

**MEMORANDUM**

**AND**

**ARTICLES OF ASSOCIATION**

**OF**

**HONG KONG INTERNET REGISTRATION CORPORATION LIMITED**

**(香港互聯網註冊管理有限公司)**

**(With amendment up to 20<sup>th</sup> September 2006)**

---

**Incorporated the 14th day of December, 2001**

---

THE COMPANIES ORDINANCE (CAP. 32)

---

COMPANY LIMITED BY GUARANTEE  
AND NOT HAVING A SHARE CAPITAL

---

MEMORANDUM OF ASSOCIATION

of

**HONG KONG INTERNET REGISTRATION CORPORATION LIMITED**  
(香港互聯網註冊管理有限公司)

---

**1. NAME**

The name of the Company is “HONG KONG INTERNET REGISTRATION CORPORATION LIMITED (香港互聯網註冊管理有限公司)” (the “**Company**”).

**2. REGISTERED OFFICE**

The registered office of the Company will be situated in Hong Kong.

**3. OBJECTS & POWERS**

The objects of the Company are:-

- (a) to promote Hong Kong as an international centre for e-commerce and to encourage for the benefit of the Hong Kong community a better understanding and use of the Internet and related technology;
- (b) to develop the administration of Internet domain names in Hong Kong;
- (c) to administer a registration system for all levels of Internet domain names under the Hong Kong country code “.hk ccTLD” and its other equivalents and to establish and develop a self-regulatory framework in respect of such registration system;

- (d) to provide services for registration of all levels of Internet domain names under the .hk ccTLD and its other equivalents including but not limited to registry services, registrar services and other services ancillary thereto;
- (e) to administer and manage the allocation and assignment of Internet Protocol addresses in Hong Kong;
- (f) to liaise with local and international bodies on issues relating to the development and administration of domain name systems and Internet Protocol addresses;
- (g) to develop and establish a policy framework for the development and administration of Internet domain names under the .hk ccTLD and its other equivalents;
- (h) to establish appropriate complaints handling and dispute resolution processes which provide for conciliation or redress of grievances on matters associated with the administration or use of Internet domain names under the .hk ccTLD and its other equivalents;

The powers of the Company are :

In furtherance of the above objects but not otherwise, the Company may:-

- (i) hold or assist in holding exhibitions, competitions and organise lectures for the purpose of promoting the primary objects of the Company;
- (ii) print, publish and sell periodicals, books or leaflets the contents of which are designed to promote the primary objects of the Company;
- (iii) enter into any arrangements with any governments or authorities, supreme, municipal, local or otherwise, or any person or company that may seem conducive to the objects of the Company or any of them and to obtain from any such government, authority, person or company any rights, privileges, charters, contracts, licences and concessions which the Company may think desirable to obtain and to carry out, exercise and comply therewith;
- (iv) apply for, invite and collect from Members of the Company or from any other persons, corporations or authorities, subscriptions, donations, gifts, bequests and any other assistance;
- (v) acquire by purchase, gift or otherwise, any real or personal property whether subject to any special trust or not;
- (vi) sell, improve, manage, develop, exchange, lease, mortgage, dispose of, turn to account or otherwise deal with all or any part of the property, assets, rights and privileges of the Company;

- (vii) undertake and execute any trusts which may lawfully be undertaken by the Company;
- (viii) borrow or raise money for the purposes of the Company and on such security as may be thought fit;
- (ix) invest the moneys of the Company not immediately required for its purposes in or upon such investments, securities or property as may be thought fit;
- (x) employ and remunerate and, from time to time if thought fit, dismiss and replace with others such employees and staff as the Company may think fit, and lawyers, accountants, surveyors and other professional or non-professional advisers or consultants as may be considered expedient;
- (xi) draw, make, accept, endorse, discount, execute and issue promissory notes, cheques, bills of exchange and other negotiable or transferable instruments;
- (xii) obtain any enactment or order for enabling the Company to carry any of its objects into effect or for effecting any modification of the Company's constitution or for any other purpose which may seem expedient;
- (xiii) vest any real or personal property, rights or interest acquired or belonging to the Company in any person for the benefit of the Company with a declaration in favour of the Company;
- (xiv) establish and support or aid in the establishment and support of any associations or institutions or subsidiaries which have objects altogether or mainly similar to those of the Company and to subscribe or guarantee the payment of moneys which may seem directly or indirectly calculated to benefit the Company;
- (xv) amalgamate with any companies, institutions, societies or associations which have objects altogether or mainly similar to those of the Company;
- (xvi) procure the Company to be registered or recognised in any part of the world;
- (xvii) co-operate with any local or public authority or other body;
- (xviii) support or oppose any proceedings or applications which may seem calculated directly or indirectly to benefit or prejudice the Company's interest;
- (xix) pay out of the funds of the Company all expenses which the Company may lawfully pay with respect to the incorporation and registration of the Company;

- (xx) insure with any company or person against losses, damages, risks and liabilities of all kinds which may affect the Company;
- (xxi) carry out any other acts, works, enterprises or things which are incidental or conducive to the attainment of the above objects or any of them;
- (xxii) carry on any other trade or business whatsoever which can, in the opinion of the Board of Directors, be advantageously carried on by the Company in connection with or ancillary to the general business of the Company;

Provided that:-

- (aa) in case the Company shall take or hold any property which may be subject to any trusts, the Company shall only deal with or invest the same in such manner as allowed by law, having regard to such trusts;
- (bb) the objects of the Company shall not extend to the regulations of relations between workers and employers or organisations of workers and organisations of employers;
- (cc) the powers set forth in the Seventh Schedule of the Companies Ordinance, Chapter 32 of the laws of Hong Kong are hereby excluded.

