**Project Executing Entity: Blue Action Fund**

# Legal Due Diligence

**Blue Action Fund**

**1) Legal Form:**independent legal entity in the legal form of a German foundation under Civil Law (“Stiftung des bürgerlichen Rechts”) pursuant to its Charter

Evidenced by:

(i) Satzung (Charter) of the Blue Action Fund (see below)

(ii)Stiftungsurkunde (Foundation´s Deed) pursuant to § 80 BGB and § 3 StiftG HE (Foundation law of the federal state of Hessen) issued by Regierungspräsidium Darmstadt.

**2) Legal capacity:** BAF´s legal capacity has been recognition by the competent state foundation authorities in the federal state of Hessen, where it has its seat (§ 80 Paragraph 1 BGB).

Evidenced by:

“Anerkennung der Stiftung Blue Action Fund, Sitz Frankfurt am Main, als rechtsfähige Stiftung des bürgerlichen Rechts” (formal recognition of the foundation Blue Action Fund), issued by the Regierungspräsidium Darmstadt confirming BAF´s legal capacity in accordance with § 80 BGB (German Civil Code) and § 3 StiftG HE (Foundation law of the federal state of Hessen).

**3) Foundation´s purpose and charitable status:** the foundation has a charitable (“gemeinnützig”) purpose legally binding for the foundation pursuant to its Charter.

The foundation pursues:

• the promotion of environmental protection in relation to developing countries, particularly of marine and coastal protection for the conservation of regions and species meriting protection at a global level (§ 52 para. 2 no. 8 AO );

• the promotion of development cooperation, in particular in the area of the sustainable use of maritime resources and the protection of the marine environment (§ 52 para. 2 no. 15 AO),

• the promotion of science and research, in so far as it relates to the aforementioned purposes (§ 52 (2) No. 1 AO).

Please refer to BAF´s Charter.

**4) Regulation:** BAF is subject to state foundation supervision by Regierungspräsidium Darmstadt, pursuant to §11 StiftG HE (Foundation law of the federal state of Hessen).

**5) Insurance:** the terms of §31a in conjunction with § 86 BGB (German Civil Code) apply.

BAF has D&O insurance

**6) Tax status:** BAF charitable status has been officially recognized by the German Tax Office (§§ 51,59,60,61 AO). BAF is exempted from taxes in Germany (§44a Abs. 7 Satz 1 Nr. 1 EStG).

Please find enclosed:

(i) Confirmation issued by the German tax authority confirming that BAF´s Charter fulfill the conditions set out in §§51,59,60,61 AO (German tax code);

(ii) Certificate issued by the German tax authority on BAF´s tax exemption in accordance with § 44a Abs. 7 EStG. (German Income Tax Law).

**Charter  
Blue Action Fund**

Version March 5th, 2019

**Preamble**

Through their richness in biodiversity and natural resources, as well as their productivity, marine and coastal areas contribute significantly to livelihoods and nutrition people in developing countries. More than 90% of people who depend on fishing or aquaculture as their livelihood live in developing countries. The oceans regulate the climate and are critical determining factors of weather events, including precipitation, drought or flooding. They play a fundamental role in adapting to climate change, as they absorb 25-30% of CO2 emissions. And the water’s surface absorbs around 90% of the heat generated by the combustion of fossil fuels.

However, marine and coastal areas are under extreme pressure due to the overuse of their resources, loss of habitats for flora and fauna, pollutant and waste disposal and the effects of climate change. At present, only 2.1% of the oceans are classified as marine protected areas and only 1% can be considered a highly protected "no take zone". To counter this, the Federal Ministry for Economic Cooperation and Development has developed the 10 Point Action Plan on Marine Protection and Sustainable Fisheries. A key element of this action plan is the Blue Action Fund.

The "Blue Action Fund" is designed to intensify the protection of the coast and sea in developing countries. It is intended to contribute in the legal form of a Foundation to curb the dramatic decline in marine biodiversity in priority, particularly vulnerable regions of Africa, Latin America and Asia, including selected areas of the deep sea, and to stabilize the incomes of poor coastal fishermen. The allocation of funds will be implemented under a grant program for non-governmental organizations (NGOs).

Note:

For reasons of better legibility, the simultaneous use of male and female speech forms is dispensed with. All personal and official names apply to both sexes.

**§ 1  
Name, Legal Form, Registered Office and Fiscal Year**

1. The Foundation shall bear the name  
Blue Action Fund.

2. It is a legally valid Foundation of civil law.

3. It has its legal seat in Frankfurt am Main.

4. The financial year of the Foundation is the calendar year. The first financial year of the Foundation is a partial financial year and is not subject to the audit requirement of Section 7 para. 1 g) below.

**§ 2  
Foundation Purpose and Charitable Character**

1. The Foundation shall exclusively and directly pursue non-profit purposes within the meaning of the section entitled "Tax-Advantaged Purposes" of the German tax code.

a) The purpose of the Foundation is

• the promotion of environmental protection in relation to developing countries, particularly of marine and coastal protection for the conservation of regions and species meriting protection at a global level (§ 52 para. 2 no. 8 AO[[1]](#footnote-1));

• the promotion of development cooperation, in particular in the area of ​​the sustainable use of maritime resources and the protection of the marine environment (§ 52 para. 2 no. 15 AO),

• the promotion of science and research, in so far as it relates to the aforementioned purposes (§ 52 (2) No. 1 AO).

b) The Foundation’s purposes are, in particular, implemented through the promotion of measures and projects, mainly in countries which are, according to the ODA list published (in the updated version applicable from time to time) by the Development Assistance Committee (DAC) of the Organization for Economic Cooperation and Development (OECD), are entitled to receive public development aid (Official Development Aid, ODA), in the areas of:

• Protection of marine biodiversity (creation, management and monitoring of marine protected areas and buffer zones, monitoring of fisheries, cross-border coordination, regulatory framework);

• Sustainable use of marine biodiversity (healthy marine ecosystems, sustainable fisheries, aquaculture, ecotourism, creation of alternative sources of income, incentive systems for non-extraction);

• Exchange of knowledge (awareness of local communities, information for consumers and decision-makers);

• Research (data collection on the status of marine biodiversity, exchange of experience and best practice).

