

**INCORPORATION AGREEMENT WITH ARTICLES**

INCORPORATION AGREEMENT

The undersigned incorporator wishes to form a company under the *Business Corporations Act* (British Columbia) in accordance with the terms of this agreement.

1. The name of the Company will be “West Kelowna Economic Development Corporation”.
2. The articles of the Company will be those articles signed by the incorporator and attached to this agreement.
3. The authorized capital of the Company will consist of:

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4. The incorporator agrees to take the number and kind of shares in the Company set out opposite their name *[optional—at an issue price of \$[amount] per share]*.

_____	Date: _____
Signature of Incorporator	
Name of Incorporator: _____	Number and kind of shares taken: _____

*Incorporation number: [number]*

*West Kelowna Economic Development Corporation*  
**(the “Company”)**

ARTICLES

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**1. Interpretation**

**1.1 Definitions**

In these Articles, unless the context otherwise requires:

- (1) **“appropriate person”** has the meaning assigned in the *Securities Transfer Act*;
- (2) **“board of directors”, “directors”, and “board”** mean the directors or sole director of the Company for the time being;
- (3) **“Business Corporations Act”** means the *Business Corporations Act* (British Columbia) from time to time in force and all amendments thereto and includes all regulations and amendments thereto made pursuant to that Act;

- (4) **“Interpretation Act”** means the *Interpretation Act* (British Columbia) from time to time in force and all amendments thereto and includes all regulations and amendments thereto made pursuant to that Act;
- (5) **“legal personal representative”** means the personal or other legal representative of a shareholder;
- (6) **“protected purchaser”** has the meaning assigned in the *Securities Transfer Act*;
- (7) **“registered address”** of a shareholder means the shareholder’s address as recorded in the central securities register;
- (8) **“resolution”** refers, for clarity, to a resolution of the shareholders of the applicable type, unless otherwise expressly stated in these Articles to be a directors resolution;
- (9) **“seal”** means the seal of the Company, if any; and
- (10) **“Securities Transfer Act”** means the *Securities Transfer Act* (British Columbia) from time to time in force and all amendments thereto and includes all regulations and amendments thereto made pursuant to that Act.

## **1.2 Business Corporations Act and Interpretation Act Definitions Applicable**

The definitions in the *Business Corporations Act* and the definitions and rules of construction in the *Interpretation Act*, with the necessary changes, so far as applicable, and unless the context requires otherwise, apply to these Articles as if they were an enactment. If there is a conflict between a definition in the *Business Corporations Act* and a definition or rule in the *Interpretation Act* relating to a term used in these Articles, the definition in the *Business Corporations Act* will prevail in relation to the use of the term in these Articles. If there is a conflict or inconsistency between these Articles and the *Business Corporations Act*, the *Business Corporations Act* will prevail.

## **2. Shares and Share Certificates**

### **2.1 Authorized Share Structure**

The authorized share structure of the Company consists of shares of the class or classes and series, if any, described in the Notice of Articles of the Company.

### **2.2 Form of Share Certificate**

Each share certificate issued by the Company must comply with, and be signed as required by, the *Business Corporations Act*.

### **2.3 Shareholder Entitled to Certificate or Acknowledgment**

Unless the shares of which the shareholder is the registered owner are uncertificated shares within the meaning of the *Business Corporations Act*, each shareholder is entitled, without charge, to (a) one share certificate representing the shares of each class or series of shares registered in the shareholder’s name

or (b) a non-transferable written acknowledgment of the shareholder's right to obtain such a share certificate, provided that in respect of a share held jointly by several persons, the Company is not bound to issue more than one share certificate or acknowledgment and delivery of a share certificate, or an acknowledgment to one of several joint shareholders or to a duly authorized agent of one of the joint shareholders will be sufficient delivery to all.

#### **2.4 Delivery by Mail**

Any share certificate or non-transferable written acknowledgment of a shareholder's right to obtain a share certificate may be sent to the shareholder by mail at the shareholder's registered address and neither the Company nor any director, officer, or agent of the Company is liable for any loss to the shareholder because the share certificate or acknowledgement is lost in the mail or stolen.

#### **2.5 Replacement of Worn Out or Defaced Certificate or Acknowledgement**

If the directors are satisfied that a share certificate or a non-transferable written acknowledgment of the shareholder's right to obtain a share certificate is worn out or defaced, they must, on production to them of the share certificate or acknowledgment, as the case may be, and on such other terms, if any, as they think fit:

- (1) order the share certificate or acknowledgment, as the case may be, to be cancelled; and
- (2) issue a replacement share certificate or acknowledgment, as the case may be.

#### **2.6 Replacement of Lost, Destroyed, or Wrongfully Taken Certificate**

If a person entitled to a share certificate claims that the share certificate has been lost, destroyed, or wrongfully taken, the Company must issue a new share certificate, if that person:

- (1) so requests before the Company has notice that the share certificate has been acquired by a protected purchaser;
- (2) provides the Company with an indemnity bond sufficient in the Company's judgment to protect the Company from any loss that the Company may suffer by issuing a new certificate; and
- (3) satisfies any other reasonable requirements imposed by the directors.

A person entitled to a share certificate may not assert against the Company a claim for a new share certificate where a share certificate has been lost, apparently destroyed, or wrongfully taken if that person fails to notify the Company of that fact within a reasonable time after that person has notice of it and the Company registers a transfer of the shares represented by the certificate before receiving a notice of the loss, apparent destruction, or wrongful taking of the share certificate.

#### **2.7 Recovery of New Share Certificate**

If, after the issue of a new share certificate, a protected purchaser of the original share certificate presents the original share certificate for the registration of transfer, then in addition to any rights under the

indemnity bond, the Company may recover the new share certificate from a person to whom it was issued or any person taking under that person other than a protected purchaser.

## **2.8 Splitting Share Certificates**

If a shareholder surrenders a share certificate to the Company with a written request that the Company issue in the shareholder's name two or more share certificates, each representing a specified number of shares and in the aggregate representing the same number of shares as represented by the share certificate so surrendered, the Company must cancel the surrendered share certificate and issue replacement share certificates in accordance with that request.

## **2.9 Certificate Fee**

There must be paid to the Company, in relation to the issue of any share certificate under Articles 2.5, 2.6, or 2.8, the amount, if any and which must not exceed the amount prescribed under the *Business Corporations Act*, determined by the directors.

## **2.10 Recognition of Trusts**

Except as required by law or statute or these Articles, no person will be recognized by the Company as holding any share upon any trust, and the Company is not bound by or compelled in any way to recognize (even when having notice thereof) any equitable, contingent, future, or partial interest in any share or fraction of a share or (except as required by law or statute or these Articles or as ordered by a court of competent jurisdiction) any other rights in respect of any share except an absolute right to the entirety thereof in the shareholder.

## **3. Issue of Shares**

### **3.1 Directors Authorized**

Subject to the *Business Corporations Act* and the rights of the Shareholder and the Company, the Company may issue, allot, sell, or otherwise dispose of the unissued shares, and issued shares held by the Company, to the Shareholder, in the manner, on the terms and conditions and for the issue prices (including any premium at which shares with par value may be issued) that the directors may determine. The issue price for a share with par value must be equal to or greater than the par value of the share.

### **3.2 Conditions of Issue**

Except as provided for by the *Business Corporations Act*, no share may be issued until it is fully paid. A share is fully paid when:

- (1) consideration is provided to the Company for the issue of the share by one or more of the following:
  - (a) past services performed for the Company;
  - (b) property;

- (c) money; and
- (2) the value of the consideration received by the Company equals or exceeds the issue price set for the share under Article 3.1.

#### **4. Share Registers**

##### **4.1 Central Securities Register**

As required by and subject to the *Business Corporations Act*, the Company must maintain a central securities register. The directors may, subject to the *Business Corporations Act*, appoint an agent to maintain the central securities register. The directors may also appoint one or more agents, including the agent which keeps the central securities register, as transfer agent for its shares or any class or series of its shares, as the case may be, and the same or another agent as registrar for its shares or such class or series of its shares, as the case may be. The directors may terminate such appointment of any agent at any time and may appoint another agent in its place.

##### **4.2 Closing Register**

The Company must not at any time close its central securities register.