#### **4. USE OF INCOME AND PROPERTY**

- (a) The income and property of the Company, whencesoever derived, shall be applied solely towards the promotion of the objects of the Company as set forth in this Memorandum of Association.
- (b) Subject to Clauses 5(b) and (c) below, no portion of the income and property of the Company shall be paid or transferred directly or indirectly, by way of dividend, bonus, or otherwise howsoever, to the Members of the Company.

#### **5. REMUNERATION, INTEREST AND RENT**

- (a) No member of the Board or governing body of the Company shall be appointed to any salaried office of the Company, or any office of the Company paid by fees and no remuneration or other benefit in money or money's worth (except as provided in (c) below) shall be given by the Company to any member of the Board or governing body.
- (b) Nothing herein shall prevent the payment, in good faith, by the Company of reasonable and proper remuneration to any officer or servant of the Company, or to any Member of the Company not being a member of the Board or governing body of the Company in return for any services actually rendered to the Company.

- (c) Nothing herein shall prevent the payment, in good faith, by the Company :-
- (i) to any member of the Board or governing body of out-of-pocket expenses;
  - (ii) of interest on money lent by any Member of the Company or any member of the Board or governing body at a rate per year not exceeding 2% above the prime rate prescribed for the time being by the Hong Kong and Shanghai Banking Corporation Limited for Hong Kong dollar loans;
  - (iii) of reasonable and proper rent for premises demised or let by any Member of the Company or any member of the Board or governing body; and
  - (iv) of remuneration or other benefit in money or money's worth to a body corporate in which a Member of the Company or a member of the Board or governing body is interested solely by virtue of being a member of that body corporate by holding not more than one-hundredth part of its capital or controlling not more than a one-hundredth part of its votes.
- (d) No person shall be bound to account for any benefit he may receive in respect of any payment properly paid in accordance with (b) and (c) above.

## **6. LIMITED LIABILITY**

The liability of the Members of the Company is limited.

## **7. CONTRIBUTION TO ASSETS**

Every Member of the Company undertakes to contribute to the assets of the Company, in the event of its being wound up while such person is a Member or within one year after he ceased to be a Member, for payment of the debts and liabilities of the Company contracted before such person 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, such amount as may be required but not exceeding HK\$1.00.

## **8. RIGHTS OF THE GOVERNMENT CLASS**

Notwithstanding any provision herein or in the Company's Articles of Association (the "Articles"), any resolution of the Company

- (a) to amend any right of the Government (as defined in the Articles) under these Articles;
- (b) affecting the nomination, appointment or removal of a Government Director (as defined in the Articles) or the termination, alternation, modification, variation or suspension of their appointment as a Director; or

(c) to vary Article 32 of the Articles

shall be the exclusive right of the Government class. The Members of other classes shall have no right to consider or vote on any of the resolutions aforesaid.

**9. APPLICATION OF EXCESS PROPERTY**

If, upon the winding up or dissolution of the Company, there remains, after the satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the Members of the Company but shall be given or transferred to some other institution or institutions having objects similar to the objects of the Company and which shall prohibit the distribution of its or their income and property among its or their Members to an extent at least as great as is imposed on the Company under or by virtue of Clause 4 of the Memorandum of Association, such institution or institutions to be determined by the Members of the Company at or before the time of dissolution and, in default thereof by a Judge of the High Court of the Hong Kong Special Administrative Region having jurisdiction in regard to charitable funds, and, if and so far as effect cannot be given to the aforesaid provision, then to some similar object.

WE, the several persons whose names, addresses and descriptions are hereto subscribed, are desirous of being formed into a company in pursuance of this Memorandum of Association.

Names, Addresses, Descriptions of Subscribers

Information Technology Services Department  
資訊科技署  
15/F, Wanchai Tower,  
12 Harbour Road,  
Wanchai,  
Hong Kong

For and on behalf of  
Information Technology Services  
Department 資訊科技署

Public Body

---

Name: Mr. YAN Sik Lun  
Title: Assistant Director (Management  
and Community Services) of  
Information Technology Services

Joint Universities Computer Centre Limited  
大學聯合電腦中心有限公司  
The Hong Kong Polytechnic University  
Yuk Choi Road,  
Hung Hom,  
Kowloon

For and on behalf of  
Joint Universities Computer Centre Limited  
大學聯合電腦中心有限公司

Body Corporate

---

Name: Dr. NG Nam  
Title: Director, Joint Universities Computer  
Centre Limited

The Chinese General Chamber  
of Commerce  
香港中華總商會  
4/F, 24-25 Connaught Road Central,  
Hong Kong

For and on behalf of  
The Chinese General Chamber  
of Commerce  
香港中華總商會

Body Corporate

---

Name: Mr. YU, Joseph Shin Gay  
Title: Committee Member, The Chinese  
General Chamber of Commerce

The Hong Kong General Chamber  
of Commerce  
香港總商會  
22/F, United Centre,  
95 Queensway,  
Hong Kong

Body Corporate

For and on behalf of  
The Hong Kong General Chamber  
of Commerce  
香港總商會

---

Name: Dr. CHEUNG, Yiu Sing  
Title: Assistant Director for Operations,  
The Hong Kong General Chamber  
of Commerce

