recognised by the relevant insolvency, company, property or charity legislation as from time to time in force;

provided always that in all other respects, the provisions of these Articles in relation to the calling of meetings of the Board shall be complied with.

- 9.3 A meeting of the Board may be held either in person or by suitable electronic means agreed by the Trustees in which all Trustees participating in the meeting may communicate with all the other participants. If all the Trustees participating in a meeting are not in the same place, they may decide that the meeting is to be treated as taking place wherever any of them is.
- 9.4 The Chair or (if the Chair is unable or unwilling to do so) some other Trustee chosen by the Trustees present will preside as chair at each meeting.
- 9.5 Subject to Article 9.7.1, every decision of the Trustees shall be by a simple majority of the votes cast at a meeting.
- 9.6 Every Trustee has one vote on each issue except for the Chair of the meeting, who in the event of an equality of votes has a second or casting vote (unless the Chair of the meeting is in accordance with these Articles not to be counted as participating in the decision-making process for quorum or voting purposes).
- 9.7 **Decisions without a meeting**
- 9.7.1 The Trustees may take a unanimous decision without holding a Trustees' meeting by indicating to each other by any means, including without limitation by electronic means, that they share a common view on a matter. Such decisions may, but need not, take the form of a resolution in writing, copies of which have been signed by each Trustee or to which each Trustee has otherwise indicated agreement in writing. A decision made in accordance with this Article 9.7.1 shall be as valid and effectual as if it has been passed at a meeting duly convened and held, provided the following conditions are complied with:
- (a) approval from each Trustee must be received by the Chair, or if the Chair is unable or unwilling to do so, some other Trustee nominated in advance by the Trustees for that purpose (**Recipient**);
  - (b) following receipt of the response from all of the Trustees, the Recipient shall communicate to all of the Trustees by any means whether the resolution has been formally approved by the Trustees in accordance with this Article 9.7.1;
  - (c) the date of the decision shall be the date of the communication from the Recipient confirming formal approval; and
  - (d) the Recipient prepares a minute of the decision and circulates it to the Trustees and the Secretary.
- 9.8 A procedural defect of which the Trustees are unaware at the time does not invalidate decisions taken at a meeting.
- 9.9 **Identification of representatives to IDC executive bodies**

- 9.9.1 If requested to do so, the Trustees shall identify candidates from amongst the Members to represent the Charity on IDC executive bodies.

## 10 Powers of Trustees

10.1 The Trustees have the following powers in the administration of the Charity:

- 10.1.1 to appoint (and remove) any person (who may also be a Trustee) or corporate entity to act as Secretary to the Charity in accordance with the Act;
- 10.1.2 to appoint a Chair and Vice-Chair from among their number;
- 10.1.3 to appoint a treasurer, patron and other honorary offices;
- 10.1.4 to make standing orders consistent with these Articles and the Act to govern proceedings at general meetings;
- 10.1.5 to make rules consistent with these Articles and the Act to govern proceedings at meetings of the Board and of committees;
- 10.1.6 to make regulations consistent with these Articles and the Act to govern the administration of the Charity; and
- 10.1.7 to exercise any powers of the Charity which are not reserved to a general meeting.

## 11 Delegation

11.1 Subject to these Articles, the Board may delegate any of the powers conferred on it by these Articles to such person, by such means, to such an extent, in relation to such matters and on such terms of reference as the Trustees think fit and, if the Board so specifies, any such delegation may authorise future delegation of the Trustees' powers by any person to whom they are delegated.

11.2 The Board may also delegate to any committee consisting of two or more Members appointed by the Board any of its functions (including any powers or discretions) for such time and on such terms of reference as it thinks fit (including any requirement that a resolution of the committee shall not be effective unless a majority of those present when it is passed are Trustees or it is ratified by the Board) provided that:

- 11.2.1 all proceedings of every committee must be reported promptly to the Trustees; and
- 11.2.2 every committee must act in accordance with the terms of reference on which any function is delegated to it (but, subject to that, the proceedings of the committee will be governed by such of these Articles as regulate the proceedings of the Board so far as they are capable of applying).