#### **5. Share Transfers**

##### **5.1 Registering Transfers**

The Company must register a transfer of a share of the Company if either:

- (1) the Company or the transfer agent or registrar for the class or series of share to be transferred has received:
  - (a) in the case where the Company has issued a share certificate in respect of the share to be transferred, that share certificate and a written instrument of transfer (which may be on a separate document or endorsed on the share certificate) made by the shareholder or other appropriate person or by an agent who has actual authority to act on behalf of that person;
  - (b) in the case of a share that is not represented by a share certificate (including an uncertificated share within the meaning of the *Business Corporations Act* and including the case where the Company has issued a non-transferable written acknowledgment of the shareholder's right to obtain a share certificate in respect of the share to be transferred), a written instrument of transfer made by the shareholder or other appropriate person or by an agent who has actual authority to act on behalf of that person; and
  - (c) such other evidence, if any, as the Company or the transfer agent or registrar for the class or series of share to be transferred may require to prove the title of the transferor or the

transferor's right to transfer the share, that the written instrument of transfer is genuine and authorized and that the transfer is rightful or to a protected purchaser; or

- (2) all the preconditions for a transfer of a share under the *Securities Transfer Act* have been met and the Company is required under the *Securities Transfer Act* to register the transfer.

#### **5.1A Waivers of Requirements for Transfer**

The Company may waive any of the requirements set out in Article 5.1(1) and any of the preconditions referred to in Article 5.1(2).

#### **5.2 Form of Instrument of Transfer**

The instrument of transfer in respect of any share of the Company must be either in the form, if any, on the back of the Company's share certificates or in any other form that may be approved by the Company or the transfer agent for the class or series of shares to be transferred.

#### **5.3 Transferor Remains Shareholder**

Except to the extent that the *Business Corporations Act* otherwise provides, the transferor of shares is deemed to remain the holder of the shares until the name of the transferee is entered in a securities register of the Company in respect of the transfer.

#### **5.4 Signing of Instrument of Transfer**

If a shareholder or other appropriate person or an agent who has actual authority to act on behalf of that person signs an instrument of transfer in respect of shares registered in the name of the shareholder, the signed instrument of transfer constitutes a complete and sufficient authority to the Company and its directors, officers, and agents to register the number of shares specified in the instrument of transfer or specified in any other manner, or, if no number is specified but share certificates are deposited with the instrument of transfer, all the shares represented by such share certificates:

- (1) in the name of the person named as transferee in that instrument of transfer; or
- (2) if no person is named as transferee in that instrument of transfer, in the name of the person on whose behalf the instrument is deposited for the purpose of having the transfer registered.

#### **5.5 Inquiry as to Title Not Required**

Neither the Company nor any director, officer, or agent of the Company is bound to inquire into the title of the person named in the instrument of transfer as transferee or, if no person is named as transferee in the instrument of transfer, of the person on whose behalf the instrument is deposited for the purpose of having the transfer registered or is liable for any claim related to registering the transfer by the shareholder or by any intermediate owner or holder of the shares, of any interest in the shares, of any share certificate representing such shares, or of any written acknowledgment of a right to obtain a share certificate for such shares.

#### **5.6 Transfer Fee**

There must be paid to the Company, in relation to the registration of any transfer, the amount, if any, determined by the directors.

## **6. Transmission of Shares**

### **6.1 Legal Personal Representative Recognized on Death**

In the case of the death of a shareholder, the legal personal representative of the shareholder, or in the case of shares registered in the shareholder's name and the name of another person in joint tenancy, the surviving joint holder, will be the only person recognized by the Company as having any title to the shareholder's interest in the shares. Before recognizing a person as a legal personal representative of a shareholder, the directors may require the original grant of probate or letters of administration or a court certified copy of them or the original or a court certified or authenticated copy of the grant of representation, will, order, or other instrument or other evidence of the death under which title to the shares or securities is claimed to vest.

### **6.2 Rights of Legal Personal Representative**

The legal personal representative of a shareholder has the same rights, privileges, and obligations that attach to the shares held by the shareholder, including the right to transfer the shares in accordance with these Articles, if the appropriate evidence of appointment or incumbency within the meaning of the *Securities Transfer Act* has been deposited with the Company. This Article 6.2 does not apply in the case of the death of a shareholder with respect to shares registered in the shareholder's name and the name of another person in joint tenancy.

## **7. Acquisition of Company's Shares**

### **7.1 Company Authorized to Purchase or Otherwise Acquire Shares**

Subject to Article 7.2, the special rights or restrictions attached to the shares of any class or series of shares and the *Business Corporations Act*, the Company may, if authorized by special resolution, purchase or otherwise acquire any of its shares at the price and upon the terms determined by the directors.

### **7.2 No Purchase, Redemption, or Other Acquisition When Insolvent**

The Company must not make a payment or provide any other consideration to purchase, redeem, or otherwise acquire any of its shares if there are reasonable grounds for believing that:

- (1) the Company is insolvent; or
- (2) making the payment or providing the consideration would render the Company insolvent.

### **7.3 Sale and Voting of Purchased, Redeemed, or Otherwise Acquired Shares**

If the Company retains a share redeemed, purchased, or otherwise acquired by it, the Company may, if authorized by special resolution, sell, gift, or otherwise dispose of the share, but, while such share is held by the Company, it:



- (1) is not entitled to vote the share at a meeting of its shareholders;
- (2) must not pay a dividend in respect of the share; and
- (3) must not make any other distribution in respect of the share.

## **8. Borrowing Powers**

The Company, if authorized by special resolution, may:

- (1) borrow money in the manner and amount, on the security, from the sources, and on the terms and conditions that the directors consider appropriate;
- (2) issue bonds, debentures, and other debt obligations either outright or as security for any liability or obligation of the Company or any other person and at such discounts or premiums and on such other terms as the directors consider appropriate;
- (3) guarantee the repayment of money by any other person or the performance of any obligation of any other person; and
- (4) mortgage, charge, whether by way of specific or floating charge, grant a security interest in, or give other security on, the whole or any part of the present and future assets and undertaking of the Company.

## **9. Alterations**

### **9.1 Alteration of Authorized Share Structure**

Subject to Article 9.2 and the *Business Corporations Act*, the Company may by special resolution:

- (1) create one or more classes or series of shares or, if none of the shares of a class or series of shares are allotted or issued, eliminate that class or series of shares;
- (2) increase, reduce, or eliminate the maximum number of shares that the Company is authorized to issue out of any class or series of shares or establish a maximum number of shares that the Company is authorized to issue out of any class or series of shares for which no maximum is established;
- (3) subdivide or consolidate all or any of its unissued, or fully paid and issued, shares;
- (4) if the Company is authorized to issue shares of a class of shares with par value:
  - (a) decrease the par value of those shares; or
  - (b) if none of the shares of that class of shares are allotted or issued, increase the par value of those shares;

- (5) change all or any of its unissued, or fully paid and issued, shares with par value into shares without par value or any of its unissued shares without par value into shares with par value;
- (6) alter the identifying name of any of its shares; or
- (7) otherwise alter its shares or authorized share structure when required or permitted to do so by the *Business Corporations Act*,

and, if applicable, alter its Notice of Articles and, if applicable, its Articles, accordingly.

## **9.2 Special Rights or Restrictions**

Subject to the *Business Corporations Act*, the Company may by special resolution:

- (1) create special rights or restrictions for, and attach those special rights or restrictions to, the shares of any class or series of shares, whether or not any or all of those shares have been issued; or
- (2) vary or delete any special rights or restrictions attached to the shares of any class or series of shares, whether or not any or all of those shares have been issued,

and alter its Articles and Notice of Articles accordingly.

## **9.3 Change of Name**

The Company may by special resolution authorize an alteration to its Notice of Articles in order to change its name and may, by ordinary resolution or directors' resolution, adopt or change any translation of that name.

## **9.4 Other Alterations**

If the *Business Corporations Act* does not specify the type of resolution and these Articles do not specify another type of resolution, the Company may by special resolution alter these Articles.

## **10. Meetings of Shareholders**

### **10.1 Annual General Meetings**

Unless an annual general meeting is deferred or waived in accordance with the *Business Corporations Act*, the Company must hold its first annual general meeting within 18 months after the date on which it was incorporated or otherwise recognized, and after that must hold an annual general meeting at least once in each calendar year and not more than 15 months after the last annual reference date at such time and place as may be determined by the directors.