The Foundation is not obliged to promote all Foundations every year.

2. The Foundation may also fulfill its statutory purposes by obtaining funds for the realization of the tax-privileged purposes of other bodies or for the realization of tax-privileged purposes by juvenile persons of public law within the meaning of § 58 no. 1 AO as permitted within the framework of the tax law.

3. The Foundation may contribute a portion of its funds to another tax-privileged body or legal person of public law for the realization of tax-privileged purposes (§ 58 No. 2 AO).

4. The Foundation may implement its own projects within the framework of this charter, but in that connection shall not establish a special purpose or an economic business.

5. The Foundation acts charitably (not for itself); it does not in the first instance pursue its own economic purposes.

6. The funds of the Foundation may only be used in line with the charter for the purposes of the Foundation. The bodies of the Foundation, as well as its sponsor donors and their legal successors, are not entitled to not receive any grants or donations from the Foundation's funds.

7. No person may benefit from payments which are alien to the purpose of the Foundation or from disproportionately high remuneration.

8. The Foundation also performs its tasks through domestic and foreign assistants within the meaning of § 57 para. 1 sentence 2 AO, insofar as it does not act through the procurement of funds pursuant to § 58 no. 1 AO.

**§ 3  
Foundation Capital; Spendable Capital**

1. The Foundation capital must be kept intact in its inventory as far as it is not intended for consumption (spending) by the sponsor donor.

2. The particulars of the Foundation’s capital are determined by the Foundation act. It consists of a permanent stock of endowment capital and a usable capital that is dedicated to be consumed (spendable capital). The Foundation may (in addition to earnings on the spendable capital) use annually up to 10% of the spendable capital for the fulfillment of the Foundation’s purposes. Unused withdrawals may be carried forward to the following years.

At least 5% of the spendable capital must be consumed annually for the fulfillment of the Foundation’s purposes. The Foundation's spendable capital must be consumed after 10 years.

3. Exceptions to the above principles are permissible with the consent of the Foundation Supervisory Authority, insofar as the donor's wishes cannot be implemented in any other way and the Foundation's existence is guaranteed for an appropriate period.

4. The German Federal Court of Auditors is accorded the audit rights under the German Federal Budget Law § 104(4) No.4.

**§ 4  
Use of Assets and Grants**

1. Earnings on the Foundation's capital and donations, insofar as these are not intended by the donor to increase the endowment capital referred to in section 3 (1), may only be used in accordance with the Foundation’s purpose of the purpose. Donations to capital are permitted in both the endowment capital and the spendable capital. If donations are linked to a usage obligation consistent with the charter, the Foundation must comply with them.

2. The Foundation may set up reserves within the scope allowable under the tax regulations.

**§ 5  
Foundation bodies**

1. The Foundation’s constituent bodies are

a) the management board; and

b) the supervisory board

c) the sponsor donors KfW and the Federal Ministry for Economic Cooperation and Development ("BMZ") are founding organizations for purposes of the appointment of the members of the supervisory board in accordance with Section 10 (1) below.

2. The members of the supervisory board serve on an honorary (volunteer) basis. If the income situation of the Foundation permits this, the supervisory board may decide that individual or all members of the management board receive an appropriate remuneration set by the supervisory board. Apart from that, the members of the management board also serve on an honorary basis. All members of the two bodies are entitled to compensation for costs and expenses incurred in connection with the exercise of their duties as a member of the body.

3. A member of one body may not be a member of the other body at the same time.

4. Members of the bodies are only liable for intentional misconduct and gross negligence.

**§ 6  
Management Board**

1. The management board shall consist of at least two and a maximum of three persons. It shall be elected by the supervisory board for a period of three years or by a different term of office to be determined by the supervisory board. Re-election is permitted. After the end of his term of office, the acting management board continues the business until the election of the new management board. The members of the first management board are appointed by the sponsor donors for a period to be determined by them. All members of the management board must have special expertise and experience with regard to the tasks of the Foundation and particularly support their objectives.

2. If a member of the management board wishes to resign his office before the expiry of his term of office, he has to announce this to the management board and the supervisory board six months before his departure. The notice period applies unless there is an important reason. Insofar as members of the management board are employees of the sponsor donor KfW, their office ends with the termination of the employment relationship.

3. The members of the management board may be dismissed before the expiry of their term of office for an important reason, in particular in the case of incapacity for proper management or conduct contrary to law or the provisions of the charter. Such a resolution requires the approval of three quarters of members of the supervisory board, by way of derogation from Section 12 para. 4.

4. The management board shall elect an Executive Director and a Deputy Executive Director from among its members for the duration of the term of office.

**§ 7  
Responsibilities of the Management Board**

1. The management board shall ensure the permanent and sustained fulfillment of the Foundation’s purpose. It shall manage the business of the Foundation in accordance with the law, these Articles of Association as well as the management board by-laws to be issued in accordance with section 4, with reasonable care appropriate to a management board. The management board shall use the Foundation's resources frugally and economically. The management board is in particular responsible for

a) Managing, under on its own responsibility, of the Foundation's assets according to the Foundation's purpose, this charter and the management board by-laws;

b) Deciding on the creation and dissolution of reserves;

c) Implementing the measures to achieve the purpose of the Foundation, in particular the granting of the available funds;

d) Establishing a budget for the coming financial year;

e) Appropriate measures to ensure compliance, prevention of corruption and risk management;

f) Producing an annual report on the fulfillment of the purpose of the Foundation;

g) Preparing a financial statement compliant with regulatory requirements within six months of the end of the financial year in question. The annual accounts must be audited by an independent auditor and must contain the following contents:

• Balance sheet showing the assets and reserves as at 1 January and the balance as at 31 December,

• Presentation of the spendable assets, including any contributions as well as actual spending.