11.3 The Board may at any time revoke any delegation in whole or part or alter its terms.

## 12 Advisory board

12.1 The Board may establish an advisory board comprising individuals who, in the opinion of the Board, have relevant experience in dealing with issues affecting the Charity. An advisory board shall have none of the rights or powers exercisable by a committee of the Board other

than a power to advise the Board on any matters which have been referred to it by the Board. The members of an advisory board shall not, unless they are also Trustees, have the duties and responsibilities of company directors or charity trustees. Subject to any terms and conditions expressly imposed by the Board, the proceedings of any advisory boards shall be governed by such of these Articles as regulate the proceedings of the Board so far as they are capable of applying.

### **13 Benefits to Members**

13.1 The income and property of the Charity must only be applied to promote the Objects and no part of that income or property may be paid, transferred or applied by way of Benefit to any Member but:

- 13.1.1 a Member who is not also a Trustee may be employed by or enter into contracts with the Charity and receive reasonable payment for goods or services supplied;
- 13.1.2 a Member (including a Member who is also a Trustee) may be paid interest at a reasonable rate on money lent to the Charity;
- 13.1.3 a Member (including a Member who is also a Trustee) may be paid a reasonable rent or hiring fee for property let or hired to the Charity;
- 13.1.4 a Member (including a Member who is also a Trustee) may receive any Benefit in their capacity as a beneficiary of the Charity; and
- 13.1.5 another charity of which a Member (including a Member who is also a Trustee) is a charity trustee or member may receive any Benefit which is in furtherance of the Objects and does not confer any Benefit on the Member.

13.2 In this Article, references to a Member or Trustee include references to any person who is Connected to that Member or Trustee.

### **14 Benefits to Trustees**

14.1 The income and property of the Charity must only be applied to promote the Objects and no part of that income or property may be paid, transferred or applied by way of Benefit to any Trustee except:

- 14.1.1 reasonable and proper premiums in respect of indemnity insurance provided in accordance with these Articles;
- 14.1.2 reimbursement of reasonable out-of-pocket expenses (including hotel and travel costs) properly incurred in the management and administration of the Charity;
- 14.1.3 an indemnity in accordance with these Articles;
- 14.1.4 payment to any company in which a Trustee has no more than a 1 % shareholding; and
- 14.1.5 other payments or benefits permitted by charity law or with the prior consent of the Commission;

provided that the Trustees must comply with the provisions of Articles 15, 16 and 17 (declaration of Interests and authorisation of Conflicts of Interest) in relation to any Benefit provided by the Charity to any Trustee pursuant to this Article.

14.2 The income and property of the Charity must only be applied to promote the Objects and no part of that income or property may be paid, transferred or applied by way of Benefit to any Trustee except:

14.2.1 interest at a reasonable rate on money lent to the Charity;

14.2.2 a reasonable rent or hiring fee for property let or hired to the Charity;

14.2.3 any Benefit provided to a Trustee in his or her capacity as a beneficiary of the Charity; and

14.2.4 in respect of the provision of goods or services in accordance with Article 14.3;

provided that the Trustees must comply with the provisions of Articles 15, 16 and 17 (declaration of Interests and authorisation of Conflicts of Interest) in relation to any Benefit provided by the Charity to any Trustee pursuant to this Article.

14.3 For the avoidance of doubt, nothing in this Article 14 shall prevent the Charity, in furtherance of the Objects, from conferring a Benefit on another charity of which a Trustee is a charity trustee or member, provided that it does not confer any Benefit on that Trustee.