### **10.2 Resolution Instead of Annual General Meeting**

If all the shareholders who are entitled to vote at an annual general meeting consent by a unanimous resolution to all of the business that is required to be transacted at that annual general meeting, the annual general meeting is deemed to have been held on the date of the unanimous resolution. The

shareholders must, in any unanimous resolution passed under this Article 10.2, select as the Company's annual reference date a date that would be appropriate for the holding of the applicable annual general meeting.

### **10.3 Calling of Meetings of Shareholders**

The directors may, at any time, call a meeting of shareholders to be held at such time and place as may be determined by the directors.

### **10.4 Notice for Meetings of Shareholders**

The Company must send notice of the date, time, and location of any meeting of shareholders (including, without limitation, any notice specifying the intention to propose a resolution as an exceptional resolution, a special resolution, or a special separate resolution and any notice to consider approving an amalgamation into a foreign jurisdiction, an arrangement, or the adoption of an amalgamation agreement, and any notice of a general meeting, class meeting, or series meeting), in the manner provided in these Articles, or in such other manner, if any, as may be prescribed by ordinary resolution (whether previous notice of the resolution has been given or not), to each shareholder entitled to attend the meeting, to each director, and to the auditor of the Company, unless these Articles otherwise provide, at least 10 days before the meeting.

### **10.5 Notice of Resolution to Which Shareholders May Dissent**

The Company must send to each of its shareholders, whether or not their shares carry the right to vote, a notice of any meeting of shareholders at which a resolution entitling shareholders to dissent is to be considered specifying the date of the meeting and containing a statement advising of the right to send a notice of dissent together with a copy of the proposed resolution at least 10 days before the meeting.

### **10.6 Record Date for Notice**

The directors may set a date as the record date for the purpose of determining shareholders entitled to notice of any meeting of shareholders. The record date must not precede the date on which the meeting is to be held by more than two months or, in the case of a general meeting requisitioned by shareholders under the *Business Corporations Act*, by more than four months. The record date must not precede the date on which the meeting is held by fewer than 10 days.

If no record date is set, the record date is 5:00 p.m. on the day immediately preceding the first date on which the notice is sent or, if no notice is sent, the beginning of the meeting.

### **10.7 Record Date for Voting**

The directors may set a date as the record date for the purpose of determining shareholders entitled to vote at any meeting of shareholders. The record date must not precede the date on which the meeting is to be held by more than two months or, in the case of a general meeting requisitioned by shareholders under the *Business Corporations Act*, by more than four months. If no record date is set, the record date is 5:00 p.m. on the day immediately preceding the first date on which the notice is sent or, if no notice is sent, the beginning of the meeting.

## **10.8 Failure to Give Notice and Waiver of Notice**

The accidental omission to send notice of any meeting of shareholders to, or the non-receipt of any notice by, any of the persons entitled to notice does not invalidate any proceedings at that meeting. Any person entitled to notice of a meeting of shareholders may, in writing or otherwise, waive that entitlement or agree to reduce the period of that notice. Attendance of a person at a meeting of shareholders is a waiver of entitlement to notice of the meeting unless that person attends the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.

## **10.9 Meetings by Telephone or Communications Medium**

The directors may determine that a meeting of shareholders must be held entirely by means of telephonic, electronic, or other communication facilities that permit all participants to communicate with each other during the meeting. A meeting of shareholders may also be held at which some, but not necessarily all, persons entitled to attend may participate by means of such communication facilities, if the directors determine to make them available. A person who participates in a meeting in a manner contemplated by this Article 10.9 is deemed for all purposes of the *Business Corporations Act* and these Articles to be present at the meeting.

## **10.10 Notice of Special Business at Meetings of Shareholders**

If a meeting of shareholders is to consider special business within the meaning of Article 11.1, the notice of meeting must:

- (1) state the general nature of the special business; and
- (2) if the special business includes considering, approving, ratifying, adopting, or authorizing any document or the signing of or giving of effect to any document, have attached to it a copy of the document or state that a copy of the document will be available for inspection by shareholders:
  - (a) at the Company's records office, or at such other reasonably accessible location in British Columbia as is specified in the notice; and
  - (b) during statutory business hours on any one or more specified days before the day set for the holding of the meeting.

## **11. Proceedings at Meetings of Shareholders**

### **11.1 Special Business**

At a meeting of shareholders, the following business is special business:

- (1) at a meeting of shareholders that is not an annual general meeting, all business is special business except business relating to the conduct of or voting at the meeting;
- (2) at an annual general meeting, all business is special business except for the following:
  - (a) business relating to the conduct of or voting at the meeting;

- (b) consideration of any financial statements of the Company presented to the meeting;
- (c) consideration of any reports of the directors or auditor;
- (d) the setting or changing of the number of directors;
- (e) the election or appointment of directors;
- (f) the appointment of an auditor;
- (g) the setting of the remuneration of an auditor;
- (h) business arising out of a report of the directors not requiring the passing of a special resolution or an exceptional resolution; and
- (i) any other business which, under these Articles or the *Business Corporations Act*, may be transacted at a meeting of shareholders without prior notice of the business being given to the shareholders.

## **11.2 Special Majority**

The majority of votes required for the Company to pass a special resolution at a general meeting of shareholders is two-thirds of the votes cast on the resolution.

## **11.3 Quorum**

Subject to the special rights or restrictions attached to the shares of any class or series of shares and to Article 11.4, the quorum for the transaction of business at a meeting of shareholders is two persons who are, or who represent by proxy, shareholders who, in the aggregate, hold at least 50% of the issued shares entitled to be voted at the meeting.

## **11.4 One Shareholder May Constitute Quorum**

If there is only one shareholder entitled to vote at a meeting of shareholders:

- (1) the quorum is one person who is, or who represents by proxy, that shareholder; and
- (2) that shareholder, present in person or by proxy, may constitute the meeting.

## **11.5 Persons Entitled to Attend Meeting**

In addition to those persons who are entitled to vote at a meeting of shareholders, the only other persons entitled to be present at the meeting are the directors, the president (if any), the secretary (if any), the assistant secretary (if any), any lawyer for the Company, the auditor of the Company, any persons invited to be present at the meeting by the directors or by the chair of the meeting, and any persons entitled or required under the *Business Corporations Act* or these Articles to be present at the meeting; but if any of

those persons does attend the meeting, that person is not to be counted in the quorum and is not entitled to vote at the meeting unless that person is a shareholder or proxy holder entitled to vote at the meeting.

#### **11.6 Requirement of Quorum**

No business, other than the election of a chair of the meeting and the adjournment of the meeting, may be transacted at any meeting of shareholders unless a quorum of shareholders entitled to vote is present at the commencement of the meeting, but such quorum need not be present throughout the meeting.

#### **11.7 Lack of Quorum**

If, within one-half hour from the time set for the holding of a meeting of shareholders, a quorum is not present:

- (1) in the case of a general meeting requisitioned by shareholders, the meeting is dissolved; and
- (2) in the case of any other meeting of shareholders, the meeting stands adjourned to the same day in the next week at the same time and place.

#### **11.8 Lack of Quorum at Succeeding Meeting**

If, at the meeting to which the meeting referred to in Article 11.7(2) was adjourned, a quorum is not present within one-half hour from the time set for the holding of the meeting, the person or persons present and being, or representing by proxy, one or more shareholders entitled to attend and vote at the meeting, constitute a quorum.

#### **11.9 Chair**

The following individual is entitled to preside as chair at a meeting of shareholders:

- (1) the chair of the board, if any; or
- (2) if the chair of the board is absent or unwilling to act as chair of the meeting, the president, if any.

#### **11.10 Selection of Alternate Chair**

If, at any meeting of shareholders, there is no chair of the board or president present within 15 minutes after the time set for holding the meeting, or if the chair of the board and the president are unwilling to act as chair of the meeting, or if the chair of the board and the president have advised the secretary, if any, or any director present at the meeting, that they will not be present at the meeting, the directors present must choose one of their number to be chair of the meeting or if all of the directors present decline to take the chair or fail to so choose or if no director is present, the shareholders entitled to vote at the meeting who are present in person or by proxy may choose any person present at the meeting to chair the meeting.

#### **11.11 Adjournments**

The chair of a meeting of shareholders may, and if so directed by the meeting must, adjourn the meeting from time to time and from place to place, but no business may be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place.

#### **11.12 Notice of Adjourned Meeting**

It is not necessary to give any notice of an adjourned meeting of shareholders or of the business to be transacted at an adjourned meeting of shareholders except that, when a meeting is adjourned for 30 days or more, notice of the adjourned meeting must be given as in the case of the original meeting.