Hong Kong Information Technology  
Federation Limited  
香港資訊科技商會  
13/F, On Hing Building,  
1 On Hing Terrace,  
Central,  
Hong Kong

Body Corporate

For and on behalf of  
Hong Kong Information Technology  
Federation Limited  
香港資訊科技商會

---

Name: Mr. MOK, Charles Peter  
Title: President, Hong Kong Information  
Technology Federation Limited

Hong Kong Internet Service Providers  
Association  
香港互聯網供應商協會  
Room 901-905, Hua Fu Commercial  
Building,  
111 Queen's Road West,  
Sheung Wan  
Hong Kong

Society

For and on behalf of  
Hong Kong Internet Service Providers  
Association  
香港互聯網供應商協會

---

Name: Mr. SOONG, Chester Tak Kar  
Title: Chairman, Hong Kong  
Internet Service Providers Association

The Law Society of Hong Kong  
香港律師會  
3/F, Wing On House  
71 Des Voeux Road Central  
Hong Kong

Body Corporate

For and on behalf of  
The Law Society of Hong Kong  
香港律師會

---

Name: Mr. Herbert TSOI  
Title: President  
The Law Society of Hong Kong

Dated the 3<sup>rd</sup> day of December, 2001

WITNESS to the above signatures:

Name:- Mr. LAU Shek Lam  
Address:- 8/F, Shui On Centre, 6-8 Harbour Road, Wanchai, Hong Kong  
Occupation:- Information Technology

Hong Kong Computer Society  
香港電腦學會  
Room 1915, China Merchants Tower,  
Shun Tak Centre,  
168 Connaught Road Central,  
Hong Kong

Body Corporate

For and on behalf of  
Hong Kong Computer Society  
香港電腦學會

---

Name: Mr. Daniel LAI  
Title: President  
Hong Kong Computer Society

Dated the 29<sup>th</sup> day of November, 2001

WITNESS to the above signature:

---

(Sd.) Chan Kam Che  
G/F, House 10C, Hing Keng Shek, Sai Kung, N.T.  
General Manager

THE COMPANIES ORDINANCE (CAP. 32)

---

COMPANY LIMITED BY GUARANTEE  
AND NOT HAVING A SHARE CAPITAL

---

ARTICLES OF ASSOCIATION

of

HONG KONG INTERNET REGISTRATION CORPORATION LIMITED  
(香港互聯網註冊管理有限公司)  
(With amendment up to 20<sup>th</sup> September 2006)

---

**DEFINITIONS**

1. In these Articles, except where the context otherwise requires:-

- “Board” and “Directors” means the Directors for the time being of the Company.
- “Company” means the Company incorporated as “HONG KONG INTERNET REGISTRATION CORPORATION LIMITED (香港互聯網註冊管理有限公司)”.
- “Chairman” means the person, for the time being elected by the Board, to hold the office of the Chairman of the Board.
- “Chief Executive Officer” means the person for the time being appointed by the Board as the Chief Executive Officer of the Company.
- “Government” means the Government of the Hong Kong Special Administrative Region.
- “Government Director” means a natural person who is employed by the Government and appointed solely with the consent of the Government class to act as a Director of the Company.
- “Member” means a person admitted to membership of the Company by the Board and whose name appears on the Register of Members for the time being.

“Office”	means the registered office, for the time being, of the Company.
“Ordinance”	means the Companies Ordinance, Chapter 32 of the laws of Hong Kong, and any modifications thereto.
“Register”	means the Register of Members of the Company to be kept pursuant to Section 95 of the Ordinance.
“Seal”	means the common seal of the Company.

References herein to Articles are to Articles of these Articles of Association. Words importing the singular shall include the plural and vice versa. Words importing the masculine shall include the feminine and vice versa. References to a Government department or job title of a Government official shall include any replacement department or job title holder that takes over the responsibilities of the former department or job title holder.

### **MEMBERSHIP**

2. The number of Members with which the Company proposes to be registered is unlimited.
3. The Subscribers to the Memorandum of Association shall be the first Members of the Company and such persons as the Directors shall admit to membership in accordance with the Articles shall be Members of the Company.
4. Every application for membership shall be in such form as the Directors shall from time to time prescribe. Applications for membership shall be made to the Chief Executive Officer and such applications shall be considered by the Directors or by such person or persons as they shall appoint to process such applications and who shall decide upon the admission or rejection of the applicant. The Directors or their appointee shall not be obliged to inform a rejected applicant of the reason for his rejection.
5. No right or privilege of any Member shall be in any way transferable or transmittable.

### **CLASSES OF MEMBERSHIP**

6. The membership of the Company may be divided into such classes as the Directors may from time to time determine. The following classes of membership shall be established:-

(a) **Government Class**

The Government, represented by the Office of the Government Chief

Information Officer.

(b) **User Class**

- (i) companies registered under the Companies Ordinance (Cap. 32);
- (ii) body corporates established by statute under Hong Kong law;
- (iii) owners' incorporations registered under the Building Management Ordinance (Cap. 344);
- (iv) sole proprietors and partnerships registered under Hong Kong law;
- (v) trust funds established by statute under Hong Kong law;
- (vi) trustees incorporated under Hong Kong law;
- (vii) societies registered or the registration of which are exempted under the Societies Ordinance (Cap. 151);
- (viii) schools registered under the Education Ordinance (Cap. 279);
- (ix) Hong Kong residents aged 18 or above; and
- (x) such persons (as defined in the Interpretation and General Clauses Ordinance (Cap. 1)), associations, organisations or bodies registered under Hong Kong law as determined by the Directors from time to time.