14.4 Any Trustee may enter into a written contract with the Charity to supply goods or services to the Charity in return for a Benefit but only if:

14.4.1 the goods or services are actually required by the Charity;

14.4.2 the nature and level of the remuneration is no more than is reasonable in relation to the value of the goods or services supplied;

14.4.3 the Trustee has declared his or her Interest in accordance with Article 15 and the Trustees have complied with the procedure in Article 17.3;

14.4.4 no more than half of the Trustees are subject to or affected by such a contract in any financial year (and this provision will apply to a Trustee if this Article 14.3 applies to a person who is Connected to that Trustee); and

14.4.5 the services supplied are not services supplied by the Trustee in his / her capacity as a Trustee; and

14.4.6 the services supplied are not services supplied by the Trustee under a contract of employment;

provided that the Trustees must comply with the provisions of Articles 15, 16 and 17 (declaration of Interests and authorisation of Conflicts of Interest) in relation to any Benefit provided by the Charity to any Trustee pursuant to this Article.

14.5 A Trustee or Member shall not receive a Benefit from any Subsidiary Company except in accordance with Article 13 for a Member or Articles 14.1 and 14.2 for a Trustee (all of which apply as if references to the Charity were references to the Subsidiary Company and references to the Articles were to the articles of association of the Subsidiary Company).

14.6 In this Article, references to a Member or Trustee include references to any person who is Connected to that Member or Trustee.

14.7 This Article may not be amended without prior written consent of the Commission.

## 15 Declaration of Interests

- 15.1 Every Trustee has a duty to declare to the Trustees the nature and extent of any Interest which he or she (or any Connected Person) has in any proposed or existing transaction or arrangement with the Charity or any situation or matter in relation to the Charity that is, or possibly may be, a Conflict of Interest.
- 15.2 In the case of any proposed transaction or arrangement with the Charity in which a Trustee (or any Connected Person) is Interested, he or she must declare the nature and extent of the Interest to the Trustees before the Charity enters into the transaction or arrangement.
- 15.3 In the case of any existing transaction or arrangement that has been entered into by the Charity or any situation or matter in relation to the Charity in which a Trustee (or any Connected Person) is Interested, he or she must declare the nature and extent of the Interest to the Trustees as soon as is reasonably practicable.
- 15.4 Any declaration must be made in accordance with the provisions of the Act:
- 15.4.1 at a meeting of the Board; or
  - 15.4.2 by notice in writing to the Trustees; or
  - 15.4.3 by general notice to the Trustees.
- 15.5 A Trustee is not required to declare an Interest:
- 15.5.1 where the Trustee is not aware of the Interest (but the Trustee is treated as being aware of matters of which he ought reasonably to be aware); or
  - 15.5.2 where the Trustee is not aware of the transaction or arrangement or situation or matter (but the Trustee is treated as being aware of matters of which he ought reasonably to be aware); or
  - 15.5.3 if, or to the extent that, the other Trustees are already aware of the Interest (or ought reasonably to be aware of the Interest).
- 15.6 The Charity will maintain a register of all of the Interests declared by the Trustees in accordance with this Article. The Trustees may prepare (and from time to time review) a policy in relation to the declaration and management of Conflicts of Interest.

## 16 Conflicts of Interest

- 16.1 Subject to Articles 16.2 and 17, a Trustee has a duty under the Act to avoid a situation or matter (including a transaction or arrangement with the Charity) in which he or she has, or can have, a Conflict of Interest. This duty applies to the exploitation of any property, information or opportunity (and it is immaterial whether the Charity could take advantage of the property, information or opportunity).
- 16.2 Pursuant to section 181(3) of the Companies Act 2006, the duty referred to in Article 16.1 does not apply to a Conflict of Interest arising in relation to any situation or matter or any transaction or arrangement between the Charity and any Trustee which is mentioned in Article 14.1 of these Articles.