#### **11.13 Decisions by Show of Hands or Poll**

Subject to the *Business Corporations Act*, every motion put to a vote at a meeting of shareholders will be decided on a show of hands unless a poll, before or on the declaration of the result of the vote by show of hands, is directed by the chair or demanded by any shareholder entitled to vote who is present in person or by proxy.

#### **11.14 Declaration of Result**

The chair of a meeting of shareholders must declare to the meeting the decision on every question in accordance with the result of the show of hands or the poll, as the case may be, and that decision must be entered in the minutes of the meeting. A declaration of the chair that a resolution is carried by the necessary majority or is defeated is, unless a poll is directed by the chair or demanded under Article 11.13, conclusive evidence without proof of the number or proportion of the votes recorded in favour of or against the resolution.

#### **11.15 Motion Need Not be Seconded**

No motion proposed at a meeting of shareholders need be seconded unless the chair of the meeting rules otherwise, and the chair of any meeting of shareholders is entitled to propose or second a motion.

#### **11.16 Casting Vote**

In the case of an equality of votes, the chair of a meeting of shareholders does not, either on a show of hands or on a poll, have a second or casting vote in addition to the vote or votes to which the chair may be entitled as a shareholder.

#### **11.17 Manner of Taking Poll**

Subject to Article 11.18, if a poll is duly demanded at a meeting of shareholders:

- (1) the poll must be taken:
  - (a) at the meeting, or within seven days after the date of the meeting, as the chair of the meeting directs; and
  - (b) in the manner, at the time and at the place that the chair of the meeting directs;

- (2) the result of the poll is deemed to be the decision of the meeting at which the poll is demanded;  
and
- (3) the demand for the poll may be withdrawn by the person who demanded it.

#### **11.18 Demand for Poll on Adjournment**

A poll demanded at a meeting of shareholders on a question of adjournment must be taken immediately at the meeting.

#### **11.19 Chair Must Resolve Dispute**

In the case of any dispute as to the admission or rejection of a vote given on a poll, the chair of the meeting must determine the dispute, and the chair's determination made in good faith is final and conclusive.

#### **11.20 Casting of Votes**

On a poll, a shareholder entitled to more than one vote need not cast all the votes in the same way.

#### **11.21 No Demand for Poll on Election of Chair**

No poll may be demanded in respect of the vote by which a chair of a meeting of shareholders is elected.

#### **11.22 Demand for Poll Not to Prevent Continuance of Meeting**

The demand for a poll at a meeting of shareholders does not, unless the chair of the meeting so rules, prevent the continuation of the meeting for the transaction of any business other than the question on which a poll has been demanded.

#### **11.23 Retention of Ballots and Proxies**

The Company must, for at least three months after a meeting of shareholders, keep each ballot cast on a poll and each proxy voted at the meeting, and, during that period, make them available for inspection during normal business hours by any shareholder or proxy holder entitled to vote at the meeting. At the end of such three month period, the Company may destroy such ballots and proxies.

### **12. Votes of Shareholders**

#### **12.1 Number of Votes by Shareholder or by Shares**

Subject to any special rights or restrictions attached to any shares and to the restrictions imposed on joint shareholders under Article 12.3:

- (1) on a vote by show of hands, every person present who is a shareholder or proxy holder and entitled to vote on the matter has one vote; and



- (2) on a poll, every shareholder entitled to vote on the matter has one vote in respect of each share entitled to be voted on the matter and held by that shareholder and may exercise that vote either in person or by proxy.

## **12.2 Votes of Persons in Representative Capacity**

A person who is not a shareholder may vote at a meeting of shareholders, whether on a show of hands or on a poll, and may appoint a proxy holder to act at the meeting, if, before doing so, the person satisfies the chair of the meeting, or the directors, that the person is a legal personal representative or a trustee in bankruptcy for a shareholder who is entitled to vote at the meeting.

## **12.3 Votes by Joint Holders**

If there are joint shareholders registered in respect of any share:

- (1) any one of the joint shareholders may vote at any meeting of shareholders, personally or by proxy, in respect of the share as if that joint shareholder were solely entitled to it; or
- (2) if more than one of the joint shareholders is present at any meeting of shareholders, personally or by proxy, and more than one of them votes in respect of that share, then only the vote of the joint shareholder present whose name stands first on the central securities register in respect of the share will be counted.

## **12.4 Legal Personal Representatives as Joint Shareholders**

Two or more legal personal representatives of a shareholder in whose sole name any share is registered are, for the purposes of Article 12.3, deemed to be joint shareholders registered in respect of that share.

## **12.5 Representative of a Corporate Shareholder**

If a corporation that is not a subsidiary of the Company is a shareholder, that corporation may appoint a person to act as its representative at any meeting of shareholders of the Company, and:

- (1) for that purpose, the instrument appointing a representative must be received:
  - (a) at the registered office of the Company or at any other place specified, in the notice calling the meeting, for the receipt of proxies, at least the number of business days specified in the notice for the receipt of proxies, or if no number of days is specified, two business days before the day set for the holding of the meeting or any adjourned meeting; or
  - (b) at the meeting or any adjourned meeting, by the chair of the meeting or adjourned meeting or by a person designated by the chair of the meeting or adjourned meeting;
- (2) if a representative is appointed under this Article 12.5:
  - (a) the representative is entitled to exercise in respect of and at that meeting the same rights on behalf of the corporation that the representative represents as that corporation could

exercise if it were a shareholder who is an individual, including, without limitation, the right to appoint a proxy holder; and

- (b) the representative, if present at the meeting, is to be counted for the purpose of forming a quorum and is deemed to be a shareholder present in person at the meeting.

Evidence of the appointment of any such representative may be sent to the Company by written instrument, email, fax, or any other method of transmitting legibly recorded messages.

#### **12.6 When Proxy Holder Need Not Be Shareholder**

A person must not be appointed as a proxy holder unless the person is a shareholder, although a person who is not a shareholder may be appointed as a proxy holder if:

- (1) the person appointing the proxy holder is a corporation or a representative of a corporation appointed under Article 12.5;
- (2) the Company has at the time of the meeting for which the proxy holder is to be appointed only one shareholder entitled to vote at the meeting; or
- (3) the shareholders present in person or by proxy at and entitled to vote at the meeting for which the proxy holder is to be appointed, by a resolution on which the proxy holder is not entitled to vote but in respect of which the proxy holder is to be counted in the quorum, permit the proxy holder to attend and vote at the meeting.

#### **12.7 Appointment of Proxy Holders**

Every shareholder of the Company, including a corporation that is a shareholder but not a subsidiary of the Company, entitled to vote at a meeting of shareholders may, by proxy, appoint one or more proxy holders to attend and act at the meeting in the manner, to the extent and with the powers conferred by the proxy.

#### **12.8 Alternate Proxy Holders**

A shareholder may appoint one or more alternate proxy holders to act in the place of an absent proxy holder.

#### **12.9 Deposit of Proxy**

A proxy for a meeting of shareholders must:

- (1) be received at the registered office of the Company or at any other place specified, in the notice calling the meeting, for the receipt of proxies, at least the number of business days specified in the notice, or if no number of days is specified, two business days before the day set for the holding of the meeting or any adjourned meeting; or

- (2) unless the notice provides otherwise, be received at the meeting or any adjourned meeting, by the chair of the meeting or adjourned meeting or by a person designated by the chair of the meeting or adjourned meeting.

A proxy may be sent to the Company by written instrument, email, fax, or any other method of transmitting legibly recorded messages.

#### **12.10 Validity of Proxy Vote**

A vote given in accordance with the terms of a proxy is valid notwithstanding the death or incapacity of the shareholder giving the proxy and despite the revocation of the proxy or the revocation of the authority under which the proxy is given, unless notice in writing of that death, incapacity, or revocation is received:

- (1) at the registered office of the Company, at any time up to and including the last business day before the day set for the holding of the meeting or any adjourned meeting at which the proxy is to be used; or
- (2) at the meeting or any adjourned meeting, by the chair of the meeting or adjourned meeting, before any vote in respect of which the proxy has been given has been taken.