(c) **Service Provider Class**

- (i) Internet service providers holding a valid Public Non-Exclusive Telecommunications Service Licence or other applicable licences under the Telecommunications Ordinance (Cap. 106) and its subsidiary legislation; and
- (ii) domain name registrars accredited by the Company.

(d) **Information Technology Industry Class**

Such organisations whose members are eligible to vote in the Legislative Council election in respect of the information technology functional constituency as defined in the Legislative Council Ordinance (Cap. 542).

(e) **Commerce and Industry Class**

Such organisations whose members are eligible to vote in the Legislative Council election in respect of the commercial and industrial functional constituencies as defined in the Legislative Council Ordinance (Cap. 542).

(f) **Tertiary Institution Class**

Joint Universities Computer Centre Limited

7. A Member of any one class may not be a Member of any other class at the same time.

**ELIGIBILITY FOR MEMBERSHIP**

8. All Members must satisfy the following membership requirements:-
- (a) maintain a valid registration of one or more Internet domain names under the .hk ccTLD; and
  - (b) have been admitted to membership of the Company in accordance with the Articles.

**MEMBERSHIP FEES AND SUBSCRIPTIONS**

9. Each Member shall pay such fees (if any) and subscriptions (if any) as shall from time to time be determined by the Company.

**CESSATION OF MEMBERSHIP**

10. A Member may terminate his membership at any time upon prior written notice to the Company but will remain liable to pay to the Company all moneys (if any) which, at the time of his ceasing to be a Member shall be due from him to the Company.
11. A Member shall cease to have all membership rights if his registration under Article 8(a) has become invalid for any reason.
- 11A. Any Member classified under any class (except for the Government Class pursuant to Article 6(a)), where it is a body corporate, shall notify the Company in the event that the corporate member has commenced a winding up proceeding (whether compulsory or voluntary, except for the purpose of re-construction or amalgamation). The corporate member shall cease to be a Member from the date of winding up order or the date the voluntary winding up is deemed to commence. Member other than a body corporate, shall notify the Company and shall cease to be a Member from the date of being adjudicated bankrupt or from the date of dissolution of the unincorporated body.

**EXPULSION OF MEMBERS**

12. Every Member on joining the Company impliedly undertakes to comply with these Articles, and any refusal or neglect to do so shall render a Member liable to expulsion by a resolution of a Directors' meeting provided that at least 21 days before such

meeting the Member shall have had written notice of the meeting and of the allegations made against him and of the intended resolution, and that the Member shall at such meeting and before the passing of such resolution have had an opportunity of giving orally or in writing any explanation or defence he may think fit. A Member so expelled shall be entitled to appeal to the Members in general meeting in respect of any decision of the Directors to expel him by giving written notice of such intention to the Company within 14 days of the date of such expulsion. On receipt of such notice, the Directors shall convene an extraordinary general meeting upon 21 days' notice. The decision of the general meeting is final. A Member expelled under this rule shall forfeit all right in, and claim upon, the Company and its property.

### **GENERAL MEETINGS**

13. The Company shall, in each year, hold a general meeting as its annual general meeting in addition to any other meetings in that year, and shall specify the meeting as such in the notices calling it. The annual general meeting shall be held at such time and place as the Directors shall appoint.
14. Any general meeting, other than an annual general meeting, shall be called an extraordinary general meeting.
15. The Directors may, whenever they think fit, convene an extraordinary general meeting to be held at such time and place as it shall determine. An extraordinary general meeting shall also be convened on a requisition of the Members in accordance with the Ordinance. If at any time there are not within Hong Kong sufficient Directors capable of acting to form a quorum, any Director or any two Members may convene an extraordinary general meeting in the same manner as nearly as possible as that in which meetings may be convened by the Directors.
16. Subject to Section 116C of the Ordinance, an annual general meeting and a meeting called for the passing of a special resolution shall be called by not less than 21 days' notice in writing and any other general meeting shall be called by not less than 14 days' notice in writing. The notice shall be exclusive of the day on which it is served or deemed to be served and of the day for which it is given and shall specify the place, date and time of the meeting and, in the case of special business, the general nature of that business and shall be given in any manner specified in these Articles or in such other manner if any as may be prescribed by the Company in general meeting to such persons as are, under these Articles entitled to receive notices from the Company.
17. A meeting of the Company shall, notwithstanding that it is called by shorter notice than prescribed in Article 16, be deemed to have been duly convened if it is so agreed, in the case of a meeting called as an annual general meeting, by all the Members entitled to attend and vote at the meeting and, in the case of any other meeting, by a majority in number of the Members having a right to attend and vote at the meeting, being a majority together representing not less than 95 per cent. of the total voting rights of all the Members entitled to attend and vote at the meeting.

18. The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any Member shall not invalidate the proceedings at any meeting.

### **CORPORATIONS ACTING BY REPRESENTATIVES AT MEETING**

19. Any corporation which is a Member may by resolution of its board of directors or other governing body as appropriate authorise such person as it thinks fit to act as its representative at any general meeting of the Company, and the person so authorised shall be entitled to exercise the same powers on behalf of the corporation he represents as that corporation could exercise if it were an individual member.