## 17 Authorisation of Conflicts of Interest

- 17.1 The Trustees may authorise a transaction or arrangement or situation or matter in which a Trustee (or any person Connected to that Trustee) has, or may have, a Conflict of Interest provided that:
- 17.1.1 the Conflict of Interest will not confer a Benefit on the Trustee or any Connected Person at the expense of the Charity to an extent greater than that permitted by Article 14 of these Articles;
  - 17.1.2 the Trustees act in what they consider to be the best interests of the Charity; and
  - 17.1.3 the Trustees comply with the procedures set out in this Article 17.
- 17.2 Whenever the Trustees must decide whether to give the authorisation in accordance with Article 17.1 the Trustee concerned must:
- 17.2.1 declare the nature and extent of his or her Interest at the beginning of any meeting at which the authorisation is to be discussed (or, at the latest, before such discussion begins);
  - 17.2.2 withdraw from that part of the meeting at which the authorisation is to be discussed unless expressly invited to remain in order to provide information;
  - 17.2.3 not be counted in the quorum for that part of the meeting during which the authorisation is discussed;
  - 17.2.4 withdraw during the vote and have no vote on the authorisation for that part of the meeting; and
  - 17.2.5 not sign any written resolution in relation to the authorisation (except where required to do so to confirm a resolution of the other Trustees).
- 17.3 The Trustees may also exclude the relevant Trustee from the receipt of information in relation to the relevant transaction, arrangement, situation or matter.
- 17.4 In giving any authorisation in accordance with Article 17.1 in relation to any transaction or arrangement or situation or matter in which a Trustee (or any person Connected to that Trustee) has, or may have, a Conflict of Interest and which will or may confer a Benefit on that Trustee (or Connected Person), the Trustees must provide that the Trustee concerned will:
- 17.4.1 declare the nature and extent of his or her Interest at the beginning of any meeting at which the relevant transaction or arrangement or situation or matter is to be discussed (or, at the latest, before such discussion begins);
  - 17.4.2 withdraw from that part of any meeting at which the relevant transaction or arrangement or situation or matter is to be discussed unless expressly invited to remain in order to provide information;
  - 17.4.3 not be counted in the quorum for that part of any meeting during which the relevant transaction or arrangement or situation or matter is discussed;

- 17.4.4 withdraw during the vote and have no vote on the relevant transaction or arrangement or situation or matter at the relevant part of any meeting; and
  - 17.4.5 not sign any written resolution in relation to the relevant transaction or arrangement or situation or matter (except where required to do so to confirm a resolution of the other Trustees).
- 17.5 In giving the authorisation under Article 17.1 in relation to a transaction or arrangement or situation or matter in which a Trustee (or any person Connected to a Trustee) has, or may have, a Conflict of Interest which will not confer a Benefit on that Trustee (or Connected Person), the Trustees may (subject to such terms as they may impose from time to time and to their right to vary or terminate such authorisation) determine the manner in which they may be dealt with and, in doing so, the Trustees must consider:
  - 17.5.1 whether the nature and extent of the interest in the relevant transaction or arrangement or situation or matter is reasonably likely to give rise to a Conflict of Interest;
  - 17.5.2 whether or not the Trustee should withdraw from that part of any meeting at which the relevant transaction or arrangement or situation or matter is to be discussed unless expressly invited to remain in order to provide information;
  - 17.5.3 whether or not the Trustee should be excluded from the receipt of information in relation to the relevant transaction, arrangement, situation or matter;
  - 17.5.4 whether or not the Trustee should be counted in the quorum for that part of any meeting during which the relevant transaction or arrangement or situation or matter is discussed; and
  - 17.5.5 whether or not the Trustee should withdraw during the vote and have no vote on the relevant transaction or arrangement or situation or matter at the relevant part of any meeting.

## **18 Records and accounts**

- 18.1 The Trustees must comply with the requirements of the Act and of the Charities Act 2011 as to keeping financial records, the audit of accounts and the preparation and transmission to the Registrar of Companies and the Commission of:
  - 18.1.1 annual reports;
  - 18.1.2 annual returns; and
  - 18.1.3 annual statements of account.
- 18.2 The Trustees must keep proper records of:
  - 18.2.1 all proceedings at general meetings;
  - 18.2.2 all proceedings at meetings of the Board (including a record of all unanimous or majority decisions taken by the Board for at least ten years from the date of the decision recorded);
  - 18.2.3 all reports of committees; and

18.2.4 all professional advice obtained.