#### **12.11 Form of Proxy**

A proxy, whether for a specified meeting or otherwise, must be either in the following form or in any other form approved by the directors or the chair of the meeting:

*[name of company]*  
**(the "Company")**

The undersigned, being a shareholder of the Company, hereby appoints *[name]* or, failing that person, *[name]*, as proxy holder for the undersigned to attend, act, and vote for and on behalf of the undersigned at the meeting of shareholders of the Company to be held on *[month, day, year]* and at any adjournment of that meeting.

Number of shares in respect of which this proxy is given (if no number is specified, then this proxy is given in respect of all shares registered in the name of the undersigned):

Signed *[month, day, year]*

\_\_\_\_\_  
*[Signature of shareholder]*

\_\_\_\_\_  
*[Name of shareholder—printed]*

#### **12.12 Revocation of Proxy**

Subject to Article 12.13, every proxy may be revoked by an instrument in writing that is received:

- (1) at the registered office of the Company at any time up to and including the last business day before the day set for the holding of the meeting or any adjourned meeting at which the proxy is to be used; or
- (2) at the meeting or any adjourned meeting by the chair of the meeting or adjourned meeting, before any vote in respect of which the proxy has been given has been taken.

#### **12.13 Revocation of Proxy Must Be Signed**

An instrument referred to in Article 12.12 must be signed as follows:

- (1) if the shareholder for whom the proxy holder is appointed is an individual, the instrument must be signed by the shareholder or the shareholder's legal personal representative or trustee in bankruptcy;
- (2) if the shareholder for whom the proxy holder is appointed is a corporation, the instrument must be signed by the corporation or by a representative appointed for the corporation under Article 12.5.

#### **12.14 Chair May Determine Validity of Proxy**

The chair of any meeting of shareholders may determine whether or not a proxy deposited for use at the meeting, which may not strictly comply with the requirements of this Part 12 as to form, execution, accompanying documentation, time of filing, or otherwise, will be valid for use at the meeting, and any such determination made in good faith will be final, conclusive, and binding upon the meeting.

#### **12.15 Production of Evidence of Authority to Vote**

The chair of any meeting of shareholders may, but need not, inquire into the authority of any person to vote at the meeting and may, but need not, demand from that person production of evidence as to the existence of the authority to vote.

### **13. Directors**

#### **13.1 First Directors;**

The first directors are the persons designated as directors of the Company in the Notice of Articles that applies to the Company when it is recognized under the *Business Corporations Act*.

As soon as is reasonably practicable after these Articles come into effect and thereafter, the number of directors is set at:

- (1) subject to paragraph (2) the number of directors that is equal to the number of the Company's first directors;
- (2) the most recently set of:

- (a) the number of directors set by ordinary resolution (whether or not previous notice of the resolution was given); and
- (b) the number of directors set under Article 14.4.

### **13.2 Change in Number of Directors**

If the number of directors is set under Articles 13.1(2)(a) or 13.1(3)(a):

- (1) the shareholders may elect or appoint the directors needed to fill any vacancies in the board of directors up to that number;
- (2) if the shareholders do not elect or appoint the directors needed to fill any vacancies in the board of directors up to that number contemporaneously with the setting of that number, then the directors may appoint, or the shareholders may elect or appoint, directors to fill those vacancies.

### **13.3 Directors' Acts Valid Despite Vacancy**

An act or proceeding of the directors is not invalid merely because fewer than the number of directors set or otherwise required under these Articles is in office.

### **13.4 Qualifications of Directors**

A director is not required to hold a share of the Company as qualification for their office but must be qualified as required by the *Business Corporations Act* to become, act, or continue to act as a director.

### **13.5 Remuneration of Directors**

The directors are not entitled to any remuneration for acting as directors, except if authorized by special resolution. If the shareholders so authorize, the remuneration of the directors, if any, will be determined by the shareholders.

### **13.6 Reimbursement of Expenses of Directors**

The Company must reimburse each director for the reasonable expenses that such director may incur in and about the business of the Company.

## **14. Election and Removal of Directors**

### **14.1 Election at Annual General Meeting**

At every annual general meeting and in every unanimous resolution contemplated by Article 10.2:

- (1) the shareholders entitled to vote at the annual general meeting for the election of directors must elect, or in the unanimous resolution appoint, a board of directors consisting of the number of directors for the time being set under these Articles; and

- (2) all the directors cease to hold office immediately before the election or appointment of directors under paragraph (1), but are eligible for re-election or re-appointment.

#### **14.2 Consent to be a Director**

No election, appointment, or designation of an individual as a director is valid unless:

- (1) that individual consents to be a director in the manner provided for in the *Business Corporations Act*;
- (2) that individual is elected or appointed at a meeting at which the individual is present and the individual does not refuse, at the meeting, to be a director; or
- (3) with respect to first directors, the designation is otherwise valid under the *Business Corporations Act*.

#### **14.3 Failure to Elect or Appoint Directors**

If:

- (1) the Company fails to hold an annual general meeting, and all the shareholders who are entitled to vote at an annual general meeting fail to pass the unanimous resolution contemplated by Article 10.2, on or before the date by which the annual general meeting is required to be held under the *Business Corporations Act*; or
- (2) the shareholders fail, at the annual general meeting or in the unanimous resolution contemplated by Article 10.2, to elect or appoint any directors,

then each director then in office continues to hold office until the earlier of:

- (3) when the director's respective successor is elected or appointed; and
- (4) when the director otherwise ceases to hold office under the *Business Corporations Act* or these Articles.

#### **14.4 Places of Retiring Directors Not Filled**

If, at any meeting of shareholders at which there should be an election of directors, the places of any of the retiring directors are not filled by that election, those retiring directors who are not re-elected and who are asked by the newly elected directors to continue in office will, if willing to do so, continue in office to complete the number of directors for the time being set pursuant to these Articles until further new directors are elected at a meeting of shareholders convened for that purpose. If any such election or continuance of directors does not result in the election or continuance of the number of directors for the time being set pursuant to these Articles, the number of directors of the Company is deemed to be set at the number of directors actually elected or continued in office.

#### **14.5 Remaining Directors' Power to Act**

The directors may act notwithstanding any vacancy in the board of directors, but if the Company has fewer directors in office than the number set pursuant to these Articles as the quorum of directors, the directors may only act for the purpose of appointing directors up to that number or of calling a meeting of shareholders for the purpose of filling any vacancies on the board of directors or, subject to the *Business Corporations Act*, for any other purpose.

#### **14.6 Shareholders May Fill Vacancies**

If the Company has no directors or fewer directors in office than the number set pursuant to these Articles as the quorum of directors, the shareholders may elect or appoint directors to fill any vacancies on the board of directors.

#### **14.7 Ceasing to be a Director**

A director ceases to be a director when:

- (1) the term of office of the director expires;
- (2) the director dies;
- (3) the director resigns as a director by notice in writing provided to the Company or a lawyer for the Company; or
- (4) the director is removed from office pursuant to Articles 14.8 or 14.9.

#### **14.8 Removal of Director by Shareholders**

The Company may remove any director before the expiration of that director's term of office by special resolution. In that event, the shareholders may elect, or appoint by ordinary resolution, a director to fill the resulting vacancy. If the shareholders do not elect or appoint a director to fill the resulting vacancy contemporaneously with the removal, then the directors may appoint or the shareholders may elect, or appoint by ordinary resolution, a director to fill that vacancy.

#### **14.9 Removal of Director by Directors**

The directors may remove any director before the expiration of that director's term of office if the director is convicted of an indictable offence, or if the director ceases to be qualified to act as a director of a company and does not promptly resign, and the directors may appoint a director to fill the resulting vacancy.

### **15. Powers and Duties of Directors**

#### **15.1 Powers of Management**

The directors must, subject to the *Business Corporations Act* and these Articles, manage or supervise the management of the business and affairs of the Company and have the authority to exercise all such powers of the Company as are not, by the *Business Corporations Act* or by these Articles, required to be exercised by the shareholders of the Company.

## **15.2 Appointment of Attorney of Company**

The directors may from time to time, by power of attorney or other instrument, under seal if so required by law, appoint any person to be the attorney of the Company for such purposes, and with such powers, authorities, and discretions (not exceeding those vested in or exercisable by the directors under these Articles and excepting the power to fill vacancies in the board of directors, to remove a director, to change the membership of, or fill vacancies in, any committee of the directors, to appoint or remove officers appointed by the directors, and to declare dividends) and for such period, and with such remuneration and subject to such conditions as the directors may think fit. Any such power of attorney may contain such provisions for the protection or convenience of persons dealing with such attorney as the directors think fit. Any such attorney may be authorized by the directors to sub-delegate all or any of the powers, authorities, and discretions for the time being vested in the attorney.