### **PROCEEDINGS AT GENERAL MEETINGS**

20. The quorum for a general meeting shall be eight Members and the quorum must continue to be present throughout the meeting and the quorum must include a representative of the Government class.
21. All business shall be deemed special that is transacted at an extraordinary general meeting and all that is transacted at an annual general meeting except for consideration of the accounts, balance sheets and the reports of the Directors and auditors, the election of Directors in place of those retiring and appointing and fixing the remuneration of the auditors.
22. If within 15 minutes from the time appointed for a meeting, a quorum is not present, the meeting, if convened upon the requisition of Members, shall be dissolved but, in any other case, it shall be adjourned to the same day in the next week at the same time and place, or to such other day, time and place as the Directors may determine, and if a quorum is not present at the adjourned meeting within half an hour from the time appointed for the meeting but the Members present includes a representative of the Government class, the Members present shall be a quorum.
23. The Chairman shall preside as chairman at every general meeting but if at any meeting he is not present at the time appointed for holding the meeting or is unwilling to preside, the Directors present shall choose one of their number to preside as chairman. If no Director is present, the Members shall elect one of their own number as chairman of the meeting.
24. The chairman of the meeting may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a meeting is adjourned for 30 days or more, notice of the adjourned meeting shall be given as in the case of an original meeting. Save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned meeting.

25. At any general meeting a resolution put to the vote of the meeting shall be decided on a show of hands unless a poll is demanded (before or on the declaration of the result of the show of hands):-
- (a) by the chairman of the meeting; or
  - (b) by at least two Members present in person; or
  - (c) by a representative of the Government class; or
  - (d) by any Member or Members present in person and representing not less than one-tenth of the total voting rights of all the Members having the right to vote at the meeting.

Unless a poll is so demanded a declaration by the chairman of the meeting that a resolution has on a show of hands been carried or carried unanimously, or by a particular majority, or lost and an entry to that effect in the book containing the minutes of proceedings of the Company shall be conclusive evidence of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

The demand for a poll may be withdrawn.

26. Except as provided in Article 28, if a poll is duly demanded it shall be taken in such manner as the chairman of the meeting directs, and the result of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded.
27. In the case of an equality of votes, whether on a show of hands or on a poll, the chairman of the meeting at which the show of hands takes place or at which the poll is demanded, shall be entitled to a second or casting vote.
28. A poll demanded on the election of a chairman, or on a question of adjournment, shall be taken forthwith. A poll demanded on any other question shall be taken at such time as the chairman of the meeting directs, and any business other than that upon which a poll has been demanded may be proceeded with pending the taking of the poll.
29. With respect to a resolution duly proposed as a special resolution, no amendment to such resolution (other than an amendment to correct a patent error) may be considered or voted on during a general meeting at which such resolution is to be considered or voted on.
30. With respect to a resolution duly proposed as an ordinary resolution, no amendment to such resolution (other than an amendment to correct a patent error) may be considered or voted on during a general meeting at which such resolution is to be considered or voted on unless, at least forty-eight hours before the time appointed for the holding of such meeting or an adjourned meeting at which such resolution is to be considered or voted on, notice of the amendment to such resolution and of the intention to move it has been lodged at the Company's registered office.

31. If an amendment is proposed to a resolution under consideration which in good faith is ruled out of order by the chairman of the meeting, the proceedings on the substantive resolution shall not be invalidated by an error in such ruling.

### **VOTES OF MEMBERS**

32. Subject to the provision of this Article each Member shall be entitled to one vote at a general meeting of the Company. Subject to the provisions of this Article the votes of Members, irrespective of the class of membership to which they belong, shall carry the same rights save for the right to nominate a Director. Members may vote at a general meeting in person, by post or via the Internet in such manner as the Directors shall prescribe from time to time and subject always to the laws of Hong Kong. Voting by proxy will not be permitted.

Notwithstanding any provision herein, any resolution of the Company

- (a) to amend any right of the Government under these Articles;
- (b) affecting the nomination, appointment or removal of a Government Director or the termination, alternation, modification, variation or suspension of their appointment as a Director; or
- (c) to vary this Article

shall be the exclusive right of the Government class. The Members of other classes shall have no right to consider or vote on such resolutions.

### **BOARD OF DIRECTORS**

33. The management of the Company and of its property and funds shall be vested in the Directors.
34. The following persons shall be appointed in writing by the subscribers to the Memorandum of Association of the Company as the first Directors of the Company. Thereafter the Directors, except the Government Director, shall be elected at the annual general meeting in accordance with the provisions of Article 40.
- (a) The Government Director;
  - (b) one representative from the Joint Universities Computer Centre Limited;
  - (c) one representative from the Chinese General Chamber of Commerce;
  - (d) one representative from the Hong Kong Chamber of Commerce;
  - (e) one representative from the Hong Kong Information Technology Federation;

- (f) one representative from the Hong Kong Internet Service Providers Association;
  - (g) one representative from the Law Society of Hong Kong; and
  - (h) one representative from the Hong Kong Computer Society.
35. Unless otherwise determined by the Company in general meeting, the Board of Directors shall consist of not less than 8 and not more than 13 persons. Notwithstanding any provision herein, one of the Directors shall be the Government Director. The Directors, other than the Government Director, shall be elected by the Members at the annual general meeting of the Company in accordance with the provisions of Article 40.

### **ROTATION OF THE BOARD OF DIRECTORS**

36. With the exception of the Government Director all the first Directors will retire at the first annual general meeting of the Company.
37. With the exception of the Government Director, the Directors who have served on the Board for three years shall retire from office at the annual general meeting in every subsequent year following the first annual general meeting. In case the number of Directors to retire from office is less than one-third, the remaining Directors longest in office since election or re-election shall retire to make up the total number of Directors to retire from office to one-third or nearest to but less than one-third of the total number of existing elected Directors. As between Directors who shall have been in office for a period of equal length, those to retire shall be determined by lot.
38. A retiring Director shall be eligible for re-election except that no elected Director shall serve for more than two consecutive terms or a total of nine years as the case may be.