18.3 Accounting records relating to the Charity must be made available for inspection by any Trustee at any reasonable time during normal office hours.

18.4 A copy of the Charity's latest available statement of account must be supplied on request to any Trustee or Member, or to any other person who makes a written request and pays the Charity's reasonable costs, within two months of such request.

## 19 Notices

19.1 Notices, documents, resolutions or information under these Articles may be sent or supplied to Trustees by hand, or by post or by suitable electronic means.

19.2 A technical defect in the giving of notice of a meeting of which the Trustees are unaware at the time does not invalidate decisions taken at that meeting.

19.3 The Charity may deliver a notice or other document to a Member by:

19.3.1 delivering it personally to the Member;

19.3.2 post or hand delivery to the Member's address shown in the register of Members;

19.3.3 electronic mail to an address notified by the Member in writing; or

19.3.4 by means of a website in accordance with Articles 19.4 and 19.5.

19.4 Notices, resolutions, documents or information may be sent or supplied to Members by means of a website provided that a Member has consented to receive notices, resolutions, documents or information in that way. A Member will be deemed to have agreed to receive notices, resolutions, documents and information in this way where they have been asked individually by the Charity to agree to receive notices, resolutions, documents and information through a website and the Charity has not received a response within the period of 28 days beginning with the date on which the Charity's request was sent. A Member is not taken to have so agreed if the Charity's request did not state clearly what the effect of a failure to respond would be, or was sent less than 12 months after a previous request was made.

19.5 Where any notice, resolution, document or other information is to be sent or supplied by means of a website, a Member shall be notified in accordance with Articles 19.3.1, 19.3.2 or 19.3.3 of:

19.5.1 its presence on the website;

19.5.2 the address of the website;

19.5.3 the place on the website where it may be accessed; and

19.5.4 how to access it.

19.6 Any notice, resolution, document or other information sent or supplied by means of a website shall be deemed to have been received by the Member when the notice, resolution, document or other information is first made available on the website or, if later, when the Member is deemed to have received the notification given under Article 19.5 in accordance with the relevant provisions of 19.7.

19.7 Subject to Article 19.6, any notice, resolution, document or other information sent or supplied to Members in accordance with these Articles is to be treated for all purposes as having been received:

19.7.1 24 hours after being sent by electronic means or delivered by hand to the relevant address;

19.7.2 two clear days after being sent by first class post to that address;

19.7.3 three clear days after being sent by second class or overseas post to that address;

19.7.4 on being handed to the Member personally; or, if earlier

19.7.5 as soon as the Member acknowledges actual receipt.

## 20 Indemnity

20.1 The Charity may indemnify any Trustee against any liability incurred by him or her in that capacity, to the extent permitted by the Act.

## 21 Dissolution

21.1 The Members may (subject to a majority of the Members having first indicated their approval in writing) at any time before, and in expectation of, its dissolution resolve that any net assets of the Charity after all its debts and liabilities have been paid, or provision has been made for them, shall on or before the dissolution of the Charity be applied or transferred in any of the following ways:

21.1.1 Directly for the Objects; or

21.1.2 By transfer to any charity or charities for purposes similar to the Objects; or

21.1.3 To any charity or charities for use for particular purposes that fall within the Objects.

21.2 Subject to any such resolution of the Members, the Trustees (subject to a majority of the Members having first indicated their approval in writing) may at any time before, and in expectation of, its dissolution resolve that any net assets of the Charity after all its debts and liabilities have been paid, or provision has been made for them, shall on or before the dissolution of the Charity be applied or transferred in any of the following ways:

21.2.1 Directly for the Objects; or

21.2.2 By transfer to any charity or charities for purposes similar to the Objects; or

21.2.3 To any charity or charities for use for particular purposes that fall within the Objects.

21.3 In no circumstances shall the net assets of the Charity be paid to or distributed among the Members (except to a Member that is itself a charity) and if no resolution in accordance with article 20.1 or 20.2 is passed by the Members or the Trustees the net assets of the Charity shall be applied for charitable purposes as directed by the Court or the Commission.