## **16. Interests of Directors and Officers**

### **16.1 Obligation to Account for Profits**

A director or senior officer who holds a disclosable interest (as that term is used in the *Business Corporations Act*) in a contract or transaction into which the Company has entered or proposes to enter is liable to account to the Company for any profit that accrues to the director or senior officer under or as a result of the contract or transaction only if and to the extent provided in the *Business Corporations Act*.

### **16.2 Restrictions on Voting by Reason of Interest**

A director who holds a disclosable interest in a contract or transaction into which the Company has entered or proposes to enter is not entitled to vote on any directors' resolution to approve that contract or transaction, unless all the directors have a disclosable interest in that contract or transaction, in which case any or all of those directors may vote on such resolution.

### **16.3 Interested Director Counted in Quorum**

A director who holds a disclosable interest in a contract or transaction into which the Company has entered or proposes to enter and who is present at the meeting of directors at which the contract or transaction is considered for approval may be counted in the quorum at the meeting whether or not the director votes on any or all of the resolutions considered at the meeting.

### **16.4 Disclosure of Conflict of Interest or Property**

A director or senior officer who holds any office or possesses any property, right, or interest that could result, directly or indirectly, in the creation of a duty or interest that materially conflicts with that individual's duty or interest as a director or senior officer, must disclose the nature and extent of the conflict as required by the *Business Corporations Act*.

### **16.5 Director Holding Other Office in the Company**

No director may hold any office or place of profit with the Company, other than the office of director, unless authorized by special resolution.



## **16.6 Director Contracts with Company**

No director may contract with the Company as vendor, purchaser, or otherwise, unless authorized by special resolution.

## **16.7 Professional Services by Director or Officer**

Subject to the *Business Corporations Act*, a director or officer, or any person in which a director or officer has an interest, may, if authorized by special resolution, act in a professional capacity for the Company, except as auditor of the Company, and the director or officer or such person is entitled to remuneration for professional services as if that director or officer were not a director or officer.

## **17. Proceedings of Directors**

### **17.1 Meetings of Directors**

The directors may meet together for the conduct of business, and adjourn and otherwise regulate their meetings as they think fit, and meetings of the directors held at regular intervals may be held at the place, at the time, and on the notice, if any, as the directors may from time to time determine.

### **17.2 Voting at Meetings**

Questions arising at any meeting of directors are to be decided by a majority of votes and, in the case of an equality of votes, the chair of the meeting does not have a second or casting vote.

### **17.3 Chair of Meetings**

The following individual is entitled to preside as chair at a meeting of directors:

- (1) the chair of the board, if any;
- (2) in the absence of the chair of the board, the president, if any, if the president is a director; or
- (3) any other director chosen by the directors if:
  - (a) neither the chair of the board nor the president, if a director, is present at the meeting within 15 minutes after the time set for holding the meeting;
  - (b) neither the chair of the board nor the president, if a director, is willing to chair the meeting;  
or
  - (c) the chair of the board and the president, if a director, have advised the secretary, if any, or any other director, that they will not be present at the meeting.

### **17.4 Meetings by Telephone or Other Communications Medium**

A director may participate in a meeting of the directors or of any committee of the directors by means of telephone, electronic, or other communication facilities that permit all participants to communicate with each other during the meeting. A meeting of the directors may also be held at which some, but not necessarily all, persons entitled to attend may participate by means of such communications facilities. A director who participates in a meeting in a manner contemplated by this Article 17.4 is deemed for all purposes of the *Business Corporations Act* and these Articles to be present at the meeting.

#### **17.5 Calling of Meetings**

A director may, and the secretary or an assistant secretary of the Company, if any, on the request of a director must, call a meeting of the directors at any time.

#### **17.6 Notice of Meetings**

Other than for meetings held at regular intervals as determined by the directors pursuant to Article 17.1 or as provided in Article 17.7, reasonable notice of each meeting of the directors, specifying the place, day, and time of that meeting, must be given to each of the directors and the alternate directors by any method set out in Article 23.1 or orally or by telephone.

#### **17.7 When Notice Not Required**

It is not necessary to give notice of a meeting of the directors to a director or an alternate director if:

- (1) the meeting is to be held immediately following a meeting of shareholders at which that director was elected or appointed, or is the meeting of the directors at which that director is appointed; or
- (2) the director or alternate director, as the case may be, has waived notice of the meeting.

#### **17.8 Meeting Valid Despite Failure to Give Notice**

The accidental omission to give notice of any meeting of directors to, or the non-receipt of any notice by, any director or alternate director, does not invalidate any proceedings at that meeting.

#### **17.9 Waiver of Notice of Meetings**

Any director or alternate director may send to the Company a signed document waiving notice of any past, present, or future meeting or meetings of the directors and may at any time withdraw that waiver with respect to meetings held after that withdrawal. After sending a waiver with respect to all future meetings and until that waiver is withdrawn, no notice of any meeting of the directors need be given to that director or, unless the director otherwise requires by notice in writing to the Company, to that director's alternate director, and all meetings of the directors so held are deemed not to be improperly called or constituted by reason of notice not having been given to such director or alternate director. Attendance of a director or alternate director at a meeting of the directors is a waiver of notice of the meeting unless that director or alternate director attends the meeting for the express purpose of objecting to the transaction of any business on the grounds that the meeting is not lawfully called.

#### **17.10 Quorum**

The quorum necessary for the transaction of the business of the directors is set at a majority of the directors or, if the number of directors is set at one, is deemed to be set at one director, and that director may constitute a meeting.

#### **17.11 Validity of Acts Where Appointment Defective**

Subject to the *Business Corporations Act*, an act of a director or officer is not invalid merely because of an irregularity in the election or appointment or a defect in the qualification of that director or officer.

#### **17.12 Consent Resolutions in Writing**

A resolution of the directors or of any committee of the directors may be passed without a meeting:

- (1) in all cases, if each of the directors entitled to vote on the resolution consents to it in writing; or
- (2) in the case of a resolution to approve a contract or transaction in respect of which a director has disclosed that they have or may have a disclosable interest, if each of the other directors who have not made such a disclosure consents in writing to the resolution.

A consent in writing under this Article 17.12 may be by any written instrument, fax, email, or any other method of transmitting legibly recorded messages in which the consent of the director is evidenced, whether or not the signature of the director is included in the record. A consent in writing may be in two or more counterparts which together are deemed to constitute one consent in writing. A resolution of the directors or of any committee of the directors passed in accordance with this Article 17.12 is effective on the date stated in the consent in writing or on the latest date stated on any counterpart and is deemed to be a proceeding at a meeting of the directors or of the committee of the directors and to be as valid and effective as if it had been passed at a meeting of the directors or of the committee of the directors that satisfies all the requirements of the *Business Corporations Act* and all the requirements of these Articles relating to meetings of the directors or of a committee of the directors.

### **18. Executive and Other Committees**

#### **18.1 Appointment and Powers of Executive Committee**

The directors may, by resolution, appoint an executive committee consisting of the director or directors that they consider appropriate, and during the intervals between meetings of the board of directors all of the directors' powers are delegated to the executive committee, except:

- (1) the power to fill vacancies in the board of directors;
- (2) the power to remove a director;
- (3) the power to change the membership of, or fill vacancies in, any committee of the directors; and
- (4) such other powers, if any, as may be set out in the resolution or any subsequent directors' resolution.

## **18.2 Appointment and Powers of Other Committees**

The directors may, by resolution:

- (1) appoint one or more committees (other than the executive committee) consisting of the director or directors that they consider appropriate;
- (2) delegate to a committee appointed under paragraph (1) any of the directors' powers, except:
  - (a) the power to fill vacancies in the board of directors;
  - (b) the power to remove a director;
  - (c) the power to change the membership of, or fill vacancies in, any committee of the directors; and
  - (d) the power to appoint or remove officers appointed by the directors; and
- (3) make any delegation referred to in paragraph (2) subject to the conditions set out in the resolution or any subsequent directors' resolution.

## **18.3 Obligations of Committees**

Any committee appointed under Articles 19.1 or 19.2, in the exercise of the powers delegated to it, must:

- (1) conform to any rules that may from time to time be imposed on it by the directors; and
- (2) report every act or thing done in exercise of those powers at such times as the directors may require.