### **NOMINATION OF THE BOARD OF DIRECTORS**

39. Each class of Members shall be entitled to nominate persons for election as Directors of the Company as follows:-

<u>Class</u>	<u>Nomination of Number of Directors</u>
Government Class	1
User Class	6
Service Provider Class	2
Information Technology Industry Class	2
Commerce and Industry Class	1

**ELECTION OF THE BOARD OF DIRECTORS**

40. The Directors of the Board, except the Government Director, shall be elected in the following manner:
- (a) The Members of each class shall elect such number of Directors (as may from time to time be determined by the Directors) to the Board to represent them in each of such classes.
  - (b) Each candidate standing for election to the Board for each class of Members must be a natural person proposed by an existing Member of the Company and seconded by another existing Member of the Company. Both of the proposer and the seconder must be from the same class of Members as the class for which the candidate is standing for election.
  - (c) A candidate for election to the Board cannot stand for more than one class of Members at the same election.
  - (d) If on the close of the nomination period, the number of candidates standing for election to the Board for a class is equal to or less than the number of vacancies for such class, the nominated candidates shall be deemed to be elected. If there is any vacancy in the Board for any classes of Members, such vacancy shall be filled by a by-election by the Members of such class within one month of the occurrence of such vacancy in accordance with procedures set out in this Article 40.
  - (e) If the number of candidates standing for election to the Board for a class is greater than the number of vacancies in the Board for such class, the election to the Board shall be made by way of a ballot.
  - (f) Each Member of a class is entitled to a number of votes which is equal to the number of vacancies to the Board for the relevant class. No Member so voting may cast more than one (1) vote in favour of each candidate.
  - (g) The candidates receiving the greatest number of votes in their favour within their classes will be declared to be elected to the Board for such class. In the case of an equality of votes, the election shall be decided by way of lot.
  - (h) With the exception of the Government Director, the term of office of a Director elected in accordance with Article 40 shall be three years.

The Government Director shall be appointed by the Government Chief Information Officer.

**POWERS OF THE BOARD OF DIRECTORS**

41. The Directors may exercise all such powers and do all such things as are not required by the Ordinance or these Articles to be exercised or done by the Company in general meeting, subject nevertheless to the provisions of the Ordinance and these Articles and to any regulations prescribed by the Company in general meeting, provided that no such regulation shall invalidate any prior act of the Directors which would have been valid if such regulation had not been made.
42. All cheques drawn on the Company's bank account or accounts, all orders for payment and other negotiable instruments made or issued by the Company, all receipts for moneys paid to the Company and all other contracts entered into by the Company in the ordinary course of business, shall be signed, drawn, accepted, endorsed, or otherwise executed as the case may be, in such manner as the Directors shall from time to time by resolution determine.
43. The Directors may exercise all the powers of the Company to borrow money and to mortgage or charge its undertaking and property, or any part thereof.
44. The Directors shall have power to employ and dismiss staff of the Company and to make provision for pensions, gratuities, retirement and other benefits for such staff.
45. The Directors may delegate in writing any of their powers to committees or sub-committees to be appointed by it, consisting of such persons as the Directors may think fit, and may from time to time revoke such delegation or revoke the appointment of and discharge any such committee or sub-committee either wholly or in part and either as to persons or purposes.
46. The Directors shall have power from time to time to make, amend and repeal all such rules as it may deem necessary or convenient for the carrying out of the objects of the Company and for the proper conduct and management of the Company. No rules shall be inconsistent with, nor shall they affect or repeal anything contained in the Memorandum or Articles of Association and any rule may be repealed by an ordinary resolution passed at a general meeting of the Company.
47. The Directors shall cause minutes to be made in books provided for the purpose:-
  - (a) of all appointments of officers made by the Directors;
  - (b) of the names of the Directors present at each meeting of the Director and of any committee or sub-committee of the Directors;
  - (c) of all resolutions and proceedings at all meetings of the Company, and of the Directors and of any committee or sub-committee of the Directors.

### **CHAIRMAN**

48. The Directors may elect a Chairman from among themselves in connection with such duties as the Directors shall decide. The Chairman shall cease to hold the office of Chairman when he ceases to be a Director of the Company.

### **SECRETARY AND OFFICERS**

49. The Directors shall appoint the Secretary and may appoint such other officers as they think fit from time to time, at such remuneration and upon such conditions as the Directors may determine. The Secretary and officers so appointed may be removed by the Directors. The person appointed as Secretary shall be deemed to be the Secretary for the purposes of the Ordinance and these Articles.

### **CHIEF EXECUTIVE OFFICER**

50. The Directors may appoint a Chief Executive Officer of the Company at such remuneration and upon such conditions as the Directors think fit and any person so appointed may be removed by the Directors. The Chief Executive Officer shall be entitled to receive notice of and to attend meetings of the Board but shall not be entitled to vote thereat.

### **THE SEAL**

51. The Directors shall provide for the safe custody of the Seal which shall not be affixed to any instrument except by authority of a resolution of the Directors. Every instrument to which the Seal is affixed shall be signed by one Director and shall be countersigned by the Chief Executive Officer or by a second Director or by some other person appointed by the Directors for this purpose.