21.4 A final report and statement of account must be sent to the Commission.

## 22 **Model articles**

- 22.1 The model articles for private companies limited by guarantee contained in schedule 2 of the Companies (Model Articles) Regulations 2008 (SI 2008/3229) shall not apply to the Charity.

## 23 **Interpretation**

- 23.1 In these Articles:

**the Act:** means the Companies Act 2006 and any provisions of the Companies Act 1985 for the time being in force

**these Articles:** means these articles of association

**Benefit:** means any payment of money or the provision or other application of any other direct or indirect benefit in money or money's worth

**Board:** means the board of trustees of the Charity

**Chair:** means the Chair of the Board appointed in accordance with Article 10.1.2

**the Charity:** means the company governed by these Articles

**charity trustee:** has the meaning prescribed by section 177 of the Charities Act 2011

**clear day:** means 24 hours from midnight following the relevant event

**the Commission:** means the Charity Commission for England and Wales

**Conflict of Interest:** means any Interest of a Trustee (or any person Connected to a Trustee) that conflicts, or may conflict, with the interests of the Charity and includes a conflict of interest and duty and a conflict of duties

**Connected Person:** means any person falling within one of the following categories:

- (a) any spouse or civil partner of a Trustee or a Member;
- (b) any parent, child, brother, sister, grandparent or grandchild of a Trustee or Member who is financially dependent on such Trustee or Member or on whom the Trustee or Member is financially dependent;
- (c) the spouse or civil partner of any person in (b);
- (d) any other person in a relationship with a Trustee or Member which may reasonably be regarded as equivalent to that of a spouse or civil partner; or
- (e) any company, LLP or partnership of which a Trustee or Member is a paid director, member, partner or employee or a holder of more than 1% of the share capital or capital; and

any person who is a Connected Person in relation to any Trustee or Member is referred to in these Articles as **Connected** to that Trustee or Member

**IDC:** means the International Dzogchen Community, an international not for profit organisation founded by Chögyal Namkhai Norbu in Italy.

**Intellectual Property:** means the intellectual property of the IDC including, but not limited to, name, trademarks, logos, brands, web sites and web domains.

**Interest:** means any direct or indirect interest (and includes any interest a Trustee or any person Connected to a Trustee may have as a consequence of any duty he or she may owe to any other person) and where a Trustee (or any person Connected to a Trustee) has any such interest in any matter or situation or transaction or arrangement the Trustee is **Interested** in it

**Merigar West:** means the Comunità Dzogchen di Merigar, the West European Dzogchen Community, a not for profit organisation.

**Member** and **Membership** refer to the members of the Charity for the purposes of, and as defined by, the Act and their membership of the Charity

**month:** means calendar month

**Secretary:** means the secretary of the Charity or if no secretary has been appointed, the person to carry out the duties of the secretary of the Charity

**Subsidiary Company:** means any company in which the Charity holds:

- (a) more than 50% of the shares; or
- (b) more than 50% of the voting rights attached to the shares; or
- (c) the right to appoint one or more of the directors.

**taxable trading:** means carrying on a trade or business in such manner or on such a scale that some or all of the profits are subject to corporation tax

**Trustee:** means each of the directors of the Charity under the Act (and **Trustees** means all of the directors)

**written** or **in writing:** refers to a legible document on paper (including a fax message) or in electronic form (including an email)

**year:** means calendar year.

23.2 Expressions defined in the Act have the same meaning.

23.3 References to an Act of Parliament are to the relevant Act as amended or re-enacted from time to time and to any subordinate legislation made under it.