• earnings from the Foundation assets,

• Any additional contributions to the endowment capital or the spendable capital,

• Any donations of third-parties in furtherance of the Foundation’s purpose.

2. The audited financial statements, including the balance sheet and the report on the fulfillment of the purpose of the Foundation, shall be submitted to the supervisory board and the foundation authority within nine months after the end of the financial year.

3. The management board shall represent the Foundation in court and out of court action by at least two of its members. One of these members must be the Executive Director or, in the event of his / her being prevented, the Deputy Executive Director.

The supervisory board may also entrust a member of the management board with the day-to-day business of the management of the Foundation (the so-called Managing Executive Director). The supervisory board may confer sole power of attorney on the Managing Executive Director and/or waive the restrictions on multiple representation pursuant to Art. § 181 of the German Civil Code (BGB).

4. The supervisory board shall adopt a by-laws for the management board which may make certain transactions and projects subject to its approval.

5. Experts may be consulted for the day-to-day business and a managing officer and/or support staff may be hired if the Foundation's financial situation allows and the ongoing business of the Foundation is promoted thereby. The managing officer can be appointed as special representatives in the sense of § 30 BGB.

**§ 8  
Unauthorized Business**

1. The making of loans or granting of credits by the Foundation are impermissible.

2. The issuance of bonds and the assumption of unconditional or conditional guarantees and similar liabilities is impermissible.

3. The granting of loans and loans to members of the management or supervisory board and to employees of the Foundation, as well as their dependents or closely connected persons, is impermissible.

**§ 9  
Resolution of the Management Board**

1. The management board shall be convened by the Executive Director or his deputy as often as is necessary, but at least four times a year. The meeting shall be convened by at least two weeks' notice stating the agenda. Meetings shall also be convened if two members of the management board or the supervisory board so request.

2. Decisions of the management board are usually taken at meetings. The management board shall be deemed to have a quorum if at least two members are present or represented at a properly convened meeting. A member of the management board may be represented at the meeting by another member of the management board. No member of the management board can represent more than one member of the management board. The authorization to represent a management board member should be given in writing.

3. Errors in convening a meeting are deemed to be cured if all members of the management board are present and no member disagrees.

4. The management board shall pass resolutions by a simple majority of the votes cast. Stimuli are considered as non-delivered votes. In the event of a tie, the Executive Director’s vote, or in the event of his/her absence the vote of the Deputy Executive Director, shall be determinative.

5. Minutes shall be kept of the meetings of the management board, which shall be signed by the Executive Director and the Secretary. Meetings may also be held by telephone or video conference, unless a member of the management board objects. Resolutions shall be recorded in writing. The minutes are to be brought to the attention of all members of the management board and the Chairman of the supervisory board.

6. The Executive Director may also request written, telegraphic or electronic voting by circulation in consent form, with the transmission of the items for decision items and indication of the voting period, which as a rule will be at least two weeks. The decision must be documented in an appropriate manner and recorded in the minutes of the next meeting. If a member of the management board disagrees with the Executive Director's request, the latter shall convene a regular meeting of the management board.

7. Secrecy must be maintained on the content of the management board meetings.

**§ 10  
Supervisory Board**

1. The supervisory board shall consist of two appointed members and up to seven other elected members. They should have expertise necessary or useful for the fulfillment of the purposes. The term of office of the members of the supervisory board is three years. Re-appointment or re-election is permitted.

The two appointed members of the supervisory board are determined as follows:

a) A member of the supervisory board is appointed by the sponsor donor KfW, who does not need to be an employee of KfW.

b) A member of the supervisory board is appointed by BMZ, who does not need to be an employee of BMZ.

The other members of the supervisory board shall be elected by the members appointed pursuant to paragraphs (a) and (b) above by joint declaration. Elected members shall be persons who have demonstrable expertise in the area of ​​foundation management or the purposes of the Foundation (pursuant to § 2).

2. The appointed members may be recalled at any time by the appointing institution. In the event of the departure of an appointed member, a substitute member shall be appointed by the person entitled to do so under para. 1 a) and b). Upon the resignation of an elected member, the appointed members shall be free to elect a successor by joint declaration.

3. The member of the supervisory board appointed by BMZ in accordance with paragraph 1 b) above shall be Chairman of the supervisory board; the member of the supervisory board appointed by KfW pursuant to para. 1 a) shall be Deputy Chairman. Insofar as BMZ or KfW have agreed in in writing that its appointed member of the supervisory board not also hold the supervisory board Chair or Deputy Chair, as the case may be, the entire supervisory board shall elect from among its members a Chairman or Deputy Chairman of the supervisory board for a period of three years. Re-election is permitted.

4. Decisions of the supervisory board cannot be taken against the vote of the member appointed by BMZ pursuant to paragraph 1b above.

5. Insofar as BMZ or KfW no longer wish to exercise their rights referred to in paragraph 1 (a) and (b) above, and have declared this in writing to the Foundation, all the members of the supervisory board shall be chosen by election, i.e. by a majority vote decision of the supervisory board. The same applies if BMZ or KfW does not exercise their right to appoint within six months after the departure of a person appointed by them. To the extent that appointed members are replaced by election, the special rights assigned to them by this charter shall no longer apply.

6. The supervisory board may adopt by-laws governing its conduct, for the adoption and amendment of which, in addition to the requirements of Section 12, the approval of three quarters of the members is required.

**§ 11  
Tasks of the Supervisory Board**

1. The supervisory board shall take the Foundation's strategic policy decisions, which shall be implemented by the management board. In addition, it has in particular the following tasks:

• Election of the members of the management board (§ 6 para. 1);

• Advising, supporting and supervising the management board;

• Adoption of the by-laws for the management board;

• Requests to the foundation authority for changes to the statutes, changes in purpose, dissolution and merger of the Foundation with another Foundation;

• Consent to legal transactions and projects which according to the by-law the management board require the approval of the supervisory board;

• Approval of the budget for the following year;

• Appointment of the auditor;

• Receipt of the audited annual accounts;

• Discharge of the Management Board;

• Review of the allocation of Foundation’s funds and the realization of Foundation’s purposes.