### **PROCEEDINGS OF THE BOARD OF DIRECTORS**

52. The Directors may meet and regulate its business as they think fit.
53. The quorum for a meeting of the Directors shall be not less than half of the Directors (including the Government Director) for the time being provided that if, within 15 minutes from the time appointed for the meeting, a quorum is not present, the meeting shall be adjourned to such other day, time and place as those present may determine and if, at the adjourned meeting, a quorum is not present within half an hour from the time appointed for the meeting the Directors present (including the Government Director), provided there are not less than two such Directors present, shall be a quorum.
54. Questions arising at any meeting of the Directors shall be decided by a majority of

votes. In the case of an equality of votes, the Chairman of the Board shall have a casting vote.

55. A Director may and the Secretary at any time, on the requisition of a Director, shall convene a meeting of the Directors. It shall not be necessary to give notice of a meeting of the Directors to any Director for the time being absent from Hong Kong.
56. The continuing Directors may continue to act, and to carry out all the functions of the Directors notwithstanding any vacancy.
57. If, at any meeting of the Directors, the Chairman is not present at the time appointed for holding the same, the Directors present shall choose one of their number to be chairman of the meeting.
58. A director may attend a meeting of the Directors in person, or via available electronic means including telephone conference or video conference.
59. A resolution in writing (which shall include a facsimile transmission) signed by all Directors shall be as effective as a resolution passed at a meeting of Directors duly convened and held and may consist of several counterparts, each signed by one or more of the Directors.
60. All acts done at any meeting of Directors or of a committee or sub-committee of the Directors or by any person acting as a Director shall, notwithstanding that it may afterwards be discovered that there was some defect in the appointment of any such Director or person acting as aforesaid or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Member of the Board.
61.
  - (a) A Director who is, whether directly or indirectly, interested in a contract or proposed contract with the Company shall declare the nature and extent of his interest at a Board meeting at which the question of entering into such contract is first taken into consideration or, if the Director was not at the date of that meeting interested in such contract, at the next Board meeting held after he became interested. If the Director becomes interested in a contract after it is made, the declaration shall be made at the first Board meeting held after he became interested. If the Director is interested in a contract which was made before he was appointed a Director, the declaration shall be made at the first Board meeting held after he is appointed.
  - (b) A general notice given to the Board by a Director that:
    - (i) he is a member of a specified company or firm and is to be regarded as interested in any contract with which, after the date of the notice, the Company is made with such company or firm; or
    - (ii) he is to be regarded as interested in any contract with which, after the date of the notice, the Company is made with a specified person who is

connected with him;

shall (if such Director gives the notice at a Board meeting or takes reasonable steps to secure that the notice is brought up and read at the next Board meeting after the notice is given) be deemed a sufficient declaration of interest in relation to the contract.

(c) In this Article, a reference to a contract shall include a transaction or arrangement, whether or not constitute a contract.

62. A Director shall not vote (but shall be counted towards the quorum present at the meeting) in respect of any contract in which he is interested or any matter arising therefrom, and if he does so vote his vote shall not be counted.

### **REMOVAL OF DIRECTORS**

63. Save for the Government Director, the Company may by ordinary resolution remove any Director before the expiration of his period of office notwithstanding anything in these Articles.

64. Any casual vacancy in the Board of Directors or a vacancy resulting from the removal of a Director under Article 63 may be filled by a Director nominated by the class of Members which originally appointed the director removed by the Company in accordance with the procedures set out in Article 40. Any person so appointed shall serve only for the unexpired term of the Director whom he has replaced but shall be eligible for re-election. The unexpired term served by such replacement Director shall, for the purposes of Article 38, be counted as one full term.

### **DISQUALIFICATION OF MEMBERS OF THE BOARD**

65. The office of a Director shall be vacated if such Director:-

- (a) becomes bankrupt or makes any arrangement or composition with his creditors generally; or
- (b) becomes prohibited by law or court order from being a director of a company; or
- (c) is subject to an order which is made by a court claiming jurisdiction for that purpose on the ground of mental disorder for his detention or for the appointment of a guardian or receiver or other person to exercise powers with respect to his property or affairs; or
- (d) resigns his office by notice in writing to the Company given in accordance with section 157D(3)(a) of the Ordinance; or

- (e) in the case of the Government Director, ceases to be employed by the Government;
- (f) shall for more than 6 months have been absent without permission of the Directors from meetings of the Directors held during that period; or
- (g) is directly or indirectly interested in any contract (being a contract of significance in relation to the Company's business) with the Company and, if his interest in the contract is material, fails to declare the nature of his interest in manner required by section 162 of the Ordinance;
- (h) fails to observe and comply with the "Code of Conduct for the Board of Directors" of the Company prevailing at the time.

### ACCOUNTS

66. The Directors shall cause proper books of account to be kept with respect to:-
- (a) all sums of moneys received and expended by the Company and the matters in respect of which the receipt and expenditure takes place;
  - (b) the assets and liabilities of the Company;
  - (c) all sales and purchases of goods by the Company; and
  - (d) all other matters necessary to show a true and fair view of the financial state and condition of the Company.
67. The books of account shall be kept at the Office or at such other place as the Directors think fit and shall always be open to the inspection of the Directors.
68. The Directors shall determine the extent to which the accounts and books of the Company or any of them shall be open to the inspection of Members, not being Directors, and no Member (not being a Director) shall have any right of inspection of any account, book or document of the Company except as conferred by statute or authorised by the Directors or by the Company in general meeting.
69. The Directors shall from time to time in accordance with sections 122, 124 and 129D of the Ordinance, cause to be prepared and to be laid before the Company in general meeting such income and expenditure statement, balance sheets and reports as are referred to in those sections.
70. Auditors shall be appointed and their duties regulated in accordance with the Ordinance. The auditors appointed by the Company may attend general meetings and speak on any part of the business which concerns him as auditor.