## **18.4 Powers of Board**

The directors may, at any time, with respect to a committee appointed under Articles 19.1 or 19.2:

- (1) revoke or alter the authority given to the committee, or override a decision made by the committee, except as to acts done before such revocation, alteration, or overriding;
- (2) terminate the appointment of, or change the membership of, the committee; and
- (3) fill vacancies in the committee.

## **18.5 Committee Meetings**

Subject to Article 18.3(1) and unless the directors otherwise provide in the resolution appointing the committee or in any subsequent resolution, with respect to a committee appointed under Articles 18.1 or 19.2:

- (1) the committee may meet and adjourn as it thinks proper;

- (2) the committee may elect a chair of its meetings but, if no chair of a meeting is elected, or if at a meeting the chair of the meeting is not present within 15 minutes after the time set for holding the meeting, the directors present who are members of the committee may choose one of their number to chair the meeting;
- (3) a majority of the members of the committee constitutes a quorum of the committee; and
- (4) questions arising at any meeting of the committee are determined by a majority of votes of the members present, and in the case of an equality of votes, the chair of the meeting does not have a second or casting vote.

## **19. Officers**

### **19.1 Directors May Appoint Officers**

The directors may, from time to time, appoint such officers, if any, as the directors determine and the directors may, at any time, terminate any such appointment.

### **19.2 Functions, Duties, and Powers of Officers**

The directors may, for each officer:

- (1) determine the functions, and duties of the officer;
- (2) delegate to the officer any of the powers exercisable by the directors on such terms and conditions and with such restrictions as the directors think fit; and
- (3) revoke, withdraw, alter, or vary all or any of the functions, duties, and powers of the officer.

### **19.3 Qualifications**

No officer may be appointed unless that officer is qualified in accordance with the *Business Corporations Act*. One person may hold more than one position as an officer of the Company. Any person appointed as the chair of the board or as a managing director must be a director. Any other officer need not be a director.

### **19.4 Remuneration and Terms of Appointment**

All appointments of officers are to be made on the terms and conditions that the directors think fit and are subject to termination at the pleasure of the directors. Officers are not entitled to remuneration (whether by way of salary, fee, commission, participation in profits, or otherwise), unless authorized by special resolution.

## **20. Indemnification**

### **20.1 Definitions**

In this Article 20:

- (1) “eligible penalty” means a judgment, penalty, or fine awarded or imposed in, or an amount paid in settlement of, an eligible proceeding;
- (2) “eligible proceeding” means a legal proceeding or investigative action, whether current, threatened, pending, or completed, in which a director, former director, or alternate director of the Company (an “eligible party”) or any of the heirs and legal personal representatives of the eligible party, by reason of the eligible party being or having been a director or alternate director of the Company:
  - (a) is or may be joined as a party; or
  - (b) is or may be liable for or in respect of a judgment, penalty, or fine in, or expenses related to, the proceeding; and
- (3) “expenses” has the meaning set out in the *Business Corporations Act*.

## **20.2 Mandatory Indemnification of Directors**

Subject to the *Business Corporations Act*, the Company must indemnify a director, former director, or alternate director of the Company and their heirs and legal personal representatives against all eligible penalties to which such person is or may be liable, and the Company must, after the final disposition of an eligible proceeding, pay the expenses actually and reasonably incurred by such person in respect of that proceeding. Each director and alternate director is deemed to have contracted with the Company on the terms of the indemnity contained in this Article 20.2.

## **20.3 Permitted Indemnification**

Subject to any restrictions in the *Business Corporations Act*, the Company may indemnify any person.

## **20.4 Non-Compliance with *Business Corporations Act***

The failure of a director, alternate director, or officer of the Company to comply with the *Business Corporations Act* or these Articles or, if applicable, any former *Companies Act* or former Articles, does not invalidate any indemnity to which such person is entitled under this Part 20.

## **20.5 Company May Purchase Insurance**

The Company may purchase and maintain insurance for the benefit of any person (or their heirs or legal personal representatives) who:

- (1) is or was a director, alternate director, officer, employee, or agent of the Company;
- (2) is or was a director, alternate director, officer, employee, or agent of a corporation at a time when the corporation is or was an affiliate of the Company;

- (3) at the request of the Company, is or was a director, alternate director, officer, employee, or agent of a corporation or of a partnership, trust, joint venture, or other unincorporated entity;
- (4) at the request of the Company, holds or held a position equivalent to that of a director, alternate director, or officer of a partnership, trust, joint venture, or other unincorporated entity,

against any liability incurred by such person as such director, alternate director, officer, employee, or agent or person who holds or held such equivalent position.

## **21. Dividends**

### **21.1 Payment of Dividends Subject to Special Rights**

The provisions of this Part 21 are subject to the rights, if any, of shareholders holding shares with special rights as to dividends.

### **21.2 Declaration of Dividends**

Subject to the *Business Corporations Act* and the rights of the holders of the issued shares of the Company, the directors may from time to time declare and authorize payment of such dividends as they may consider appropriate.

### **21.3 No Notice Required**

The directors need not give notice to any shareholder of any declaration under Article 21.2.

### **21.4 Record Date**

The directors may set a date as the record date for the purpose of determining shareholders entitled to receive payment of a dividend. The record date must not precede the date on which the dividend is to be paid by more than two months. If no record date is set, the record date is 5:00 p.m. on the date on which the directors pass the resolution declaring the dividend.

### **21.5 Manner of Paying Dividend**

A resolution declaring a dividend may direct payment of the dividend wholly or partly in money or by the distribution of specific assets or of fully paid shares or of bonds, debentures, or other securities of the Company or any other corporation, or in any one or more of those ways.

### **21.6 Settlement of Difficulties**

If any difficulty arises in regard to a distribution under Article 21.5, the directors may settle the difficulty as they deem advisable, and, in particular, may:

- (1) set the value for distribution of specific assets;

- (2) determine that money in substitution for all or any part of the specific assets to which any shareholders are entitled may be paid to any shareholders on the basis of the value so fixed in order to adjust the rights of all parties; and
- (3) vest any such specific assets in trustees for the persons entitled to the dividend.

### **21.7 When Dividend Payable**

Any dividend may be made payable on such date as is fixed by the directors.

### **21.8 Dividends to be Paid in Accordance with Number of Shares**

All dividends on shares of any class or series of shares must be declared and paid according to the number of such shares held.

### **21.9 Receipt by Joint Shareholders**

If several persons are joint shareholders of any share, any one of them may give an effective receipt for any dividend, bonus, or other money payable in respect of the share.

### **21.10 Dividend Bears No Interest**

No dividend bears interest against the Company.

### **21.11 Fractional Dividends**

If a dividend to which a shareholder is entitled includes a fraction of the smallest monetary unit of the currency of the dividend, that fraction may be disregarded in making payment of the dividend and that payment represents full payment of the dividend.

### **21.12 Payment of Dividends**

Any dividend or other distribution payable in money in respect of shares may be paid by cheque, made payable to the order of the person to whom it is sent, and mailed to the registered address of the shareholder, or in the case of joint shareholders, to the registered address of the joint shareholder who is first named on the central securities register, or to the person and to the address the shareholder or joint shareholders may direct in writing. The mailing of such cheque will, to the extent of the sum represented by the cheque (plus the amount of the tax required by law to be deducted), discharge all liability for the dividend unless such cheque is not paid on presentation or the amount of tax so deducted is not paid to the appropriate taxing authority.

### **21.13 Capitalization of Retained Earnings or Surplus**

Notwithstanding anything contained in these Articles, the directors may from time to time capitalize any retained earnings or surplus of the Company and may from time to time issue, as fully paid, shares or any bonds, debentures, or other securities of the Company as a dividend representing the retained earnings or surplus so capitalized or any part thereof.

## **22. Accounting Records and Auditor**



### **22.1 Recording of Financial Affairs**

The directors must cause adequate accounting records to be kept to record properly the financial affairs and condition of the Company and to comply with the *Business Corporations Act*.

### **22.2 Inspection of Accounting Records**

Unless the directors determine otherwise, or unless otherwise determined by ordinary resolution, no shareholder of the Company is entitled to inspect or obtain a copy of any accounting records of the Company.

### **22.3 Remuneration of Auditor**

The directors may set the remuneration of the auditor of the Company.