2. Each individual member of the supervisory board has a comprehensive right to information and examination.

3. The Chairman of the supervisory board or, in the event of his absence, the Deputy Chairman, represents the Foundation in legal transactions with the management board and with the appointment of the auditor.

**§ 12  
Resolution of the supervisory board**

1. Meetings of the supervisory board shall be convened by the Chairman or his deputy, whenever necessary for proper management, but at least once a year. The meeting shall be convened by at least two weeks' notice stating the agenda. Meetings shall also be convened if two members of the supervisory board or the management board of the Foundation so request.

2. Decisions of the supervisory board are generally taken at meetings. The supervisory board shall have a quorum if more than half of its members are present or represented after a proper notice has been made. A member of the supervisory board may be represented at the meeting by another member of the supervisory board.

3. Errors in convening a meeting are considered to be cured if all members are present or represented and no member disagrees.

4. Unless stipulated otherwise in this Articles of Association, the Supervisory board shall take its decisions by a simple majority of the non-abstaining members who are present or represented. In the event of a tie, the Chairman’s vote, or in the event of his/her absence the vote of his Deputy, shall be determinative.

5. Minutes of the supervisory board meetings shall be kept and must be signed and signed by the Chairman and the secretary. Meetings may also be held by telephone or video conferencing unless a member of the supervisory board objects. Resolutions shall be recorded in the wording. The minutes shall be reported to all members of the supervisory board and to the Executive Director of the management board of the Foundation.

6. The Chairman may also request written, telegraphic or electronic voting by circulation in consent form, with the transmission of the items for decision items and indication of the voting period, which as a rule will be at least two weeks. The decision must be documented in an appropriate manner and recorded in the minutes of the next meeting. If a member of the management board disagrees with the Chairman's request, the latter shall convene a regular meeting of the supervisory board.

7. Secrecy must be maintained on the contents of the board meetings. This does not apply to the members called in relation to their sending institutions.

**§ 13  
Amendments to the Charter**

1. The supervisory board shall decide on amendments to the charter, which may also be made without substantial changes in circumstances if they do not fall under § 14. Before it submission, the proposed amendment of the charter shall be coordinated with the responsible tax authority with regard to the public interest and legal requirements.

2. The resolution to amend requires unanimity.

**§ 14  
Purpose change, repeal and merger**

1. The dissolution, merging with another Foundation or the modification of the purpose can only take place if, on the basis of substantial changes in the circumstances, it appears to be appropriate. The will of the founder in creating the Foundation must be considered.

2. Decisions on applications to the foundation authority regarding the enlargement of the purpose, change of purpose, merger or dissolution shall be taken by the supervisory board. Such decisions require a unanimous resolution of the supervisory board. The remaining provisions of § 13 shall apply.

**§ 15  
Foundation Supervision**

The Foundation is subject to state supervision in accordance with the applicable foundation law.

**§ 16  
Property investment**

In the event of the dissolution of the Foundation or in the event of the cessation of tax-privileged activities, the Foundation's assets shall be transferred to a legal entity under public law or another tax-exempt body for the purposes of the charitable purposes referred to in § 2.

**§ 17  
Coming into Force**

This charter shall enter into force on the day of the Foundation's recognition.