### **NOTICES**

- 71 A notice may be served by the Company upon any Member by personal delivery or by sending it through the post or by electronic means such as facsimile transmission or e-mail transmission to the postal address (which shall be an address in Hong Kong), facsimile number (which shall be a number in Hong Kong) or e-mail address of the Member appearing in the Register. In the case of the service of notice by post, it shall be deemed to have been served on the third day following that on which the notice is put on the post and, in the case of a facsimile transmission or an e-mail transmission, shall be deemed to have been served at the time of dispatch. In proving such service, it shall be sufficient to prove that a prepaid envelope containing the notice was properly addressed in accordance with this Article and sent through the post and, in the case of a notice sent by facsimile transmission or e-mail transmission, that the facsimile number or e-mail address used was the registered facsimile number or e-mail address of the Member being served with such notice.

### **INDEMNITY**

72. Every Director of the Company shall not have any personal liability for any act performed in his or her capacity as a Director of the Company except for such acts as would constitute a violation of the laws of Hong Kong. In addition, to the extent permitted by the laws of Hong Kong, the Company shall indemnify every Director of the Company against any and all expenses, judgements, fines, settlements and other amounts actually and reasonably incurred by him or her in connection with any threatened, pending or completed action, suit or proceedings, whether civil, administrative or investigative, to which he or she may be subjected in the fulfillment of his or her duties, except in respect of wilful misconduct or gross negligence.

Without prejudice to the foregoing provision and subject to the provisions of the Companies Ordinance (Cap. 32), the Directors may purchase and maintain insurance at the expense of the Company for the benefit of the Directors and other officers and auditors of the Company against any liability attached to any of them or any loss or expenditure incurred by them in relation to anything done or omitted or alleged to have been done or omitted as Directors, officers or auditors.

Names, Addresses and Descriptions of Subscribers

Information Technology Services Department  
資訊科技署

15/F., Wanchai Tower,  
12 Harbour Road,  
Wanchai,  
Hong Kong.

Public Body

For and on behalf of  
Information Technology Services  
Department 資訊科技署

(Sd.) Mr. YAN Sik Lun  
Assistant Director (Management  
and Community Services) of  
Information Technology Services

Joint Universities Computer Centre Limited  
大學聯合電腦中心有限公司

The Hong Kong Polytechnic University  
Yuk Choi Road,  
Hung Hom,  
Kowloon.

Body Corporate

For and on behalf of  
Joint Universities Computer Centre Limited  
大學聯合電腦中心有限公司

(Sd.) Dr. NG Nam  
Director, Joint Universities Computer  
Centre Limited

The Chinese General Chamber  
of Commerce

香港中華總商會

4/F., 24-25 Connaught Road Central,  
Hong Kong.

Body Corporate

For and on behalf of  
The Chinese General Chamber  
of Commerce

香港中華總商會

(Sd.) Mr. YU, Joseph Shin Gay  
Committee Member, The Chinese  
General Chamber of Commerce

The Hong Kong General Chamber  
of Commerce  
香港總商會  
22/F., United Centre,  
95 Queensway,  
Hong Kong.

Body Corporate

For and on behalf of  
The Hong Kong General Chamber  
of Commerce  
香港總商會

(Sd.) Dr. CHEUNG, Yiu Sing  
Assistant Director for Operations,  
The Hong Kong General Chamber  
of Commerce

Hong Kong Information Technology  
Federation Limited  
13/F., On Hing Building,  
1 On Hing Terrace,  
Central,  
Hong Kong.

Body Corporate

For and on behalf of  
Hong Kong Information Technology  
Federation Limited

(Sd.) Mr. MOK, Charles Peter  
President, Hong Kong Information  
Technology Federation Limited

Hong Kong Internet Service Providers  
Association  
香港互聯網供應商協會  
Room 901-905, Hua Fu Commercial  
Building,  
111 Queen's Road West,  
Sheung Wan,  
Hong Kong.

Society

For and on behalf of  
Hong Kong Internet Service Providers  
Association  
香港互聯網供應商協會

(Sd.) Mr. SOONG, Chester Tak Kar  
Chairman, Hong Kong  
Internet Service Providers Association

The Law Society of Hong Kong  
3/F., Wing On House,  
71 Des Voeux Road Central,  
Hong Kong.

Body Corporate

For and on behalf of  
The Law Society of Hong Kong

(Sd.) Mr. Herbert TSOI  
President  
The Law Society of Hong Kong

Dated the 3rd day of December, 2001

WITNESS to the above signatures:

(Sd.) Mr. LAU Shek Lam  
8/F., Shui On Centre, 6-8 Harbour Road, Wanchai, Hong Kong.  
Systems Analyst

Hong Kong Computer Society  
香港電腦學會  
Room 1915, China Merchants Tower,  
Shun Tak Centre,  
168 Connaught Road Central,  
Hong Kong.

Body Corporate

For and on behalf of  
Hong Kong Computer Society  
香港電腦學會

(Sd.) Mr. Daniel LAI  
President,  
Hong Kong Computer Society

Dated the 29th day of November, 2001

WITNESS to the above signature:

(Sd.) Chan Kam Che  
G/F., House 10C, Hing Keng Shek, Sai Kung, N.T.  
General Manager