## **23. Notices**

### **23.1 Method of Giving Notice**

Unless the *Business Corporations Act* or these Articles provide otherwise, a notice, statement, report, or other record required or permitted by the *Business Corporations Act* or these Articles to be sent by or to a person may be sent by any one of the following methods:

- (1) mail addressed to the person at the applicable address for that person as follows:
  - (a) for a record mailed to a shareholder, the shareholder's registered address;
  - (b) for a record mailed to a director or officer, the prescribed address for mailing shown for the director or officer in the records kept by the Company or the mailing address provided by the recipient for the sending of that record or records of that class; and
  - (c) in any other case, the mailing address of the intended recipient;
- (2) delivery at the applicable address for that person as follows, addressed to the person:
  - (a) for a record delivered to a shareholder, the shareholder's registered address;
  - (b) for a record delivered to a director or officer, the prescribed address for delivery shown for the director or officer in the records kept by the Company or the delivery address provided by the recipient for the sending of that record or records of that class; and
  - (c) in any other case, the delivery address of the intended recipient;
- (3) unless the intended recipient is the auditor of the Company, sending the record by fax to the fax number provided by the intended recipient for the sending of that record or records of that class;

- (4) unless the intended recipient is the auditor of the Company, sending the record by email to the email address provided by the intended recipient for the sending of that record or records of that class; or
- (5) physical delivery to the intended recipient.

### **23.2 Deemed Receipt**

A notice, statement, report, or other record that is:

- (1) mailed to a person by ordinary mail to the applicable address for that person referred to in Article 23.1 is deemed to be received by the person to whom it was mailed on the day (Saturdays, Sundays, and holidays excepted) following the date of mailing;
- (2) faxed to a person to the fax number provided by that person referred to in Article 23.1 is deemed to be received by the person to whom it was faxed on the day it was faxed; and
- (3) emailed to a person to the email address provided by that person referred to in Article 23.1 is deemed to be received by the person to whom it was emailed on the day it was emailed.

### **23.3 Certificate of Sending**

A certificate signed by the secretary, if any, or other officer of the Company or of any other corporation acting in that capacity on behalf of the Company stating that a notice, statement, report, or other record was sent in accordance with Article 23.1 is conclusive evidence of that fact.

### **23.4 Notice to Joint Shareholders**

A notice, statement, report, or other record may be provided by the Company to the joint shareholders of a share by providing such record to the joint shareholder first named in the central securities register in respect of the share.

### **23.5 Notice to Legal Personal Representatives and Trustees**

A notice, statement, report, or other record may be provided by the Company to the persons entitled to a share or shares in consequence of the death, bankruptcy, or incapacity of a shareholder by:

- (1) mailing the record, addressed to them:
  - (a) by name, by the title of the legal personal representative of the deceased or incapacitated shareholder, by the title of trustee of the bankrupt shareholder, or by any similar description; and
  - (b) at the address, if any, supplied to the Company for that purpose by the persons claiming to be so entitled; or

- (2) if an address referred to in paragraph (1)(b) has not been supplied to the Company, by giving the notice in a manner in which it might have been given if the death, bankruptcy, or incapacity had not occurred.

### **23.6 Undelivered Notices**

If on two consecutive occasions, a notice, statement, report, or other record is sent to a shareholder pursuant to Article 23.1 and on each of those occasions any such record is returned because the shareholder cannot be located, the Company will not be required to send any further records to the shareholder until the shareholder informs the Company in writing of their new address.

## **24. Seal**

### **24.1 Who May Attest Seal**

Except as provided in Articles 25.2 and 25.3, the Company's seal, if any, must not be impressed on any record except when that impression is attested by the signatures of:

- (1) any two directors;
- (2) any officer, together with any director;
- (3) if the Company has only one director, that director; or
- (4) any one or more directors or officers or persons as may be determined by the directors.

### **24.2 Sealing Copies**

For the purpose of certifying under seal a certificate of incumbency of the directors or officers of the Company or a true copy of any resolution or other document, despite Article 24.1, the impression of the seal may be attested by the signature of any director or officer or the signature of any other person as may be determined by the directors.

### **24.3 Mechanical Reproduction of Seal**

The directors may authorize the seal to be impressed by third parties on share certificates or bonds, debentures, or other securities of the Company as they may determine appropriate from time to time. To enable the seal to be impressed on any share certificates or bonds, debentures, or other securities of the Company, whether in definitive or interim form, on which facsimiles of any of the signatures of the directors or officers of the Company are, in accordance with the *Business Corporations Act* or these Articles, printed or otherwise mechanically reproduced, there may be delivered to the person employed to engrave, lithograph, or print such definitive or interim share certificates or bonds, debentures, or other securities one or more unmounted dies reproducing the seal, and such persons as are authorized under Article 24.1 to attest the Company's seal may in writing authorize such person to cause the seal to be impressed on such definitive or interim share certificates or bonds, debentures, or other securities by the use of such dies. Share certificates or bonds, debentures, or other securities to which the seal has been so impressed are for all purposes deemed to be under and to bear the seal impressed on them.

#### **45.4 Execution of Documents Generally**

The directors may from time to time by resolution appoint any one or more persons, officers, or directors for the purpose of executing any instrument, document, or agreement in the name of and on behalf of the Company for which the seal need not be affixed, and if no such person, officer, or director is appointed, then any one officer or director of the Company may execute such instrument, document, or agreement.

### **25. City of West Kelowna as Shareholder – Restricted Purposes and Accountability Provisions**

#### **25.1 Company Purpose**

The business of the Company is restricted to the provision of economic development services for the benefit of West Kelowna in order to attract business and investment to the community, build a diverse non-residential tax base and enhance the community's prosperity, including, without limiting the foregoing, by undertaking the following activities:

- (1) attract business, employers and investment to West Kelowna;
- (2) establish and keep current an economic development strategy;
- (3) develop branding aimed at identifying West Kelowna as a distinct community within the Central Okanagan, British Columbia and Canada;
- (4) coordinate sector-specific and broader economic development activities undertaken by or in collaboration with business and development entities and agencies;
- (5) develop support programs to retain and expand existing businesses; and
- (6) advise the City of West Kelowna on development services, infrastructure, bylaws, polices and regulations to support business growth and expand the non-residential assessment base.

#### **25.2 Annual Information Meeting**

The Company must hold an annual information meeting open to the public at least once each calendar year as such time and place may be determined by the directors in order to update the public as to the activities of the Company.

#### **25.3 Fiscal Year**

The Company's fiscal year end is December 31.

#### **25.4 Auditor**

The Company must have an auditor, who must be a person authorized by the *Business Corporations Act* (British Columbia) to act as an auditor, and the auditor must report on the Company's financial statements in accordance with the requirements of the *Business Corporations Act* (British Columbia).

#### **25.5 Public Inspection of Financial Statements and Articles**

If and for so long as the City of West Kelowna is a shareholder, the Company's audited financial statements and these Articles must be available for public inspection at the municipal office of City of West Kelowna, without any need for a person to make a request for records pursuant to the *Freedom of Information and Protection of Privacy Act* (British Columbia).

#### **25.6 Disposal of Local Government Assets**

If the City of West Kelowna transfers property to the Company for less than market value consideration, the Company must not dispose of such property without the prior written approval of the City.

#### **25.7 No Subsidiaries without Approval of Inspector of Municipalities**

The Company must not incorporate a subsidiary corporation or acquire shares of any other corporation without the prior approval of the Inspector of Municipalities.

#### **25.8 Inspector Approval Required for Amendments to Certain Articles**

Articles 25.7 to and including this Article 25.8 may not be amended, without prior approval of the Inspector of Municipalities.

#### **25.9 Authorized Investments**

If and for so long as the City of West Kelowna is the sole shareholder of the Company, money held by the Company that is not immediately required may only be invested or reinvested in accordance with section 183 of the *Community Charter* (British Columbia).

#### **25.10 City Appointed Observers**

The City of West Kelowna, as shareholder, may appoint one or more observers who shall have the same rights as directors to attend and participate at directors meeting but, for clarity, shall not be directors or entitled to vote at such meetings.

**25.11 Applicability of *Freedom of Information and Protection of Privacy Act***

If and for so long as the City of West Kelowna is the sole shareholder of the Company, the *Freedom of Information and Protection of Privacy Act* (British Columbia) applies to the Company.

Dated:[month, day,year]

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[Full name of incorporator]