**Blue Action Fund (the “Foundation”)**

**By-laws (Geschäftsordnung) for the Management Board**

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| Beschlossen vom Kuratorium der Stiftung am, 14. Februar 2017  Gestützt auf §7.4. der Stiftungssatzung hat das Kuratorium der Stiftung „Blue Action Fund“ die folgende Geschäftsordnung für den Vorstand der Stiftung erlassen. Die Geschäftsordnung ist mit Beschluss des Kuratoriums am oben genannten Datum in Kraft getreten. | As adopted by the Supervisory Board, February 14th, 2017  Pursuant to §7.4 of the charter, the Supervisory Board (“Kuratorium”) of the Foundation has adopted the following by-laws for the Management Board (“Vorstand”). The by-laws came into force with the decision of the Supervisory Board on the above-mentioned date. |
| **§ 1 Grundlagen der Stiftungsarbeit**   1. Die Mitglieder des Vorstands sind verpflichtet, bei der Führung der Stiftung die Bestimmungen der Gesetze, der Stiftungssatzung und dieser Geschäftsordnung gewissenhaft zu beachten. 2. Darüber hinaus beachtet die Stiftung die „Grundsätze Guter Stiftungspraxis“ des Bundesverbandes Deutscher Stiftungen und den Public Corporate Governance Kodex (PCGK) des Bundes in seiner jeweils geltenden Fassung. Beim letzteren strebt die Stiftung keine formale Compliance an und wird keinen Corporate Governance Bericht erstellen, wird sich aber in ihrer Governance an den Vorgaben des PCGK orientieren. | **§ 1 Fundamental Operating Principles**   1. The members of the Management Board shall conscientiously observe the law, the Foundation charter and these by-laws in managing the foundation. 2. In addition, the Foundation shall take into account the governance code of the Federal Association of German Foundations (“Grundsätze Guter Stiftungspraxis”) and the Public Corporate Governance Code (PCGK) of the Federal Government as amended. As to the latter, the Foundation will not seek formal compliance and will not prepare a corporate governance report, but rather shall seek to adhere to the PCGK in its governance activities. |
| **§2 Prinzipien der Vorstandsarbeit**   1. Alle Vorstandsmitglieder wirken am Erfolg der Stiftung mit und verpflichten sich, ihre Aufgaben informiert, integer und verantwortungsvoll wahrzunehmen. Auch wenn sie anderweitige Verpflichtungen haben, stellen sie die erforderliche Zeit und Sorgfalt für die Stiftungsarbeit zur Verfügung. 2. Der Vorstand wird über den Inhalt der Sitzungen und Beschlüsse von Vorstand und Kuratorium Verschwiegenheit wahren. Alle Vorstandsmitglieder stellen sicher, dass von ihnen eingeschaltete Dritte die Verschwiegenheitspflicht in gleicher Weise einhalten. 3. Die Mitglieder des Vorstands sind ehrenamtlich tätig, sofern das Kuratorium keine Vergütung für ein Vorstandsmitglied beschließt. Alle Mitglieder vom Vorstand haben Anspruch auf Ersatz der ihnen tatsächlich entstandenen Auslagen und Aufwendungen. | **§2 Principles of management board work**   1. All members of the Management Board shall contribute to the success of the Foundation and undertake to carry out their duties with integrity and in an informed and responsible manner. Even if they have other obligations, they will devote the time and care necessary to carry out the Foundation's work. 2. The Management Board shall maintain confidentiality with regard to the content of the meetings and resolutions of the Management Board and Supervisory Board. All members of the Management Board shall ensure that third parties who are engaged by them act in the same way as regards the confidentiality obligation. 3. The members of the Management Board shall act on a volunteer or honorary basis unless the supervisory board decides to remunerate an individual Management Board member. All members of the Management Board are entitled to compensation for costs and expenses actually incurred. |
| **§ 3 Geschäftsgang des Vorstandes**   1. Vorsitzender des Vorstandes    1. Der Vorsitzende beruft die Sitzungen des Vorstandes ein und leitet sie. Bei Bedarf fordert er/sie zur schriftlichen, fernschriftlichen oder elektronischen Abstimmung im Umlaufverfahren auf.    2. Der Vorsitzende des Vorstandes repräsentiert den Vorstand gegenüber dem Kuratorium. 2. Verantwortlichkeit der Vorstandsmitglieder    1. Der Vorstand besteht aus mindestens zwei Personen, die gemeinsam die Verantwortung tragen.    2. Der Vorstand vertritt die Stiftung gerichtlich und außergerichtlich durch mindestens zwei seiner Mitglieder. Eines dieser Mitglieder muss der Vorsitzende des Vorstands oder im Falle seiner Verhinderung der Stellvertretende Vorsitzende sein.    3. Der Vorstand kann eine Geschäftsverteilung beschließen, durch die den einzelnen Vorstandsmitgliedern bestimmte laufende Aufgaben zur selbständigen Erledigung zugewiesen werden.    4. Bei allen Fragen, die in die Entscheidungsgewalt des Vorstandes fallen, ist ein Beschluss des Gremiums nötig. Insbesondere bedürfen alle Maßnahmen und Geschäfte, die für die Stiftung von besonderer Bedeutung sind oder mit denen ein wirtschaftliches Risiko verbunden ist, der vorherigen Zustimmung des Gesamtvorstandes. | **§ 3 Management Board Conduct of Business**   1. Chairman of the Management Board    1. The Chairman shall convene and chair the meetings of the Management Board. If necessary, s/he shall ask for written, electronic or electronic voting by circulation.    2. The Chairman represents the Management Board vis a vis the Supervisory Board. 2. Responsibility of Management Board members    1. The Management Board shall consist of at least two persons who jointly bear the responsibility.    2. The Management Board represents the Foundation in and out of court by at least two of its members, of which one must be the Chairman of the Management Board or, in the event of his/her absence, the Deputy Chairman.    3. The Management Board may decide on a division of responsibilities whereby its individual members are assigned certain ongoing tasks to be dealt with independently.    4. A resolution of the Management Board is necessary for all matters which fall within its decision-making authority. In particular, all measures and transactions which are of special importance to the Foundation or involve an economic risk require the prior approval of the entire Management Board. |
| **§ 4 Geschäftsführendes Vorstandsmitglied**  Das Kuratorium kann gemäß §7.3. der Stiftungssatzung ein Mitglied des Vorstands mit den laufenden Geschäften der Verwaltung der Stiftung betrauen (sog. geschäftsführendes Vorstandsmitglied).   1. Aufgaben des geschäftsführenden Vorstandsmitglieds    1. Das geschäftsführende Vorstandsmitglied erledigt die laufenden Geschäfte der Stiftung.    2. Ihm/Irh obliegt insbesondere die Auswahl und Führung der Mitarbeiter und Dienstleister, die Wahrnehmung der Kommunikation der Stiftung, die Vertretung der Stiftung an Tagungen, die Besorgung der Verwaltung der Stiftung sowie die Umsetzung der Förderprogramme. 2. Besondere Rechte und Pflichten    1. Das Kuratorium kann dem geschäftsführenden Vorstandsmitglied Einzelvertretungsbefugnis erteilen und/oder es von den Beschränkungen bezüglich der Mehrfachvertretung gem. § 181 BGB befreien.    2. Sofern das Kuratorium ein Geschäftsführendes Vorstandsmitglied ernennt, soll dieses auch den Vorsitz des Vorstandes übernehmen. 3. Zusammenarbeit mit dem Vorstand    1. Das geschäftsführende Vorstandsmitglied unterrichtet die anderen Mitglieder des Vorstandes laufend über wichtige Maßnahmen und Vorgänge.    2. Jedes Vorstandsmitglied ist verpflichtet, bei Bedenken gegen Maßnahmen der anderen Vorstandsmitglieder eine Beschlussfassung des Gesamtvorstandes herbeizuführen, wenn die Bedenken nicht durch eine Aussprache mit den anderen Vorstandsmitgliedern behoben werden können. | **§ 4 Executive Director**  In accordance with §7.3 of the charter, the Supervisory Board can entrust a member of the Management Board with the Foundation's current business (as so-called "managing" Management Board member/ Executive Director).   1. Tasks of the Executive Director.    1. The Executive Director shall deal with the ongoing business of the Foundation.    2. In particular s/he shall be responsible for the selection and management of the employees and service providers, public relations and communication, general representation, administration of the Foundation and implementation its grant program. 2. Special rights and obligations    1. The Supervisory Board may confer sole powers of representation on the Executive Director and/or waive the application of the restrictions on the multiple representation pursuant to Art. § 181 of the German Civil Code (BGB).    2. If the Supervisory Board names an Executive Director, s/he shall act as Chairman of the Management Board. 3. Cooperation with the Management Board    1. The Executive Director shall keep the other members of the Management Board informed of important measures and events on an ongoing basis.    2. Each Management Board member is obliged to call for a resolution of the entire Board if s/he is concerned about the actions of the other members of the Board and the concerns cannot be solved by a discussion with the other members of the Management Board. |
| **§ 5 Ausschüsse und Beiräte**   1. Zur Vorbereitung seiner Entscheidungen kann der Vorstand Sachverständige heranziehen und Ausschüsse einsetzen. In allen Ausschüssen soll mindestens ein Mitglied des Vorstandes vertreten sein. 2. Der Vorstand soll die Arbeitsaufträge für die Ausschüsse und die Sachverständigen schriftlich dokumentieren. | **§ 5 Committees and Advisory Councils**   1. In order to prepare its decisions, the Management Board may consult experts and set up committees. At least one member of the Management Board shall be a member of each committee. 2. The Management Board shall document the terms of reference for experts and committees in writing. |
| **§ 6 Zusammenarbeit des Vorstandes mit dem Kuratorium**   1. Grundsätze    1. Vorstand und Kuratorium arbeiten zum Wohle der Stiftung eng und vertrauensvoll zusammen.    2. Die Protokolle der Vorstandssitzungen sind dem Vorsitzenden des Kuratoriums zur Kenntnis zu bringen.    3. Das Kuratorium ist verantwortlich für die Festlegung der Stiftungsstrategie, insbesondere hinsichtlich der thematischen und regionalen Schwerpunkte der Stiftungsarbeit. Der Vorstand unterstützt das Kuratorium bei der Erarbeitung der Strategie. 2. Berichtspflichten    1. Jahresabrechnung  Der Vorstand legt dem Kuratorium innerhalb von sechs Monaten nach Ablauf des jeweiligen Geschäftsjahres eine geprüfte Jahresabrechnung sowie einen Bericht über die Erfüllung des Stiftungszwecks vor, die nach Zustimmung des Kuratoriums innerhalb von neun Monaten nach Geschäftsjahresablauf bei der Stiftungsaufsicht eingereicht werden.    2. Haushaltsplan Der Vorstand legt dem Kuratorium bis spätestens zwei Monaten vor Ablauf des jeweiligen Geschäftsjahres einen Haushaltsplan für das Folgejahr vor, aus dem die geplanten Ausgaben und Einnahmen hervorgehen. Bis zur Genehmigung des neuen Haushaltsplans kann die Stiftung die laufenden Kosten auf Basis des Vorjahrsplans sowie vereinbarte Zuwendungen an Projekte finanzieren, aber keine neuen Förderungen zusagen.    3. Regelmäßige Berichte   Der Vorstand unterrichtet das Kuratorium regelmäßig über die Geschäftstätigkeit und Situation der Stiftung. Zu diesem Zweck legt der Vorstand in schriftlicher Form oder in Kuratoriumsitzungen halbjährliche Berichte an das Kuratorium vor, in denen die Aktivitäten der Stiftung (Förderungen, Partnerschaften und Vernetzung, Kommunikation, Fundraising usw.) sowie die wirtschaftliche Lage (Anlageperformance, Zuwendungen und Budgetentwicklung) dargelegt werden. Diese Berichte werden in der Regel innerhalb von zwei Monaten nach Ende jeder Halbjahresperiode (bis zum 31. August für den Zeitraum bis zum 30. Juni und bis zum 28. Februar für den Zeitraum bis zum 31. Dezember) angefertigt, es sei denn, eine geplante Kuratoriumssitzung lässt einen anderen Berichtszeitraum oder Zeitplan sinnvoller erscheinen.   * 1. Berichterstattung über wichtige Ereignisse   Der Vorstand erstattet dem Aufsichtsrat unverzüglich Bericht, wenn wesentliche Gründe dafür vorliegen oder Geschäftsvorfälle eingetreten sind, die wesentliche Auswirkungen auf die Lage der Stiftung haben können. | **§ 6 Cooperation of the Management Board with the Supervisory Board**   1. Basic Principles.    1. The Management Board and the Supervisory Board cooperate in a close and trusting manner for the benefit of the Foundation.    2. The minutes of the Management Board meetings shall be reported to the Chairman of the Supervisory Board.    3. The Supervisory Board is responsible for setting the Foundation's strategy including establishing the thematic and regional focus of the Foundation's work. The Management Board supports the Supervisory Board in preparing the strategy. 2. Reporting Obligations    1. Annual accounts   Within six months after the end of each financial year, the Management Board shall submit to the Supervisory Board annual financial statements audited by an independent auditor as well as an annual report which, following approval by the Supervisory Board, shall within nine months after the end of the financial year be submitted to the foundation authority.   * 1. Budget The Management Board shall submit to the Supervisory Board, no later than two months before the end of a given financial year, a budget for the following year that sets forth the planned expenditures and income. Until the approval of the new budget, the Foundation can continue to cover both running costs on the basis of the previous year's budget and existing planned grant commitments, but cannot make new grant commitments.   2. Regular reports   The Management Board shall inform the Supervisory Board on a regular basis regarding the state of business and the situation of the Foundation. To this end, the Management Board shall present, either in written form or at Supervisory Board meetings, semi-annual reports to the Supervisory Board outlining the Foundation's activities (grants, partnering and networking, communication, fundraising, etc) as well as the economic situation (investment performance, contributions received and budget performance). As a rule such reports shall be made within two months after the end of each semi-annual period (by August 31 for the period ending June 30 and by February 28 for the period ending December 31) unless a scheduled Supervisory Board meeting date makes another reporting period and schedule more sensible.   * 1. Reporting of Important Events   The Management Board shall report to the Supervisory Board without delay if there are important reasons for doing so or if there are business issues that may have a material impact on the situation of the Foundation. |
| **§ 7 Zustimmungspflichtige Geschäfte**   1. Der Vorstand bedarf zu folgenden Geschäften der Zustimmung des Kuratoriums:    1. Erlass und Änderung von Richtlinien z.B. Anlagerichtlinien, Förderrichtlinien, Operational Manual    2. Zusage von Projektförderungen (Genehmigung des Projektantrages sowie des maximalen Budgetrahmens) sowie Kündigung von genehmigten Projekten.    3. Abschluss, Änderung oder Kündigung aller Verträge, die keine Projektförderung bezwecken (z.B. Dienst-, Anstellungs- oder Beraterverträge), die über den gewöhnlichen Geschäftsbetrieb hinausgehen oder im Einzelfall Verpflichtungen der Stiftung von mindestens EUR 75.000 pro Jahr zum Gegenstand haben    4. Einsetzung von Ausschüssen oder Beiräten sowie die Auswahl deren Mitglieder    5. Abweichungen der Betriebskosten vom genehmigten Haushaltsplan in Höhe von mehr als 105% im Jahr    6. Annahme von Zustiftungen zum Stiftungsvermögen 2. Das Kuratorium kann dem Vorstand zu einzelnen Geschäften auch im Voraus die Zustimmung erteilen. | **§ 7 Transactions subject to Prior Authorization**   1. The Management Board requires the consent of the Supervisory Board for the following transactions:    1. Adoption and amendment of Foundation policies such as an Investment Policy, Grant Guidelines and an Operational Manual.    2. Pursuit of any grant project (approval of the overall concept proposal and maximum Euro amount) and termination of approved projects    3. Conclusion, amendment or termination of non-grant contracts (employment contract, consulting or other service provider contracts, etc.) which are outside of the ordinary course of business or which, in the individual case, commit the Foundation to an amount in excess of Euro 75,000 per year.    4. Setting up committees or advisory councils and selecting their members    5. Non-grant spending in any given year in excess of 105% of the approved budget for that year.    6. Acceptance of additional contributions to the endowment. 2. The Supervisory Board may also grant the Management Board revocable consent for individually specified matters in advance. |
| **§ 8 Projekt- und Fördertätigkeit**   1. Der Vorstand ist verantwortlich für die Umsetzung der Maßnahmen zur Verwirklichung des Stiftungszwecks, insbesondere für die Vergabe der Stiftungsmittel. 2. Mit Unterstützung des Kuratoriums entwickelt der Vorstand Förderrichtlinien, die die Abläufe und Inhalte der Fördermittelvergabe definieren ("Grant Guidelines"). Die Förderrichtlinien enthalten Vorgaben und/oder Informationen zu den Auswahlkriterien der Förderpartner, zum Förderantragsverfahren, zu Ko-Finanzierungen, zu Berichtswesen und Prüfungen, Evaluation und Begleitung von Förderprojekten, usw. 3. Erlass und Änderung der Förderrichtlinien bedürfen der Zustimmung des Kuratoriums. Die aktuelle Fassung der Richtlinien wird dieser Geschäftsordnung als Anhang beigefügt. 4. Der Projektantrag sowie der Budgetrahmen für alle Förderzusagen werden dem Kuratorium zur Genehmigung vorgelegt. Auf der Grundlage der Projektgenehmigung verhandelt und schließt der Vorstand einen Fördervertrag mit dem Antragsteller. Erhebliche Abweichungen von dem genehmigten Antrag müssen wiederum dem Kuratorium zur Genehmigung vorgelegt werden. Eine Reduktion des zugesagten Budgets wird in der Regel nicht als eine erhebliche Abweichung betrachtet. Im Projektverlauf kann der Vorstand Änderungen an Konzept und Budget von Förderprojekten vornehmen, solange die zusätzlichen Ausgaben dem vereinbarten Projektziel dienen und im Summe nicht mehr als 15% des zugesagten Budgets oder EUR 100.000 übersteigen, je nachdem welche Summe niedriger ist. | **§ 8 Grant Making**   1. The Management Board is responsible for the implementation of the Foundation's grant program, in particular for the award of the Foundation's funds. 2. With support from the Supervisory Board, the Management Board will develop a set of guidelines setting forth information on procedures relating to the grant-making activity of the Foundation ("Grant Guidelines"). Such guidelines will include requirements and/or information on eligibility of grantees, grant application procedures, co-financing, grant reporting and audits, evaluation and monitoring procedures, and the like. 3. The issuance and any amendment of the Grant Guidelines requires the approval of the Supervisory Board. The binding version of the Grant Guidelines shall be attached to these by-laws as an Annex. 4. The overall concept proposal and maximum Euro amount for all project grants shall be submitted to the Supervisory Board and require Supervisory Board approval. Following Supervisory Board approval, the Management Board shall negotiate and sign the respective grant agreements for approved concepts. Substantial deviations from the approved concepts shall be resubmitted to Supervisory Board, it being understood that a reduction in the grant amount shall not as a rule be considered a substantial deviation. In addition, the Management Board shall have the authority to amend previously approved grants, provided that the additional expenditures are for substantially the same purposes approved in the initial concept proposal for the grant and do not exceed and amount equal to 15% of the grant amount or Euro 100,000, whichever is less. |
| **§ 9 Verwaltung der Stiftung**   1. Der Vorstand ist verantwortlich für die ordnungs- und satzungsgemäße Verwaltung der Stiftung. 2. Der Vorstand erarbeitet ein “Operations Manual”, das die administrativen Abläufe der Stiftung regelt, einschließlich Finanzierungsfragen, Finanzadministration (Budgeterstellung und Verwaltungskosten), Buchhaltung, Konten und Zahlungsverkehr, Rechnungslegung, Wirtschaftsprüfung, Personal, Beschaffungsrichtlinen, IT, Sozial- und Umweltstandards, usw. 3. Die Grundsatzentscheidungen zu den Themen und Abläufen, die im Operations Manual festzulegen sind, (hinsichtlich Beschaffungswesen, Rechnungslegung, usw.), bedürfen der Zustimmung des Kuratoriums. Vorbehaltlich der Einhaltung der Vorgaben des Kuratoriums zu diesen und allen weiteren Fragen der Stiftungsverwaltung, die vom Kuratorium als wichtig erachtet werden, obliegt es dem Vorstand, ein “Operations Manual” zu erlassen und ggfls. zu ändern. Die verbindliche Fassung des Handbuches ist dem Kuratorium vorzulegen und dieser Geschäftsordnung als Anhang beizufügen. | **§ 9 Financial and Operating Principles**   1. The Management Board shall be responsible for the proper administration of the Foundation. 2. The Management Board shall develop an Operations Manual regulating the detailed administrative procedures of the Foundation, including such matters as sources of the foundation’s budget, financial management (including budgeting and administrative expenses) accounting, banking and bank accounts, financial statements and reporting, auditing, human resources, procurement policies, information technology, social and environmental safeguards and the like. 3. Fundamental operational principles to be recorded in the Operations Manual (regarding procurement, financial statements and the like) require approval of the Supervisory Board.  Subject to compliance with the directives of the Supervisory Board on such principles and any other operational matters deemed important by the Supervisory Board, the issuance and amendment of the “Operations Manual“ shall be within the authority of the Management Board.  The binding version of the Operations Manual shall be reported to the Supervisory Board and attached to these by-laws as an Annex. |
| **§10 Vermögensanlage**   1. Der Vorstand ist verantwortlich für die Anlage des Stiftungsvermögens. 2. Der Vorstand erarbeitet eine Anlagerichtline, die angemessene Maßnahmen der Risikokontrolle definiert. Die Anlagerichtlinie soll eine Diversifizierung der Anlagen vorsehen und Vorgaben für die maximalen Anteile verschiedener Anlageklassen (Aktien, Renten, Immobilien), Länder, Regionen, Währungen, Branchen oder Unternehmen machen. Die Anlagerichtlinie enthält zudem Angaben zur Organisation der Vermögensanlage sowie zum investment controlling. 3. Erlass und Änderung der Anlagerichtlinie bedarf der Zustimmung des Kuratoriums. Die aktuelle Fassung der Anlagerichtlinie wird dieser Geschäftsordnung als Anhang beigefügt. 4. Der Vorstand prüft die Anlagerichtlinie regelmäßig, um sicherzustellen, dass die Risiken angemessen und geeignet sind, eine sichere und ertragreiche Anlage zu gewährleisten. 5. Der Vorstand wird einen Anlageausschuss einsetzen, dessen Rolle und Aufgaben in der Anlagerichtlinie definiert werden. 6. Der Vorstand wird mit Zustimmung des Kuratoriums einen erfahrenen Investment-Manager oder einen Berater engagieren, der die Stiftung bei der Auswahl von Depotbanken, Vermögensverwaltern, Investmentfonds oder anderen Investmentobjekten unterstützt. | **§ 10 Investment Objectives and Investment Policy**   1. The Management board is responsible for the management of the Foundations's financial assets. 2. The Management Board shall develop an “Investment Policy” that will provide for reasonable measures to control risk. The Investment Policy will use an investment strategy based on diversification of investments and include limitations on the percentage of the Foundation's assets that can be invested in particular asset classes (such as stocks, bonds, real estate, etc.), countries or geographical regions, currencies or industries or companies. The investment policy also contains information on the organization of the investment activity and on investment controlling. 3. The adoption and amendment of the "Investment Policy" requires the consent of the Supervisory Board. The binding version of the Investment Policy shall be attached to these by-laws as an Annex. 4. The investment strategy will be evaluated regularly by the Management Board to ensure that the risks assumed are prudent and are designed to maximize consistent long-term returns on investment. 5. The Management Board shall establish and investment committee whose role shall be defined in the Investment Policy. 6. The Management Board shall, with the approval of the Supervisory Board, engage an experienced investment manager or an advisor who will assist with appointing a custodian, mandating further asset managers or investments in investment funds or similar vehicles. |
| **§ 11 Interessenkonflikte**   1. Jedes Mitglied des Vorstands soll Interessenkonflikte dem Kuratorium gegenüber unverzüglich offenlegen und die anderen Mitglieder des Vorstandes hierüber informieren. 2. Vorstandsmitglieder dürfen nicht an der Meinungs- und Entscheidungsfindung von Fragen mitwirken, bei denen sie sich in einem Interessenkonflikt befinden. 3. Alle Geschäfte zwischen der Stiftung einerseits und den Mitgliedern des Vorstandes sowie ihnen nahestehenden Personen oder Organisationen andererseits haben branchenüblichen Standards zu entsprechen. Wesentliche Geschäfte mit vorgenannten Personen oder Organisationen bedürfen der Zustimmung des Kuratoriums, sofern dieses nicht ohnehin zustimmungspflichtig ist. | **§ 11 Conflicts of Interest**   1. Each member of the Management Board shall immediately disclose conflicts of interest to the Supervisory Board and inform the other members of the Management Board accordingly. 2. No Management Board member shall vote on, or participate in the decision-making process of any matter in which such Management Board member has an interest. 3. All transactions between the Foundation on the one hand and the members of the Management Board and related persons or organizations on the other must comply with industry standards. Insofar as they are not otherwise subject to approval under charter or these by-laws, significant transactions with the aforementioned persons or organizations require the consent of the Supervisory Board. |

1. “AO” is the abbreviation in German for the German Tax Code. [↑](#footnote-ref-1)